



SIXTH NATIONAL ASSEMBLY

PARLIAMENTARY

DEBATES

(HANSARD)

FIRST SESSION

WEDNESDAY 31 AUGUST 2016

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

Hon. Sir Anerood Jugnauth, GCSK, KCMG, QC	Prime Minister, Minister of Defence, Home Affairs, Minister for Rodrigues and National Development Unit
Hon. Charles Gaëtan Xavier-Luc Duval, GCSK	Deputy Prime Minister, Minister of Tourism and External Communications
Hon. Showkutally Soodhun, GCSK	Vice-Prime Minister, Minister of Housing and Lands
Hon. Ivan Leslie Collendavelloo, GCSK, SC	Vice-Prime Minister, Minister of Energy and Public Utilities
Hon. Pravind Kumar Jugnauth	Minister of Finance and Economic Development
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Hon. Yogida Sawmynaden	Minister of Youth and Sports
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Hon. Mahen Kumar Seeruttun	Minister of Agro-Industry and Food Security
Hon. Santaram Baboo	Minister of Arts and Culture
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Hon. Premdut Koonjoo	Minister of Ocean Economy, Marine Resources, Fisheries, Shipping and Outer Islands
Hon. Marie Roland Alain Wong Yen Cheong, MSK	Minister of Civil Service and Administrative Reforms, Minister of Environment, Sustainable Development and Disaster and Beach Management
Hon. Soodesh Satkam Callichurn	Minister of Labour, Industrial Relations, Employment and Training

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MAURITIUS

Sixth National Assembly

FIRST SESSION

Debate No. 30 of 2016

Sitting of 31 August 2016

The Assembly met in the Assembly House, Port Louis at 11.30 a.m.

The National Anthem was played

(Madam Speaker in the Chair)

PAPERS LAID

The Prime Minister: Madam Speaker, the Papers have been laid on the Table –

A. **Prime Minister's Office –**

- (a) Certificate of Urgency in respect of the Finance (Miscellaneous Provisions) Bill (No. XX of 2016) (In Original).
- (b) The Civil Aviation (Hadj 2016 Pilgrims) (Exemption) Order 2016. (Government Notice No. 179 of 2016).

B. **Ministry of Agro-Industry and Food Security –**

The Annual Reports 2012 and 2013 of the Agricultural Marketing Board (In Original).

C. **Ministry of Arts and Culture –**

The Audited Financial Statements of the Ramayana Centre as at 30 June 2015.

ORAL ANSWER TO QUESTION

APOLLO BRAMWELL HOSPITAL – SALE DEED

The Leader of the Opposition (Mr P. Bérenger) (*by Private Notice*) asked the Minister of Finance and Economic Development whether, in regard to the Apollo Bramwell Hospital, he will state -

- (a) if the deed of sale of the assets thereof has been signed and if US \$ 11 m. has been paid in respect thereof;
- (b) the value of the outstanding pension contributions, bank loans, suppliers and other commitments to be paid by NIC Health Care Ltd.;
- (c) who decided to sell only the business, excluding the land and the building, indicating the conditions of the sale of the business, and
- (d) the results of his inquiry into the circumstances in which Omega Ark was registered and into the identity of the shareholders/directors thereof.

The Minister of Finance and Economic Development (Mr P. Jugnauth): Madam Speaker, in the wake of the BAI collapse, the Apollo Bramwell Hospital was one of the assets of the Group which were put under administration. On 07 August 2015, the Special Administrators of BAI Co. (Mtius) Ltd, Messrs Oosman and Basgeet of Price Waterhouse Coopers transferred the land and buildings of Apollo Bramwell Hospital to National Insurance Co. Ltd ('NICL'), whilst the operations of Apollo Bramwell Hospital were transferred to NIC Healthcare Ltd ('NICHCL'), a wholly-owned subsidiary of NICL. The land and buildings were transferred from BAI to NIC at a book value of Rs2.5 billion.

On 08 September 2015, NIC Healthcare Ltd appointed BDO & Co. as Transaction Advisor to identify a preferred bidder for the acquisition of the Apollo Bramwell Hospital. The objective was to obtain the maximum price for the policy holders, while protecting the employment of the hospital employees.

On 11 September 2015, an Expression of Interest ("EOI") was published in local newspapers with a deadline for submission of application by 18 September 2015.

