

No. 39 of 2009



FOURTH NATIONAL ASSEMBLY

**PARLIAMENTARY
DEBATES
(HANSARD)**

**FIRST SESSION
FRIDAY 18 DECEMBER 2009**

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MAURITIUS

Fourth National Assembly

FIRST SESSION

Debate No. 39 of 2009

Sitting of Friday 18 December 2009

The Assembly met in the Assembly House, Port Louis,

at 3.30 pm

The National Anthem was played

(Mr Speaker in the Chair)

PAPERS LAID

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

A. Ministry of Tourism, Leisure & External Communications) -

The Annual Report of the Mauritius Ports Authority for the Financial Year 2008/2009.

B. Ministry of Finance and Economic Empowerment -

- (i) The Loan Agreement between the Republic of Mauritius and the African Development Bank for the Development Budget Support Loan for Competitiveness and Public Sector Efficiency Programme (*In original*)
- (ii) Digest of International Travel and Tourism Statistics 2008.

ORAL ANSWER TO QUESTION

BUS RAPID TRANSIT SYSTEM

The Leader of the Opposition (Mr P. Bérenger) (*By Private Notice*) asked the Minister of Public Infrastructure, Land Transport and Shipping whether, in regard to the Bus Rapid Transit System, he will state -

- (a) on the basis of which reports it has been preferred to the Light Rail Transit System, indicating the comparative advantages of each;
- (b) the expected total cost thereof;
- (c) when the engineering designs will be ready;

- (d) the types of buses which will be used, particularly in reference to pollution, and
- (e) if the bus companies and the employees thereof will be taken on board and, if so, how.

Mr Bachoo: Mr Speaker, Sir, the choice for a Mass Transit System in Mauritius has been the subject of a long and tedious examination involving many studies and many reports. The two systems which emerged are namely the Light Rail Transit (LRT) System and the Bus Rapid Transit (BRT) System.

As far back as in 1998, the consultant Iberinsa/Scott Wilson came up with a report proposing nine options and then narrowed them down to three for an in-depth analysis. The three options were the LRT and two forms of Bus Way System. However, he did not strongly support any particular option. Much later, the services of Halcrow Fox were retained to prepare an Integrated National Transport Strategy. In 2001, the Consultant submitted his report wherein he examined the LRT option and pointed out that such an option could only work within a package of measures including, amongst others, restrained parking, traffic management measures at junctions, revisiting of traffic flows in Port Louis, ‘park and ride’ facilities and congestion pricing.

On 13 August 2001, the then Government approved, in principle, the LRT as an alternative mode of transport between Curepipe and Port Louis. It was agreed then that, prior to a final decision, a Multi-Criteria Analysis should be carried out to help Government in making the most appropriate choice, taking into account the long term sustainability and affordability. Thus, Dr David Lupton was assigned the responsibility of carrying out that analysis which has the merit of making value judgments transparent and is as such more appropriate for an informed decision. In May 2002, Dr Lupton submitted his report and concluded that –

- (i) LRT is, on the balance, the best option by a negligible 2%;
- (ii) overall, the financial and social issues tend to favour the kerb guided bus way while safety and environment aspects favour the LRT;
- (iii) if a traditional cost benefit approach had been used; the bus way would have come out first;
- (iv) the alternative mode of transport will not by itself reduce congestion noticeably but it would generate additional ridership and attract more people to live in the corridor and commute to Port Louis;
- (v) the only long term sustainable way of reducing congestion is road pricing;

- (vi) the LRT would make a road pricing regime viable by giving people an acceptable alternative;
- (vii) LRT scores best in the Multi-Criteria Analysis, that is, when we look at the economic environmental, social and financial as well as technical and safety aspects.
- (viii) the system which would provide best value for money is the kerb guided busway;
- (ix) neither the LRT or the kerb guided busway would provide a solution to the congestion problem on their own;
- (x) the best system to redress congestion is the LRT complementing an Electronic Road Pricing regime;
- (xi) public transport users would not care too much between travelling in a LRT or on a busway but car users will rate LRT higher than bus services;
- (xii) it makes sense to link Electronic Road Pricing with the construction of a LRT as the revenue from Electronic Road Pricing can be used to finance partly the initial cost of the LRT;
- (xiii) a package consisting of Electronic Road Pricing and a LRT system would together provide an effective solution to congestion in the Curepipe-Port Louis corridor;
- (xiv) LRT will not reduce congestion by itself, and
- (xv) if the Government does not consider the congestion problem sufficiently serious to require road pricing, it should not be considering either the LRT or the kerb guided bus way.

In the face of these findings, the two options were examined and the balance tipped in favour of the BRT system for the following reasons -

- (i) the huge difference in price, indicatively by a factor of three;
- (ii) the BRT provides room for better environmental performance;
- (iii) improved passenger carrying capacity;
- (iv) flexibility in terms of access by several operators;
- (v) minimum disruptive impact on existing bus operators;
- (vi) the operating costs of BRT are much lower than those of the LRT;
- (vii) BRT service can be re-routed and shifted over time to correspond with changing transportation needs, and

(viii) as opposed to LRT, BRT can be phased in step by step, improvements can be made gradually and operations can begin before every element is in place.

It is a known fact that most countries are favouring BRT system because of its numerous advantages.

Regarding part (b) of the question, the rough estimate of a BRT system for Mauritius is Rs5 billion.

Mr Speaker, Sir, it must be pointed out that my Ministry will shortly, on the recommendations of the Central Procurement Board, be awarding a Consultancy Services contract in respect of the whole Bus Modernisation Programme. As part of the assignment of the consultant, the latter will have to work out a cost estimate based on the detailed designs. Besides, prior to tendering, the project cost will have to be revisited as per the requirements of the Public Procurement Act and bearing in mind that the start of the implementation is scheduled in some two years' time.

Mr Speaker, Sir, may I be allowed to refer to figures which have been given in a report from the International Energy Agency. They show that whether on the average or highest sides, the capital costs for a LRT system are three times higher than those of a BRT system.

As for part (c) of the question, I wish to inform the House that the terms of reference of the consultant provides for the latter to prepare the detailed engineering designs, that is, the concept planning and design, and the detailed designs in respect of all infrastructural amenities, all the civil works, the traffic management measures, the relocation of existing services and so on.

Mr Speaker, Sir, I deem it appropriate to point out that the Consultancy Services contract, I am referring to, has three components and one of these relates to the BRT. There is no specific time frame for the completion of the engineering designs. However, the consultancy services contract is to be executed within 18 months from the date of award. Thus, it can be concluded that all the relevant engineering designs should be ready within the contractual period and the contract will be awarded before the end of this year. The approval of Central Procurement Office has already been obtained.

As for part (d), it is premature at this stage to pronounce ourselves on the exact type of buses that will be used. As a matter of fact, adaptability and compatibility of buses will depend on many factors such as the proposed physical infrastructure development, the topography of the terrain, the safety and security of passengers and so on.

Notwithstanding these factors, the buses that will be used will have imperatively to be non-polluting and should present such characteristics which minimise time for boarding and alighting, easy access to people with disabilities and the buses should be energy efficient.

Furthermore, new Road Traffic (Construction and Use of Vehicles) Regulations have been made and will come into operation on 02 February 2010. These regulations provide for buses to be constructed in such a manner that they have separate doors for entrance and exit, a maximum of 2 steps for boarding and alighting, i.e. they will be semi-low floor or low-floor and they will be fitted with electronic indicators.

Mr Speaker, Sir, the provisions of these regulations are not meant to cater for the BRT as such. In fact, they provide for the new type of buses that will run on our roads with a view to enhancing mobility and providing better comfort to commuters.

The exact type of buses to be used in the BRT system will be dictated by the infrastructural facilities to be installed.

Mr Speaker, Sir, with regard to part (e) of the question, I wish to inform that the BRT option will protect existing operators and their labour forces from potential displacement.

As I pointed out earlier, the BRT is flexible in terms of allowing access to existing bus operators. Therefore, these bus operators having buses that are compatible with the BRT system may be granted controlled multiple access to the system. Others will be allocated new routes within a review of the overall route network. A national bus route plan and bus service design will be developed; of which certain routes will be identified as being integral of the BRT development.

Mr Bérenger: Mr Speaker, Sir, as the hon. Minister has said, the previous Government was moving in the direction of the Light Rail Transit System on the basis of a number of reports and studies. Am I to understand that since 2005 and before taking the decision to move to the Bus Rapid Transit System, no new reports/studies have been carried out?

Mr Bachoo: Mr Speaker, Sir, as from 2005, we did not have any new study, but we have based ourselves on the previous studies which have been conducted, starting from late 1990s. We had plenty of reports in the past and basing on those reports there was a Coordination Committee which was set up in the Ministry early 2006.

Mr Bérenger: It is simple and the answer is no. I find that incredible, that since 2005, no new report, no new study has been carried out and yet the decision changed from LRT to BRT.

Mr Bachoo: As I have just mentioned, we had plenty of reports, Mr Speaker, Sir. We have based ourselves on those reports and, in the past, even those reports, Mr Speaker, Sir, have recommended bus way also. For example, in 1998 Iberinsa had recommended the bus way and in 2006, there was a Coordination Committee which was headed by Jonathan Richmond. He was a consultant posted at the Ministry of Public Infrastructure. That Committee also came to the conclusion that the best and ideal method would be the BRT system.

Mr Bérenger: The former Government on the basis of the reports - and the Minister was responsible then - was going in the direction of LRT with the backing of the World Bank. Can I know since 2005 whether the World Bank has been consulted, whether they have submitted any documents, reports and comments?

Mr Bachoo: The World Bank consultants were repeatedly visiting our country and Dr. Lupton prepared the report which was financed by the World Bank. After that consultants have been coming and we were in consultation with the World Bank before coming to these decisions.

Mr Bérenger: My question, Mr Speaker, Sir, is simple: since 2005 have the consultants of World Bank submitted any documents, any comments, any reports on LRT and BRT?

Mr Bachoo: There is no document as such, but they have recommended whatever we are doing.

Mr Bérenger: Is the Minister saying that the World Bank has recommended the Bus Rapid Transit System and, if yes, is he prepared to table the document in which the World Bank supposedly recommended that?

Mr Bachoo: Mr Speaker, Sir, the World Bank is financing the consultancy itself for the BRT project. If the World Bank is against it, why is the World Bank financing it?

(Interruptions)

Mr Bérenger: They made their choice, then they financed. Mr Speaker, Sir, it is a rather shocking situation. I believe that the decision has been taken for fanatical, political reasons, Mr Speaker, Sir. Now, is the Minister serious - everybody knows, especially when Copenhagen meeting is being held, when we are talking about MID, as far as environment is concerned, it is the LRT that is environment-friendly and not buses, whatever kind of buses, they add to pollution - when a few minutes ago he said that, as far as environment friendliness is concerned, the Bus Rapid Transit System is better than the LRT? Is he serious when he said that?

Mr Bachoo: Mr Speaker, Sir, but it all depends, for example, we are trying to introduce Euro 3 standards regarding vehicle emissions. Secondly, we do not have that much of means to spend so much money in the LRT. We have also to be practical and pragmatic.

Mr Bérenger: That is another matter. Financial considerations, we will get to that, but I find it *scandaleux* that the Minister should say that the Bus Rapid Transit System is more environment-friendly. Is it not a fact that Prof. de Rosnay advised in the direction of the LRT precisely for environmental reasons?

Mr Bachoo: I am not aware of any statement made by Professor de Rosnay, but one thing is that, as I have just mentioned, we are going to introduce low carbon emitting buses.

Mr Bérenger: When we look at comparative advantages, will he confirm that, in fact, a major consideration for it to be financially viable in the medium and long terms is the fact that customers are provided with smoother transport when we talk about an LRT system and that, therefore, we are most likely to have many, many times more passengers travelling through the LRT than through the BRT. This has been like that the world over.

Mr Bachoo: Mr Speaker, Sir, when we are insisting on this question of LRT, let me remind the House that even in the Iberinsa report it has been clearly spelt out that there is sufficient demand along the corridor to justify and improve public transport. Fortunately, the alignment with the Old Midlands Railway line provides the opportunity for creating additional segregated transit mode. All possible public transport road and rail options have been considered. The bus based solution produced significantly better economic and more feasible financial results than the rail based option. The recommendations as a result of this analysis is for its development as a bus way. Even they have recommended that and, as I have just mentioned, it is not easy for us to be able to introduce a light rail which is so costly and the number of passengers required - I do not have the exact figure with me - to make that become feasible is difficult for a country like ours.

