



**FIFTH NATIONAL ASSEMBLY**

**PARLIAMENTARY  
DEBATES  
(HANSARD)**

**FIRST SESSION  
TUESDAY 29 NOVEMBER 2011**

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Dr. the Hon. Ahmed Rashid Beebejaun, GCSK, FRCP	Deputy Prime Minister, Minister of Energy and Public Utilities
Hon. Charles Gaëtan Xavier-Luc Duval, GCSK	Vice-Prime Minister, Minister of Finance and Economic Development
Hon. Anil Kumar Bachoo, GOSK	Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping
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Dr. the Hon. Vasant Kumar Bunwaree	Minister of Education and Human Resources
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## PRINCIPAL OFFICERS AND OFFICIALS

<i>Mr Speaker</i>	Purryag, Hon. Rajkeswur, GCSK, GOSK
<i>Deputy Speaker</i>	Roopun, Hon. Prithvirajsing
<i>Deputy Chairperson of Committees</i>	Deerpalsing, Hon. Ms Kumaree Rajeshree
<i>Clerk of the National Assembly</i>	Dowlutta, Mr R. Ranjit
<i>Deputy Clerk</i>	Lotun, Mrs B. Safeena
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**Fifth National Assembly**

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**FIRST SESSION**

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**Debate No. 33 of 2011**

**Sitting of 29 November 2011**

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

**At 11.00 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. Office of the President –**

The Report of the Truth and Justice Commission –

Vol. The Report of the Truth and Justice Commission (In Original) ;

1

Vol. Land Reform Legal and Administrative Aspects (In Original) ;

2

Vol. Contemporary History, Culture and Society – Research Reports,

3 Technical Studies and Surveys (In Original); and

Vol. History, Economy, Society and Memory – Research Reports,

4 Technical Studies and Surveys (In Original).

**B. Prime Minister's Office –**

(a) Certificate of Urgency in respect of the Piracy and Maritime Violence Bill (No. XXVIII of 2011).

(b) The Report of the Prime Minister's Relief and Support Fund for the period 01 January 2010 to 31 December 2010.

**C. Ministry of Finance and Economic Development –**

The Annual Report and Audited Accounts of the Financial Reporting Council for the 18 month period ended 31 December 2010.

**D. Ministry of Energy and Public Utilities –**

The Annual Report of the Central Electricity Board for the year 2009.

**E. Ministry of Education and Human Resources –**

The Reports of the Director of Audit on the Financial Statements of the Students' Relief Fund for the years ended 30 June 2007 and 31 December 2010 (In Original).

**F. Ministry of Local Government and Outer Islands –**

(a) The Moka/Flacq District Council Outline Scheme (Government Notice

No. 194 of 2011)

(b) The Grand Port/Savanne District Council Outline Scheme  
(Government Notice No. 195 of 2011)

**G. Ministry of Business, Enterprise and Cooperatives –**

The Annual Report 2009-2010 of the National Productivity and Competitiveness Council (NPCC).

**MOTION**

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

**The Deputy Prime Minister:** Mr 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 & Economic Development (Mr X. L. Duval) rose and seconded.**

*Question put and agreed to.*

**PUBLIC BILLS**

*First Reading*

*On motion made and seconded the Piracy and Maritime Violence Bill (No. XXVIII of 2011) was read a first time.*

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

*Second Reading*

**THE APPROPRIATION (2012) BILL  
(NO. XXVI of 2011)**

**COMMITTEE OF SUPPLY**

*(The Deputy Speaker in the Chair)*

*Consideration of the Appropriation (2012) Bill (No. XXVI of 2011) was resumed.*

*Ministry of Gender Equality, Child Development and Family Welfare - Programme Code 521: Policy and Management for Gender Equality, Child Development, Family Welfare and Social Welfare was called.*

**Mrs Ribot:** Mr Chairperson, on page 589 under the Major Constraints, it is written that there is an acute lack of trained personnel and the Budget allotted 20 additional Support Officers to the Ministry. According to the position titles, we find only 13 additional officers. I would like to ask the hon. Minister whether they are the same 13 additional Family Welfare and Protection Officers whom hon. Mrs Bappoo last year stated would be joining the team and, if not, to which programme the 20 Support Officers are being allotted.

**Mrs Martin:** Mr Chairperson, from the information I have, the acute lack of trained personnel as addressed by hon. Mrs Ribot refers to Programme 523. Actually, the 20 Support Officers who are going to be recruited, they are going to be distributed between the CDU and the NCC.

**Mrs Labelle:** Thank you, Mr Chairperson. Under programme 521, may I ask the hon. Minister whether her Ministry has formulated any policy regarding non-gender sensitive jobs in the private sector?

**Mrs Martin:** Well, Mr Chairperson, regarding non-gender sensitive policies in the private sector, there is currently no policy that has been implemented or formulated because most often the information from the private sector is very difficult to obtain.

**Mrs Labelle:** Mr Chairperson, I am talking about the non-gender sensitive jobs in the public sector. I would like to know whether there is any policy which has been formulated. It is also stated that four policies have been formulated. May we have details of the policies formulated for 2011?

**Mrs Martin:** Actually, I am told that the MSCA is in the process of formulating gender policy for the public sector. Currently, there are eight Ministries which have already formulated their sectoral gender policies since 2009. For this year, four more additional Ministries will be formulating their sectoral policy and the services of a private consultant have been retained for this service. Next year, four more Ministries will be undergoing the same exercise and the selection of these Ministries will be made at the next National Steering Committee scheduled early January 2012.

**Mrs Labelle:** The hon. Minister has replied to something under Programme 522, but I was still under Programme 521. All right! Under this programme, Mr Chairperson, when I look at page 592, as service standards, there are a percentage of requests acknowledged within five

days. May I know from the hon. Minister which requests we are talking about? Can we have some details on this particular request?

**Mrs Martin:** As regards the percentage of requests acknowledged within five working days, it is mostly the letters that are sent to the Ministry which are referred to the different departments and the requests of which are acknowledged within five working days.

**Mrs Hanoomanjee:** Thank you, Mr Chairperson. I look at page 590 and I see that the priority objectives are to strengthen gender sensitive policies. Can I ask the hon. Minister besides having focal cells in Ministries, what has been done and what are the concrete results which have been produced by these cells? She just mentioned that there are eight Ministries where gender sectoral policies have been worked out. Can we know, in concrete terms, what are these gender policies? What these entail?

**Mrs Martin:** This is a lengthy procedure, Mr Chairperson. I can circulate whatever has been done with regard to the different Ministries under their gender sector policies and within their gender cells.

**Mrs Hanoomanjee:** Mr Chairperson, I am not talking of procedures. I want to know at least two, three or four concrete things which have come out of these focal cells.

**Mrs Martin:** The policies address mainly bridging gender gaps within the different Ministries, for example, one of the things that comes to my mind is seeing in what way the Ministry can implement gender sensitive policies within the measures that are contained within the Ministries and also see with regard to laws that render the provisions more gender-sensitive, publishing sex disaggregated data with regard to the different achievements of the Ministries and also sensitising officers with regard to gender sensitive issues.

**Mrs Hanoomanjee:** Mr Chairperson, the hon. Minister has not replied to my question.

**Mr Obeegadoo:** Yes, Mr Chairperson. One of the main concerns has, of course, always been inspection and investigation on the ground. Now, looking at the Strategic Direction on page 589, I fail to see any reference on the groundwork: investigating complaints, following-up as in the case of Grand Sable where children met with the tragic end. And if I may make this question more specific and concrete, on page 596, under *item 31121801 Acquisition of Vehicles*, I see there is nothing provided for next year, whereas the hon. Minister's predecessor, time and time again, stressed the lack of resources at that level. Could the hon. Minister give us some

clarification as to where is that investigation and inspection dimension on the ground and how does it tally with the absolute lack of provision for new vehicles next year?

**Mrs Martin:** Actually, Mr Chairperson, for the *Acquisition of Vehicles*, nothing is provided for next year because this year we have requested funds for five new vehicles that have to be acquired. That is the reason why next year no provision for *Acquisition of Vehicles* has been made. We have already obtained the funds to buy five new vehicles now.

Could the hon. Member just repeat the second part of the question, please?

**Mr Obeegadoo:** As illustrated by the recent tragedy of Grand Sable, the greatest weakness of this Ministry is the capacity in terms of human resources and vehicles to conduct investigations, inspections and follow-up action on the ground. So, my question to the hon. Minister was: why is this not reflected in the Strategic Direction spelt out on page 589? Do I now understand from the Minister that the four new vehicles will suffice for her Ministry to meet the many and increasing challenges on the ground contrary to what her predecessor and the Ombudsperson for Children have stated?

**Mrs Martin:** Well, as regards the human resources for investigation on the ground, I quite agree with the hon. Member that last year we had this problem as well. There were, I believe, eleven Enforcement Officers to be recruited, but the funds had not been earmarked for that and, in fact, that has resulted in a major setback for the correct implementation of the Ministry's strategy.

As regards the strategic direction for the development of strategic framework, it is provided for next year and we are coming up with the comprehensive Children's Bill also which will cover different aspects regarding child protection. At the same time, we will use, as an interim measure, the services of officers of the Ministry to start a squad that will go and visit the different day-care centres as well as the shelters in order to see whether the protection of children is ensured correctly. At the same time, Mr Chairperson, I agree with the hon. Member that we will need more officers as well.

**The Chairperson:** If the hon. Minister could be briefer in her reply!

**Mrs Navarre-Marie:** On page 596, *item 22130 Studies and Surveys*, we are asked to vote Rs500,000. The same amount was voted last year. I would like to know what are the studies about, when were they carried out, the outcome thereof and if the Minister would lay a copy of these studies on the Table of the Assembly. Secondly, under item *31121801 Acquisition of*

*Vehicles*, the Minister mentioned that four vehicles have been acquired this year. I would like to know the number of vehicles attached to the CDU?

**Mrs Martin:** Among the surveys that we have submitted, one was the combined third, fourth and fifth periodic reports on the Convention on the Rights of the Child which were prepared by the Ministry, submitted by the UN Committee on the CRC in August 2011.

As regards the vehicles, there are six vehicles that are attached to the different Family Service Bureaus and the other vehicles are at the headquarters and are shared among the different units.

**Mr Jhugroo:** At page 589, concerning Major Constraints and Challenges, can the hon. Minister inform the House when the computerised child protection register will be operational?

**Mr Obeegadoo:** The last question has not been answered, Mr Chairperson. We asked how many vehicles for the CDU.

**Mrs Navarre-Marie:** Attached to the CDU.

**Mrs Martin:** There are six vehicles attached to the different Family Support Bureaus which are used for the CDU as well.

**Mr Bhagwan:** At page 589, according to the Major Constraints, it is stated that -

'Difficulty in enlisting the services of volunteers to take active part in social activities

- Strengthen interaction with and motivate local communities and Committees of Social Welfare Centres and Community Centres'

What is provided in this Budget so as the Ministry can cater for the challenges and also to meet with the difficulties in enlisting volunteers? Are there sufficient funds? How many volunteers have been identified and how many local communities have been registered with the Ministry?

**Mr Baloomoody:** May we know what is the practice to retain volunteers and what is the basic principle for one to be accepted as a volunteer?

**Mrs Martin:** For the computerised system, it is expected that the system be deployed by mid-2012 and we are actually at the preliminary stage of discussion with regard to the requirement that would be needed for setting up this register. Currently, as you know, all the registers are done manually.

As regards the questions asked by hon. Bhagwan and hon. Baloomoody, actually volunteers are very hard to find because it is something that we don't pay the people for, but we go on at the level of Social Welfare Community and Community Centres to try and strengthen

interactions and motivate local communities by conducting workshops, seminars, brainstorming sessions to develop the leadership, communication and social empowerment, skills of members at the level of different committees also. This is what we aim at strengthening so that we will obtain a pool of people who are willing to give us a helping hand at the level of the locality where they live.

**Mrs Ribot:** Mr Chairperson, I would like to refer back to the hon. Minister's reply to the twenty support officers who are going to be shared between the NCC and the CDU. I would like to ask the hon. Minister how is it that provisions for those posts have not been made in the position titles?

My second question, *item 22120007 Fees for Training*, there is Rs100,000 only which is going to increase by Rs50,000 per year. I would like to ask the hon. Minister how many people have been trained and are going to be trained.

**Mrs Martin:** Just to help me, can the hon. Member tell me what page she is referring to?

**Mrs Ribot:** In fact, I am referring to the policy at page 596 where the hon. Minister replied that twenty additional support officers would be recruited.

**Mrs Martin:** Mr Chairperson, to the question asked with regard to the twenty support officers, they will be recruited on contract basis by the NCC and a sum of Rs5 m. rupees has been earmarked for their recruitment.

**Mrs Ribot:** I asked a second question concerning *item 22120007 Fees for Training*. The amount earmarked seems very low according to us and we would like to know how many people have been trained and how many people will be trained next year?

**Mr Seeruttun:** At page 589, with regard to Major Constraints and Challenges, the Minister acknowledges that the number of children victims of violence has increased. With the hon. Minister inform the House how many victims have been noted in the last two years 2010 and 2011?

**Mrs Martin:** Let me answer the question of hon. Mrs Ribot first. The provision was made for payment of fees to resource persons for the years 2009/2010. These costs were met by the NEF before. However, given the fact that the funds took time to meet the fees of the resource persons, it was found more practical to fund this item under the Ministry and it also involves the fees for training and the payment of stipends to trainee graduates and other training, that is, payment for Social Welfare Officers following courses at the University of Mauritius.

**The Chairperson:** Last question, hon. Gungah!

**Mr Gungah:** On page 589 *Major constraints and Challenges*, concerning the CSR funds, I would like to ask the hon. Minister how much has been used for the years 2010/2011?

**The Chairperson:** Does the hon. Minister have the answer?

**Mrs Martin:** Is the hon. Member referring to Major Constraints No. 2, formulation of programmes to make optimum resource? As you know, the CSR regulations have changed this year and they include also caring for children and this year we will be able to tap into the funds.

**Mr Gungah:** I would like to know from the hon. Minister how much CSR funds has been spent for the last two years.

*(Interruptions)*

**The Chairperson:** Order, please!

**Mrs Martin:** Because, last year, CSR funds could not be tapped. It has not been tapped yet; because the Ministry was not allowed to tap into CSR funds last year.

*Ministry of Gender Equality, Child Development and Family Welfare - Programme 521: Policy and Management for Gender Equality, Child Development, Family Welfare and Social Welfare (Rs77,590,000) was, on question put, agreed to.*

*Ministry of Gender Equality, Child Development and Family Welfare - Programme 522: Women's Empowerment and Gender Mainstreaming was called.*

**The Chairperson:** Yes, hon. Mrs Ribot, hon. Baloomoody and hon. Mrs Labelle.

**Mrs Ribot:** Mr Chairperson, I would like first to refer to page 592, *item S3: Support to the National Platform of Women in Politics*. I would like to know from the hon. Minister what is the form of the support to WIP. Is it in the form of grants? What is the budget and under which item does it fall?

**The Chairperson:** On the same issue, yes.

**Mrs Labelle:** Same issue, Mr Chair. May I ask the hon. Minister where matters stand regarding the setting up of the National Platform for Women in Politics and also the number of meetings which have been held on that issue since the assumption of duty of the hon. Minister?

**Mrs Martin:** Mr Chair, I am informed that the National Platform with regard to women in politics has held three meetings as yet. One has been in February, the other one in May and the last one in August. The next one is due in December. Concerning National Platform of Women in Politics again, normally, it will take the form of awareness raising campaigns to disseminate

user-friendly flyers encouraging women to join politics and featuring basic facts about women in politics and we also will continue the ongoing activities with a view to increase the participation of women in politics, the aim being having at the end of 2012 some 300 women enlisted.

**Mrs Ribot:** Mr Chairperson, excuse me! I would like to reiterate the question to the hon. Minister. What is the quantum of the grants that are being allocated to these sensitisation campaigns?

**The Chairperson:** Can we take another question from hon. Baloomoody in the meantime?

**Mr Baloomoody:** I refer the hon. Minister to page 588 where it is mentioned that *17 NGOs and Non-State Actors benefitted from financial assistance*. May we have the list of the 17 NGOs and quantum allocated to each NGO?

**Mrs Martin:** Yes, I can circulate certainly that information. As regards the question of hon. Mrs Ribot, the quantum will be decided in due course and the funds will be tapped for 2012 under *item 2212007 – Fees for Training*.

**Mrs Hanoomanjee:** On page 597 *item 26313067 – National Women’s Council*. Rs62 m. of provision had been made. Can we know how many members of staff you have got for the National Women’s Council? What is the percentage which goes to the payment of salaries for the staff and what is the percentage which actually trickles down to the women’s associations or women in general?

**The Chairperson:** I take another question, hon. Mrs. Labelle.

**Mrs Labelle:** Mr Chair, on page 592 – *Services to be provided, the first service to be provided*, when I look at the figure of Women sensitised on social, economic and political empowerment, I find for year 2010, 47,000, for 2012, 52,990,000. Mr Chair, I would like to know the figures for 2011 and where, how and when these programmes have been carried out? And also, Mr Chair, when I refer back to what was projected last year, there was only a figure of 5,000 for 2010. I am a bit surprised that from 5,000, we have managed to have 47,000 and the figure projected for 2012 was only 8,000, but now we have a figure of 52,000. So, how are we going to make that since there is no much increase in number of officers? Who is going to do that and what figures we have reached in 2011, by whom, where and when?

**Mrs Martin:** Can I please answer the question asked by hon. Mrs Hanoomanjee? I would not have the percentage as per se, but I can tell the hon. Member that for the estimates for

year 2012 regarding National Women's Council, the total salaries and items to officers amounts to some Rs59,500 m. in all, but I do not have the percentage per se, how much of that money is spent actually in the National Women's Council activities, but I can make it available to her.

As regards the number mentioned by hon. Labelle, the number of people reached is actually programmed that we do together with the social welfare centres and the community centres. Sensitisations of our programmes are brought in different parts of the island and it is community centres, youth centres as well, that we touch and, therefore, the audience is quite wide and we reach the number of 52,000.

**Mrs Labelle:** With your permission, I do not think the hon. Minister is replying to my question. I am referring to the services provided by her Ministry. I am on page 592 and I am talking about the number of women sensitised. We have a figure of 47,000 when I compare it to what was said last year in the Budget – I have the budget in front of me – from 5,000 we reached 47,000. What are these programmes, when have they been carried out and by whom? For the year 2011, what are the strategies she is adopting to increase the figure of 8,000 mentioned last year to reach nearly 53,000?

**Mrs Martin:** Last year, we had separate indicators for the Gender Unit, National Women's Council and National Women Entrepreneur Council. This year, only one indicator is provided for social, economic and political empowerment together. That is the reason why the number is such. We have also different ...

*(Interruptions)*

**The Chairperson:** I have no control on ...

**Mrs Labelle:** I have the figures in front of me and, as the hon. Minister said, true it is that this year the different programmes have been combined together. That is correct. But with regard to the figures of the programme I was talking about, last year the target for 2012 was Rs8,000, for women entrepreneur it was only Rs640 and there is another programme which amounted to only Rs850. When I add Rs850, Rs640 and Rs8,000 together, Mr Chairperson, *cela ne nous donne pas Rs52,000*. This is my question.

**Mrs Martin:** From information available to me, I can say that, up to October this year, the Gender Unit has sensitised some 16,103 women in the different women centres throughout talks and topics covered. It is the same thing for the National Women's Council, whereby 23,636 women have been reached. As regards the National Women Entrepreneur Council, 2,761

women have been reached through the different activities. I can give the hon. Member an idea of the different activities. Activities have been strengthened, and this year, for example, the ten thematic of the African Women Decade has been covered. We have also DVD support services for developing women-owned enterprises which have been made and have been disseminated in the different centres, and also the innovative measures...

*(Interruptions)*

**The Chairperson:** May I request the hon. Minister to circulate if it is a long answer?

**Mrs Hanoomanjee:** The hon. Minister just replied to my question. In fact, for the National Women's Council, out of the sum of Rs62 m. that has been provided, she said that Rs59 m. go to payment of salaries for staff only, which means that only Rs3 m. trickle down to women! A Fund which is meant for women!

**Mrs Martin:** The hon. Member must understand that the National Women's Council does not work in isolation with regard to the other units of my Ministry. Everything that the Gender Unit, for example, organises, is done also with the help and the support of the National Women's Council and, therefore, the costs of organising these things are shared as well.

**Dr. S. Boolell:** Mr Chairperson, on page 596, under *Item 22900014 -Hospitality and Ceremonies*, there is a 50% increase in the estimates. Could we have a list of what was spent last year and why...

*(Interruptions)*

**The Chairperson:** Order please, hon. Mohamed!

**Dr. S. Boolell:** ...there is a request for an increase in the hospitality business? There is also *Item 22120007 - Fees for training* which takes an increase from Rs600,000 to Rs2,700,000. Who are those going to be trained or to benefit from this money?

**Mrs Martin:** With regard to hospitality and ceremonies, last year the sum of R1 m. was earmarked for the celebration of the International Women's Day and the related activities. This year the same sum has been earmarked for the International Women's Day and the adjoining activities, plus the African Women Decade for which Rs500,000 have been earmarked.

As regards training, I am informed that funds for the payment of fees to resource persons employed on a sessional basis for capacity building of women have been earmarked under the item fees for training. Previously, the payment for capacity building, as I had said earlier, was

met by NEF for the period 2010-2011. This is why there is this increase now, and the sum has been put into my Ministry.

**Mr Nagalingum:** Mr Chairman, on page 596, under *Item 22090 - Security*, can I know which firm it is and whether there has been a tender exercise?

**Mr Obeegadoo:** Mr Chairman, if I may go back to the question asked earlier by hon. Labelle concerning political empowerment of women. Is the Minister aware that there are serious concerns on the side of the Opposition as to the political neutrality of this programme, and will she tell us whether she is ready to have direct consultations with the Opposition concerning the manner in which this programme is being carried out?

**Mrs Martin:** To answer hon. Obeegadoo, I have personally no objection at all; on the contrary, the more the merrier. As regards the question asked by the hon. Member, the contractor for services for security is RSL Security Services.

**Mr Uteem:** Mr Chairman, I am on page 597, *Item 28211 - Transfers to Non-Profit Institutions*. May I know from the hon. Minister why is it that one-third of the budget goes to one specific NGO and two-thirds go to the remaining?

**Mrs Martin:** I am informed that the amount earmarked is the monthly grant of Rs100,000 to meet the running costs of Chrysalide, which works for rehabilitation of female ex-d detainees and drugs addicts and, *en contrepartie*, the NGO raises funds to complement its expenses as well. It is not only the Government that provides for all of it.

**Mr Labelle:** Mr Chairman, regarding *Item 28211051 - Other Current Transfers - Women's Associations*, the amount has remained the same for the past two years. May I ask the hon. Minister whether we have not received any new Women Association during the past two years or whether the amount allocated to the Women Associations has decreased? Because we have kept the same amount, and we are projecting to keep the same amount for the three coming years.

**Mr Jhugroo:** At page 596, *Item 22030 - rent*, can the hon. Minister give us some clarification with regard to the rent and whether a tender exercise has been done?

**Mrs Martin:** I am informed that we have registered 1,045 women associations as at date. Earlier, the sum that was granted to them was Rs500. Now, the donation has increased to Rs2,000. That is the reason.

**Mrs Labelle:** The budget remains the same because the amount given to them has increased?

**Mrs Navarre-Marie:** On page 597, I would like to know whether the hon. Minister has received any request from *SOS Femmes* which extends a helping hand to the Ministry and women in general for a financial assistance, otherwise the centre will have no other alternative than to close down.

**Mrs Martin:** To answer the question of hon. Mrs Labelle, in order to allocate the Rs2,000 to each women's association, they have to respond to an eligibility criteria. The two criteria are as such, women's associations have to be registered with the Registrar of Association and they have to be registered as members of regional committee and have to be working for women's empowerment.

**Mr Lesjongard:** At page 596, Programme 522: *Women's Empowerment and Gender Mainstreaming*, under *Item No. 22060 – Maintenance*, for 2011 we have spent Rs800,000, then it increases to Rs2.5 m. for 2012 and to Rs2.5 m. for 2013 and 2014. Can we know from the hon. Minister which buildings are we talking about and why such an increase?

**Mrs Martin:** With your permission, Chair, I will answer the question asked by hon. Mrs Navarre-Marie. *SOS Femmes* had obtained in 2009 a grant to the tune of Rs2 m. to set up a private childcare centre by our Ministry. This year, the Steering Committee of Special Collaborative Programme for Support to Women in Distress has approved another grant of Rs2 m. to *SOS Femmes* for the implementation of the project entitled Extension of Shelter, Construction of a second floor for them. They submitted a project in September 2011 for the funding of operational cost to the tune of Rs3.5 m., but the project does not meet the eligibility criteria under the Special Collaborative Programme and that request was forwarded to the Ministry of Finance.

**Mr Bhagwan:** On page 597, under *Item No. 31112018 - Construction of Women's Centres*, I do not see any fund earmarked for year 2012. Sir, my constituency has been penalised since 2005. Can the hon. Minister inform the House how many women centres do we have, whether there is a projection which has been done by the Ministry for the construction of same and why my Constituency, Beau Bassin and Petite Rivière, which is a big constituency, is being penalised since 2005? I think somebody has used a *gomme* to erase the project after 2005. Can

the hon. Minister inform the House whether there is still a *dossier* in her Ministry and whether she will take up the matter with the Ministry of Finance?

**Mrs Martin:** I can reassure hon. Bhagwan, I do not think we would neglect him or his constituency. I am willing to take up the question with the Ministry of Finance, if need be.

As regards the buildings mentioned by hon. Lesjongard, let me say that there is a list of 17 Government-owned buildings and the increase in provision is due to cater for the maintenance of these Government-owned buildings.

*Ministry of Gender Equality, Child Development and Family Welfare*

*Programme Code 522: Women's Empowerment and Gender Mainstreaming (Rs106,920,000) was, on question put, agreed to.*

*Programme Code 523: Child Protection, Welfare and Development was called.*

**Mrs Ribot:** Mr Chairperson, I am referring to page 590, *Programme 523 Child Protection, Welfare and Development*, under item “*Campaigning on the rights of the child and the effects of child violence*”. I would like to know from the hon. Minister what is the budget earmarked for that particular purpose.

At page 597, under *Item No. 22120012 - Retainer fees to Counsel*, can we have the name of the counsel attached to the Ministry?

**Mr Bhagwan:** Sir, on the same issue of *Retainer fees to Counsel*, we all know that this issue of counsel has become *une mine d'or* for certain people since 2005.

*(Interruptions)*

**The Chairperson:** Order, please!

**Mr Bhagwan:** Can the Minister, at least, give us a list of the counsels who have been retained by the Ministry since 2005 and what is the last one who has been appointed, Attorney and Barrister and under what criteria?

*(Interruptions)*

**The Chairperson:** Order please! Shall we take another question? Hon. Mrs Hanoomanjee!

**Mrs Martin:** Mr Chairperson, I do not have the figures for the sum earmarked for the “*Campaigning on the rights of the child and the effects of child violence*” as requested by hon. Mrs Ribot. But, I can tell the hon. Member that, as at October 2011, some 15,824 children and

parents have been reached through the different programmes in 23 regions through seminars, workshops, talks delivered in schools, child's club, committee centers, etc.

As regards the recruitment of legal resource persons, I am informed that the PSC has delegated the Permanent Secretary of the Ministry the power to recruit legal resource persons on a sessional basis. As regards the names of these legal resource persons, I can circulate the list.

**Mr Baloomoody:** Can we know why are we making less expense for this year when we know that the number of legal assistance needed in this Department is increasing and why are we providing less money for legal assistance?

**The Chairperson:** Hon. Mrs Ribot, is it on the same issue?

**Mrs Ribot:** It is on the same issue, I asked for the name of the counsel. At least, we can have the name of the counsel for 2011.

**Mrs Martin:** Yes, I can give the name of the counsel.

**The Chairperson:** The hon. Minister could circulate that.

**Mrs Martin:** I did not want to take the time of the House; I can do that. I am informed that the last exercise was conducted in March 2011 following a press communiqué which was issued and the names...

*(Interruptions)*

**The Chairperson:** Order, please! Could the hon. Minister table the list and the communiqué, please?

**Mrs Martin:** The press communiqué was issued and when inviting applications ...

*(Interruptions)*

**The Chairperson:** Order!

**Mrs Martin:** ...and following selection - they actually asked for the information, I am providing it.

*(Interruptions)*

**The Chairperson:** Order please! Hon. Ameer Meea!

*(Interruptions)*

Order please!

**Mrs Martin:** Mr Chairperson, for the Family Unit, I am informed that Miss Namrata Gaya, Miss Dya Tenuja Ghose, Miss Shalinee Jeerakun, Miss Tanuja Jhoyty are the attorneys

that have been enlisted. There is also Mrs Fazila Jeewa Dawreeawoo and Mrs Jaunkee for tardy declaration of birth on pro bono basis.

**Mrs Hanoomanjee:** Mr Chairperson, I have two questions, would you allow me?

**Mr Chairperson:** No, one question, please! I have got a long list

**Mrs Hanoomanjee:** On page 593, I see that targets for the number of home visits: in 2010 was 3,000; increased in 2012: 10,000; number of parents reached through *Ecole des Parents*, 378, now targeted 1,200. But, the targets do not tally with the means. If I look at the programme, I cannot see where the means are to achieve these targets. Can the Minister say where the means are in this programme?

**Mr Obeegadoo:** Chairperson, I have one question on the same issue.

**The Chairperson:** Yes, on the same issue.

**Mr Obeegadoo:** Will the Minister tell us, very clearly, for the purposes of the CDU Programme 523, how many vehicles are available for inspection and investigation attending to complaints on the ground and how many staff members of her Ministry are allotted to the CDU?

**Mrs Martin:** Presently, Mr Chairperson, there are 22 officers who are allotted to the CDU. I had answered earlier that we are purchasing five new vehicles which will be put at the level of the Family Service Bureau which works in collaboration with CDU, with regard to the visits effected for the children in distress.

**Mr Obeegadoo:** Is there one single vehicle following what hon. Mrs Hanoomanjee said, devoted exclusively to the CDU?

*(Interruptions)*

**The Chairperson:** Order!

**Mrs Martin:** I am informed that along with the six vehicles at the FSB, six vehicles are also attached to CDU and more are provided if required.

**Mr Ameer Meea:** On page 597, under *item 22900912 – Running Expenses of Shelters for Children*, there has been a substantial increase from Rs13 m. to Rs33 m. Can I ask the hon. Minister what is the reason for such an increase and also whether there has been an increase in the number of shelters for children? Can the hon. Minister also give us the regions where those shelters have been constructed?

**Mrs Martin:** Mr Chairperson, I am informed that the money earmarked is for the running expenses of shelters La Colombe, that of Cap Malheureux, which is going to be

inaugurated soon, and for Floreal and Belle Rose as well. The increase is also to cater for six additional shelters, which will be operational in 2012 as stated in the Budget. But for the setting up of the six new shelters in 2012, we have sites that are going to be proposed in order of priority, but, of course, advertisement will have to be made and we are considering regions like Flacq, Grand Port, Black River, Savanne, Pamplemousses and Moka.

**Mrs Labelle:** Mr Chairperson, I am on page 593 – *Services to be Provided* and I am looking at the Indicator *SS2 – Number of home visits carried out* on existing cases. It is mentioned that for 2010, it was 3,000. I would like to have the figure for 2011 from the hon. Minister. Mr Chairperson, there is also a target of 10,000 home visits for the coming year. May I know from the hon. Minister who will effect these visits because we have six vehicles for 10,000 home visits? And I think I'll join to what hon. Mrs Hanoomanjee was saying. When I look at the increase in the number of personnel, I don't find the relative increase for this.

It is the same thing regarding parents reached out through the *École des Parents*. Will the hon. Minister table a copy of the programme, which is given to these parents who are ensuring this programme? Is it officers of the Ministry who are doing part-time job at the *École des parents* or do we have resource persons outside the Ministry, and the cost of these programmes?

**The Chairperson:** On the same issue, Hon. Mrs Hanoomanjee and hon. Baloomoody.

**Mrs Hanoomanjee:** On the same issue, but I haven't got a reply for my question.

**Mrs Martin:** I will reply perhaps to both of you.

**The Chairperson:** Yes, hon. Baloomoody!

**Mrs Martin:** Mr Chairperson, please!

**The Chairperson:** We are still on the same issue.

**Mr Baloomoody:** Yes, on the same issue. 10,000 visits are targeted for child abuse. May we know how these houses are selected? As we know, there is no data at the Ministry and there is a lack of computer. I can see from one of the major constraints that there is lack of computerised system or data collection. So, how are these 10,000 houses selected for the visits?

**Mrs Martin:** Mr Chairperson, can I just please answer the questions of the two hon. Members, Mrs Labelle and Mrs Hanoomanjee.

*(Interruptions)*

**The Chairperson:** Order, please!

**Mrs Martin:** I am informed that for 2011, 8,000 visits have already been conducted and the increase in number will be covered by the FWPOs and the Support Officers who are going to be recruited.

**Mrs Navarre-Marie:** On page 597, I would like to refer to page 601 for the post of Child Welfare Officers. We have been made to believe that there were around six Child Welfare Officers when, in fact, there is only one. In the Budget Speech, Mr Chairperson, the hon. Minister talked of recruiting 20 additional Support Officers; this is nowhere to be found in the Budget.

**Mrs Labelle:** On the same issue, Mr Chairperson. Last year, in the Budget there was a target of six officers for 2011 and now when we look at the Budget there is only one. So, where have these five officers gone?

**Mrs Martin:** Let me just answer the question from hon. Baloomoody. The assessment is made on the basis of any harm that may be caused in the immediate environment occupied by the children. The extent of danger and whether the child is exposed to that degree of risk and whether there is any support system available, but the cases are either reported to us through the different mechanisms that we have in place, including Child Watch Committees and other committees that are held at the different levels and even on the different emergency numbers that we have; 113, as well.

As regards the question put by hon. Mrs Navarre-Marie, I am informed that Child Support Officers and Child Programme Officers consist of 20 for 2012. The Child Welfare Officers have been restyled into the Family Welfare Protection Officers. That is why the provision is not made for 2011 because they have been renamed into Family Welfare Protection Officers.

**Mr Uteem:** On page 593, under item *S1 - Provision of care to children victims of violence*, answering to a PQ last year, the hon. then Minister mentioned that one of the shortcomings was that the Field Officers lack professional training. That was what the Ombudsperson for Children said. May I know from the hon. Minister how much money is being put in this Budget to train Field Officers who deal with children?

**Mr Obeegadoo:** On the same issue, Mr Chairperson. Since this has been identified as the major problem by the Ombudsperson for Children, why is there not a specific vote for training as is the case under other Ministries under different such programmes?

**Mrs Martin:** Presently, some 40 officers have already been trained, the process is ongoing and Rs600,000 have been earmarked for next year.

**Mr Baloomoody:** Can I ask the hon. Minister how are these Field Officers selected and whether their political affiliation or conviction is taken into account when selecting them?

**Mrs Martin:** Can the hon. Member just repeat the last part of the question?

**Mr Baloomoody:** Can I ask the hon. Minister how are these Field Officers selected and whether their political affiliation or conviction is taken into account when selecting these people?

*(Interruptions)*

**The Chairperson:** Order!

*(Interruptions)*

Order!

**Mrs Martin:** These officers are selected by PSC actually.

**Mrs Labelle:** On this issue, I think I heard the hon. Minister saying that the officers are being selected by PSC, but I think my hon. friend was referring to the Family Support Officers who are being recruited under the National Women's Council. Can the hon. Minister confirm that those employed by the National Women's Council – I think there is a great number of officers – are being selected by the PSC?

**Mrs Martin:** No, if the hon. Member is referring to FSOs under the National Women's Council, we have definite criteria that they have to respond to.

**Mrs Bholah:** At page 593, Programme 523: Child Protection, Welfare and Development, SS1, could the hon. Minister confirm the existence of a Child Mentoring Committee and if so, can she list the names of the members of this Committee and what mechanism has been put in place to mentor 1,500 children for the year 2012?

**Mrs Martin:** Yes, the Committee exists and I can circulate the names of all the members of the Committee. The Chairperson is Mrs Myriam Narainsamy. As regards 2012, 1,200 children are targeted, I believe not 1,500.

**Mr Lesjongard:** Mr Chaiperson, in regard again to page 593, at S1 *Provision of care to children victims of violence*. Earlier it was stated that the number of visits was 3,000 for 2010 and that it will be increased to 10,000, that is, visits to existing cases. Then for 2013 it goes on increasing, that is, 12,000 and 15, 000. Do we understand from the hon. Minister that measures won't be taken to decrease the number of victims?

**Mrs Martin:** Not at all! We are providing for it. We are still continuing and ensuring the strengthening of our campaigns in order to make people more aware of this issue so that the victims are less. But as regards the existing victims they are assisted by officers, of course, on priority basis depending upon the emergency of the case.

**Mr Bhagwan:** At page 598, under *item 31112428 Upgrading of Creativity Centre at Mahebourg*, can the hon. Minister informed the House whether this centre is opened to all political parties, whether it is only reserved for the Government party? May I ask also whether during the past years many activities, political meetings have been held and what is the sum that has been paid as fees for the renting? Is there a policy opened to all political parties and has the centre recently been used by the Government?

**Mrs Martin:** I am informed that the sum earmarked is with regard to *Upgrading the Creativity Centre at Mahebourg* and as regards the frequentation of that Creativity Centre, I am informed that it is mostly children who do modeling, creative drawing, doll making and creative collage. I am not aware of any other activities carried out therein.

**Mr Gungah:** Program 597, *item 22900912 Running Expenses of Shelters for Children....*

*(Interruptions)*

**The Chairperson:** Order!

**Mrs Martin:** I am sorry, Mr Chairperson, I cannot hear.

**Mr Gungah:** I refer to *item 22900912 Running Expenses of Shelters for Children*. We found that there is a massive increase from Rs13,000,800 to Rs33 m. I would like to ask the hon. Minister what is being done to find a solution for these children at the root - because the problem is at the root - and whether they would be on permanent or temporary accommodation and what is being done to accommodate the children elsewhere?

**Mrs Labelle:** On the same issue of this centre, I would like to know from the hon. Minister - because we are talking about rehabilitation of these children - what is the duration of the program and the number of officers attached to this particular program. Mr Chairperson, we see an increase of only one psychologist under this program. Where will the officers come for such a program?

**The Chairperson:** I take a last question from hon. Barbier in the meantime.

**Mr Barbier:** Mr Chairperson, I am on page 598, *item 28211 Transfers to Non-Profit Charitable Institutions*. We are asked to vote for an increase of Rs1 m., that is, from Rs19 m. to

Rs20 m. for this year. May I ask the hon. Minister whether she will circulate a breakdown of the institutions which are receiving grants from this vote with the corresponding amount they are receiving?

**Mrs Martin:** With regard to the question of hon. Barbier, I am informed that the sum earmarked is for the payment of a per capita grant to the 12 institutions where the Ministry places children victims of violence at the daily rate of some Rs218. Concerning the rehabilitation of officers and the rehabilitation process, it is a series of programs that are undertaken to rehabilitate the Children as the hon. Member well knows and psychologist services also are enlisted. The personnel is regularly trained in order to effect counselling and accompaniment of these children. But the duration of it varies, it is on a case-to-case basis.

*(Interruption)*

**The Chairperson:** On the same issue?

**Mrs Labelle:** Mr Chairperson, on the same issue, the hon. Minister has mentioned the shelters to which the Ministry sends the children. When I look at page 589, Mr Chairperson, as a major constraint, the hon. Minister mentioned at page 589 -

“Lack of Capacity of NSAs to manage shelters for the protection of children in distress”

**The Chairperson:** Hon. Mrs Labelle, time is over. You should be brief.

**Mrs Labelle:** We are talking about children in distress...

**The Chairman:** I know.

**Mrs Labelle:** ... and the hon. Minister is mentioning an increased number and the measures. We are talking about children in distress, Mr Chairperson.

**The Chairperson:** Alright.

**Mrs Labelle:** We are talking about children in distress without really taking care. Who take care of them? We are saying that these centres can't do it, they lack experience.

**The Chairperson:** Let the hon. Minister respond.

**Mrs Martin:** Actually, what we mentioned is the lack of capacity of NSAs to manage shelters. This is for the new shelters that we are going to rent as from next year and we will start a training program for a first batch of 25 NSAs to manage those shelters. This training program will be mounted in collaboration with HRDC in order to strengthen the capacity building of

NGOs because we strongly believe that NGOs should give us a helping hand also, but then we should help them as well.

*Programme Code 523: Child Protection, Welfare and Development (Rs115,600,000) was, on question put, agreed to.*

*Programme Code 524: Family Welfare and Protection from Gender-Based Violence was called.*

**Mrs Ribot:** Mr Chairperson, I refer to page 593. I would like to know what is the budget earmarked for (a) the National Action Plan to combat domestic violence, (b) the National Action Plan for the family, (c) the Sensitization Campaign on Gender-Based Violence and Family Issues, and if the hon. Minister could explain why there is such a drastic decrease under *Goods and Services* from Rs44 m. to Rs27 m. and under *Special Collaborative Programme for Support to Women and Children in Distress*, how is it that there is a decrease from Rs40 m. to Rs20 m.?

**Mrs Labelle:** Mr Chairperson, to go further on the *Special Collaborative Programme*, I would like to know from the hon. Minister whether expenses incurred for the awareness campaign ‘men as partners’ was incurred under this item. Also, Mr Chairperson, last year under this program it was mentioned that among services provided there would also be the rehabilitation of perpetrators of domestic violence. It was mentioned in last year’s Budget. I would like to know how many perpetrators are being rehabilitated for the year 2011 – if ever there has been, why this service no longer form part of services provided for next year and also the amount spent on that.

**Mrs Martin:** May I just answer the question of hon. Mrs Ribot? As regards the National Action Plan to combat domestic violence, the budget is Rs450,000. The National Action Plan on the family for this project, Rs1,500,000 has been earmarked. We have just launched a costed National Action Plan to end gender-based violence last Friday and this budget is provided for to the amount of Rs1,450,000. Now, with regard to activities of family welfare there are quite a lot of information, education, and communication campaigns and different activities which I can circulate.

**The Chairperson:** Yes, please circulate! Hon. Mrs Hanoomanjee!

**Mrs Hanoomanjee:** Thank you, Mr Chairperson. On still the same item...

**Mrs Ribot:** I also asked the hon. Minister if she could explain the drastic 100% decrease in *Goods and Services* and *the Special Collaborative Programme for Support to Women and Children in Distress*.

**Mrs Martin:** The drastic decrease is due to the reduced amount provided for the *Special Collaborative Programme for Support to Women in Distress* because we have noted that throughout the years the sums that had been earmarked had been under spent due mainly to problems regarding the capacity of NGOs to write their projects correctly. What we are doing now is addressing the issue. We have officers who are going to go and help the NGOs who want to enlist under this programme with regard to presentation and project write up because when it goes to the Steering Committee it is not considered as sustainable, it is not well presented. But, at the same time, I need to stress that the money earmarked is not a final budget. It can be increased whenever necessary when we discuss with the Ministry of Finance.

**Mrs Hanoomanjee:** Mr Chairperson, on the same item...

**The Chairperson:** On the same issue, I gave you the latitude to ask a supplementary explanation.

**Mrs Hanoomanjee:** Mr Chairperson, I don't know whether I heard rightly the hon. Minister saying that the budget for domestic violence is Rs450,000 only. Can the hon. Minister confirm that? But, if we look at the trend of domestic violence, so many deaths related cases, can I say that the hon. Minister has got a National Plan of Action and that if there are so many cases of domestic violence with death related cases, that means the National Plan of Action to combat domestic violence is a total failure?

**Mrs Martin:** I don't think so, Mr Chairperson, because what happened actually is that the numbers of reported cases are decreasing. From last year, 2010, it was some 2,000 and this year to date it is some 1,300. So, therefore, I cannot say that it is a failure. But, I agree that one case is one too many and we have to address this issue. This is what we are doing through the different measures earmarked.

**Mr Uteem:** Mr Chairperson, is there any amount being provided in this year for the setting up of the National Strategic Framework to look into this matter? This was announced earlier this year by the then Minister of Gender, that a UN Consultant was being recruited. But I don't see any money budgeted here to provide for this National Strategic Framework to address the problem globally rather than attacking the problem on a piecemeal basis.

**The Chairperson:** I will take a question from hon. Obeegadoo in the meantime!

**Mr Obeegadoo:** I refer generally to the *Programme 524* at page 598. I would like, again, to ask from the hon. Minister some factual information. On the basis of the Budget we are voting for next year, will she tell us how many DVU outstations are being provided for and will she circulate a list as to the location?

Secondly, how many staff, personnel, is exclusively devoted to the DVU and thirdly, the number of vehicles to answer calls for assistance?

**Mrs Martin:** I will, perhaps, answer the question of hon. Mrs Labelle, with regard to Abuser Rehabilitation Policy first. I am informed that the Consultancy Services have been sought for the elaboration of the policy regarding the VEARP. Therefore, the abuser rehabilitation strategies have not yet been put in place but the Consultancy Services has been sought in order to elaborate this policy. I am informed also that there is actually no strategic framework scheduled so far as regards family.

**Mrs Bholah:** Under the *Priority Objectives* of the Ministry, at page 590, *promote family welfare*, can the hon. Minister inform the House how this will attain when the number of psychologists is being increased only from five to six?

**Mrs Martin:** I can also answer partly for what hon. Obeegadoo has asked. There are presently 23 members of staff involved in the promotion of family welfare. As regards the question asked by hon. Mrs Bholah, as you know, the promotion of family welfare does not rely only on psychologists, but there are other programmes under the National Plan of Action on the family that are being conducted, for example, premarital counselling and other programmes that do not really require psychologists as such, but includes a component of communication as well.

**Mrs Ribot:** Mr Chairperson, I would like to ask the hon. Minister whether she intends to take into consideration two proposals of the Ombudsperson for Children in her last report, namely -

1. to keep women and children in distress separate from the other children victims of child abuse and not mix children with a handicap together with those victims of sexual abuse or other forms of abuse, and
2. secondly, to have four full-fledged teams for each Family Support Bureau working on a shift system.

**Mrs Martin:** As regards the sheltering of women and children separate from other children, I must be frank with the hon. Member, in an ideal world it would have been what we would have done but, presently, because we are in an emergency situation - we have been set back by a year because we did not have the necessary finances - some of these measures cannot be implemented right now.

But, with regard to separation concerning CSEC children we have the Residential Care Drop-In Centre at Grande Rivière Nord Ouest which is going to be inaugurated shortly and which will cater specifically for CSEC children, that is, children who have suffered from sexual exploitation and that is going in the sense of what the Ombudsperson is asking.

**Mrs Labelle:** Mr Chairperson, for the *Programme 524*, I would like to refer to the title. We talk about protection from gender-based violence, but I don't see domestic violence. I don't understand whey here we don't talk about domestic violence.

The other thing, Mr Chairperson, the hon. Minister has mentioned the decreasing trend of domestic violence. May I know why, on page 594, among the services offered for next year, the number of men and women to be sensitised is doubled? Why double when we are on the decreasing trend?

Mr Chairperson, regarding the collaborative programme, I would like to know from the hon. Minister what is the composition of the technical committee who selects the projects. From what we have heard, there have not been sufficient projects for the Budget, and that is why we have underspent.

I would like to know whether her Ministry has made an assessment of projects financed under this programme for the past year. For 2010, I think some Rs20 m. were spent. Has there has been an evaluation, and how much money has been spent for 2011? I would like to have the list thereof and the composition of the technical committee.

**Mrs Martin:** I'll try to answer all these. As regards domestic violence...

*(Interruptions)*

**The Chairperson:** Order!

**Mrs Martin:** We are planning, in fact, to introduce a computerised system with regard to collection of data on domestic violence, and the sum earmarked is Rs1 m. You can see it in the Budget. But, that is going to be a first step towards gender-based violence data collection. We are starting by domestic violence to go towards gender-based violence as well.

The sum for Domestic Violence Campaigns has been doubled for one simple reason. It's because when we talk about combatting domestic violence, this is an issue that has to be ongoing and strengthened among the population. Awareness has to be sustained, and that is the reason why we want to touch a larger group of people thus we are increasing the sum with regard to sensitisation. We believe that if we want the number of cases to drop, we have to maintain the campaigns with regard to combating domestic violence.

As for the special collaborative programme for support to women and children in distress, the composition of the technical committee is as follows -

- the Chairperson is the Head of Gender Unit of my Ministry, and
- there are a number of professionals from the Ministry of Finance, the NGO Trust Fund, Social Welfare as well.

I can circulate the details.

With regard to the last part concerning projects, it is not that the number of projects submitted was less. It is actually because the projects submitted were not in line with the programme and objective criteria. Also for project write-up, the NGOs have low capacity. This is what we are trying to reinforce.

**Mrs Ribot:** Mr Chairperson, my question has not been replied. I asked the hon. Minister whether she was ready to entertain the Ombudsperson for Children's advice that four full-fledged teams for each Family Support Bureau working on a shift system should be settled up, and if she has sufficient staff for it.

**Mrs Martin:** The staff is our main problem. As I have said in my speech on the Budget last time, we are aiming at rationalising the services of the CDU. We will undertake a study, an audit, so that we can rationalise all the services of CDU. Of course, if there is possibility to put this full-fledged team in the four regions, that is what we will do.

**Mr Seeruttun:** Mr Chairperson, the hon. Minister is maintaining that the level of domestic violence is on the decrease. Is she aware that a report has been published recently by the MRC, which states the contrary, and that the Director of Gender Links stated on the radio that the report is shocking? Is the hon. Minister aware of that report, and what does she intend to do?

**Mrs Martin:** I am not aware of that report per se, but for 2011 the number of cases of domestic violence reported at FSB is 1,344 compared to 2,215 last year for both sexes.

**Mr Uteem:** Mr Chairperson, on page 602, provision is made for the recruitment of only one additional psychologist. May I know from the hon. Minister how quickly after a reported case of domestic violence does a psychologist visit the victim? Does the hon. Minister feel that having only six psychologists is sufficient to look after all the victims of domestic violence?

**Mrs Hanoomanjee:** Mr Chairperson, in view of the situation concerning women, children and the family in general, the hon. Minister has just said herself that it is an emergency situation. Can she say whether she proposes to carry out an in-depth sociological study? Because I cannot see in the Budget any single item which relates to any sort of study on this matter.

**Mrs Labelle:** Mr Chairperson, if I go to page 593, *Programme 524, SS1 - Cumulative percentage implementation of recommended actions of the National Action Plan to Combat Domestic Violence*, for 2010 it was 85%, and now we are being told that for 2012 it will go to 100%. So, what have we reached for 2011? 15% will only apply in 2012. What are the activities that have been carried out to implement the Action Plan on that issue as well as on the family? Maybe the hon. Minister has the number of protection orders issued for 2011 also.

**Mrs Martin:** What I can say is that for 2011, 40% of the recommended actions in the National Action Plan on the family have been implemented and, therefore, the programme is on track.

As regards the National Action Plan to combat domestic violence, 92% of the recommended actions in the plan have been implemented. The eight remaining percent concerns the monitoring and the feedback, which is going to be done in 2012.

As regards to the question asked by hon. Hanomanjee, I think we can consider doing this under *Programme 521, item Survey and Studies*.

With regard to the post of psychologist, if the need arises for an additional psychologist, the Ministry may resort to those on sessional basis through advertisement as well. I am informed that five family counselling officers give also first-hand counselling to the different victims.

**Mrs Hanoomanjee:** If the hon. Minister says that she can consider, can she do so for the next financial year - I mean to have this sociological study? Can the hon. Minister give the commitment that she is considering this seriously?

**Mrs Martin:** I will seriously look into it.

**Mr Baloomoody:** With regard to the statistics mentioned for domestic violence, can I ask the hon. Minister whether the number she stated include the cases reported at the Police Station? Secondly, we know that with regard to domestic violence there is a major need for legal assistance. There is no provision under this Programme 524 for legal assistance. Will she kindly enlighten the House?

**Mrs Navarre-Marie:** Mr Chairperson, I would like to refer back to the drop-in centre at Grande Rivière because the hon. Minister just mentioned that. She talked about the drop in centre and she says that it is a residential centre. In fact, which is which, Mr Chairperson, is it a residential centre or Drop-in Centre where children, victims, just pop in, have the information that is required and go back to the streets?

**Mrs Martin:** The residential Drop-in Centre will have a dual purpose, that is, part of it will be as a residential care centre for some 32 boys and girls who are victims of sexual exploitation and also it will provide for immediate, medical and psychological care to other children victims of different sorts of abuse, sexual abuse predominantly.

As regards the question asked by hon. Baloomoody, I am informed that the number that is reported to the Family Service Bureau are not compiled together with those of the Police and that is a major problem. That is why we want to computerise the different data so that we'll not have duplication.

*Ministry of Gender Equality, Child Development and Family Welfare*

*Programme Code 524: Family Welfare and Protection from Gender-Based Violence (Rs 41,665,000) was, on question put, agreed to.*

*Programme Code 526: Social Welfare and Community-Based Activities was called.*

**Mrs Ribot:** Mr Chair, I would like to refer to page 594, S2: *Provision of community development programmes at Community Centres.* It is planned that the number of participants that are going to be touched for SS1 and SS2 is going to increase drastically. I would like to know from the hon. Minister how she intends to manage since there is no increase in personnel that is earmarked?

Secondly, at page 599, under *item no. 28211022 Operating Costs - Social Welfare Centres*, can we have the number of social welfare centres, the annual budget allocated to each? May we also know how is it that the Budget is remaining the same for the four coming years?

**Mrs Martin:** I am informed that there are presently some 56 Social Welfare Centres and 130 Community Centres. Therefore, the number that the hon. Member sees as a drastic increase is really on target because when you multiply, for example, one activity where you get, at least, 50 persons to 200 persons depending on the importance of the activity; within a year you can easily reach that number because there are some 186 Community and Social Welfare Centres together. The annual budget for the activities is Rs125,000 for each centre, but they also can seek funds from different organisations.