On 02 October 2015, a ‘Request for Proposal’ was issued to all parties having responded to the EOI. Interested parties had the possibility to bid on the following six options, namely -

Option 1	Management contract AND Outright acquisition of land & building
Option 2	Equity participation of <100% in the operations AND Management contract AND Outright acquisition of land & building
Option 3	Equity participation of 100% in the operations AND Outright acquisition of land & building
Option 4	Management contract AND Rental of land and building
Option 5	Equity participation of less than 100% in the operations AND Management contract AND Rental of land and building
Option 6	Equity participation of 100% in the operations AND Rental of land and building

The deadline for submission of proposals was 19 October 2015 and 12 proposals were received. After carrying out an evaluation of the technical and financial soundness of the proposals received, the Transaction Advisor shortlisted 3 applicants, as follows -

1. Omega Ark Group PLC
2. Lenmed Health Africa Ltd
3. CIEL East Africa Healthcare Ltd

Omega Ark Group PLC had proposed the outright acquisition of operations and land and buildings subject to carrying out a detailed due diligence exercise.

LENMED Health Africa Ltd had proposed to acquire 75% of the operations for Rs230 m. and to rent the land and building at a rental to be agreed subject to the company being granted a right of first refusal to acquire the land and buildings in the event of a future sale. Furthermore, the company had proposed to retain only 400 employees.

As regards CIEL East Africa Healthcare Ltd, the company had proposed to acquire 100% of the operations for Rs275 m. and to rent the land and buildings at a rental to be agreed subject to the company being granted an option to buy the land and buildings between Year 5 and Year 10. It is to be pointed out that the price of Rs275 m. will be reduced by Rs80 m. representing leased assets and is inclusive of stock valued at Rs25 m., bringing the net price to Rs170 m. Furthermore, that amount is payable conditional upon the future performance of the hospital. In addition, the company had proposed to retain only 500 employees.

Of these three shortlisted candidates, Omega Ark Group PLC was the only one to propose an outright purchase of the operations and the land and buildings. BDO recommended NIC Healthcare Ltd to, *inter alia*, proceed in the following order -

First, to negotiate with Omega Ark on its employment strategy and to seek evidence of financial means;

Second, if negotiations with Omega Ark are not conclusive, to then negotiate with Lenmed Health Africa Ltd for an increase of its offer to 100% for the operations and to improve its employment proposal, and

Third, if the above fails to negotiate with CIEL East Africa Healthcare Ltd with regard to the quantum of the deferred consideration which should be paid upfront.

The Board of NIC Healthcare Ltd endorsed the recommendations of BDO and mandated the latter to proceed according to its recommendations.

Consequently, NIC Healthcare Ltd granted Omega Ark Group PLC the status of preferred bidder to allow BDO to start negotiations with the company. After obtaining clarification on the employment strategy and the proof of funds, Omega Ark Group was given access to the hospital premises and records to enable it to carry out its due diligence exercise. After the exercise, Omega Ark Group Plc. submitted its final offer of USD 60 million (equivalent to about Rs2.2 billion).

Madam Speaker, as regards part (c) of the question, Government, on the 08 July 2016, took note that the outright sale of Apollo Bramwell would impact negatively on the accounts of the NIC and agreed to the land and buildings being leased instead.

Following that decision, NIC Healthcare Ltd negotiated with Omega Ark for the sale of the hospital business together with the leasing of the land and buildings.

There were still issues with regard to how the settlement of charges and encumbrances would be effected which remained outstanding.

Concerning part (b) of the question, the value of the outstanding pension contributions, bank loans, suppliers and other commitments to be paid by NIC Healthcare Ltd is Rs638 m.

Madam Speaker, regarding part (a) of the question, I am informed that Omega Ark has agreed to acquire the movable assets for a sum of USD 18 million, that is, about Rs650 m. of which USD 11 million is payable on the date of signature of the deed of transfer of the movable assets and the balance annually over a maximum period of 5 years or the date of sale of immovable properties, whichever is the earlier.

Moreover, Omega Ark will pay annual rent of USD 1.35 million to NIC Healthcare Ltd. for use of the immovable properties.

The deed of sale will be signed after all the conditions for the completion of the transaction have been fulfilled. Now, these conditions pertain to –

- Omega Ark receiving all the licences and permits to operate the hospital;
- New contracts of employment be signed by the employees;
- Tax losses be transferred in the name of Omega Ark Healthcare Investments Ltd, and

- Finalisation of the Lease Agreement and Notarial Deed for transfer of movable assets.