Mr Bérenger: If we can move on to the total cost of the so-called BRT, the hon. Minister has quoted the figure which is in the Budget Speech - Rs5 bn. Is that for part of the final project? Does that concern only Curepipe/Port Louis or does it go up to the North and down to Mahebourg as was planned in later stages?

Mr Bachoo: No, for the first part, it is only the corridor from Curepipe to Port Louis and after that we are going to look at other options. Mr Speaker, Sir, as I was saying, the LRT is viable only when there are 15,000 passengers per hour, which is impossible in our small island.

Mr Bérenger: Mr Speaker, Sir, can I know whether that figure of Rs5 bn includes compulsory acquisitions which will be inevitable and, if yes, can we have *un ordre de grandeur*?

Mr Bachoo: No, that concerns only the project, that is, the Bus Rapid Transit System. As far as the acquisition is concerned, it has not been taken into account and, as the hon. Member is aware, we have a big problem as to that corridor because there are hundreds of houses which have to be pulled down and, in fact, the Ministry of Housing is looking into it.

Mr Bérenger: Well, if that figure does not include compulsory acquisition, I take it that it relates only to infrastructure. It does not include the buses either.

Mr Bachoo: Mr Speaker, Sir, I would like to get the information, but I think it includes the buses.

Mr Bérenger: Can I ask who is going to purchase the buses? Who is going to own the buses?

Mr Bachoo: Mr Speaker, Sir, as I have just mentioned, the consultancy works are on and we have not yet even awarded the contract, let the Consultants start working on it and we will look into it. They will come with recommendations.

Mr Bérenger: Since the Minister refers to the consultancy for engineering designs, the bids were closed a few months back. Can I know how many bidders there were? From what I understand, a choice has been made. Can we know who has been chosen?

Mr Bachoo: Mr Speaker, Sir, in fact, that concerns the Public Procurement Office, we are not concerned with the selection of that bidder. I have to inform the hon. Leader of the Opposition that the buses will have to be purchased by the operators; the Rs5 bn concern the infrastructural work. Secondly, as far as the tenders are concerned, that is, the Central Procurement Office, I am not aware of the company which has got it. I would give the name once I get it.

Mr Bérenger: Well, before the change was made from the Light Rail Transit System (LRT) to the BRT, was there, at least, a pre-feasibility study carried out and will there be a full feasibility study before we move ahead?

Mr Bachoo: As I was explaining, I had mentioned that a feasibility study will be carried out and that the whole lot will be taken by the consultant who has been appointed. Six bidders were, in fact, involved in the process and Parsons Brinckerhoff is to be awarded the contract; it is the best evaluated offer. It is about Rs88 m.

Mr Bérenger: Can I know from the hon. Minister whether the Terms of Reference of that consultant includes advising us on the type of buses, especially with reference to pollution to the environment.

Mr Bachoo: Yes, I think so.

Mr Bérenger: I am amazed to the number of elementary things which the Minister cannot reply and yet we have shifted from LRT to BRT. It is rather amazing, Mr Speaker. Can I know whether the consultant will advise on the number of stops that there will be on the BRT from Curepipe to Port Louis and will that include commercial activities, commercial centres at those stops?

Mr Bachoo: All these issues will be taken care of by the consultant.

Mr Bérenger: On the last part of the question, I asked whether the bus companies, their employees and, therefore, their trade unions will be taken on board and, if yes, how? Can I know from the hon. Minister whether there have been any consultations between Government, the bus companies, and the trade unions concerned? Have there been any consultations, have they been provided with information?

Mr Bachoo: Mr Speaker, Sir, it would be premature at this stage, but, in fact, we are envisaging to consult, to take all these people on board. One of the reasons why we are moving from LRT is that we do not want to snatch the bread from the mouth of those workers who are involved in the bus industry and we have this in mind definitely.

Mr Bérenger: The Minister was Minister between 2000 and I cannot remember when; he knows that the LRT was to go hand in hand with regional companies exploding from the stations and that, therefore, no one was going to lose his job. Can I know whether such a guarantee has been given to the companies, to the trade unions that there will be no loss of jobs with the BRT System?

Mr Bachoo: I would like to remind the hon. Member that when I was Minister at that time, I remember the amount of hue and cry that was raised by the bus companies. Though we can say today that, in fact, everybody was consulted, I knew what were the hardships that those people would suffer in case the LRT would have come. Now I give the guarantee and inform the hon. Leader of the Opposition that all these people will be taken on board. In fact, when Jonathan Richmond was appointed by the Deputy Prime Minister to look into the different aspects of our transport system, all the bus operators were consulted and I can assure the House that they will be taken on board.

(Interruptions)

Mr Speaker: Order now, order! Can I move to hon. Jugnauth and then come back to the Leader of the Opposition?

Mr Jugnauth: Since the hon. Minister is not able to give any information about what type of buses that is going to be used, especially with regard to the cost of buses, the impact of the use of those buses on the environment, when we know that the Prime Minister is right now talking about *Maurice Ile Durable*, does he agree that this is an important unknown factor and that this should have been known to be taken into consideration in order to arrive at an appropriate decision in the interest of the country?

Mr Bachoo: I hope the hon. Member knows what he is talking about. I have just mentioned that we have appointed a consultant who has to look into the different aspects of the Bus Modernisation Programme and, as a Government, we are serious. I cannot just jump to a conclusion that the buses will cost that much of money. After all I am not a consultant in that and that is the reason why I have mentioned that the Bus Modernisation Programme has got three components and all these issues will be taken care of. It is only then, as a responsible Government, that we will be in a position to say how much it is going to cost us.

Mr Dulloo: On the question of land acquisition, may I ask the hon. Minister whether he can reveal to the House the total land area that would be devoted to this BRT System project, indicating the area under the vegetation, whether forests or other plantations would have to be converted for this project?

Mr Bachoo: Mr Speaker, Sir, either it is BRT or LRT, the same lands will be utilised, about 23 kilometres and, in fact, the same corridor will be maintained. The Ministry of Housing and Lands is working on that. There are over 50 to 55 buildings which have to be removed, but there will be negotiations with those people as it was in the past.

Mr Bodha: In view of the fact that the hon. Minister said that the capital investment for the BRT is Rs5 bn. and, for the LRT, it is three times more, may I ask him whether the fare is going to be three times more? I don't know whether it is premature to ask, but may I ask him whether the issue of Government subsidy – because today the subsidy is already more than a billion rupees – is being considered when they are taking other operating costs?

Mr Speaker: There are too many questions in one question.

Mr Bachoo: Mr Speaker, Sir, with LRT the fare will be ten times more than it will be with Bus Rapid Transit System.

(Interruptions)

How I know?

(Interruptions)

Mr Speaker: Won't Members keep quiet? When the hon. Minister is answering, they are interrupting him. Can the hon. Members keep quiet, please?

(Interruptions)

Mr Bachoo: Mr Speaker, Sir, as I have just mentioned it is ten times more, because we have got experience in other countries of the world where the LRT had been introduced.

Mr Lesjongard: Can the hon. Minister confirm that Government has opted for the least viable option and that it is because of the lack of political will that Government had chosen this politically acceptable alternative though Government knows that the LRT is the best option?

Mr Bachoo: This is a responsible Government and whatever action we will take will be a responsible one.

Mr Gunness: Mr Speaker, Sir, I heard the hon. Minister say that the BRT will be ten times less than the LRT. Can we know from the hon. Minister on which report he based himself to make that statement categorically?

Mr Bachoo: Mr Speaker, Sir, we have seen in many countries that the LRT has failed. When we have compared notes we have found that LRT is almost ten times more than BRT. For example, the Reunion Island started with it and, ultimately, they had to give it up because they found that it was difficult.

(Interruptions)

Mr Speaker: Hon. Bhagwan and then back to the hon. Leader of the Opposition.

Mr Bhagwan: Can I know from the hon. Minister whether - because Government has chosen the BRT System - he is allowing the National Transport Corporation, which is a bus company, nearly State-owned, to suffer, I would say, a natural death as far as its finance and management are concerned?

Mr Bachoo: I again maintain that, as a responsible Government, the Ministry of Finance has recently injected Rs40 m. in the NTC. If our intention was to allow the bus company go bankrupt, we would never have done it. Mr Speaker, Sir, secondly, the tendency throughout the world actually is towards the BRT, because it is more advantageous as everybody knows. I don't want to give examples of countries which are moving towards this.

Mr Dowarkasing: Mr Speaker, Sir, just recently, the Prime Minister stated that we are going to decrease our dependency on fossil fuel by 60% till 2025. Does he think that this project of BRT fits in that project of decreasing our dependency on fossil fuel?

Mr Bachoo: I have already answered that we are trying to introduce Euro 3 and we are trying to limit as much emission of carbon as possible.

Mr Bérenger: Since the hon. Minister said that the LRT System has failed in Reunion, is he aware that they have not even started, it is still being discussed? Is he aware of it? He gave it as an example of the country where the LRT System has failed. I repeat: is he aware that not even *le premier coup de pioche n'a été donné*?

Mr Bachoo : Mr Speaker, Sir, I am talking of the project. In its bud, it has been destroyed. For example, in Sheffield they are running into billions of rupees of losses and Mauritius, with such a fragile economy, cannot afford to make tests, trials and errors.

Mr Berenger: Mr Speaker, Sir, I said that the MID is still *une coquille vide*. Well, it is clear that the Bus Rapid Transit System *est une coquille encore plus vide*. The Minister cannot provide information about anything. Now consultancy is being awarded, now we will start thinking about buses, about whether 20 wheels or 3 wheels. *C'est une coquille plus que vide*. Doesn't the hon. Minister and Government think that there is need to stop and review the whole thing? If they come to the conclusion objectively that a small place like Mauritius will be better off with BRT, prove it, but not in that way! Will the Minister and Government consider stopping and reviewing the whole situation with the help of serious bodies like the World Bank?

Mr Bachoo: Mr Speaker, Sir, we have gone a long way and our decongestion programme is going on at an accelerating speed. I would request the hon. Members to be a bit patient. We don't have 15,000 passengers hourly to provide from Curepipe to Port Louis. It would become an economic flop and we don't want to take any risk.

Mr Speaker: Time is over!

MOTION

SUSPENSION OF SO 10(2)

The Ag. Prime Minister: 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.

Mr X. L. Duval rose and seconded.

Question put and agreed to.

PUBLIC BILLS

First Reading

On motion made and seconded the Finance (Miscellaneous Provisions) (No. 2) Bill (No. XXIV of 2009) was read a first time.

Mr Bérenger: Mr Speaker, Sir, on 21 July of this year, I raised a point of order when the then Finance Bill came before the House that certain issues that were in the Finance Bill had nothing to do with finances and you gave a ruling. You ruled, I quote –

“(...) I rule that the Finance (Miscellaneous Provisions) Bill (as it was then called) should not contain - and you underlined not - provisions intended to make permanent changes in existing laws unless they are essentially connected with national finance, or, are consequential upon, or incidental to the taxation proposals and may also include provisions that are sufficiently closely related to those matters within the spirit and scope of the Bill as defined in the long title.”

Mr Speaker, Sir, I make reference to clause 6 of the present Finance (Miscellaneous Provisions) (No. 2) Bill to amend the Courts Act. We are going to amend the Courts Act to introduce a new concept in our Judicial system - mediation - so as to allow the Supreme Court to provide for compulsory mediation in any civil suit, action, cause or matter. I ask for your ruling, that this has absolutely nothing to do with the Finance Bill. Apart from that, Mr Speaker, Sir, you are lawyer, I am sure you are aware that it is very controversial. Right now, there is a full debate on that issue. The Supreme Court Mandatory Mediation Draft Rules have already been circulated, they are being objected to. There is a full debate in the legal world and now we introduce that through a Finance Bill. So, I would ask for your ruling. It does not have a place in the Finance Bill and it is very controversial, it warrants a full debate on that issue.

Mr Dulloo: Mr Speaker, Sir, also in clause 2 Affidavits of Prescription Act amended, what has it got to do with Finance?

Mr Speaker: Which clause does the hon. Member mean?

Mr Dulloo: Clause 2 Affidavits of Prescription Act amended.

Mr Speaker: I will have to suspend to go and look into the matter. I suspend for half an hour.

At 4.09 p.m. the sitting was suspended.

On resuming at 5.16 p.m. with Mr Speaker in the Chair.