**Mr Bhagwan:** Under the same item – Community Centres and Sugar Industry Labour Welfare Fund, can the hon. Minister give us the information as to whether all the management committees, appointed by Government for all Community Centres, are operational and whether her Ministry has been giving directives to the officers of the Community Centres and Sugar Industry Labour Welfare Fund not to invite Members of the Opposition, if not, they will be taken to task? I have some examples which I'll lay on the Table later on: Divali Festival, Senior Citizens and also the end-of-the-year activities. Can the Minister...

(*Interruptions*)

**The Chairperson:** Order!

(*Interruptions*)

**Mr Bhagwan:** *To mem inn donn l'instruksyon pa invite Ramano!*

**The Chairperson:** Order! No cross-talking, please! Hon. Ms Deepalsing, please, there is no need to interrupt. The hon. Member should put his question.

**Mr Bhagwan:** Can the Minister, at least, give....

(*Interruptions*)

*Ki fer zot fer tapaz ? Li vrai !* Can the Minister give an assurance to the House that her Ministry has not, and will not give any directive to the officers and to the Management Committee of the SILWF?

**Mrs Martin:** Hon. Bhagwan, I am informed that such...

(*Interruptions*)

**The Chairperson:** Please! Let the Minister answer now!

No interruption, please!

(*Interruptions*)

Order now! Order! Hon. Minister, complete your reply!

**Mrs Martin:** I am informed that such is not the case, hon. Bhagwan.

**Mr Jhugroo:** At page 599, with regard to Sugar Industry Labour Welfare Fund, can the hon. Minister inform the House about the number of persons recruited in each grade during the last financial year from each constituency? Can we have the names, age, qualifications, salaries, addresses of all those recruited?

**The Chairperson:** Is it a PQ?

**Mr Bérenger:** No, a PNQ.

**The Chairperson:** No, please!

*(Interruptions)*

**Mr Jhugroo:** With regards to all those recruited, can we have the total number now and then circulate other information later on? My second question...

**The Chairperson:** Only one question!

**Mr Jhugroo:** It is on the same item, Chair.

**Mrs Martin:** Which item?

**Mr Jhugroo:** Sugar Industry Labour Welfare Fund. May we know the operation costs of the Fund? And whether these accounts are audited and, if so, by whom?

**Mrs Martin:** As regards all the details asked by the hon. Member, I believe that will take a while to compile. With regard to the capital grant given to Sugar Industry Labour Welfare Fund, this is mostly for maintenance and upgrading.

**Mr Obeegadoo:** Sir, I want to follow from the question of hon. Bhagwan which is a very serious matter for the democratic functioning of our country. We are, as an Opposition today, been asked to approve an amount of Rs221 m. under this vote. Do we have a clear commitment from the Minister today that for year 2011 to the extent that anyone MP of a particular Constituency is invited to a function Social Welfare Centre/Community Welfare Centre, all MPs of that Constituency will invariably be invited? We shall vote on condition that we have a clear commitment from the Minister.

*(Interruptions)*

**The Chairperson:** I'll take another question.

*(Interruptions)*

Order! If the Minister can respond now, I have no objection.

**Mrs Martin:** I would like to tell the hon. Member. I am not at all aware that he is not invited. No direction has been given....

*(Interruptions)*

**The Chairperson:** Order now! Let the Minister answer, please!

**Mrs Martin:** I have not given any direction for you not to be invited.

*(Interruptions)*

**The Chairperson:** Order, please! I have not been able to hear the reply of the Minister.

*(Interruptions)*

Please, order! Order, hon. Bhagwan! Hon. Bhagwan, I am calling you to order!

*(Interruptions)*

Please, let the Minister reply! Hon. Bhagwan, I am calling you to order. Please, let the hon. Minister reply!

**Mrs Martin:** Yes, I would honestly tell the hon. Member that I have never given any direction for him not to be invited. If he wants to come, there is no problem, he can come.

*(Interruptions)*

**Mr Obeegadoo:** Mr Chairperson, this is a very important point. We will not agree to vote this project unless we have a clear unequivocal commitment from the Minister that for year 2012, all activities pertaining to social welfare and community centres will imply inviting all MPs.

*(Interruptions)*

**The Chairperson:** Order!

**Mrs Martin:** Again, Mr Chair, I will repeat, there is no problem for the Member to come, but I am not the one responsible for the invitation. I am not the person who makes the invitation; I am not responsible for it.

*(Interruptions)*

There is no problem, you can come.

**The Chairperson:** Hon. Mrs Hanoomanjee!

*(Interruptions)*

Order, now!

**Mrs Hanoomanjee:** Yes, Mr Chair...

*(Interruptions)*

**The Chairperson:** Yes, hon. Mrs Hanoomanjee.

*(Interruptions)*

No, the Minister replied, I cannot...

*(Interruptions)*

But I am not responsible. If you did not hear, I am sorry!

Yes, hon. Mrs Hanoomanjee, please!

**Mrs Hanoomanjee:** Mr Chair, can I ask the hon. Minister whether she is aware with regard to recruitment...

*(Interruptions)*

**The Chairperson:** Hon. Assirvaden, no cross-talking!

*(Interruptions)*

**Mrs Hanoomanjee:** Can I, Chair?

*(Interruptions)*

**The Chairperson:** Please!

**Mrs Hanoomanjee:** Yes, Chair, can I ask the hon. Minister whether she is aware...

**The Chairperson:** Time is running!

**Mrs Hanoomanjee:**..with regard to recruitment at the level of social welfare centres and community centres, recruitment done at the level of motivators, community welfare assistants, whether she is aware that those people who are recruited, they are recruited without any qualifications, without any skills, without any competence and because they are recruited in such a way that the activities at the level of social welfare centres and community centres suffer?

**Mrs Martin:** I cannot hear the question of the hon. Member.

*(Interruptions)*

**The Chairperson:** Order!

*(Interruptions)*

Order, I say! From both sides of the House, I ask for...

*(Interruptions)*

Yes, hon. Minister, can you respond?

**Mrs Martin:** I did not understand the last part of the question.

**The Chairperson:** Can the hon. Member please repeat?

**Mrs Hanoomanjee:** I'll repeat. Mr Chair, can I ask the hon. Minister whether she is aware that at the level of the social welfare centres, the community centres, there has been recruitment and recruitment is still on for motivators, community development officers, that these officers are recruited without any qualifications, they do not have any skills, they do not have any competence, they are over 50 years of age...

(*Interruptions*)

They are over 50 years of age...

(*Interruptions*)

**The Chairperson:** Order!

**Mrs Hanoomanjee:**...and this is why...

(*Interruptions*)

**The Chairperson:** Order! Order!

(*Interruptions*)

Hon. Chief Whip, please! There is no need.

(*Interruptions*)

Order! Order! Hon. Government Whip, I am reminding you! Hon. Chief Whip, I am calling you to order. You are here to help the Chair.

**Mr Baloomoody:** Mr Chair, this is unparliamentarian for a hon. Chief Whip to treat a honourable lady '*to ene malprop*'. Is that parliamentarian? We want him to withdraw.

(*Interruptions*)

**The Chairperson:** Order! Please!

(*Interruptions*)

Order! I'll ask the hon. Chief Whip - I did not hear as a hon. Member what he has to say, whether those words were uttered to the address of the hon. lady.

**Dr. Hawoldar:** No, Chair. I never said this to the name of the hon. lady. I never said it. I can swear.

**The Chairperson:** Ok. That's the end of the matter.

(*Interruptions*)

That's the end of the matter.

(*Interruptions*)

Order, now! I'll ask the hon. Minister to respond. Now it is over. Hon. Ms Deepalsing and hon. Chief Whip! I'll ask the Minister to respond to the question of hon. Mrs Hanoomanjee now.

**Mrs Martin:** Yes, what I can say...

*(Interruptions)*

**The Chairperson:** Hon. Ms Deepalsing, I am calling you to order.

**Mrs Martin:** Yes, I am informed that the recruitment procedures at Sugar Industry Labour Welfare Fund are advertised at the community centres; social welfare centres and applications are received and processed at the head office and the qualified candidates ...

*(Interruptions)*

**The Chairperson:** Order, now!

**Mrs Martin:** ...are called for interviews. That's what the process is.

**The Chairperson:** I'll suspend the sitting for one and a half hours now.

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

*On resuming at 2.30 p.m with the Deputy Speaker in the Chair*

**The Chairperson:** I wish to inform all Members that we have got four minutes left on this Programme Code. According to my list, I have Mrs Labelle.

**Mrs Labelle:** I am on page 599 ...

*(Interruptions)*

Mr Chairperson, with your permission, may I give way to my colleague?

**The Chairperson:** Yes, alright!

**Mr Obeegadoo:** Mr Chairperson, further to an issue raised earlier by hon. Bhagwan and myself, I wish to make a motion pursuant to Standing Order 73(7). I move an amendment to reduce by the sum of Rs100 m...

*(Interruptions)*

**The Chairperson:** Order!

**Mr Obeegadoo:** The vote under the Programme is Rs221 m.; Rs246,620,000 m. for the year 2012.

*(Interruptions)*

The motion is to reduce by Rs100 m. the amount under this budget.

*(Interruptions)*

**The Chairperson:** Which item?

**Mr Obeegadoo:** *Programme 526: Social Welfare and Community-Based Activities.*

The vote under this programme is Rs246,620,000. Accordingly, I am moving for a reduction by Rs100 m. If I may explain the motion, Mr Chairperson, this programme is very important. It represents more than 40% of the total budget of the Ministry and earlier we had raised the issue that if we are to vote this amount, we would like a guarantee that Social and Community Welfare Centres are not used to party political ends. If the Minister is willing to take a solemn commitment before this House that for the coming year 2012 all MPs will be invited to all functions in Social and Community Centres, I will withdraw my motion. But to the extent that no such commitment has been taken I move accordingly.

**Mr Bhagwan:** Mr Chairperson, I raised that issue. I have been a victim myself as an MP in my constituency for more than a quarter of a century. I have not been invited at any of these functions since 2005 and I had to sit on the wall and watch outsiders coming in my constituency. I think in democracy this is not fair. It may happen to them tomorrow. I think, as matured persons and responsible parliamentarians, we have to see that Members of Parliament, whoever it may be, Government or Opposition must be on equal footing whenever public functions are concerned. More so, Sir, centenarians and officers ...

(*Interruptions*)

**The Chairperson:** We are left with three minutes. The hon. Member should be brief.

**Mr Bhagwan:** It is our credibility.

(*Interruptions*)

**The Chairperson:** Within the twenty minutes! We have twenty minutes.

**Mr Bhagwan:** Concerning centenarians, clear directives were given. It is not only the Ministry of Social Security, but even the families of a centenarian were asked not to invite us. I hope this has changed. With these words, Sir, I totally subscribe to what has been said by my colleague, namely that the Minister must give an assurance.

(*Interruptions*)

**The Chairperson:** Hon. Seeruttun!

**Mr Seeruttun:** Thank you, Mr Chairperson. I would like, on this side of the House, to also join our colleague, hon. Obeegadoo, in the sense that I, myself, have been a victim of that treatment.

*(Interruptions)*

**The Chairperson:** Order! Order! Order! Hon. Boolell, please!

**Mr Seeruttun:** Last time, the Divali festival was organised by the Community Centres, I was not invited. It is the plain truth, I was not invited.

*(Interruptions)*

**The Chairperson:** I will ask the hon. Minister to respond now.

**Mrs Labelle:** I would like to join...

*(Interruptions)*

Mr Chairperson, I consider that very important because if we are here to enhance democracy in our country, I think it is our duty to support this motion. I sincerely hope that Members on the other side of the House do understand that we are just promoting democracy in our country.

*(Interruptions)*

I am very happy that they are happy about it. Mr Chairperson, I would give full support to this motion.

*(Interruptions)*

**The Chairperson:** Hon. Minister, please! No, I won't allow!

*(Interruptions)*

Order, now! Hon. Labelle and hon. Hossen, order! I hope that I will not have to take other drastic measures. Please, don't argue and put your fingers down! Yes, hon. Mrs Martin!

**Mrs Martin:** Mr Chairperson, I am a bit flabbergasted by this motion because to tell you the truth, Mr Chairperson, I, myself, have been in Opposition from 2005 to 2010, I was invited in the different functions organised in Social Welfare and Community Centres of my then constituency.

*(Interruptions)*

**The Chairperson:** Order! Order now! Order! Order now! Hon. Mrs Labelle, would you let the hon. Minister respond to what you stated?

*(Interruptions)*

Could the Minister inform the House of his stand on that motion?

**Mrs Martin:** Mr Chairperson, I have already responded before to this motion. They are not listening to me, Mr Chairperson.

*(Interruptions)*

**The Chairperson:** I am urging all Members...

(*Interruptions*)

Have the Members finished?

**Mr Jugnauth:** If I heard the hon. Minister right, she said that from 2000 to 2005 ...

(*Interruptions*)

2005 à 2010!

**The Chairperson:** I put the question now.

**Mr Obeegadoo:** I said that I would move this motion, put it to the vote, only if in front of the whole House - the Minister was not willing. All I am asking is a solemn commitment before this House, before representatives of the nation, just a commitment in the spirit of democracy to undertake that once one MP is invited, all MPs should be invited. Nothing more, nothing less and I will remove the motion!

(*Interruptions*)

**The Chairperson:** Unfortunately, I have no control on what the Minister will answer.

She gave her answer and now it is up to the hon. Member whether he is going to...

(*Interruptions*)

Order!

(*Interruptions*)

I take it that the hon. Member is insisting on his motion. In that case, I put the question.

**The Chairperson:** Programme Code 526: *Social Welfare and Community-Based Activities (Rs 246,620,000)* be reduced by Rs100,000.

(*Interruptions*)

Order!

*On question put, the motion was defeated.*

(*Interruptions*)

**The Chairperson:** Address the Chair, order!

**Mr Bhagwan:** I was addressing to you...

**The Chairperson:** I will urge all Members to listen! Order now!

**Mr Bhagwan:** Mr Chair, on what basis have you said ayes and noes?

**The Chairperson:** It is according to the Standing Order. When the question was put, the noes have it.

**Mr Bhagwan:** On what basis?

(*Interruptions*)

**The Chairperson:** It was up...

(*Interruptions*)

Order! Order! Order, please! You wanted an explanation? The question was put and no division was asked and, according to the Standing Order, the Chair rules that the noes have it.

(*Interruptions*)

*Programme Code 526: Social Welfare and Community-Based Activities (Rs 246,620,000) was, on question put, agreed to.*

(*Interruptions*)

**The Chairperson:** May I now proceed by asking the question?

*Ministry of Civil Service and Administrative Reforms - Programme Code 301 - Civil Service Policy and Management was called.*

(*Interruptions*)

**The Chairperson:** Bear with us for a few seconds.

(*Interruptions*)

Order!

(*Interruptions*)

Hon. Bhagwan, you have the floor.

(*Interruptions*)

I do not want to hear any cross-talking. I remind hon. Members again that I do not want to hear any cross-talking and now hon. Bhagwan has the floor.

**Mr Bhagwan:** On page 610, *Programme Code 301* Sir, the Minister of Finance had announced in his Budget Speech that public offices will operate on Saturdays. He had further stated in the press that the concerned officers will be paid overtime.

(*Interruptions*)

**The Chairperson:** Yes, please.

**Mr Bhagwan:** The Minister had stated.

**The Chairperson:** It is a statement from the Minister.

**Mr Bhagwan:** Here he had stated. Will the Minister indicate on this Budget where the provisions have been made for the payment of this overtime, in which code item?

(*Interruptions*)

**The Chairperson:** No cross-talking I said.

**Mr Bhagwan:** Secondly, Sir, I come to the item of *Personal Emoluments*, the Director of Audit has made remarks on the Ministry of Civil Service Affairs and in view of these remarks, as regards the misuse and abuse of Government assets and irregularities in the use of Government vehicles, will the Minister state what are the provisions made in the Budget to address this issue?

Another question, Sir,....

**The Chairperson:** No, I allowed you two questions, please.

**Mr Bhagwan:** But it concerns the same item.

**The Chairperson:** No, no I cannot make any preference...

**Mr Bhagwan:** I will come later on.

**The Chairperson:** Yes. Let the Minister respond.

**Mr Moutia:** Mr Chairperson, Sir, the first question asked by my friend hon. Bhagwan ...

(*Interruptions*)

Let me say that not all Government offices will be open on Saturdays. It will be only those that impact positively in easing up the lives of citizens and businesses. However, the implementation of this measure will not affect the emoluments as officers working on Saturdays will be compensated either through payment of overtime or days off or allowances, as appropriate. My Ministry is working on these issues and any decision taken will be made after consultation with all stakeholders, including the unions. This is the first question.

The second question concerning the report of the Director of Audit, it is the Office of the Public Sector Governance that monitors the implementation of the recommendations of the Director of Audit Report. Nevertheless, the Ministry of Civil Service and Administrative Reforms is taking the following steps -

- training of top officers, since September 2011, 118 officers have followed a training course in financial management conducted by qualified resource persons from the Accountant General's Division. Given that this training has met with success, the number of courses on financial management will be increased in 2012;

- my Ministry runs a series of training and capacity-building programmes for officers so as to keep them abreast of latest trends in management including financial and human resource.

**The Chairperson:** If it is a long reply,....

**Mr Moutia:** No, it is not long, Sir, and lastly,

- Implementation of several reform measures such as Performance Management System, good governance practices, quality customer care and ISO certification.

**The Chairperson:** Yes, hon. Soodhun.

**Mr Bhagwan:** Sir, I didn't get a reply as far as overtime is concerned, we want to know the code number.

**Mr Moutia:** I said very explicitly that the implementation of these measures will not affect emoluments as officers working on Saturdays will be compensated either through payment of overtime, or days off or allowances, as appropriate. My Ministry is still working on these issues and any decision that will be taken will be made after consultation with the stakeholders including the unions.

**Mr Soodhun:** Mr Chairperson, on page 604, under *the strategic note - major achievements for 2011*, we see that more than 500 occupational safety and health audits have been carried out. Can I ask the hon. Minister whether all Government departments have been provided with occupational safety and health officers in compliance with the legislation in force? If not, can the hon. Minister list out departments where same has not been set up yet and what immediate action will be taken?

On the same item, Mr Chairperson, can I ask the hon. Minister, referring to *the major constraints and challenges and how they are being addressed*, the fifth bullet “*slow progress in addressing occupational safety and health issues due to high staff turnover.*” Can I ask the hon. Minister if this is going against the Occupational Safety and Health Act and when the Minister intends to take immediate action?

**Mr Moutia:** Concerning the audits carried out, some 400 audits have been carried out in different organisations. Other audits are underway. In spite of the constraints due to staff turnover and other *forces majeures* like recruitment by the PSC and the entailing lack of number of occupational, safety and health officers, the target of 500 audits will be achieved by the end of this year.

The Ministry of Civil Service and Administrative Reforms advises Government and institutions how to be in compliance with the Act. The implementation of measures recommended rests with the responsible officers. The Ministry of Labour is responsible for the enforcement.

Concerning the slow progress in addressing occupational safety and health issues, this is due to high staff turnover. As at now, 388 safety audits have been carried out in different Ministries and Departments for the year 2011. This is due to ...

**The Chairperson:** Could the hon. Minister circulate the reply?

**Mr Moutia:** I don't mind. If you want, I can circulate the reply.

**Mr Ameer Meea:** On page 610, under *Item 22030 - Rent*, there has been a considerable decrease from Rs24 m. to Rs12 m. May we know what is the reason for such a decrease? At the same time, in 2013, the sum goes up again to reach Rs25 m. May we know why such fluctuation for year 2012?

**Mrs Hanoomanjee:** On page 609, regarding ISO Certification, last year, in the Budget, the targets were 20 everywhere. Can we know why this has now been reduced? I see that for 2012 it's 10, for 2013 it's 10 and for 2014 it's 10.

**Mr Moutia:** To reply to hon. Ameer Meea, the reason for the decrease is that only six months' provision has been provided for the new office building instead of one year, as we are expecting to move to the new building around July 2012. It is estimated that the rental will be about Rs40,000 per square feet for an expected area space of 50,000 square feet. An exercise was carried out for this Ministry to move to another building. However, in view of changes in requirements, namely new units being set up and additional staff being recruited, a fresh exercise will have to be carried out in 2012.

**Mr Ameer Meea:** My question is: why has there been a decrease? If you have provided only for six months ...

**Mr Moutia:** The reason for the decrease is because the provision has been made for only six months.

**Mr Ameer Meea:** Last year, it was Rs24 m!

**Mr Moutia:** No, it was for 12 months.

**Mr Uteem:** As a follow-up question, the hon. Minister mentioned that he is now going to consult trade unions before deciding whether to operate on Saturdays. May I know from the hon.

Minister what is the timetable for meeting the trade unionists, and when does he expect the measure to be implemented? When does the hon. Minister expect civil servants to start working on Saturdays?

**Mr Moutia:** The hon. Member will agree with me that it is something complex. We are taking the reasonable time to meet all the stakeholders and the unions as well. So, it will take some time.

**Mr Obeedagoo:** I noted very carefully the exact words said by the hon. Minister in response to hon. Bhagwan. As regards Saturday work, he said that only those who impact positively in easing up the life of citizens will be concerned.

I would like to know from the hon. Minister what are the categories of civil servants he considers do not impact positively in easing up the life of citizens.

**Mr Moutia:** Whatever I said is that we are doing our best to ease the life of the population at large. Concerning the opening of offices on Saturdays, we want to help the population at large. As MPs, many people come to meet us. They have to take local leaves or sick leaves to pay their bills, and certain ...

*(Interruptions)*

That's why we go in this direction, in order to provide certain services on Saturdays to ease the life of the population.

**Mr Bhagwan:** The hon. Minister has not stated whether he has discussed with the Civil Service unions on this issue.

Mr Chairperson, with regard to the remarks made at page 246 of the Director of Audit's report concerning interdicted officers, will the hon. Minister confirm to the people or the taxpayers that there are actually 275 interdicted officers who are receiving full pay? Rs157 m.! What is Government doing, at least, to address this problem of spending of Rs157 m. for 275 civil servants who have been interdicted and having full pay? What actions, what tribunal, what disciplinary procedures have been set up? Is the Public Service Tribunal looking after that? The hon. Minister has to give to the population a reply.

**Mrs Hanoomanjee:** Mr Chairperson, I have not received any reply to my question.

**Mr Moutia:** Concerning ISO, the timeframe for the implementation of ISO within any given department depends on the size and complexity of the organisation. It varies from three months to an average of nine months. The target set for 2011 was for 20 projects, which

included 12 major hospitals from the Ministry of Health and Quality of Life. Given the inherent complexity, these projects have registered delays. However, the other ongoing projects have progressed with the clearance office of the Fire Services Department, the Agricultural Information Division, and the Human Resource Management Division of my Ministry expected to be ISO certified soon.

**Mr Seeruttun:** With regard to opening of departments on Saturdays, could the hon. Minister inform the House whether studies were carried out to know what departments really need to be opened on Saturdays, and as from when?

**Mr Moutia:** We were thinking about some cash offices that are closed on Saturdays. We are particularly pointing at these cash offices to be opened half day and provide such services to people to foot their bill.

**Mr Bhagwan:** Mr Chairperson, the hon. Minister has not replied to my question concerning the trade unions on the same issue as well as my question on interdicted officers.

**Mr Moutia:** With regard to hon. Bhagwan's question, the number has to be checked first. However, ...

*(Interruptions)*

**The Chairperson:** No comments, please!

**Mr Moutia:** ... most are criminal cases before the court, and I do not have control over the Judiciary. We are actually looking at the process with the SLO to find out a way to reduce the time.

**Mr Bhagwan:** Mr Chairperson, the hon. Minister has not replied to my question. I am asking whether the hon. Minister has discussed with the unions concerning work on Saturdays.

**Mr Moutia:** I already reply to the question. I said that I am going to meet the trade unionists shortly and discuss with all the stakeholders.

**Mr Baloomoody:** One of the major constraints in the Ministry is lack of technical expertise and funding to evaluate the impact of administrative reforms. Can I ask the hon. Minister a simple question: on which code in the Budget has provision been made to attend to that shortcoming?

**Mr Soodhun:** I am referring to page 607, under Code 30402 - *Occupational Safety and Health*; also, to page 606, under Sub Programme 30402: *Major Services: Enhancement of the work environment*. Has the attention of the hon. Minister been drawn of the deplorable state of

the offices at the Emmanuel Anquetil Building? Has he met the representatives of the trade union to seriously discuss about what is affecting the health, security and safety of the civil servants working there and may we know what he is suggesting to remedy to the situation?

**Mr Moutia:** Concerning the question raised by the hon. Baloomoody, it is the UNDP which is providing consultancy fees on this issue.

In reply to my hon. friend, hon. Soodhun, I must say that the Emmanuel Anquetil Building has been the subject of various interventions from the Occupational and Safety Unit of my Ministry as regard to safety and health issues, such as pigeons' nuisance, overcrowding, ventilation problems, water leakages, asbestos, lift breakdown, problem of water supply and foul odour amongst others. Reports together with recommendations have been regularly submitted to concerned authorities, such as the Prime Minister's Office, the Energy Services Division, the Ministry of Public Infrastructure and concerned Ministries and Departments.

On each occasion, plausible and result-oriented measures have been taken in the interests of officers housed in the building. It is to be noted that presently one Safety and Health Officer has been assigned to each Ministry and Department, either on a full-time or part-time basis to look and advise on matters pertaining to safety and health. Consolidated reports on safety and health issues ...

**The Chairperson:** You circulate, please!

**Mr Moutia:** Just a last sentence, please! Consolidated reports on safety and health issues at Emmanuel Anquetil Building have been submitted in May 2011 and the series of interventions carried out for the buildings are detailed. I am going to circulate the details.

**Mr Li Kwong Wing:** On page 604, it is mentioned that there is a code of ethics for the Civil Service. Can the hon. Minister inform the House whether there is any committee or responsible staff at his Ministry that oversees the compliance with the code of ethics to prevent conflict of interests of civil servants, and as he is also talking of a performance-oriented Civil Service...

**The Chairperson:** Be brief with your question, please! We are already out of time.

**Mr Li Kwong Wing:** Since the Minister mentioned a performance-oriented Civil Service, can we know what mechanisms and committee have been put in place to ensure that performance of civil servants are regularly monitored and evaluated in order to relate their performance with their pay?

**Mr Moutia:** Concerning the code of ethics, the figure 1,400 relates to the number of officers who will be sensitised on code of ethics for public officers during a formal face to face training where this issue is taken up as a module of training programme.

As from 2012, all the training programmes run by the Ministry will include components on code of ethics; the number of officers formally exposed to code of ethics would, therefore, drastically increase.

*Ministry of Civil Service and Administrative Reforms*

*Programme Code 301: Civil Service Policy and Management (Rs78,890,000) was, on question put, agreed to.*

*Programme Code 302: Administrative Reforms in the Civil Service, was called.*

**Mr Bhagwan:** I am referring to page 606, under Programme 302, *Administrative Reforms in the Civil Service*. Can the hon. Minister inform the House whether this reform is being implemented by local experts, is it being followed by foreign experts?

*(Interruptions)*

**The Chairperson:** Order!

**Mr Bhagwan** Sir, can you ask hon. Members not to interrupt us? I won't mention names!

**The Chairperson:** I will ask all hon. Members, on both sides of the House, not to interrupt and to let the hon. Member make his point.

*(Interruptions)*

**Mr Bhagwan:** Don't provoke us, or you will have problems!

**The Chairperson:** Hon. Hossen, I am reminding you for the last time! I am reminding you not to point out fingers! It seems as if you're hiding behind hon. Mohamed, but I can hear your voice!

*(Interruptions)*

I am telling you not to interrupt Members when they are putting their questions.

**Mr Bhagwan:** Mr Chairperson, I have asked a question concerning the reform. Can the hon. Minister tell us whether the process of reform is followed by local or foreign experts, and if there is a report ...

**Mr Moutia:** It depends what code it is!

**Mr Bhagwan:** The hon. Minister is not following; he should follow. I can't do his job.

*(Interruptions)*

**The Chairperson:** Please, no provocative remarks! I don't want any provocative remarks.

**Mr Bhagwan:** The Chairperson has said so and I am repeating, Programme 302: *Personal Emoluments*. I again ask the hon. Minister to give us information as to the reform process, whether there is an authority, foreign or local experts, whether there is a report, which section of his Ministry and who is monitoring that reform process?

**Mr Moutia:** Concerning the *Personal Emoluments*, it is the World Bank, UNDP and Commonwealth Secretariat; assistance is obtained to guide my Ministry on the reforms.

**Mr Bhagwan:** How many foreign and local experts? If the hon. Minister can't reply, at least, he should give us the list.

**Mr Ameer Meea:** At page 611, under Item No. 22120 - *Fees*, for an amount of Rs3.6 m. Can we know the details of this sum and also the reason for a decrease of about Rs2 m.?

**Mr Seeruttun:** I would like to go back to page 604, with regard to Major Achievements for 2011. Mention is made about implementation of a computerised registry and electronic attendance systems which are increased to 60 and 70 sites respectively. Will the hon. Minister inform the House in which Ministry/Departments have been implemented those systems and which other Ministries which are yet to be implemented and what is the timeframe to complete for all the remaining Ministries?

**Mr Moutia:** Concerning the *Fees* and the reason for the decrease, it is expected that Rs3.6 m. will be sufficient for this item. I am going to circulate the details. Chair, if you will allow me.

**The Chairperson:** If it is a long reply, the hon. Minister must circulate it.

**Mr Moutia:** I have it; I am tabling it.

**The Chairperson:** Yes, please! Hon. Li Kwong Wing! We have only 20 minutes; we should be fair to everybody and I request all hon. Members to be as brief as possible in their questions so that we can take as many hon. Members as possible. Yes, hon. Li Kwong Wing!

**Mr Li Kwong Wing:** With regard to the administrative reforms, there are some studies and surveys that have been carried out. Can the hon. Minister table a list of these studies or if there is any report, can he table these reports? Can we know what is the provision for 2012?

**Mr Baloomoody:** On the same issue, can the hon. Minister communicate the surveys and tell us what action has been taken following these surveys? If there have been any recommendations, can we know what action has been taken with regard to these surveys?

**Mrs Hanoomanjee:** Mr Chairperson, on page 611 Item No. 22160 *Overseas Training*, I see that provision has been made for a sum of Rs200,000, whereas if I look at page 605, I see that the *Strategic Direction 2012-2014* would be *a performance-oriented Civil Service*. Can I understand from the hon. Minister that all training will be done in Mauritius and that overseas training is not proposed for officers of the Public Service?

**Mr Moutia:** Concerning the *Studies and Surveys*, the provision has decreased and the reason for the decrease is that it is estimated that Rs700,000 will be sufficient for the next financial year in terms of *Studies and Surveys* in view of the reduction of the number of projects.

**The Chairperson:** Hon. Obeegadoo!

**Mr Obeegadoo:** The major administrative reform announced in the Budget is, of course, this issue of Saturday work. So, I wanted to know, firstly, I presume there must have been discussions between the Ministry of Finance and Economic Development and the Ministry of Civil Service and Administrative Reforms. How many civil servants will be concerned? There must have been some estimate of the cost which we will be approving and I do not seem to see in the timetable for implementation - I may be mistaken - a date limit set for implementation of Saturday work. Can the hon. Minister enlighten us as to the number of civil servants, cost and time limit for implementation?

**Mr Moutia:** As I said, it is a complex issue. So, we are still working on it and very shortly, we are going to come with concrete proposals.

(*Interruptions*)

**The Chairperson:** Yes, hon. Seeruttun!

**Mr Seeruttun:** With regard to the implementation of the computerised system in the different Ministries, the number has gone up to 60 and 70 for the Computerised Registry System and the Electronic Attendance System. Will the hon. Minister inform the House which are the Ministries concerned with the implementation so far and what are the Ministries that are left with and when does he intend to complete the programme to complete the implementation in all the Ministries?

**Mrs Hanoomanjee:** I have not yet received a reply for my question. I am just reminding.

**The Chairperson:** About what?

**Mrs Hanoomanjee:** I asked about the *Overseas Training*; how is it that a provision of only Rs200,000 has been made? Can I understand from the hon. Minister whether all training will be done locally and for whom, overseas...

**Mr Moutia:** Under which item, please?

**Mrs Hanoomanjee:** I said, it is Item No. 22160 on page 611.

**Mr Moutia:** Concerning the training, all the money will be used for local training and overseas training, on performance management only.

*Ministry of Civil Service and Administrative Reforms - Programme Code 302: Administrative Reforms in the Civil Service (Rs14,276,000) was, on question put, agreed to.*

*Ministry of Civil Service and Administrative Reforms - Programme Code 303: Human Resource Development and Capacity Building was called.*

**Mr Bhagwan:** At page 612, Mr Chairperson, under item *Training (Civil Service College)*, we are being asked to vote Rs10 m. Can the hon. Minister inform the House where are we with this project? Who is piloting this project; whether it is the Head of his Ministry or whether there is a foreign expert?

As far as *Overseas Training* is concerned, I would like to know whether there is a sort of planning which is done concerning training in human resource development and where this training is supposed to be held and the number of officers which has been earmarked for training for the coming year?

**Mr Obeegadoo:** I have a question on the same issue, if I may.

**The Chairperson:** Yes.

**Mr Obeegadoo:** On this very same issue at page 609, SS2 under Programme 303; the indicator here says - *Curricula development and* - this is a new word, I think - *operationalisation of the Civil Service College through outsourcing*. So, could we have some information what is being outsourced? Is it the curricula development and, if so, to whom? Is it the dispensation of courses and, if so, by whom?

**Mr Moutia:** Concerning the Civil Service College, a draft Bill has already been prepared after consultations with our stakeholders and the SLO. I am hoping to present the Bill in the National Assembly before mid-2012. Let me also remind the hon. Members on the other side that the college will start modestly - just as hon. Obeegadoo asked about the outsourcing - by

outsourcing courses and we will be housed in the same new premises that the Ministry will be moving into in 2012.

**Mrs Hanoomanjee:** On the same issue...

**Mr Bhagwan:** The hon. Minister has not replied to my question.

**Mr Obeegadoo:** Neither to mine, Sir. What outsourcing; of what and to whom?

**Mr Bhagwan:** Can the hon. Minister give us some additional information as to where is the new building, which building and how was it rented?

**Mrs Labelle:** I have heard the hon. Minister stating that this will become a reality but we voted a sum of Rs5.7 m. for 2011. Must I take it that there has not been any activity by this Civil Service College for the year 2011 and how the amount of Rs5.7 m. has been spent for 2011?

**Mrs Hanoomanjee:** On the same issue, I heard the hon. Minister saying that the Civil Service College will be housed in the same building as the Ministry. So, I understand that since 2007, there was a portion of land which was reserved in Ebène for the construction of a Civil Service College proper. Can I understand from the hon. Minister that he is no longer going ahead with the construction of the Civil Service College?

**Mr Moutia:** No. I never said that we are not going ahead; on the contrary, I said that it is going to be a reality soon, in the sense that I will bring the Bill to the Assembly in mid-2012. So, we are coming shortly with the Bill here to set up the college formally.

Concerning the question that hon. Mrs Labelle asked, can she just repeat the question?

**The Chairperson:** The item voted last year; how has it been used? This is the question.

**Mr Moutia:** It is in two phases. The first report that was made by the people from Singapore, we felt the necessity for the college. So, this was the first report recommending for the setting up of a Civil Service College and the second report is about how to finance the college.

So, that's why I say that if we are going to wait for the second report, it is going to take time. So, we are going to have this soft opening to begin with. The second report of how we are going to finance the building; it will come afterwards. If we are going to wait, it is going to take too much time. As you know, the Civil Service College is a must and we have to move fast.\. So, that's why we have phased it. Phase I, we are coming with the college and Phase II, how to finance the construction of the college.

**The Chairperson:** Hon Seeruttun!

*(Interruptions)*

No, I called hon. Seeruttun. We have five questions on the same issue and I allow the hon. Member to intervene on the same issue.

*(Interruptions)*

No, please! I call hon. Seeruttun. I will come back to the hon. Member.

**Mr Seeruttun:** Thank you, Mr Chairperson. I would like to know whether there has been a training needs analysis conducted to embark into that training programme. If so, when was it done, if it was done some time back has it been reactualised and what has been the outcome?

**Mr Moutia:** Concerning the Civil Service College, a question was asked about the outsourcing. Some of the courses that are going to be outsourced are Leadership, Motivation and Decision-making courses.

*(Interruptions)*

Yes, under the ITEC in 2005 /2006 and in 2011 by the Singaporean consultant.

**Mr Uteem:** Mr Chairperson, on page 614, *programme 303, I refer to item 024467 Trainer.* There is one trainer. Can I know from the hon. Minister what does this one trainer do and whether he has carried out any training in the past years?

**Mrs Hanoomanjee:** The hon. Minister has not replied to my question. I said there is some contradiction in what the Minister said. I understand there is a second feasibility study which is being carried out. Can I know who is carrying out the second feasibility study and what is the time frame for this study?

**Mr Moutia:** I have asked the Commonwealth Secretariat to carry out the studies.

**The Chairperson:** Is the hon. Minister ready with some? I take another question.

**Mr Bhagwan:** I have been waiting for my reply. I can repeat my question.

**Mr Moutia:** May I give a reply concerning the trainer? The trainer is to help the director to set the curriculum for the second feasibility study.

**Mr Bhagwan:** I have asked how many Government officers are scheduled to go for training.

**Mr Moutia:** Actually, in the training centres of our Ministry, some 3,000 trainees are trained. With the coming of the Civil Service College, the number will increase definitely.

**Mr Obeegadoo:** I had asked an earlier question about curricular development. What are the competencies available for curricular development within the public service and who is doing

that? On this question of Civil Service College, we keep spending a lot of money every year. Is there a blueprint that is being prepared? Looking at the cost efficiency of this whole operation and telling us at the end of the day how much it will cost and how many it will benefit?

**The Chairperson:** Is it on the same issue?

**Mr Li Kwong Wing:** Mr Chairperson, can the hon. Minister tell us how much money has been spent so far on this project of Civil Service College, which has originated since 10 years ago? Secondly, I see that there is a feasibility study being carried out, has this feasibility study been completed and if he can table the copy to the House?

**Mr Moutia:** Just as I said earlier, we have it in two phases. The first feasibility study was carried out by the Singaporeans. They had their first report and said that definitely Mauritius needs the Civil Service College. How do we run it? It is coming with the second feasibility study. We have asked the Commonwealth Secretariat to do the second feasibility study. When we get the report we are going to see the advisability of having it laid on the Table of the Assembly.

Concerning the Civil Service College, this will be addressed in the second phase, as I said. No money has been spent so far concerning the feasibility study.

*Programme Code 303: Human Resource Development and Capacity Building (Rs27,681,000) was, on question put, agreed to.*

*Programme Code 304: Human Resource Management was called.*

**Mr Bhagwan:** On page 607, I refer *Programme Code 304 Human Resource Management*. I see a decrease in the number of posts from 584 to 530. Can the hon. Minister give us some explanation? Also at pages 612 and 615, *Sub-Programme 30402 Occupational Safety and Health*, it shows a slight increase from 32 to 40 whereas there is a decrease in the amount voted? Can the hon. Minister give us an explanation with regard to this occupational safety and health personal emoluments? There is a reduction from Rs9 m. to Rs7.7 m. in the amount of money we have been asked to vote whereas in the number of posts there is a decrease. How does this tally?

**Mr Moutia:** My Ministry being centrally responsible for the HR cadre and the general services cadre, recruitment in the grades are normally made by my Ministry and the payment of salaries is also made under my Ministry's vote. However, with the introduction of the PBB, the budget for salaries for such grade is being decentralised gradually. This has been done in the case

of the following grades: confidential secretary, officers, senior officers and word processing operators. Furthermore, the 11 posts of assistant secretaries have been allocated to various Ministries including two of my own Ministry and the payment of the salary is being met by the respective Ministries. This explains the decrease.

**Mr Bhagwan:** How come there is a reduction in post, but there is an increase in salary? This is what I can't understand. If we decrease the number of post, how can the salaries be increased?

**Mr Obeegadoo:** While the hon. Minister gets his notes, Mr Chairperson, on the issue of *Human Resource Management*, I note an increase in the number of Senior Human Resource Officers from one year to the next. I want to know whether these additional officers will be looking into the issue of private practice by high senior officers. We know 2011 has revealed that this is current practice, but in the case of certain senior officers, we know that it carries serious health hazards in that it may induce loss of memory. Is this issue being addressed with the additional resources - reviewing private practice to issue the risk of the health hazard we know?

**Mr Moutia:** I will reply to hon. Bhagwan, the reason for the increase is because of the payment of increments to the staff, the creation of additional posts, both for posting to the Ministry and for out posting as follows: 10 posts for Manager HR, 10 posts of Assistant Manager HR, 9 posts of Senior Human Resource Officers, 7 posts of Office Management Executive, 18 posts of Human Resource Officer, 25 posts of Confidential Secretaries, 5 posts of Head Office Care Attendant and 5 posts of Senior Office Care Attendant.

**Mr Ameer Meea:** Under Programme Code 304, item no. 31122802 *Acquisition of IT Equipment for Electronic Attendance System (EAS)*, there is an amount of Rs8.9 m. that has been budgeted. Can I ask the hon. Minister if this is for a single Ministry or for all Ministries and also is this done phasewise? On the same issue, have there been any tender procedures prior to the acquisition of this equipment and who won the tender?

**Mrs Hanoomanjee:** Under Programme Code 304, I see an evaluation of the current Performance Management System has already been done and there is a revised system. Can we know what are the main recommendations of the PMS?

**Mr Moutia:** To reply to hon. Ameer Meea concerning the Electronic Attendance System, the total cost of the project represents the cost of seventy electronic time recorders, the attendance software, the reporting tools, networking and training. The total number of sites

where Electronic Attendance System (EAS) has been implemented is 71. If the hon. Member wants I can circulate the list as well. The total number of electronic time recorders purchased as at December 2010 is 120. If the hon. Member is looking for the bidders I can circulate the list.

To reply to hon. Obeegadoo, public officers are not allowed for private practice. Only Safety and Health Officers can cover one organisation apart from their work at the Ministry.

**Mr Obeegadoo:** The question has not been answered. I gave the example of high civil servants such as the Chief Government Valuer and said that private practice carries serious health hazards because it can lead to loss of memory. So, has that been reviewed?

**Mr Moutia:** Concerning the question about the Performance Management System, there is an evaluation of PMS. It is critical that PMS be objectively assessed so that remedial measures can be taken if warranted to ensure that the system is effective, impartial and fair. In fact, the Government Programme 2010–2015 states that the Performance Management System will be reviewed to facilitate its applicability. This Ministry, in collaboration with the United Nations Development Programme (UNDP), has retained the services of two consultants namely Mr Rao, international expert and Mrs Luckeenarain, national expert to conduct an evaluation of the PMS model developed and being implemented across the Civil Service. The report is expected by mid 2012.

**Mrs Labelle:** Mr Chair, I am on page 609, Sub Programme 30402: *Occupational Safety and Health* SS1: Number of safety audits carried out. For 2010, it was 350. We don't have the figure for 2011, maybe the hon. Minister can give that to us, but mainly the target for 2012 is 1000. Mr Chair, when I link that to page 615, there is an increase of four officers. I am just wondering how with an additional of four officers, we can increase the number of audits by three times. How will the Minister do that? Maybe he can clarify?

**Mr Uteem:** On page 609, S1: *Strategic Human Resource Planning* – May I know from the hon. Minister under this programme what attention is being given to increase the employment of physically challenged people in Civil Service? How many such people have been recruited last year?

**Mr Baloomoody:** With regard to Sub-Programme 30402: *Occupational Safety and Health* - 21 Compensation of Employees, can I ask the hon. Minister how many risk assessment reports have been published by the Health and Safety Officers. Can he lay these reports on the

Table subsequently? At least, for today can he tell us how many risk assessment reports have been performed by these Health and Safety Officers?

**Mr Moutia:** The risk assessment is a complex exercise and cannot be completed solely by a Safety and Health Officer. It requires input from anyone occupying a work area. Since the coming into force of the Occupational Safety and Health Act in 2005, 1009 public officers from different ministries and departments have been trained in conducting risk assessments exercises. As that now, each Ministry/Department has a sufficient number of public officers who have been trained at risk assessment exercises. Moreover, Safety and Health Officers, who have been assigned in Ministries/Departments, will also assist in the carrying out of assessment exercises. All Ministries/Departments are fully aware of this legal requirement and are on the way of carrying out their risk assessment exercises. If the hon. Member wants I can circulate the list.

**Mr Ameer Meea:** On page 614 - staffing positions, can I ask the hon. Minister, there were 91 senior officers in 2011 and in 2012 there are only three in this post. Secondly, there are 50 officers in 2011 and only five in 2012. May we know the reason for this decrease?

**Mr Moutia:** There are 91 senior officers; three senior officers have been out posted. They have been sent to other ministries.

**Mrs Bholah:** At page 612, Sub-Programme 30402: Occupational Safety and Health 22 Goods and Services, can the Minister tell us what are these goods and services and how much has been spent in the year 2011?

**Mr Moutia:** With regard to physically challenged persons, the recruitment is done by PSC on the basis of qualified qualifications prescribed in the scheme of service.

**Mr Baloomoody:** May I ask the Minister how many cases of personal injuries have been reported due to non-compliance with the Health and Safety Act in his Ministry?

**Mr Obeegadoo:** On the same issue, page 606, as a priority objective, compliance with the occupation of Health and Safety Act in the Civil Service, so, obviously there is no compliance at the present time. Has there been a study? Do we have a study of compliance with the relevant legislation and the non-compliance yet with the legislation and can the Minister also explain at page 609, this issue of coverage of enhancement of work environment that I feel constant?

**Mr Moutia:** With regard to the question raised by hon. Baloomoody concerning injuries, it is the Ministry of Labour which is responsible for that.

**Mr Uteem:** The hon. Minister has just told us that it is the PSC which recruits. We know this. But my question is: in relation to this strategic human resource planning that is done at your Ministry, aren't you having any positive discrimination in favour of recruiting more physically challenged people whom you can put in your job description when the PSC is going to advertise and recruit?

**Mr Moutia:** I agree with the hon. Member but, as I said, it is up to the PSC to decide.

**Mr Baloomoody:** Can the hon. Minister confirm whether officers of the Labour Office are allowed to go in Ministries to see whether provisions of the Health and Safety Act are being abided to?

**Mr Moutia:** I think it is up to the Ministry of Labour to attend where need arise. Concerning health and safety of my Ministry, abide by the law. We have the 24/25 Health and Safety Officers. Each Ministry has one Health and Safety Officer.

**Mrs Labelle:** Mr Chair, can I ask the hon. Minister whether by now he has received an answer to my question about how he is going to carry out 1,000 audits, that is, three times more, with only four additional officers?

**Mr Moutia:** Concerning the question raised by hon. Baloomoody, in fact, the Labour Officers are allowed to go. Concerning the question raised by hon. Uteem, the PSC gives equal opportunity; no positive discrimination is made.

**Mr Jhugroo:** Mr Chair, can we know whether a Health and Safety Officer is attached to the Government House?

**Mr Moutia:** I said each Ministry. We have 25 Health and Safety Officers; it means yes definitely.

**Mr François:** Chair, I just have a simple question with regard to page 609, under *S1: Strategic Human Resource Planning...*

*(Interruptions)*

**The Chairperson:** Hon. Assirvaden, please!

**Mr François:** ... *SS2: Number of Ministries...*

*(Interruptions)*

**The Chairperson:** Hon. Jhugroo!

**Mr François:** ... *where manpower assessment completed.* May I know who are the two Ministries completed? Will the hon. Minister inform us whether the situation in Rodrigues has

been cleared with regard to union representations for non-execution of PRB 2008 recommendations for manpower assessment for the Regional Assembly?

**Mr Moutia:** There was a second question earlier about how to ensure a safe and healthy working environment. The Health Safety Officers ensured that public officers in the Ministries/Departments operate in a safe and healthy work environment. To this effect, Safety and Health Officers have been assigned in all Ministries/Departments either on a fulltime or part-time basis. They are involved mostly in activities such as carrying out inspection of places of work and making recommendations to improve the prevailing work environment in compliance with safety norms. They attend to complaints and propose appropriate recommendations. They investigate into injury at work and make recommendations for corrective actions. They provide training on safety and health to public officers, and participate in safety and health committees, improvements, meetings and other forums where safety and health issues are discussed. Moreover, my Ministry has come up with an enhancement of work environment programme to continuously improve the working environment of public officers. The Occupational Safety and Health Management System will also be implemented in the Civil Service in a phased manner, as it will bring more benefits...

**The Chairperson:** Would you mind circulating it?

**Mr Moutia:** Manpower assessment has been carried out for the whole of Rodrigues Regional Assembly, and the report has been submitted in October 2011. In 2011, eight exercises were carried out as targeted; one in Mauritius and seven in Rodrigues.

**Mr Bhagwan:** Concerning the recruitment of our disabled brothers and sisters, the hon. Minister has just stated that it is up to the PSC to give equal opportunities. But has Government, the Minister of Civil Service Affairs, as an employer, set the good example in recommending to the Public Service Commission a number of our disabled brothers and sisters to be recruited at different levels in Government?

**Mr Moutia:** I agree with the hon. Member. If there is any possibility that we can do it, we will do it.

*(Interruptions)*

No, if this can be done, I have no problem.

**Mr Uteem:** On page 609, under *S1: A safer and healthier working environment*, may I know from the hon. Minister whether, at the moment, you still have Civil Servants who are housed in premises which represent health hazards because of asbestos?

**Mr Ameer Meea:** Concerning the staffing position, the hon. Minister just stated that officers have been out-posted to line Ministries. He is right by saying so, because there has been a reduction from 522 to 490 staffs. But how can he reconcile the fact that personal emoluments have increased by Rs16 m.?

**Mr Jhugroo:** Mr Chair, can I ask the hon. Minister whether it is adequate that there is only one Health and Safety Officer attached to the PMO, which is a very big Ministry compared to small Ministries? Is it normal?

**Mr Moutia:** According to the law, we need one Health and Safety Officer for 2,000 employees.

*Civil Service and Administrative Reforms - Programme Code 304: Human Resource Management (Rs258,120,000) was, on question put, agreed to.*

*Centralised Operations of Government - Programme Code 951: Centrally Managed Expenses of Government was called.*

**Mr Jugnauth:** Under *Programme 951: Centrally Managed Expenses of Government* at page 617, *Item 28217002 - Compensation arising out of Government Liability*, may we know, first of all, if the hon. Minister can circulate a breakdown...

(*Interruptions*)

**The Chairperson:** Hon. Bundhoo, please! If you want to communicate, you do it outside, please.

**Mr Jugnauth:** ...of the cases where we have had to pay compensation? In the light of those cases, can he state whether an inquiry will be conducted to situate if ever responsibility of those who have led to Government paying compensation, and what actions have been or will be taken?

**Mr Duval:** Mr Chairperson, out of the Rs100 m. provided, in fact, I think we can say only Rs9 m. was paid as compensation. I will circulate the information requested.

**Mr Uteem:** I am on page 617, *Item 22110 - Mission Expenses of Ministers and Delegates*. May I know from the hon. Minister the reason for the substantial increase from Rs70 m. to Rs84.5 m. in the passage for Ministers?

**Mr Duval:** In fact, it is a provision for next year. It is not so much the number of missions that are increasing; it is basically the cost of the air travel - it is broken down for you.

**Mr Bhagwan:** Under the same item, I would like to ask the hon. Vice-Prime Minister – it is nothing personal - whether Government has increased the *per diem* allowances and other allowances on official missions recently. Can I know whether this has been the case?

**Mr Duval:** In fact, Mr Chairperson, the missions compare very favourably with previous years and I can take that if you want. But, Mr Chairperson, as far as the *per diem* is concerned, the subsistence allowances have not been increased, I am informed since 2008.

**Mr Li Kwong Wing:** Mr Chairperson, can the hon. Minister table a list of all the rates of subsistence allowances and also give us some details of the mission expenses of last year?

**Mr Duval:** I will table the list but if the hon. Member wants to have the information, he can ask a PQ and I will reply.

**Mr Obeegadoo:** I have questions on several items, but I will just take one at a go. Under *item 26314 – Local Authorities, RRA and Extra Budgetary Units*, now there is a significant increase in the amount budgeted. May we know the reason therefore and what the extra budgetary units refer to?

**Mr Duval:** In fact, Mr Chairperson, this is provision for salary compensation for employees of Parastatal Bodies and other Statutory Bodies, Local Authorities and Rodrigues Regional Assembly. In fact, it is salary compensation. The compensation is what it is. As the hon. Member knows we gave more this year, so, it is more of the compensation.

*(Interruptions)*

Of course, this year it is Rs300. You have not followed.

**Mr Baloomoody:** I am referring to *item 28217 - Expense Not Elsewhere Specified*. Can the hon. Minister circulate the list of expenses - not elsewhere - for this financial year and how much we have spent out of the Rs113 m.?

**Mr Duval:** We have the breakdown at the bottom here. Which particular item did the hon. Member want? I can circulate it, there is no problem.

**Mr Ameer Meea:** On the same issue – *Expense Not Elsewhere Specified*, on the item *compensation arising out of Government Liability*, there is an amount of Rs100 m. which is provided every year. Can we have a list and also the basis of how this amount is approved in the accounts?

**Mr Duval:** Mr Chairperson, hon. P. Jugnauth asked the same question and I have said it is Rs9 m. and I am tabling it.

**Mr Uteem:** As a follow-up to the answer given to the question of hon. Li Kwong Wing on the grant to Local Authorities, there is a huge jump in the budgetary provision under that item by Rs1.1 billion in 2013. May we know why there will be such an increase in 2013?

**Mr Duval:** I am not sure, Mr Chairperson, but we are voting 2012.

**Mr Bhagwan:** Under the *item 22120003 - Commission of Enquiry and Committees*, can the hon. Minister give us a list whether it is for the coming commission of enquiries?