I am informed that the above conditions will be achieved shortly. In the meantime, Omega Ark has advanced an amount of USD 225,000 (about Rs8 m.) to NIC Healthcare Ltd for the payment of salaries.

Madam Speaker, concerning part (d) of the question, I am informed as follows -

1. Omega Ark Healthcare Investments Ltd was incorporated on 29 October 2015 in Mauritius by Omega Ark Group Plc. to acquire Apollo Bramwell Hospital;
2. According to the records at the Registry of Companies, the shareholder is Mr Guy Anthony Rees;
3. The Director is Mr Gooroodeo Sookun;
4. I am informed that Mr Vikram Katral is its ultimate beneficial owner;
5. Omega Ark Group Plc. UK was incorporated in the United Kingdom on 22 June 2015, its shareholder is Omega Ark (HK) Limited;
6. The current Directors are Mr Vikram Katral (Chairperson) and Mr Guy Anthony Rees;
7. Omega Ark (HK) Limited, the ultimate holding company, was incorporated in Hong Kong on 02 February 2012;
8. The name of the company on incorporation was Jaganmyee Brothers Trading Private Limited and on 06 February 2014, it was renamed Aasure Holding Limited and then on 02 February 2015, the name was changed to Omega Ark (HK) Limited, and
9. The current shareholders and Directors of Omega Ark (HK) Ltd are Mr Rohit Kumar and Mr Vikram Katral.

Mr Bérenger: At one point, the hon. Minister of Finance and Economic Development told us that Omega Ark was granted access so that it could prepare its due diligence, but the deed of sale and so on, when signed, then they would pay USD 11million. Am I not right in saying that, in fact, not access has been granted, Omega Ark has taken over the hospital? It has changed the sign. It is interviewing the staff. It is running the show. Can I know who authorised Omega Ark - before the deed of sale is signed, before the USD 11 million is paid

to the Government of Mauritius, to the Government's company concerned - to take over the hospital?

Mr Jugnauth: Well, I am not sure whether they have taken over the hospital, but what I know is that there are discussions that are being held with the employees; that contracts are being drawn. I have, in fact, replied to a PQ and also to a point that was raised at Adjournment to say that the employees have been proposed contracts of employment and, therefore, those contracts of employment are being discussed and are being signed. In fact, if they had taken over, there would have been no need for them to make an advance to NIC Healthcare Ltd. for payment of salaries. They would have paid outright.

Mr Bérenger: This is adding insult to injury. I am sure the hon. Minister is aware that, in fact, the hon. Minister of Financial Services, Good Governance and Institutional Reforms, on 03 May 2016, said: "A deal had been done with Omega Ark for USD 60 million and that it would be finalised by the end of May". Now, what has happened in the meantime, even USD 11 million have not been paid to date. The hon. Minister has said his information - can we know by what date supposedly the deed of sale and the money will come in?

Mr Jugnauth: Well, I have said in my answer that there are a number of conditions that have to be fulfilled. How can they operate without, for example, receiving all the licences and permits to operate their hospital in their own name and new contracts have to be signed with the employees, and there are a few other issues that have to be finalised! Let those conditions be fulfilled and then I have said that shortly the deed of sale will be signed.

Mr Bérenger: Madam Speaker, the BDO was appointed transaction adviser. They carried out an evaluation of the three offers and I am sure the hon. Minister is aware - I am going to table a letter from BDO addressed on 09 August to the Board of NIC Healthcare Ltd. where they come with the evaluation that they place: our evaluation gives the following points –

- (1) 85% is Ciel East Africa Healthcare Ltd.
- (2) Lenmed Health Africa Ltd.
- (3) Omega Ark

This was their evaluation. And then, they add: the reason Omega Ark fell short was it did not give any employment plan as a starter, which gave points to Lenmed Health Africa Ltd and Ciel East Africa Healthcare Ltd. However, Omega Ark was the only one who bid outright for

land and building for Rs2.2 billion which the hon. Minister of Financial Services, Good Governance and Institutional Reforms referred to months before that. Ciel East Africa Healthcare Ltd was for 100%, it goes on to say. Therefore their evaluation is clear. NIC goes for Omega Ark only before - they are the only one who offered Rs2.2 billion. Now, the fraud is that after this is decided upon, this is why Omega Ark becomes the preferred bidder, because they are the only one who have come with Rs2.2 billion. In the meantime, the Minister had said: 'We decided'. *On change les règles du jeu* as the tender goes along. It's a shame! It's a fraud!