Mr Speaker: Hon. Members, I have looked at the Point of Order raised by the hon. Leader of the Opposition and I must point out that at paragraph 176 of the Budget Speech it was mentioned that - and I will read it -

“We are modernising our judiciary with an e-judiciary project supported by a grant from the Investment Climate Facility (ICF). The project will provide for electronic filing and case management which will create a fast track for commercial and civil cases to be heard and disposed of within 100 days. This will involve setting up Mandatory Mediation via the Supreme Court. The project will cost Rs300 m. Necessary legislative amendments will be brought to allow for electronic filing and mediation and charging the appropriate fees.”

I understand that the mediation is *sine qua non* for the implementation of the e-judiciary project which will cost Rs300 m. Although this is mentioned in the Budget Speech, I have come to the conclusion that the only issue is whether hon. Members will have a full debate. I have decided to allow any hon. Member who wishes to speak fully on this matter. I will give them the full opportunity and latitude.

As regards the second Point of Order, I understand that, on this issue of prescription, the law has been amended in order to have a better registration at the Registration Office.

Thank you.

First Reading

On motion made and seconded the Additional Remuneration (No. 2) Bill (No. XXV of 2009) was read a first time.

Third Reading

On motion made and seconded, the Appropriation (2010) Bill (No. XXI of 2009) was read a third time and passed.

Second Reading

THE FINANCE (MISCELLANEOUS PROVISIONS) (NO. 2) BILL

(No. XXIV OF 2009)

Order for Second Reading read.

The Vice-Prime Minister, Minister of Finance & Economic Empowerment (Dr. R. Sithanen): Mr Speaker, Sir, I move that the Finance (Miscellaneous Provisions) (No. 2) Bill (No. XXIV of 2009) be read a *second* time.

The Bill provides for the implementation of measures announced in the Budget Speech of 18 November 2009 and includes amendments for strengthening and streamlining certain provisions relating to revenue and public finance.

Mr Speaker, Sir, the Mauritian economy has weathered the worst global economic recession in many decades and is manifestly returning to its trend growth path. Thus the 2010 Budget aims at fully harnessing the new dynamism in the economy to shape the recovery and put Mauritius on the path of higher growth, consolidate the social progress we have been making in the past four and a half years and sustain green development.

Thus a number of new policies, measures and actions have been announced that require amendments to enactments in four main areas, namely -

- i. Taxation and Tax Administration;
- ii. Business Facilitation;
- iii. Control of Gambling, and
- iv. Transactions on Land and Property.

I will first elaborate on the amendments concerning Tax and Tax Administration.

Mr Speaker, Sir, amendments are made for the Withholding Tax on royalties payable to non-residents to be raised to a final 15% instead of 10%; second to raise the NRPT exemption threshold from Rs385, 000 to Rs400,000, to increase the income exemption threshold for Categories A to D taxpayers by Rs15, 000 and categories E & F by Rs20, 000 respectively. The new thresholds will therefore be as follows, effective as from 01 January 2010 -

Category	From(Rs)	To (Rs)
A - No dependent	240,000	255,000
B - 1 dependent	350,000	365,000
C - 2 dependents	410,000	425,000

D - 3 or more dependents	450,000	465,000
E - retired with no dependent	285,000	305,000
F - retired with one dependent	395,000	415,000

As regards tax administration, a number of amendments are being made to further simplify, strengthen and improve the fairness of the tax system.

First, with budgeting shifted to a calendar year basis, the due date of 31 December for submission of returns by companies under self assessment and under the Advance Payment System is being moved to two working days before the end of the year. Likewise, the latest date for submission of the quarterly return under the Current Payment System, submission of Pay As You Earn returns and remittance of Pay As You Earn withheld by employers will also be moved to two working days before the end of the year. Similar provision will be made for VAT by way of Regulations.

Second, for the purpose of *campement* tax and *campement* site tax, the financial year will be from 01 July to 30 June in any given year, that is, the payment dates for those taxes are being left unchanged with the move to align Government financial year with calendar year. The majority of lessees of *campement* site have opted for a new lease with increased rental and premium. They have, therefore, been exempted from payment of *campement* site tax and *campement* tax. Since there are fewer than 100 lessees who will be paying these taxes, it has been deemed more efficient administratively to leave the payment dates of these taxes unchanged.

Third, provision is being made to give Government flexibility regarding the basis used for the calculation of the CSR contribution, while ensuring that every company making a profit devotes at least 2 percent of its profits to social development.

Fourth, provision is being made for the Director-General of the MRA to grant payment facilities for the payment of 30 per cent on objection to an assessment raised by the MRA where he is satisfied that the person does not have the financial means to make the payment in one sum. This would ensure that persons who are in financial difficulties are not denied their right to lodge an appeal against decisions of the MRA.

Fifth, provision is also being made for an objection to an assessment raised by the MRA to be made on a form approved by the Director-General. This will streamline the process for making an objection.

Sixth, the law is being amended to make it an obligation for a person appointed as receiver Manager of a company which is in receivership/liquidation to notify the Director-General of the MRA

of same and to ensure that any tax due by the company is set aside before disposing of any asset, failing which he shall be personally liable for the tax due. This will align the provision with that which already exists for VAT.

Seventh, a company wishing to change its accounting period will now have a longer period of six months instead of three months from the date of its last balance sheet to seek the approval of the Director-General of the MRA.

Mr Speaker, Sir, in addition, the Customs Act, the Excise Act and the Mauritius Revenue Authority Act are being amended with the aims of simplifying and strengthening tax administration. There are also amendments that deal with anomalies and ensure that our trade tax policies are fully compliant with WTO requirements and in line with best international practice.

First, provision is made for the Director General of MRA to cancel a Bill of Entry in the Customs Management System in the event the declarant fails to make an application for cancellation for non-realisation of a transaction within the time limit.

Second, in accordance with Article 7 of the WTO Valuation Agreement, provision is being made to disallow the use of minimum value for valuation of goods for duty purposes. This will make up for an omission in the law and bring our Customs Act in full compliance with the WTO Valuation Agreement.

Third, an amendment is being made to regularise the reporting of ship's stores by incoming vessels. This reporting will have to be done to the Director-General of MRA instead of to the Director of shipping. In the same vein, vessels leaving for fishing campaigns on the high seas will be issued with ship's stores and provisions are being made for imposing fines on vessels returning to a port or airport in Mauritius due to unforeseen circumstances such as bad weather, but with an unreasonable deficiency in their stores.

Fourth, the law will henceforth provide for the introduction of a "Customs-Approved Storeroom" (CASR) system for aircraft supplies similar to a bonded warehouse that enables airlines to store goods for sale to passengers on aircrafts, without payment of duty, excise duty and taxes. This will bring the control of aircraft supplies in line with internationally accepted practice.

Fifth, the law is also being amended to simplify the procedures for transfer of excisable goods from one place to another within the country.

Sixth, two amendments are being made to simplify the role of MRA Board members in recruitment of lower level staff and to approve write off of irrecoverable tax. Provision is being made for

only one member of the MRA Board, who could be the Director-General, to be present on selection committees for recruitment of staff other than at managerial level. Presently the law provides for, at least, one member of the Board, other than or in addition to the Director General, in his capacity as a member of the Board, to be on the Committee.

The House will recall that, earlier this year, I brought an amendment to the MRA Act to give power to the Board, instead of the Minister of Finance, to approve write-off of irrecoverable tax. In this connection, we are bringing a further amendment to the law that will provide access to information necessary to exercise this function. However, this access will be limited to information relating to the amount of the irrecoverable tax, the date since the amount is outstanding, the enforcement actions taken and the reasons for requesting approval to write off. The names of debtors will not be disclosed to the Board.

Business Facilitation

Mr Speaker, Sir, since 2006, when we made of business facilitation one of the main planks of our reforms we have been consistently increasing our efforts to create a better doing business environment. This determination is also reflected in the 2010 Budget and in this Finance Bill.

The Courts Act is being amended to provide for mediation by the Supreme Court as well as to allow for electronic filing of documents and case management. As regards mediation, the Chief Justice may refer any civil suit, action, or matter before a judge for mediation. If there is no agreement between the two parties, the Judge will refer the case for trial. Mr Speaker, Sir, globally, out of all cases which are entered in court there is always a number which can be settled through mediation, but, in the absence of such a process, all cases, even those that do not need to be adjudicated upon are entered in court. This process can be lengthy, costly and not conducive to a business friendly climate. Mediation will contribute in the speedy settlement of cases. It will improve the chances of settling the case at an earlier stage thus freeing more time for actual hearing of cases. It will also enable straight forward cases to be disposed of within 100 days, instead of years, as it is the case today. It will also improve the investment climate and the country image as an attractive destination to do business; increase investor confidence that disputes would be speedily and effectively resolved; reduce considerably the time spent on court premises; enhance delivery of services with defined time limits and also decrease backlog. In fact, mandatory mediation is one of the conditions of the Investment Climate Facility (ICF) which is working with Government to create a legal, regulatory and administrative environment that enables business of all sizes to grow, invest and create jobs. The objective of Investment Climate Facility is to remove the

barriers that exist in doing business in Africa with a view to fostering an enabling business environment which is vital for the continent's economic growth. It is in this context that the ICF is financing the e-judiciary project.

As regards, the electronic filing system, it is expected to decrease the minimum time for a civil case to be ready for trial from its date of initiation with the court system at the Supreme Court from 150 days to 45 days.

The amendments to the Courts Act are necessary to maximise the support we are getting from ICF as well as to improve significantly the efficiency and performance of our judiciary. As announced in the Budget Speech, Government is providing funds for the creation of four additional Puisne Judges, three of whom will sit full time at the Mediation Division and the fourth one at the Commercial Division.

Mr Speaker, Sir, the Bill is also amending the Companies Act so that the Registrar of Companies is required to publish a notice of its intention to remove from the register a company which has ceased business only in the Government Gazette, instead of having to publish it also in 2 daily newspapers.

The Independent Broadcasting Authority Act is being amended to allow independent broadcasters, with up to 100% foreign-ownership, to establish themselves in Mauritius provided that their television programmes are broadcasted elsewhere than in Mauritius.

The Non-Citizens (Property Restriction) Act is being amended to allow companies listed on the Stock Exchange but which are not controlled or managed by non-citizens to acquire immovable property without the need for prior approval from the Prime Minister's Office.

Appropriate amendments are being brought to avoid double payment of registration dues on the leasing of immovable properties. Under the current legislation, registration dues are levied twice, firstly when the property is acquired by the leasing company and secondly when it is transferred to the lessee at the end of the lease. Duties and taxes applicable on the second transfer are accordingly being removed. This is also in line with the treatment in the case of finance lease for acquisition of a motor vehicle and in the case of Islamic mortgage.

The Inscription of Privileges and Mortgages Act is being amended for administrative convenience at the level of the Registrar-General's Department. The number of lines allowable per page in documents submitted for registration will be 40 instead of 35 lines and the margin of the pages will be doubled to give more space for annotations.

To reduce the time limit for submission of documents to the Registrar-General, notaries will be given 8 days instead of 10 days to submit deeds for registration. Furthermore, the time limit for registering a fixed and floating charge or other document relating to a loan transaction will be reduced from 20 days to 8 days from the date of signature.

Control of Gambling

The Finance Bill also amends the Gambling Regulatory Authority Act for better control and for ensuring that the industry operates within the purview of strong regulations.

Thus, the Gambling Regulatory Authority (GRA) Act is being amended to include amusement machines with prizes (AWP) within the ambit of the Act for better enforcement and control. These AWP machines are similar to slot machines and other gaming machines. However, licences thereof are delivered by a Local Authority but, unlike gaming machines, they are not subject to control by the GRA. With the amendment to GRA Act, they will now be subject also to an annual gaming licence fee of Rs500 per machine, and to gaming tax at the rate of 8 per cent of monthly gross takings or Rs500,000, whichever is the higher.

Provision has also been made for the operation of Video Lottery Terminals (VLTs). The Operator will have to pay such proportion of the net proceeds from VLTs to the Consolidated Fund in accordance with the terms and conditions of the licence. One of the conditions is that VLTs would be installed at such places as may be approved by the Board. These provisions will come into operation by Proclamation.

The rate of betting tax on football matches will be 8 per cent instead of 2 per cent for ensuring a level playing field with bets on horseracing. This will be effective as from 21 December 2009. In addition, licence fee on dart games will henceforth be levied on the number of dart boards instead of the number of stands.

Transactions on Land and Property

Mr Speaker, Sir, a number of amendments are being made in this Bill to address some issues in the area of transactions on land and property. These amendments are made to give effect to the budget measures announced, correct some anomalies and simplify certain provisions.