**Mr Duval:** Mr Chairperson, these are basically very small amounts for disciplinary committees and the work permit committee. I can circulate it. It is not a lot of money.

**Mr Obeegadoo:** Just a matter of clarification, on page 618, under *item 26210152 – Organisation of Economic Co-operation and Development (OECD) Development Centre*. This is not a great amount of money, but I just wanted some clarifications of what the development centre is and whether within the funds being budgeted the Ministry is envisaging a redefinition of our relationship with the OECD, since these days increasingly a number of middle-income countries are acquiring an associate status. My question is: what is the centre and whether we are going beyond that in terms of our relationship?

**Mr Duval:** Without going into a matter of policy, this is a contribution that we make to the development centre of the OECD and Mauritius is one of the privileged members of that organisation.

**Mr Li Kwong Wing:** Mr Chairperson, on page 618, with regard to *item 28 Other Expense*, there are transfers to the IMF for different purposes, one is for *item 28216011 – Regional Multi-Disciplinary Centre for Excellence*, Rs7 m.; the other one is for *item 28216013 – AFRITAC South*, Rs8 m. But I see one big item of expenditure for *item 28216014 - IMF Training Institute: IMF Trust Fund for Training in Africa* which is Rs75 m. Can we know what is the purpose of this big contribution, and whether there is any benefit derived from it?

There is another supplementary contribution to capacity-building institutions. Can we know what these capacity-building institutions are? Are they in line with the other contributions made to IMF?

**Mr Duval:** Mr Chairperson, as the hon. Member, I am sure, knows, we set up recently the AFRITAC. The IMF Training Institute would be an institute for southern Africa to build up

capacity amongst Governments in the Southern African Region. It is not yet set up. We are trying, we are bidding for this centre. We have said that we are going to underwrite five million dollars over two years. So, there is Rs75 m. this year, but if it goes ahead - it has not yet been decided whether it will go ahead - then we think that we will get contributions from friendly countries to cover this amount. It is just a provision at this moment.

**Mr Uteem:** I will go back on page 617, under *item no. 28217003 – Refund of Revenue*. There is going to be an increase in the refund of revenue from Rs3 m. to Rs20 m. May I know from the hon. Minister whether that relates to tax refund or what other refund of revenues are we talking about here?

**Mr Duval:** This happens, in fact, when we receive some money in a previous year and we have to refund it in the following year. In fact, the same year is set off, in the following year it goes on like this. It is money that we have received and we have to refund. In fact, this year we refunded Rs23 m. The provision has been made on the actual amount refunded this year.

**Mr Jhugroo:** At page 617, under *item no. 22110 – Mission Expenses of Ministers and Delegates*, will the hon. Vice-Prime Minister and Minister of Finance circulate a list of all MPs who travelled on overseas missions during the years 2010 and 2011 and the number of missions undertaken by each hon. MP, and amount *per diem* paid to each of them?

**Mr Duval:** I am not sure that this relates to MPs. This relates to Ministers and members of the delegation, not to MPs.

(*Interruptions*)

**The Chairperson:** Order!

**Mr Obeegadoo:** On page 618, under *item no. 26210157 – COMESA Infrastructure Fund*, may we have some enlightenment as to the objectives of that fund? We seem to contribute regularly, but then as from next year the contribution is being halved and in any case what are we getting from this fund?

(*Interruptions*)

**The Chairperson:** Hon. Minister Aimée, please!

**Mr Duval:** It is an institution that is located in Mauritius. It is located, in fact, in the Government House. The aim is to support economic growth and integration in COMESA. The amount is provided; I think, this is what we are expecting to pay next year. I am not sure why it is less than this year. It will promote and facilitate private sector investment to undertake

regional projects either as PPP or purely private projects as well as lending of grant aid, concessional lending with private sector funds.

**Mr Uteem:** On page 618, under *item No. 26210105 – Contribution to Permanent Court of Arbitration* where Rs8 m. is earmarked. May I know from the hon. Minister the number of cases that has been referred to the Permanent Court of Arbitration last year and when is the branch of the Permanent Court of Arbitration in Mauritius expected to come into operation in Mauritius?

**Mr Duval:** Mr Chairperson, I would not know about the operations of it, but I can circulate the whole paper if the hon. Member wants. I don't know the operations, if the hon. Member asks a question I will reply to it.

**Mr Jugnauth:** Under *item 28216014 IMF Training Institute*, I am happy to see that an amount has been earmarked for next year. I heard the hon. Vice-Prime Minister and Minister of Fanswering that in case. I know we need to get contributions from other countries. Will the Minister say whether he himself and Government will lobby strongly in order to have this institute to be located in Mauritius?

**Mr Duval:** Yes, Mr Chairperson, in fact, yesterday we spoke to the Chinese Minister of Commerce to try and get China also involved in the whole thing, also to try and get Mauritius geographically or politically closer to southern Africa.

**Mr Obeegadoo:** On page 619 under *item 32155105 Contribution to the African Development Bank*, we can see that there is the regular contribution of Rs100 m. going up to Rs108 m. I would like to know which fund this contribution goes to.

**Mr Duval:** Mr Chairperson, it goes to the African Development Bank. In fact, we are shareholders and this is our contribution over eight years to the share capital of the bank.

**Mr Bhagwan:** Without being personal, the last line on page 618 - *Acquisition of Vehicles for Ministers and Senior Civil Servants*, can the Minister inform us about the policy? When Dr. Sithanen was Minister, it was brought to 4 years or something like that, has it been reduced to the changing of cars every 3 years?

**Mr Duval:** The information that I have, Mr Chairperson, is that it is still four years.

**The Chairperson:** May I put the question?

**Mr Obeegadoo:** I gathered we were on Programme Code 951 and we would be moving to 952, Sir.

**The Chairperson:** We will put the question now. We are on 951 and I will put the question. If hon. Li Kwong Wing has something on 951, he can raise it?

*Programme Code 951: Centrally Managed Expenses of Government (Rs 1,558,642,000) was, on question put, agreed to.*

*Programme Code 952: Centrally Managed Initiatives of Government was called.*

**Mr Li Kwong Wing:** Mr Chairperson, with regard to Item No. 21 - *Compensation of Employees, Sub Item No. 21110010 Service to Mauritius Programmes*, which was Rs30 m. last year and this year there is a provision of Rs12.5 m.

**The Chairperson:** Which page, please?

**Mr Li Kwong Wing:** Page 619, the *sub Programme 95201: Re-inventing Government Initiatives* with regard to *Service to Mauritius Programme*, the amount has been reduced from Rs30 m. to Rs12.5 m. Can the Minister give us some details of what type of service was provided last year? Can we have a table of all the services provided? With regard to the Rs12.5 m., can we know whether there has been an evaluation carried out on the usefulness of this service for us to commit this amount for this year?

**Mr Duval:** Mr Chairperson, the sum of Rs30 m. this year has been ventilated across the Ministries. So, this is why we do not see it here as one figure in *Centrally Managed Funds*. The Rs12.5 m. is provision for future recruitment. We have about 20 of these young men and women at the Ministry and we think that it is working very well.

**Mr Jugnauth:** On the same issue, Mr Chairperson, since the amount has been ventilated in the budget of other Ministries, would the hon. Minister tell us whether the sum of Rs12.5 m. is with regard to the Ministry of Finance or is it with regard to, again, what is going to be needed for other Ministries? Why has it not been budgeted for other Ministries?

**Mr Duval:** But, Mr Chairperson, this is for any additional that may be required by other Ministries and not for the Ministry of Finance. I presume we do not know exactly how many is going to go into any Ministry at any point of time; that is why they kept it under *Centrally Managed*. But, last year, all of it was under *Centrally Managed*.

**Mr Bhagwan:** With regard to 22120024 *Capacity Building Programme* on page 619 we are being asked to vote Rs10 m. Can the Minister inform the House whether this *Capacity Building Programme* is done locally by local recruits or local firms or has the Ministry of

Finance entered in a joint venture with foreign universities or foreign firms for this *Capacity Building Programme*?

**Mr Duval:** Mr Chairperson, the Rs100 m. again have been ventilated to the different Ministries. There are 58 consultants under this programme and it is both local consultants and foreign consultants. I think about Rs30 m. have been spent so far on that programme; I can circulate the list, Mr Chairperson.

**Mr Baloomoody:** At page 619, under item *New City at Highlands Project*, I find that Government is not going ahead with that project. But, out of the Rs50 m. which have been earmarked for the previous year, can we know to date how much has been spent on that project?

**Mr Duval:** Can I reply, Mr Chairperson? The New City of Highlands has been transferred to the Prime Minister's Office; it is no longer here. I will obtain the amount, if any has been spent this year.

**Mr Uteem:** I have a question on *Item No 22130: Studies and Surveys*. May I have a list of the studies and surveys which have been carried out and the amount spent and the name of the people who carried out the surveys?

**Mr Duval:** Mr Chairperson, I am informed that there has been no expenditure on Highlands project. As far as the studies and surveys, Rs100 m. were provided, Mr Chairperson, and Rs9.1 m. were spent and I can circulate the list.

*(Interruptions)*

**The Chairperson:** Hon. Choonee, please! Hon. Jugnauth!

**Mr Jugnauth:** With regard to sub-programme 95202 - *Other Projects and Schemes Centrally Managed*, the item 3111 3999: *Infrastructure Projects in preparation*, may we have a list to be circulated of the infrastructure projects that are in preparation and why is it that this budget is not included in the Ministries concerned with regard to the infrastructure projects that are being prepared?

**Mr Duval:** I am sorry; can I have the code again, please?

**Mr Jugnauth:** It is sub-programme 95202: it is the same programme.

**Mr Duval:** In fact, Mr Chairperson, this is a new item that we are creating. As the House is aware, there have been a number of delays in the implementation of projects. This was, in fact, raised in the House. So, this year, Mr Chairperson, we are keeping under *Centrally*

*Managed Funds* an amount of money so that projects which are viable and have been approved can come and get finance on a first-come, first-serve basis.

**Mrs Hanoomanjee:** On page 619, sub programme 95201 - *Re-employment Scheme in the Public Sector*, can the Minister provide us with some clarification as to what is this scheme and why is it that provisions have not been made for years 2013 and 2014?

**Mr Duval:** Mr Chairperson, this, in fact, relates to the reform principally of the cess funded institutions and should there be any person who is taken over by the civil service, this is to pay for the salaries.

**Mr Bhagwan:** Mr Chairperson, I find that there is a sum of Rs25 m. for *Non-Residential Buildings*. Has purchase of any building been earmarked? I also find that there is a sum of Rs75 m. for *Grant/Loan Schemes for Small Planters/Workers Participation in the Equity Capital of the Sugar Sector Companies*. Can I know where we are exactly with that project? What has been the action taken during 2011 and what is in the pipeline, where are we?

**Mr Duval:** Mr Chairperson, as far as the Rs25 m. is concerned, this relates to the refund of VAT where projects are funded by external agencies, obviously we do not ask them to pay tax in Mauritius, so, we refund the VAT on the project.

As far as the Rs75 m. is concerned, this relates to the Cane Industry Democratisation Fund and it is going ahead.

**Mr Bhagwan:** Can the hon. Minister circulate in real terms what actions have been taken

...

*(Interruptions)*

**The Chairperson:** Please, address the Chair!

**Mr Bhagwan:** ... what concrete action has been taken for this current year in terms of initiatives and what is in the pipeline for the coming years? The small planters are waiting and they are the *laissés-pour-compte*.

**Mr Duval:** Mr Chairperson, as requested, I will circulate it.

**Mr Obeegadoo:** I refer to page 619, *item 25120001 Development Basnk of Mauritius* which remains a hot issue. I want to know from the hon. Minister of Finance ...

**The Chairperson:** Hon. Faugoo and hon. Seetaram, please!

**Mr Obeegadoo:** ... how concretely he is considering reducing Government subsidy to DBM on loan purposes, the more so, as in the Budget speech, what is being envisaged is capping the interest for SMEs from the DBM?

**Mr Li Kwong Wing:** There has been an amount earmarked, Rs80 m., last year for the interest subsidy on loans given by DBM. Can the hon. Minister tell us how much has actually been spent and how many loans were involved and what is the maximum size of the loans?

**Mr Duval:** I wouldn't know how many loans. Mr Chairperson, the total amount spent is Rs40.9 m. to date. This is why the provision is less than last year - Rs60 m. As the House may be aware this, in fact, provides a subsidy to DBM where it is, in fact, on-lend less than its cost of funds at rate which is less than the cost of funds of 8.1%.

**Mr Jugnauth:** Concerning *Workers Participation in the Equity Capital Of Sugar Sector Companies*, has Government earmarked any amount in order to encourage and help small planters in the sugar industry to set up their project of manufacturing ethanol, especially in the light of the philosophy that we all have to democratise the economy? I think that would be a very good and concrete example in order to help the small planters.

**Mr Duval:** Yes, I hope so, it will help them. Mr Chairperson, the whole question of ethanol is being looked at on a holistic view point. I wouldn't want at this stage to enter further into it before it is, in fact, approved by Cabinet. I take your point, but it is not for me to decide.

**Mr Uteem:** I am on page 619, under *item 31113999 Infrastructure Projects in preparation*; I take note that we are budgeting Rs1.5 billion. Last week, we voted a substantial amount, several billion rupees for the Ministry of Public Infrastructure. Does this amount also relate to the item we voted last week, or if not, what are these new projects?

**Mr Duval:** Mr Chairperson, it is to try and alleviate the problem of under-spending in Government, whereby every year some sums are voted; some go ahead, some don't and the Ministry which has not had any sum voted get penalised. This, in fact, encourages people to come on a first come and first served basis. It can be MPI or any other Ministry with a decent project.

**Mr Li Kwong Wing:** The item says *Infrastructure Projects in preparation*. Can we know from the hon. Minister which projects are in preparation because we can't have a Contingency figure and say that the projects are in preparation? What are these projects?

**Mr Duval:** Mr Chairperson, I explained, it will be on a first come first served basis for projects which are valid and which are presented.

**Mr Li Kwong Wing:** Mr Chairperson, Rs1.5 billion is a substantial sum for projects which have not been yet identified. It is a provision which is just like counting numbers. Another item under page 619, Mr Chairperson, is *item 22130001 Studies and Projects Preparation*. The hon. Minister just said that last year, out of a budget of Rs100 m. only Rs9 m. was spent and this year, a provision of Rs50 m. has been made. Can we know from the hon. Minister what actually are the projects or the studies that have been identified and planned to provide for Rs50 m. because if not, it is providing money again for nothing?

**Mr Duval:** That is the hon. Member's opinion. What can I do? This is a provision. A provision is something that we are not sure, we make a provision for any number of projects, studies that will be made next year. That is the nature of this provision. As far as the other item is concerned as well, Mr Chairperson, it is the Ministry's projects. Instead of defining which one will go in and which one will out, next year we will deal with them on a first come and first served basis.

**Mr Jugnauth:** May I come back on the infrastructure because it concerns all Ministers of Finance. I heard the hon. Minister saying that because there have been delays, therefore, he is setting up this budget under his Ministry so that it comes on a first come first served basis. But that will not resolve the problem. We know that there is a lack of capacity with regard to certain Ministries, especially infrastructure and there was at one time initiation to set up a monitoring unit at the level of the Ministry of Finance.

**The Chairperson:** Question, please!

**Mr Jugnauth:** My question is: has the unit been set up or will the hon. Minister set up this unit in order to engage and to see to it that the Ministry concerned is, in fact, not delaying projects?

**Mr Duval:** I am not saying that it will solve it. It will go in the right direction to provide the right impetus to get Ministries to act quickly. As far as the monitoring unit is concerned, I am not sure. I will provide the information as to where we are in terms of setting up in each Ministry.

**Mr Uteem:** As a follow up question, the hon. Minister gives us the indication that this is like a Contingency plan in case of expenses not budgeted for, but this has a cost. We have to

finance this amount. It is not for free, we are financing the budget deficit. The sum of Rs1.5 billion is a substantial sum of money. Is the hon. Minister agreeable to set up a committee to sit down and see really what projects need to go through and then to reduce the budgeted provision for this Contingency Fund?

**Mr Duval:** There is already Project Planning Committee, but this money is not lying somewhere around there. It is money that is going to be collected in taxes and borrowed when it is necessary. We do not just take the money and leave it there and look at it.

**Mr Li Kwong Wing:** If I understand the Minister well, this is just a provision, there is no project, there is nothing identified, there is nothing planned, it is another rainyday fund item which is put in reserve because it is almost like a virtual project that the Minister has put here.

*Programme Code 952: Centrally Managed Initiatives of Government (Rs1,742,500,000) was, on question put, agreed to.*

*Programme Code 989: Contingencies and Reserves was called.*

**The Chairperson:** Yes, hon. Li Kwong Wing!

**Mr Li Kwong Wing:** Mr Chairperson, may we know from the hon. Minister why he has provided Rs1.3 billion and not Rs1.5 billion, Rs1.2 billion or Rs1.6 billion? Why Rs1.3 billion?

**Mr Duval:** If we put more, the hon. Member does not like; if we put less he doesn't like. In fact, the hon. Member may know that we have agreed annually to reduce the percentages of contingencies in the Budget. This is, in fact, putting this into effect. As hon. Members know any amounts spent from that are explained in an Estimate of Supplementary Expenditure and it comes to the House. So, Rs1.3 billion have been spent today and that will come to House for voting.

**Mr Li Kwong Wing:** On the same item, there was a provision of Rs1.8 billion last year, how much was used up?

**Mr Duval:** Mr Chairperson, the hon. Member knows that the Estimate of Supplementary Expenditure comes to the House and it is a detailed list for voting. A sum of Rs1.3 billion has been spent. But I don't have the information. It will come to the House anyway; he will have plenty of chance to ask questions.

**The Chairperson:** I will ask hon. Ms Deepalsing to let the hon. Minister answer, please!  
Hon. Uteem!

*(Interruptions)*

**The Chairperson:** Order now!

**Mr Uteem:** The hon. Minister of Finance just explained - and I totally agree with him - the purpose of this Contingency. He will have to come back next year and explain how he spent it. This is why I asked earlier: why did the hon. Minister provide Rs1.5 billion under the last item? Is it because he does not have to explain what he does with that fund but he has to explain what he does with the fund provided under the Contingency? Should not the Rs1.5 billion under the last item have been under Contingency?

**Mr Duval:** Mr Chairperson, Contingencies relate to anything, even natural disasters and that is another thing. The other one is a capital provision for investment only. This can relate to anything, any shortfall anywhere, revenue shortfall, tomorrow there is a big cyclone, God forbid, anything will come from contingencies. The other one is a provision to speed up investment projects.

*Programme Code 989: Contingencies and Reserves (Rs1, 300,000,000) was, on question put, agreed to.*

**COMMITTEE STAGE**  
**THE APPROPRIATION (2012) BILL**  
**(NO. XXVI OF 2011)**

*(The Deputy Speaker in the Chair)*

*The Schedule was agreed to.*

*Clauses 1 and 2 were called and agreed to.*

*The title and the enacting clause were agreed to.*

*The Bill was agreed to.*

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

*At 4.22 p.m. the sitting was suspended.*

*On resuming at 4.57 p.m. with Mr Speaker took the Chair.*

**PERSONAL EXPLANATION**  
**PUBLIC ACCOUNTS COMMITTEE**

**Mr Ganoo:** Mr Speaker, Sir, having obtained your permission, I wish to make a personal explanation following certain comments made by the hon. vice Prime Minister and Minister of Finance and Economic Development during his summing up of the Budget debates.

I was absent during the summing up because I have left Parliament earlier on that day due to the state of my health. The hon. Minister of Finance has said that since 2005 only one report of the PAC has been laid.

Sir, I was appointed Chairman of the PAC in July 2010. The Report produced by my predecessor covered three financial years from 2002-2004. The PAC under my Chairmanship has held 28 sittings from July 2010 to July 2011. The PAC has called all the Ministries mentioned in the report of the Director of Audit and I have personally chaired all these meetings. The PAC has also held a visit at the Beau Bassin Prisons and had a working session in Rodrigues during the month of July of this year. In July of this year, there has been a change in the composition of the Committee following the split in Government and the appointment of the hon. Dayal as Minister ...

**Mr Speaker:** No, you have added something, the text as vetted by me and there was “no split in Government” in the text.

**Mr Ganoo:** ...following the appointment of hon. Dayal as Minister. From there on I waited for the reconstitution of the Committee. However, since the reconstitution of the Committee, the PAC has not been meeting as by then the debates on the Budget had started and are still going on. The Report of the PAC which covers two audit reports for the financial year 2008 to 2009 and for the period July 2009 to December 2009 will be presented by the end of this year. Thank you.

## **PUBLIC BILLS**

*Second Reading*

### **THE CONSTITUTION (AMENDMENT) BILL (NO. XXIII OF 2011)**

**The Prime Minister:** Mr Speaker, Sir, I do not propose to move for the Second Reading of the Constitution (Amendment) Bill.

**Mr Speaker:** You are moving for the withdrawal.

**The Prime Minister:** I move for withdrawal of the Bill.

**Mr Speaker:** Bill is withdrawn.

**Mr Bérenger:** Can I know whether the Second Reading is not being moved or the Bill is being withdrawn?

**Mr Speaker:** No, the hon. Prime Minister has said that he is not moving for the Second Reading, the Bill is being withdrawn, so the Bill has been withdrawn.

**Mr Bérenger:** Well, if it is a question of withdrawal, the hon. Prime Minister or Minister not moving a Second Reading is one thing, but Standing Order 63 provides that the Member in charge of the Bill, standing on the Order Paper, may make a Motion without notice for its withdrawal.

**Mr Speaker:** Yes.

**Mr Bérenger:** Yes, but it must be seconded.

**Mr Speaker:** No, there is no need for secondment.

**Mr Bérenger:** Mr Speaker, Sir, Standing Order 38 states -

“The question on any motion or amendment shall not be proposed from the Chair in the Assembly unless it shall have been seconded, but in Committee a seconder shall not be required.”

**Mr Speaker:** The Chair is not putting any question. The hon. Prime Minister is in charge of the Bill; he is just withdrawing the Bill. The Chair is not putting any question to the House. The Bill is withdrawn.

**The Prime Minister:** In fact, Mr Speaker, Sir, my words...

**Mr Speaker:** The Executive could have left the Bill in the drawer without putting it on the Order Paper today. The Bill is withdrawn.

**The Prime Minister:** What I said, Mr Speaker, Sir, is that I do not propose to move for the Second Reading of the Bill.

**Mr Bérenger:** The Speaker says that, as a result, it is withdrawn. It is not the case!

**Mr Speaker:** The hon. Prime Minister is not withdrawing the Bill.

**The Prime Minister:** I do not propose to move for the Second reading of the Bill.

**Mr Bérenger:** If it not withdrawn under section 62...

**Mr Speaker:** The hon. Prime Minister is not moving for the Second reading of the Bill.

**Mr Bérenger:** That is it! I am pointing out whether he is aware that if it is not withdrawn under section 63, it will stand after First reading, and Government will run into trouble coming with the new Bills.

**Mr Speaker:** Then, the hon. Prime Minister is not moving for the Second reading of the Bill today and the Executive will be decide later on whether to withdraw or not to withdraw the Bill.

**THE LOCAL GOVERNMENT BILL**  
**(NO. XXIV OF 2011)**

**Mr Aimée:** Mr Speaker, Sir, with your permission, I do not propose to move for the Second reading of the Local Government Bill (No. XXIV of 2011) and suggest to withdraw the Bill.

**Mr Speaker:** The Bill is withdrawn!

**Mr Bérenger:** In this case, is it being withdrawn?

**Mr Aimée:** Yes.

**Mr Bérenger:** Then, a motion must be made under section 63, and it must be seconded.

**Mr Speaker:** Can the hon. Leader of the Opposition tell me why the motion has to be seconded?

**Mr Bérenger:** Standing Order 38 states -

“The question on any motion or amendment shall not be proposed from the Chair in the Assembly unless it shall have been seconded, but in Committee a seconder shall not be required.”

**Mr Speaker:** This is what I am trying to make the hon. Leader of the Opposition understand. I have not put any question; there is no question before the House. The hon. Minister has “moved” that the Bill be withdrawn purely and simply. That’s all! This is the end of the matter! If there was a motion for me to put a question whether the Bill should be withdrawn or not, then there would have been a debate. But, there, I have no right to put any question. He is just withdrawing the Bill.

**Mr Bérenger:** The difference is that the hon. Prime Minister made it clear that he is not withdrawing. The hon. Prime Minister made it clear that he is not moving for the Second reading, but he is not withdrawing, whereas the hon. Minister says that he is not moving for the Second reading and he is withdrawing.

**Mr Speaker:** Yes, but this is what I have explained. There is no question before the House. The hon. Minister has withdrawn the Bill. There is no question before the House.

*(Interruptions)*

I have looked into the matter, and that is my ruling. I have looked into Erskine May. Erskine May says the Member in charge of the Bill can withdraw the Bill. That's all!

*(Interruptions)*

I have looked in conjunction with our Standing Orders!

**Mr Ganoo:** On a point of order. But section 33(1) says -

“A member who has made a motion may withdraw it by leave of the Assembly there being no dissentient voice.”

So, there must be a motion to withdraw it. What the hon. Minister just made is a motion. The Member has made a motion to withdraw, but it must be done with the leave of the Assembly.

**Mr Speaker:** No. It is not stated in the Standing Orders! When a motion is presented to the House by any Member, the motion cannot be withdrawn except with the leave of the House. In this case, the Standing Orders are clear. The hon. Minister is moving that the Bill be withdrawn purely and simply. There is no question before the House. That is the point. I will add to say that when the second Bill will come - which has been circulated - the hon. Members will have the full opportunity to say whatever they want in the Bill.

*(Interruptions)*

**Mr Bérenger:** Is it your ruling? When the Bill comes, we will speak on the Bill; the content of the new Bill. But is it also your ruling that a hon. Minister comes, moves for the First reading, with your green light withdraws the Bill today, and we are not entitled to raise the issue why it is withdrawn? There is no debate? Is that your ruling?

**Mr Speaker:** Let me read section 63 clearly -

“The Member in charge of a Bill standing on the Order Paper may make a motion without notice for its withdrawal either before the commencement of public business or when any stage of the Bill is reached.”

Here the hon. Minister is making a motion to withdraw the Bill. Where is the question? The Speaker is not even putting the question to the House!

*(Interruptions)*

**Mr Bérenger:** If there is a motion, we must be allowed to speak on that motion!

*(Interruptions)*

**Mr Speaker:** No! That is my ruling.

**Mr Bérenger:** That is your ruling?

**Mr Speaker:** Yes. I think the hon. Leader of the Opposition has to accept the ruling of the Chair. Whatever he says should not be accepted. I have given my ruling; that's the end of the matter.

*(Interruptions)*

**Mr Bérenger:** Withdraw without a motion!

**Mr Speaker:** Yes.

**Mr Bérenger:** *L'histoire va retenir!*

**Mr Speaker:** I have already given my ruling. I am not going into any further details on that.

**Mr Ganoo:** Since it was a motion, should not the Chair have asked the House whether there is a dissentient voice in the House?

**Mr Speaker:** There is no need for me to ask for that!

**Dr. Jeetah:** Mr Speaker, Sir, from a sitting position, hon. Mrs Labelle said '*dictature*.' I would like to have your ruling!

**Mr Speaker:** Hon. Mrs Labelle, did you, from a sitting position, say the word '*dictature*'?

**Mrs Labelle:** Mr Speaker, Sir, with due respect, I did utter this word, but, of course, it was not addressed to the Chair. If you want me to withdraw the word...

**Mr Speaker:** Yes. You withdraw the word!

**Mrs Labelle:** Though it was not addressed to the Chair? Of course, I abide by your ruling, Mr Chair.

## THE EDUCATION (AMENDMENT) BILL

(NO. XXV OF 2011)

*Order read for resuming adjourned debate on the Second reading of the Education (Amendment) Bill (No. XXV of 2011).*

*Question again proposed.*

(5.07 p.m.)

**Mr M. Peetumber (First Member for Rivière des Anguilles & Souillac):** To start with, Mr Speaker, Sir, I would like to congratulate the Minister of Education and Human Resources, hon. Dr. Vasant Bunwaree, for having presented this crucially important Bill in the

House, because he pursues with tenacity and unswerving dedication Government's concern for the Mauritian child. I have used the term 'tenacity' because we are aware of the persistence with which the hon. Minister has fought deeply embedded prejudices of those who cling to conservative conformism and are reticent to change. The unswerving dedication only illustrates the desire of Government to rehabilitate learning, salvage education and spare the child of undue stress that the system imposes.

What the learner needs is not mechanical repetition of the same activities he performs every morning and afternoon. We cannot allow gaping discrepancy between our discourses and our practice. We cannot talk of curriculum reforms, pedagogical reforms and assessment reforms while we go on with chalk and talk in the class. If we want the child to develop thinking skills, analytical thinking, an inquisitive mind and a scientific approach to life, we need to stop paying lip service to reforms and act on the basis of the weaknesses we have observed in the system.

The Mauritius Examinations Syndicate's report on the performance of our children at the Certificate of Primary Education examinations reveals deep flaws in their literacy and numeracy skills. In order to overcome these weaknesses, the learner has to be taught differently. While the curriculum reform has been the first stage of new educational planning, pedagogical reforms must follow closely at the heels of curriculum reforms. The Enhancement Programme must be given the time to embed itself at all levels because the child must be an active participant in the process of his apprenticeship, not a passive recipient.

Learning through play, learning through activities, learning through collaboration in a team must replace the frontal teaching mode. Teaching needs diversity of interactional exercises. A child learns less when the teacher's method does not change. If we have to awaken the multiple intelligences of the child, we need to expose him to a variety of learning experiences of a particular type. The Enhancement Programme is a holistic way of translating the curricular objectives into learning outcome.

Leadership, Mr Speaker, Sir, is a choice and leadership is tested by the choices that the leader makes. Every choice is a responsibility. Government has always acted responsibly even if the primary reaction of the people is one of resistance. It is human nature to want the perpetuation of the past because the past is all that we know. The average citizen fears the unknown and therefore resists change. This is where a responsible Government exercises its

leadership because it has a vision and knows better than the common man because it has the advantage of all the knowledge and research that has been carried out on the issue at stake.

The need to ban additional tuitions at Std IV is implicit in the banning of additional tuition at Std III. We must talk to parents; make them understand the reason for this ban. The child has nothing to lose. Parents are our rampart against the bigots who are obsessively in favour of additional tuitions. In fact, this should be a stepping stone towards the further emancipation of our education system from the shackles of conservative thinking.

At the end of the day, we need to reach a point where only those who need additional tuitions will opt to take them in conditions that favour healthy and effective learning, certainly not in an ill-ventilated garage where a number of learners are thrust together without too much spacing, condition which undoubtedly impacts negatively upon their health.

Additional tuitions do not solve the problem of an overcrowded curriculum. It would be interesting to learn from the detractors of this Bill, what are the elements of the curriculum that must be eliminated. What do we want to achieve through a curriculum? We need to know what we expect from a child who completes his primary cycle. Every child in a class cannot digest every part of the curriculum. We need to adapt the curriculum to the needs of the learners with mixed abilities.

The history of the country shows that education reforms have always triggered the greatest passions of the people. This is so because our children are our most precious investment. We invest ourselves physically, emotionally, financially and culturally in the development of our children. Whatever affects their lives provokes us to react emotionally at times. That is why civil society must be guided and mentored.

We, as Government, have a debt towards history. When Sir Seewoosagur Ramgoolam, the first Prime Minister of this country, the Father of the Nation, offered education as a free service, way back in 1977; his aim was to relieve the common mortal of heavy expenses on a fundamental necessity. The private cost of education must today approximate Rs3 billion per year and this represents very often an unnecessary financial burden for the poor.

Now, is the student really benefiting from tuitions that cannot be acquired in class? Why should not the State be allowed to assume this responsibility in view of the heavy budget allocated to education.

Mr Speaker, Sir, this Bill is a major contribution to honouring the dignity of the Mauritian child. It's Government's endeavour to restitute to the child what the system takes away from him.

Thank you.

(5.17 p.m.)

**Mrs L. Ribot (Third Member for Stanley & Rose Hill):** Mr Speaker, Sir, I have great pleasure today to express myself on the objects of the Education (Amendment) Bill. I will start with part (b) which reads -

“To enable the Minister to approve the conduct of the Enhancement Programme or any other programme in schools to enhance innovative teaching and learning experiences, and to promote the integral development of pupils.”

The first question which crops to my mind, Mr Speaker, Sir, is what is that ‘any other programme’ referred to in the Bill. Are we leaving a door open to the implementation of any trial and error programme and using our students as guinea pigs. Or are we already thinking of replacing the Enhancement Programme by another one?

The Enhancement Programme, Mr Speaker, Sir, has been defined by the hon. Minister of Education as differentiated pedagogy, holistic approach and innovative pedagogy. In reply to a parliamentary question on 23 March 2010, the hon. Minister of education defined it as making use of, I quote –

“Innovative pedagogical tools that are more activity based and involving hands-on experience. This is supplemented by other creative practices such as drama, sports, painting, sculpture, music and others. The overall objective, therefore, is to provide more equity in learning opportunities for all, thereby rendering the learning experience of pupils more enriching and rewarding.”

However, Mr Speaker, Sir, no one knows exactly what the Enhancement Programme is. No one has seen the syllabus of that programme. No one knows the qualifications the teachers or resource persons should possess in the different fields and all the training they should have had. The only thing we know about that programme is that thrice a week, pupils remain in schools from 2.00 to 4.00 to 5.00 to follow that Enhancement Programme, and Mr Speaker, Sir, this programme is being included in the Education Bill and we are being asked to vote for it. That programme, Mr Speaker, Sir, however attractive it may seem, should have been part and parcel

of our education system; more, it should have been the very essence of our education system. The very aim of education, is it not to promote the integral development of the child and to take the best out of him?

Any expert in education would laugh his wits out on reading the objects of the enhancement programme as spelt out here and would simply ask himself:

“What is being taught to the Mauritian child at school?

What development is being aimed at if it is not his integral development?

Is our system of education not activity-based?

How is it that the Mauritian child has no creative practices such as drama, sports, painting, music, etc.?”

The very fact of spelling out what should have been obvious as strokes of inspiration, is it not a blatant admission of the failure of our system of education?

Mr Speaker, Sir, that programme could have been good, could have even been very good, had it not been for the scourge of our system of education, namely the CPE exams.

Mr Speaker, Sir, I think we can divide the pupils of primary schools into four categories: first, we have those whose parents decide that they have, by all means, to obtain A<sup>+</sup> to be admitted into Queen Elizabeth College or one of the Royal Colleges; those students enter a cutthroat competition and take private tuitions, not only from their own teachers but, to be better off than their friends, also take tuition from another teacher from another school and very often, adding insult to injury, hiding the identity of that teacher from all.

Secondly, we have those students whose parents would like to see them admitted in any State College or a Confessional School. They also take tuition to secure that admission. Then, we have that category which our system of education labels as slow. They also take tuition as they just want to obtain a pass and a seat in any college.

Finally, comes the category of those students who do not have much or any hope of passing CPE and who do take tuitions, if ever their means allow them, to try to obtain a pass.

The hon. Minister of Education, himself, in reply to a parliamentary question on 23 June 2009, admitted:

“It is estimated that about 75% of the Std IV and Std VI of the student population resort to tuition.”

None of the categories mentioned, Mr Speaker, Sir, would see in those innovative pedagogical tools that are activity-based and the creative practices, as spelt out in the Enhancement Programme, a means to help them pass CPE.

The hon. Minister of Education seems very pleased with the response to the Enhancement Programme and the rate of participation. Mr Speaker, Sir, let us not be kidding, let us face reality. In addition to their participation in the Enhancement Programme, those kids are also taking tuition, at least, those who can afford to.

The hon. Minister of Education, himself, in reply to a parliamentary question on 19 April 2011, admitted that -

“I think it is about two-thirds extra-curricular and one third curricular or half-half”.

Parents, however much they may want their child to practise slam, sports, music, drama or dance, do not all realise that these will not be of great help when it will come to pass the CPE exams. Some parents are very happy that their child can remain in school till five o’clock. At least, they know where they are, thus giving to the school the status of *garderie*.

Some teachers, with the blessing of the head teacher, are taking that time to carry on with academic teaching, that is, tuitions in disguise.

Mr Speaker, Sir, another thing that baffles me, is the need to introduce after school hours an enhancement programme that will train the pupils in ‘creative practices’ as they are called.

At secondary level, those classes are integrated in the weekly timetable. Students in secondary schools have weekly classes of physical education, music, drama, art together with religious instruction and moral education, and an activity period. Why can’t it be the same for the primary sector? Why can’t primary pupils have classes of art, music and physical education during school hours? Why can’t we enhance them during the whole day and during the whole year? Why must a separate programme be introduced after school hours for that purpose? The answer to these questions, Mr Speaker, Sir, is very simple – CPE, CPE and again CPE with its overloaded syllabus and the rat race for a few colleges!

Mr Speaker, Sir, we have to be honest and admit that the enhancement programme is simply incompatible with the hyper competitive examination which is the CPE. It is incompatible with the A<sup>+</sup> formula which this Government has deemed right to introduce in 2006. It is incompatible with the rat race for the national colleges set up again by this Government.

M. le président, aussi longtemps que toute la question de la CPE ne sera pas revue sérieusement, aussi longtemps que le programme trop chargé ne sera pas allégé, aussi longtemps que le A<sup>+</sup> formula sera là et aussi longtemps que la course pour les collèges nationaux continuera, nous pouvons tout essayer, sans pour autant réussir, pour éliminer les leçons particulières. Nous sommes en train de nous berner d'illusions, M. le président.

Le problème du moment est le taux d'échec au niveau de la *CPE*. Nous croyons que ce n'est pas le *enhancement programme* qui va porter une solution à ce problème. Allons plutôt vers le *remedial education* - des cours de rattrapage bien structurés qui porteront des résultats. Même si ce n'est pas que des enfants pauvres qui sont des *low achievers*, force est de constater qu'il y a une corrélation étroite entre la pauvreté, la famille décousue, les enfants abandonnés et l'échec au niveau de la CPE.

Ces enfants, M. le président, bien souvent, une fois rentrés à la maison, déposent leur cartable et ne les reprennent que le lendemain matin. Ils doivent parfois s'adonner à des tâches ménagères ou s'occuper des petits frères ou sœurs. Ils n'ont parfois pas d'eau courante ou pas d'électricité. Ils n'ont même pas une table à laquelle ils peuvent s'asseoir pour faire leurs devoirs. Souvent, il n'y a même pas de culture d'éducation et de devoirs dans la famille. Espérer donc que ces enfants puissent faire des devoirs de maison, réviser ce qu'ils ont fait en classe et prendre leurs études au sérieux, relève de l'utopie.

Mettons sur pied un système où ces enfants resteraient à l'école pour faire leurs devoirs ou du travail de rattrapage. Pour exemple, M. le président, je citerai l'école primaire ZEP, Saint Jean Eon RCA à Grand Gaube qui a mis sur pied ce système depuis peu et le progrès dans les résultats parle de lui-même. Cette école vise 50% de pass au niveau de la CPE cette année.

To conclude this part of my intervention, Mr Speaker, Sir, I would like to refer to the reply of the hon. Minister of Education to a parliamentary question on 23 March 2010, whereby he stated that the monthly financial costs which basically cover allowances amount to about Rs4 m.

On 22 June 2010, he said –

“The enhancement programme has necessitated an investment of about Rs30 m. for Government. Rs4 m. a month and an investment of Rs30m., Mr Speaker, Sir.”

We may ask ourselves: are we getting value for money? Wouldn't it be more worthwhile to invest that sum in remedial education, which would bring about a rise in the percentage of passes at the CPE level by the time the whole question of CPE is reviewed once and for all?

I would now like, Mr Speaker, Sir, to address another object of the proposed Bill; that of the registration of teachers providing additional tuition to pupils in Standards V or VI or attending a secondary school.

Mr Speaker, Sir, you yourself expressed your surprise that secondary schools had been inserted in the Bill. Allow me to quote what you said to the hon. Minister of Education on 25 October 2011 –

“Why have secondary schools been inserted? Does the Bill speak of secondary schools? Can your regulations go against the mother Act? It has to go together with it. When you are amending section 37A of the Act, you are talking of Standards V and VI and registration of teachers.”

As it is, Mr Speaker, Sir, when the Bill includes the registration of teachers, it is the secondary teachers who are aimed at since the primary teachers already register themselves through a form that is sent to them by the Ministry of Education at the beginning of each year.

Mr Speaker, Sir, the conditions for the registration of teachers should have been included in the Bill. The amendment refers to the registration of teachers. What about the other providers of tuition who are not teachers as such, but cadres of the private and the public sector, for example? We all know, Mr Speaker, Sir, of those non-teachers who declare themselves tuition teachers. One of them declared himself excellent enough to give tuition at all levels in English Language, English Literature, Economics, Commerce, History, General Paper and what not! These tuition givers are cut off from changes in the syllabus or in the marking scheme, from modern trends and are not made to follow any service course; not even those conducted by representatives or markers of the examining body. Now, my question is: should those providers of tuition – we cannot call them teachers – also register themselves if they wish to go on giving tuition?

Speaking of registration of teachers wishing to provide additional tuition, what is the body that will be responsible of that exercise? Will there be a body responsible of the registration of teachers of the public sector and a different one for those of the private sector?

Now, when we think that the hon. Minister of Gender Equality, Child Development and Family Welfare admitted not having enough inspectors to go round the *crèches*, and that there are only 13 supervisors at the PSSA to go round about 100 private secondary schools, we can ask ourselves: how many inspectors will be needed to go round and make sure that all the providers of tuition have been duly registered? And what about those who will not have registered?

We would have expected, Mr Speaker, Sir, to see in the Bill issues like –

- The number of subjects in which a teacher should be allowed to give tuition! Should it not be only in the subjects in whom he is duly qualified?
- The maximum number of students to whom a teacher should be allowed to give tuition at a time. We all know, Mr Speaker, Sir, of those super teachers who have the power of splitting themselves into two so as to be in two separate rooms at the same time.
- The maximum number of hours a teacher should be allowed to give tuition and we should also view with concern the retirement age for retired teachers giving tuition.
- Mr Speaker, Sir, what about the premises where those tuitions are being provided? If some teachers have or rent a proper and well-aerated room, others unfortunately used a garage or stuffy room where the students sit on a bench or a stool for hours with nothing to rest their back on.
- Moreover, is it not high time that the authorities cast a serious look on the fees asked by a few teachers?
- When we talk of fees, Mr Speaker, Sir, the relevant authorities should also see very closely the fees ask for revision crash courses during the third term. These crash courses can go up to Rs5,000 or even Rs10,000 per child, depending on the reputation of the teacher. These crash courses account for the rate of absenteeism during the third term. And here, Mr Speaker, Sir, I would like to point out that these crash courses during the third term cannot be provided by certified teachers since teachers are not entitled to any leave during the third term. It can only be non-certified teachers and cadres of the private and public sectors who preciously keep their annual vacation or casual leave for that purpose.
- Another issue which should be addressed when it comes to tuition at the secondary level is the courses in Chemistry Practical and Cookery Practical which some teachers

give in their own house. Are the norms of security respected? Is the number of students per group respected?

Now, we can ask ourselves why parents give so many tuitions to their children at secondary level.

- First of all, they have all been used to the conviction that to pass an exam, one has to take tuitions.
- I would also like to draw a parallel between the CPE exams and the Form III National exams. Whereas the CPE exams are meant to determine admission into a secondary school, the Form III National exams, according to the hon. Minister of Education, are a mere assessment. However, Mr Speaker, Sir, the very purpose of the Form III National exams is clear to no one up to now.

The parents have been used to the connotation of exams and have been traumatised by the CPE exams. Now, once they hear National exams, they impose tuition upon their child to make sure he will pass the Form III exams, even if no one knows the consequences of a failure at those exams. And what's more, Mr Speaker, Sir, if at CPE level, the student has 4 main subjects; at Form III level, the student has at least 10 subjects.

Now, something which is quite new at the secondary level is the increase in the Form IV and V students taking tuitions. We may say that this has always existed. Some students do take tuitions to make the grade and simply pass their School Certificate to be admitted in Lower VI. What's new, Mr Speaker, Sir, is that the very good students, frustrated at not having been admitted in a National College in Form I, try at all costs, to get excellent results so as to be admitted in a National College in Lower VI. Some will go to the extent of taking tuition in almost every single subject, sometimes on every day of the week and even Sundays to reach that goal.

To conclude, I would like to ask myself: what is the purpose of this exercise of registration of teachers? If the only aim is to make teachers pay taxes, *nous sommes à côté de la plaque, M. le président. Dans cet amendement, comme il est proposé il n'y a rien de positif et surtout rien de pédagogique. Rien n'est préconisé* to lessen the financial burden of parents and the stress of students. Let us not address the issue of private tuition on the surface, but let us go to the root cause. *Les leçons particulières ou additionnelles comme on les appelle maintenant, comme si le changement d'adjectif pourrait y changer grand-chose ; ces leçons particulières*

*sont en train de gangréner notre système d'éducation et ne traitons donc pas cette gangrène avec du Panadol.*

Mr Speaker, Sir, in the light of all the arguments I have put forward, we, on this side of the House, cannot support this Bill.

Thank you.

(5.40 p.m.)

**Mrs J. Radegonde (Fourth Member for Savanne & Black River):** Mr Speaker, Sir, on this part of the House, we believe that this Bill, as it is, does not address the root of the problem of quality education and equal distribution of social resources.

This Bill, Mr Speaker, Sir, targets additional tuition as being responsible for the underlying socio-economic and geographical inequalities. It would appear that controlling additional tuition to pupils in standards V to VI or those attending a secondary school by registered teacher is an effective way to promote enhancement programme for innovative teaching and learning experiences. This perception, Mr Speaker, Sir, camouflages the following facts -

- The population of students is not homogeneous and cannot be fit in a straight jacket.
- The disparities between rural and urban schools is my second point, and
- the rat race environment.

My first point on the population of students is not homogeneous and cannot be fit in a straight jacket, Mr Speaker, Sir, if the enhancement programme proposed is defined as hands-on programme including drama, physical education, sports, painting, sculpture, music and others to address teaching and learning difficulties of the slow learners, it is extremely difficult, if not even impossible, to see how English as medium of instruction promotes same. This is to say, Mr Speaker, Sir, that the CPE standardised assessment continues to be widely used as a measure of academic achievement. Yet, we all agree, Mr Speaker, Sir, that the population of the student is not a homogeneous group; rather it is comprised with children having different abilities and skills. Some children excel more at athletics and others excel more in intellectual activities. Even if at a glance, the policy measures undertaken to ban additional tuition in standard IV

promote enhancement programme and control for additional tuition support equal treatment, it remains a fact that those children who cannot read and write English adequately will be excluded from opportunities to participate in intellectual activities that limit their access to learning experiences. Nevertheless, measuring of performance between children continue to be based on standardised tests. How effective is this Bill therefore to advance those children with different skills and abilities academically and professionally? Yet, the hon. Minister, Dr. Bunwaree highlighted in the reading of the Bill to bridge the gap of social inequalities.

My second point is the disparities between rural and urban schools. Mr Speaker, Sir, the gap in social inequalities exists well before the children are at school and the school does not mitigate the problem; and this, irrespective to the fact that there is some progress on average schools achievement. The schools in privileged areas still scored higher average than those found in deprived areas. The difference in achievement between schools is highly marked in public as coming from the disadvantaged children of our society. In fact, the CPE results confirm that most of the CPE failures and drop out from schools come from the poorest areas which is linked to an array of social, economic and geographical barriers, exposure to drugs, alcohol, prostitutions, food insecurity, lack of school materials, less involvement and motivation of parents, less exposure to a public library, computer lab, no well-trained teacher, frequently changing teacher or no teacher assigned to a class and so on. All of these challenges in poor communities taken together with the impact of lower levels of parental education results in children having little assistance with homework and less motivation to learn. How can the 75 minutes of pedagogical program benefit children from these poor communities?

In my own constituency, Mr Speaker, Sir, the CPE results by school show a significant lag in the achievement of schools in deprived regions despite the enhancement programme and private tuitions that have been implemented in schools and now been removed from Standard III/IV. On average, most of the school found in Chemin Grenier, Surinam, Palma scored over 70% and very few of those schools scored below 45%. Unlike schools found on the coastal region, most of them scored below 40 % and very few scored above 45%. For instance, Le Morne Government School scored for the past three years, 2008: 32.26%; 2009: 13.04% and 2010: 31.58%. I listened to the radio several times, I have not heard Le Morne listed in the Summer School Programme and I asked the question why.

Mr Speaker, Sir, the result in itself expresses the fact that the Bill, as presented, is an inadequate measure to bridge social inequalities in schools rather it creates more hoops for the children to jump through.

Children living in rural areas are in need of policy measures that can remove the burden that education places on their families and themselves and issues that are of concern of the rural people. For instance, the schools in rural areas do not have good teachers. Those schools are not equipped financially to get all children learning at the same level. The PTA is underfunded; families of low income cannot contribute to the school as affluent families. Even though there is a provision of Rs500,000 to every Government school, there are many facilities that schools in poor regions are deprived of. Very few primary schools in Constituency 14 are equipped with good teachers, interactive blackboard, library, computer and science labs that limit the children access to the learning and teaching experiences. For instance, in some place like the Sok Appadu Government School where there are two standards IV, there is only one interactive blackboard.

Secondly, the low-income families cannot afford private tuition and their children do not have the motivation and effort to compete in the rat race. Most of the families have to set priorities between putting food on the table and their children education. The enhancement programme may have worked in the beginning, but so far it would appear that 5% to 10% participate in this programme for so many reasons including school distance, costs and other social problems.

My third point, Mr Speaker, Sir, is the rat race environment. Evidence does show that out of the number of children taking part of the CPE exams every year, there is only a very small percentage that would be eligible to enter the national school which is unacceptable. And this situation of narrowing the number of children creates a rat race environment that does not enhance innovative teaching and learning experiences. Rather, it encourages a culture of ranking a lot of children at the top and a system of memorizing ...

*(Interruptions)*

**Mr Speaker:** I am sorry to interrupt the hon. Member; I will ask the Deputy Speaker to take the Chair.

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

**Mrs Radegonde:** Rather, it encourages a culture of ranking a lot of children at the top and a system of memorising the answers, but not understanding, like parrot learning. As a result,

the rat race education system fails at least one-third of our children every year, which is also unacceptable for our society.

The educational system, Mr Deputy Speaker, Sir, ranks a few of the CPE candidates at national level, and those candidates have access to the national schools. On the other hand, those who are ranked below national level are deprived access to a national school. Mr Deputy Speaker, Sir, with the practice of automatic promotion in our school system, how can the schools in my own constituency - and elsewhere, I am sure - which are far below the national level, raise their expectation to claw their way into the bottleneck? This raises the question of why national schools are found in places like Flacq, Pamplemousses, Rose Belle, Forest Side, but not in Constituency No. 14.

To conclude, Mr Deputy Speaker, Sir, enhancing the quality of education is an incentive for these children to find a better job and to break out of the cycle of poverty. It is critical that the objective of the Bill should be coupled with the eradication of the rat race environment and practice of automatic promotion in accessing education, as well as bridging the gap between schools from privileged and deprived areas and the decentralisation of national schools to affected regions. Success in these initiatives would address many issues of access and quality of education in deprived areas. Designing appropriate measures that might address additional sequel of poverty such as the constraints on learning and teaching experiences that encompass the direct barriers of school costs and the difficult school environment that often emerge in highly resource constrained communities will require creativity and a high degree of political will.

Thank you, Mr Deputy Speaker, Sir.

(5.53 p.m.)

**Mr J. C. Leopold (First Member for Rodrigues):** Mr Deputy Speaker, Sir, I thank you for giving me the opportunity to say a few words about this Bill which is, in my opinion, very important because it concerns education, which is one of our best means to get rid of exclusion and poverty if education is delivered in a conducive way.

M. le président, on doit d'abord se poser la question: quel est le rôle de l'éducation dans une société moderne? En effet, de manière générale, l'éducation doit être un moyen de donner aux enfants comme aux adultes la possibilité de devenir un participant actif de la transformation des sociétés dans lesquelles ils vivent. L'apprentissage doit aussi prendre en compte des valeurs, des attitudes et des comportements qui permettent aux individus d'apprendre à vivre ensemble

dans un monde qui se caractérise par la diversité et le pluralisme. Donc, l'éducation est l'action de développer un ensemble de connaissances et de valeurs morales, physiques, intellectuelles, scientifiques, considérées comme essentielles pour atteindre le niveau de culture souhaitée.

L'éducation permet donc de transmettre d'une génération à l'autre la culture nécessaire au développement de la personnalité sociale de l'individu. L'éducation de l'enfant et de l'adolescent repose sur la famille, l'école, la société, mais aussi sur les lectures personnelles et des médias. L'éducation globale de l'individu ne doit pas s'intéresser uniquement au développement, l'évaluation et l'application des théories de l'apprentissage et de l'enseignement, mais aussi du matériel éducatif, des programmes, des stratégies et des techniques issues de la théorie contribuant aux activités et au processus éducatif impliqué tout au long de la vie.

M. le président, l'idée de participer et de dire quelques mots sur ce *Bill* n'est pas pour être totalement d'accord ou totalement en désaccord avec le présent *Bill*, mais simplement pour moi, en tant que parlementaire, de marquer un temps d'arrêt pour faire un bilan. Aujourd'hui, en 2011, dans la République de Maurice, quelle est la situation concernant l'éducation dans nos écoles primaires et secondaires? Le constat est simple, M. le président. Il y a un désintérêt total à l'éducation. Malgré des facilités ...

**The Deputy Speaker:** I will remind the hon. Member that we are debating on tuition and not on education in general.

**Mr Leopold:** I am coming on this. Malgré les facilités qu'on a aujourd'hui telles l'internet, des salles d'informatique, des livres, des tableaux interactifs, quand on regarde le nombre d'élèves qui n'arrivent pas à réussir aux examens du CPE, c'est alarmant. Donc, à mon humble avis, *we have to start somewhere and do something. This is why, Mr Deputy Speaker, Sir, I find it very appropriate to have a new definition of 'additional tuition' in section 2 of this Bill and in section 37 (A) to have 'private' replaced by 'additional'*. Car, M. le président, comment peut-on parler de *private tuition* quand il n'y a pas vraiment cette condition, ce climat de tête- à- tête entre l'élève et l'enseignant?