(*Interruptions*)

And the only offer....

(*Interruptions*)

Madam Speaker: Don't make comments!

Mr Bérenger: The only offer...

Madam Speaker: Don't make comments!

(*Interruptions*)

Hon. Leader of Opposition, please!

(*Interruptions*)

Hon. Leader of the Opposition, please! Don't make comments as you go along! Allow the hon. Minister of Finance to give his reply and then you may make your argument, please!

Mr Bérenger: My point is that the evaluation from the transaction adviser BDO gives Omega Ark third in their evaluation and they are appointed for third bidder on that basis of that evaluation because they are the only one who have offered Rs2.2 billion. And then, as we go along the rules of the game are changed and that same Omega Ark is offered the same conditions that the other two had offered. If that is not a fraud, can the hon. Minister tell me what to call it?

Mr Jugnauth: The hon. Leader of the Opposition is referring to what the recommendations of BDO, according to him, was made, to NIC Healthcare Ltd. I have the document with me. They are recommendations stating to renegotiate with Omega Ark with regard to the following –

- Clarification on employment strategy;

- Evidence of financial means...

(Interruptions)

Let me answer!

(Interruptions)

You've asked a question, you don't want me to answer!

(Interruptions)

Madam Speaker: No!

(Interruptions)

Mr Jugnauth: You have asked a question!

(Interruptions)

Madam Speaker: Yes. Please!

(Interruptions)

Hon. Leader of the Opposition!

(Interruptions)

Order, please!

(Interruptions)

Order, I said!

(Interruptions)

Let me give my ruling on this matter!

(Interruptions)

Hon. Leader of the Opposition, I have drawn attention ...

(Interruptions)

Order, I said! When I am on my feet, there should be silence in the House! Hon. Leader of the Opposition, you've asked your question, you should give the hon. Minister the opportunity to reply and as you go along you come with more arguments and you ask again questions to the hon. Minister of Finance. You are a seasoned politician, you know that, I believe!

(Interruptions)

Let all the debates be carried out very calmly! The hon. Minister of Finance is prepared to reply, so, allow him to reply and, please, don't interrupt him while he is replying!

Mr Bérenger: On a point of order! I have referred to the document. I am tabling the document dated 03 August and the hon. Minister is referring to another document.

(Interruptions)

Madam Speaker: Hon. Leader of the Opposition, this is not a point of order. My ruling is that when you ask a question, you should give the opportunity to the hon. Minister to give his reply. Whether he is referring to another document is another matter, which is not under the control of the Speaker. But this is his reply and the House should accept his reply. Please, proceed!

Mr Jugnauth: This point of order! The letter that has been tabled by the hon. Leader of the Opposition, I have it. He is talking about the recommendations of BDO and that is what I am saying, the recommendations of BDO - there it is - saying after analysing the three bids. And where the Leader of the Opposition is getting....

(Interruptions)

Eta aller do ta! To nek zet labou lor dimoune! Eta aller do couyon!

(Interruptions)

Madam Speaker: Order!

(Interruptions)

Order, I said!

(Interruptions)

If that continues, I will have to suspend the sitting!

(Interruptions)

Hon. Jhugroo, please!

(Interruptions)

I have said that when I am on my feet, there should be silence in the House. We won't be able to carry out the debates calmly if that goes on. Then, I will have to suspend the sitting. Hon. Leader of the Opposition, once again, I draw your attention to the fact that when you ask your

question, you should not interrupt the hon. Minister when he is giving his reply. You may agree or you may disagree with what he is saying, yet you should give him the opportunity to give his reply.

Mr Jugnauth: So, I was saying - let me repeat again - I have the copy of the letter that was tabled by the hon. Leader of the Opposition. He is talking about the recommendations made by BDO. I also have the recommendations that have been made by BDO. After they have analysed the three deals, they have come to the conclusion and they have recommended the NIC Healthcare Ltd. to renegotiate with Omega Ark with regard to the following –

- Clarification on employment strategy;
- Evidence of financial means for Rs2.2 billion;
- Deposit of 10% to be made in an escrow account;
- One month time frame for due diligence;
- Binding offer 01 December 2015;
- Completion date 31 December 2015, and
- Omega Ark to be given one week to confirm if agreeable to counter-proposal.