Thus, Clauses 13(a), 13(b)(i), 13(c), 13(d), 18(a) and 18(c)(i) and (c)(ii) align some of the definitions used in Land (Duties and Taxes) Act to that of the Registration Duty Act and specify that a deed includes a judgment by a Court.

Amendments are made to implement a measure announced in the Budget Speech of June 2009 relating to the Invest Hotel Scheme. Now that the regulations governing the Invest Hotel Scheme have been made under the Investment Promotion Act, amendments are being brought in the Bill to specify that a standalone villa will be subject to the same tax treatment as for an IRS villa, that is, payment of registration duty of USD70,000. Land transfer tax will be at the rate of 5%. Registration duty on the transfer of a hotel room, apartment or suite under the Scheme will be subject to the normal land duties and taxes. Currently, both land transfer tax and registration duty are levied at the rate of 5 percent.

The Bill also provides for streamlining of information to be inserted in deeds submitted for inscription or transcription in order to ensure smooth implementation of the Land Administration, Valuation Information System (LAVIMS) project, as follows -

- (a) the format for the date is being specified;
- (b) the extent of the immovable property should also be given in figures and in square metres;
- (c) the pages should be numbered in the specified format, and
- (d) the notary will be required to submit an unbound photocopy of the original deed duly certified by him for scanning purposes.

The Code Civil Mauricien is being amended to simplify procedures for renewal of inscriptions. The renewal will be made through the filling of a prescribed Form under the Transcription and Mortgage Act instead of presentation of 2 certified copies of the original document.

It is also provided that an affidavit of succession will not be transcribed unless it is accompanied by a written declaration containing reference to, at least, one property belonging to the deceased.

The Bill also addresses the issue of abuse in the case of prescription. It amends the Affidavits of Prescription Act to strengthen provisions for the proper identification of the person becoming owner of an immovable property by prescription so as to prevent abuse. The surname and other names of the person alleging to have acquired property should henceforth be in capital and small letters respectively. Furthermore, the date of birth will have to be provided, including the registered number of the birth certificate, and, if married, the date of marriage, the matrimonial regime and the registered number of the marriage certificate would have to be declared in the affidavit of prescription.

Mr Speaker, Sir, as regards infrastructure, we have announced in the Budget Speech that the Civil Aviation Act will be amended to set the legal framework for a Terminal Expansion Fee on every passenger departing from Mauritius by air. Clause 3 provides for the implementation of this decision. The receipts will be used to support the financing of the new passenger terminal at the SSR International Airport. The coverage, the rate of the fee and the manner of its collection will be laid down in regulations.

The National Identity Card Act

The National Identity Card Act is being amended to allow fingerprints and other biometric information to be incorporated in the new multi-purpose smart card that will serve as National Identity Card. Transitional provisions are being made for an existing holder of an identity card to apply for the new card within a period of twelve months after the commencement date. For Mauritians residing abroad, they will be requested to change their cards on such opportunity and at such time as may be convenient to them. This will come into operation by Proclamation.

The Statutory Bodies (Accounts and Audit) Act

The Statutory Bodies (Accounts and Audit) Act is being amended to ensure that all Statutory Bodies irrespective of their size submit annual reports which will include a Corporate Governance Report and Financial Statements. However, for the purpose of Financial Reporting, smaller organizations, having an annual revenue of less than Rs50 m, will be required to prepare financial statements in compliance with the Financial Reporting Framework and Standards issued by the Financial Reporting Council instead of International Financial Reporting Standards.

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

Mr X. L Duval rose and seconded.

(5.39 pm)

The Leader of the Opposition (Mr P. Bérenger): Mr Speaker, Sir, of course, I am not going to repeat points which were made in the course of the debate on the 2010 Budget Speech. I shall, therefore, comment upon two clauses only and suggest a small amendment in that third case; it is probably a misprint and it is worth correcting.

Of course, you have given your ruling on the question of including mediation in the Finance Bill. I take the liberty of pointing out that in the Budget Speech, reference was made and is made every year, for example, for the payment of an additional remuneration, but there must be a reason why this is implemented through a Bill with the Minister responsible, that is, the Minister of Labour participating and everybody taking part in the debate. Therefore, I do not see any logic. I have to go by your ruling, but as far as the behaviour of Government is concerned, I cannot see any logic why. In the case of the additional remuneration, there are other issues like that, we have a separate Bill, a full debate, whereas in the case of mediation, it is *en passant* included and it is the Minister of Finance who is explaining why we are bringing a major addition in our judicial system. On top of that, today, we have moved, First Reading, Second Reading and Third Reading, I consider that to be an *outrage à la Cour*, nothing less. First Reading, Second Reading and Third Reading today whereas we are dealing with the major reform to our judicial system and one which is very controversial from what I've heard, but we've heard nothing from the Minister of Finance and this is not his job, in fact, as something has been written for him, but will he react to what I am saying? He can't react and I am sure that he is not aware of what I am going to say. On top of that we've all made it a point that on such issues, it is the Prime Minister and not the Attorney-General who presents Bills, arguments to show concretely the independence of the Judiciary because if it was the Attorney-General, one could have the impression that the Judiciary takes orders from the Attorney-General, but it is always the Prime Minister. This time the Prime Minister is not even present, he has not been briefed, he won't be able to react to the points made by the Leader of the Opposition because Government has chosen to bring this major change to our judicial system through the Finance Bill. I find that shocking. Mediation, what we are doing is a major innovation, unfortunately, a lot of my legal friends here won't be taking the floor today as we've been asked as far as possible to cut down the number of orators. We have been asked, we have not been imposed and we went along with it because I thought honestly that this would not be debated today. So, a lot of legal friends will not be taking part in the debates at a time when we are bringing a major innovation in our judicial system.

Let me say what my information is. Honestly I do not expect the hon. Minister of Finance to react, out of place completely. My information is that the lawyers, barristers, attorneys are not against mediation, they are for it, but I understand that they are against two things. One, it is mandatory although that word does not appear in Clause 6, Mediation, what we are discussing. It does not appear in the Clause, but draft rules have been circulated and the title of the draft rules runs: 'the Supreme

Court mandatory mediation rules, 2009'. They are draft rules. The first objection is that it should not be mandatory, this is what the lawyers, I understand, have put across in their representations. Second, they strongly believe that such mediation should not be done by judges - with due respect to them, it should not be done through Judges. There are places like Singapore - my good friend, Ivan Collendavelloo came back from there yesterday and he took the opportunity whilst he was there to look at mediation in Singapore. They started like we are starting. They started with mediation done by Judges, they ran into trouble. They have changed it completely, they have fine-tuned it. They have a department for mediation, professionals trained to mediate, but not the Judiciary. So, it seems we are treading the path that others have trodden in the past but they have corrected the problems. You are a lawyer, Mr Speaker, Sir, imagine one Judge mediates, the mediation does not succeed in a small place like Mauritius. All the points, the arguments go out, so the trial will be in front of another Judge - a brother or sister Judge to the Judge who had tried mediation. That is why I understand that lawyers have made representations to the Rules Committee of the Supreme Court chaired by one of the Judges. They have objected to certain points, they have made their representations and I understand that following those representations, the draft Rules have been kept in abeyance.

If we had had a Bill presented by the Prime Minister, with arguments, the points I am making would have been made, other Members of the House would have intervened. No, it is not a nice way to complete our legislative work this year. Not at all, Mr Speaker, Sir. I repeat, I think that such an important innovation, such an important reform to our judicial system should have come through a Bill presented by the hon. Prime Minister with a full debate, with the hon. Prime Minister having been briefed on the issue and reacting to points made by the hon. Leader of the Opposition and other Members of the House.

My second point goes back to one paragraph which the hon. Minister of Finance read in the Budget Speech and it is more or less the same words which he uses today. In paragraph 384 of the Budget Speech he said, I quote –

“Companies listed on the Stock Exchange and having minority foreign shareholding will be allowed to acquire immovable property without prior approval”

Today he has said more or less the same thing. What impression are we given? That we are doing something new, that until now companies on the Stock Exchange with a minority or one foreign owner have had to request authority from the Prime Minister’s Office and we are correcting that. I think the hon. Minister of Finance should, at least, acknowledge that a mistake had been made. He is correcting a

mistake which he made six months ago. Do not give the impression that since times immemorial, it has been like that. It is not fair and I wonder who, at the State Law Office, was responsible for drafting the Finance (Miscellaneous Provisions) Act of June 2009 only six months ago. I would be keen to know who made a mess of it. I am not blaming the Minister as he is not a lawyer, he is not a draftsman...

(Interruptions)

Not yet you say! Good luck and I wish you better success than the hon. Prime Minister in your legal career.

(Interruptions)

He is not practising, that's all I mean. He is not a practising lawyer. He has other duties.

The point is that six months ago, somebody drafted the Finance (Miscellaneous Provisions) June 2009 Act and made such a mess of it that it is only as from last June that a company listed on the Stock Exchange, if that company has one foreign shareholder, must go to the Prime Minister's Office. What a blunder! Again I am not blaming the hon. Minister, but what a blunder! At least, he should have told us that he is correcting something wrong which was made six months ago, but he should not give the impression that something new is being done!

There is one point that disturbs me. I would like the hon. Minister of Finance to confirm that. All the big companies, like IBL, Rogers have minority shareholders. From my understanding, six months ago, the Finance Bill was so badly drafted that all of them were supposed to go to the Prime Minister's office to purchase this or that. My information is that although the National Assembly voted this, it was so grotesque that the Stock Exchange did not take any notice of it. If that is true, this is serious! If that is true that, over a period of six months, the Stock Exchange, seeing *le côté grotesque de la chose*, namely that it was a mistake, chose to ignore it until an amendment is brought. Therefore, I would like the hon. Minister to clarify the situation; whether the Stock Exchange chose to ignore it – and I can understand their decision – and whether transactions have taken place during those six months without the Prime Minister's permission creates any problems. Are we backdating those transactions? From what I understand, those transactions were not authorised; it was without authority from the Prime Minister's office and, yet, they have taken place. So, what is the legal situation exactly?

The third point is - most probably it's a typing mistake, but it's worth correcting – is the terminal expansion fee. The copy which has been circulated for First Reading, Second Reading and Third Reading today, namely clause 3, Civil Aviation Act amended, and a new section 8C(i) which reads –

“There shall be levied in respect of such passenger leaving Mauritius by air and such terminal expansion fee, as shall be prescribed”.

I suppose it's a typing mistake. We might as well correct it, so that there is no ambiguity as to what that paragraph should read exactly.

Thank you, Mr Speaker, Sir.

(5.53 pm)

Mr P. Jugnauth (First Member for Quartier Militaire & Moka): Mr Speaker, Sir, it is with a feeling of disappointment that I take the floor to speak on the second Finance Bill of this year. Despite our genuine appeals on this side of the House for wisdom, sincerity and especially equilibrium in the measures, unfortunately, Government and the Minister of Finance have taken no notice and have continued, in a way, in favour of the economic operators rather than looking at, at least, the interest of the population at large, especially the workers, and we are going to debate the Additional Remuneration Bill later on.

I have spoken lengthily on the Appropriation Bill and, of course, I do not intend to repeat myself. I will make a few points with regard to the following amendments that are being proposed, that is, the Civil Aviation Act, the Courts Act, the Customs Act and the National Identity Card Act.

As regards the Civil Aviation Act, I see provision is being made for airline companies or their agents to levy a terminal expansion fee in respect of passengers leaving Mauritius by air. At the end of the day, Mr Speaker, Sir, we are talking now of three taxes for passengers travelling by air: firstly, the airport tax; secondly, the passenger solidarity fee and, thirdly, this new tax, the terminal expansion fee. I ask myself the question: is this not too much? Why do I say so? I can still remember the big fuss made and fuelled by some people when I announced the introduction, in the 2004-2005 Budget Speech, of a tourist arrival fee of 20 euros per adult tourist visiting Mauritius and Rodrigues. Some tourist operators and some people in the tourism sector had – I can still remember the words that were used - vehement criticisms against this tax. At that time, they said it would jeopardise the competitiveness of the tourism sector. Where are these people today, Mr Speaker, Sir, when this passenger terminal expansion fee is being announced by the Minister? The more so, we all agree that we are in a difficult world economic situation. We have noted that not only tourists will pay but it will also be applicable to Mauritians because it is applicable to every passenger leaving Mauritius. I ask the question: is this now better than what I proposed at that time? I leave it to the appreciation of Members.