Très souvent, qu'est-ce qui se passe ? Il y a un enseignant avec un groupe d'élèves dans des conditions des fois très difficiles, très déplorables, ou il y a trente à quarante élèves pour un enseignant après les heures de classe. A mon avis, ce n'est pas *conducive* de donner des leçons dans ces conditions. C'est pourquoi, *when we are talking of multiple intelligences, where increasingly people need more individual attention*, la notion de *private tuition*, à la façon dont

elle est délivrée à Maurice comme à Rodrigues, il était vraiment nécessaire de changer pour passer à l'*additional tuition*.

On doit se poser des questions, M. le président. A-t-on fait des enquêtes pour évaluer, quantifier l'impact des leçons particulières sur ceux qui ne peuvent pas payer? Serait-ce l'enfant qui a besoin d'aide ou les parents qui se substituent à l'enfant? M. le président, en se faisant, ne sommes-nous pas en train de mettre certains enfants *at a selective disadvantage* par rapport aux autres? *How do we rate the feelings* de l'enfant qui est mis à l'écart dans la classe quand l'enfant ne peut pas payer des leçons particulières? Quel est l'impact des leçons particulières sur la socialisation des enfants?

Quand on parle des enfants en quatrième, M. le président, ce sont des enfants de 8 à 10 ans. Ce sont des enfants qui des fois sont encore à l'âge de leur petite enfance ou à l'âge de l'enfance, et c'est un moment dans leur vie, d'après les psychologues, où les enfants ont besoin de temps pour la découverte de soi, la découverte de leur environnement. Et, bien sûr, un des moyens les plus efficaces est à travers les jeux. Mais il faut du temps, M. le président.

C'est le moment aussi où les enfants font l'apprentissage des valeurs et le savoir-vivre. C'est un moment aussi crucial où les enfants ne peuvent pas dire non à leurs parents. S'ils ne veulent pas prendre des leçons particulières, ils ne peuvent pas contredire leurs parents pour dire non. Les leçons particulières, dès la Standard I jusqu'en quatrième, viennent bouleverser cet équilibre, à tel point que l'enfant ne se retrouve plus, parce que c'est aussi une période où l'enfant doit gérer des conflits internes. Mais malheureusement, avec notre système actuel, les leçons particulières ne donnent pas la possibilité aux enfants de gérer ces conflits internes. Les leçons particulières c'est aussi un *burden* dans le budget familial, M. le président.

Des fois quand les parents ne peuvent pas payer, cela engendre des conflits entre les enfants et les parents, parce que ses camarades de classe arrivent à payer et que l'enfant pauvre, lui, il n'arrive pas à payer, donc c'est un problème. Donc, c'est ainsi, M. le président. Pourquoi on porte l'uniforme à l'école ? On peut se poser la question. C'est une façon pour montrer aux enfants qu'ils sont uniformes, mais quand ils arrivent aux leçons particulières, il y en a qui arrivent à payer et d'autres qui sont stigmatisés parce qu'ils ne peuvent pas payer, là il y a un problème, M. le président.

M. le président, la leçon particulière a encore un mauvais effet : c'est sur notre cour de récréation. Pourtant, la cour de récréation devait être un lieu de socialisation, mais que voit-on

aujourd’hui dans nos écoles ? Qui ne se souvient pas des années que nous, nous avons passé à l’école, pendant les cours de récréation, les jeux qu’on faisait à l’école; *la marelle, tina*, nous, à Rodrigues, on a le fameux jeu qu’on appelle *gouli*. Tout cela s’est terminé aujourd’hui, M. le président. Parce que nos enfants ne se socialisent pas. On rentrait, à l’époque, avec des boutons manquants dans nos chemises, des pouces et des orteils déchiquetés et cela faisait la joie de vivre, M. le président, et c’est ce qui intéressait les enfants d’aller à l’école.

Aujourd’hui, avec le présent système, où on parle aujourd’hui de *rat race*, tous les enfants sont derrière l’éducation trop académique et on oublie de se socialiser. Mais devait-on s’étonner après avoir autant de fléaux dans notre société, M. le président? L’enfant quitte la maison et en rentrant le soir est plus propre que le matin, alors qu’avant ce n’était pas le cas. C’est ce qui nous a fait développer en des hommes et des femmes debout, M. le président, et j’en suis fier. Si on fait un calcul mathématique, M. le président, l’enfant quitte la maison à 7.00 heures, 7.30 heures ; il est sous pression à l’école; il rentre à la maison après les études à 5.00 heures et 6.00 heures, quel est le moment de la journée que l’enfant a à se socialiser, à partager avec ses amis, M. le président ? Quel est le moment qu’on a eu pour transmettre les valeurs, M. le président ? Ne sommes nous pas en train de voler l’enfance de ces enfants, M. le président, avec le système actuel ? C’est pourquoi que je suis d’accord avec l’*Enhancement Programme* - et c’est le deuxième point que je vais aborder, surtout quand on dit que l’enfant trouve son paradis dans l’instant. Il ne demande pas du bonheur car l’enfant est le bonheur. Mais en regardant le système actuel, M. le président, pour l’enfant, il n’y a ni lundi, ni mardi, ni samedi, ni dimanche, aucun jour de la semaine que l’enfant peut s’en disposer pour faire ce qu’il veut, parce qu’avec les leçons particulières, c’est tous les jours, c’est *non-stop*. Cela tue l’enfance, M. le président. C’est pourquoi moi je dis que je suis tout à fait d’accord qu’il faut mettre un stop avec les leçons particulières dans certaines classes surtout jusqu’au niveau du quatrième.

Mon deuxième point, M. le président, concerne l’*Enhancement Programme*. C’est vrai, M. le président, comme je viens de le dire, aujourd’hui aller poser la question aux enfants: est-ce qu’ils veulent venir à l’école? Et tout le monde va vous dire : l’école est comme une prison. Alors que dans notre époque, on attendait le lundi pour aller à l’école. On aimait tellement l’école, mais qu’est-ce qui s’est passé, M. le président ? Ce n’est pas un phénomène récent, parce que moi aussi en tant qu’enseignant de carrière, je sais comment cela se passe dans les écoles. Mais qu’est-ce qui s’est passé, M. le président? Pourquoi les enfants, aujourd’hui, après la

cinquième, la quatrième, ne veulent plus aller à l'école ? Parce que, M. le président, notre école, la façon qu'elle est en ce moment, n'attire plus nos enfants. Pourquoi cela n'attire plus nos enfants ? Parce qu'il y a trop de devoirs. Si l'enfant n'arrive pas à terminer - mathématiquement parlant – les leçons qu'on a données à l'école, comment peut-on attendre à ce que l'enfant va terminer les leçons additionnelles qu'on va donner dans les cours particuliers ? Mais, c'est impossible, M. le président !

C'est pourquoi je dis que je *welcome* l'*Enhancement Programme* car cela permet de donner un moment de détente aux enfants, de développer les talents cachés, de donner des opportunités, autres qu'ils ont à la maison et dans leurs localités, à travers des jeux, la musique, le slam et la danse.

M. le président, c'est clair, donner l'éducation gratuitement est une chose mais s'assurer que tout le monde en bénéficie du même traitement est autre chose. C'est pourquoi je me demande - est-ce que le système actuel n'est pas en train de voler l'enfance de nos enfants ? Est-ce que nous ne brulons pas des étapes, M. le président ?

Donc, moi j'aurais aimé terminer par faire des suggestions par rapport à l'*Enhancement Programme*. J'aurai aimé que l'*Enhancement Programme* soit utilisé comme un moyen de véhiculer nos valeurs ancestrales, la citoyenneté, le patriotisme, le respect, la tolérance, la tendresse, M. le président, aller dans les cours, aller dans la cour de récréation, autrefois quand nous, on était à l'école, si par hasard, on heurtait un prof, vous allez demander mille excuses. Mais aujourd'hui qu'est-ce qui se passe ? L'enfant heurte, pas par mégarde, mais volontairement un prof et qu'est-ce qu'il dit ? Il vous regarde droit dans les yeux et il vous dit : « *Qui to pu faire mwa ?* » Ou sinon à la fin de l'école qu'est-ce que vous voyez ? Vous voyez le papa, la maman et le cousin bien baraqués, à la sortie de l'école, avec un *bâton coulou* ou avec un sabre.

C'est ça les conditions aujourd'hui dans les écoles, M. le président. C'est pourquoi je dis ces valeurs, il faut les inculquer, mais il faut du temps. Je trouve qu'on pourrait utiliser l'*Enhancement Programme* pour le respect, la tolérance, la tendresse et l'histoire, M. le président. Un enfant qui ne connaît pas l'histoire de son pays, ce n'est pas un enfant qui connaît la vie et qui connaît les valeurs.

Je m'en souviens qu'en 2000, j'étais dans une classe, j'expliquais aux élèves comment avant il n'y avait pas l'électricité, le téléphone et la télévision. Vous savez ce qu'ils m'ont dit, que je suis en train de mentir, que c'est faux et que cela a toujours été le cas, on avait

l'électricité, on avait le téléphone et on avait la télévision. C'est parce qu'on ne montre pas les réalités aux enfants aujourd'hui, M. le président. Donc l'*Enhancement Programme* devait être l'occasion de montrer aux enfants, de faire ce retour en arrière, de voir la réalité en face, et c'est ainsi qu'on aura des hommes et des femmes debout, parce que l'avenir du pays repose sur eux. L'avenir du pays repose sur ces enfants. Donc, il faut leur donner des moyens pour être vraiment des hommes et des femmes debout demain. Il faut aussi s'assurer du développement intégral de l'homme et de la femme de demain, M. le président. On peut faire cela à travers l'*Enhancement Programme*. Mais aussi, M. le président, on peut utiliser l'*Enhancement Programme* pour valoriser les enfants, pour les écouter et pour les comprendre parce que très souvent on dit que ce sont des enfants et on ne les écoute plus. Et c'est là le problème. Des fois nous, les adultes, on se croit de tout connaître, on connaît tout, on ignore qu'il y a des enfants – ce sont des adultes à devenir à côté nous. Très souvent les besoins des enfants, à savoir le besoin d'être écouté. Cela peut se faire pendant l'*Enhancement Programme*. Peut-être que ces enfants là n'ont pas cette possibilité à la maison, ils sont dans des familles déchirées, ils sont dans des familles décousues et c'est peut-être l'occasion à travers l'*Enhancement Programme* d'utiliser à bon escient pour donner justement un peu de bonheur à ces enfants, M. le président. Donc, à développer ce qu'on appelle la confiance en soi chez nos enfants.

En parlant de l'éducation, maintenant je vois qu'on vient réglementer les leçons particulières dans les collèges et je me demande pourquoi pas à l'avenir, notre système ne permettrait pas un enseignant du primaire, après avoir acquis autant de formations et ayant les qualifications nécessaires, d'enseigner dans les collèges et surtout avec tout ce bagage démagogique et académique que l'enseignant a accumulé pendant son passage au primaire, on pourrait intégrer le secondaire et pourquoi pas vice versa ? Ce serait vraiment un partage, *a sharing* de connaissance, M. le président.

En conclusion, M. le président, l'éducation est le moyen le plus efficace de lutter contre la discrimination, l'exclusion, la pauvreté et tant d'autres fléaux sociaux. Mais encore faut-il qu'elle soit délivrée aux récipiendaires de manière *conducive to make learning meaningful* et donc l'environnement et l'état d'esprit approprié. Il faut éduquer, M. le président et non pas fabriquer des futurs hommes et femmes de notre république.

Pour terminer, M. le président, je vais faire cette citation de Theodore Roosevelt qui nous dit, I quote –

*“To educate a man in mind and not in morals is to educate a menace to society.”*

Merci, M. le president.

(6.10 p.m)

**Mrs F. Labelle (Third Member for Vacoas & Floreal):** M. le président, nous arrivons à la fin des débats sur ce projet de loi qui a trait particulièrement aux leçons particulières.

Mr Deputy Speaker, Sir, I have listened carefully to those who have spoken on this Bill and I have paid a particular attention to the speech of the hon. Minister, when introducing the Bill at Second Reading some one month ago.

After having listened to all the Orators, I have come to a conclusion that we have, in this House, two distinct *écoles de pensées*. On this side, we are saying let's look at the illness and, on the other side, they are saying let's take care of the symptoms - I will come on that again a bit later.

Mr Deputy Speaker, Sir, while introducing the Bill, at the very outset, the hon. Minister stated, and I quote –

“It (the Bill) addresses directly the issue of additional tuition which is undermining our educational system.”

So, Mr Deputy Speaker, Sir, the hon. Minister recognises that our education system is being undermined, I agree. But, is it really private tuition which is undermining our education system? Is private tuition not just a consequence of what really undermines our education system?

In fact, Mr Deputy Speaker, Sir, the hon. Minister did give an answer. I quote –

*“We must accept that competition promoted by the system is a major factor fuelling additional system.”*

This is what the hon. Minister stated in his speech. And he even stated, at a later stage, of his speech –

“The real picture is because of that competition at the highest level, all the children are taken from the very early stages because parents believe that they must have to go in that direction, which is not necessarily true.”

If there is a real will to address the issue of private or call it additional tuition, should we not look at the major factor fuelling this state of affairs? Should we not look at the real picture - I take the word of the hon. Minister, which is ‘competition’.

Moreover, Mr Deputy Speaker, Sir, the hon. Minister recognises the negative aspects of the competition, especially at the CPE level. I quote him again –

'Tuition not only represents a financial burden on parents, but also causes undue stress and exerts much pressure both on parents and children alike."

And he stated that –

'We must accept that competition promoted by the system is a major factor fuelling additional tuition.'

The Minister repeats this sentence on several occasions. So, we must say that the hon. Minister really believes that this competition is not good and it fuels the additional tuition.

He even stated that his Ministry, I quote –

"We know that over the years, efforts have been made to fight against the negative aspects of the competition, especially at the CPE level".

So, we all agree that there are negative aspects of this competition. But when the hon. Minister talks about the efforts that have been made to fight against the negative aspects, what efforts are we talking about? What efforts have we seen during these past years? Yes, we know that there have been efforts between 2000 to 2005 - maybe I will come back on that. But, Mr Deputy Speaker, Sir, during these past years, what efforts have we seen? The introduction of A+? Selection in a most obscure way? Programmes initiated without any preparation? Non-evaluation of programmes? Are these the efforts which we are talking about to fight against the negative aspects of competition, especially at CPE level? Let's be serious!

Mr Deputy Speaker, Sir, by presenting this Bill, does the hon. Minister want us to believe that it is in line with the so-called efforts made to fight against the negative aspects of the competition especially at CPE level?

Mr Deputy Speaker, Sir, on the other hand, must we take it that we have only to look - let's say that there have been efforts - at the negative aspects and not at neither the competition itself which fuel this additional tuition nor at the systems which promote this competition, which fuels this additional tuition? What does the hon. Minister want us to understand?

Must we take it that for the hon. Minister, let this competition à *outrance* go on and then we will do some patching work to take care of the negative aspects? What are we looking forward to? *Il y a de quoi perdre son latin - que j'en ai pas beaucoup, M. le président.*

Mr Deputy Speaker, Sir, in his speech, the hon. Minister quoted Mark Bray - and Mark Bray was quoted by my colleague, hon. Obeegadoo, who had the opportunity, I think, to work with Mark Bray when he was Director at UNESCO. And the hon. Minister stated, I quote –

“I would wish to stress that Mark Bray himself in a second report makes reference to my policy announcement in 2009 to the effect that private tutoring would be prohibited for pupils up to and including Standard IV.”

What the hon. Minister did not mention or forgot to mention is that in the study he was quoting, entitled, ‘Confronting the shadow education system - what Government policies for private tutoring 2009’, the different measures taken by different Ministers, under different regimes, are well captured in this piece of work. All the Ministers were quoted in this piece of work. From the hon. Parsuramen, hon. Kadress Pillay, hon. Steven Obeegadoo, hon. Dr. Bunwaree, all the measures that what have been taken were mentioned.

However, Mr Deputy Speaker, Sir, if Mark Bray recognises that the Mauritian authorities have tried to address the issue of private tuition he also expressed the opinion that the success has been very limited. And, I think, Mr Deputy Speaker, Sir, we all recognise that, up to now, we have not been successful regarding the issue of private tuition. Worse, Mr Deputy Speaker, Sir, this problem has amplified.

Mr Deputy Speaker, Sir, from the White Paper produced in 1984 during the tenure of hon. Minister Parsuramen as Minister of Education to the Blueprint set out by the present Minister of Education in 2008, through the White Paper of 1997 under hon. Minister Pillay, and the policy document “Ending the rat race in primary education” by hon. Obeegadoo, the then Minister of education, much has been said. Many initiatives have been taken, but today at the end of 2011, we realise that the problem has worsened.

The question is: why the measures taken since 1991, some 20 years ago, have not worked? Why, despite the several studies which have clearly pointed out the problems arising from the abuse of private tuitions, the situation has worsened? Mr Deputy Speaker, Sir, if I had to reply in one word, I would say: competition. The focus of our system is not on the acquisition of knowledge, but on having the highest marks. There is a big difference. What attracts in private tuition? Exam preparations, learning to score the highest marks, and this implies, amongst others, doing a maximum of past exam papers; getting more practice to get the highest marks.

Consequently, Mr Deputy Speaker, Sir, we can say that those who benefit more from the private tuitions are high achievers and not the slow learners. As the situation is in our country, slow learners do not benefit from these private tuitions and, as rightly pointed out by the Director General of the Directorate-General for Education and Culture of the European Union in the foreword to a report commissioned by the European Commission entitled 'The Challenge of Shadow Education: private tutoring and its implication for policy makers in the European Union.' This, I think, was published recently and it was authored by Mark Bray, once again. This gentleman stated -

"Private tutoring is much less about pupils who are in real need of help that they cannot find at school, and much more about maintaining the competitive advantages of the already successful and privileged."

This is the situation in our country, Mr Deputy Speaker, Sir.

Now, Mr Deputy Speaker, Sir, if we are serious about controlling additional tuition, in my humble opinion, we cannot do so without looking at the causes, the reasons, why this additional tutoring has taken such a dimension in our country.

M. le président, le présent système crée la demande pour des cours additionnels et puis nous venons dire que nous voulons contrôler ces mêmes cours additionnels. M. le président, mon collègue, l'honorable Obeegadoo, parlait de la photo d'une maman embrassant son enfant avant les examens du CPE. J'ai regardé cette photo. C'était une femme anxiouse, presqu'au bout des larmes, qui transmettait, malgré elle, son stress à son enfant. Il y avait des parents dont l'anxiété se lisait sur leur visage attendant leurs enfants à la porte de l'école. Pourquoi tant d'anxiété, M. le président? Cet examen de fin du cycle primaire demeure une sélection. Si, à un certain moment, on avait besoin d'une sélection pour avoir accès à un collège d'un bon niveau, après avoir construit un nombre suffisant d'institution secondaire sous un gouvernement MSM/MMM, on avait l'opportunité de rendre à cet examen sa vocation première, c'est-à-dire, d'examiner les acquis. Cet examen devait être tout simplement une étape, un examen, comme n'importe quel autre examen. C'est ce qu'avait tenté de faire mon collègue, l'honorable Obeegadoo, sous un gouvernement MSM/MMM.

Mais certains ont trouvé nécessaire de défaire ce qui avait été fait et introduire les A+ et réintroduire une sélection opaque. Quand on parle des collèges nationaux, M. le président, on se rappelle que depuis l'introduction des collèges nationaux le nombre augmente d'année en année.

Finalement, on ne sait pas trop où ça va s'arrêter. On commence par un certain nombre, on continue l'année prochaine voyant que les élèves font tout le temps les efforts. Donc, on n'arrive pas - malgré la sélection opaque - de mettre un certain nombre seulement dans les collèges nationaux. Donc, qu'est-ce qu'on fait ? On augmente les collèges nationaux, en même temps augmentant la pression sur nos pauvres enfants. Devant une telle situation, M. le président, les parents, pour mettre plus de chance du côté de leurs enfants, pour avoir accès à ces, maintenant, fameux collèges nationaux, pensent que le plus de temps qu'ils passeront avec leur enseignant, le plus de chance ils auront pour cette compétition.

M. le président, je viens de parler de l'angoisse des parents. Est-ce que ces parents angoissés devant l'existence de cette compétition vont accepter qu'on interdise des cours additionnels à leurs enfants ? Des cours additionnels qu'ils considèrent nécessaires, impératifs, pour que leurs enfants aient accès - c'est que le gouvernement a créé - aux collèges nationaux. Donc, on dit qu'on va interdire. Est-ce que ces parents vont accepter qu'on interdise comme ça des cours additionnels ? Pour eux, leurs enfants doivent passer un examen de sélection à outrance où les A+ ont toute leur importance.

Donc, M. le président, je pense que la réponse à cela est claire. Aussi longtemps que vous laissez cette compétition à outrance, il y a cette angoisse des parents et d'une part, vous allez venir créer d'autres angoisses en lui disant que maintenant on ne lui donne pas des leçons mais on lui donne l'*Enhancement Programme* sur lequel je dirais quelques mots dans quelques minutes.

Et les enseignants, dans tout cela, M. le président ? Mon collègue, l'honorable Obeegadoo, a parlé du salaire des enseignants. Je ne vais pas m'étendre là-dessus mais je dirais simplement qu'avec un salaire aussi bas, devant la pression des parents à cause de la compétition, on ne doit pas s'étonner que les leçons particulières ou cours additionnels prennent tant d'ampleur. Donc, il n'y a pas à faire plus de réflexion, les choses sont claires et voilà un peu le rôle des enseignants.

Mr Deputy Speaker, Sir, let me now say some words on the Enhancement Programme. My colleague, hon. Mrs Ribot, has spoken lengthily on this issue. I shall not repeat the argument, but would like to put one question: *quelle est la finalité de ce Enhancement Programme ?*

Mr Deputy Speaker, Sir, what is being stated in the Bill? It is stated that the Bill makes provision to conduct where appropriate Enhancement Programmes or any other programme in schools to enhance innovative teaching and learning experience and to promote the integral development of pupils.

M. le président, quoique je ne voulais pas répéter l'argument de ma collègue, l'honorable Mme Ribot, mais quand même, on a le droit de se poser la question : qu'est-ce qui se passe pendant les heures normales dans nos écoles?

Mr Deputy Speaker, Sir, when we are putting the Enhancement Programme in opposition to private tuition, this is what is being done, since Enhancement Programme is being proposed to classes where private tuitions are being prohibited, what message are we sending? The perception is that the Enhancement Programme is replacing the private tuition, that is, the pupils will benefit from the Enhancement Programme and even more from what they would have benefitted from the additional or private tuitions. In other words, Mr Deputy Speaker, Sir, the Enhancement Programme will improve the academic performance - *comme semble croire l'honorable Léopold* - as well as developing other skills. However, Mr Speaker, Sir, what have we seen since the implementation programme? *Et là aussi M. le président*, when we talk about the creative skills, and so on and so forth, I think there is a subject name, 'creative arts' on the time table of the primary school. Where is the creative arts subject? Et ce programme, M. le président, je le connais, j'ai vu son développement quand j'étais à la MIE. Cela a été travaillé pendant des années et cela développe les sens des enfants. Donc c'est un programme très intéressant pour le développement intégral des enfants. Est-ce que le ministre vient nous dire maintenant que l'*Enhancement Programme* contient un programme meilleur que ce *creative art* développé à la MIE il y a une vingtaine d'années ?

*(Interruptions)*

Pardonnez-moi, mais où est ce programme 'plus complet', M. le président ? L'honorable ministre est pressé de me répondre. Il me dit 'plus complet'. Où c'est ce programme 'plus complet'? Moi, je parle de quelque chose que j'ai vu et j'ai vu l'évolution même de ce programme au cours des années et là il y a quelques mois on a eu un programme 'plus complet' qu'un programme qui a été développé au cours de vingt ans. Très bien ! Où est ce programme ? Et, en plus, M. le président, qui a été entraîné pour donner ce programme 'plus complet' ? Nous avons un programme plus complet. Où sont ces personnes ? Les quelques personnes ressources

qu'on attrape « Hé, viens, tu vas aider dans ton école. » Et surtout c'est un programme 'plus complet', M. le président ! Je ne comprends pas.

Mr Speaker, Sir, let's talk about this Enhancement Programme. Those who are following the enhancement programme know that this programme is not helping the slow learners. We know it and I am not talking out of the blues, Mr Deputy Speaker, Sir. As a matter of example, there are schools where there has been two years of Enhancement Programme and after these two years of Enhancement Programme, there is a high percentage of pupils who do not write and do not read.

Vous me parlez de l'*Enhancement Programme* et je ne sais pas comment cela se passe. L'honorable Léopold parlait de ce *Enhancement Programme* et je ne sais pas s'il est vraiment au courant comment cela fonctionne, comment ces cours sont donnés dans des écoles. C'est presqu'une garderie, M. le président. En ce qui concerne la musique – je prends l'exemple d'une autre école - 'Ah, il y aura des leçons de flûte', mais une flûte, je crois, pour une classe de trente 'On va jouer de la flûte. Quand tu auras fini, tu passeras à ton camarade.'

Il y a une autre école - 'vingt minutes pour la flûte.' Le temps que l'enseignant vient, qu'il retire sa partition etc.- Il y a une bonne dizaine de flûtes pour une trentaine d'élèves ! Pensez un peu au côté hygiénique parce qu'on parle de la flûte à bec - ensuite commence la leçon. 'Toi tu t'assoies là !' Et après vingt minutes 'Il faut que tu partes !' Et on vient dire : 'Ah, j'assure des cours de musique ?'

M. le président, ça me révolte, ça me révolte surtout quand vous prétendez donner quelque chose à ceux qui en ont vraiment besoin et ce sont les enfants qui en ont le plus besoin. *Those who really need this helping hand. We say: 'Yes, we are giving it to you,' but we know we are not giving it to these kids.* Je suis en colère parce que ces pauvres parents croient que les enfants bénéficient du *Enhancement Programme* et que, dans la réalité, quand nous regardons comment ces cours sont donnés, les enfants, excusez moi, M. le président, je ne vois pas d'autre meilleure expression que *bat bater. Nou alle bat bater passe, ene le temps'..*

This is what is being done. This is why, Mr Deputy Speaker, Sir, we, on this side of the House, have on several occasions asked for an evaluation of this Enhancement Programme. *On doit aider les enfants ; tout le monde est d'accord, mais lorsque vous avez commencé un programme, vous savez qu'il y a des choses qui ne marchent pas et vous refusez une évaluation*

by an independent body. If we go for an evaluation, Mr Deputy Speaker, Sir, these findings could have helped us *pour rectifier le tir*.

Donc, nous aurons vu, mais jusqu'à l'heure on n'a rien eu et, maintenant, on vient avec un autre programme, le *summer school*. M. le président, ce qui est terrible dedans ce sont ces mêmes enfants qui vont se retrouver avec *remedial class* - parce que le ministre aime bien parler de *remedial class*. Mais, jusqu'à l'heure, le ministre ne nous donne pas des détails - quand c'est fait et par qui c'est fait? Nous savons comment cela se passe à l'étranger et dans d'autre pays. Nous savons comment cela peut se faire. Si un enfant a une difficulté, par exemple, sous un topique, l'enfant est pris en charge par un enseignant ou une enseignante spécialisée en *remedial education*, et ensuite, l'enfant, après avoir surmonté cette difficulté, est retourné à sa classe. C'est un type de *remedial*. Nous avons plusieurs types de *remedial*. Mais comment ça se passe chez nous ? *Pas conner* ! Oui, *there is remedial* sur papier ; ça fait longtemps qu'on parle de *remedial* mais, dans les faits, M. le président, je ne vois pas de *remedial* et malgré plusieurs questions qu'on a posé on n'a pas eu des éclaircissements, on n'a pas eu des informations qui puissent vraiment nous éclairer.

Je parlais de *remedial*, M. le président, parce que ces enfants à qui on prétend donner un *remedial education*, et il y aussi le *literacy and numeracy programme*, ensuite ce sont ces mêmes enfants à qui on donne l'*Enhancement Programme* et ces sont ces mêmes enfants, M. le président à qui on demande d'aller aux *summer school* et ces sont ces mêmes enfants, M. le président, qui vont échouer le CPE malheureusement et c'est ça la situation.

M. le président, je suis réaliste et je suis triste devant cet état de choses..

*(Interruptions)*

J'attends depuis des années, M. le ministre !

M. le président, si on voit qu'il y a eu une augmentation d'un ou de deux pourcent de réussites en CPE, je ne parlerais pas de succès, sûrement pas. Il faut être modeste et réaliste et là aussi ne pas venir induire des personnes en erreur.

Nous avons un problème, et nous avons un problème sérieux, à ce niveau. Il y a trop de nos enfants qui quittent le cycle primaire illettrés sans lire et écrire parce que, M. le président, si un enfant sait lire et écrire, il ne passe pas par beaucoup, mais il réussira cet examen du CPE. Il suffit de savoir lire et écrire pour avoir au moins the *essential learning competencies* au niveau de CPE. Si un enfant n'arrive pas à avoir l'*essential learning competencies*, c'est ce que cet

enfant n'arrive pas à lire et à écrire et n'a pas des connaissances de base en arithmétique et cela, tout le monde le sait, et M. le ministre aussi le sait.

Maintenant quand vous envoyez ces enfants à tous ces programmes, est-ce que vous pensez à l'impact psychologique sur ces enfants ? M. le président, ces enfants qui vont au *summer school* jusqu'au 22 décembre, je ne sais pas si le ministre a eu l'occasion de prendre des leçons quand il avait cet âge jusqu'en décembre. Je ne sais pas s'il a eu l'occasion de le faire parce que je crois sincèrement, M. le président, si le ministre avait eu l'opportunité de prendre des leçons jusqu'au mois de décembre, jamais il n'aurait fait cela, parce que moi M. le président, j'ai eu le malheur de le faire. C'était à l'époque de la petite bourse après la sixième. Il y avait un enseignant à Flacq que l'honorable Jeetah doit bien connaître. Il voulait donner des leçons en décembre. Donc après l'examen de CPE, je prenais des leçons en décembre. Et je me rappelle parfaitement bien, M. le président, le 21 décembre, j'avais une dernière leçon le lendemain et le meilleur souvenir que j'ai de mon père, il a dit à ma mère : 'cet enfant n'ira pas à ces leçons demain.'

C'est quoi cette histoire ? C'est un souvenir qui est là et je sais ce que cela veut dire. Je n'aime pas parler de moi, mais parce que le ministre semblait croire que c'est correct pour un enfant de dix ans de prendre des leçons en décembre. Ce n'est pas le cas. Parce que ces mêmes enfants qui vont au *summer school*, ils auraient dû avoir reçu une préparation. Parce que là, qu'est-ce qu'ils comprennent ? 'Parce que je suis bête.' Et la maman qu'est-ce qu'elle a dû dire à l'enfant ? "*Mais to fine fail meme mo ptit, to bizin aller.*" "Donc, parce que je suis bête, *because I am a low achiever, I am being deprived of my holidays while my friends are enjoying themselves!*"

Have we taken time to make this kid understand that we think we can help him? We have a problem, not you. "We have a problem, and we think that we have not done enough for you during the year, and we are proposing as the authority to overcome your problem. It's not because you are a low achiever that you have to be deprived of your school holidays."

Il faut faire attention avec les enfants, M. le président. Les enfants sortent de là très souvent écrasés par tous ces programmes. Combien de programmes un enfant de dix/onze ans peut supporter – *remedial, enhancement, literacy/ numeracy*, et maintenant *summer school*. Eh attention là ; attention! Donc, M. le président, je considère très inapproprié qu'on demande à la Chambre de faire entrer dans nos lois un programme qui aveugle, je dirais mieux, qui tente

d'aveugler la population sur un problème de fond, c'est-à-dire que notre système d'éducation est incapable de prendre en compte des enfants en difficulté, avec pour résultat que quelque vingt cinq pour cent de nos enfants quitteront le cycle primaire après six/sept ans sans savoir lire et écrire, sans la notion de base d'arithmétique. C'est révoltant, M. le président.

Le *big talk now* est un gradué par famille. Un de mes collègues a mentionné le nombre d'élèves qui entrent en forme I et combien qui quittent la forme V. Du nombre d'élèves qui entrent en forme I, il n'y a que cinquante trois qui arrivent à la forme V. Les chiffres sont là.

*(Interruptions)*

M. le président, je n'arrive pas à comprendre. Lorsque nous parlons d'un problème de fond - là je parle d'un chiffre – j'aurais pensé qu'un ministre de l'éducation allait se dire quelles ressources a-t-on dépensé pour cinquante trois pour cent? Qu'est-ce que je vais faire en tant que ministre de l'éducation pour augmenter ça? Non, qu'est-ce qu'on entend? Il vous lance : « *hein combien ti été avant?* » « Qu'est-ce que t'a fait avant? » Mais, M. le président, ça fait sept ans que ce gouvernement est là. Ça fait des années maintenant que le ministre de l'Education est là. Je vous parle de maintenant et je vous parle de l'avenir. Le ministre sait - parce que d'ailleurs il parle de Margray, tous les efforts qui ont été faits par tous les ministres. Il n'y a pas un seul ministre qui est passé là sans rien faire. Donc, ne soyons pas démagogiques. On sait très bien ce qu'on a fait entre 2000 et 2005. M. le président, maintenant je comprends mieux pourquoi on piétine. Si on dort sur ses lauriers en se disant: 'Eh l'autre n'a pas fait mieux que moi ! Je m'en fous là hein !' Donc si j'augmente d'un pour cent, je suis très content parce que c'était cinquante deux avant. Moi, j'ai amené cela à cinquante trois. Quel effort on va faire ? Donc, je comprends mieux quand le ministre lance ces remarques.

M. le président, je vais conclure. If we all agree that private tuition is not a new phenomenon neither for our country nor for many countries of the world, we also recognize that as long as the education system creates a demand, the pupils, the students will go for private tuition, and often in an excessive manner.

Secondly, Mr Deputy Speaker, Sir, as long as parents feel that their children are not getting the best at schools they will invest in private tuition.

Thirdly, Mr Deputy Speaker, Sir, as long as their parents feel that what their kids get at schools is not enough to get the highest scores, they will pay for private tuition.

Mr Deputy Speaker, Sir, Margray - once again, I am going to cite this person because I think he is the person who has written so much on that issue – reveals that in the republic of Korea parents spend on private tuition some 50% of the sum that the Government invest in education. True it is that the Republic of Korea is an extreme case. However, it would be interesting to know what the situation is in Mauritius. I think, Mr Deputy Speaker, Sir, that after the first detailed study on private tuition in Mauritius as far back as in the late 1980s, 1987, we have not effected an in-depth study regarding private tuition in Mauritius. I think this is something that we have to do.

Mr Deputy Speaker, Sir, with examinations at the end of the primary cycle remaining most selective, parents' perception that the children need more teaching for the highly competitive education system and highly selective exam coupled with low salaries of teachers, we are far, very far, from tackling the problem of private or additional tuition which is, as the hon. Minister stated, undermining our education system. It is not, Mr Deputy Speaker, Sir, with a piece of legislation extending prohibition of private tuition to Standard IV and calling for registration of those engaged in private tuition that we are going to protect our kids from the abuse of private tuition, and we are going to create the appropriate environment for the low achievers to benefit from these tuitions.

I must add, Mr Deputy Speaker, Sir, that when our kids leave the primary sector, they are so used to private tuition that they continue at secondary level and dramatically, now, Mr Deputy Speaker, Sir, at tertiary level. Go and look at the number of students at the University of Mauritius who go for private tuition. *C'est presque du jamais vu sur le plan mondial, M. le président. Allez voir combien d'élèves de l'université prennent de leçons, c'est incroyable.* They, as well as their parents, Mr Deputy Speaker, Sir, accept difficult conditions. *L'honorable Ribot a parlé des conditions dans lesquelles ces leçons particulières se donnent* and she talked about stools without the backrest. Moi, j'en connais, M. le président. Si l'élève arrive en retard, vous vous asseyez sur le seuil de la porte. Il y a quelques tabourets seulement devant, et ensuite vous vous asseyez par terre, et s'il n'y a pas de place par terre, vous vous asseyez sur le seuil de la porte entre la pièce où on donne des leçons et le garage. On est devenu malade, M. le président, en ce qu'il s'agit des leçons particulières. Comment payer pour accepter cette condition et comment les parents, sachant très bien ce que sont les conditions, envoient leurs enfants là-bas.

Donc, on est traumatisé. C'est un traumatisme que la population mauricienne a concernant les leçons particulières.

Mr Deputy Speaker, Sir, the hon. Minister keeps on repeating the intention of the Government to phase out gradually a system, and I quote 'which places an over reliance on academic performance and create an educational environment which promotes holistic learning development.'

Mr Deputy Speaker, Sir, it is very difficult to take him seriously. It is now seven years that this Government is in power. They started by reinforcing a competitive system, a highly selective exam, and then *avec une aisance déconcertante, M. le président, il vient nous parler de* gradually phase out the system, replacing it by 'promoting holistic learning development.'

On commence par renforcer. On commence par un plus dur, plus compétitif, plus sélectif et on passe son temps à prédire '*I am to phase out gradually.*' *Gradually* sept ans là. *Gradually* veut dire quoi ? Quand nos arrières petits enfants seront là ? C'est quoi *gradually* ? Quelles sont les mesures concrètes, les mesures directes ?

M. le président, voilà pourquoi je termine en réitérant la demande du côté de cette Chambre, attaquons-nous à la racine du mal, c'est-à-dire la compétition à outrance et non aux symptômes.

Je vous remercie, M. le président.

*At this stage, Mr Speaker took the Chair.*

## ANNOUNCEMENT

### LOCAL GOVERNMENT BILL (NO. XXIV OF 2011) - POSTPONEMENT

(18.51)

**Mr Speaker:** Hon. Members, to set the record straight, I have gone through the Hansard in the case of the Local Government Bill (No. XXIV of 2011) which was called earlier on.

The hon. Minister stated that he is not proceeding with the Second Reading of the Bill and suggested that the Bill be withdrawn. I gave a ruling that there was no need for seconding. The hon. Leader of the Opposition quoted Standing Order 38 which reads as follows –

**"Seconding of motions and amendments.**

The question of a motion or amendment shall not be proposed from the Chair in the Assembly unless it shall have been seconded, but in a committee a seconder shall not be required.”

According to the record, the hon. Minister did not make any motion that the Bill be withdrawn, but only suggested that the Bill be withdrawn. On the basis of the suggestion, there was therefore no motion before the House and therefore no question to put.

Had a proper motion been made for the withdrawal of the Bill, I agree that there ought to have been a debate.

I, therefore, take it that the hon. Minister stated that he did not propose to move for the second reading of the Bill.

(6.52 p.m.)

**The Minister of Education and Human Resources (Dr. V. Bunwaree):** Mr Speaker, Sir, I wish to start by thanking all the Members from both sides of the House who have participated actively and, especially those who have spoken on the Bill and participated therefore in the debates on the Education Amendment Bill, both on 25 October last and today.

Mr Speaker, Sir, we have all been passionate in the expression of our viewpoints, precisely, I believe, because the issue itself is, indeed, one of national importance. I must say, Mr Speaker, Sir, I have taken good note of all the different ideas and suggestions that have been proposed.

Mr Speaker, Sir, after having listened carefully to interventions from both sides of the House, I felt that, at least, on one thing we did agree, there is a consensus over the need to take into account the superior interests of the child.

M. le président, je dois dire que j'ai écouté les discours des deux côtés de la Chambre, qui, dans certains cas sont de très haute facture, à part les petites teintes de démagogie dans le discours du dernier orateur. Mais, elle a quand même dit des choses valables...

**Mr Speaker:** Non ! On ne doit pas utiliser le mot ‘démagogie’.

**Dr. Bunwaree:** A part la teinte plutôt négative...

**Mr Speaker:** The hon. Minister should withdraw the word ‘démagogie.’

**Dr. Bunwaree:** I withdraw the word ‘démagogie’. Je dirais plutôt négative.

*(Interruptions)*

De par ce j'ai entendu de l'honorable Mme Labelle. Je pense que c'est parce qu'elle n'est pas au courant de tout ce qui se passe. Elle fait un discours, elle semble être au courant de tout, alors qu'il semblerait qu'elle n'est pas vraiment au courant de ce qui se passe. Par contre, j'ai bien apprécié le discours de l'honorable Mme Ribot, même s'il y avait là-aussi des critiques, elle a aussi dit des choses extrêmement valables...

*(Interruptions)*

Ça c'est à vous de voir, c'est votre problème. Je dis très franchement ce que je ressens. Même l'honorable Mme Radegonde – tout comme Madame Ribot - a fait des propositions extrêmement importantes dont moi-même j'ai fait mention dans mon discours.

*(Interruptions)*

En écoutant l'honorable Mme Labelle, je dois dire que j'ai été déçu, parce que les choses n'ont pas été mises dans leurs bonnes perspectives.

Mr Speaker, Sir, let me also say it very clearly that, over the decades - and hon. Mrs Labelle did mention that a number of documents were prepared on the subject. She referred to Mark Bray. In fact, a number of debates have centered themselves on this subject but, unfortunately, Mr Speaker, Sir, not much implementable action has seen the light of day. C'est cela qu'il faut retenir.

M. le président, l'honorable Parsuramen avait fait certaines choses. Il avait une vision, une stratégie, mais il n'était pas là pour aller jusqu'au bout. Je dois dire que des études ont été faites, mais peu de choses concrètes ont été réalisées.

*(Interruptions)*

Un jour on va faire un *assessment* de la réforme de l'honorable Obeegadoo - dont il se vante.

*(Interruptions)*

Mr Speaker, Sir, I know that, in fact, there is no magic solution to this issue. Many previous attempts to deal with this issue have simply not found a way to move forward on this agenda until now. We simply, Mr Speaker, Sir, have to start somewhere, because we owe it to our children, we owe it to the children of this country. We are motivated on this side of the House, Mr Speaker, Sir, by the drive to put the larger interests of the children above any other consideration.

Let me, Mr Speaker, Sir, also reassure the House that I do understand that prohibiting additional tuition in Standard IV and regulating it elsewhere – by elsewhere I mean where they will still be permitted to do so – cannot be processed by stand-alone measures only. These have to be supported by a number of other accompanying pedagogical measures that will stand our learners in good stead.

*(Interruptions)*

Il faut attendre les résultats. Quand l'honorable Mme Labelle donne les chiffres de cette année, il faut qu'on sache où on a commencé sinon comment on va savoir si on a progressé. Comment savoir si on a progressé si on prend les chiffres d'aujourd'hui et on ne les compare pas avec les chiffres de la veille, c'est-à-dire quand ils étaient là essentiellement.

*(Interruptions)*

Bien sûr, ce n'est pas tout, il y a du chemin à parcourir. Bien sûr, il faudra aller de l'avant. Voilà comment ils raisonnent!

Mr Speaker, Sir, hon. Obeegadoo mentioned that there has not been democratic result/democratic process. On n'a qu'à voir le nombre de discussions qui ont eu lieu en public depuis des mois et il dit que cela n'a pas été suffisamment discuté.

Mr Speaker, Sir, as the House knows, my Ministry has now made it a normal routine to take stakeholders on board in defining and implementing education policies. We have done for the introduction of *Kreol Morisien* bringing all together, discussed. In some cases, we have had various fora. For the strategic plan for education, we took one year to finalise and we organise forum after forum. We did it for *Kreol Morisien*; we have done it for the Review of Prevocational Educational Strategy, and we are going to do it now. The time has come for the review of the CPE, as I have announced already, we are going to have a first forum and I am sure one will not be enough, but the first one is going to be held in a few days' time. We are going to do it also for the scholarship schemes and we will do it for all other innovative programmes that will both make additional tuition ultimately become unattractive and these programmes will also ascertain the holistic development of learners.

Mr Deputy Speaker, Sir, allow me now to seize this opportunity to shed some more light and to respond to a few specific issues that have been raised by hon. Members. Much, Mr Deputy Speaker, Sir, has been said about the issue of stress, fierce competition at the CPE, undue pressure being put on young children which affects their lives negatively, which are facts. This

is, Mr Deputy Speaker, Sir, why my Ministry is making substantial investment in innovative pedagogical programmes which help in the holistic development of the learners. *C'est nouveau, il faut s'attendre à ce qu'il y ait des critiques parce que les gens ne sont pas habitués; pas seulement la méthode pédagogique qui change mais aussi le style d'enseignement change. Le progrès technologique pénètre dans les écoles. Donc, il faut prendre tout cela en considération.* This is precisely why my Ministry is making, I said, substantial investment in this aspect.

There are various programmes, Mr Deputy Speaker, Sir, which have been introduced in the primary cycle. The Enhancement Programme is one of them. Questions were raised on the importance and relevance of this programme. We have heard that from the mouth of almost all the orators. This programme, Mr Deputy Speaker, Sir, focuses on differentiated pedagogy which uses a diversity of skills to suit the learning needs of pupils with varied levels of ability. I had the opportunity to explain - and I am not going to come back on that – in details the philosophy behind the conduct of the Enhancement Programme, the interest generated by this programme and also the benefits derived. This programme will be subject to an evaluation in December. I had the opportunity to mention that in the course of debates at committee stage on the budget. In fact, we are going to have two evaluations. One is going to be carried out before the end of December, it should be ready by early next year by independent people but in the country and then we are going to have another evaluation in the course of next year where we are going to tap the resources of international institutions. This will allow us to gauge the effectiveness of the programme.

Mr Deputy Speaker, Sir, the Enhancement Programme will be further reinforced with a view to improving further the performance of pupils by the end of the primary cycle and to ultimately ensure a smooth transition to secondary schooling. In fact, I quite agree with what has been said by Members on the other side of the House, the *raison d'être* of the CPE examination. It should be an assessment which allows us to know whether the child has reached 'yes' or 'no' the stage to go to a secondary school.

Another innovative measure, Mr Deputy Speaker, Sir, is the Summer School Programme which has today been launched for pupils of Standards III and IV and is being implemented as from tomorrow. Numerous opportunities, Mr Deputy Speaker, Sir, are being provided for children to enrich learning experiences. For example, the Sankoré Project, I just mentioned *le progrès technologique* which is being implemented in primary schools and I would like to

inform, I think, l'honorable Madame Radegonde who mentioned the case of one school in her constituency where there are two Standard IV and there is only one which has been equipped. That is not the case only in that school. We have about 500 classrooms for Standard IV and we have equipped 350, that was a donation given to us from the French Government and therefore we did see to it that at least one Standard IV in each school is equipped. But, of course, the programme is continuing. So, the other classrooms will be equipped very soon. We only have to be a bit patient. I was saying that this Sankoré Project which is being implemented in primary schools is meant to enhance the learning process through the use of IT facilities.

And, most importantly, Mr Deputy Speaker, Sir, my Ministry has embarked, as I mentioned on the review of the CPE and the consultative forum, the first one, for that review is going to be held soon. The review will focus on the need to provide pupils with essential learning competencies, as has been mentioned, and, at least, on that aspect we do all agree and provide these pupils with a sound foundation for their smooth transition to the secondary sector.

As regards the amendments themselves, Mr Deputy Speaker, Sir, a point was raised the other day and also today as to whether persons other than a teacher by profession should also register. But I wish to clarify that the Bill provides that persons offering additional tuition should register irrespective of whether they are a teacher by profession or not. By itself, Mr Deputy Speaker, Sir, the very act of providing such tuition makes the person become a teacher for the purpose of this legislation and therefore he has to register accordingly. It is important to note that because we cannot allow pupils to be taught in places and with so many difficulties at any hour of the day, with whatever pupil-teacher ratio. So, these people will also have to register because they will have to follow the regulations that will come. The regulations would be ready, very soon, I must say.

Mr Deputy Speaker, Sir, this mother legislation addresses the policy and legal framework, but the details relating to the implementation processes – and these points have been raised by hon. Mrs Ribot, pupil-teacher ratio, physical conditions of premises, timing, etc. All this will be taken care of in the subsidiary legislation, that is, the regulation that I intend to make in conformity with these amendments. And equally we must recognise that regulations themselves, Mr Speaker, Sir, are not static entities, but rather they are evolutional, depending upon policy orientation. I will definitely, Mr Deputy Speaker, Sir, bear in mind all the worthwhile proposals that have been made in this House and also outside this House and that

will still be made to me or to my Ministry in the formulation and drafting of these regulations. I wish to reiterate my strong conviction to work with all stakeholders in the implementation process. Because I am sure that *au fond d'eux-mêmes, même l'opposition est d'accord qu'il faut faire quelque chose, mais les leçons privées, on ne peut pas laisser continuer comme-ça. Et je vais dire quelques mots avant la fin pour expliquer exactement ce dont il s'agit.*

Let me stress, Mr Deputy Speaker, Sir, that while seeking to regulate additional tuition for the classes specified, we want to underline the valuable role of teachers as the architects, the molders of their learners' future. I personally appreciate their valued contribution and I am among the first to recognise that they deserve a better package in terms of their remuneration, especially the teachers of the primary sector, Mr Deputy Speaker, Sir, who, as we know, after having passed the HSC examinations and selected by the PSC do undergo a two and a half year's training at the MIE at Diploma level before they can teach. Personally, I don't understand the difference between the pay package of a primary school teacher and a secondary school teacher, who, according to me, reaches approximately the same age after having studied approximately the same number of years and after having both gone through diplomas and having that differential in today's salaries.

*(Interruptions)*

So, we have to look into that and I have told them instead of trying to fight against what we are doing here, to come together and to go to the PRB together. We are going to make a breakthrough. *Je suis prêt à les accompagner, à faire leur cas devant le PRB.* And we are putting more and more pressure.

*(Interruptions)*

I understand, I know that – on teachers of the primary sector *avec tout ce qu'on leur demande de faire, ce qui n'existant pas il y a trois ou quatre ans*, Bridging the Gap Programme, the continuous assessment, the diagnostic assessment, *avec tout ce qu'on est en train d'introduire dans les écoles.* Bientôt même la sécurité routière sera apprise à nos enfants du primaire. Ce sont bien les professeurs du primaire qui vont avoir la responsabilité de tout cela. Concernant le sport, l'éducation physique et les ateliers art et métiers, ce sont les mêmes professeurs qui ont la responsabilité d'inculquer ces connaissances à nos enfants. Donc, on met beaucoup de pression et on demande beaucoup d'eux. C'est normal qu'on revoit un peu leur salaire et je suis partant pour être à leur côté dans cette lutte.

With all these clarifications, Mr Speaker, Sir, I must say that we are confident that the nation will appreciate that this legislation is in the interest of the learner in the very first place. Again, I will repeat that its implementation will not take place in isolation, but is being and will continue to be accompanied by a series of other supplementary measures that will support the learning process. At all times our goal is to ensure that there is no compromise made on the quality of learner performance and their outcome.

Mr Speaker, Sir, today is a historic day. Numerous debates had taken place on the negative effects that additional tuition causes to all parties concerned. The arguments have been ethical, moral, pedagogical, financial and societal. We did have argumentation going in that direction when we listened to the speeches that were uttered in this House in the course of these debates.

But, Mr Speaker, Sir, a time comes when we need to act upon our convictions. This first step is, I am convinced, very likely to serve as a model for countries in a situation similar to Mauritius. We have heard Mark Bray many times the other day and today also. But these people are following very closely what is happening in Mauritius in the education sector. It is indeed gratifying, Mr Speaker, Sir, to note that as far as the education reforms are concerned, we are driving in line with the Education and Human Resources Strategic Plan which are being followed with much attention by many countries and also by our development partners and Mauritius has been invited on various occasions to share its experiences and good practices on regional and international platforms.

A part l'opposition personne n'accepterait que ce qui a été dit ici soit la pure vérité. *This amply indicates that we are on the right track, que tout le monde est en train de parler de bien de nous and we should sustain our efforts to create and offer the right opportunities to our young generation.*

*Mr Speaker, Sir, the international cooperating partners and organisations have shown keen interest in our new policy orientations especially with regard to the pre-vocational strategy, special education needs, early childhood care and development and also on benchmarking of our performance - I did mention it in my speech at the second reading - as well as in the areas such as promotion of inter-culturalism and multilingualism and moral values.* Beaucoup de propositions ont été faites. Tout cela est en train d'être introduit maintenant. Il y a des classes qui ont déjà commencé et il faut avoir la patience d'attendre les résultats. Quand j'écoutais

l'honorable Mme Labelle, elle ne veut pas comprendre que l'*Enhancement Programme* a commencé l'année dernière en quatrième. On attend les résultats des enfants du CPE. Comment ces enfants peuvent avoir des résultats en CPE ? Ils sont en cinquième aujourd'hui. Il faut attendre l'année prochaine quand ils seront en sixième.

*(Interruptions)*

L'honorable Madame Labelle voudrait avoir les résultats maintenant. Ce n'est pas possible. Il faut comprendre tout ce qu'on est en train de faire dans des écoles. Il y a beaucoup d'innovations qui ont démarré en *Standard I*. Il faut avoir de la patience pour attendre que ces enfants aient terminé leur cycle primaire. C'est quand ils vont être à la hauteur de la classe de sixième qu'on pourra voir les résultats de ces enfants. Déjà on a des résultats concluant, je dois dire, mais pas suffisamment significatifs pour être publiés pour faire notre fierté encore. Mais cela viendra.

*I was saying, Mr Speaker, Sir, that the international cooperating partners and organisations have shown keen interest on all this and they are following us very closely.* Avant de conclure, M. le président, je voudrais répéter à cette Chambre que ce projet de loi qui est devant nous aujourd'hui nous permet de faire cinq choses. Premièrement, on a défini les leçons additionnelles. Je remercie l'honorable Léopold pour avoir déjà expliqué à la Chambre ce dont il s'agit. Il fallait définir les leçons particulières parce qu'on parlait des leçons privées qui n'expriment pas exactement ce qui se passe. On ne peut pas parler des leçons privées quand on est en train de donner des leçons à un groupe de 40. On ne va pas parler des leçons privées quand ces enfants sont en train de prendre ces leçons dans un endroit public comme l'école publique. Il fallait définir ces soi-disant leçons privées. Elles sont maintenant appelées des leçons additionnelles.