And this is how the discussions have been ongoing.

Mr Bérenger: Yes, we are not quoting the same document anyway, Madam Speaker. That was my point. But, my point is, they were chosen as preferred bidder on the basis of bringing in Rs2.2 billion and then, as I said, the rules of the game were changed. This falls and they are allowed to come in with the same offer that the two others had made, but have been eliminated. At a point in time, the Minister said: “We decided.” Today, I hear ‘Government’. Therefore, can I clarify the point: is it a Cabinet decision that the rules of the game were changed as we went along, the way they were changed?

Mr Jugnauth: The rules of the game have not been changed.

(Interruptions)

Not been changed!

(Interruptions)

Madam Speaker: Order!

Mr Jugnauth: And if I can ask the Leader of the Opposition to...

(Interruptions)

Alle lire do couyon!

(Interruptions)

Alle lire document!

Madam Speaker: I have said once again, order, please!

(Interruptions)

Order! Allow the hon. Minister to proceed! Yes!

Mr Jugnauth: I will ask him to go and read the Request for Proposal that was issued by BDO whereby there have been requests for six options. All the options are there. And furthermore, it is BDO itself who said that they have the right to review or to discuss further with regard to anyone of the six options. So, the rules of the game have not changed. If it was only for the acquisition of the whole of the business and nothing else and if Government had decided to go otherwise, then it would have been different, but it is for all of these options. And I have stated also why. It is Cabinet decision by the way, not one person or anybody else. Cabinet had decided. Cabinet was fully briefed about this and Cabinet decided because it would have impacted negatively on the accounts of the NIC Ltd, therefore, we decided to go for the leasing of the land and building.

Mr Bérenger: We are not being provided any serious information about the...

(Interruptions)

...about the Directors and shareholders of Omega Ark, especially on one gentleman Vikram Katral, who is he? No information at all on that! But, at least, now we know, and this gentleman gave an interview in ‘Business Magazine’ of the 24th, and he said - it is a lie - I am quoting –

“Omega Ark was set up a few years back in 2012.”

A lie! Now, the Minister has given us information which is available; we did our enquiry. In fact, it starts in 2012 under a company called Jaganmyee Brothers in Hong Kong...

(Interruptions)

Exactly!

(Interruptions)

But not Omega Ark! Omega Ark surfaces...

(Interruptions)

Madam Speaker: Order, please! Order!

(Interruptions)

Order, I said!

(Interruptions)

Order!

Mr Bérenger: That company that we know nothing about, the shareholders, the directors, nothing about!

(Interruptions)

We are not provided with any information! Then it changes its name in 2014 and it becomes Aasure Holdings Limited in Hong Kong. Then it changes its name again and becomes Omega Ark (HK)! No sign of UK company, or what have you, in February 2015 and it is only in October 2015 that Omega Ark Mauritius surfaces! It is a lie what that gentleman said! Why are we not provided with all the information required? And the same gentleman in the same interview said –

“Our holding company is based in Singapore.”

According to all the research I have done, another lie! Another lie! Has the Minister enquired? Has Government enquired? Supposedly, their holding company is in Singapore! A lie again! Why are we not told who is the final beneficiary? Who is behind this?

Madam Speaker: Yes, hon. Leader of the Opposition, there I have a comment to make. We can't say that the Minister of Finance and Economic Development is lying! We cannot say that he is lying.

(Interruptions)

He is giving information, but you said...

(Interruptions)

...the Minister of Finance...

(Interruptions)

Hon. Leader of the Opposition...

(Interruptions)

Let me give my ruling!

(Interruptions)

The hon. Minister of Finance and Economic Development has given all the details of the names of the company and how the names have been changed. I have heard that. Now, you are saying that this is a lie, that the names have been changed...

(Interruptions)

So, what did you say?

(Interruptions)

Mr Bérenger: Madam Speaker, I said that this gentleman in his interview is lying. That is what I have said, you hear...

(Interruptions)

Madam Speaker: Fair enough! Fair enough, if you said that, allow...

(Interruptions)

Don't disturb him!