Concerning the amendments to the Courts Act, providing for the Supreme Court to have the power and jurisdiction to conduct mediation in any civil case, from what I have gathered, there are two schools of thought. One school of thought is in favour of mediation, because some people believe that it is a good thing and that it will enhance the possibility of disposing of a number of cases which, in fact, are on the roll of the Supreme Court and create a load of work for judges. A formal structure, therefore, is now being proposed to try to settle cases, but the other thing is that, probably – I use that word, but I don't know if it is the correct one – it will pressure parties, and the judge will be more focused on trying to settle cases. That is probably one school of thought. The other school of thought, as the hon. Leader of the Opposition had mentioned, is that there are apprehensions since it is mandatory. Therefore, is it probably not an opposite consequence of what we intended? Lawyers will know that, when a case is being entered, a number of procedures have to be completed before the case is put on the roll, before it is ready for trial. I speak out of experience. We always try to settle a number of cases. I think we all agree that, in fact, it is neither in the interest of lawyers nor within their intention to try to delay cases which are before the courts. Therefore, there is like a pre-trial procedure in order to try to settle cases. Will that not delay cases before they are finally put before a judge for hearing?

I seize this opportunity to say a few words on commercial matters. From what I understand, commercial matters are being dealt with speedily, and probably too speedily. In a number of cases, not enough time is given to parties to, at least, try to settle. Not enough time is given to parties to be able probably to pay and honour a judgment. Therefore, with regard to commercial cases, if the Attorney-General can see to it that flexibility is given.

Let me come to the Customs Act. The only thing that I will say is: will the hon. Minister give us the assurance that there will be no abuse or victimisation when the Director General of the Customs Department is given this power to cancel Bills of Entry.

With regard to the proposed amendments to the National Identity Card Act, can the hon. Minister give us some information on the biometric information that is being proposed to be taken from applicants of the National Identity Card? I wish also the Minister to enlighten us on what is meant by, I quote –

“such other information as may be prescribed”

Will these be contained in the NIC because I understand that it will be a smart card with a number of features? I think that we should be very careful, because we know that there have been apprehensions, especially in other countries, about certain information which are not desirable to be known by some

people or even by the public, that is, sensible and very personal information. I think that we have to be very careful about those people who are going to have access to those information also. I can still remember, from a Parliamentary Question which I asked the hon. Minister for ICT at that time, that progress has been achieved since the replacement of the National Identity Card by a Multi Application Smart Card that was announced in the 2007-2008 Budget Speech. The Minister said that financial clearance was being awaited. It is a good thing, but I do hope that this thing is being accelerated so that the new cards will be issued in the future.

Of course, before ending, Mr Speaker, Sir, I appeal once more to the Government of the day to *rectifier le tir* so that the population really gets, I would say, a fairer share of the national cake because since 2006, as I said, there have been - let me put it that way - winning formulas for the fortunate on the one hand and, on the other hand, it has been a tale of losing formulas for a number of our people. So, I hope that Members of the Government side will realise what is at stake, especially when we have debated the last Budget. I hope that, in the few months that are left, a number of other decisions might be taken. I still have hope.

I thank you, Mr Speaker, Sir.

(6.04 pm)

Dr. Sithanen: Mr Speaker, Sir, let me thank the two hon. Members who participated in the debate on the Finance Bill. The Leader of the Opposition mentioned why, in the case of the Additional Remuneration Bill, this is discussed in a separate piece of legislation, and why this has not been done for the amendments that we are bringing to the Courts Act. I am sure he is aware, as he has been in the House for a very long time that the Finance Bill basically amends existing legislation, whereas the Additional Remuneration Bill is a standalone and new Bill. It does not amend a previous legislation. We have to enact a separate Bill also to ensure that the private sector pays the salary compensation that has been awarded. Otherwise, one could argue that for each of the amendments contained in the Budget - and God knows, Mr Speaker, Sir, how many amendments are brought in the Budget - we need a separate piece of legislation.

I do not want to make politics, Mr Speaker, Sir; we are very close to the festive season. I have done my homework, and I can give many examples where this has not been the case. Forget whether it was mentioned in the Budget. In eight lines in the Budget, I have mentioned why we are amending the Courts Act. I can assure the Leader of the Opposition that there has been discussion at the very highest

level. This has been discussed with my colleague, the Attorney General, the hon. Prime Minister, and the Chief Justice. We have seen what exists in other countries and we have announced our decision . I can give, both for hon. Jugnauth - even though I must be fair he did not canvass this point at length - and for hon. Bérenger when he was the Minister of Finance, how many measures contained in the Finance Bill that were not even mentioned in the Budget .

With respect to whether it is First, Second or Third reading, Mr Speaker, Sir, I have always acted in a very fair manner. This year, there have not been many changes compared to usually what takes place in the Finance Bill. Usually, we circulate it one week in advance. We have circulated it one week in advance, Mr Speaker, Sir, and I think that this is a very unfair comment from the leader of the Opposition.

The other point made by the Leader of the Opposition was, I think, done in good faith, Mr Speaker, Sir. I am sure the House and certainly many of the Members on the other side will recall that we were concerned and we are still very concerned of some abuses by foreigners in the acquisition of real estate property in our country. There are people who are circumventing the Non-Citizens (Property Restriction) Act.

The Leader of the Opposition says that I am not a lawyer; admittedly I am not a lawyer, but I am not that stupid not to understand when I read a piece of legislation. If there is a law that prevents foreigners to become owners of property in our country, and then if there is another legislation that spells out conditions under which foreigners can acquire property in our country and if a foreigner does not satisfy these conditions, then, in my humble submission, even though I am not a lawyer, the first law must prevail, that is, he is not eligible to acquire property in Mauritius. You don't need to have a first class honours in law at Cambridge to understand this, Mr Speaker, Sir. We were very concerned of abuses, and that is why we introduced that piece of legislation. Some work has been done; we have detected what scheme is being used to circumvent this legislation. We have taken some measures to prevent abuse in the future, but we are still left with some pending cases and we want to resolve these cases, Mr Speaker, Sir.

It is in this context, against this background of plugging in the loopholes to prevent abuse, that we introduce this legislation. Of course, in life, everybody knows that there are unintended consequences of legislation, and this is unfortunate. That's why to answer the point made by the hon. Leader of the Opposition, we did realize this and we are working on both fronts to make sure that these

people don't abuse the system while, at the same time, not to make the life of genuine investors, especially Mauritian investors difficult. There has been an arrangement where we give a blanket approval to the cases mentioned by the Leader of the Opposition.

With respect to the point raised by hon. Pravind Jugnauth on the terminal expansion fee, Mr Speaker, Sir, Government has given land for the expansion of the airport at a very high concessionary rate. The reason why we have done this is because we do realize the importance of tourism to the economy in terms of jobs, value addition, and its cascading effects on the economy, but, Mr Speaker, Sir, we will invest approximately Rs10 billion to expand and modernize the airport. Someone somewhere will have to pay partially for that. I am sure hon. Pravind Jugnauth travels and he knows how expensive airport fees are. When you travel you see the number of taxes that are levied, so much so that there is not even space on the ticket now to put these taxes. There are so many of them. You go to Paris, to London, and you see how expensive it is to use these facilities. Now, what can happen? Obviously, we could collapse all taxes into one levy. It does not make any difference whether you have one total tax for 25 Euros or a first tax for 10 Euros and a second one for 15 Euros. There are many reasons why countries charge different airport taxes. For instance, the latest one that has been introduced is a tax to ensure that airlines mitigate the higher cost of fuel. For instance at the Copenhagen climate change conference, one solution that has been proposed by one of the G-20 countries is to have a small tax on aviation and to use the proceeds from that tax to help poor countries mitigate and adapt to climate changes. So, there are many initiatives taking place. Let me reassure the hon. Member that it is very expensive and we need to ensure that we cover the cost in order to pay back the loan taken for the investment in the airport. The point is taken, there is a slight typing mistake if my understanding is correct, and the hon. Leader of the Opposition is suggesting that we delete 'and' to ensure clarity.

With respect to the authority of the Director of Customs, again, as I mentioned in my speech, we are aligning our customs practices on the recommendations that have been made by the World Trade Organisation. So, it is in line with best international practice and, we'll make sure that there is no abuse of that particular authority.

With respect to Smart Card, this is a debate that takes place all over the world between the absolute necessity to make the life of people easy and potential abuse of privacy of individuals. You can use a card to do many things as we all know and, at the same time, we have to make sure that sensitive, confidential and private information of citizens are not abused. There is a committee looking into these

aspects. We are concerned about this and we will make sure that we strike the right balance between making life easy for people from A to Z and, at the same time, that there is no abuse on the privacy of individuals.

Mr Speaker, Sir, I don't want to reply to the last point made by hon. Pravind Jugnauth because that will take me two hours to explain how the situation was disastrous before, how we have improved the economy and how many measures have been taken on the social front in order to make the life of people easier. I don't want to go into the details because this is the festive mood.

I thank everybody who has participated in the debate. I think I have replied to most of the points made by the hon. Members on the other side.

Thank you very much.

Question put and agreed to.

Bill read a second time and committed.

COMMITTEE STAGE

(Mr Speaker in the Chair)

The Finance (Miscellaneous Provisions) (No. 2) Bill (No. XXIV of 2009) 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 Finance (Miscellaneous Provisions) (No. 2) Bill (No. XXIV of 2009) was read the third time and passed.

Second Reading

THE ADDITIONAL REMUNERATION (NO. 2) BILL (NO. XXV OF 2009)

Order for Second Reading read.

The Minister of Labour, Industrial Relations and Employment (Mr J. F. Chaumi  re): Mr Speaker, Sir, I beg to move that the Additional Remuneration (No. 2) Bill (No. XXV of 2009) be read a second time.

Mr Speaker, Sir, the object of this Bill is to provide for the payment of an additional remuneration to all workers of the private sector with effect from 01 January 2010 to compensate them, *inter alia*, for the increase in the cost of living during period 01 July 2009 to 31 December 2009.

As the House is aware, the proposed compensation, which was announced in the Budget Speech, last month, will be over and above the compensation granted with effect from 01 July 2009. The rates proposed are as follows -

- (a) a salary compensation of 3.5 percent to workers drawing a monthly salary of up to Rs4,000;
- (b) a salary compensation of 3.5 percent to workers drawing a monthly salary between Rs4,000 and Rs12,000, and
- (c) a uniform compensation of Rs420 monthly to workers drawing salary above Rs12,000 monthly.

Mr Speaker, Sir, it is worth drawing attention to the fact that there is no compelling reason to pay any compensation to workers as the inflation rate for the six months ending December 2009 is only 1.2% and compensation granted in July 2009 was for the period ending 30 June 2010. Nonetheless, with a view to protecting the purchasing power of the workers, this Government has decided to award a 3.5% salary increase to those in the lowest salary bracket and to also raise the threshold up to which compensation is paid from Rs3,800 to Rs4,000. A compensation of 3.5% is also being awarded to those earning salary above Rs4,000 up to Rs12,000 per month and a flat compensation of Rs420 monthly will be payable to all those drawing above Rs12,000 monthly.

Hon. Members will recall that although we were in the thick of the financial crisis in July this year, we managed to pay compensation to workers who were in the lower salary brackets. Compensation at the rate of 5.1% was paid to all those drawing salary up to the threshold of Rs3,800 monthly. A uniform compensation of Rs200 was paid to workers earning between Rs3,800 and Rs12,000 and those earning above Rs12,000 monthly did not receive any compensation. The additional compensation now proposed will provide a measure of comfort to all workers this time.

For the computation of the compensation, we have not departed from the methodology adopted these last three years. The figure of 3.5% represents 50% of inflation rate and the full productive rate for

the last six months ending December 2009. For that period, inflation rate was 1.2% and productivity rate 2.9% as per estimates of the Central Statistics Office. I wish to highlight the fact that, had Government decided to pay the compensation calculated on the inflation rate alone, workers would have benefited from a salary compensation of 1.2% only.

Workers' organisations have objected strongly to the productivity rate being taken into account while determining the annual salary compensation. As can be seen in the computation of the proposed compensation, the use of the productivity criterion does also serve the interest of the workers.

I sincerely hope that the representatives of workers' organisations would take good note of this fact and that they can come to "*de meilleurs sentiments*" on this issue, particularly during the course of the tripartite discussions which, as announced by the hon. Minister of Finance, we shall be having in the near future on the review of the criteria currently used for the determination of salary compensation.