Deuxièmement, on rend ces leçons illégales pour la classe de la quatrième. Il y a eu beaucoup de choses qui ont été dites sur les leçons en général. C'est un autre débat qui pourrait avoir lieu à un autre moment. Ce projet de loi interdit les leçons additionnelles en classe de quatrième uniquement. Il ne faut pas oublier, M. le président, que depuis 1991, en *Standard I*, *Standard II*, *Standard III* - bientôt 20 ans - ces leçons sont interdites dans nos lois. Jamais personne ne s'est plaint. Quelle différence il y a entre un cerveau d'un enfant de 8 ans et un enfant de 9 ans ? Quelle différence entre un enfant de troisième et un enfant de quatrième ? A partir de l'année dernière, on a divisé le cycle primaire en trois sous-cycles. Le premier cycle :

enfants de Standard I et II, deuxième cycle : enfants de Standard III et IV. Depuis tout ce temps les leçons sont interdites en classe de troisième et maintenant que la classe de la quatrième et du troisième sont dans le même deuxième cycle, pourrait-on accepter que les leçons soient permises dans ces classes? Ce n'est pas possible. Les professeurs doivent comprendre cela. On n'a pas arrêté les leçons en cinquième et sixième pour l'instant ; on s'est arrêté en quatrième. Je dois dire qu'on a déjà arrêté les leçons en quatrième depuis l'année dernière, interdites dans les écoles. Administrativement, cela a été réalisé. Il n'y a pas de leçons de la quatrième dans les écoles. Il y a sûrement ailleurs quelques brebis galeuses. Cela pourrait exister même pour la troisième. Mais là on va mettre les *regulations* et on va pouvoir traquer ces brebis galeuses beaucoup plus facilement.

Donc, les leçons en quatrième seront interdites dans le pays. La troisième chose qu'on fait c'est réglementé les leçons additionnelles là où elles sont acceptées, c'est-à-dire en cinquième et sixième. Je suis d'accord avec les honorables membres qui en ont parlé. C'est assez facile parce que cela se fait au niveau des écoles. Bien entendu, il faut réglementer dans le cas du secondaire - *Form I to Form VI*. Est-ce qu'on serait d'accord à ce que les professeurs donnent des leçons aux enfants qu'ils enseignent dans la journée dans leur école et le soir donner des leçons particulières à ces mêmes enfants? Il y a quelque chose qui est mal quelque part. Pourquoi cela? Beaucoup de propositions ont été faites. C'est pour cela que j'ai salué le discours de l'honorable Madame Ribot et l'honorable Madame Radegonde essentiellement tout en disant que je prends note de tout ce qui a été mentionné. C'est très valable ce qu'elles ont mentionné et on va prendre tout cela en considération quand on va réglementer. Mais on est en train de réglementer là où c'est accepté.

Quatrièmement on introduit dans la législation la possibilité de mettre en pratique les programmes spéciaux comme *l'Enhancement Programme*. On a beaucoup débattu s'il fallait le faire ou non. Finalement, j'ai opté pour que cela vienne dans la législation et je vais vous dire pour une raison bien simple. On a beaucoup parlé, mais on a raté l'essentiel. Il y a eu des critiques pour dire que le ministre de l'éducation n'a pas le droit de permettre des programmes comme *l'Enhancement Programme*, cela pourrait être pour le *Summer School* aujourd'hui. Or, l'éducation est en train d'évoluer comme j'ai dit tout à l'heure. Les techniques, la pédagogie sont en train d'évoluer. Il y a des techniques différenciées extraordinaires qui permettent les enfants d'apprendre beaucoup plus vite et beaucoup mieux, des choses qu'ailleurs ils auraient eu

beaucoup de difficultés à apprendre. Il y a les méthodes et la technicité qui changent. Il faut savoir vivre avec tout cela pour que demain on ne vienne pas contester. Cela pourrait être eux, j'espère que jamais ils n'auront l'occasion parce qu'on est en train de faire si bien. Mais cela aurait pu aussi être eux dans une démocratie. Qu'ils soient permis d'aller de l'avant quand ils voudront faire un tel bien à leur pays.

Cinquièmement, M. le président, on a augmenté l'amende qui était de R2,000 à R10,000 pour les personnes qui voudraient bénéficier d'un travail qui n'est pas correct.

Mr Speaker, Sir, this Bill is primarily meant for our Mauritian learners. We owe it to them, Mr Speaker, Sir, to decrease the undue pressure and stress that they are exposed to today. We are motivated, Mr Speaker, Sir, by the drive to make the larger interest of our children prime above any other consideration. The choice, Mr Speaker, Sir, is very clear. We do not want our generation of tomorrow to have negative traits as self-centredness and egocentrism rather we want our children who will constitute the next generation to grow with positive values, values that are hard to measure, but form the very pivot of human existence and are at the base of civilised conduct and behaviour. Again, Mr Speaker, Sir, this Bill, I must say, serves the purpose of making both the home and the school environment stress free and devoid of the sort of extreme competition that places all involved in it, parents, teachers and children on the right track.

M. le président, je termine en disant que j'ai apprécié certains discours de deux cotés de la Chambre et j'ai pris note de ce qui a été mentionné et je dois dire- je pense que c'était honorable Mme Ribot qui, tout en critiquant, est venue dire and *I am quoting her* -

*'Enchancement programme aurait pu être good, very good, mais si le problème de CPE n'était pas ce qu'il était.'*

- c'est ce qu'on est en train de faire. Maintenant on a mis beaucoup de piliers et on travaille là-dessus au niveau de l'éducation et pendant les trois dernières années, il y a eu des réformes extraordinaires, bien sûr, il faut donner le temps au temps pour voir les résultats, mais on est arrivé à un moment crucial où il faut qu'on pense à l'avenir de notre CPE. Donc, c'est pour cela que la semaine prochaine, ou dans les deux semaines qui viennent, il y aura un grand forum, on va mettre tout le monde ensemble, pour réfléchir ensemble, pour voir ce qu'il faudrait qu'on fasse avec notre système de CPE.

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

*Question put and agreed to.*

*Bill read a second time and committed.*

### **COMMITTEE STAGE**

*(Mr Speaker in the Chair)*

*The Education (Amendment) Bill (No. XXV of 2011) was considered and agreed to.*

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

*Third Reading*

*On motion made and seconded, the Education (Amendment) Bill (No. XXV of 2011) was read the third time and passed.*

*Second Reading*

### **THE EQUAL OPPORTUNITIES (AMENDMENT) BILL**

**(NO. XXII of 2011)**

*Order for Second Reading read.*

(7.24 p.m.)

**The Prime Minister:** Mr Speaker, Sir, I beg to move that the Equal Opportunities (Amendment) Bill (No XXII of 2011) be now read a second time.

Mr Speaker, Sir, the Equal Opportunities Bill was debated in the House on 16 December 2008 and adopted. However, it was not proclaimed. I have explained why on a few occasions in reply to parliamentary questions as to why it was not proclaimed.

Let me, Mr Speaker, Sir, give some details why this amendment is being brought today.

The underlying philosophy when the law was passed was that there would be four different Divisions under the supervision of the National Human Rights Commission. Government, at the time, did not want to create a multiplicity of institutions. It was then felt that the creation of divisions within the Commission would provide greater cost effectiveness and efficiency.

The Equal Opportunities Division was given multiple responsibilities namely -

- To build a better society, free of prejudice with fair chances for all, guaranteeing every single person gets treated with decency, dignity and respect.
- To protect people from unjust and unequal treatment.
- To ensure that every person has an equal opportunity to attain his or her objectives in various spheres of activities.

- To achieve social, cultural and economic stability.
- To ensure that no person is placed, or finds himself or herself, at a disadvantage, by reason of his or her status, namely, his or her “age, caste, colour, creed, ethnic origin, impairment, marital status, political opinion, race, sex or sexual orientation”.

However, while we were looking at the details of the implementation of the new legal, institutional and administrative structure of the National Human Rights Commission, we found that we might not attain the objectives set.

The Protection of Human Rights Bill itself was being re-looked at as well as the National Human Rights Commission in the context of the restructuring exercise.

The UNDP also made new suggestions about the National Preventive Division. For example, the UNDP felt that more NGOs should be involved. We have taken this on board.

It was becoming more evident, that the whole legislation would be more complex and that in these circumstances there was a real risk that the Equal Opportunities Division, which was to be one of the four divisions falling under the umbrella of a restructured National Human Rights Commission, would be diluted in its effect.

During the debate on the Bill, the hon. Leader of the Opposition made some suggestions. One of the suggestions was that the Equal Opportunities Division should not be mixed with the National Human Rights Commission. The more we looked at the restructuring of the National Human Rights Commission, the more this seemed to be a valid suggestion.

Given such a huge responsibility, it is now felt that an independent Commission to promote equal opportunities will be most suitable to meet the objectives of the new legal framework. In a society, rich in diversity as ours, it is important for the organisation to stand on its own in order not to give the impression that the importance is being minimised, the more so that the Act will apply to both the public and private sectors. At the same time, it will receive greater acceptance for its work from the public.

As the House is aware, Mr Speaker, Sir, the Equal Opportunities Act is a law which will have far reaching consequences on our society and proper planning and foresight are needed for its long term implementation. It is precisely for these reasons that amendments are being brought to the Equal Opportunities Act in order to create a full-fledged Equal Opportunities Commission standing on its own instead of an Equal Opportunities Division forming part of the National Human Rights Commission.

Allow me, Mr Speaker, Sir,to outline the salient features of the Bill -

- Clause 7 of the Bill provides for section 27 of the Act to be amended to provide for the establishment of an Equal Opportunities Commission which shall be a body corporate and which shall consist of a Chairperson and 3 other members;
- The Chairperson shall be a person who has been –
- a Judge; or
- a Magistrate for not less than 10 years; or
- a law practitioner for not less than 10 years; or
- a Magistrate and a law practitioner for an aggregate period of not less than 10 years.
- One of the members shall be a person who has been a law practitioner for not less than 5 years.
- The other members shall be persons having knowledge and experience in the field of law, employment, industrial relations, sociology or administration.
- The members shall be appointed by the President of the Republic, acting on the advice of the Prime Minister after consultation with the Leader of the Opposition, on such terms and conditions as the President thinks fit.
- Every member shall hold office for a term of 4 years and shall be eligible for reappointment.
- Clause 8 of the Bill seeks to insert a new section 27A in the Act which will provide for the staff of the Commission. The Secretary to the Cabinet shall make available to the Equal Opportunities Commission an officer of the rank of Principal Assistant Secretary who shall be the Secretary of the Commission, and such other administrative and other staff as the Commission may require.
- The Commission may also recruit staff on contract for the proper discharge of its functions.

Clause 10 of the Bill amends section 35 of the Act to provide that a complaint shall only be heard and determined by the Tribunal if the person making the complaint has waived his right to initiate civil proceedings before any Court in Mauritius in respect of the facts that form the subject matter of the same complaint. This clause will prevent forum shopping by complainants who want to obtain maximum compensation. In any case, those who are not satisfied with the order of the Tribunal may appeal before the Supreme Court.

As I have explained earlier, Mr Speaker, Sir, what the amended subsection (5) of section 35 seeks to do is to prevent duality of action. There is nothing in the existing subsection (5) to prevent a complainant, after bringing a case before the Equal Opportunities Tribunal and obtaining monetary compensation, from lodging another case before a Court in respect of the same subject matter.

It is anticipated that such instances will arise. Therefore, the spirit behind the new subsection (5) is simply to prevent a person from claiming compensation twice for the same

alleged harm. This would be unfair, it would also clog the system and you might well get two different findings.

I am advised that the words “civil proceedings” used in the proposed new subsection (5) are to be given their plain meaning and would not extend to claims for constitutional redress. However, I have been made aware of a judgment of the Supreme Court where the Supreme Court stated that “civil proceedings include constitutional proceedings”.

In order to remove all doubt, especially after the judgment of the Supreme Court and also following certain observations from the legal profession, particularly from Mr Yousouf Mohamed, Senior Counsel, that have appeared in the press recently on the Equal Opportunities (Amendment) Bill (*L'abandon du droit à recourir à la justice*), I have discussed the matter with the Attorney General, the Solicitor General and the Principal Parliamentary Counsel. In order to avoid any doubt and to make matters clearer, I have circulated an amendment to be brought at Committee Stage.

Therefore, in regard to clause 10 of the sub clause 5(a), it is proposed to introduce a paragraph (c) as follows: “Civil proceedings” does not include an application made under section 17 or section 83 of the Constitution.

Hence, “civil proceedings”, in this section, shall not include applications for constitutional redress.

Finally, clause 11 of the Bill seeks to amend section 36 of the Act to provide for higher penalties for committing contempt of the Equal Opportunities Tribunal set up under the Act.

Mr Speaker, Sir, the Equal Opportunities Commission will have the latitude to conduct its business in all independence. It will be an organisation offering a wide range of services, including guidance to an exchange of good practices with various target groups. The Commission will thus have greater independence, power and autonomy in exercising its role of putting an end to any bias within the Mauritian society. It will have far reaching benefits on the national as well as international front.

As a National Human Rights Institution, it should not operate in isolation whilst addressing human rights problems like discrimination. I take one example; it will have to work efficiently as part of an overall framework of democratic institutions. Consideration should be given to the interrelationship of all human rights institutions in their functioning. As such, the Equal Opportunities Commission will be called upon to partner through collaborative

arrangements like international coordination, exchange of information and joint implementation with national as well as international human rights institutions for its own effectiveness and efficiency.

Mr Speaker, Sir, the benefits to be derived from the creation of an Equal Opportunities Commission are enormous. It will reinforce, in fact, the democratic setup in this country. This will ensure the respect for democracy as enshrined in the Constitution. Institutions in a democracy cannot function in isolation but should be inter-dependent, in order to achieve the objectives set. This cohesion and interrelationship is best seen through the partnership arrangements with human rights stakeholders such as training and sensitisation programmes conducted by my Office with the Attorney General's Office, the National Human Rights Commission and Amnesty International.

The new organisational structure for the National Human Rights Commission with its three divisions and the Equal Opportunities Commission will respond to the growing expectations of the public for an equitable, fair and just society.

On the international front, Mauritius stands to gain international recognition as a serious trade and political partner, which has respect for human rights and where there is social cohesion.

Mr Speaker, Sir, the battle for political and social emancipation has always been at the core of our political "*raison d'être*". Our policy thoughts and actions will always be guided by our unflinching commitment to social justice.

Let there be no doubt about the importance that this Government attaches to the promotion and safeguard of human rights!

Let there be no doubt also about our commitment in combating discriminations in all its forms, promoting equality of opportunity and enhancing social justice.

The independent and dedicated Equal Opportunities Commission that we are setting up to ensure the effective implementation of the Equal Opportunities Act clearly demonstrates the political will and determination to take bold and ambitious actions to transform Mauritius into an exemplary opportunity society.

And as we have shown, we believe in democratic debate, and we do take on board any suggestions made by the Opposition which can improve our laws.

Mr Speaker, Sir, “Putting People First” was not simply an empty vote- catching slogan, as some would have it.

It will always be a fundamental philosophy underpinning all the actions of my Government.

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

**The Deputy Prime Minister rose and seconded.**

(7.36 p.m.)

**The Leader of the Opposition (Mr P. Bérenger):** Mr Deputy Speaker, Sir, when the Equal Opportunities Bill was moved for Second reading in the House on 02 December 2008, I did express my disagreement with the fact that it was presented by the then Attorney General and not the hon. Prime Minister. I am, therefore, happy today, with due respect to my friend, the Attorney General, that this kind of Bill is presented by the hon. Prime Minister.

*En passant*, this is why I was quite surprised this morning to see the hon. Minister of Public Infrastructure moving for the First Reading of the Piracy and Maritime Violence Bill. It is all about terrorism, piracy, the Commissioner of Police, measures taken to prevent piracy in our part of the world. It is not about normal maritime affairs. Therefore, like I said in 2008, when the then Attorney General presented the Equal Opportunities Bill, I think that this morning and next time at Second reading, the Piracy and Maritime Violence Bill should be presented by the hon. Prime Minister.

*Ceci dit, que de temps perdu!* The hon. Prime Minister gave the impression a few minutes ago that it is only on 02 December 2008, when the Second reading of the Bill was before House, that I made the suggestion that there should be a full-fledged Commission and not a division. No, Mr Deputy Speaker, Sir. In fact, before the 2005 General Elections, I was Prime Minister and on 15 April 2005, we gazetted a full-fledged Equal Opportunities Bill. In that full-fledged Equal Opportunities Bill gazetted on 15 April 2008, we provided, of course, for a full-fledged Commission.

Six years, therefore, wasted; not three, not 2008 to 2011. No! It makes me sad more than anything else. After 2005, things where we were right, things that were to the advantage of the country were undone because of sheer political fanaticism. It is a kind of mass hysteria. Everything that the MMM /MSM had stood for had to be undone. This hysteria is behind us it seems, or part thereof, or the major part thereof. So be it, Mr Deputy Speaker, Sir. *Mais que de*

*temps perdu; six ans! Six longues années pour voir la lumière au bout du tunnel - long de six années !* The Equal Opportunities Bill to become an Act means what? It means implementing *méritocratie* and what has happened to *méritocratie* since 2005? We don't know! On the one hand, blah blah blah, Equal Opportunities Act, equal opportunity to everybody, *le règne de la méritocratie!* It is exactly the opposite that has been practiced daily since 2005! Therefore, we won't be fooled, Mr Speaker, Sir. We won't be fooled! We will go along with some of the amendments being proposed, especially the one on replacing the Division - very belatedly - by a Commission. But, the truth is that since 2005, Equal Opportunities Bill or not, *c'est tout le contraire de la méritocratie qui a été pratiqué à l'île Maurice quotidiennement, M. le président.*

I wish also to repeat that it is fooling the people to say that equal opportunities will really exist in Mauritius without *un système d'éducation juste et égalitaire*. On the contrary, if we don't go in that direction, in fact, *les laissés-pour-compte seront encore plus laissés-pour-compte; doublement pénalisés.* *Parce que c'est dans l'éducation pré-primaire, primaire, secondaire, c'est là où se décide la bataille de la méritocratie* and we are far from it. Very far from it!

I find it cruel to give the impression that with this amendment, with this Equal Opportunities Bill, *tous les laissés-pour-compte, leur heure aura sonné. Malheureusement, non!* *Tant qu'on n'aura pas réformé en profondeur le système d'éducation, equal opportunities will not exist for everybody.* On the contrary, *des laissés-pour-compte du système de l'éducation continueront à faire les frais de tout autre système inégalitaire.* I repeat : *sans un* Freedom of Information Bill, *ce sera un bouledogue sans dents.*

I note also, Mr Speaker, Sir, that there is no amendment to that clause that provides that the Equal Opportunities Act will not apply to firms with less than ten employees. We could have amended that; there is no proposal to amend that, Mr Speaker, Sir.

On the other hand, the hon. Prime Minister did point out that the Bill prohibits discrimination on the basis of age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation. It should be made clear to everybody that no one, no employer, can discriminate against any Mauritian - and there is a definition of sexual orientation, Mr Speaker, Sir. The definition of sexual orientation means homosexuality (including lesbianism), bisexuality or heterosexuality.

I am not happy that we are going ahead with that as if *en catimini*. The former Attorney General was an expert in *catimini*, but we should make it clear. We should have made it clear that this is the situation; no employer, no one as per this law, will be able to discriminate against somebody else because of his or her sexual orientation. Having said that, I am not happy with the definition of impairment and with what the main law provides, Mr Speaker, Sir. I see that there is no amendment proposed there, Mr Speaker, Sir.

At page 6 of the main Bill - if I can find it - somebody can discriminate against somebody else if there is a case of impairment and the definition of 'impairment' means, amongst other things -

“(b) the presence in the body of organisms that may cause disease;”

I had raised that in 2008, I am still unhappy with that definition of 'impairment'. It seems to me that it could allow for discrimination against people who have HIV/AIDS. I think there is need to clarify the situation as the definition stands. And at page 15, it is provided further that, as I said, an employer or prospective employer may discriminate against a person who has an impairment where this and that condition. I think this is a point worth looking at.

These days, Mr Speaker, Sir, I think we are missing an opportunity, but I am not surprised that the present Government is allowing that opportunity to be wasted when we are providing for the legal impossibility of practising discrimination by reason of the status of an individual, namely his age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinions, race, sex, or sexual orientation.

Mr Speaker, Sir, I think it is staring us in the face that we should also in that list provide for prohibition of discrimination on the basis of somebody belonging to a trade union or being a trade unionist. We have seen recently, unacceptable cases of not just discrimination, persecution of people because of their status as a trade unionist and we are missing an opportunity when we are not amending the clause concerned to include them.

Let me come to appointment. Mr Speaker, Sir, according to the amendment being circulated, therefore, the Members of the Commission shall be appointed by the President of the Republic, acting on the advice of the Prime Minister, before tendering advice to the President under paragraph (a): the Prime Minister shall consult the Leader of the Opposition. I think this is another missed opportunity. I thought that the hon. Prime Minister was also - like me - in favour of a certain re-equilibrium of the powers between the President and the Prime Minister. This is

an occasion where we should have provided for the Chairperson, the Members of the Commission to be appointed by the President of the Republic, after consultation with both the Prime Minister and the Leader of the Opposition.

Of course, we know that in practice in India or in Mauritius with such additional powers given to the President, we know that the President will have one ear bigger than the other. That he will listen to the Prime Minister with the bigger ear than he will listen to the Leader of the Opposition. It's normal, but the President should have that power. It should not be given; once more we are increasing still further the powers of the Prime Minister as per the powers of the President of the Republic, Mr Speaker, Sir. I think this is another missed opportunity.

Finally, I am not convinced at all by what I heard the hon. Prime Minister say on this clause *honteuse*, the section 35 of the Principal Act is amended in that the existing subsection 5 in the Bill is deleted and replaced by a new clause which reads thus -

“The Tribunal shall not hear and determine a complaint under this Act unless the person making the complaint has voluntarily – this is viciousness in drafting - made a sworn statement, in such form as may be prescribed, that he has waived his right to initiate civil proceedings before any Court in Mauritius in respect of the facts that form the subject matter of the complaint.”

Voluntarily! This is *chantage légal*. I consider that to be a *un chantage légal*. He has to swear the statement before he goes before the commission. I find that unacceptable. And paragraph (b) of section 35, subsection 5 says, I read -

“A waiver referred to in paragraph (a) shall constitute a bar to subsequent civil proceedings being initiated by the complainant before any Court in Mauritius in respect of the subject matter of the complaint”.

The point made by the former Minister, the then hon. Yousouf Mohamed, was that this is a fundamental right of the citizen. The right to go and claim damages, repairs before any Court. This is being done away with and what the amendment that the hon. Prime Minister is proposing relates to constitutional rights. The fundamental sections of the Constitution cannot be amended anyway. So, it doesn't change anything. I find that abhorrent that we tell people, before you go before the commission, you have to swear an affidavit voluntarily, of course. I find that perverse, vicious, voluntarily, supposedly you have to go and swear an affidavit that you give up your right to go to a Court of law, Mr Speaker, Sir.

So, we have wasted six years not three years. Better late than never! But instead of repairing the damage done, this time we are introducing this last part which I referred to, which I suppose, in six years' time, we will find that no, the Opposition was right. The then hon. Yousouf Mohamed was right in six years' time, but you won't be there anymore I am sure of that, Mr Speaker, Sir. So, it is good that we are replacing the "division" by "commission". *Mais que de temps perdu!* And why another fatal mistake!

Thank you.

(7.53 p.m.)

**The Minister of Foreign Affairs, Regional Integration and International Trade (Dr. A. Boolell):** Mr Speaker, Sir, I would have expected the Leader of the Opposition to be magnanimous because we are discussing a very important Bill, whose moral and legal imperatives far override any other consideration. It has been highlighted by the hon. Prime Minister, but instead, the Leader of the Opposition has chosen to do politics on an issue which transcends political barriers and if there is decency as I would have expected and decorum of the House are to be respected, at least he should have given credit to where credit is deserved.

It is the hon. Prime Minister, the leader of the *l'Alliance de l'Avenir*, who has introduced the amendments to the Equal Opportunities Act of 2008 by setting up an Equal Opportunities Commission which will be a fully fledged independent body. And he had the opportunity from 2000 to 2005, whether in the dying days or in the glowing days. I am not talking of days of glory, because there were no days of glory then. He could have brought the Bill since, as he stated, it was his doing and it was in his mind in the early 90's. Let me remind the hon. Leader of the Opposition! This Bill whose amendment we are bringing today, was in our Electoral Manifesto in 1995 and it was raised and discussed at party level since 1991. So, let's state facts and give credit where credit is due. What are we discussing? A very important Bill! We are setting up a fully fledged independent body and we are widening the circle of opportunities for the best and the brightest, which this country fully deserves.

Besides, when we talk of discrimination, let me remind the House it was this Government which introduced the Employment Rights and Relations Bill, in fact, to do away with discrimination at work.

*(Interruptions)*

You may call it a disaster but as far as the workers are concerned, it is a success story because for years you lived with the IRA and you did not...

**Mr Speaker:** We are discussing...

**Dr. A. Boolell:** I am coming to the Bill. It was the Leader of the Opposition who opened the debate.

*(Interruptions)*

**Mr Speaker:** The debate, how?

**Dr. A. Boolell:** Mr Speaker, Sir, all right, I will come to the main thrust.

*(Interruptions)*

**Mr Speaker:** Order now! Order!

**Dr. A. Boolell:** But the Commission, Mr Speaker, Sir...

*(Interruptions)*

What this Bill does? It seeks to amend section 35, subsection (5) of the Equal Opportunities Bill.

*(Interruptions)*

**Mr Speaker:** Order, now! Order!

**Dr. A. Boolell:** Which presently provides that where the Tribunal becomes aware that a complainant, before it is a subject matter of civil proceedings, before the Court, the Tribunal shall not entertain that complaint and Mr Speaker, Sir, clause 10 of the Bill, which purports to amend section 35(5) of the Act reads as follows: Section 35 of the principal Act is amended by repealing subsection (5) and replacing it by the following subsection – (5)(a) and (5)(b). And what clause 10 seeks to achieve, Mr Speaker, Sir, is to ensure that an aggrieved complainant immediately has to elect between a claim under the Equal Opportunities Act or a claim before a Court of law. Therefore, he has the choice. He cannot have two concurrent claims between two concurrent forums, that is, the Tribunal and the Court or to put it another way, he cannot have his cake and eat it, Mr Speaker, Sir.

What the clause purports to do, Mr Speaker, Sir, is to ensure that a claimant opts for the Tribunal as a means of redress; restrict his claim to the Tribunal and the Tribunal alone after having waived his right to initiate civil proceedings before a Court of law. Therefore, Mr Speaker, Sir, there is nothing reprehensible about such a requirement. All that is being asked of a claimant is to choose the venue of his claim. This, Mr Speaker, Sir, is because the Equal Opportunities Act presents a truly unique and unprecedented landmark in the legal field in that

the Tribunal is the one and only known judicial forum empowered to make an order for compensation, as well as a finding that any of the complainant's rights, as guaranteed under the Act, has been infringed. No other Tribunal, Mr Speaker, Sir, or Commission, in this country does that, not even the National Human Rights Commission.

Mr Speaker, Sir, what I would just call a one-stop shop under the Equal Opportunities Act presents the following undeniable advantages -

- (i) It avoids the duplicity of proceedings because once it is established that any of his rights has been breached, a claimant does not then have to resort to civil claim before a Court of law to obtain compensation;
- (ii) The Tribunal itself will make an order for compensation in favour of the claimant;
- (iii) The payment will make considerable savings both in terms of time and money, and
- (iv) Should the matter be resolved through conciliations which are held in camera, confidentiality would have to be ensured thus avoiding undue publicity.

Mr Speaker, Sir, I will compare the situation with that of a claimant before a Human Rights Commission, which, unfortunately presents the following disadvantages -

- (i) At the very most the Human Rights Commission can only make the recommendation that any of his human rights has been violated without more;
- (ii) unlike the Equal Opportunities Tribunal, the Human Rights Commission is not thereafter empowered to make an order for compensation in favour of the claimant, and
- (iii) the only recourse open to that claimant would be to initiate fresh proceedings before a court of law in order to obtain a monetary compensation.

What more, Mr Speaker, Sir, is that a successful claimant before the National Human Rights Commission may very well subsequently fail in his claim before a court of law for the following reasons -

- (i) the court is not bound by the findings of the National Human Rights Commission and may therefore reach a different conclusion;

- (ii) the proceedings before the Commission are inquisitorial in nature whereas those before the court are accusatorial making it more difficult for the claimant to establish that a breach has taken place, and
- (iii) the claimant may be unduly bound by the constraining rules of evidence or hearsay before a court of law with the result that his case cannot come to proof and thus for short of establishing a breach of his right.

Mr Speaker, Sir, it is a matter which will need to be addressed in due course. We may have to look into the necessity of extending to the Human Rights Commission the same powers as have been granted to the Equal Opportunities Tribunal namely, to make a concurrent award for compensation over and above the finding that a breach has been committed. True it is, Mr Speaker, Sir, that there is a maximum threshold that may be awarded by the Tribunal which is to the tune of Rs500,000. The sum is not necessarily limitative as our learned lawyers would say because it reflects the Intermediate Court jurisdictional limit.

Mr Speaker, Sir, this threshold of Rs500,000 is only indicative and we do not see why it cannot be increased in the future should the Intermediate Court limit be increased or should the situation so demand and the House so determine.

There is another aspect of the Act which is worth mentioning, Mr Speaker, Sir. It relates to the conciliation powers of the Tribunal and I will refer to section 32 which provides -

‘(32) The Commission shall, in the first place, attempt to resolve any complaint, or any matter which is subject of an enquiry pursuant to subsection (1) (c), by a conciliatory procedure.’

This, Mr Speaker, Sir, is indeed a commendable provision, being given that it reflects the new trend within the judicial world. Mediation is already a reality in Mauritius. The Mediation Division of the Supreme Court is, I am told, already a success story. Mr Speaker, Sir, despite being in its infancy days, we see no reason why the conciliation process, under the Equal Opportunities Act, should not likewise work to the advantage of all parties concerned.

Last, but not least, Mr Deputy Speaker, Sir, it is worth highlighting that section 6(2) of the Act provides that the burden of providing that a condition requirement of practice is justifiable in the circumstances lies on the discriminator. This is a very innovative concept where the claimant may simply bring his claim before the Tribunal and literally leave it to the Tribunal to do the rest.

Mr Speaker, Sir, the legal arsenal at the disposal of the claimant, under the Equal Opportunities Act of 2008, is indeed very extensive as we have demonstrated. It is even more extensive and further reaching than what obtains under the Protection of Human Rights Act of 1998.

Mr Speaker, Sir, this is indeed a landmark Bill which is being introduced by Government which strongly believes in the empowerment of the people and putting people first and we are providing the legal arsenal and the Commission required to ensure that we recruit the best and the brightest.

Thank you very much.

*At 8.04 p.m. the sitting was suspended.*

*On resuming at 9.25 p.m. with the Deputy Speaker in the Chair.*

**Mr G. Lesjongard (Second Member for Port Louis North & Montagne Longue):** Mr Deputy Speaker, Sir, the main object of this Bill, in front of us today, is to amend the Equal Opportunities Act in order to establish an Equal Opportunities Commission which would be an independent body with attributes, as stated in the Bill.

But, before speaking on the Bill, Mr Deputy Speaker, Sir, allow me to make a few comments, *spécifiquement pour répondre à ce qu'avait dit l'honorable ministre des affaires étrangères juste avant moi. J'étais sous l'impression que l'honorable ministre allait être très modéré dans ses propos vu les commentaires faits par l'honorable Premier ministre.*

*(Interruptions)*

**The Deputy Speaker:** Order!

**Mr Lesjongard:**...quand il a parlé sur ce projet de loi. Il y a une chose qui est claire pour nous tous, M. le président, c'est qu'on a perdu beaucoup de temps sur cette loi, trop de temps ; et on n'accepte pas, aujourd'hui, cette lenteur de ce gouvernement à venir de l'avant avec des projets de loi ou des lois qui vont bénéficier à la population dans son ensemble et je vais expliquer pourquoi.

Dans la chronologie des choses, concernant ce projet de loi, il est clair - comme avait dit le *Leader* de l'Opposition - qu'il faut remonter en 2005, plus précisément le 20 avril de 2005, *when the Bill was first gazetted. Then, the present Government came with another Bill in 2008*, et nous avons voté ce projet de loi. La loi a eu l'assentiment du Président de la République au mois de décembre de 2008. Pendant deux longues années, M. le président, nous n'avons rien

entendu sur ce projet de loi. Silence complète ! C'est à travers une question de l'honorable Mme Arianne Navarre-Marie que nous apprenons à ce moment-là par le biais de l'Attorney-General - *and in his reply he was short and clear - the question was -*

*"Mr Deputy Speaker, Sir, whether in regard to the Equal Opportunities Act, he will state if Government proposes to proclaim same and, if so, when and, if not, why not."*

*That was back on 29 June 2010 and his answer was crystal clear. The answer to the first part of the question is 'yes', and the answer to the second part is 'soon'.* La définition de 'soon' au sein de ce gouvernement est à revoir, parce qu'on arrive presqu'une année après, le 16 novembre 2010, où moi-même j'ai interpellé l'honorable Premier ministre sur ce même projet de loi. Et là, il nous parle des difficultés à proclamer la loi vu qu'il y aurait des changements en profondeur à faire. Eventuellement, en 2011, toujours en réponse à une question de la députée l'honorable Ariane Navarre-Marie, il vient confirmer que le bureau du Premier ministre travaille en étroite collaboration avec le bureau de *l'Attorney General*, afin de faire des amendements nécessaires ; c'est-à-dire de 2008 à octobre 2011, le bureau du Premier ministre travaille en étroite collaboration avec le bureau de *l'Attorney General* afin d'amener des amendements à ce projet de loi. Au début de mon discours j'ai dit que j'allais prendre certains points évoqués par le ministre des affaires étrangères mais aussi par le *Leader* de l'opposition. Je pense que le *Leader* de l'opposition a été très humble dans son discours. Des fois, M. le président, il faut reconnaître l'expérience et la compétence de quelqu'un comme le *Leader* de l'opposition. Quand ce même projet de loi fut présenté en 2008, deux points pertinents furent soulevés par le *Leader* de l'opposition. Des fois, le gouvernement nous demande de venir de l'avant avec des propositions dignes et sincères qui peuvent être considérées mais, malheureusement, elles sont trop souvent mises de côté. Et là, M. le président, permettez-moi de faire le point, parce que c'est très fondamental. Aujourd'hui, nous constatons que l'amendement qui est proposé arrive au Parlement par le Premier ministre.

*(Interruptions)*

**The Deputy Speaker:** Order please!

**Mr Lesjongard:** En 2008, le *Leader* de l'opposition, dans son intervention, avait dit ceci, *I quote -*

*"...why we made it a point to say that the main object of this Bill which will be under the administration of the Prime Minister - and I think it should have stayed there; it should*

*have stayed with the Prime Minister for different reasons. Firstly, to give it all its importance. It is not a matter for the Attorney General only to give it tout son rayonnement. It should have been under the responsibility of the Prime Minister.”*

Aujourd’hui, le gouvernement doit accepter que trois ans de cela le *Leader* de l’opposition avait parfaitement raison dans ses propos et parfaitement raison d’avoir suggéré que ce projet de loi soit piloté par le Premier ministre. Et c’est clair.

Je regrette, M. le président, parce que nous avons perdu trop de temps. En 2005, dans le projet qui avait été publié, nous avions proposé l’institution d’un *Equal Opportunities Commission*. Mais ce n’est pas tout, M. le président, parce qu’encore une fois - et c’est dans le discours du *Leader* de l’opposition - il est venu dire à la Chambre et au gouvernement, *and I quote -*

*“But now that we are setting up, that we are voting legislation to combat discrimination everywhere but especially sex, race, disability and then others also, we have thought it fit to leave the Human Rights Commission to do its work and to set up a full-fledged Equal Opportunities Commission and not simply a division of the Human Rights Commission.”*

M. le président, qu’y a-t-il de plus clair que cette proposition? *It has been taken on board, as rightly said by the hon. Minister for External Affairs, but three years later*, combien de temps avons nous perdu, M. le président. Entre temps, il y a eu des cas flagrants. Je me rappelle qu’à l’époque, en 2008, ce projet de loi fut présenté à la Chambre, et nous avions eu une PNQ du *Leader* de l’opposition sur le recrutement du *General Manager* du CEB. Trois ans après, il y a eu encore le recrutement d’un *General Manager*. Là aussi, il y a eu une PNQ, car nous nous pensons que la méritocratie n’a pas primé. Est-ce le seul cas ou y a-t-il eu plusieurs cas pendant ces trois ans, M. le président ? C’est pourquoi je déplore que nous ayons perdu trop de temps. J’ai des doutes, parce que lorsque j’ai regardé les discours qui avaient été prononcés à l’époque, on nous avait donné la garantie que ce projet de loi allait être proclamé le plus vite possible. Or, il s’est passé trois ans entre. Et aujourd’hui, quelle garantie avons-nous du gouvernement que dans les jours, dans les semaines, dans les mois à venir cette loi sera proclamée ? Nous n’avons pas cette garantie. Ce ‘soon’ qu’on entend très souvent dans les réponses équivaut à quoi aujourd’hui, M. le président ? C’est pourquoi je le redis : nous avons des doutes. Et ces doutes ont été confirmés à un certain moment par l’ancien *Attorney General*, M. le président. J’avais fait des commentaires ...

## (Interruptions)

Il a répondu, mais cela reste des commentaires par l'ancien *Attorney General* sur le fait qu'il y a eu des lobbys qui ont exercé des pressions afin que *l'Equal Opportunities Act* ne soit pas proclamé. Et il vient de confirmer aussi que c'est un projet de loi qui n'a pas fait l'unanimité au sein du gouvernement. Est-ce vrai ? Jusqu'à maintenant, on n'a jamais eu de réponses concernant ces propos avancés par l'ancien *Attorney General*, M. le président. Ceci pour dire qu'en fin de compte le *Leader* de l'opposition avait parfaitement raison dans ses propositions et que le gouvernement a voulu les ignorer complètement pour retourner, trois ans après, avec des amendements et reprendre les propositions du *Leader* de l'opposition. Ça c'est la pure vérité. C'est dans les discours qui furent prononcés en 2008. C'est un fait et le gouvernement aujourd'hui doit accepter cet état de choses et accepter que nous ayons perdu trois ans pour rien. Le gouvernement aurait dû écouter à l'époque, aller de l'avant dans cette direction et aujourd'hui ne pas revenir, trois ans après, avec les mêmes propositions.

M. le président, dans ce même ordre d'idées - je ne suis pas légiste, mais quand même, je vais faire quelques commentaires sur une clause de ce projet de loi, où, on vient dire qu'une personne qui veut référer son cas devant le *Equal Opportunities Tribunal* doit, je cite donc la section 10 -

**“10. Section 35 of principal Act amended**

*(5) (a) The Tribunal shall not hear and determine a complaint under this Act unless the person making the complaint has voluntarily made a sworn statement (...).”*

M. le président, est-ce que quelque part cette personne a un choix parce que pour lui, on lui dit de *swear a statement voluntarily or otherwise*. He will not be able to go to the Equal Opportunities Tribunal. C'est ce mot 'voluntarily' qui me dérange, M. le président, parce que quand on dit que quelqu'un doit faire quelque chose de volontaire, cela doit être sans contrainte. Est-ce le cas pour cette personne qui doit, soit, aller devant le tribunal ou, au cas contraire, il n'aura pas d'autre alternative ? C'est pourquoi moi, M. le président, je voudrais souligner ce point là.

M. le président, je n'ai pas trop de commentaires à faire mais je souhaiterai terminer sur une note assez polémique. M. le président, j'ai été choqué d'apprendre, qu'à une fonction officielle, où on célébrait les nominations d'un ministre et d'une PPS, le *leader* d'un parti politique, de surcroit un *Senior Minister* du gouvernement, un vice-Premier ministre, a tenu des propos irrévérencieux à l'égard d'un prêtre catholique, en disant que ce prêtre ne doit pas

déclarer *piti ki pa pou li*. C'est une remarque désobligeante, M. le président, à propos d'un prêtre et on constate l'arrogance de certaines personnes en traitant des gens aussi importants dans notre pays de cette façon.

(*Interruptions*)

**The Deputy Speaker:** Order!

**Mr Lesjongard:** Si j'ai soulevé ce point, M. le président, ....

**The Deputy Speaker:** There is no need hon. Assirvaden to repeat what I said. I don't think that you did it just to help me. I just hope. Yes, continue, hon. Lesjongard!

**Mr Lesjongard:** M. le président, le poste qu'on occupe dans ce Parlement est un poste temporaire. Il faut bien garder cela en tête.

(*Interruptions*)

Même si ce poste peut être prolongé, ce n'est que temporaire. Donc, ces propos désobligeants, M. le président, ne doivent pas faire partie de la vie d'un homme public ou d'un ministre de l'État, surtout à l'égard - je l'ai dit et je le souligne bien - d'un prêtre catholique de notre pays. Si vraiment on croit dans un projet de loi qui est intitulé, M. le président, *the Equal Opportunities Bill*, alors je pense que c'était des propos déplacés. Je souhaite qu'à l'avenir, on évite de tels propos. C'est dommage que de tels propos ont été prononcés.

Before ending, Mr Deputy Speaker, Sir, I must repeat what I said in my speech in 2008. I had stated that if we want to see this piece of legislation being implemented *à cent pour cent*, we have to create a level playing field in this country and the Prime Minister did acknowledge that at that time. The Leader of the Opposition also stated that in his speech, especially with regard to education. And I said that, until and unless, each and every child in this country has the same level playing field, this Bill will not be a reality.

Thank you Mr Deputy Speaker, Sir.

(9.47 p.m.)

**The Minister of Labour, Industrial Relations and Employment (Mr S. Mohamed):**

Mr Deputy Speaker, Sir, I was listening with much attention and much pleasure, I must say, to the intervention made by hon. Lesjongard and, finally, when I put together the speech made by the hon. Leader of the Opposition and that of hon. Lesjongard, one can really summarise it into a very few words and what concept they really want to put forward is the following: 'it is too late'; 'a lot of time has been wasted'. It is too late; a lot of time has been wasted. Now I say this

twice because there have been a lot of repetitions on the part of the Leader of the Opposition and also on the part of hon. Lesjongard in harping on about ‘it’s too late’

Now, if we are going to go along that line in this debate, Mr Deputy Speaker, Sir, we have not addressed the importance of this legislation. If we are to address only the lateness - as I said, we are not really giving the due that it deserves to the contents of this Bill that is before us. *Quels seront les bienfaits* of this piece of legislation? That is of importance.

What we have done here and hearing the Members of the Opposition, fair enough. They have a fixation on the issue of time - a waste of time and lost time. If I also start doing the same thing, Mr Deputy Speaker, Sir, where does this take this country because I could easily also in rebuttal to what has been said, say to the hon. Member, also to the hon. Leader of the Opposition that, it is not you who the first-time raised this issue of Equal Opportunities Act. Because, let us not forget that, as far back as 1995, in the programme of the then *Parti travailliste*/MMM Government, with the Prime Minister being Dr. Navin Ramgoolam, it was in that programme that the Equal Opportunities Act was mentioned. They keep on talking about time wasted, but what happened then when from 2000 to 2005, questions were put from the Opposition – the Leader of the Opposition was then Dr. Navin Ramgoolam - asking them to continue the work that he had already started. What did the Opposition do?

Before an election, you simply gazette a Bill; you say we lost three years; I say we lost another 10 years between 1995 and 2005. I say that because of the then Prime Minister, Sir Anerood Jugnauth and the then Prime Minister, Paul Raymond Bérenger, we lost another five years between 2000 and 2005! Where does that take us? Does that really help us to contribute to this debate, to this country? Because if we are to be honest, yes, time has been wasted! Fair enough! By yourself, by ourselves and the country has suffered! Fair enough! What about the essence of this Bill? What about the people? Are we forgetting them or are we just going to keep on shooting at ourselves? Shooting at ourselves just because we have an ego problem! That is what is going on in this House! An ego problem as to who did it first or who is better looking or who has got - God knows what and comparison technique going on! *Cela n'appartient pas* in this House of Parliament, this type of methodology! It belongs to the gutters and not here! So, enough is enough! If we are going to go along that line, we can say a lot, you can say a lot, then, what happens? We continue with the bad cinema that certain people are playing! Either we stop it or we do dirty politics.

Let us concentrate, therefore, on *les bienfaits* of this Bill. If you have certain reservations about the contents, the merits, say it! Let's debate it! But this is not what has happened today. We have simply had the hon. Prime Minister coming here and being magnanimous and having said: yes, the suggestion of the hon. Leader of the Opposition was, in fact, correct, and when he is right we say he is right. However long it takes, but we say it is right. But instead of really saying: yes, at least you recognise it. What do we have here? Someone – like a cock – trying to show that his features are more beautiful than the other one! A cock trying to show that I have got better feathers and that I can crow louder than the other one! A battle of cocks! Is this what we are going to have here? For God's sake!

*(Interruptions)*

When we listened to hon. Lesjongard talking about three years, he wants a guarantee, he says he wanted a guarantee that this Bill will be proclaimed. The hon. Lesjongard wants a guarantee; let me tell him something! In life, when you come up and gazette a Bill, that is positive work. I will not be like him. That is positive work. Yes, that I will bow to because it shows that there was good intention and good work put by the previous Government, who was then led by the hon. Leader of Opposition as Prime Minister to go ahead with an excellent piece of work, which was the Equal Opportunities Act. Fair enough! But if you want a guarantee, the fact that this gazetting of the Bill back in 2005, never even came to this Parliament, for obvious reasons, because there were elections then, in May, if I'm not mistaken, and, obviously, it couldn't come to Parliament. That is reasonable and that is logical.

Let us not hit below the belt and invent any other reason. But, here, we have come to this House, this Bill is being debated, not only has it been debated ever since 2008, but further amendments are being brought and we are here today for that purpose. If this is not guarantee enough, what else do you want? Now, he says: without a guarantee that it shall be proclaimed. That is another matter. Maybe he is privy to share some information following his schedule recently, that we are not privy to, please share it with us as far as proclamation goes. I am not privy to that type of information, Sir.

*(Interruptions)*

*Pli grand qui Dieu ça.* I am not aware, but then I can assure him that if he can assure this House that he is not privy to any wrongdoing or of any wrong intent, of any fact that may happen that

would not make possible the proclamation of this Bill, you have the guarantee of this hon. Prime Minister that this Bill will indeed be proclaimed.

The hon. Leader of the Opposition, Mr Deputy Speaker, Sir, went on to talk about the examples, where he said that for the past five years, during the second mandate of the hon. Prime Minister, there were many cases of lack of meritocracy. And what I have also heard hon. Lesjongard say, he also, just as his leader says. Mr Deputy Speaker, Sir, there have been cases of no meritocracy. I hope I don't hear a Member of the MSM say that because they formed part of Government only recently, but what is interesting is ...

*(Interruptions)*

**The Deputy Speaker:** Hon. Barbier, please!

**Mr Mohamed:** ... do you hear any of them in the MMM tell us about lack of meritocracy. I was here waiting.

*(Interruptions)*

Let me listen! Soon, I will hear some news; we will find out something important, where we will have to really take action and act. What is this example of lack of meritocracy?

*(Interruptions)*

Silence! Silence!

*(Interruptions)*

**The Deputy Speaker:** Order!

**Mr Mohamed:** I am not telling anyone to remain silent, but I am just saying that there was silence from the benches of the Opposition. Nothing! Did he give any example? No, not a single one! Why is it, Mr Deputy Speaker, Sir, that they cannot give any example of a lack of meritocracy? Because in doing so, they would be casting serious aspersions upon institutions which they cannot. So, that is why for pure political reasons, I'm trying to gather the crowd and to make something about Hansard, coming to say lack of meritocracy, but if you really are an hon. Member who wants to tell us that there is a lack of meritocracy, come and tell us! Give us examples! Quote chapter and verse, 1, 2, 3 and give us names! But they can't do it.

More so, there was another issue that was raised by the hon. Leader of Opposition – a suggestion. I welcome the suggestion made by the hon. Leader of Opposition and that suggestion even though I don't agree with it, but we must say that we respectfully agree to disagree. That's how I would like to take things. But, the suggestion was an interesting suggestion. It was that

basically we should talk about discrimination with regard to employees, specifically trade unionists because he has made mention that recently trade unionists have been victimised pertaining to them acting as trade unionists. Fair enough! But let us remember that there are provisions already in the Employment Relations Act of 2008, which was brought to this Assembly by hon. Dr. Vasant Bunwaree as he was then Minister of Labour, Industrial Relations and Employment. In the Employment Relations Act, there is already provision that is made under section 31 that -

“No person shall discriminate against victimised or otherwise prejudiced, a person seeking employment because of his past, present or anticipated membership of a trade union or his participation in the formation of a trade union”.

And section 31(b) goes on that -

“On conviction, if that offence is proved before a Court of Law, there is a Rs75,000 fine”.

Now, reference has been made to certain trade unionists that have been allegedly victimised because of their position as trade unionists. Let me say one thing very clearly and in one particular case, without mentioning names, maybe I will not, but, in all cases, where a trade unionist is victimised, he has to go to the Police Station in order to put in a declaration because it is a criminal offence. If a trade unionist is advised to go to the Police station to report an offence pursuant to section 31 of the Employment Relations Act and voluntarily refuses to go to that station in spite of the advice. You cannot basically blame anyone apart from the trade unionists themselves.

In other words, the legislator has provided for measures of redress, but what they have to do is that we cannot bring the Police Station to them at all. We can even do that, but even in a particular case, even if the Police Station was brought to her, she refused to put a declaration and now she has to accept it. She cannot basically have a cake and the cream and the strawberry and then eat the whole lot. She has to give a declaration. Let me also brought the attention of a very important fact. Whatever is provided for in the Bill, it is like the icing on the cake since we have recently been talking about cakes. Whatever discrimination is prohibited under our Constitution we have it here. In other words this is the icing and the cake is there in the Constitution.

As regards the issue of choice, some people would say that Yusuf Mohamed, Senior Counsel has given his opinion and very often we do have sharing of opinion between me and him. In this particular instance, let me say the following: if you have a situation where someone

knocks at the door of the Equal Opportunities Tribunal and, at the same time, knocks at the door of the Supreme Court, what happens is that you could end up with two different types of judgments where one giving *raison* to one party and the other one not giving *raison*.

In other words, there could be conflicting judgments; that is why they have the choice. Nothing, in fact, in this legislation stops someone from saying: "I want to say I do not want to go to the Equal Opportunities Tribunal. I don't want to go to that tribunal because I believe Rs500,000 maximum compensation I may obtain is not sufficient for the harm that I have gone through."

In other words, that person will then decide to go to the Supreme Court or the Intermediate Court and enter a civil claim. Nothing debars that person from doing so. Even before he may decide not to go ever to the tribunal, he may decide to go to the Supreme Court or the Intermediate Court and nothing in any legislation, in any law of the land, prohibits the Supreme Court judges, the Intermediate Court judges or the District Court judges to come and say: "Well, according to the principles enunciated in our Constitution, indeed, there has been a discrimination." They can even go further and say, indeed, according to the principles as established in the Equal Opportunities Act there has been a violation coupled with sections of our Constitution and, therefore, since fault has been proved we, therefore, can award damages and give the quantum of damages. There is no mandatory element to go to the tribunal. There is indeed a choice. If what is required here is simple redress and damages or compensation below Rs500,000 they can swear an *affidavit* and say: "I know that would be sufficient for me. I need no more damages than that, I don't want to be reinstated in any position I wish, I want to go only here." That is a choice.

In other words, the choice is there and I also do not believe that in any way that would cause any sort of problem. Let me also add here - and I will have to end on this note; I was talking to hon. Boolell about that and I will have to say it – that last year a lady came to see me and very often people are very sensitive about certain issues and they don't like raising it, but I like raising sensitive issues because basically we have to face the fact; all of us here today, we are in the same boat, we have to serve the people whom we represent and I know that every single one of us here has this in our heart. A lady came to see me and basically she was crying and was saying to me that she would not be given a promotion in her job - I will not mention names and where, but it is a private company - simply because she was not complying to the

rules pertaining to uniform that was issued by the employer. I did not understand what she meant by uniform and she simply said to me: "Sir, my uniform is that I have to remove, what they call, my *tika* and my *mangalsutra*," and I have said: "why did you have to remove it, what is the problem?" "According to my employer, it does not tally with the type of uniform that he believes I should wear. This is my belief, hon. Minister, and I should be able to have respect for my belief, my traditions, my culture. I do not believe that I should be discriminated against simply because of that."

Finally, this year another lady came to see me and she then said to me that she had been discriminated against because she did not get a job. Why she did not get the job? They told her: "if you remove the scarf over your hair we will give you the job. If you keep your scarf it does not go with the image of the company." The image of this country is what? That is the question. What is the image? We have a lot of advantages in this land. What are the advantages? Unlike other countries all the religions and all the beliefs and all the cultures are hereby represented and we live in harmony. That is the beauty of Mauritius and we do not want to be like any other country whereby we all have to be standard, where we have to leave aside our culture, our religion, and our beliefs. What has kept this country together and has made us succeed on the international world, precisely one of the main elements is because all Prime Ministers, all regimes have had a respect for *la diversité* and have known how to keep it together. That is what notre richesse is and with the proclamation of this Bill, I hope that there will be unless, as I said, hon. Lesjongard is privy to something which I am not. I am sure it will be proclaimed.

Now I can go up to those ladies and say that no employer will be able to discriminate against them because they wear their *mangalsutra*, because they wear their *tika*, because they wear their *hijab*, they are Mauritian, we shall have to respect them for what they are. The laws are now there, brought in by the Prime Minister, hon. Dr. Navin Ramgoolam, for their benefit, for their liberty and for the future of this country.