Mr Speaker, Sir, the decision to pay an additional compensation as from January 2010 over and above what is being paid since July this year was motivated by two factors. Firstly, there was a need to align the compensation period with the new financial year which will be on a calendar basis as from 2010. Secondly and very importantly, there is the fact that the economy has shown encouraging signs of an early recovery from the crisis. This remarkable performance of our economy is due to the wide-ranging reforms which this Government has been implementing over the last three years. These reforms, coupled with the additional efforts put in to stimulate growth in our traditional and emerging economic sectors, despite the crisis have resulted in most of our economic sectors faring better than we had expected. With the worst behind us and the prospects of a global recovery in 2010, we can safely envisage the payment of an additional salary compensation to better safeguard the purchasing power of the workers of this country and to consolidate social progress.

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

Dr. Sithanen rose and seconded.

(6.24 pm)

Mr P. Bérenger (First Member for Stanley & Rose Hill): Mr Speaker, Sir, I am not going to repeat the points made, because we discussed that at Second Reading stage on the Budget Speech. We know that when he replied to my Private Notice Question of 10 November last, the hon. Minister of Finance was categorical that there would be no wage compensation, no wage adjustment and adjustment of old age pensions and so on as from 01 January 2010. The Hansard is there, the verbatim is there.

3.5% salary compensation has finally been granted and, at the same time, it has been *un coup de grâce* *au* National Pay Council in its present form. I said that 3.5% is insufficient, not only for the lowest paid workers, but specially for old age pensioners, widows and so on.

What the hon. Minister said to arrive at that figure of 3.5% seems to have been taken very seriously by the hon. Minister of Labour. What he said, was –

“The CSO estimates an inflation rate of 1.2% for the six months ending December 2010 and a productivity of 2.9%”.

A productivity of 2.9% – not productivity rise, not productivity gains and what have you – and, therefore, adding the two together we get 23.5%. We will be around, because I heard the hon. Minister say the estimates of the CSO. I take it the estimates of the CSO point to productivity gains of 2.9%. We will be around; we’ll be waiting for the figures from the CSO. We will be around, although, in the mean time, there would have been the general elections. We will wait for the tripartite committees to have a fresh look at the *fiasco* in which the National Pay Council has been. In future, we will see what will be the figure for productivity gains and whether it is the same formula. It is clear that Government had to give some form of compensation, so they have arrived at the figure of 3.5% and worked backwards.

There is absolutely no logic in that. As I said, when speaking on the Budget, 3.5% is *insuffisant*.

I have not heard the hon. Minister say it, but I take it that the next wage compensation will be as from 01 January 2011. There is need to clarify the point so that the wage earners, the trade unionists will know. As I said, the way the hon. Minister of Finance replied to my PNQ of 10th of November, and the way a 3.5% wage compensation has been granted, it has made *une farce* of the National Pay Council. We are in an electoral context, we are changing from financial year ending June to calendar year, okay, but it has made *une farce* of the National Pay Council. So, we are breaking up, elections are *pas loin derrière la porte*; the next Government will have its job to come out with a credible formula; go back to the tripartite set up and give its credibility to whatever body, by whatever name called, which will be responsible for recommending wage compensations in the future.

Thank you, Mr Speaker, Sir.

(6.29 pm)

The Minister of Finance & Economic Empowerment (Dr. R. Sithanen): Mr Speaker, Sir, I have been given the task of replying to the hon. Leader of the Opposition.

Mr Speaker, Sir, we all know his tactic and his trick. When we do not change, we are stubborn, we do not listen to people. When we change, he takes the credit for it; he has put pressure and forced us to change. I would request the hon. Leader of the Opposition to read from Hansard what I said with respect to salary compensation. I always read what I have stated in this august Assembly, Mr Speaker, Sir, and it was very clear what I said on that particular day.

In fact, I have stated subsequent that the decision was made well before the PNQ of the Leader of the Opposition. Obviously, can you imagine, what would have happened if my statement was different from what the Leader of the Opposition was expecting me to state? Already I have not said it and he is trying to take credit for the increase. Mr Speaker, Sir, there has been no pressure.

The 3.5% is very straightforward. I don't know whether there has been a misprint, it should be productivity rise or productivity increase. The Leader of the Opposition is right, but, I think, everybody understood it that way. We have made the distinction all along between a policy decision and a process, and a procedure. It is not in the mandate of the NPC to realign the timing of the compensation to coincide with the new financial year. This is not its mandate.

Second, my colleague, the Minister responsible for labour has stated that there was no rationale for granting salary compensation as from 01 January 2010 because the previous compensation was for a period of one year commencing 01 July 2009 and ending 31 June 2010. So, there was no case. There is one person who should know this; it is the Leader of the Opposition. There is an unwritten rule which dates back, I think, to Chesworth, if my memory serves me right, or PRB that in the event of inflation being less than 5%, you carry over the increase. In fact, inflation, for the six months ending 31 December, would be 1.2%. So inflation is low and if we had used that old unwritten rule, there would be basis to give an increase as it could be carried forward.

Second, we have already paid for 12 months ending June 2010. In fact, people who are at the lower rung of the ladder are getting two compensations. Furthermore they are getting the second compensation earlier than they should have received it. People who did not receive the compensation, those who earn more than Rs12,000 have been more than fully compensated for it. That's why I am at a loss when the Leader of the Opposition said it is not sufficient. It is three times the rate of inflation. Admittedly, my friends, on the other side, will say, inflation is low. Three times 1.5 is 4.5, but the principle is the same. The same thing applies for old-age pensioners and beneficiaries of social aid. It is

the first time in the history of this country that they are benefiting 300% of inflation. Usually they get inflation and now they are getting more than two times the rate of inflation.

With respect to the formula, the Leader of the Opposition knows very well. We can't invent these figures. Both the figures in respect of inflation and productivity are calculated by the CSO. I have said it very often in this House, it is not in the interest of anybody to try to massage these figures as they are verifiable. They will come out tomorrow. The productivity increase is estimated at 2.9% by the CSO. Inflation is 1.2% according to CSO. So we have taken the figure of 50% of inflation which is 0.6% plus 2.9% increase in productivity. This gives a figure of 3.5 %.

We have not made a fool of the NPC. The NPC will meet in October or in November 2010 and will make recommendations with respect to what should be the salary compensation as from January 2011. Mr Speaker, Sir, we have provided much more than was necessary. I am not going to speak about the context of the text also. This is very important, Mr Speaker, Sir, because we don't live in a vacuum. I don't want to remind the Leader of the Opposition, I am sure hon. Jugnauth also will repeat some of these arguments. In the international context, there are countries stronger than Mauritius, Mr Speaker, Sir, which are decreasing salaries.

Mr Speaker: That point was made fully.

Dr. Sithanen: So, I just want to say that not only the text that I have spoken of, but the context also is important. If we judge both the texts and the context, Mr Speaker, Sir, I think, we have done very well with respect to the salary compensation.

Thank you.

(6.35 p.m.)

Mr P. Jugnauth (First Member for Quartier Militaire and Moka): *M. le président, je me fais le porte-parole des travailleurs et je dirais* that workers are unhappy and frustrated by the way the whole issue of salary compensation has been handled since 2006, and, obviously, by the insufficient compensation that has been awarded throughout the years and by the compensation proposed again this time.

In 2006, Mr Speaker, Sir, at a time when the Minister of Finance was talking about economic green shoots and especially after boasting about his measures in setting the stage for a robust growth, workers were given a mere Rs135 salary compensation. The Minister, himself, presided over the tripartite meeting and the threshold for full compensation which I had raised to Rs4,300 in 2005 was dramatically reduced to Rs2,700. That was his doing although he tried, we all know, at PNQ time on 27 May 2009, to put this on the back of the NPC - he just said that he reads his answers all the time - when we know that the NPC was not created at that time. Never mind!

In 2007, inflation reached a 16-year high of 10.7%, and that was due to the massive depreciation of the rupee and also because of the fiscal measures that were taken in the 2006/2007 Budget. I am not the only one saying that; the IMF also, at that time, had made comments. Yet the Minister then came with the National Pay Council as a first step towards the labour reforms which subsequently gave the employers the power to hire and fire. The tripartite mechanism which proved itself, over the years, to be, *comme on dit, un formidable instrument de justice sociale*, was dismantled. The NPC was presented as an independent body which was going to work out the quantum for salary compensation based on five criteria that were mentioned at that time: inflation, average economic growth rate, unemployment rate, capacity to pay and labour productivity growth. In fact, Mr Speaker, Sir, the NPC acted in a controversial manner to the discontent of the trade unionists. We all know the episode. I won't go into the details of that. What the NPC has systematically been doing since that time is to take the rate of inflation, divide it by two and add it to the average national labour productivity rate, and every time it recommends this figure for salary compensation to Government. In 2007, it was 8.7% for those earning up to Rs3,000, that is, a compensation of Rs261.

Of course, we have time and again said - I don't think anybody would understand the rationality behind that calculation - but I must say till now not only the Minister of Labour, but the Minister of Finance too have not explained to us why this is so. Ever since that time, we have been denouncing this trick against the workers. We also understand why the trade unionists have been criticising the NPC and have regularly been asking that the salary compensation be aligned directly to the rate of inflation. Anyway, when the Minister of Finance hid behind the NPC after the rate of inflation rocketed to 10.7%, it was largely due to his measures.

The Minister of Finance was talking about early harvest. Again, Government, I must say, failed to listen to the distress of the workers and the population at large. At the same time, billions of rupees were being cashed on account of the depreciation of the rupee by the private sector. In 2008, the same

game and the same trick went on. The Minister then talked of bumper crop and yet salary compensation was a mere 8.1% or Rs283 for workers earning up to Rs3,500 per month, when inflation rate was at 8.8%. Again, the NPC worked out the salary compensation by dividing inflation by two and adding the average national labour productivity rate. In fact, at that time, nobody heard about the other criteria that were mentioned when the NPC was set up. NPC recommendations were approved unchanged. Not a single rupee more could be given to the workers, but, again, I won't go into the details. It has been canvassed on the Appropriation Bill - billions of rupees, Additional Stimulus Package and so on.

Now, let's come to 2009. It went on, inflation rate stood at 7%. NPC, again, divides inflation rate by two, adding the average national labour productivity rate of 5.1% for workers earning up to Rs3,800. The Minister of Finance said in this House on 27 May 2009 at PNQ, and I'll quote –

“The NPC has had to balance inflation, productivity, capacity to pay and competitiveness in making its recommendations.”

Where is the balancing act, Mr Speaker, Sir? A child at primary school can do this calculation given the formula. The same formula is being applied there.

(Interruptions)

All right! Somebody attending a secondary school then! In fact, that statement was incorrect, Mr Speaker, Sir and, as I said, in 2009, workers earning up to Rs12,000 were given Rs200 as compensation and we know that those earning more than Rs12,000 were not given a single cent. They were asked to make sacrifices in the name of solidarity to save jobs. In fact, more than 60% of the employees in the public sector and 30% in the private sector were refused the salary compensation due to them. Once again, Government approved NPC's recommendations unchanged. The Minister of Finance explained that the economy was going through an unprecedented turmoil and that Government could make no effort in favour of workers.

The Minister of Finance said and I'll quote another extract of his answer to the PNQ of 27 May 2009 –

“The Rs12,000 cut-off reflects the policy to give greater protection to those that are hit the hardest. While appealing for solidarity and a sense of social consciousness from those who are at the higher end of income, raising the threshold would mean a lower rate of compensation for all or cuts in social benefits to those most in need and would risk imposing an unbearable cost on the economy.”

For the Minister of Finance, at that time, increasing the threshold in favour of those earning a bit more than Rs12,000 including gardeners, carpenters, hospital servants, attendants, messengers and so on, would cause, according to him, havoc to the economy. This was his reasoning. Whenever we have been appealing to the Minister for slightly more for the workers, he has always been saying: 'well, if we have to do this and that, we have to increase the VAT.' Anyway, that is his mindset, let it be.

Workers have been asked to make sacrifices to save jobs. I don't want to say again what I said at Budget time. He talked about saving jobs, but he didn't say how many jobs have been lost throughout this period in spite of the Additional Stimulus Package.

Let me come to the 2010 Budget!