Thank you, Sir.

(10.07 p.m.)

**Mr S. Obeegadoo (Third Member for Curepipe & Midlands):** M. le président, je souhaiterais ajouter ma voix à ceux qui se sont exprimés avant moi sur ce projet de loi et l'appel que je lancerai après les effets dramatiques de mon prédécesseur qui vient de parler. C'est que

nous observions une trêve de démagogie. Quels sont les faits ? Prenons le ministre Boolell ? Ce projet est un projet qui aurait été discuté dans les milieux travaillistes dès 1991.

(*Interruptions*)

Avant 1991 ! Veulent-ils que ce soit 1968 ? Soit ! Projet choyé, réfléchi, élaboré par le Parti Travailliste depuis 1968 – ce que le ministre dit.

(*Interruptions*)

Et, donc, le Parti travailliste était au gouvernement jusqu'en 1982 et ils reviennent au gouvernement en 1983 jusqu'en 1990. Une loi pour proscrire la discrimination avant 1990 ! Dès 1991, ils y réfléchissent à nouveau. Le projet est donc ressuscité. En 1995, dans le manifeste électoral, ce projet existe. Après un an et demi le MMM se fait, comme souvent le cas, botter hors du gouvernement en 1997. Et, en 1997, le Parti Travailliste est au gouvernement jusqu'en 2000 - aucune loi pour proscrire la discrimination. 2000-2005 le MSM et le MMM est au gouvernement. Quelle est ma priorité en tant que ministre de l'éducation de Sir Anerood Jugnauth et de Paul Bérenger. La priorité, ce n'était pas d'inscrire dans la loi, mais dans les faits de garantir l'égalité de chance et l'équité, d'où la réforme de l'éducation visant à garantir à tous, de cinq ans à seize ans, une même éducation obligatoire dans des écoles convenables; une éducation de qualité. Quoi qu'il en soit, en 2005, le projet de loi est circulé. Bref, la première fois dans l'histoire du pays qu'apparaît the Equal *Opportunities Bill*, il ne porte pas le sceau du Parti Travailliste.

(*Interruptions*)

Ce document n'est pas de couleur rouge et encore moins de couleur rouge-bleu. Ce document fut le fruit non seulement de la réflexion mais d'une action de l'Alliance MSM/MMM de 2005. En 2005, le Parti Travailliste qui aura eu l'occasion, n'est-ce pas, depuis 1991 - peut-être bien depuis 1968 - de réfléchir à ce projet ne donne pas effet à ce projet de loi dont les propositions vont se retrouver dans la loi de 2011. Ce projet de loi existe, mais on choisit de ne pas donner effet à ce projet de loi. Pourquoi donc? Demain les historiens nous le diront.

(*Interruptions*)

**The Deputy Speaker:** Hon. Baloomoody, please! Hon. Mrs Labelle, please!

**Mr Obeegadoo:** Un aveu lourd de sens que je laisse faire d'autres le soin d'interpréter. Mais les faits, M. le président, c'est que de 2005 à 2008, il n'y a aucune loi pour proscrire la discrimination. Finalement, une loi est introduite en 2008 selon le bon vouloir du Parti

travailliste avec le PMSD, je crois. Le PMSD y était? C'est toujours une force d'appoint pour le Parti travailliste, n'est-ce pas ?

Ce projet de loi de 2008 ne fut pas dicté par le MMM et pourtant, ce projet de loi ne fut pas promulgué, ne fut pas traduit dans les faits. Certainement, mes amis, de l'autre côté de la Chambre, ne pourront pas nous faire le reproche à nous, au MMM. Si de 2005 à 2008 il n'y a pas eu de loi, est-ce la faute du MMM ? Si de 2008 à 2011, une loi qui existe, la deuxième version de la loi porte bien le sceau du Parti Travailliste; si cette loi n'est pas promulguée, sommes nous à blâmer? Pourquoi ne fut-il pas promulgué? Dans un premier temps, le Premier ministre déclara qu'il était à la recherche de l'oiseau rare qui pourrait prendre la tête de cette *Equal Opportunities Division*. De 2008 à 2011, on ne trouva pas l'oiseau rare mais, au contraire, on réalisa que le projet de loi lui-même posait problème. Et donc, six ans plus tard...

**Mrs Martin:** I am sorry to interrupt the hon. Member, Mr Deputy Speaker, Sir...

**The Deputy Speaker:** Yes, on a point of order!

**Mrs Martin:** I am sorry to interrupt the hon. Member, but I just heard from a sitting position - I don't know if we should call him honorable - hon. Jhugroo who just made fun of my name. So, I would wish him to withdraw that, please.

**The Deputy Speaker:** Yes, hon. Jhugroo!

(*Interruptions*)

Order! Hon. Jhugroo did you make fun of somebody's name?

(*Interruptions*)

**Mr Jhugroo:** Don't get excited! I said, not hon. Minister - '*oiseau rare, oiseau martin*'. What's wrong?

(*Interruptions*)

**Mrs Martin:** Mr Deputy Speaker, Sir, the hon. Member has just admitted and I think, *c'est de mauvaise foi de sa part*. He should withdraw!

(*Interruptions*)

**The Deputy Speaker:** If you refer to somebody due to her name. I think it is not in order!

(*Interruptions*)

In case, the hon. Member did not refer to anybody, I can't have control on it! Hon. Obeegadoo, you can continue! Hon. Dayal do you have something to say?

*(Interruptions)*

Please, continue! I want to listen to hon. Obeegadoo!

**Mr Obeegadoo:** Mal élevé de m'avoir interrompu, sans doute!

M. le président, pour résumer mon propos de toute à l'heure, je dirai donc qu'introduire un tel projet de loi, c'est évidemment quelque chose de positif. Mais cela ne nous empêchera pas...

*(Interruptions)*

**The Deputy Speaker:** Hon. Ms Deepalsing, I don't want to hear anything now. You don't have to talk here! You have to listen!

*(Interruptions)*

Order! Hon. Dayal if there is any problem, you stand up, you make your point and then, I will rule on it. I am on my feet; if you have anything to say you have got the latitude to say it! But, I don't want anybody just to barge in and make whatever remark. Yes, hon. Obeegadoo! You may continue !

**Mr Obeegadoo:** Devrais-je reprendre dès le début?

*(Interruptions)*

**The Deputy Speaker:** No, you continue!

*(Interruptions)*

Order!

**Mr Obeegadoo:** M. le président, maintenant ils sont prévenus; si je suis interrompu, je reprends mon discours dès le début. Donc, je disais que si personne ne contestera que finalement venir de l'avant avec ce projet de loi, à condition de bien vouloir le traduire dans la réalité, c'est une chose positive. Nul ne pourrait nous empêcher de condamner le retard pris et de mettre en doute le sérieux du gouvernement, et j'expliquerai pourquoi. Mais ce qui importe, c'est qu'aujourd'hui il semble que tout le monde reconnaît que le MMM en 2008 avait raison puisque les critiques que nous avions formulées sont maintenant reflétées dans le nouveau projet de loi. Mais j'y reviendrai.

Je souhaiterai, M. le président, souligner le contexte dans lequel ce projet de loi est présenté pour expliquer pourquoi nous éprouvons certaines difficultés à croire au sérieux du gouvernement. Le gouvernement propose de proscrire dans la loi la discrimination. Mais, dans les faits, aujourd'hui même, M. le président, dans cette Chambre, je me suis levé après mon cher

collègue et camarade, l'honorable Bhagwan, pour parler de la pratique qui existe dans les centres communautaires et dans les centres sociaux, qui fait que dans une même circonscription, des représentants du peuple élu selon la volonté du peuple se trouvent victimes d'une discrimination. Les centres communautaires et les centres sociaux fonctionnent sur la base des fonds publics, sur la base avec l'argent de tous les contribuables - qu'ils soient rouge, orange, mauve, bleue ou je ne sais de quelle couleur - et pourtant lors des activités dans ces centres, lors des cérémonies; ceux qui se retrouvent au gouvernement y sont conviés et ceux qui se retrouvent dans l'opposition...

**The Deputy Speaker:** I can't see how it is linked. The hon. Member should come back to this Bill.

**Mr Obeegadoo:** .... shall be delighted, Mr Deputy Speaker, Sir, to explain the connection. I am referring to the context in which this law is being brought forward and, we, on the Opposition benches, are questioning the sincerity and the seriousness of purpose of the Government.

Je disais donc que dans ce cas il y a un cas flagrant de discrimination à partir de l'appartenance politique. L'Etat s'approprie l'argent des contribuables de toutes les appartenances politiques, mais dès lors qu'il y a des activités organisées avec l'argent public, il y a une confusion entre le gouvernement et l'Etat.

*(Interruptions)*

**The Deputy Speaker:** Hon. Baloomoody, please!

**Mr Obeegadoo:** Semble t-il personne ne respecte mon droit à m'adresser en toute quiétude à la Chambre. Un gouvernement qui n'arrive pas à faire la distinction entre Etat et gouvernement, peut-il sérieusement prétendre défendre l'égalité ?

**Ms Deepalsing:** On a point of order, Mr Deputy Speaker, Sir.

**Mr Obeegadoo:** I will not give way, Chair. Which point of order?

**The Deputy Speaker:** Which point of order, please?

**Ms Deepalsing:** Mr Deputy Speaker, Sir, what has what we are debating with the setting up of a Commission? We are talking up about the setting up of a Commission.

*(Interruptions)*

**The Deputy Speaker:** You are addressing the Chair! Order! Yes, what is your point of order?

**Ms Deepalsing:** Mr Deputy Speaker, Sir ...

*(Interruptions)*

**The Deputy Speaker:** I can't hear. Order! I can't hear the hon. Member! Let her express herself.

**Ms Deepalsing:** Mr Deputy Speaker, Sir, I would like to seek your guidance. This amendment that we are debating is about the setting up of a Commission; it's just replacing the Division by a Commission. I am sorry, I may be thick, but I fail to understand what this thing about constituency has to do with this!

**The Deputy Speaker:** I drew the attention of the hon. Member on this issue. He made his point about discrimination, the way persons have been treated at the level of these centres. I think that it is within the debate, as it has been going on until now.

*(Interruptions)*

**The Deputy Speaker:** Order now!

**Mr Obeegadoo:** I thank you, Mr Deputy Speaker, Sir, ...

**The Deputy Speaker:** But I also remind the hon. Member that it is the amendment to an Act. We should not go outside the ambit of this Bill.

*(Interruptions)*

**Mr Obeegadoo:** Mr Deputy Speaker, Sir, I keep hearing remarks challenging your impartiality. In these circumstances, how can we have a normal debate?

**The Deputy Speaker:** If there is any such remark, I will take care of it.

**Mr Obeegadoo:** Mr Deputy Speaker, Sir, the Bill which we are purporting to amend deals with discrimination. Under the definition of status, mention is made of political opinion and I am, therefore, questioning the seriousness of purpose of the majority in bringing this Bill on the ground that only today, we have witnessed the refusal of Government to cease the constant practice of discrimination on the grounds of political opinion. Mr Deputy Speaker, Sir, today...

**Mr Mohamed:** Another point of order, Mr Deputy Speaker, Sir. The hon. Member has basically stated that he is referring to the Bill that also makes reference to political opinion. But, let me say here that this Bill nowhere mentions political opinion.

**The Deputy Speaker:** Are you contesting my ruling?

**Mr Mohamed:** No, I am basically rephrasing in the light of what he has just said, specifically that he is talking about this Bill, and this debate is in relation to the word ‘political opinion’ mentioned in the Bill. I would like to draw his attention and that of the Chair obviously that the Bill does not refer to issues of political opinion. It does not! There is no mention here.

**The Deputy Speaker:** Your point is noted. You can continue hon. Obeegadoo.

**Mr Obeegadoo:** The Bill purports to set up a Commission. The Commission is supposed to enforce the provisions of the Act, and the Act makes reference to prohibiting discrimination on the base of a number of reasons.

**Mr Mohamed:** Mr Deputy Speaker Sir, the debate cannot go on on the Act.

**The Deputy Speaker:** I requested the Member not to go lengthily outside the ambit of the Bill, but he can make a passing reference to the main Act on which amendment is being made.

**Mr Obeegadoo:** The hon. gentleman who just spoke...

*(Interruptions)*

**The Deputy Speaker:** Hon. Aimée!

**Mr Obeegadoo:** The hon. gentleman who just spoke was not interrupted and spoke lengthily, and said all ...

**The Deputy Speaker:** There is no need to make comments. Just address the Chair.

**Mr Obeegadoo:** I would just appeal to Members on the other side that they should also learn to listen in a democratic spirit. My point was that today we simply asked a solemn undertaking from the hon. Minister that, as from tomorrow, there would be no discrimination in Social Welfare Centres.

**The Deputy Speaker:** No, this issue has been raised. You made reference to it but...

*(Interruptions)*

**Mr Obeegadoo:** We are supposed to vote a Commission to enforce a law which prescribes discrimination and, yet, day in and day out, the MBC discriminates against the Opposition.

*(Interruptions)*

Will we go before that Commission? This Bill seeks to establish a Commission, which will enforce a law that proscribes discrimination in employment. Who in this country does not know what was stated by a Member of the majority concerning political protégés to be favoured in

matters of employment? Should we go before this Commission? Right now, Mr Deputy Speaker, Sir...

(*Interruptions*)

**The Deputy Speaker:** Order! I will request the hon. Member to proceed with some other issues. He has canvassed this issue, and I don't want him to repeat what he has already stated. If he has some other points to make, he can do so.

**Mr Obeegadoo:** Certainly not! But one of the proposals made by the Opposition was that we should take this opportunity to include discrimination against persons who are active in trade unions as an element in the definition of status, and we all know of the lady who is preparing to embark on a hunger strike by reason of having been discriminated against, and it is not the Minister of Labour who will question that. I will stop there, but I could give many examples of L'Express newspaper, for instance. I could go on and on.

(*Interruptions*)

**The Deputy Speaker:** Order!

**Mr Obeegadoo:** Mr Deputy Speaker, Sir, for the first time in my 16 years of career as a Member of Parliament, my integrity has been brought into question by a Member - a Minister - of the majority who, because I mentioned that L'Express is a victim of discriminatory practice, thought it proper, within your hearing, to say "*combien actions to ena dan l'Express?*". I request you to ask him to withdraw those words, Mr Deputy Speaker, Sir.

**The Deputy Speaker:** I think that it is imputing motives on a hon. Member and I'll ask hon. Minister Aimée to withdraw that allegation.

(*Interruptions*)

No, I gave my ruling.

(*Interruptions*)

Please! I heard the point of order.

**Mr Aimée:** I said it.

**Mr Obeegadoo:** May I?

**The Deputy Speaker:** Hon. Aimée, did you withdraw?

**Mr Aimée:** Yes.

**The Deputy Speaker:** Yes, hon. Obeegadoo!

**Mr Obeegadoo:** Mr Deputy Speaker, Sir, I was saying earlier on that if anything this Bill is a vindication of the stand that was ours in 2005 and 2008 because of the two main changes that this Bill brings –

- One, it concerns the replacement of the Equal Opportunities Division which fell under the National Human Rights Commission by an Equal Opportunities Commission which has severed all its links with the National Human Rights Commission. This was precisely the main argument of the Leader of the Opposition in 2008. He has been quoted by hon. Lesjongard, I will not repeat, but he qualified it then as '*un recul*'. Today, we are back to the Bill of 2005.
- Second example, the designation of members of the Commission. In 2008, the Leader of the Opposition raised a very important point. He asked whether it was constitutionally proper for the Public Service Commission to appoint persons, within that Commission to that Commission, who were not civil servants. The Bill was not given effect to and, today, we are back to the Bill of 2005 which gives the responsibility to the President to appoint members of the Commission, or be it with a twist, which was mentioned earlier by the Leader of the Opposition. Before, it was the President in 2005, after consultation with the Prime Minister and the Leader of the Opposition; now, it is the President consulting the Prime Minister who is supposed beforehand to have spoken to the Leader of the Opposition. But be that as it may, suffice it to say that six years later, the stand of the MSM/MMM is being vindicated.

Our concern today is the issue raised briefly by the Leader of the Opposition about the waiver, which is imposed on people to choose between civil proceedings or the Tribunal. I do not want to repeat, Chair, what the facts are: that this was not in the 2005 Bill. In the 2005 Bill, there was no mention of having to opt for one or the other.

In the 2008 Bill, there was a proviso under section 35(5) which says:

“(...) where the Tribunal becomes aware that a complaint before it is the subject matter of civil proceedings before any Court, the Tribunal shall not entertain that complaint.”

So, what was prohibited was in parallel proceedings. A complainant could not have it at the very same time both ways. That was explained by the then Attorney General in his speech, moving the 2008 Bill, by explaining. This is an important provision which is aimed at preventing duality of actions by complainants who may be tempted to forum shop – was the word – in order to obtain the maximum compensation. That is very clear.

This Bill goes one step further by imposing a so-called waiver which prevents the complainant, which bars the complainant from any subsequent civil proceedings. That is where

we have a fundamental problem. The Prime Minister saw to justify this provision by saying that it is to prevent the claim of compensation twice but, surely, any court of law made aware that – and of course, it would be made aware by the other party – there has been compensation decided, determined, ordered by the Tribunal would obviously take that into consideration. The fact that the potential anti-constitutionality should be cured, at least, be tried to be cured by the Government at the eleventh hour, does not remove the problem in our eyes, but it does reflect badly on the way in which this Government handles legislation, that at the eleventh hour, an amendment dated today should be brought to affirm that in terms of enforcement of constitutional rights, the claimant can still go to the Supreme Court, but beyond the fundamental constitutional rights that, in any case, are guaranteed. Why should a claimant be debarred if he so wishes from going before a Court by way of civil proceedings. We are not convinced by what we have heard and we do maintain that this is not proper.

M. le président, ce projet de loi, est aussi l'occasion, ratée de corriger différentes choses dans le projet de 2008. Je ne voudrais pas répéter mais une de nos inquiétudes majeures c'est la question du Sida - HIV/AIDS.

Nous sommes convaincus que selon le libellé de la loi, telle qu'elle existe aujourd'hui, il sera toujours possible, à n'importe quel employeur, d'exercer une discrimination à l'encontre d'une personne sur la base...

*(Interruptions)*

The hon. Minister says: no, that is not true. Let me just refresh the memory. Maybe, he is of good faith. The law of 2008 which, as amended today, apparently will be proclaimed, refers to impairment: 'An employer may discriminate on the basis of impairment. This is clause 13(3) (a). An impairment is described, for instance, by the fact of the presence of the body of organisms that may cause disease. If that does not relate to HIV, what does? So, Mr Speaker, Sir, that is one of our concerns and I am repeating it because it is very serious and it is not too late to remedy that. It may be something that has been overlooked, but we are saying that this would have been the opportunity to correct certain flaws in the 2008 Bill.

Mr Deputy Speaker, Sir, let me go back to an issue which has been raised by several orators before in 2008 and 2011. If one wishes to pre-empt discrimination, one cannot stop only at the law. One must go to the roots of the problem. If I want to recruit for a position of employment and I ask a qualification....

**The Deputy Speaker:** Now, we are with the members of the Commission, not recruitment.

**Mr Obeegadoo:** Absolutely!

**The Deputy Speaker:** Yes, carry on!

**Mr Obeegadoo:** This Commission is very important because it is going to implement this law. What I am saying is: for the purposes of unemployment, if there are jobs to be filled and the conditions to obtain this employment require qualifications of which certain people are not possessed of, either because of their class belonging, either because of their racial belonging or for whatever reasons, that is discrimination and the Commission and the law will not be able to do anything about that, Mr Deputy Speaker, Sir. That is why so many of us, on this side, have stressed that to combat discrimination, you must start with education.

**The Deputy Speaker:** I am sorry, hon. Obeegadoo; you are going outside the purview of this Bill. But since other Members made certain remarks, I want to clarify one thing. The hon. Leader of the Opposition, in his speech, mentioned about certain cases of discrimination. Hon. Mohamed, when reacting on the debate, asked for concrete examples and I allowed the hon. Member to give certain examples because this was the way the debate was going on. I also requested that the hon. Member, before any other Member raised that issue, should be within the debate of the amendment. And I wish that it is clear to everybody.

**Mr Obeegadoo:** I am now concluding, Sir. All I have to say is that the law will not cure the fundamental inequality, the fundamental inequities and the fundamental injustice that exist in our society. And an essential first step to combat discrimination and for this Commission to be able to really be effective, is education. As long as we have an educational system that is framed within a logic of exclusion, that throws by the wayside 20% of young children at CPE, that creates, feeds and perpetuates discrimination, no commission, no law will ever be able to prohibit social discrimination, discrimination *dans les faits et c'est pour cela, M. le président, que nous, au MMM, disons que ce projet de loi, s'il arrive enfin à permettre la promulgation et la mise en pratique de cette loi contre la discrimination, c'est tant mieux. Mais cela ne résoudra pas le problème tant que nous n'aurons pas un gouvernement qui sérieusement et sincèrement s'attaquera aux racines de la discrimination sociale dans notre pays.*

*J'en ai terminé, M. le président.*

**The Deputy Speaker:** Thank you. The hon. Speaker will return to the Chamber now.

*At this stage Mr Speaker took the Chair.*

(10.43 p.m.)

**Mr N. Bodha (First Member for Vacoas & Floreal):** Thank you, Mr Speaker, Sir, to give me the floor on this very important Bill. A lot has been said on both sides of the House. We have a lot also gone down memory lane about the paternity, about history, but the most important thing, Mr Speaker, Sir, is that in a country like ours, we have a legal set up which can give to our people the faith that we should have in authorities and institutions to safeguard us against discrimination. This is a very important instrument for the betterment of our people, for our democracy and for our nation building.

Mr Speaker, Sir, I will go to the speech of the hon. Prime Minister when the Bill was introduced in 2008. He said –

“There is nothing more unjust and cruel than to know however hard the children work at school, whatever sacrifices you will have made for them to obtain the highest qualifications, there are jobs which will not be available to them and which will be reserved to a privileged few who do not have to work as hard to get there. Apart from the frustration, the bitterness, the humiliation of those who genuinely feel that they have been discriminated against because of the absence of norms, promoting meritocracy, there is also the fact that the nation as a whole will lose the benefit of more talented people who could have made a greater contribution to development and progress in the country.”

These are very beautiful words, Mr Speaker, Sir. The fact that we are taking so much time, everybody agrees today that time has been lost and that we should work to see to it that we have an institution which provides that every Mauritian, whatever be his status, as I said, can have the faith that he can come to that commission or to that authority and say: “yes, I have been discriminated against and I am going to have a remedy.” I will make two suggestions. Mr Speaker, Sir, the Prime Minister mentioned something else as well and I am going to make a suggestion there.

**Mr Speaker:** In 2008, on 02 and 09 December, the Bill was debated in the House. Today, we are concerned with certain limited amendments to the Equal Opportunities Act. So, Members have to speak the Bill and only on the provisions that are being proposed to be amended.

**Mr Bodha:** I will go by your guideline, but I am just laying the background to what I want to say, Mr Speaker, Sir.

**Mr Speaker:** No, the most important parts of the Bill today are certain amendments where the Equal Opportunities Division is being replaced by Commission and that is throughout the Bill. The second most important amendment to the Bill is the creation of a Commission to make it independent from the Human Rights Commission. So, you have to speak on that.

**Mr Bodha:** I will go by your ruling, Mr Speaker, Sir. The Commission is expected to handle cases of discrimination in such important areas as the field of employment, recruitment, promotion, treatment of employees, in general, who can be subject to discriminatory practices. I have a suggestion to make. We will talk about the Commission later, but what I am saying, Mr Speaker, Sir, is that the Commission is not enough, be it a division, we have moved from the division to a commission and I think it is a major step. But what I am saying is, as was pointed out by some of the hon. Members of both sides of the House, that the root of the problem is education, opportunity of education at the start. What I am saying is...

**Mr Speaker:** Well, I do agree that the Leader of the Opposition made a sweeping statement on the issue of education. I do agree with that. But if we are going now to debate the system of education whether it is discriminatory or it is not discriminatory, the whole night will not be enough. So, I am saying that we have to go according to the rules. This is a Bill which is amending to create a Commission and the appointment of its members. All the qualifications are set in the Bill; if you do not agree with the qualifications of the members of the Commission, you can criticise that and also whether the Commission should be independent or not. Or whether the appointment of the members of the Commission, as provided for in the Bill is correct or not or, like the Leader of the Opposition said, it should have been the President on the advice of the Prime Minister and the Leader of the Opposition. We are concerned with all this, that's all. I was listening to the debate in my office and must say it went somewhat astray.

**Mr Bodha:** Mr Speaker, Sir, I am talking about discrimination as regards to employment which is going to be addressed by the Commission.

**Mr Speaker:** I am sorry to interrupt the hon. Member.

**Mr Bodha:** No. Mr Speaker, Sir, what I am saying is moving from a Division to a Commission is a step. But the Commission is not enough as an instrument in Mauritius to address what I believe are the issues of discrimination. That's why I was saying that together

with the Commission, I would propose that we have - what we call to address the issue of discrimination of employment - *une agence nationale pour l'emploi*.

**Mr Speaker:** Then the hon. Member can come with a motion to suggest what he is saying.

**Mr Bodha:** I have already made my suggestion. Now, let me come to the issue of Division and Commission. First of all, Mr Speaker, Sir, when the issue was addressed in the last debate about the Division, it was to be a part of the Human Rights Commission. What has happened to the Human Rights Commission in the meantime? The Human Rights Commissioners were nominated on 03 April 2001, and subject to the law they were subject to the fact that every Member shall be eligible for reappointment for a second term of four years, that is, we come to 03 April 2009. What has happened? The Bill was enacted in 2008 and in the meantime, the Human Rights Commission has been functioning as from that date illegally. Even if the Act had been promulgated, it would not have the legal effect. What I am saying, Mr Speaker, Sir, is that we hope that the Act is going to be promulgated *et on va trouver le plus vite possible, l'oiseau rare* because, as I said, this is a very important institution for Mauritius.

Mr Speaker, Sir, as regards the nomination of the Chairperson and the other members of the Commission, we have been talking a lot about *la deuxième République, c'est-à-dire une sorte de rééquilibrage de pouvoirs entre le Président et le Premier ministre. De ce côté de la Chambre, nous sommes convaincus qu'une nomination comme celle-là devrait se faire par le Président en consultation avec le Premier ministre et le chef de l'opposition. Nous pensons que c'est une nomination extrêmement importante et que la personnalité ainsi nommée pourrait à ce moment-là assumer sa responsabilité et l'institution pourrait être une institution indépendante, agissant dans l'intérêt national*. This is the first thing.

The other thing, Mr Speaker, Sir, is the fact that we have had a big debate about the right to go to the Tribunal or to the Supreme Court. Hon. Obeegadoo and hon. Mohamed addressed this issue as to whether we can do it concurrently or we can do it subsequently. I believe, Mr Speaker, Sir, that we have an amendment which has been brought today, and the amendment addresses the issue of chapter II Rights, that is, the fundamental right of the citizen and in both cases a complainant does not have to have this voluntary waiver. He can, when it comes to discrimination as regards chapter II Rights, go to the Tribunal, and later if he wants, he can go to the Supreme Court.

But on this issue, in a democracy like ours, Mr Speaker, Sir, we simply believe that he should not be debarred and he should have the right to go to the Court. It's up to the complainant to decide which court he would like to go to. I think that when it comes to this issue of right of remedy, we should leave it to the complainant to decide where he is going to go for the remedy against discrimination. That is the second point, Mr Speaker, Sir.

When I go to the debates, the then Attorney General had promised that the law will be promulgated, that we will find the right person as soon as possible and said that the Commission will be up and running and will help to address the issue of discrimination in our country. This was not the case, Mr Speaker, Sir. What we would like the Prime Minister in his summing-up is to reassure the House and the country - we all agree that we have lost time, we all agree we had lofty ideas, we all agree that we want a land where there is no discrimination - that this Commission is going to be set as soon as possible and I am sure that he has had enough time to think about *l'oiseau rare qui pourra assumer pleinement ces responsabilités*. I am making the plea to him because we owe it to the nation, we owe it to history, and we owe it to our history because we know in terms of employment that we can have all sorts of practices. We know how often *la méritocratie est bafouée*; we know what happens in the dark boardrooms; we also know what happens when you can have political backing. We have to stop all this and my plea today, Mr Speaker, Sir, is that the Prime Minister undertakes today that this Commission is going to be set as soon as possible and that it will be for the best interest of our people.

Thank you, Mr Speaker, Sir.

(10.58 p.m.)

**The Attorney General (Mr Y. Varma):** Mr Speaker, Sir, I will, first of all, congratulate the hon. Prime Minister for bringing the Equal Opportunities (Amendment) Bill to the House. But as the practice goes, Mr Speaker, Sir, I need to reply to a few points which have been raised by hon. Members of the Opposition and, according to your ruling, we should limit ourselves to the Bill today. But a couple of issues have been raised and, with your permission, Mr Speaker, Sir, I will reply to some of them before going back to the Bill.

Mr Speaker, Sir, in fact, we have heard the Leader of the Opposition and hon. Members of the Opposition speaking about mostly we have wasted time and as regards waiving the rights for a person to go to the court. Mr Speaker, Sir, we have also heard lengthily the hon. Third Member for Curepipe and Midlands speaking about equal opportunities in the wider context, that is, when the Equal Opportunities Bill was prepared, he was in power.

Mr Speaker, Sir, hon. Lesjongard also spoke about level playing field. We should look at things in the right historical perspective. We cannot deny the fact that the Mauritius Labour Party has been at the root of all major developments in the country.

*(Interruptions)*

**Mr Speaker:** There is no need for the hon. Member to go down memory lane 45 years back.

**Mr Varma:** If we are speaking about the level playing field, Mr Speaker, Sir, we are speaking of the Welfare State...

*(Interruptions)*

**Mr Speaker:** No, this is most irrelevant.

*(Interruptions)*

**Mr Varma:** That's why, Mr Speaker, Sir, I sought your guidance at the beginning because I had to reply to certain points which were raised by hon. Members of the Opposition. If that is your ruling, Mr Speaker, Sir, then I will restrict myself to what has been said. Nevertheless, they have mentioned time and again about the delay from 2005 to 2008 and from 2008 to 2011 what has been done.

Mr Speaker, Sir, the fundamental issue is that we as Government brought the Bill to Parliament in 2008. Mr Speaker, Sir, of course, we all know that passing the law through

Parliament is one of the steps. A major step which comes after the law is passed by Parliament is the implementation of the law. Mr Speaker, Sir, when the law went through Parliament in 2008, we had consultations with the major stakeholders. At the beginning, as hon. Members have highlighted, the aim of Government was to have the Equal Opportunities Division as an arm of the National Human Rights Commission. Why, Mr Speaker, Sir? Because the Government thought at that time that we should not create a plethora of institutions. How many times have we heard Members of the Opposition saying that we should not create a plethora of organisations? We thought about cost-effectiveness when the decision was taken at that time. But, with time when consultations were held with the major stakeholders, Government thought that it would be in the interest of the programme that we set up an Equal Opportunities Commission.

Mr Speaker, Sir, I had the opportunity to hear Members from the Opposition. They have been very critical, Mr Speaker, Sir, about how the Bill has come to Parliament, about the delay, but not one hon. Member of the Opposition has had the courage or the audacity to stand up in Parliament to say ‘yes, the Government heard what we had to say.’ How many times, Mr Speaker, Sir, have we seen a Prime Minister stand up in Parliament and say that: ‘we agree with the hon. Leader of the Opposition as at the time when the Bill was being presented?’ He suggested that an Equal Opportunities Commission be set up, yes, he was right and we took his recommendation into account and we are bringing forward this piece of legislation.

Mr Speaker, Sir, this shows magnanimity. I have heard hon. Members speaking about many things today ranging from invitations of the social welfare centres, community service centres and many other things, but not one of them has had the courage to stand up in Parliament today to say ‘yes, the Government heard what we had to say.’ Mr Speaker, Sir, as I said earlier on, the proclamation of an Act is very important. How does the proclamation take place? A proclamation takes place when there are consultations....

**Mr Speaker:** No, there is no need. We will go on and on like this. The proclamation of an Act, we know how it takes place. The hon. Attorney General can speak about the fact that once the Bill was voted in the House there were consultations that took place and after the consultations, it was found necessary that the Commission be created. That's all!

**Mr Varma:** Mr Speaker, Sir, with all due respect that I have for the Chair, this issue has been canvassed extensively by Members of the Opposition and it is my duty, in the little time that I have, to reply, to explain...

**Mr Speaker:** It is your duty to reply on the time taken from 2008 up to now and why there was a delay; on that you can reply.

**Mr Varma:** This is what I am doing, Mr Speaker, Sir. That is precisely what I am doing.

*(Interruptions)*

I am not challenging. This is precisely what I am doing.

Mr Speaker, Sir, in fact, after the Act was passed in the National Assembly the Government has been working with all the relevant stakeholders on the setting up of the appropriate regime to give effect to the provisions of the law. It is through this exercise, Mr Speaker, Sir, that we came to realise that it might no longer be appropriate for a division of the National Human Rights Commission to be responsible for the implementation of the Act. Instead, a need was felt for a fully fledged, independent and dedicated Equal Opportunities Commission separate from the National Human Rights Commission. Mr Speaker, Sir, how many times nowadays do we hear complaints of different treatment being afforded to people because of their status, be it their age, race...

**Mr Speaker:** This is irrelevant again!

**Mr Varma:** But, Mr Speaker, Sir, I should be given the opportunity to speak as well...

**Mr Speaker:** But you have to speak on the Bill!

**Mr Varma:** I am speaking on the Bill.

**Mr Speaker:** You are talking of how many times people....

*(Interruptions)*

You are talking about how many times people have complained about discrimination. That was passed in 2008!

**Mr Varma:** Mr Speaker, Sir, but why this difference in treatment? Because the Deputy Speaker....

*(Interruptions)*

**Mr Speaker:** No, I am chairing the House now.

*(Interruptions)*

**Mr Varma:** Okay, but there is a difference in treatment then. When the...

**Mr Speaker:** No. Do you mean to say that I am discriminating against you?

**Mr Varma:** No, no, not that ...

*(Interruptions)*

But I think that there is a difference when you are chairing and the Deputy Speaker is chairing.

**Mr Speaker:** Send a complaint to the Commission ....

*(Interruptions)*

**Mr Varma:** I will be the third one then.

*(Interruptions)*

I will be the third one then, Mr Speaker, Sir.

*(Interruptions)*

Mr Speaker, Sir, ...

*(Interruptions)*

**Mr Speaker:** Order!

**Mr Varma:** Mr Speaker, Sir, when the proper operational system is in place, then only can legislation be meaningfully applied. There is no point in implementing a law which at the end of the day will have no teeth. Mr Speaker, Sir, all of us know that it is a crucial piece of legislation, the Equal Opportunities Act, which touches our daily life and activities. What the Government had to ensure was that there would be a viable, efficient and independent system in place to give effect to it. The proposed amendment seeks to achieve this objective and we are glad to come to the House with this Bill and make the necessary amendments before the Equal Opportunities Act becomes fully operational.

Mr Speaker, Sir, under clause 7 of the Bill, section 27 of the Act is amended to provide that the Commission shall consist of the chairperson and three other members. We have seen the qualifications of the persons who have to be appointed on the Commission. They are persons who have to have a rich experience, be it at the Bar or on the Bench. Mr Speaker, Sir, in fact, as hon. Members will recall, when the Bill was being finalised, the hon. Prime Minister stated that it would be good if there is a sort of consultation with the hon. Leader of the Opposition as far as the appointment of the chairperson of the Commission is concerned. In fact, Mr Speaker, Sir, provision is made in the Bill for a consultation to be carried out with the hon. Leader of the Opposition, that is, the Prime Minister before tendering his advice to the President, has to consult the Leader of the Opposition.

Mr Speaker, Sir, as the hon. Prime Minister pointed out in his speech, the Commission has been given as much latitude as possible to regulate its own proceedings. It is believed that given the nature of the enquiry to be undertaken and the period that those enquiries would cover,

it is best left to the Commission to organise itself and plan its work in the manner suitable to it. Mr Speaker, Sir, all of us know the principle in law of litispendence, that is, we shouldn't have cases before two different jurisdictions.

Therefore, Mr Speaker, Sir, one another important aspect of the Bill, which I wish to highlight is clause 10, which amends section 35 of the Act. Section 35 of the Act provides for the jurisdiction of the Equal Opportunities Tribunal. The idea behind introducing this provision was to prevent duality of action by complainants, who may be tempted to forum shop, in order to obtain the maximum compensation.

However, this provision, as it is, may not be really effective in practice. For example, it doesn't preclude a complainant, following the disposal of his complaint before the tribunal and after having already obtained a monetary compensation from the tribunal, from proceeding to lodge another case in respect of the same subject matter and based on the provisions of the Equal Opportunities Act before a court.

Mr Speaker, Sir, it is precisely to deal with such scenarios that the existing subsection 5 is being repealed and replaced by a new one under clause 10 of the Bill. It is felt that the new provision will better deal with the problem of forum shopping.

Mr Speaker, Sir, we have heard many criticisms recently that the new subsection 5 will deprive a person of his constitutional right to seek redress from courts. Such an interpretation is erroneous to say the least. Let me make it clear that what the amendment seeks to do is not to deprive a person of seeking remedy; what we want to prevent is double compensation for the same alleged harm.

Mr Speaker, Sir, the hon. Prime Minister explained in his intervention that the words "civil proceedings" in subsection 5 are not meant to include constitutional proceedings. After all, we must not forget the sacrosanct principle enshrined in section 2 of our Constitution to the effect that the Constitution is the supreme law of Mauritius, and if any other law is inconsistent with this Constitution, that other law shall, to the extent of the inconsistency, be void. It is considered that the amendment proposed at Committee Stage will in any event dissipate all doubt on the issue.

Mr Speaker, Sir, I am confident that the proposed amendments aim to provide an appropriate framework for the Equal Opportunities legislation to operate and reinforce one of the

underlying aims of the Principal Act itself, which is to afford better protection to the citizens of this country against discrimination.

I thank you for your kind attention.

**Mr Speaker:** Hon. Bhagwan, I doubt that there is not much for you to say now!

**Mr Bhagwan:** Fortunately, you are here!

**Mr Speaker:** Unfortunately!

**Mr Bhagwan:** Not unfortunately; I am happy that you are here.

**Mr Speaker:** You have seen the parameters on which you can travel.

(11.13 p.m.)

**Mr R. Bhagwan (First Member for Beau Bassin &Petite Riviere):** Mr Speaker, Sir, I have decided to be very short at this very late hour, especially that we have to work until 0400 in the morning for the next Bill.

Mr Speaker, Sir, we are here to debate the establishment of an Equal Opportunities Commission, and we were here in December 2008 to debate on the same issue. There were lots of hopes in the country; people were feeling aggrieved. That issue was canvassed by all of us, the different political parties, over the years. We won't go and fight '*qui sane la ti en premier*'. The fact remains that we have to deliver and we have to bring a legislation, which will help people who are victimised.

Mr Speaker, Sir, had in December 2008 Government listened to the suggestion of the Opposition, today we would have been very far. *Nous aurions pu esquiver pas mal de cas de discrimination.* But, anyway, be it as it may, three years have elapsed and, today, we are being called upon to vote this Commission. We are happy to note that the hon. Prime Minister, after three years, has come to better terms - after having listened perhaps to his advisers, to the people - and has come here in the National Assembly to say that they are coming forward with the proposal made by the Opposition.

Mr Speaker, Sir, this Bill will be voted and will have the assent of the President. But what is next? The more important will be the duties of the Commission and the implementation. We have seen in the past when wrong choices are made. We trust those responsible, that is, the President, the Prime Minister and the Leader of the Opposition that, after consultation, the proper choice of a person to head this Commission is made. The public then will trust all the different

persons, the institution, the members or the commissioners. It would be their duty, Mr Speaker, Sir, to inform the population through awareness campaigns, through public relation, through sensitisation programmes, that now that there is this Commission, they are guaranteed against victimisation. I won't go into cases of recruitment, victimisation, or the case that has happened, of which we all know, because you will prevent me, Mr Speaker, Sir. This is the past, but it is here.

Il aurait été impossible de parler sur l'*Equal Opportunities*, si on prenait cette période noire de l'histoire entre 2005 à ce jour. Je ne vais pas revenir sur ce qui a été fait, tous les maux qui ont été causés au niveau des institutions, que ce soit du gouvernement et du secteur privé. Ce que nous souhaitons c'est que *le primary task of this Commission will be, at least, to go and see not only in Government bodies but also in private companies where there is a lot of fils à papa, des petits copains, des petites copines qui sont nommés à tort et à travers.* Even in parastatal bodies, and we have seen recently what has happened at the MTPA. I won't go into all the details.

Mr Speaker, Sir, Parliament is supreme. We are being asked to vote, and we will be doing our duty. It will be unanimous. The hon. Leader of the Opposition and even my hon. colleagues have mentioned the different sections on which we don't agree. This is democracy. There is no cause for shouting and so on. This is Parliament. This is democracy. I can't thank the hon. Prime Minister and don't agree on the other items. This is where, in Parliament, it is our duty, our responsibility as MPs, to come here and to say, within the parameters of the Standing Orders, where we agree and where we don't agree. This is what we have been saying - the hon. Leader of the Opposition and my colleagues.

Mr Speaker, Sir, if you allow me, I'll say a few words before ending. When we talk about equal opportunities, we cannot fail to remind ourselves the famous words of Animal Farm. We are all equal, but some are more equal than others. So, Mr Speaker, Sir, we have to ensure that there is real opportunity in practice. This is where we trust the Commission to be.

We have to ensure that there is real opportunity in practice; we should make sure that it is not equality name only, but in actual effect. This is where the Commission has a great responsibility towards the nation and across the board. In short, Mr Speaker, Sir, it should not be mere talk, we should walk the talk. Thank you.

**Mr Speaker:** I will suspend for five minutes.

*At this stage, the sitting was suspended.*

*On resuming at 11.28 p.m with Mr Speaker in the Chair.*

**The Prime Minister:** Mr Speaker, Sir, let me respond to some of the points raised on this Amendment Bill. The Leader of the Opposition started by saying: '*Que du temps perdu!*' According to him, we have wasted six years. This point was then repeated, over and over again, by other Members of the other side of the House - parrot like.

Mr Speaker, Sir, let me remind the hon. Leader of the Opposition and the other Members of the Opposition of some facts. The first time the idea of an Equal Opportunity Act was mentioned ever in Mauritius was by me, not in 1968, as hon. Obeegadoo was saying, but in 1990 when I became Leader of the Labour Party. I was not even a Member of Parliament then.

*(Interruptions)*

During the electoral campaign on the General Election of 1991, both hon. Xavier-Luc Duval and I canvassed the point, over and over again, in public meetings. But, they came to power in 1991. The idea had come to the surface. Did they take it up? No! Was it because the Labour Party and the PMSD were saying so that it was a bad idea? Let us look at the facts!

During my first term as Prime Minister, when the MMM was out of the Government, I asked the then Attorney General, hon. Razack Peeroo, to start preparing the legislation to give effect to equal opportunity. He worked with the State Law Office on this Bill and, believe it or not, Mr Speaker, Sir, you might yourself remember, when the draft Bill was nearly ready, some people started going around, urging people to oppose that Equal Opportunity Bill that we wanted to make. Maybe some of you have forgotten and maybe some of you must remember. Mistakenly, I suppose - not to put another word on it - they were saying that the Equal Opportunities Act that we were proposing would mean introduction of quotas, would mean positive discrimination at the expense of meritocracy. That was the campaign that was being made. I decided then ...

*(Interruptions)*

We must put *la pendule à l'heure, M. le président*. I decided then to counteract on this misinformed campaign – and articles were written in the press - that started to take root. I asked the Chairperson of the Commission for Racial Equality, in the UK.

On an advice from a friend of hon. Duval, Mr Cader Hossenally, he brought it to my attention: “why don’t you ask the Chairperson for Racial Equality in the UK to come to Mauritius.” I think his name was Mr Gurdev Singh. To come to Mauritius, try to explain! He is the Chairperson of the Commission for Racial Equality in the UK and he is of Indian origin; try to come and explain to those who were objecting to this Bill, what exactly equal opportunity meant. He did take up my invitation, he did come here and he did have meetings. It was on television; it was also in the press, with Parliamentarians equally - thank you for reminding me - and he told me, afterwards, he was really surprised that people could be against an Equal Opportunities Bill. He was totally surprised. We also started explaining in different meetings we were having that giving equal opportunity to all our citizens is the right thing to do. There is nothing to fear from equal opportunity.

After these campaigns, we were finalising the Bill when I called the 2000 elections. They came to power again in 2000. Now, there had been debates; people knew what equal opportunity meant. They came to power in 2000. The draft Bill was nearly ready; there was some fine-tuning to do, but it was nearly ready. When you hear them today, you would think they are now keener on equal opportunity than us. But if they really believed in equal opportunity, all they had to do, finalise the Bill - it was nearly done – fine-tune it if you wanted to do it and bring it to the House for a debate. We would have applauded.

*(Interruptions)*

No, that’s not what they did, Mr Speaker, Sir. That’s not what they did! They allowed it to stay in the drawer for nearly five years. You talk of wasted time! Another five years gone! 1991 to 1995! Another five years gone! They never brought it! What did they do? Only on the very eve of the General Elections of 2005! They then made some minor alterations, but they did not bring it to the House for debate. No! They gazetted it as if to let people have now their opinion. They gazetted it and then dissolved Parliament. So, it never came for a debate. They will say there was no time. There was time to bring the Budget forward to April, but there was no time for such an important Bill! There was no time!

*(Interruptions)*

These people are going to give us lessons, now! A Bill does not become an Act of Parliament when you gazette it for people to give their opinion. Everybody knows, the Bill has to come to the House before you can vote it.

*(Interruptions)*

These people are going to give us lessons, now! Always the same tactics, Mr Speaker, Sir! They never even thought of the Bill; the idea did not come to them; they never acted upon it, but on the eve of the General Elections, they then tried to show - they were bringing a Bill; they had gazetted it, stealing ideas from the Labour Party. Political gimmick - that's what it was, Mr Speaker, Sir! A political gimmick!

In 2005, we put it in our manifesto, in our programme; we brought it to the House for a debate not in 2010 but in 2008. It was adopted in 2008 and I remind them, the Opposition walked out when it was adopted. You forget! You walked out!

However, I did explain earlier - I don't want to go and repeat what I said, Mr Speaker, Sir - that we did not proclaim it because we saw real difficulties. If we did not want to do it, we would not have brought it in 2008. It's so simple. We would have brought it like you did, on the eve of the General election of 2010. But there were real difficulties when we looked at the details of the implementation of the legal, of the administrative, of the institutional changes, we were making to the structure itself of the National Human Rights Commission. The Protection of Human Rights Act itself was being relooked at. We have to relook at it.

The UNDP made some further suggestions and, as I said, it appeared that given the complexities of the implementation and what we were reviewing, how we were going to do it; we might end up diluting the effect of what we wanted to achieve. And I did acknowledge, Mr Speaker, Sir, and I give credit where it is due. The then hon. Leader of the Opposition did say, during the debate, that he thought we should not mix the Equal Opportunities Division with the National Human Rights Commission. We took that suggestion on Board, Mr Speaker, Sir. As we have been reviewing the National Human Rights Commission, we took that on Board and I acknowledge it. I am not afraid to acknowledge something that I find eventually when we were looking at the complexities of the law that definitely he was going to dilute it too much, that it is better to have it, and I acknowledge it.

This new Amendment Bill, Mr Speaker, Sir, brings new sections in the Bill including that separate Equal Opportunities Commission which will stand on its own. Mr Speaker, Sir, let me

just remind hon. Members on the other side of the House; I have heard a few said, Mr Speaker, Sir, that this Bill will not change anything. It is not now with this Bill that we will achieve an equal opportunities society. It is not this Bill which will achieve this. It is not today that we are going for an equal opportunities society. Ever since the existence of the Labour Party...

*(Interruptions)*

...we have relentlessly, brick by brick, building against all odds an equal opportunities society giving dignity to those who had no one to speak for them, the voiceless of this country. It started then. You know, they were talking about trade unionists; the right for workers to organise as trade unionists was given by the Labour Party itself. The universal right to vote, all this goes towards an equal opportunity to all adults and then, later on, to the young aged 18; at a time when Government had been in power for some time, we knew the difficulty. The then Leader of the Labour Party knew of the difficulty. It was made clear to him that people on the age of 18 tend to be a bit rebellious and they will vote against. He said: 'Never mind, that is their right, if they can fight for the country at the age of 18 they should be able to vote at the age of 18.'

We gave free health care. Again, Mr Speaker, Sir, I don't want to go through a long list. But one thing I must say, giving free education in 1977, what greater achievement; that was the goal of equal opportunity to the young of this country and the very people who are sitting on the opposite side voted against it. They were against - 'it was a bribe', when it was, in fact, a reality. That was the greatest leap forward towards giving real equal opportunity. Mr Speaker, Sir, I won't go into the details, what we did afterwards: free transport for students, again, in the same empowerment programme; granting land to ex-CHA workers, all this goes towards equal opportunity, Mr Speaker, Sir; provision of crèche for mothers, you know how much that is going to empower mothers to be able to do what they want to do, to get their emancipation, Mr Speaker, Sir,

I don't want to go through the whole list, but it is a whole gamut of things, granting land to ex-CHA workers, Empowerment Programme, fight against poverty, social integration, all this towards giving people - those who had less chance in life - at least an opportunity to get to the level playing field. That is what we are doing and that is the follow-up with this Bill today.

I must say, Mr Speaker, Sir, it is beyond belief. I could not believe I was hearing this from hon. Obeegadoo when he said, and I quote - I wrote it quickly, and I think he said -

*"Avant cette loi de 2008, il n'y avait aucune loi pour proscrire contre la discrimination."*

I find it *incroyable, surtout venant d'un homme de loi*, because he forgets about our Constitution, Mr Speaker, Sir; our Constitution of 1968, which has not one section, but a whole chapter, namely Chapter 2 which enshrines this protection of fundamental rights; a Constitution which talks against discrimination - that you cannot discriminate. That is the supreme law of the land. That was done in 1968. I must tell you that eminent lawyers came to Mauritius to look at Media law, Privacy law and all those things, and they were surprised. I am talking about QCAs, eminent lawyers. They said that they were surprised that our Constitution - because there are other Commonwealth countries, former colonies of the British Government which have Constitutions as well - has gone further in the protection of human rights. Many of the provisions of the European Human Rights legislation are actually - not all - in our Constitution. That was their surprise.

The Leader of the Opposition and other Opposition Members have been saying this Bill will not stop discrimination; opposite to what happened in 2005, when they said there was no meritocracy. I heard hon. Shakeel Mohamed asking them to give some examples. Let me tell the MMM that they forget what they did in 1982 when they came to power. They amended the Constitution in order to institutionalise the sacking of career Civil Servants. I can give you many names. And you know what is surprising? Hervé Duval - I give you one example - was the brother of Sir Gaëtan Duval, who had campaigned against us in the 1968 election. After we won in 1968, Hervé Duval, the brother of Sir Gaëtan Duval, was promoted - not sacked - because we believe in institutions, and we believe in people. And now they will pose as *donneurs de leçons*! Mr Speaker, Sir, I won't go into the details. The list is exhaustive, and if I keep going we won't have time to take the other Bill.

Let me come to some of the other points raised. The Leader of the Opposition said - and I think others also - that the definition of impairment should have included HIV/AIDS. But HIV/AIDS is already covered in the definition of impairment. Let me read it, Mr Speaker, Sir. The definition says -

“total or partial loss of a bodily function”.

But then it says -

“the presence in the body of organisms that may cause disease”.

That includes the virus, obviously.

Section 2 defines it under status: impairment. Section 5 talks about discrimination on the ground of status. Again, it includes impairment. Invariably, impairment includes HIV/AIDS. But it has to be broader; we cannot just specify each and every disease that a person might have and might be discriminated against. I will give you an example which is more striking. Suppose somebody has psoriasis. It is seen, it is visible, and some people do not want to touch that person. Some people have vitiligo - I have seen - and people stay away from them. All these are visible, but this is also provided in this law. So, by a careful reading of section 2 and section 5, we will see that we have not limited impairment, excluding HIV/AIDS. It is not true; it is a misreading of that section.

The other point raised by the hon. Leader of the Opposition was discrimination against trade unionists. He has deplored the fact that we have amended it but failed to provide for non-discrimination on the ground of membership of a trade union. Mr Speaker, Sir, there is no need to amend the Equal Opportunities Act for that purpose.

Section 31(b) of the Employment Relations Act of 2008 which we brought already provides that no person shall discriminate against, victimize or otherwise prejudice a person seeking employment because of his past, present or anticipated membership of a trade union or his participation in the formation of a trade union or a worker for his involvement in trade union activities.

It provides effective remedies for discrimination on the ground available under the Employment Relations Act. If we are to get every bit of legislation, put it back again, I don't know what size that legislation would be. We already have remedies related to employment problem for trade unionist, Mr Speaker, Sir. There was no need.

Mr Speaker, Sir, there was also - I am talking about the main points – the saying about your rights to challenge discrimination. They say that we are, as if, taking away the right of somebody. I think the hon. Leader of the Opposition mentioned – I can't remember what word he said. It was a *chantage légal* - that somebody has to do his waiver. But, Mr Speaker, Sir, what are we doing? All your rights to challenge discrimination under the Constitution are preserved. I have explained it earlier on. Most ordinary rights, created by statutes can be waived by agreement on your own choosing. I am talking about ordinary rights, they can be waived. Sometimes you make an agreement and you decide not to go to court.

Mr Speaker, Sir, all we are saying is that we are providing for a cheaper, simpler, fast tract remedy, with a fairly substantial - potential - remedy in this law. I don't know whether they looked at the law as it was in 2008 before.

We have taken on board some of the points that the Opposition raised. The 2008 law said that the Tribunal will not even entertain a case if the case is going before the court. So, to say that it was viciously drafted or abhorrent is an insult to the State Law Office, Mr Speaker, Sir. They do not go into politics, they go and tell us what the law is, what we can do, what we can't do, what we should do; they give us advice. And like in any other case parties can agree, it is a question of agreement. What we do not want is somebody to have two bites at the same cherry. That is what I explained in my Bill.

Above that, section 41 provides for an appeal. It gives you grounds still open to an appeal of the Supreme Court on a number of legal grounds that are in the Bill itself. So, you are not forfeiting your case to go and appeal to the Supreme Court. That is not there. It's simply not there. All we are doing is to provide a remedy which is faster, cheaper and will take less time. That is what we are doing, Mr Speaker, Sir. And then, I noted a few remarks. I think I should make the point – hon. Bodha was the last person to make that point, the Leader of the Opposition made that point – about the power being given to the Prime Minister, the President will act on the advice of the Prime Minister who will consult the leader of the Opposition. It's a mistake. Lawyers should go and look back at the law. It is a huge mistake if you think even the law as it is that the President does not have to consult the Prime Minister. Section 64 of the Constitution says that the powers must be exercised on the advice of Cabinet or of a Minister.

Section 64, therefore, is limited. It only limits the power of the President; it only gives him certain powers when he is acting upon his own deliberate judgment. Otherwise, no! Even the simple laws that they have passed, you cannot say the President will consult the Prime Minister and the Leader of the Opposition. Even if he consults - but this has not happened, I have a relationship with the President that we have not had to come to that - he is bound – go and look at the law – to take the advice of the Prime Minister at the end of the day. It would not be inoperative to read this without looking at section 64. Whether the issues will have to be relooked at when we talk of electoral reform, we will look at it, I am sure, not just Carcassonne, *surtout le MMM*, they are keen on it, we have also said that we are keen; you were never keen on it; so, we are not going to worry about you, but we will discuss it.

*(Interruptions)*

You must have a plain reading of section 64 before you say so. I am sorry but I have to say it. Under section 64 (1) the President has to exercise all his powers under an ordinary law on the advice of Cabinet or a Minister or, if need be, the Prime Minister, if the Prime Minister is the Minister concerned, acting therefore under the authority of Cabinet, unless the Constitution says otherwise. The power to appoint is vested in the President under this Act, Mr Speaker, Sir, not under any other Act. He will have to act on the advice of Cabinet or the Minister. There is a Court case on this, I think the Dayal case, if I am not mistaken, saying this, Mr Speaker, Sir.

These were the main points that were made during the debate. I have responded to the main points. Others were just repetition of the same points. But, Mr Speaker, Sir, I say, again, let no one doubt - and I think hon. Bodha said he wants a guarantee from me that this will be proclaimed. I can tell him we will not do what they have done. We will proclaim it. We will have to choose people, of course. It is not easy - as he knows it himself - to get the right people, but we will find the right people and we will proclaim it. When we brought in the National Human Rights Commission – it was us who brought the law by the way - we looked for people but nobody was interested and I said so in Parliament. Again, let me assure the House, that is the whole idea of bringing this, we have taken time, I agree and I acknowledge it, but I give him a guarantee that I am sure we will have to find somebody who will accept to do the job. There is a bit which says: “on terms and conditions as the President thinks fit”; if we think we have to broaden and enlarge it, I will talk to the President, but certainly our intention is to bring another step forward towards an equal opportunities society.

Thank you, Mr Speaker, Sir.

*Question put and agreed to.*

*Bill read a second time and committed.*

## COMMITTEE STAGE

*(Mr Speaker in the Chair)*

### THE EQUAL OPPORTUNITIES (AMENDMENT) BILL

**(No. XXII of 2011)**

*Clauses 1 to 9 ordered to stand part of the Bill.*

*Clause 10 (Section 35 of principal Act amended).*

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

**The Prime Minister:** Mr Chairperson, I move for the following amendment in clause 10

—  
“In the proposed new subsection (5), by adding the following new paragraph –

(c) In this subsection, “civil proceedings” does not include an application made under section 17 or 83 of the Constitution.”

*Amendment agreed to.*

*Clause 10, as amended, ordered to stand part of the Bill.*

*Clauses 11 to 13 ordered to stand part of the Bill.*

*The 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 Mr Speaker in the Chair, Mr Speaker reported accordingly.*

*Third Reading*

*On motion made and seconded, the Equal Opportunities (Amendment) Bill (No. XXII of 2011) was read the third time and passed.*

*Second Reading*

**THE BAIL (AMENDMENT) BILL  
(NO. XXVII OF 2011)**

*Order for Second Reading read.*

(10.56 p.m.)

**The Attorney General (Mr Y. Varma):** Mr Speaker, Sir, the Government Programme, at paragraph 23, *inter alia*, that Government will introduce a new Bail Act and that Courts will be able to impose a curfew mechanism on detainees and order them to wear electronic bracelets.

The Law Reform Commission, in its annual report for the year 2009 and in its report on “Bail and other related issues” has recommended the introduction of electronic monitoring devices, which will monitor the location of a detainee who has been granted bail, as one of the conditions for the release of a detainee on bail.

Before bringing amendments to an Act as important as the Bail Act, it was imperative to engage in a wide-ranging process of consultation. In that regard, I chaired several meetings, which were attended by various stakeholders including -

- (a) the Prime Minister's Office;
- (b) the Office of the Director of Public Prosecutions;
- (c) the Police, and
- (d) The Ministry of Finance and Economic Development (which was present due to the financial implications of the Bill).

I have to add that my office also had the benefit of Sir Victor Glover, Kt, GOSK, Legal Consultant to my office, in the drafting of this Bill.

Further, the Bill was circulated to the Bar Council, which endorsed the proposed amendments. I have to add that one member of the Bar Council, expressed some reservations as to whether the new proposed amendments, more particularly clause 8 of the Bill, will make the granting of Bail more restrictive. This view was not shared by other members of the Bar Council and by my office.

The Judiciary was also consulted in relation to this Bill and I have to add that the Master and Registrar, has informed my office that the Chief Justice will make arrangements for Court sittings on Saturdays, Sundays and public holidays from 1000 to 1400 to deal with hearing of Bail applications made by persons arrested during weekends, on Fridays and on the eve of public holidays. Mr Speaker, Sir, I will refer to my reply to PQ B/597 wherein I assured the House, upon a question put by the hon. Second Member for Port Louis South and Port Louis Central that the law in relation to weekend custody will be reviewed. Mr Speaker, Sir, not only have we taken on board what the hon. Member has requested ,but we have gone one step further as we have consulted the Judiciary and have received the commitment from the Judiciary that there will be Magistrates available to hear bail motions on Saturdays, Sundays and public holidays. This is a marked improvement on the concept of duty Magistrates and will no doubt reinforce the constitutional right to liberty of our citizens.

Mr Speaker, Sir, this Bill aims at revamping the Bail Act with a view to providing a better framework for the administration of the statutory provisions pertaining to bail. The Bail Act dates back to 1999 and has been amended in 2002, in 2004 and in 2009. The amendments brought to the Bail Act were not of a comprehensive nature and the draft Bill aims at

significantly improving the legislation which is of paramount importance both in respect of law and order and respect for human rights.

Mr Speaker, Sir, the Bail Act must be read together with sections 1 and 5 of the Constitution, which guarantee the right to personal liberty and which preclude any automatic denial of bail even when the suspect is charged with the most serious offences. As investigations have become more complex, it is crucial to have modern methods of monitoring detainees at the pre-trial stage. It is in this context that the introduction of the electronic monitoring mechanism has to be seen. In the case of *Islam v Senior District Magistrate, Grand Port District Court, 2006 Supreme Court Judgment 282*, the Supreme Court observed as follows -

“10. The fundamental proposition of our law is that bail is a judicial matter so much so that even Parliament cannot by legislation seek to encroach on the power of the judiciary to deny bail to a defendant. Our case-law on this aligns itself with that obtains in developed jurisdictions in the matter: more specifically, the Strasbourg jurisprudence on the European Convention, the text of which is very much similar to Chapter 2 of our Constitution, often referred to as our Bill of Rights.

24. Well-advised jurisdictions have addressed the issues with advance research and planning. A modern bail law in a society becoming more and more complex and impersonal, demands modern methods of monitoring. Logistics have combined with organisational structure, tools have vied with technology and means complemented with method. Thus, with all the guarantees of a citizen who is deemed innocent until proved guilty under our Constitution, the new devised system has treated its citizen released on bail in such a way that he is not released as a hazard whether for himself or the public.

25. Each country has developed its own home-grown system proper to its demography, land mass and other socio-geographical factors. For example, a good many countries as early as the eighties adopted the electronic tagging system. A device is placed on the person which sends a signal to a transmitter in the offender’s home and relays it to a central control. Where appropriate, this system is coupled with other conditions imposed on suspects such as night-time curfew, for example, from 19 00 to 07 00 hours, a ban on using mobile phones and the internet, obtaining permission from the authorities to meet anyone outside the home(...).

31. In Mauritius, the monitoring mechanism in bail administration has remained old fashioned. Our primitive tools and techniques are today the greatest obstacles to the promises of our law and to an enhanced promotion of the enshrined guarantees of our Constitution. They may also arguably present a serious and real threat to security. The ill-served detainee may be paying for the short-comings of our present system by his inevitable detention and the citizen by a compromise of his other human rights.”

Mr Speaker, Sir, having regard to the comments of the Supreme Court in the case of Islam, it is clear that we have, with this Bill, legislated to put our Bail Act in tune with modern times and in line with the right to liberty as enshrined in our Constitution.

- (a) Mr Speaker Sir, in addition to the issues I have delved into before, I have to add that some other significant amendments which the Bill seeks to bring to the Bail Act are as follows - the introduction of a new section 3A, which provides that bail applications should be heard and determined within the shortest delay. I have to add that the hon. Chief Justice is in agreement with this proposed amendment. Mr Speaker, Sir, the hon. First Member for Savanne and Black River raised the issue pertaining to delay in delivering bail rulings (in PQ B/587) and, as undertaken by me in this House, due consideration has been given to his views;
- (b) the amendments to be brought to section 4(2) of the Bail Act purport to introduce new considerations which the Court may take into account before exercising its discretion to release a defendant or detainee on bail;
- (c) grounds for refusing bail (under section 4(1) of the Bail Act) are clearly distinguished from factors or considerations (under section 4(2) of the Bail Act) to be taken into account when determining whether or not a defendant or detainee is to be released. It is proposed, in line with the view of the Office of the DPP, to amend section 4(1) (b) to introduce a new ground in relation to refusal of bail. This new ground is in line with the jurisprudence of the European Court on Human Rights and relates to the preservation of public order;
- (d) the proposed amendment to section 5 of the Bail Act seeks to cater for the situation where a defendant or detainee is unable to provide surety. It will be possible with the amendment for the Court to impose conditions of a non-

financial nature for his release on bail. Such a provision will ensure that the Bail Act affords equal treatment to those who have means as well as those who do not;

(e) the proposed amendment to section 7 of the Bail Act will ensure that the legal framework, in relation to the other conditions, which may be imposed by the Courts for the release of a defendant or detainee on bail, is more comprehensive than the very general form in which the section actually stands. Thus, the proposed amendment sets out, in detail, some of the conditions which a Court may impose on a defendant or detainee who is granted bail, and further provides for the possibility of imposing the wearing of an electronic bracelet on a defendant or detainee who is released on bail;

(f) provision is also made in the proposed section 7(3)(c) of the Bail Act (to be introduced by clause 8 of the draft Bill) for a Court to impose a condition with regard to the restriction of the movement of the defendant or detainee after 6 p.m. This is usually referred to in other jurisdictions as a “curfew order”. This amendment is in line with the Government Programme 2010-2015, where it was proposed to introduce the concept of curfew orders in our law;

(g) section 12 of the Bail Act will be amended to allow a police officer not below the rank of an Assistant Superintendent of Police to release a detainee on parole during weekdays as well as during weekends, where the detainee cannot practicably be brought before a Magistrate. With such an amendment, the right to liberty of an individual will be further enhanced, as if the detainee will be kept in custody only if a police officer below the rank of Assistant Superintendent of Police certifies in writing that he has reasonable grounds to believe that, if released, the detainee is likely to fail to comply with section 12(2) of the Bail Act, to tamper with evidence, to interfere with witnesses, to commit another offence or to put his own security at risk;

(h) further, the draft Bill seeks to amend section 22 of the Bail Act to provide for harsher penalties, *inter alia*, for persons who breach conditions of bail and for sureties who fail to ensure that persons for whom they stood as surety adhere to the conditions imposed by the Court on them. This amendment, Mr Speaker, Sir, is also in line with paragraph 23 of our Government Programme 2010-2015;

- (i) a new section 23 in the Bail Act to provide for the liability to be arrested for breach of conditions of bail. This new section will allow the police to monitor persons released on bail and ensure that persons who breach conditions of bail are faced with the real possibility that they will not be granted bail by a Court, which will have to determine whether such persons may be released on bail subject to the same or different conditions or should be remanded in custody.

Mr Speaker Sir, this Bill will provide the Police and our Courts with enhanced powers to ensure that defendants or detainees comply with conditions of bail. The Bill, therefore, aims to strike a proper balance, in accordance with our Constitution and human rights principles, between the right to liberty of the individual and the protection of society. We have sought and obtained the views of all relevant stakeholders and we have taken on board their concerns to come up with a Bill which represents a consensus in an area where the delicate balance between law and order and right to liberty requires a careful balancing exercise.

I will end, Mr Speaker, Sir, by thanking the officers who have worked hard on this piece of legislation. I also thank all the other stakeholders who have contributed in the drafting of the Bill.

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

**Mr Choonee rose and seconded.**

(00.11 a.m.)

**Mr V. Baloomoody (Third Member for GRNW & Port Louis West):** Mr Speaker, Sir, there is no doubt that at this early morning we are called upon to vote a very important Bill - a Bill which goes to the fundamental principles of our Constitution with regard to the right to liberty. It comes at a very important time because we know actually there is a total confusion, be it by the police, be it at a certain level at the Judiciary about that issue: the right to bail. Why I am saying that there is total confusion is because since 04 July this year, when the Commissioner of Police decided to issue a circular addressed to senior officers informing them *noir sur blanc* that in all circumstances of the case, whenever somebody has been on bail for whatever offence and if there is another allegation against him, although he has not been tried yet for the first offence, they should object to bail, and this has created very much hardship, confusion and even administrative problem for the police and for the Judiciary. Why administration problem for the police? It is because, first, there is no place to keep people either in police cell or in the remand centres; secondly, administration for the courts: the court is already overburdened with cases that now they have to hear - merely frivolous objections by the police. I asked a question to the hon. Prime Minister - I don't have the exact number - but he said that since the coming into operation of this circular there were around 240 objections by the police and only around 40 were allowed bail. These 40 who were allowed bail, Mr Speaker, are those who have the means to retain services of Counsel and make a motion to be released on bail. In most of the cases - I have made it a must today to contact some lawyers who practise in the criminal field - where motion has been made for release on bail, because the only objection is that the accused party, the suspect was already on bail, the court has granted bail. But what that decision meant: that the accused has spent, at least - minimum - more than 8 to 10 days on remand. By the time you make the motion the prosecution asked at least for three days either to retain services of State Law officers or for the Prosecution to be ready. By the time the Magistrate hears the case, judgement is delivered in other three or four cases. When you include the weekend, this accused party has spent already a minimum of eight days in remand just because of a circular by the Commissioner of Police. I can tell you those senior officers who have taken it upon themselves, especially in the North, have had to give written explanation as to why they have released somebody on bail because the offences are not cognate. They have had to give written explanation why they have released somebody on bail. This is why I say that this Bill is important, but coincidence wants it

that 12 years ago, exactly day to day, on 30 November 1999 the then Attorney General, hon. Razack Peeroo, presented the Bail Act. I was the one who responded and I said the thing that if the institution does not work, if all the parameters are not respected by the institution, you can bring whatever good law you want, it will not work. This is why, assuming that other things being equal, assuming that the Judiciary gives priority to liberty, assuming that the police officers do their work as it should be, object when really they have evidence, not object for the sake of objecting, this amendment will be a good one, but otherwise it will be the same. We will return back to the original position, to the position that we are actually. I said it 10 years ago, *jour pour jour*, I am saying it again and this is what it will be.

Mr Speaker, Sir, in the case of the late gentleman who passed away in the police cell, the hon. Prime Minister, himself, in a reply said that they could not bring the suspect, although he was arrested early morning on that day, to the Magistrate Court because the Magistrate was so busy with other cases when the law requires that once a person is arrested, he should be brought before the Magistrate at the first opportunity. I know cases personally and, if need be, I can give the name of the cases to the hon. Attorney General where an accused party was arrested early morning in the North again. His inquiry was completed at 1 p.m. That accused party was brought to court at 1.30 p.m. and the Magistrate said it is too late, he is not going to take the provisional, and to come tomorrow morning. There were accused parties: the one who committed the larceny and the one who was charged with possession. Both had to return to police cell to spend one night and it was the next day that it was done. This is because some Magistrates have imposed administrative management on their own court and they have decided that no provisional will be lodged as from 1 p.m., and they will have to come in the morning. In that case, the inquiry was completed and the accused was released the next day early morning, but he had to spend one night in jail.

This is why I am saying we have to ensure that whatever objective Parliament set, whatever mission Parliament set, it has to be respected by institutions whether they are independent or not, but they have to go with the philosophy of what we are deciding in this House. This is why last time in my speech on the Budget, I said that we should not have *une justice à deux vitesses*. When we say that we are trying to make *la justice* affordable to everybody, on the same day, we have a circular from the Supreme Court saying that they are going to increase fees by 900%, making it more difficult and, in some cases impossible, for those

who want to claim damage, to lodge a case in court. The Judiciary is independent, yes; the Judges can make their rules, yes; but it must be according to the objective of our Constitution, it must be according to the objective of the law of the land.

Mr Speaker, Sir, after having said that, what is the situation now *sur le terrain*? Let us forget about Saturday bail out! The hon. Prime Minister himself said in reply to a question I put to him that only on two occasions there have been magistrates sitting on Saturday last year. Who will believe that only on two occasions there was a need to release somebody on a Saturday? We know the case of that little boy, a juvenile at Richelieu, who had to spend one night in jail on a Friday because there was no Magistrate available. It was a last Friday and we know there is a Magistrate on last Friday. But, on the same day, there was a Magistrate for another personality. I do not want to name him and he was released on the same day at Mahebourg District Court - the ex-Chairman of a parastatal body. What I am saying again is that we have to have equal justice for everybody and this justice must be accessible. There is an ex-Judge of a Supreme Court who said that when it comes to liberty, the court should be open 24/24 if need be. In some cases, we have been able to approach Judges to ensure that somebody is not arrested or somebody is released on bail because it was frivolous. Fortunately, we still have a Supreme Court, we still have Judges who are prepared to listen to cases even if we have to wake them at home. But, unfortunately, not all accused parties get this opportunity, not all accused parties can retain the services of a counsel who has the courage to phone a Judge and say: "I am coming to see you."

*(Interruptions)*

It is not a joke, it is serious! Not everybody can do that! This is why I say this is an important piece of legislation, but its importance will be increased if it is operational and it is working.

Now, let me come to the Bill, Mr Speaker, Sir.

*(Interruptions)*

Yes, now I come to the Bill! It was very important to put that Bill *dans le contexte*. I am saying another thing – the hon. Minister of Civil Service is not here. He said that now civil servants will be made to work on Saturdays. I will tell him before he starts work on Saturdays he should ensure that the cashier at the Judiciary works at least from 9.00 a.m. to 4.00 p.m. You know how many people had to spend an evening in jail because, although the Magistrate has given bail, you cannot pay at *la caisse* which has been closed at 2.30 p.m. We know of many cases. In some cases, some gentlemen do agree to wait, but others do not bother, they say that they have to bank

the money before the bank is closed. Can't we have a little safe in these courts to keep the money? They can go to the bank tomorrow, that is, the next day. Why do you have to close *la caisse*, especially when it comes to liberty? How many people had to spend the night – we know it, we are practising barristers here. The bail is granted, but then there is nobody at *la caisse*. One cannot be bailed out because of that. These are practical issues that are very important and which I hope the Attorney General - I am very happy that the Prime Minister is around to listen to what I am saying, because he is responsible of the Judiciary - should raise with those who are concerned with the administration of justice.

Mr Speaker, Sir, there is no doubt that this Bill gives the Magistrate a larger ambit when it comes to reason why to object for bail. Previously, there were only four or five conditions; now, it gives the court a larger ambit. The objective of the Bill is a “prompt hearing and determination of bail applications”. Clause 3A of the amendment which referred to hearing of bail applications says -

“The Court shall endeavour to hear and determine any application for bail within the shortest delay.”

But this was in the law before. We should tell the court that they should give priority. Shortest delay can be tomorrow morning or the day after. The objective of this Act is “the prompt hearing and determination of bail applications”. But if tomorrow morning I go to court and I say -

“I move that my client be released on bail”.

The Magistrate just takes his book – they call it a sitting book – and says -

“The earliest I can give you is next Friday or early Monday”.

This is how it happens. And I will stand and say -

“The law says that you should give me the bail within the shortest delay.”

The reply would be -

“This is the shortest delay I can give you. My court is booked with so many cases for the next five days. The shortest delay is in five days or in three days.”

We should have it in the law that the Magistrate should give priority; the court should give priority when it comes to bail application over any other cases. Cases do postpone for absent of witness. Mr Speaker, you have been an Attorney, you know. But what is it when it comes to a constitutional right? We will give priority to a case which has been on the roll for six/seven months when it comes to the rights of a citizen. I would have preferred that we amend

this clause and say that the court is endeavoured to hear and determine bail applications as a priority; a bail application should be heard as a priority.

Secondly, Mr Speaker, Sir, let us see at the reason and here I will have probably to ask the hon. Attorney General for some clarification. It is good that the court will take into account the period for which the defendant or detainee has already been in custody, but then this will come when the court considers a bail application. But we have cases of the Supreme Court where the court has said that if somebody...

*(Interruptions)*

The case of Islam itself as referred to by the hon. Attorney General, the court says to Prosecution: "This is a serious offence. That gentleman has been in custody for so long. Because it is a serious offence, I am not going to grant bail now, but if you do not lodge the case within such a period, I will release accused on bail." It was an Assizes case. It is not a question of considering the detainee. Some Magistrates do inform the Prosecutor: "Next time, I will release bail or I will strike out the provisional." But I think it is time that it should be in the law. There should be a certain period of detention. There are people on bail for more than a year, two years now. People are waiting for Assizes judgment, they are on bail; case is over for more than six months.

**Mr Speaker:** I do understand the scope of this Bill and I think the hon. Member was right in order to connect the argument with this Bill to say what has been said. But now by trying to say that there are so many cases waiting at assizes or judgment waiting at the assizes is a matter for the administration of Justice and cannot be taken up here. So long that the hon. Member is going to connect the delay in terms for the release of accused party promptly, because the courts are not acting promptly, I will allow him to do that because one of scopes of the Bill is the prompt hearing and determination of the bail. I will allow him to do that. But he cannot travel too far and say that there are judgments of the Supreme Court which are waiting.

**Mr Baloomoody:** I will go, of course, by your ruling. But what I am saying is that when somebody is on bail, this Bill deals with a prompt hearing of bail, so, prompt release of somebody, gives him his liberty, but it erodes pending the trial as well.

**Mr Speaker:** But once an accused party has been released on bail, he regains his liberty.

**Mr Baloomoody:** Yes.

**Mr Speaker:** When the case is lodged, it is a matter for the administration of justice.

**Mr Baloomoody:** Why I am saying so is because under this Bill, the detainee is defined as somebody who is arrested or who is also awaiting a judgment. Anyway, I won't differ on this argument.

Now, let's look at section (b), we are asking the court to look at the nature and gravity of the offence with which the defendant or detainee is likely to be charged and the nature of the gravity and this is already in the law. But section (c) is something which may be interpreted in one way or the other by the other Magistrates unless they are given some guidance by the law, the character, association, means, community ties and antecedent of the defendant on teenagers. Now, it is the first time in our law where to have one's liberty, one has to look at your means. I don't know why. What does the means has to do? If I am the owner of three houses and two bungalows, it is easier to get a bail than if I am a tenant of a CHA House? What does community ties mean? It has to be defined because it is not defined in the Act. Concerning association, by association with what? Is it with a trade union? Is it with the MMM or is it with the Labour Party? Are these things that we are going to consider now before giving bail? And it is not defined.

*(Interruptions)*

No, but this, like I say, is the first time to acquire one of the basic, fundamental and constitutional right, the court will have to consider my means. This is where I need some clarifications and I hope that like I say it can be either way. Somebody with means, we can say alright he will buy a boat and leave Mauritius, you will object to bail. Or somebody with means will buy an airplane or a helicopter and will fly away. But if it is not properly defined, and if we are not properly guided with some proper guidelines, this can be a dangerous tool with regard to our liberty.

I will leave others for my other friends because we have got other colleagues as well who will address the issue. I am taking the other conditions which the court may impose, resides in a specific area, we have no problem. I want some clarifications on page 5 with regard to other conditions of release on bail. Subsection (3) Conditions imposed under subsection (2) may include –

- (a) the reporting in person by the defendant or detainee at a specified time and place or to a specified person or authority;"

Now, we know that very often people are released on bail and they are called upon to call at the Police station nearer to their house to report once a day or between 'x' or 'y' hours to the Police station. But now we are enlarging it to a specified place and time to a specified person or authority. Who will that be? I am released on bail, but I have to report to a specified person or authority. Who is that authority? Let's have it clear. Do I have to call to Mr 'x' or Mrs 'y'? I don't know. The condition has to be clear. Now, it is well defined, you have got to report to a Police station. But who is that person or authority? I am a bit worried about this one.

Concerning the introduction of bracelet, okay, we are introducing it, but already there is some confusion in the mind of certain people as to how this will work, how it is going to be operated and where shall we wear this bracelet. Are some employees going to be discriminated against some workers who wear bracelets? Will the hon. Prime Minister employ somebody in his office with a bracelet?

*(Interruptions)*

He has said 'no'. So, these are issues that we will have to look into and how it will work in practice.

Now, concerning the question of prohibition order, the hon. Minister is amending by deleting the words "A Judge or a Magistrate" and replacing them by the words "A court". It says the court may impose a prohibition order. What is a prohibition order? It's not to leave Mauritius, that's clear in the law. But do you know, Mr Speaker, Sir, that in Rodrigues, the District Magistrate there takes on herself to impose prohibition order prohibiting people to leave Rodrigues to come to Mauritius to work. And this is creating considerable hardship because these men are the breadwinners of a family. They come to Mauritius to work and send money to feed their families. They have had problems with the court, but we should not impose prohibition order prohibiting them from leaving Rodrigues when Rodrigues is part of Mauritius. Here, again, this is an issue which has to be addressed. This has happened recently in Rodrigues. The case is over now, but it has happened. They have been prohibited from leaving Rodrigues and they have not been working for months. The end result is that their wives and children are not being fed.

As regards the issue of releasing during the weekend, it is beautiful on paper. Section 9 (a) (1) –

“Where a detainee arrested in respect of an offence cannot practicably be brought before a Magistrate, he shall be released on parole unless a police officer not below the rank of Assistant Superintendent (...)"

Can we find one during the weekend? Is it easy to lay hand on them? In my budget speech I said it. According to my information, in Port Louis South, there are eight Police Stations. Can we imagine somebody arrested in one of these Police Stations and we have to look for that Superintendent? There is only one Superintendent and, very often, in Port Louis, on a Saturday or a Sunday, he is either at the Champs de Mars or if there is an official function, he is there. The Police is not properly manned. There is a lack of Senior Officers. In the Northern Division, there is only one Superintendent of Police for 13 Police Stations. The Police will tell you that they are trying to get the Superintendent to sign that document for him to be released on parole but, unfortunately, they can't get him, he is busy. And if he manages to get him, then he will say alright, in which Police station because he controls 13 Police stations. Now, he will have to look at the file and by the time, it's Monday. I am talking about practical things which we live everyday. Again, on paper it looks nice, but is the Police today properly manned? Especially Superior Police Officers, do we have all the posts filled? Do we have sufficient Police Officers at the top to take these decisions?

Another important amendment which I have to address - I have spoken to my friend, the hon. Attorney General - is section 23 - Liability to arrest for breaking conditions of bail. Look at what this amendment says. Let us be clear. The law as it is now states that you are released on bail, you call upon a person to stand as surety for you, and the police are the ones who will object for bail. The court grants you bail, you call on Mr X to come and stand as surety for you. What does the amendment say? If that Mr X writes to the police and says that he has reasonable reason to believe that the accused will not surrender, the police can go and arrest him without a warrant. Where are we going? Do we know what *chantage* this will make against people? Every month, Mr X will come and say ‘give me some money, because if you do not give me money I will write to the police.’ There might be pressure by the police themselves to tell these people to write because they are not happy that this gentleman has been released on bail. The magistrate has given bail, and they want him back inside again. So, they put pressure on the surety ‘*degaze twa ale écrire ene lette avoyer, sinon nou pou arête to mem.*’ He writes a letter, and the police arrest the gentleman without a warrant!

At the same time, we have in our main Act, a section where that surety has to convince the magistrate. Section 9 - discharge of a surety - tells you that a surety may apply to a judge or a magistrate to be discharged from his obligation as a surety. He applies to the judge or to the magistrate! No surety shall be discharged from his obligation unless he surrenders before the court the person for whom he stood as surety. He himself brought that gentleman, and he has to explain to the satisfaction of the judge and the magistrate why he is withdrawing his surety.

Now, we are coming with an amendment to give the police the possibility to re-arrest the gentleman if the one who stood as surety writes a letter to the police and says 'I have reason to believe that Mr Baloomoody will not surrender'. So, the police come and arrest me. Where are we going? Are we improving the law? I am afraid not! These are certain things on which I wanted to address myself and my learned friend, of course, will raise other issues.

This is why we say that, if truly we want to amend this law, if truly we want to make the spirit of our Constitution respected, we need to have a clear law. We need to look at the points I have raised as to whether amendment has or does not have to be brought, and make sure that our institutions which are supposed to apply this Act do function in the spirit of our Constitution and in the spirit of liberty.

I have done, Mr Speaker, Sir.

Thank you.

(0.44 a.m.)

**The Minister of Business, Enterprise and Cooperatives (Mr J. Seetaram):** Mr Speaker, Sir, firstly I wish to congratulate the Attorney General to come up with the Bail (Amendment) Bill. As I shall point out, this Bail Amendment Bill concerns the fundamental constitutional right of liberty of the defendant or detainee, and this amendment concerns first and foremost the quick hearing and the determination or conclusion of bail application promptly, in the shortest possible delay. Further, it also concerns all requirements considered by the court, where they should take into account factors to assess the risk involved to decide whether to release a defendant or detainee on bail or not, conditions imposed by a court for the release on bail, including subjecting the defendant or detainee to an electronic monitoring mechanism, and also the liability of a person released on bail to be arrested for a breach of the bail condition.

I would like to point out at the outset that this amendment moves forward to establishing and providing a proper guideline to ensure liberty of the defendant. It states clearly the one who

has been committed to stand trial or where there is notice given for appeal or application for judicial review, or one whose trial on a question of law has been reserved for the opinion of the Court of Criminal Appeal.

I would also like to point out that this amendment states clearly that the court shall endeavour, Mr Speaker, Sir, to hear and determine an application for bail within the shortest delay; that is to say it takes an exceptional step to hear that application. This is not the routine application for any other case. *Per se*, by the shortest possible delay, the application for bail should be heard and should be determined, that is, itself giving priority to that hearing of the bail application. So, *de facto*, it means that shortest possible delay gives priority automatically to the hearing of the bail application.

Secondly, this amendment, in reference to section 4, talks about whether the court must grant bail or not, that is, whether to refuse bail or not. It lays down a particular procedure where, I quote –

‘(...) the court shall decide the matter by weighing the interests of society against the right of the defendant or detainee to his liberty and the prejudice he is likely to suffer if he is detained in custody, taking into account every consideration(...).’

It shows how the court is going to strike the right balance to give liberty, and at what price. This is a responsible step. It also takes a step forward, that is, when considering whether bail should be refused or not, it considers how long the detainee has been in custody, how long he has been on remand, for how long probably he went before the BRC or for how many months he was in custody.

This is a measure, a step of innovation. This is on paper now with this amendment. In relation to the nature of the offence, the seriousness of the offence in which the defendant or detainee is likely to be charged, the nature of gravity, of the penalty is also considered.

These are facts that give this amendment the right, the new way forward in the new generation of the Judiciary in Mauritius. As pointed out by my friend, hon. Baloomoody, he stated that further the association or the means should be elaborated or explained before this House and also in relation to community ties. But, Mr Speaker, Sir, these amendments will be before a magistrate and this magistrate is aware that when we talk about community ties, we talk about family ties.

Concerning association, obviously, the magistrate is not going to think that the association is to the MMM, to the Labour Party or to the PMSD. The magistrate has been appointed rightly to obviously conclude matters, judge over matters. Concerning means, obviously, it doesn't mean that someone who is in a better position financially would benefit from one who is not in a better position financially or of lower income. This has been pointed out later on, that conditions of bail would also be considered of non-financial nature. So, it is there. And obviously, antecedence of the defendant, all that has been laid down, Mr Speaker, Sir. It is not whether to grant bail or not or whether to refuse bail or not, would strictly be limited to association or means of that particular detainee. There are several requirements and criteria that have been put forward.

**Mr Speaker:** The hon. Member said that there is no proper definition in the Bill. I think you must reply to him on this issue.

**Mr Seetaram:** Also, one shouldn't have the opinion to such an extent as to give it a political connotation. That is also my point, Mr Speaker, Sir.

Mr Speaker, Sir, concerning the bail conditions, it has been rightly put that - like I stated earlier - the non-financial nature, they would consider; that is, if the court is satisfied that the defendant or detainee is unable to provide a surety, it shall impose such other conditions of non-financial nature and this is a revolutionary measure, Mr Speaker, Sir, because not all accused parties or detainees have the proper income or have bank cheques. So, non-financial nature is a step forward in this amendment.

Mr Speaker, Sir, concerning the other conditions for release on bail, a measure - which I consider innovative - is imposing a specific address. We well know that in such circumstances where you have cases of murder, for instance, or serious offences that occurred in the same locality or in a dense locality, between neighbours, families or *proches*. Such conditions must be put to accused parties, to detainees to ensure their liberty and one of those conditions, obviously, would be to impose a specific address to that applicant.

Concerning other requirements to preserve the liberty of the individual, we also note that several requirements, like, if the accused surrenders to custody or appears before a court when required or he doesn't commit an offence on bail and so on, the reporting procedure and further the reporting in person - as pointed out by hon. Baloomoody - by the defendant or a detainee at a specific time or place or to a specified person of authority, obviously, this would mean that the

authority would be the Police. It cannot be any other institution. This is reporting for purposes of police procedure or police enquiry, obviously. Basically, one cannot give other connotations to such criteria that have been laid down.

Another innovative measure is the house arrest, like restriction of places to which the defendant or the detainee may go: also the curfew; restriction of movement of detainee after 6 p.m.; control of the defendant and supervision. These are measures that have been put forward in the amendment. Again, there is the electronic tagging system. The bracelet, as we say. This has been implemented in Jamaica lately and, rightly so, in Mauritius now. It also concerns non-residents who have committed such an offence and where there is a strong likeness that they would leave the country or would go outside jurisdiction.

Concerning the variation of condition of bail, this also has been considered in the amendment of this Bill. Further, the release on parole is clear and it doesn't limit itself to the weekend. The release on parole can also be interpreted concerning a case that might have happened at night or through a holiday, irrespective of the days. Clearly and blatantly, the release on parole would apply everywhere. So, this is also a measure which is innovative.

Concerning the Assistant Superintendent of Police (ASP), there are strong grounds that have to be obviously considered, like strong reasons and, firstly, to tamper with evidence, either to interfere with witnesses or to commit another offence to put his own security at risk. These have all been laid down, Mr Speaker, Sir, and we have in this amendment cases in relation to, if released on bail, detainee would fail to surrender to custody or commit another offence or interfering of witnesses. Such cases have been considered where the imprisonment has been toughened.

In all fairness, Mr Speaker, Sir, this amendment is for the future and the betterment of our Judiciary, and also for the good going of the bail system in this country.

I do commend this amendment to the House.

Thank you.

(00.58 a.m.)

**Mr R. Uteem (Second Member for Port Louis South & Port Louis Central):** Mr Speaker, Sir, as the speaker before me has mentioned in this early morning today, it is a very important Bill, which goes to the fundamental rights of liberty guaranteed by our Constitution.

It is also a very technical Bill and looking at the list of Orators, all eight of them are lawyers and have firsthand experience of bail applications, so we know what we are talking about. It is very important to be able to analyse, dissect and comment on this Bill because, no doubt, Hansard will be referred to in proceedings, as Hansard was referred to by the Privy Council in the case of Mr Hurnam, when interpreting provisions of the Bail Act and, today, it is the same Bail Act which is being amended.

I am not going to repeat what my learned friend, hon. Baloomoody, has stated, except that I fully subscribe to whatever he has stated. Still I have certain observations to make of a technical nature, which I hope the hon. Attorney General also would be able to respond while summing up later on.

I turn to the first section which has caught my attention, which is section 3A. Section 3A reads as follows –

“The Court shall endeavour to hear and determine any application for bail within the shortest delay.”

The first question is: why the term “shall endeavour”? So, it is not an obligation on the Court; it is only as if a moral direction from Parliament telling them: “please, try to.” “Shall endeavour” is nothing mandatory. They can only endeavour to hear and determine application.

Then, the second point is “within the shortest delay”. Why do we use the term “shortest delay” when in the Constitution reference is made that a person who is arrested or detained shall be brought without “undue delay” before a Court? Is “undue delay” the same as “shortest delay”? Again, why create confusion? Why not use the same term that we have in the Constitution in this Bill.

As hon. Baloomoody stated, we all know what happens in practice. In practice, you have two scenarios. In the first scenario, a person is arrested, he does not have the means or he is not able to contact his family. He comes before the Magistrate unrepresented; Police systematically objects to bail, he is remanded for seven days minimum. Then, the family is able to contact a lawyer and the lawyer starts making the procedures, tries to get a date for the case to be fixed. Second scenario, the accused is able to be represented by a lawyer; the lawyer comes to Court on the same day; makes the motion there and then; again most of the time the Magistrate is going to postpone the case and fix it for argument. In the meantime, the detainee remains in custody.

The hon. Prime Minister, answering to a PQ, said that he is very well aware of the situation; he is very well aware of the circular that has been issued by the Police where they systematically object to the release of bail where there has been a breach of a condition or where a person has already been on bail for another offence. He said that the Bail Act will address this issue. That is what he said answering to a PQ on 21 November 2011. He told us –

“I think the Bail Act is practically ready, it shall be coming soon.”

And then again –

“But, as I said, this is being looked at in the new Bail Act that we are preparing.”

Unfortunately, Mr Speaker, Sir, there is nothing in this amendment which is being proposed before this House today to remedy the root of the problem which is: under what circumstances the Police will object or not object to bail. Because we all know, Mr Speaker, Sir, if the Police choose not to object for bail, the Magistrate will automatically grant bail. The problem only arises where the Police decides to object to bail and, unfortunately, Mr Speaker, Sir, I think one of the biggest flaws in this amendment is that there is no guidance, I don't know if the Commissioner of Police will come with new guidance notes, but, at least, there should be some education process as to when the Police should object to bail. It should not be something automatically.

The next section in the Act is section 4, which is probably the single-most important section of the Bail Act because it deals with the situation where the Court may object to bail and because it affects the fundamental rights of liberty of a citizen, section 4 has to be construed very strictly because it has to be compatible with the provisions of the Constitution and what we see is that there is a proposed amendment now to introduce another ground on which the Court may refuse to grant bail and that is, I read –

“For the preservation of public order.”

What does that mean: “for the preservation of public order”? Again, nothing is said; how different is that term from the existing list of instances where bail can be refused, is this similar to the risk of the offender committing an offence which is already covered under section 4(a)(i), or is this trying to introduce a new ground altogether? I know that there is a judgment in the European Court of Justice about the interpretation of the words “preservation of public order”, but are we telling the Court to rely on that interpretation? Is that what is being achieved here? Because there can be a perverse construction of this word. Let's take, for example, the case

where there is a notorious serial killer that is put behind bars and there is absolutely no evidence against him, but the Police suspects that there would be a public outcry if he is released on bail. So, does that mean that this gentleman should be denied bail because if he is released that may affect the preservation of public order, that may cause a riot if he is released? Is this what the term “preservation of public order” means? That would certainly not be the intention of the Bill before this House today on this issue because whenever we are increasing the grounds under which we can refuse bail, it has to be read in the context of section 5 of the Constitution which clearly spells out under what circumstances you can deprive a person of his civil liberty.

Then, we move to subsection (2) which repeals the existing provision and introduces various new factors. First, the Court must weigh the interest of society. Again, what does interest of society mean? It can only mean interest of society in relation to the grounds already mentioned in section 4 because it should not be a ground in itself for extending the circumstances under which the Court can deny bail. So, we have to weigh the interest of society against the right of defendant or detainee to his liberty and the prejudice he is likely to suffer if he is detained in custody. This is very well, Mr Speaker, Sir, because this goes to the right of an accused guaranteed by section 5(1) of the Constitution, but there is also another provision of the Constitution which is section 10(2) which is the presumption of innocence, that a person is innocent until proven guilty. In my humble opinion, Mr Speaker, Sir, we should not just be weighing the interest of society against the right of a defendant to his liberty. We should also weigh that with the presumption of innocence because a person is not guilty until he is still innocent.

**Mr Speaker:** But do you mean to say that this is in contradiction with the Constitution?

**Mr Uteem:** What this subsection (2) shows is the factors which the Court must take into consideration when determining whether to grant bail or not. So, this subsection tells you that you need to take into consideration the right to freedom of an individual. What I am saying is that the Court should also take into consideration, in addition to the right to liberty, the presumption of innocence which is not clearly spelt out in that subsection (2). So, this is why I am saying that in my opinion that should have been added as a factor to be taken into consideration by the Magistrate and the Judge and the Court in determining whether to grant bail or not.

Then subsection (2) introduces four new criteria, four new provisions of factors to be taken into consideration. The first one which is welcome is the period for which the defendant or detainee has already been in custody since his arrest. This is very important, Mr Speaker, Sir, because, again, another provision of our Constitution provides in section 5, subsection (3) that a person, an individual, a citizen of Mauritius has the right to a fair hearing within a reasonable time. The fact that a person is spending a lot of time in detention is, in itself, a ground for releasing him on bail and the Magistrate and the court should take into consideration that aspect because that is consistent with our Constitution.

Section (b) clarifies that the nature and gravity relate not only to the offence, but also to the penalty. Again, this is a welcome clarification, but as was held in the case of Hurnam, this is not conclusive in itself. It is an important factor, but it is not decisive. Subsection 3 introduces, in addition to character and antecedents - which was there in the law - three other criteria; association, means and community. Again, I totally subscribe to what hon. Baloomoody has stated. We need certain clarification because when we talk about, for example, means, it should not result in a system of *deux vitesses*. It should not be because you have means, you are allowed bail or you are refused bail because if you have means, there is likelihood that you would be able to pay an air ticket and fly away. It is very important that clarification be given, that these pointers are only indicative and are not, in any way, restricting the general principle that the right of freedom and bail is the general rule.

Then, the next amendment relates to Section 5. Section 5 subsection (2A) provides that - “Where a Court is satisfied that a defendant or detainee is unable to provide surety, it shall impose such other conditions of a non-financial nature as it considers appropriate.”

This is a welcome change, Mr Speaker, Sir, because a lot of defendants and detainees do not have the financial means to give as surety and, very often, they have to pay loan sharks or get other people to put their property at mortgage in order to be released on bail. This section will enable the court to take into consideration non-financial factors and they can impose non-financial obligations and conditions as a condition for bail. This is a welcome clarification.

The next section is Section 7, conditions for release on bail. Again, what the amendment proposes to do is to set out in details, a series of conditions which can be attached to bail. The significant one, at least, the one which the hon. Attorney General spent most time on, is the securing of the electronic monitoring system. This, Mr Speaker, Sir, is in line with what the

Supreme Court said in the case of Islam v Senior District Magistrate of Grand Port & anor in 2006 and, I quote, -

“In Mauritius, the monitoring mechanism in bail administration has remained old-fashioned. Our primitive tools and techniques are today the greatest obstacles to the promises of our law and to an enhanced promotion of the enshrined guarantees of our Constitution. They may also arguably present a serious and real threat to security. The ill-served detainee may be paying for the shortcomings of our present system by his inevitable detention and the citizen of a compromise of his other human rights.”

Then, in another part of the same judgement -

“Speaking for the administration of bail, it is only time that we became a little more imaginative in the use of tools and techniques befitting the new era in our endeavour to ensure that the rights and freedoms of any individual does not prejudice the rights and freedoms of others and the public interest.”

In answer to this comment and the recommendation by the Law Reform Commission, the Bill is today proposing that there is electronic monitoring mechanism. I would have to say a few words on the effectiveness of that system, Mr Speaker, Sir. We have, for example, similar provisions in the Bail Act of England of 1976 but there, there are more elaborated rules as to when this mechanism is resorted to. For example, one of the conditions is that the court must be satisfied that without the electronic monitoring requirements, the person would not have been granted bail. If the court would have granted bail to the accused, to the detainee, to the defendant, then the question of electronic monitoring does not arise at all. He must have been minded to refuse bail and then, he decides: yes, I would grant bail provided there is a monitoring. Then, another very important condition, laid out in the Bail Act in England but which is not here, and, I read -

“Where a court imposes electronic monitoring requirements as a condition of bail, the requirements must include provision for making a person responsible for the monitoring.”

We have not heard anything about that. Do we have the necessary state of technology to enable us to monitor properly? Who is going to monitor this? Will there be a special department in each Police station where the detainee, the defendant, has to report? Will there be a central mechanism in the Police at Line Barracks or elsewhere, to supervise? In England, you have to

specify who is going to monitor this. In the draft legislation that is being proposed, nothing is mentioned about who will monitor this device.

Then, in the proposed amendments, I don't know the reason why the section applies only where there is a request by the prosecutor. It is the prosecutor who must make a request for the electronic monitoring system for the court to give that order. Why limit it to only cases where the prosecutor makes a request? Why should not the defendant be able to move for that? Why should not the court *proprio motu* decide on its own that this is an appropriate case to order electronic monitoring? Then, the electronic monitoring will only apply if either the accused, the detainee, is not resident in Mauritius or is liable for a serious offence, which is fine and, in addition, he must be a person to whom a Police Officer not below the rank of Superintendent has reasonable grounds to believe that he is likely to leave Mauritius. Again, why limit it to only the case where the Superintendent has reasonable ground to believe that he is likely to leave Mauritius. There may be a situation where the person does not intend to leave Mauritius at all, but it is still appropriate for him to have a tracking mechanism for us to know where his whereabouts, especially if he is a habitual criminal and we want to make sure that he does not go and intimidate his victims or tamper with evidence and we want to monitor his movements. Why restrict it to only to cases where a Superintendent believe that he is going to run away and fly out of Mauritius?

The next amendment being proposed is in Section 12. Again, this is a very welcome amendment, Mr Speaker, Sir, that deals with the situation where a person was previously arrested during weekend and it was not possible for him to appear before a Magistrate. Now, reference to weekend is being removed and replaced by instances where the detainee cannot practicably be brought before a Magistrate. This is a welcome amendment and, as the hon. Attorney General, himself, mentioned, there was a PQ on this matter and I am glad that he has given consideration to this issue.

But, Mr Speaker, Sir, the section goes on. Previously, there was only one ground where a Senior Police Officer of the rank of the Assistant Superintendent, could have refused the release on parole. That was if there was a likelihood that he would not come back on the day fixed for the meeting. Now, this is being extended to cover other cases. For example, the detainee if released is likely to fail to comply with Section 2, to tamper with evidence, to interfere with witnesses, to commit another offence or to put his own security at risk. Again, this should not be

a reason for the Superintendent to abuse the situation because the general rule should still be that an accused party should be brought before a court without undue delay. If you are arresting someone and keeping him during any time which is not practicable for you to bring him before a magistrate, this is going to be the exception circumstances, not the general rule.

Finally, Mr Speaker, Sir, again on section 12 - before I move to section 22 - I note that we have replaced the term of 'serious offence' by 'offence'. Previously, under the existing Section 12; Section 12 did not apply in a case of serious offence, so, if you are arrested for a serious offence, the Assistant Superintendent had the right to keep you. Now, this has been changed. Again, we have to see in practice how this is going to work because we know that serious offence also include offences under the Dangerous Drugs Act.

Section 22 increases the penalty. Here, I would like to draw the Attorney General's attention to amendment 10(b), that is, being proposed. Section 22 is amended by deleting the words 'Rs5,000' and 'to imprisonment for a term not exceeding two years' and replacing them by the words 'Rs50,000' and 'to imprisonment for a term not exceeding five years.' I have looked at the law, which I have found from the official website, I am not sure whether this is accurate, but Section 22 already provides for a fine of Rs50,000 and not Rs5,000. In fact, it is Section 21 that refers to Rs5,000 and not Rs50,000. I don't know if I have the correct version of the law, but I wanted to draw the attention of the Attorney General, and also ask him, why amend only Section 22, to increase the penalty and not Section 21, which remained Rs5,000 as fine and two years imprisonment.

Section 23, again another drafting mistake, in my opinion. Section 11 provides "the Principle Act is amended by inserting after section 22, the following new sections" and then we have a section 23, 'liability to arrest.' But, there is already a Section 23 in the Bail Act, which is the section dealing with the repeal of the old Bail Act. So, now how can we have two Sections 23 in the new Bail Act? This is something that I hope the people from the State Law Office can bring some clarifications.

I, again join my friend, hon. Baloomoody, to raise the concerns we have with the proposed amendment in Section 23, sub-section 3, that you can arrest someone without warrant, simply if your surety goes and makes a declaration to the Police that there is a risk of being abscond.

Mr Speaker, Sir, this is a very important Bill. I am happy that this Bill is being presented in a consensus mood in this Parliament because we are talking about fundamental rights of freedom and liberty, and, subject to clarification that I have suggested I'm done.

Thank you.

(1.25 a.m.)

**Mr P. Jugnauth (First Member for Moka & Quatier Militaire):** Mr Speaker, Sir, the Bail (Amendment) Bill of 2011 is indeed a very important piece of legislation, which phrases, in fact, fundamental issues and has a bearing on the rights of individual under the provision of our constitution. Here, I have in mind, Section 5 of the Constitution, which provides for the protection of right to personal liberty and Section 15, which provides for the protection of freedom of movements.

The object of the Bill, as spelt out in the explanatory memorandum, in fact, contains ingredients, which I would call of a contradictory approach, in respect of bail application. Some of the provisions of the Bill simply legislate on issues, which have already been dealt *par la jurisprudence mauricienne*, through a number of decisions of our Supreme Court, in respect of bail applications. Certain provisions of the Bill, to my mind, have a hidden object to, in fact, restrict the freedom of movement of individuals, whereas some other provisions have an apparent object, to ensure the liberty of the individual by introducing in our legislation a mechanism, however, without spelling in detail, how the mechanism will work.

So, let me come to the aim of the Bill, which in some way defers from what it has as the object. The Bill, in fact, provides for further and better provision in relation to as explained in the memorandum for - 4(a) "the prompt hearing and determination of bail applications."

Now, of course, anyone, I would say a layperson looking at that Section will say - 'yes, we are improving the law.' Anyone would say that it is a very interesting provision indeed because when you read the section and, I won't of course, repeat because this argument has been canvassed by other members in the Opposition -

"The Court shall endeavour to hear and determine any application for bail within the shortest period."

Now, we all know what has been and what still is the practice with regard to bail applications before our Court of Law and I must say, especially District Magistrates, because most of the bail motions come before the Magistrate and, in spite of their heavy load of work,

they try their best to accommodate such applications within the shortest delay. This is what obtains actually because it touches on the liberty of the individual and on the freedom of his movement. Now, what are we doing with this Section? *M. le président, on est en train de codifier ce qui existe déjà dans la pratique de nos tribunaux.*

For lawyers like us, I don't see much improvement. I heard hon. Minister Seetaram saying that this is an exceptional step to hear a case. What would have been an exceptional step would be if a timeframe would have been included in that section! I can understand that if you put a timeframe also, there might be instances where you are not able to hear an application for bail before a court. I would have expected the Attorney General, at least, if he wanted to make an improvement to the law, to come up with either a timeframe and to say also unless there are justifications that show that you have not been able to hear the case. That would have been a major step forward with regard to freedom of movement and liberty and bail applications.

One of the objects of the Bill, as I said, is prompt hearing. However, when we go deeper into this legislation, I have a number of questions and clarifications with regard to clause 6, for example, that is, Section 4 of principal Act amended.

Clause 6(b) (iii) (iii) introduces in our Bail Act a line of six words, which can represent a danger to our freedom of movement. This is serious and can be a dangerous provision.

Section 4 of the Bail Act provides for instances where a magistrate may refuse to release a defendant or a detainee on bail - section 4(1) (a), section 4(1) (c) (d) (e); but this one relates to 4(1)(b), and I won't go into those reasons that are mentioned in the Bail Act. But the new provision that is being added is for the preservation of public order. I will ask the same question. What does 'for the preservation of public order' mean? That clause can be used, in fact, to restrict the liberty of the individual. It depends, Mr Speaker, Sir, how and what interpretation a magistrate can give with regard to preservation of public order. That is why I also join in, together with my other friends, to say that it should have been spelt out because this is a new provision. Of course, it will be now for the court to interpret. After some time, maybe, we will have jurisprudence on the preservation of public order, but, in the meantime, I hope prejudice is not being caused to a number of people. That is why I say that, when we add a new ground for restricting the liberty of a citizen and the movement of a citizen, it is important that we have maximum clarification on this issue.

I hope the term employed will not be so wide and will not be dangerous that it can be interpreted to mean serious harm to the fabric of our democracy. In practice, it can mean that the police may arrest someone and object to bail on the ground, of course, that it is for the preservation of public order and that the detainee need not to be released. I can wonder whether it is not a form of Public Order Act in a disguised way. I hope not.