(Interruptions)

It is good to put the mindset in perspective so that the House will appreciate how we have been going about throughout the years. The Minister of Finance announced the decision to give 3.5% increase, that is, a flat rate of Rs420 to those earning more than Rs12,000. This time, he has bypassed the NPC and the reason given is that this is a policy decision. Again, I must make the point, Mr Speaker, Sir. I fail to understand why, for so many years, the Minister has been saying that the NPC is independent and whatever recommendations they make will never be amended or changed. Now, for this time, it will be a policy decision. I hope he can explain to the workers why, when especially inflation was very high, there was no policy decision taken in favour of the workers.

Let me come to the fact now why I have mentioned the different rates of inflation throughout the years. What has happened, Mr Speaker, Sir? Le patronat a économisé R 3 milliards sur la compensation salariale durant ces quatre dernières années. L'inflation cumulative a été de 33.6% de juin 2006 à décembre 2009 et les travailleurs ont obtenu à peine 16% de compensation salariale en moyenne, toutes catégories et toutes échelles salariales confondues. Ils ont été privés donc de 17% de compensation pour la perte du pouvoir d'achat et c'est l'une des raisons pour laquelle une grande majorité de familles mauriciennes n'arrivent pas à joindre les deux bouts. Je dis toujours, M. le président, que les revenus d'une famille sont comme un réservoir d'eau. Si on retire plus d'eau du réservoir que le volume qui est alimenté, le réservoir finira par s'assécher et à force de subir des pertes au niveau du pouvoir d'achat, sans qu'il y ait de compensation salariale adéquate, les revenus des familles au bas de l'échelle et même de la classe moyenne se sont progressivement effrités. C'est cela qui explique le cauchemar financier que vit la majorité des mauriciens.

M. le président, dans des déclarations pré-budgétaires quand le ministre des finances tentait de s'opposer au paiement d'une compensation salariale en janvier 2010, dans le sillage de ce même changement de l'année financière de juillet/juin à janvier/décembre, il n'avait cessé de dire que la compensation salariale accordée en juillet 2009 - et il vient de le dire encore une fois - couvre la période jusqu'à fin 2010. Oui, c'est vrai que la compensation salariale a été jusqu'à présent payée durant l'année financière courante, mais le fait demeure, M. le président, que cette compensation *relates to the loss of purchasing power already encountered during the previous financial year*. C'est pourquoi, j'ai dit, lors des débats budgétaires, que la compensation salariale n'est ni de l'aumône ni encore moins une faveur de la part du gouvernement. Alors, quand le ministre des finances disait que la compensation salariale payée en juillet 2009 couvrait la période juillet 2009 à juin 2010 en guise d'argument pour justifier le non-paiement d'une compensation en janvier 2010, je dis tout simplement que le ministre fait fausse route.

Je ne sais pas, M. le président, et je voudrais le dire, parce que je viens d'entendre *his explanation*. Qui a ramené le ministre des finances à la raison quand la décision a été prise pour finalement accorder une compensation salariale de 3.5%? Toujours est-il qu'il s'est lui-même approprié la décision. Lors de son discours du budget, à plusieurs reprises, il a dit *that it is his doing*.

M. le président, l'injustice vécue par les travailleurs durant 2006 en octroyant une compensation salariale raisonnable ne fait que continuer et je dis que pour les quatre dernières années, malheureusement, les travailleurs n'ont pas été compensés comme il le faut. Le gouvernement a raté une dernière occasion pour répondre aux attentes des travailleurs.

M. le président, le ministre vient de confirmer que NPC is going to stay; c'est quelque chose que je ne comprends pas, il faut que je le répète, et je doute de la sincérité du ministre quand il a dit que le tripartite meeting will be reconvened as per the expectations of the trade unionists. When he summed up, he said that the proposed tripartite meeting will not review the situation as regards inflation in computing salary compensation. He said it will only take on board the issue of capacity to pay and the impact of salary compensation on employment and unemployment. This means, Mr Speaker, Sir, that the inflation rate will continue to be divided by two in the computation of salary compensation which I strongly believe is unfair.

Inflation, of course, is a measure of loss of purchasing power and if we believe in the well-being and financial uplifting of the workers we should, at least, fully compensate those at the lowest rung of the ladder. This principle has been adopted for many years before 2006. In fact, from 1992/1993 till

2005/2006, salary compensation paid to workers had always exceeded the rate of inflation. I am proud to say that, as Minister of Finance, in the year 2004/2005, I chaired two tripartite meetings and the Government of the day gave workers salary compensation well above the inflation rate. In 2004, inflation rate was 3.9%, and the salary compensation was 4.5%.

I heard the hon. Minister say earlier that there is an unwritten rule that if inflation rate is less than 5% you can carry it forward, but, when we were in Government, there was no carrying forward. We gave the workers their due and in 2005 when inflation was 5.6%, we gave 6.2% of salary compensation. Again, let me emphasise that, at that time, the threshold for full compensation was increased to Rs4,300.

Mr Speaker, Sir, let me recall what the Minister of Finance said in this House when answering the PNQ of 10 November 2009. I quote –

“Mr Speaker, Sir, concerning the salary compensation mechanism, it would be irresponsible to return to the tripartite system which - according to him -failed to deliver jobs and economic growth.”

Permettez-moi, M. le président, d'ouvrir une parenthèse pour dire au ministre qu'avec le même mécanisme de tripartite, qui a existé jusqu'en 2005, le pays a connu un miracle économique et le plein emploi durant les années glorieuses quand Sir Anerood Jugnauth était Premier ministre. *Both jobs and economic growth were delivered.* Donc, selon la déclaration du ministre des finances dans cette Chambre : rétablir les tripartites relèverait de l'irresponsabilité. *Then, let me say it again, because in a press interview, on 24 November, he told the trade unionists to ignore his answer to the PNQ as regards the tripartite mechanism.* Quelle crédibilité!

M. le président, nous ne pouvons pas faire l'amalgame entre compensation salariale; c'est à dire, payer pour rattraper la perte du pouvoir d'achat et une augmentation salariale basée sur la productivité et les circonstances économiques du moment. La totalité du taux d'inflation devrait nécessairement être tenue en compte pour déterminer la compensation salariale et j'espère que les tripartites, qui seront tenues à l'avenir, pourraient une fois pour toutes rétablir ce principe de base. Les tripartites devraient devenir un forum de dialogue permanent entre les trois partenaires sociaux que sont le gouvernement, le secteur privé et les travailleurs.

Nous avons un devoir moral, M. le président, surtout après que le CSO ait fait une étude - le *finding* est là, ce n'est pas moi - c'est l'institution indépendante qui a dit premièrement, que les pauvres deviennent plus pauvres et que l'écart entre les riches et les pauvres continue à s'agrandir.

Je fais un dernier pressant appel au gouvernement - je ne dirais pas pour revoir la situation - pour qu'à l'avenir on change de système. J'espère que ce sera le tripartite avec les trois composants et surtout avec les syndicalistes et qu'on fera preuve de plus de considération envers les employés.

Je souhaite vivement que la touche humaine inspirée du socialisme pragmatique que j'ai toujours prôné prenne enfin le dessus sur la doctrine inspirée d'un capitalisme que nous avons vu, qui a donné des résultats, et qu'on trouve, après cette crise financière, toujours plus gourmand et sans cœur envers les travailleurs.

Merci, M. le président.

(6.56 p.m.)

Mr Chaumièrre: Mr Speaker, Sir, I would like, first of all, to thank hon. Members on both sides of the House for their valuable contribution to the debate on this Bill.

Mr Speaker, Sir, at the very outset, let me say that some people who themselves have *vilipendés le NPC* when it was set up, are now the best defendants of the NPC and my hon. Colleague, Dr. Bunwaree, knows what I am talking about.

I will refer perhaps to Parliamentary Question No. B/142 which was put by hon. Ganoo where he was asking whether the Government proposes to do away with the National Pay Council and now they are talking about us, as a Government, doing away with the National Pay Council. Which is which, Mr Speaker, Sir?

Secondly, Members should be aware that there is a difference between salary review and salary adjustment very different in nature. A salary adjustment of wages should be understood to refer to operations undertaken with a view to adapting minimum wage rates to economic changes in order to maintain the purchasing power of workers' wages whereas a salary review denotes operations which modify minimum wage rates independently of the adjustment with a view to increasing the purchasing power of the workers.

Mr Speaker, Sir, the National Remuneration Board, for example, conducts regularly a review of the Remuneration Orders to adapt the salary of certain sectors of the economy. This is salary review. We are talking of compensation and, as the hon. Minister of Finance had said, Mr Speaker, Sir, we are paying much more than what should have been while taking in consideration the inflation rate.

Thirdly, Mr Speaker, Sir, the NPC is, itself, in essence, a tripartite forum. The trade unionists had never said that they have resigned from the NPC. They were not agreeable to certain terms of reference,

but they are still members of the NPC. Let me say, Mr Speaker, Sir, that the ILO, itself, has never said that we should do away with the NPC, but that we should continue full and frank consultations with the representatives of the social partners and this is what the hon. Minister of Finance is doing.

Mr Speaker, Sir, I think that the people of this country are aware of certain things. They know that the whole world has been going through an economic and financial crisis. We must thank every Mauritian, we must thank these workers for the sacrifices that they have done. Let me draw the attention of the hon. Members to the fact that the proposed compensation has been well received by the public following its announcement in the Budget. There was no outcry on the quantum proposed, no doubt because everybody is fully conscious of the relentless efforts deployed by Government to ride out of the financial crisis. Have you heard any unfavourable comments from the trade unions be it from the workers organisations or from the employers organisations? No! I must say, Mr Speaker, Sir, that people are not fools. They know what efforts have been done by this Government to protect jobs and enterprises in this country, Mr Speaker, Sir, and we have been able to do it.

Before ending, I would like to thank the hon. Prime Minister and the Vice-Prime Minister, Minister of Finance & Economic Empowerment for their guidance, for their economic and financial vision which has rendered the payment of such a salary compensation possible.

Thank you, Mr Speaker, Sir.

Question put and agreed to.

Bill read a second time and committed.

Mr Speaker: If hon. Members have no objection, I will take the other Bill at second reading and then we will take the Committee Stage of both Bills and then the Third Reading at the same time.

Second Reading

**THE LANDLORD AND TENANT (AMENDMENT) BILL
(NO. XXIII OF 2009)**

Order for Second Reading read.

The Minister of Housing and Lands (Dr. A. Kasenally): Mr Speaker, Sir, I beg move that the Landlord and Tenant (Amendment) Bill (No. XXIII of 2009) be read a *second* time.

This is a small Bill to help the *ti dimounes* and I, myself, consider it a privilege to present the Second Reading of the Landlord and Tenant (Amendment) Bill. There can be no greater sense of satisfaction than when one is able to seize every single opportunity to come to the rescue of those who are in need.

Mr Speaker, Sir, the Landlord and Tenant Act 1999 was amended in March 2005 to provide, *inter alia*, for existing business lettings to be increased yearly in an amount equivalent to 15% of the difference between the market rent of the business premises and the actual rent paid as well as for the increase to be spread over a period of seven years, that is, up to 01 July 2012, at which date business lettings which were already in operation before 2005 would be deregulated.

Mr Speaker, Sir, this Government holds high the sacrosanct principle of natural justice. All stakeholders have a right to be heard when decisions, which are likely to affect their interests and sometimes even their livelihood, are taken. Unfortunately, there was no representative of tenants on the Technical Committee set up in 2004 to revisit the Landlord and Tenant Act 1999 nor did they have any forum to express their views. The recommendations, which brought along the amendment to the Act of 2005, were, therefore, in a way unilateral. This Government was morally bound to listen to representations of the Association of Tenant Traders & Professionals which, in the meantime, had been constituted.

This is why, following representations received from the Association of Tenant Traders & Professionals - which will be referred as ATTP as from now - after the proclamation of the Landlord & Tenant (Amendment) Act 2005, my Ministry, in a spirit of fairness and transparency, held a number of meetings with representatives of the ATTP, the Joint Economic Council, the Ministry of Finance and Economic Empowerment, the Valuation & Real Estate Consultancy Services and the Attorney-General's Office whereby several proposals were put forward for discussions.

The main concerns raised by the ATTP during the meetings held were that -

- (a) the increase representing 15% of the difference between the market rent of the business premises and the actual rent paid was on the high side;
- (b) the moratorium of 30 June 2012 after which business lettings would be liberalised was too short.

Mr Speaker, Sir, whilst there is need to give incentives for landlords to liberate property and to invest in new development, we need to reckon the fact that there is, at the same time, a need to protect those who are most vulnerable. We, therefore, need to be considerate to the representations made by the

ATTP if we are to prevent so many small businesses, most of which have been running for decades, to die out. The issue, therefore, is to strike the right balance.