Let us see what the Bill is trying to do also. Clause 6, as I said, is the discretion which is given to the police to arrest and detain. I know the hon. Attorney General can argue and say: look, eventually, one will have to be brought to court; it will be for the Magistrate to interpret. But the way, I see some Police Officers acting with regard to arrest, this can cause a serious prejudice because by the time you are arrested, by the time you are taken to court, eventually you are released on bail, but the harm is done if ever you should not have even been arrested under that reason. That is why I believe it can amount to arbitrary arrest and, in fact, refusal to grant bail under this proviso would even be more detrimental to an accused.

I think every citizen is entitled to ask himself the question as to whether any incident, for example, in any public gathering, be it meeting of political parties, union meetings or *manifestations publiques*, may lead to the arrest of an individual and the objection for release on bail on the ground of preservation of public order. I ask that question. That brings me to wonder in the absence of the definition, and I hope the hon. Attorney General can clarify.

Let me come to clause 11 of the Bill, which introduces a new section in our Bail Act. This new section 23 - and I take very strong exception to the introduction of this clause 23(3), Mr Speaker, Sir - Liability to arrest for breaking conditions of bail.

This new section 23 aims at giving power to the police authority; in fact, to overrule a decision of our courts. I consider that to be extremely serious, very dangerous, and this goes against the principle of separation of powers. This section, in fact, will confer powers to the police to bypass the judiciary in the exercise of its powers. I'll explain how and why.

The Bail Act, as it stands today at section 9, provides for discharge of surety. As the law stands today, a person who has surety may apply to the court to be discharged from his obligations as a surety, and the court will consider the application, will give the defendant sufficient time to seek for another surety and, as a matter of practice, once another person stands as surety, the other surety is discharged. However, there can be cases where the defendant is not

able to find another surety, then the Magistrate, of course, can order his arrest or detention in custody.

I consider the provision, as it is in our law, to be just and fair. In fact, it has a human approach. We should not today be amending the Bail Act which will be unfair and unjust to our citizens. What does this new section 23 introduce in our law? Once a person who has stood as a surety wishes to be relieved of his obligation, he just has to notify the Police in writing that the person is unlikely to surrender to custody and the Police Officer, upon receiving this application - if I can call it a simple letter - can arrest the defendant without warrant. Worse still, without warrant! I consider this most unfair, unjust against a defendant or an accused who is already released and is going to be arrested anew on a mere notification to the Police.

There are a lot of instances, Mr Speaker, Sir. You can have a surety who ultimately bears a grudge against the defendant. You can have a situation where - as has been mentioned by the hon. Member - someone starts to blackmail the defendant, asking for money every time. There can be instances where Police are not happy because a person has been released on bail.

It can happen also that some unscrupulous Police Officers can put pressure on a surety and make him, in fact, withdraw. You can imagine if somebody is enjoying his freedom and suddenly he is being arrested, probably, in a function or anywhere for that matter. Just imagine the Police coming there and arrest him. Of course, there is provision, subsection 4, where the person arrested subsequent to that subsection shall be brought as soon as reasonably practicable before the Court. Again, what is "as soon as reasonably practicable"? Is it one, two, three, four or five days? Now, even if it is a few days, the harm is already done. I take very strong exception to section 23(3).

To me, the Police are, in fact, being given power to substitute itself to the order of the Court which has accepted already the surety to be sworn before a Magistrate and the Police is being given power to control the surety and, in so doing, controlling the person who has been granted bail by the Court. We all know, Mr Speaker, Sir, that when a provisional charge is lodged, it has to be before a Magistrate. It is not lodged anywhere, in a register like the Police or like any other authority investigating into the matter. It is lodged before a Magistrate and the Magistrate will hear if there is any motion for the detainee to be admitted to bail.

In fact, the Court acts as an arbitrator in matters of release on bail. And that section, I again say, unfortunate, gives too much power to the Police to the detriment of the person released and the power of the Court is, in fact, being curtailed.

*M. le président, pour moi, notre cour de justice, est le dernier, et dans certains cas, le seul rempart contre l'injustice,* mainly when it is injustice committed by authorities or people who misuse their powers. Let us not remove the duty and the security that any defendant or accused party has from the Court to give it to the same authority who might misuse its powers.

Let me come to Clause 8 of the Bill which repeals and replaces section 7 of the Bail Act entitled, “Other conditions for release on Bail”. This section 7(3)(a) introduces, in fact, a new concept in our law. Accordingly, the Court may impose on the defendant or detainee to report to a specified time and place or to a specified person or authority. Again, this has struck my attention. First of all, we all know how people report normally to Police Stations. They have to report to whoever is at the Police Station who records the attendance of the defendant. Now, the defendant will be asked to report to a person. What happens, Mr Speaker, Sir, if when he goes to that Police station that person is not available? He will then have to prove that and say: “Look, I attended a Police Station to report to such a person, but that person was not available.” I mean, you are implicating the life already difficult for a defendant, because there are conditions imposed that restrict his right of freedom and liberty of movement. Now, we are complicating matters and making it worse for him. What does it mean by ‘authority’? Authority – I heard an hon. Member say that, of course, it is the Police. But if it is the Police, it should have been written ‘the Police’, not authority. Now, authority can mean ICAC, for example. If you have been, let us say, investigated by ICAC as an authority, can the Magistrate then say: “Look, you have to report to ICAC”. If it is a matter with regard to, let’s say, a supposed financial crime, do you have to report to the Financial Services Commission, another authority? I fail to understand why we are making it more difficult for people who are released on bail now, having to report to the person. I find that really, really difficult to understand. Authority, what does it mean? It is difficult to understand.

Let me comment on clause 12 of the Bail Act as it now stands. The Assistant Superintendent of Police has some powers in respect of release on bail during weekend. Of course, the latter may object to the release of a detainee during weekend and the accused will, of course, be detained in a Police cell. But now, with the new clause 12, the Assistant

Superintendent of Police will be able to use his discretion during the whole week and not any only weekends. And I have the same point that was raised by hon. Baloomoody. We know the difficulty with regard to the availability of an Assistant Superintendent of Police. And more so, the number of vacancies that exist. With the workload at each district headquarters, again, I don't see that we are improving the system. In fact, we are making it worse for people who have been released on bail.

Now, what is meant by the term "cannot practically be brought before a Magistrate"? Again, this can be interpreted in different ways and can lead to abuses by the Police Authority. *En effet, par cette nouvelle loi, on veut souscrire l'accusé de l'autorité de la justice et donner à la Police une carte blanche pour déterminer la garde de l'accusé dans le Police cell.*

Let me come to clause 7(c). This clause is, in fact, repealing subsection (5) of section 5 of the Bail Act of 2000. And, Mr Speaker, Sir, I had a look at the speech that was made when the Bail (Amendment) Bill of 2004 was moved by the then hon. Prime Minister and I'll quote only one short paragraph with regard to section 5 where he said that -

"By adding a new subsection which provides that the court fees or costs would no longer be required for any surety or recognizance which may be imposed by the court, thus a detainee will no longer be kept in our prisons simply for financial reasons."

This was done with regard to offences committed by consumers of drugs. This amendment would facilitate the release on bail of such offenders or defendants. In fact, the amendment was also made to section 34 of the Dangerous Drugs Act where it will no longer be considered as a serious offence and there will be no need for a detainee or defendant to provide for a surety merely because they are charged with the offence under section 34 of the Dangerous Drugs Act. In fact, they can still be required to provide surety if the court, of course, is not satisfied that there is reasonable ground and so forth. This relates to offences punishable by a fine. It is important to say that it is with regard to offences punishable by a fine not exceeding Rs10,000 or a term of imprisonment not exceeding two years.

What happens with this amendment by removing this section 5(5)? It means that certain categories of offenders who are dispensed from paying Government costs and fees when a detainee is released on bail in respect of those offences now will have to pay those fees and costs. What is going to be the end result of this repeal of this section? It is clear, Mr Speaker, Sir. There is going to be a drastic increase in the number of detainees on remand and greater

costs and financial burden on the Government and the State. Just a few days ago, the hon. Vice-Prime Minister and Minister of Finance presented his budget. At paragraph 324, he said, and I quote –

“Our jails are over-crowded. Some thirty percent of these inmates are on remand.”

Now, with abolishing this section 5(5) of the amendment which we, the MSM/MMM Government, brought at that time, would result in a chaotic situation with regard to the over-crowding of our jail. I don’t know whether Government has thought well about it. How much money will they get in terms of costs and fees when people decide to be released on bail? How much expenses Government will have to incur when those people – I would say drug offences are offences, but they are for the very less serious offences. Most of those people are not able to pay even for fees and costs. They will be remanded into custody. Government will have to bear expenses to entertain them in jail because it costs money from public funds. Has Government evaluated the costs, not only in monetary terms but also with regard to what the hon. Vice-Prime Minister and Minister of Finance has said with overcrowding of our jails?

That is why I believe, Mr Speaker, Sir, there are good provisions that have been put in this Bail (Amendment) Bill which I have not commented because I consider them to be positive. But those I have commented upon and I, again, have to repeat, I find this section 23(3) unacceptable. Let’s say Government persists in voting this legislation, we will see with time the abuses that will result from this very section 23(3).

I have done, Mr Speaker, Sir.

(1.58 a.m.)

**The Minister of Agro-Industry and Food Security (Mr S. Faugoo):** Mr Speaker, Sir, let me first of all congratulate my colleague, the hon. Attorney General for bringing this excellent piece of legislation, I must say, in the House today.

The amendment of the Bail Act of 1999 was, in fact, one of the priorities which Government intended to bring in our administration of justice process, as clearly stated at paragraph 23 of the Government Programme 2010/2015 as rightly pointed out earlier by the hon. Attorney General.

Mr Speaker, Sir, in August 2009, the Law Reform Commission had submitted a report on bail and other related issues calling for legislative reforms and made certain recommendations which are the subject of the amendments before the House today in the present Bill.

The Commission had earlier, in 2008, released a discussion paper on Law and Practice relating to Criminal Investigation, arrest and bail, Mr Speaker, Sir. Again, the Law Reform Commission, in its report of 2009, on the activities of the Commission, highlighted the two previous reports on the subject and stated that the recommendation flowed from the need to strike a proper balance in accordance with Human Rights principles between the right to liberty of the individual and the protection of the society.

This present Bill, if at all, Mr Speaker, Sir, clearly demonstrates the strong commitment of the Government to update and improve the legal provisions in relation to our criminal justice system and enforcement of the law and the maintenance of law and order. This is, in fact, witnessed by the fact that back in 1999, to do away completely with the 1989 Act, we brought a new Bail Bill in view of the recommendations of the Law Commission which was presided by Lord Mackay and again, today, we are bringing drastic changes to adapt to the present need, Mr Speaker, Sir. First, in 1999 a whole set of provisions under the new Bail Act in view of the recommendations of the Law Reform Commission which was commissioned by the then Government and in view of the recommendations made by Lord Mackay; today, in view of the present need which is felt and also in view of the various reports which we have had from the Law Commission here in Mauritius, Mr Speaker, Sir.

The House is aware that in 1997 Government appointed the Presidential Commission chaired by Lord Mackay, as I said, on law reform and more specifically on the structure and operation of the judicial system and legal profession. One of the recommendations made in the Commission's report released in 1998 was to review the legal provision in relation to bail and the Bail Act of 1989, Mr Speaker, Sir. It was for the first time in the Bail Act of 1999 that the Bail and Remand Court was introduced. That was without...

**Mr Speaker:** May I request the hon. Minister ...

**Mr Faugoo:** If I may briefly, Mr Speaker, Sir, lay the...

**Mr Speaker:** Very briefly, then come back to the Bill.

**Mr Faugoo:** Yes. Mr Speaker, Sir, that is still the case because we are not amending that particular provision of the law.

*(Interruptions)*

The Bail and Remand Court is still there. Mr Speaker, Sir, any statute on bail must reflect firstly, that the right of liberty and to be free is a basic constitutional right as provided under Article 1 of

our Constitution which is the supreme law of the land, Mr Speaker, Sir, as this was clearly established earlier in 1996 in the case of Noordally v/s the Attorney General and the DPP.

The second legal principle which any Bail Act should reflect is the principle of presumption of innocence of any defendant until he is found guilty under the due process of law by any Court of the land, Mr Speaker, Sir. This provision also is entrenched in Article 10 of the Constitution. The law should also not deprive the defendant or the suspect of liberty on economic grounds thus creating two classes of persons. The provisions of the present Bill, Mr Speaker, Sir, purports to strike the right balance between the fundamental human rights enshrined in our Constitution and the need to protect the society by allowing institutions to enforce the law of the land and maintain law and order and protect the citizens of this country who also equally enjoy constitutional rights and liberties.

We must not all the same, Mr Speaker, Sir, forget the purpose of bail. The purpose of bail is to secure the attendance of the defendant in Court to stand trial. The 1999 Act has done away to a large extent with professional sureties in as much as legal provision therein provides for recognizance to be entered into their own name by detainees who are granted bail in lieu of securities or sureties which should be limited to extreme cases. The new provisions in this particular Bill, Mr Speaker, Sir, makes better provision in the administration of justice as regard to bail. It also reinforces the present law. The definition of 'defendant' in section 2 is redefined under clause 3 of the present Bill. The meaning of 'defendant' is being extended to three different scenarios at different levels of procedure. As we know, the question of bail arises when a person is arrested and taken to a Magistrate Court to start with, but also when someone is convicted and when he gives notice of appeal, the question of bail arises, Mr Speaker, Sir. There is also a situation where in the course of a trial some point in law in the case has been referred to the Court of Criminal Appeal for their opinion. In this case also the question of bail arises.

The new section 3 (a), Mr Speaker, Sir, 'hearing of bail application' is putting the onus on the Judiciary to hear and determine any application of bail within the shortest delay, as it has been clearly stipulated. In fact, that particular section talks of both hearing and ruling, hearing and determination; determination means hearing. They cannot reserve ruling indefinitely as has been the case in some cases, Mr Speaker, Sir. We have also understood clearly from the Attorney General that the Chief Justice has agreed for Court sittings on Saturdays, Sundays and public holidays, unlike the arrangement today where Magistrates are available on call on weekends,

especially to release detainees where Police has no objection for them to be released on bail. We are doing away with that, we are providing Court sittings during weekends and also on public holidays, Mr Speaker, Sir. This is going one step further because we know what happens in practice. We know how the Police in so many cases arrest on Fridays. They know that there is no Court sitting on Saturdays and Sundays, they arrest on Fridays so that they can deprive the detainee of their rights, Mr Speaker, Sir. They will not be brought to the Court until Monday morning. Now, that we will have Magistrates sitting on Saturdays and Sundays, we are at least getting rid of this practice which has been there for quite some time.

Section 5 is amended to provide for a situation where a person is granted bail, but cannot be released because he is unable to provide security or surety. This is a new power given to the Judiciary to improve conditions of a non-financial nature in such cases. This is a very practical approach which is being adopted where, once again, the right to bail and liberty is being reinforced, Mr Speaker, Sir. There are so many cases where the Court has granted bail, even the Police sometimes do not have objection to bail and the Court has fixed sureties or an amount of security to be furnished, but they are not in a position to furnish same. They are kept on remand for so long, Mr Speaker, Sir. This is a clause which is going to help so many of the prisoners on remand to be released on bail.

Clause 8 introduces a new section altogether, section 7. This new section now sets out in clear terms some of the conditions which the Court may impose on a defendant or detainee upon release on bail. This section makes provision for two novel conditions, that is, the electronic bracelet and restriction of movement after 6 p.m. It is some kind of a curfew order, as is the case in so many other jurisdictions, Mr Speaker, Sir. In fact, this is a judicial order. The curfew order is a judicial order, even the wearing of the bracelet, because it is not left to the Police to decide, it is the Court which is going to order in particular cases, bearing in mind the circumstances of the case and also the background of the accused, as it is clearly stipulated, Mr Speaker, Sir.

Mr Speaker, Sir, as far as the curfew order is concerned, this is an excellent alternative to detention. It will help to cut down drastically the number of people on remand awaiting trial. It will also cut down cost in the running of the prisons, the remand centres.

It also allows defendants to retain or seek employment because this has proved to work in other jurisdiction, Mr Speaker, Sir. They can retain or those who are not on unemployment can

seek employment, maintain their family life and also discharge all the social responsibilities, Mr Speaker, Sir.

The electronic monitoring of defendants by means of electronic bracelets is a powerful tool again for law enforcement institution. It is a good alternative to remand and detention. This is meant for people released on bail that pose a risk to the public safety, Mr Speaker, Sir. It is not going to be in all cases, but the court is going to decide again on the circumstances of the particular case. This again, Mr Speaker, Sir, is another step towards reinforcing the law enforcement process and protects the liberty of the citizen.

Bail conditions are normally required to be no more onerous than is necessary to ensure that the defendant appears for trial and does not commit further offences, Mr Speaker, Sir. This is what exactly the present amendment in the present Bill before this House purports to do.

I would like to rebut some of the points which were raised by hon. Baloomoody, to start with Mr Speaker, Sir. Firstly, I must say, when the 1999 Bill was passed, as he rightly pointed out, it was exactly on 30 November 1999, where he had intervened on the Bill. This is what he had to say when he started –

“This Bill, as it is today, is steps forward for the release of people who are presume to be innocent until proven guilty. But, it assumed that other things are being equal, the Bill as it is, Mr Speaker, Sir, is good, but most important part of the law is in its implementation and how it will work in practice.”

And, from what I understood, this was also the concern of hon. Jugnauth when I heard him raising his points - how in practice is it going to work, the arrangements at the level of Police, the arrangements at the level of courts, Mr Speaker, Sir. It should be clear that the Police or the courts are not on trial today, Mr Speaker, Sir. We should not lose sight of the primary purpose and object of this particular Bill. We are passing a Bill with very important provisions to enhance further the liberty of the suspect and the defendant. So, we cannot mix issues. At this stage, it is not a forum to talk about the courts, the judges or even the magistrates or the Police, Mr Speaker, Sir.

There was one point which was raised by hon. Baloomoody. He said that there is total confusion on the Police, and also on some part of the judiciary, when a circular note was issued by the Commissioner of Police on 04 July. The circular note said that -

“If a person is on bail already and he is arrested for a suspected crime or misdemeanour, the Police should object to bail.”

This has been the case before, all the time, with only difference that, in some cases, the Police had the power and discretion to decide again, on the circumstances of the cases, not to object in some cases. So, the hon. Member says that it is clear black on white; that this is the instructions, the circular note, but again he says that there is confusion. No, it is clear, Mr Speaker, Sir. In fact, this has been given so that there is uniformity, so that there is no abuse at the level of the Police. This does not tantamount to say that the person is not going to be granted bail because, at the end of the day, granting of bail or not granting of bail will be at the discretion of the magistrate, Mr Speaker, Sir.

The decision, at the end of day, is for the magistrate and not for the Police. This is a good thing because, as the law stands today under section 4(c) of the present law as it is, there is already a ground to refuse bail. If someone is suspected to commit crime again, the magistrate is allowed to refuse bail and on what ground can a magistrate suspect that somebody is going to commit a crime again, that he is going to react, he is going to commit another offence, it is somebody who is already on bail, who is on record, maybe on his previous convictions, and also, if he is on bail for particular offence, all be it a different offence, Mr Speaker, Sir. So, it is already there. So, if it is a ground on which bail can be refused, it can be ground for objection to bail, Mr Speaker, Sir. If this is provided for under section 4 of the present Act, a provision on which the magistrate can act to refuse bail, so this can also be a reason that the Police Officers on which can rely to object to bail, Mr Speaker, Sir. This is clear.

The second point, which the hon. Member raised, was on the object of the Bill. He said that the object of the Bill, under the explanatory memorandum, is the prompt hearing and determination of bail application, Mr Speaker, Sir. Hon. Jugnauth also raised this issue, hearing of bail in the shortest delay possible. There is a new section here which is being introduced, Mr Speaker, Sir, section 3(A), in clause 5 of the present Bill, which provides -

“The court shall endeavour to hear and determine any application for bail within the shortest delay”.

Can we - as suggested by hon. Juganuth and also by hon. Baloomoody - fix a time or a date for the case to be heard? I don't think this the work of the executive or the legislature, Mr Speaker, Sir. This is the law, how is it going to be interpreted? How is going to be managed? It is up to the

Judiciary. We cannot, in the law as it is, fix the timetable or the case through management of the courts.

**Mr Speaker:** It is the time frame not a time table of the days.

**Mr Faugoo:** Still, Mr Speaker, Sir. We can say three or four days apathetically, if the workload of the court does not allow it, so it is going to be in contradiction. This is why this should left, the judiciary is independent, we have trust in the judiciary, we know that we have a judiciary which functions well, Mr Speaker, Sir. So, this should be left for the administration of justice, it is not for the PMO neither for the Assembly here to put conditions on the judiciary, which is independent for all intended purposes, Mr Speaker, Sir.

Now, clause 8, Mr Speaker, Sir, is a point which was raised by hon. Baloomoody and also by hon. Jugnauth. Clause 7(3a) where it is says -

‘Conditions imposed under sub section (2) may include the reporting in person by the defendant or the detainee at a specified time and place to a specified a person or authority.’

This was not in the law. This was a condition which was being put by the magistrate because under section 7, they could put any condition, Mr Speaker, Sir. So, this was a condition, which was being put, but now, this is being made a special provision in the law, to provide for in the order, which the court is going to make for the person to report to a particular authority, to a particular person. When we talk about authority, the Police can be one authority.

We have for example a Prosecuting Unit in the Ministry of Fisheries; we have Prosecuting Unit in the Forest Department, Mr Speaker, Sir. So, if somebody commits an offence under the Forest Act and is released on bail, there can be an order that this person reports to so and so in the Forest Department. Why should he go to the police when it has got nothing to do with the police? This is clear; it depends which institution is bringing the prosecution, which institution has lodged the provisional charge before the court. This is also clear in my mind that it does not infringe any provisions as per the Constitution, or something to do with the liberty of the citizen.

Another point which was raised by hon. Baloomoody is on prohibition order, when he says that magistrates in Rodrigues put conditions when persons of Rodriguan origin are released on bail not to travel to Mauritius. Again, Mr Speaker, Sir, section 7, as it is, it is open for the magistrate to put any condition. In some jurisdiction, even the provision for bracelet, a curfew

order is not provided for under legal provisions. Under the generic condition which can be imposed by the judge, it is provided for. He can bring it within his jurisdiction.

Another point which was raised is about the new section 23, Mr Speaker, Sir. This point was raised by hon. Baloomoody and also by hon. Jugnauth. I must say here that we are not doing away with section 9 of the present Act, as it is. We are not even bringing any amendment to section 9. So, if a surety wants to be discharged as a surety, for any reason which is valid, he will still have to go to court and apply to be discharged. But section 23(3) has to be read together with subsections (4) and (5) and not subsection (3) in isolation, Mr Speaker, Sir. It is clear. When somebody stands as a surety, does he not have a duty towards the court? He has a duty towards the court; he cannot just stand as a surety, he signs, goes away, sleeps tight and not be responsible as to what happens as far as the accused is concerned and his attendance in court, Mr Speaker, Sir. He has to take some responsibility. Here, if the surety, who is responsible to bring the defendant to court to stand trial - because he is the guarantee - has reason to believe, if he has information to the effect that the defendant is not going to surrender himself, is not going to come to court, is it not his duty to inform the police? What does he do? He writes to the police to inform them. But then, he cannot do away as a surety. Under subsection (4), when the person is brought to court before the magistrate, he will still have to go and prove that what he has said in the letter is correct and true, because the prosecution cannot just bring the person on the basis of the letter and say that the bail is struck off, and the person is remanded to jail, Mr Speaker, Sir. We are in a system of justice where the prosecution has to prove; the prosecution will have to prove under subsections (4) and (5); the surety will have to depone and be cross-examined as to the tenure of the contents of his letter; on what basis he has apprehension that the person is not going to come to court or surrender to the police. This is law. We cannot do otherwise. We have to bring a balance, Mr Speaker, Sir. The principles, as they are under section 9 of the Bail Act of 1999, remain the same, and this one is to do with obligations of the surety vis-à-vis the defendant. I have already commented on the prompt hearing, because this was a point was raised by hon. Jugnauth and also by my learned friend, hon. Baloomoody.

I must conclude, Mr Speaker, Sir, by saying, as was rightly said by hon. Baloomoody back in 1999, that this is a good piece of legislation. So, if the 1999 Act was a good piece of legislation, this should be a perfect piece of legislation. We are improving on the 1999 Act; we are making better provisions Mr Speaker, Sir. I again must reiterate my congratulations to the

Attorney General, and I am for all the provisions which are contained in the present Bill, Mr Speaker, Sir.

Thank you.

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

(02.27 a.m.)

**Mr A. Ganoo (First Member for Savanne & Black River):** Mr Deputy Speaker, Sir, at this late hour or early morning, I was tempted to say that the night is still young. I will do my best not to repeat what has been said before me and be as short as possible, and try to come to a few points which have not been covered, although it is very difficult on such a restricted and technical matter. After so many speakers have spoken before you, it is very difficult to highlight new points that have not been covered already. I'll try my best to do that.

Mr Speaker, Sir, I am intervening because I am a lawyer by profession - I think perhaps the oldest one in this House. I have been practicing for many years. I am mostly a criminal lawyer working for poor people, and I know in practice the difficulties defendants, detainees, suspects, their families and even lawyers who appear for them meet in their everyday life, as far as these bail issues are concerned. A few days ago, I appeared for two young men, about 18 and 19, who were arrested for having shoplifted one bottle of wine in a supermarket somewhere in Plaine Wilhems. And could you believe it, Mr Deputy Speaker, Sir, these two young men, for a bottle of wine of Rs75, spent about one week in police cell before they were released. I also know a case - for having appeared for that detainee - of a 23 year-old woman - that was also a few days ago - who defrauded her own mother. She took the bank card, went to the bank and committed a forgery. She personated the mother for Rs25,000. She has a baby of three months old which she was breastfeeding. Because that lady was already on bail, she spent about 10 days in Police cell again because of Rs25,000. Sir, we can go on talking about cases which we think are sad instances, unjust situations. We should try to see whether our law, which we are amending today - the Bail Act - can, in fact, provide solutions to these types of cases.

In fact, Mr Deputy Speaker, Sir, we are today dealing with human rights, the fundamental principles, constitutional rights entrenched in our Constitution, the presumption of innocence and the right of a citizen to liberty on the one hand. But, also we have to agree, we have also to balance all these rights with a need to the protection of society, of the community, in general.

This is the balance, in fact, that Magistrates have to make when they determine everyday bail applications.

Mr Deputy Speaker, Sir, this is the law which has many positive clauses. My friends before me have talked about them, but also there are a few loopholes in this piece of legislation. This is why I think, in practice, in a few years time this piece of legislation - which today we are adopting - will be reviewed. Mr Deputy Speaker, Sir, bail issues regularly come on the agenda as they are, very often, related with concerns expressed against the release of persons charged of serious offences and also because they are related to the pre-trial detention of suspects.

I will not bother the House with the provisions in our Constitution: Sections 3 and 5 of our first Bail Act of 1989. Before the first Bail Act, we were following what were obtained in the UK as far as release on bail was concerned. The 1918 Act was a retrograde Bail Act, if I may say so, because it tilted the balance in the other way, against the interest of the suspects. The 1999 Act came to correct the situation, Mr Deputy Speaker, Sir. It was a complete departure from the 1989 Act and, rightly so.

For the first time *la loi de 1999*, subsection 4, which our friends have been referring to just now, and to which I have been referring, says the following -

“Every defendant or detainee shall be entitled to be released on bail.”

That is, bail is a right and the rule is to grant bail and the exception is not to grant bail for the reasons which are to be found in the law. So, we have a few reservations on the present piece of legislation, Mr Deputy Speaker, Sir. To me, the question of application of bail, determination of bail, is not to be found only in the four corners of the Bail Act and the amendment we are bringing today, Mr Deputy Speaker, Sir, because there are issues related to the granting of bail which are, in fact, outside this piece of legislation and to which I shall come in a few minutes.

Mr Deputy Speaker, Sir, coming to this first amendment which many of us have already commented upon, I will also dwell very briefly on that matter. The object of this Bill is to amend the Bail Act, to make provision for the prompt hearing and determination of bail applications, etc. In fact, the hon. Attorney General referred to a PQ which I, myself, had asked him on 28.06.2011, about this question of prompt hearings. I put it to him that, in fact, the most fundamental principle that I think should be looked into, is the question of time, because today, when applications of bail are made before our Courts of Law, very often, unfortunately, it takes about 15 days or more to fix the bail hearing and that this is a denial of the fundamental principle

that everybody should be granted bail, unless there are circumstances which prevent the Magistrate from doing so. I am just reminding the House of what I said then. I asked the Attorney General then whether we should insert in our law the necessity of requesting a Court of Law to deal with applications for bail as expeditiously as possible, because, Sir, after the bail hearing is heard, it takes another week for the ruling. So, I made a request to the Attorney General to look into the matter. In fact, I must thank the Attorney General for having taken this point, but we have heard many comments already, whether this will solve the issue as the amendment is worded today and presented before this House.

The amendment is -

“The Court shall endeavour to hear and determine any applications for bail within the shortest delay.”

First point, I agree with my friend, hon. Uteem, who said before me that we should delete the word ‘endeavour’. Why should we say that the Court shall endeavour to hear? I think it would be clearer to say, Mr Deputy Speaker, Sir, that the Court shall hear and determine any applications for bail within the shortest delay. I say that, Mr Deputy Speaker, Sir, because in our Constitution when we look at articles 3, 5 and others, there are sections which deal about arrest, detention, etc. The way these provisions are worded are clear, unambiguous, and unequivocal. For example, any person who is arrested and detained, Mr Deputy Speaker, Sir, shall be afforded reasonable facilities, shall be brought without undue delay, etc. There is no question of somebody endeavouring to bring the person without undue delay, it shall be brought without undue delay; shall be afforded and so on. I think the word endeavour is a surplusage, Mr Deputy Speaker, Sir. It is redundant and, I think, we could have done by deleting that word. Now, within the shortest delay, without undue delay, *finalement* it is the spirit, Mr Deputy Speaker, Sir.

Hon. Minister Faugoo is right; the Executive cannot order the Judiciary more than that but, I think, the message is sent. It is now for the Judiciary to have received the message, Mr Deputy Speaker, Sir, that bail hearing should be heard as with celerity and as expeditiously as possible. But, Mr Deputy Speaker, Sir, the question of celerity, the question of dealing with people who are detained as quickly as possible without undue delay, also rest with the Police. Very often, what do we hear when somebody has been arrested? The Police tell us that the enquiry is not over. What control can the best lawyer have when the Police say: ‘you have to

give us a few days more because we are looking for such and such witness.' We have to confirm such and such element in the inquiry and so on'. The Police come with these magical words: 'the enquiry is not over'. They even go before Courts of Law to present this as a ground for objection. The enquiry is not over, Mr Deputy Speaker, Sir, and this is not in our law.

In Section 4 of the present Bill, nowhere is it mentioned that this is a ground for which the Magistrate will refuse bail but this is the classical answer which lawyers have to face from the Police that the enquiry is not over. I think, here also, Mr Deputy Speaker, Sir, the message should be sent to the Commissioner of Police, to the Police authorities, that it is a question of the liberty of the citizens and the Police should deal with cases where people have been detained as quickly as possible, with celerity and wind up the enquiry and then decide whether they will grant bail, object to bail or not.

There are other problems, Mr Deputy Speaker, Sir, legal aid is not available in cases of detainees. We know the action 'jail for the poor, bail for the rich'. But there is worse than that. We have today the Bail and Remand Court; this is provided for in our law, in the Bail Act. What happens when somebody has been arrested and the Police refuse to grant him bail? The Police object to his being released on bail. After a few days, this person is remanded in one of our prisons and after that he appears before the Bail and Remand Court which has been set up by the Bail Act of 1999 and he appears on live video and the television link.

When the lawyer decides to release that person on bail, *c'est un vrai parcours*, Mr Speaker, Sir, *parcours de combatants*. Now, he has to go to the BRC, write a letter to the BRC, suggest dates when can the hearing for bail be heard, the BRC now gets in touch with the Court before which he has appeared for the first time. There is some coordination work to be done. The date has to be agreed upon and all this, Mr Deputy Speaker, Sir, are obstacles in the way for the legal practitioner to have his client released. So, this is why I think today when we are discussing this amendment to the Bail Act, we have to highlight all these features so that the Attorney General might do the needful and this is why I said that a few of these matters cannot be solved by legislating. The message has to be sent, consultations have to take place so that if we are really serious in trying to cater for human rights, to solve this problem of bail applications and grant the detainee his liberty as soon as possible within the framework of our legislation, I think all these matters should have to be looked into.

Mr Deputy Speaker, Sir, the second amendment in the Bill is about this question of preservation of law and order. True it is, this is a novelty, what does that mean? The question has been asked before me. So, now we are adding another ground in our Bail Act and therefore bail may be refused. Therefore, a Court may refuse to release a defendant or detainee on bail where he is satisfied that the defendant or detainee should be kept in custody for the preservation of public order. What does that mean, Mr Speaker, Sir? Hon. Pravind Jugnauth has given his interpretation. I think somebody else also in the Opposition has given his interpretation, but what does that mean, Mr Speaker, Sir?

Mr Deputy Speaker, Sir, I would have thought, in my humble interpretation, that this is a case of breach of the peace, that is – this is the offence - somebody committing a breach of the peace, that is, he is creating public disorder and he has to be dealt with. So, the proposal today is that this therefore should be a reason for refusing somebody's bail if he is likely to be responsible for the preservation of public order.

Mr Deputy Speaker, Sir, I would like to remind the hon. Attorney General that our Constitution already provides that - 'No person shall be deprived of his personal liberty, save as may be authorized by law'. And one of the subsections is - 'Upon reasonable suspicion of his being likely to commit breaches of the peace' and 'Any person who is arrested or detained upon reasonable suspicion of his being likely to commit breaches of the peace and who is not released shall be afforded reasonable facilities to consult his lawyer and so on and be brought without undue delay before a Court of law' and so on. So, I think we are *défoncer une porte ouverte*, according to me. If this is what the Attorney General has in mind, 'the preservation of public order', I think it is already dealt with in the Constitution.

Mr Deputy Speaker, Sir, hon. Faugoo was talking when he started his speech about the Law Reform Commission. True it is, Mr Deputy Speaker, Sir, that this Bail (Amendment) Bill is a reflection of what the Law Reform Commission has suggested and proposed to the hon. Minister. In fact, I am surprised also to see that the summary of the proposals of the Law Reform Commission, in one of the reports which I have before me, in fact, have not been 100% fully implemented in the Bill before this House today. True it is that what this Bill is doing, according to the recommendation of the Law Reform Commission, this Bill, Mr Deputy Speaker, Sir, is focusing on the difference between the grounds for refusing bail on one hand and on the other hand the factors and the considerations to be taken into account when determining whether or not

a defendant or detainee is to be released, as rightly elaborated by the Law Reform Commission and we can see that in the Bill. The grounds are one thing for refusing Bail and the factors and the considerations to be taken into account is another matter.

But the Law Reform Commission has also talked about it be laid down in what circumstances bail would exceptionally be granted. I do not see that in our Bill today. The time spent in custody prior to sentence by a person whom bail has been refused, be fully be taken into account when assessing the length of the sentence that is to be served from the date of sentencing, that is, if somebody has spent so much time in custody, bail has been refused to him and when he is later sentenced, that is, the time he has spent in custody should be computed, Mr Deputy Speaker, Sir, and that is not in the Bill as proposed by the Law Reform Commission. I would like the hon. Minister to enlighten us why all the proposals of the Law Reform Commission have not been encompassed in this Bill that is before the House today.

Mr Deputy Speaker, Sir, the new section 4(2), if you will bear with me, clause 6 of the Bill, section 4 of the Principle Act is amended. Now, my friends have commented already on this clause but I would like to say something also. Therefore in considering whether or not to refuse bail, the court shall decide the matter and so on. Taking into account every consideration which in his opinion is relevant including the period for which the detainee has been in custody. We have said that this is positive;

4(2)(b), Mr Speaker, Sir –

‘(b) the nature and gravity of the offence with which the defendant or detainee is or is likely to be charged and the nature and gravity of the penalty which may be imposed on him(..)’

This is in the new subsection (2) of section 4 of the Bill. Mr Deputy Speaker, Sir, I asked the Attorney-General the question: why has this (2)(b) been introduced in this clause? According to me, we know that the law already talks about the seriousness of the offence. This question of seriousness of the offence has already given rise to a lot of controversies in the past in our jurisprudence, in all the authorities, in our case law starting with the case of Hurnam and several other cases which have followed.

Mr Deputy Speaker, Sir, this question of seriousness of the offence has been dealt with and I think my friend, hon. Reza Uteem, before me, had remarked how the Judges of the Supreme Court have interpreted that question of the seriousness of offence by saying –

“All the likelihood of the suspect being charged with a serious offence is obviously just one consideration to be weighed in the balance and not by itself a ground for refusing bail.”

What I am saying, Mr Deputy Speaker, Sir, is that by introducing this question of the nature and gravity of the offence with which the detainee is likely to be charged, this might play against the application for bail on the part of the detainee, of the defendant.

Mr Deputy Speaker, Sir, I will also welcome clause 7 of the Bill with this question of when a detainee is unable to provide a surety, the condition of non-financial surety. It is clear that the conditions imposed under the Bail Act for release on bail had to be amended. In fact, there were two financial in their essence and amendments had to be brought in our law to monitor this mechanism for bail administration and we really welcome these new conditions as far as they are non-financial which will enable more detainees to be released.

Mr Deputy Speaker, Sir, one of the things I would like to say is that - hon. Faugoo said that before or the Minister himself - in terms of substantive law, we are at par with the other liberal democracies. Our case law on that matter is, in fact, in line with the European Convention, with the Strasbourg jurisprudence, that the right to personal liberty or to bail is not an absolute right, but it is subject to the right and freedom of others or in the public interest. In Mauritius, our jurisprudence, our case law, Mr Speaker, Sir, we are at par; we have recognised the five grounds under which bail may be refused just like in all liberal democracies: the risk that the defendant will abscond; he will interfere with the witnesses, he will commit another offence whilst on bail; for his own protection or he will be charged with a serious offence. These are the five grounds which are usually adopted in all countries for arguing, denying the defendant his bail, Mr Deputy Speaker, Sir.

Bail is, in fact, a balancing exercise. It is, in fact, a risk assessment exercise, Mr Deputy Speaker, Sir, which is under the prerogative of the Judiciary. Yet, Mr Deputy Speaker, Sir, when I say all this, when we blow our trumpet, and say we are at par with the liberal democracies, our jurisprudence is as good as any other jurisprudence, the question we have to ask, Mr Deputy Speaker, Sir, is: why has the bail issue in our country generated so much legal battles before all our courts including the Privy Council. I think the reason is not far to find. The reason is in this famous judgment which has already been quoted before me by the hon. Minister and by hon. Baloomoody or hon. Uteem. The reason is to be found in this excellent judgment of two of our Learned Judges in this case of Islam v Senior District Magistrate, Grand Port [2006]. This case

provides good reading and, in fact, it is the key to many of the problems that we are discussing today.

Let me quote a few sentences. In the judgment, there is the same question I am asking and the judgment reads –

“The reason is not far to find. Despite an acknowledged history of constitutionalism in Mauritius since independence, courts have had to grapple with the difficult exercise of translating the constitutional aspirations of the individual including day-to-day life on account of a number of factors. The stark reality at the grass roots is that our system of bail administration is today what it was in times of yoke (*c'est à dire dépassé*). We may have developed our laws but not the support system that should go with the new laws.’

Mr Deputy Speaker, Sir, the other interesting quotation speaking for the administration of bail –

“It is only time that we become a little more imaginative in the use of tools and techniques befitting the new era in our endeavour to ensure that the rights and freedom of any individual do not prejudice the rights and freedom of others and the public interest.”

Mr Deputy Speaker, Sir, this is the stark reality that we had to modernise our bail law; that we had review our bail law. This judgment is confirming that. This is why we appreciate some other proposals, Mr Deputy Speaker, Sir. They are groundbreaking. Let us take this electronic monitoring. I will not come to what has been said before me, but there is, I think, an important reason why we should welcome this question of bracelet.

Hon. Jugnauth argued just before me that our prisons are overcrowded. Do you know that the cost for the citizens of this country of restricting a suspect freedom by keeping him on remand is five times higher than the cost of restricting him by an electronic tagging? It is five times higher when we keep him in remand and when we restrict his liberty with the electronic bracelet. It is an economic, financial logic also. Besides, solving the question of overcrowding in our prisons, the electronic bracelet, as we know, will solve also the human rights issue. On that score, I would like to ask the hon. Minister this question which has been put before me - why, therefore, the detainees are liable to have to wear the electronic bracelet? Why have they been selected in a way, Mr Speaker, Sir? Why is this restricted only to defendant, not residing in Mauritius, who is liable on conviction for an offence for which he has been charged to penal servitude or to imprisonment for a term exceeding two years? Why Mr Speaker, Sir, in addition

to the other factor that the Superintendent must have reasonable grounds to believe that he is likely to leave Mauritius? And even the law says a court shall not impose on a minor an electronic monitoring requirement, except in such circumstances as may be prescribed. What are those circumstances that will be prescribed? Be it as it may, Mr Speaker, Sir, in the UK - my friend, hon. Reza Uteem, was talking about UK - minors are made to wear electronic bracelets as far as I know. I have seen it in the law, Mr Speaker, Sir. So, why are we restricting the electronic monitoring to a category of defendants, Mr Speaker, Sir?

This point about 'during weekend' has been made. I do not want to repeat what has already been said before me. I will try to react to what my friend, hon. Minister Faugoo, has said about this question of surrendering into the custody of a court or the Police. I think what hon. Baloomody has said makes sense, Mr Speaker, Sir. Why, therefore, do we have to make that surety notify the Police in writing that the suspect is not likely to surrender? I think this will open the door to all sorts of *chantage*, of blackmail, of pressure. Let us leave the law as it is now, it is already in our law, I think there was no reason. On the contrary, it is another *complication* which we are importing in our law.

Secondly, Mr Speaker, Sir, this question which hon. Faugoo also talked about uniformity, about the fact that somebody is on bail and he should not be released. True it is, our law provides that when somebody is on bail and commits another offence, this is a reason to refuse him bail. When you are on bail, you commit an offence and it is a ground to refuse him bail. This is true, this is in our law, but in practice, Mr Speaker, Sir -

*(Interruptions)*

I am ending in a few minutes -

- I am happy hon. Faugoo is here, he has been a Magistrate, the hon. Attorney General has been a lawyer, my friends lawyers are by my side - most of the defendants, of the detainees, who are on bail and who, after one year, six months, commit another offence were released on bail, Mr Speaker, Sir, until the circular of the Commissioner of Police came and this is provoking a lot of havoc in our courts of law. This means more work for the Magistrate. And we have seen, Mr Speaker, Sir, the Magistrate asks the prosecutor: "*Eh ou la, on pas trouver ou pe vine perdi mo le temps. On pas conne mo pou donne caution la la, selement on pe vine perdi mo le temps.*" And that is true and, we, as lawyers, just ask one or two questions to the prosecutor - *ou pauve diable* - he has to

comply with the orders that he has received from the CP or the ACP, he objects, but this takes about 10 minutes and the Magistrate has to write a ruling and so on and releases that person on bail, because most of the time the objections are groundless. They are based on law, but the Magistrate still has discretion. At the end of the day, the Magistrate may, the court may and the court does, in fact, even in cases today where the Police are objecting for bail, because that person was already on bail, because, Mr Speaker, Sir, each case has to be judged on its merits. If somebody is on bail two weeks ago and he has been caught again cultivating *gandia* and this was the same offence for which he was arrested one month ago, of course, the Magistrate will not release him on bail. But, each case has to be decided on merits. Mr Speaker, Sir, the Police could have used their own discretion in certain clear cases not to object, but now they do not do it and this is causing a lot of unnecessary work, increasing the workload for our Magistrates in our courts of law, who are already overwork.

I was reading the Law Reform Commission of England, Mr Speaker, Sir, considered the fact that the defendant who is on bail at the time of an alleged offence, this should not be regarded as a ground for the refusal of bail. It is just one consideration which the court should take into account when considering whether granting bail or not.

Mr Speaker, Sir, I will conclude.

*(Interruptions)*

You see, Mr Speaker, Sir - I said I am the oldest in this House perhaps now. I said that the night is still young, but I can go on for a few hours, but I will stop in two minutes.

I just wanted now to convey to the hon. Attorney General a few suggestions. Yes, I remarked at the beginning of my speech that there are some issues which pertain to the bail issue, but which do not necessarily find their place within the four corners of this Bill. Mr Speaker, Sir, there are four points that I would like the hon. Attorney General to give some thoughts to. Some detainees remain in jail...

*(Interruptions)*

You will interrupt me and I will take more time, so, let me finish.

Some detainees remain in jail, Mr Speaker, Sir, for a relatively long time and it does happen that they are later acquitted or informed that the DPP is putting an end to the proceedings against them. So, in that case, I think we must think of legislating to establish time limits for

entering a prosecution after the accused party has been arrested and that he should be tried within a reasonable time.

Mr Speaker, Sir, in the United States, they have now come up with a Speedy Trial Act and imposes on the prosecutor and on even the court of law a time frame. Mr Speaker, Sir, I think we should really now come – in fact, in the Sexual Offences Act, Mr Speaker, Sir, which the former Attorney General has presented to this House, at one time, in one of the sections of this law, hon. Ms Deepalsing should know that, she was in the Select Committee - the law provided, Mr Speaker, Sir, that in certain cases of sexual assaults, sexual crimes against kids, against little girls, the accused had to be tried within a certain time frame. This is one point.

The second point: what happens to the accused party who is acquitted after he has been refused bail pending trial? There should be a provision in our law to provide for some compensation for deprivation of liberty as the suspect would have certainly suffered a lot of prejudice himself, his family and his reputation.

Thirdly, Mr Speaker, Sir, there are cases where the defendant has spent several years in prison. There should be a provision in our law for the time spent on detention to be deducted when passing sentence. I mentioned that earlier in my speech, Mr Speaker, Sir. So, the defendant who has spent several years in prison, he has been refused bail, he is tried, he is found guilty, he has spent two years on remand, Mr Speaker, Sir. This happens every day in our courts of law. Two years in remand, he is tried, he is found guilty and these two years, Mr Speaker, Sir, we should legislate. There are case laws, Kalachand against R is one of these cases, but I think we should legislate for the time spent in detention to be deducted on passing sentence.

Finally, the defendant who appeals against judgment is on remand pending trial. When he appeals, he is on remand; he is not serving sentence. When his appeal is dismissed, the time he has been on remand since he has been convicted and since the date of his appeal should also be deducted from the sentence that has been imposed upon him.

Mr Deputy Speaker, Sir, before resuming my seat, I would say that the bail issues will always *revenir sur le tapis* in one or two years. We should, from time to time, review our provisions concerning determination of bail application, Mr Deputy Speaker, Sir. Today is a step forward, and I think there are many positive features in this piece of legislation. I just hope that the hon. Attorney General will take on board whatever suggestions proposed by the Opposition - because there has been consensus in this House - so that we make this legislation a

better legislation still in the interest of democracy and in the interest of the constitutional rights of our citizens.

Thank you, Mr Speaker, Sir.

**(Summing up) Debate No. 33 of 29.11.11**

(3.12 a.m.)

**Mr Varma:** Mr Deputy Speaker, Sir, I would like, first of all, to thank all the hon. Members who have intervened on the Bill from both sides of the House. I believe there is consensus on the Bill, but I will try to be as brief as possible in replying to the hon. Members.

Mr Deputy Speaker, Sir, the hon. third Member for Grand River North West and Port Louis West raised the issue - and this was also raised by the hon. First Member for Savanne and Black River as well - of the circular of the Police. Mr Deputy Speaker, Sir, I do not believe it is for me to comment on the operational measures taken by the Commissioner of Police. We should take comfort in the fact that there is a right to bail, and that the decision as to whether to release a person on bail is that of the Judiciary.

Mr Deputy Speaker, Sir, measures are to be put in place by the hon. Chief Justice to complement the proposed section 3A, where mention is made that -

“The Court shall endeavour to hear and determine any application for bail within the shortest delay.”

Mr Deputy Speaker, Sir, in fact, we have included the wordings in section 3A of the Bill, and that shows that we are sending a respectful but clear message to the Judiciary regarding the plight of detainees. It is not for us to interfere with the administration of justice. In fact, I did inform the House in my speech that the Master and Registrar has written to me and informed me that there would be court sittings on Saturdays, Sundays and Public holidays. We should rely on the words of the Judiciary as regards the commitment which has been taken.

There were also issues raised by hon. Members of the Opposition as regards court fees. I replied to a question already on that, Mr Deputy Speaker, Sir, and I do understand that there is no firm decision which has been taken by the Judiciary, and the matter is still being discussed at the level of the Rules Committee.

Mr Deputy Speaker, Sir, again the hon. third Member for Grand River North West and Port Louis West raised the issue of ‘means’; why we have included ‘means’ in the Bill. Mr

Deputy Speaker, Sir, it is the first time that we are introducing non-financial surety. The court will have to assess the means of the person to be able to impose the non-financial surety.

Concerning the other issues which were raised by the same hon. Member as regards community ties and associations, I will refer him to the case of *Deelchand v. DPP*, and I will briefly quote -

“The risk of absconding has to be assessed with regard to several factors. Considerations relevant to the risk of absconding will include the strength, weakness or absence of family, community, professional or occupational ties and financial commitments as such ties, if strong, might be strong incentives not to abscond and, if weak might increase the risk of absconding.”

Mr Deputy Speaker, Sir, again issues were raised as regards clause 23 of the Bill. The surety, in fact, is responsible to ensure that the person for whom they stood as surety has to attend court. This provision allows the surety to notify the police in writing if the person is unlikely to surrender to bail. This amendment, in fact, places the responsibility on the surety to ensure that the person released on bail surrenders to the custody of the court.

Mr Deputy Speaker, Sir, as hon. Faugoo rightly pointed out, clause 23(3) should be read together with clauses 23(4) and (5), that is, where the person arrested should be brought to court as soon as practicable.

Mr Deputy Speaker, Sir, again, the hon. second Member for Constituency No. 2 raised a couple of points. I have addressed one of them, that is, section 3A. As regards the point raised concerning the police and in what circumstances they should object to bail, I don't think that it is for the legislator to prescribe when the police should object to bail, as it is for the Commissioner of Police to provide guidance to officers and the Judiciary to decide whether or not to grant bail.

Mr Deputy Speaker, Sir, again the hon. Second Member for Constituency No. 2 raised the issue as regards electronic monitoring mechanism and why it is restrictive. I believe the issue was raised by the hon. First Member for Quartier Militaire and Moka as well. In fact, I should inform the House that it is a very costly mechanism, and it will only apply to this restricted category for a start. It will not, of course, be applied on the same scale as it is in the U.K.

Mr Deputy Speaker, Sir, several Members raised the issue about the new ground as regards public order. I will draw the attention of the House to a Privy Council case, namely the case of *Hurnam v. The State*, wherein reference was made to the preservation of public order.

Mr Deputy Speaker, Sir, again, the hon. Second Member for Constituency No. 2 raised the issue as regards section 22, which provides at present for a fine of Rs5,000 - not Rs50,000 - and to imprisonment for a term not exceeding two years. There is no section 23 at present. Section 23 of the Bail Act was repealed. We have checked that, Mr Deputy Speaker, Sir.

Mr Deputy Speaker, Sir, a few points have been raised by the hon. First Member for Quartier Militaire and Moka. I will briefly reply to them. I have already replied to the first one as regards section 23(3) which has to be read together with subsections (4) and (5).

As regards reporting, Mr Deputy Speaker, Sir, to a specified person or authority, as hon. Minister Faugoo has rightly pointed out, this is only to make the provision more flexible. As regards specified person or authority, it is for the court to decide and, of course, in all logic, they will not tell a person to report to the institutions which the hon. Member has referred to.

The same points were raised, Mr Deputy Speaker, Sir, as regards time frame, and I have already replied to that.

Mr Deputy Speaker, Sir, there are many instances in this piece of legislation which have been applauded by one side of the Opposition, but I did not find that from the hon. First Member for Quartier Militaire and Moka. In fact, as I stated in my speech, there are many measures which are innovative and it is an improvement on the Bail Act which was passed in 1999.

Mr Deputy Speaker, Sir, the last point which was raised is as regards the subsection 5, which was repealed. Mr Deputy Speaker, Sir, in fact, section 85 of the District and Intermediate Courts (Criminal Jurisdiction) Act states, and I quote –

“A Magistrate may on the ground of poverty or for other reasonable cause exempt any person from the payment in whole or in part of any fee payable in any criminal proceedings entered before him (...)"

That replies to the qualm of the hon. Member.

Mr Deputy Speaker, Sir, I believe that I have been brief enough and I have replied to almost all the points raised by the hon. Members, I think.

Thank you.

*Question put and agreed to.*

*Bill read a second time and committed.*

## COMMITTEE STAGE

*(The Deputy Speaker in the Chair)*

*The Bail (Amendment) Bill (No. XXVII of 2011) was considered and agreed to.*

*On resuming with the Deputy Speaker in the Chair, the Deputy Speaker reported accordingly.*

*Third Reading*

*On motion made and seconded, the Bail (Amendment) Bill (No. XXVII of 2011) was read the third time and passed.*

## ADJOURNMENT

**The Deputy Prime Minister:** Mr Deputy Speaker, Sir, I beg to move that this Assembly do now adjourn to Tuesday 06 December 2011 at 11.30 a.m.

**The vice-Prime Minister, Minister of Public Infrastructure, Land Transport & Shipping (Mr A. Bachoo) rose and seconded.**

**The Deputy Speaker:** The House stands adjourned.

*At 03.25 a.m. the Assembly was, on its rising, adjourned to Tuesday 06 December 2011, at 11.30 a.m.*