Mr Speaker, Sir, everybody is aware of the economic crisis that has hit the whole world over the last couple of years. Businesses worldwide have suffered tremendously and Mauritius is no exception to that. We know of that glaring example where Woolworth somewhere in London was sold for one pound. Government has had to come to the rescue of enterprises through stimulus packages with the ultimate aim of saving jobs. We must not also lose sight of the small businesses which are more vulnerable to shocks and need to be protected. This is precisely what this Bill is aiming at. I want to, at this point in time, stress on the fact that the rationale behind the Landlord and Tenant Act 2005 is not at all being put in question.

Mr Speaker, Sir, there are two major amendments being made in the present Act. The Second Schedule to the Act is being repealed and replaced by the Second Schedule specified in the Schedule to this Act. Whilst keeping the same formula set out in the Schedule, the first amendment will bring the increase in rental to 10% instead of 15% of the difference between the market rent of the business premises and the actual rent paid. In so doing, we are being considerate to representations made by the ATTP to the effect that the increase in rent of business premises is too high putting at stake the very existence of small businesses and the livelihood of these people, some of whom are quite old, over 70 years. We all know that competition is more than ever about reducing costs. We cannot, in the present circumstances, allow small businesses to bear an unsustainable increase in avoidable cost.

This Government cannot turn a deaf ear to people who, for many decades, have been running small businesses, most of which family businesses, at a time when they are in dire need of assistance. In so doing, we are also relieving the pressure on the social services of the State.

The equation is simple: turning a deaf ear to these people means running out of business and, sometimes, depression and death of those people who are running these businesses. Once again, we are not, at any time, interfering with the market value of business premises which will, in case of disagreement, be a matter for the Fair Rent Tribunal.

Moreover, the new Schedule provides for the rent payable, where such rent has been increased before 01 January 2010. In this case, the new rate will apply at the end of twelve months from the date of the last increase. On the other hand, where there has not been such an increase, the new rent will be payable on the first day of the month which follows the date of the agreement on, or a determination of, the market rent.

The second amendment concerns section 3 of the Principal Act to provide for the moratorium after which business lettings will be liberalised to be extended to 31 December 2017 instead of 30 June 2012. The objective is to provide a breathing space to tenants who have to cope with increase in rental of business premises, at a time where businesses are down. This extension is at the same time a means to offer a sense of security of tenure to these tenants *qui sont tellement angoissés*, as they are unable to figure out what will be their situation after liberalisation.

Mr Speaker, Sir, I have no doubt that this Landlord and Tenant (Amendment) Bill will alleviate the difficulties experienced by small businessmen in combating the increasing costs associated with the present rate in the increase in rental of business premises whilst, at the same time, conveying a degree of security regarding the future of their businesses.

With these words, Mr Speaker, Sir, I commend the Bill to the Assembly.

Dr. Sithanen rose and seconded.

(7.12 pm)

The Leader of the Opposition (Mr P. Bérenger): Mr Speaker, Sir, I heard the hon. Minister insist that the present Government and himself have no quarrel with the rationale behind the 2005 amendment to the Landlord and Tenant Act. Indeed, even if he had not said so, the content of this Bill makes that clear. There was a deal in 2005 to modernise and encourage those who have the means to build new commercial premises. Therefore, we brought amendments after consultation. The hon. Minister should know that, in those days, there were no organisations for either tenants or landlords. It is subsequently that the tenants organised themselves. The landlords did not have to organise themselves because their representative was the Joint Economic Council. They came forward with arguments in favour of amending the law so that new commercial premises would be built and so on. As I said, the landlords did not have an organisation and they are well represented through the private sector. It is a good thing that the tenants, after the law had been amended, have now organised themselves. It's a good thing, but there were consultations. We could not consult non-existent tenants' organisation, but we consulted as widely as we could, of course.

In 2005, we gave an adaptation period, a transition period of seven years. Today, the Government is proposing an additional period of five years. We have no quarrel with that and it is automatic that, since we are giving an additional period of five years after an initial period of seven years, the percentage of increase allowed is brought down. Therefore, I think there is no big quarrel on

that one, but there is a need, I believe, to watch carefully the way the Fair Rent Tribunal performs. It would not be acceptable that we amend the law today to give more breathing space to the tenants, if through the Fair Rent Tribunal, they do not obtain satisfaction, they do not obtain a fair deal; we would be back to square one. Therefore, I would request the authorities concerned to keep a close watch on the performance of the Fair Rent Tribunal and bring about any changes that are needed to better protect them.

Thank you, Mr Speaker, Sir.

(7.15 p.m)

Mrs F. Jeewa-Daureeawoo (Third Member for Stanley & Rose Hill): Mr Speaker, Sir, I am indeed pleased to put on record my support to the Landlord and Tenant (Amendment) Bill. Presumably, Mr Speaker, Sir, the idea behind bringing this present Bill before the Assembly is to strike a right balance between the interest of the landlord on the one hand and the interest of the tenant on the other. On the one hand, we have to give incentive to the landlord of commercial premises to invest in their properties, to render them in a more tenable condition and, at the same time, encourage them to put in new buildings to meet the demand. On the other hand, we have to protect the interest of the tenant, see to it that the increase is not at all excessive.

Let us look at what the Bill is trying to do. The present Bill, in my opinion, does not bring along fundamental changes. *Il me semble que le gouvernement a simplement voulu faire un ajustement technique* without going into the depth of the problem. *Ce projet de loi va surement donner un peu plus de temps aux commerçants de souffler car l'année 2012 est ici remplacée par 2017.* As it has been rightly said by the Leader of the Opposition, on this side of the House, we agree to that amendment and to the second amendment where the rent payable for any business premises let on or before 01 July 2005 may be increased by an amount equivalent to 10% instead of 15%. That is all what the Bill does. Members on the other side of the House would say that we have to start somewhere, and this amendment does just that. Fair enough, true it is that it is a good step forward but, in my opinion, we must not stop here. Small tenants nowadays are being compelled to vacate their place of business due to excessive increase in rent.

If we come to the object of the Bill, Mr Speaker, Sir, it is stated -

“(a) make fresh and more reasonable provision for increase in the rent(...)”

I think that we need to revisit section 11(4) of the Landlord and Tenant Act 1999. The gist, in fact, lies in this particular section as the situation between the landlord and tenant becomes complicated because of this particular section, which stipulates, I quote –

“Notwithstanding the lodging of an application before the tribunal, the tenant shall pay the rent claimed by the landlord”.

If the Landlord between the year 2005 and the determination of the...

Mr Speaker: The Bill caters for two issues. You are talking about an agreement which is reached between the parties. This is a totally different matter, which does not fit into this amendment.

Mrs Jeewa-Daureeawoo: With due respect to you, Mr Speaker, Sir, I think, in my opinion, that it is related, because how can we cater, attain fresh and more reasonable provision for increase if certain revisions of the law, certain amendments...

Mr Speaker: What the Member is talking about is a totally different issue. This issue is about the 15% which is now being reduced to 10%. The Member is talking about a different matter which does not fit in here. We have to be very specific to the points which have been raised. You can raise it another time.

Mrs Jeewa-Daureeawoo: Mr Speaker, Sir, I agree with your ruling. Then, I would say that we, on this side of the House, agree to the amendment. To attain the object the present Bill, I think that certain sections of the law, especially section 11(4), has to be revisited to make it more equitable, so that both the interests of the tenant and the landlord can be protected.

Thank you.

Dr. Kasenally: Mr Speaker, Sir, I do not think that there is much for me to say. There is so much consensus, but one thing that I want to point out is that I never ...

(Interruptions)

Mr Speaker: Order!

Dr. Kasenally: I never said that there were no proper consultations, there were consultations but one party was not represented. Hon. Mrs Fazila Jeewa-Daureeawoo reminds me of my Mathematics teacher in Form IV. When I got 99% out of 100 in a paper, I got the remark ‘*room for improvement*’.

That is all.

Question put and agreed to.

Bill read a second time and committed.

COMMITTEE STAGE

(Mr Speaker in the Chair)

THE ADDITIONAL REMUNERATION (No. 2) BILL (No. XXV) OF 2009

THE LANDLORD AND TENANT (AMENDMENT) BILL (No. XXIII) OF 2009

The following Bills were considered and agreed to –

- (a) *The Additional Remuneration (No.2) Bill (No. XXV) of 2009, and*
- (b) *The Landlord and Tenant (Amendment) Bill (No. XXIII) of 2009.*

On resuming with Mr Speaker in the Chair, the Speaker reported accordingly.

Third Reading

On motion made and seconded, the following Bills were read the third time and passed –

- (a) *The Additional Remuneration (No.2) Bill (No. XXV) of 2009, and*
- (b) *The Landlord and Tenant (Amendment) Bill (No. XXIII) of 2009.*

END OF YEAR MESSAGE

The Ag. Prime Minister: Mr Speaker, Sir, before I move for the adjournment of the House, I would like, in my capacity as Ag. Leader of the House, to say a few words.

The House first met on 31 March this year and as at today we have had 39 sittings. During the current year, we have had a very heavy legislative programme. Government has replied to 28 Private Notice Questions from the hon. Leader of the Opposition and no less than 1,182 Parliamentary Questions from hon. Members from both sides of the House, out of which 1,175 required an oral answer. We have introduced in the House 25 Bills, out of which 22 have been debated and adopted.

Mr Speaker, it is worth noting that in view of the presentation of our Budget on a calendar basis as from next year, we have had, exceptionally, this year two budget presentations, namely the July to December 2009 Budget and the 2010 Budget and the debates thereon.

Mr Speaker, Sir, one sitting has been held to enable the House to deal with Private Members' business. We are deeply grateful to you, Mr Speaker, Sir, for presiding with distinction, tact and firmness over the deliberations of the House and for your precious advice in private whenever the need was felt.

We also wish to thank the Deputy Speaker for his dedication and valuable contribution to the smooth running of our debates both in Committee and whenever he was called upon to preside over our deliberations.

I wish to express my gratitude to all the hon. Members for their cooperation in the dispatch of the parliamentary business and for their understanding.

Mr Speaker, Sir, I thank the Clerk, the Deputy Clerk and the Clerk Assistant of the National Assembly, the members of his staff and all the officers including the staff of the Library for the services they have provided to the House and we are grateful to them for their unfailing devotion.

Mr Speaker, Sir, may I kindly request you, in my own personal name and in that of all the hon. Members of the House, to present the Season's Greetings to His Excellency the President of the Republic and Lady Jugnauth and also to the Vice-President.

Mr Speaker, Sir, I will end by conveying to you, to Mrs Purryag and to your family our best wishes for a Merry Christmas and a Happy New Year. Our best wishes go equally to all the hon. Members of the House and their families, to the Clerk, the Deputy Clerk, the Clerk Assistant of the National Assembly and their families; to members of the staff of the Assembly and their families, and to all the other civil servants who have assisted in the work of Parliament.

Thank you, Mr Speaker, Sir.

Mr Bérenger: I join with what the hon. Ag. Prime Minister has just said, Mr Speaker, Sir, especially my very best wishes to you, the Clerk, your staff and to all the hon. Members of the House. I am sure that all of us will *have une pensée spéciale pour la famille de feu James Burt David* on this occasion.

Thank you, Mr Speaker, Sir.

Mr Speaker: Hon. Members, I wish to associate myself with the Season's Greetings as expressed to the President of the Republic and Lady Jugnauth and to the Vice-President of the Republic. I will, with great pleasure, convey the message to them. In my own name and on behalf of the staff of the National Assembly, I thank Dr. the hon. Ag. Prime Minister and the hon. Leader of the Opposition for their kind words and good wishes.

In return, I am pleased to extend my best wishes for a Merry Christmas and a Happy New Year to Dr. the hon. Prime Minister and Mrs Ramgoolam, to Dr. the hon. Ag. Prime Minister, the hon. Ministers, the hon. Leader of the Opposition and to all hon. Members and their families.

I also wish to thank the hon. Members for their cooperation and understanding throughout the year.

Once again, my best wishes for a Merry Christmas and a very Happy New Year to you and all your families.

ADJOURNMENT

The Ag. Prime Minister: Mr Speaker, Sir, I move for the adjournment of the House to Monday 18 January 2010 at 3.30 p.m.

Dr. Sithanen rose and seconded.

Question put and agreed to.

Mr Speaker: The House stands adjourned.

At 7.29 p.m. the Assembly was, on its rising, adjourned to Monday 18 January 2010 at 3.30 p.m.