Mr Jugnauth: Madam Speaker, I can't answer for other people, what they have stated. What I can answer is for myself and for this Government and it seems that this is the first time that the Leader of the Opposition is being aware that a company is changing its name!

(Interruptions)

Mr Bérenger: Not at all, Madam Speaker. Is the hon. Minister aware that in the same interview that gentleman said –

“We came here last year on invitation, we were invited to come here by the Government.”

(Interruptions)

Madam Speaker: Order!

Mr Bérenger: Can I know whether this is correct because he even goes to the extent of saying –

“We received an invitation from the Government of Mauritius.”

And he even said that –

“Whilst being here we had meetings with different Ministries and were proposed by the Health Minister...”

(Interruptions)

“...to look into Apollo Bramwell Hospital.”

(Interruptions)

Madam Speaker: Order, please! Order!

(Interruptions)

Order!

(Interruptions)

Mr Jugnauth: Madam Speaker, I can only answer for questions that are in the purview of what the Government knows about and what we have been dealing with. I can't answer for what X, Y and Z have been publishing in interviews and what has been said elsewhere.

(Interruptions)

Madam Speaker: Yes, last question, hon. Leader of the Opposition!

Mr Bérenger: If you rule that this is the last question, Madam Speaker, my point is that this is another MedPoint affair!

(Interruptions)

This is another MedPoint affair!

(Interruptions)

The whole thing...

(Interruptions)

Madam Speaker: Order!

(Interruptions)

Mr Bérenger: The whole thing stinks, it is a fraud! Therefore, can I put the request to Government to stop it, not to go ahead with what is being discussed now? Not the Rs2.2 billion, but the new proposal that is being discussed and to have a full-fledged enquiry, Commission of Enquiry, chaired by a retired Judge with two Assessors? Can I put that request to Government so that we don't carry on with another MedPoint affair?

(Interruptions)

Mr Jugnauth: Madam Speaker, I will have, at a different opportunity, to give a lot more details about this case. Suffice for me to say today that what we are comparing, Omega Ark has made an offer to buy the business, operations of Apollo Bramwell Hospital excluding land and building for Rs648 m. The other interested party, and I won't make any comment, CIEL...

(Interruptions)

... has made an offer, when we remove the amount of stock and the lease of equipment, it is Rs170 m.

(Interruptions)

Right! That is one!

(Interruptions)

Second, Omega Ark is actually negotiating and I have asked them that they should retain, and they have agreed that they will retain, all the employees working at the hospital.

(Interruptions)

686 employees! CIEL was only ready to employ 500 employees. I can understand also, Madam Speaker, that the Supreme Court in the MedPoint case has given a smack to the Leader of the Opposition...

(Interruptions)

A smack!

(Interruptions)

And he dares in the House, and he is saying it outside, that it is another Med Point! You will wait and see...

(Interruptions)

...what the Supreme Court has said. Now, you can say ‘asté vendé’! But time will tell! We will go to the Privy Council and time will tell about this kind of campaign!

(Interruptions)

This kind of mudslinging campaign that is being conducted by the Leader of the Opposition!

(Interruptions)

Madam Speaker: Time is over! But I wish to make a comment here. I see that there are some Members of the Opposition who are showing their discontent because they have not been given the opportunity to ask further questions. Let me remind hon. Members that the Private Notice Question is the privilege of the hon. Leader of the Opposition and that unless and until the Leader of the Opposition has exhausted all his questions, I cannot allow other Members to intervene. Time is over!

MOTION

SUSPENSION OF S.O. 10(2)

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

The Vice-Prime Minister, Minister of Housing and Lands (Mr S. Soodhun) rose and seconded.

Question put and agreed to.

(12.09 p.m.)

STATEMENT BY MINISTER

CEB – ELECTRICITY GRID - UPGRADE

The Vice-Prime Minister, Minister of Energy and Public Utilities (Mr I. Collendavelloo): Madam Speaker, thank you for giving me permission to make a statement on the upgrading and strengthening of the electricity grid by the Central Electricity Board. This is in the wake of certain questions which have been raised in different quarters about the resilience of our electricity infrastructure in case of violent cyclones particularly, after the experience of small islands such as Vanuatu after the passage of a destructive storm.

In the course of the first meeting that I had when the new General Manager of CEB was appointed, we discussed the following points -

- (i) first of all, we agreed as he said, that there was no fear of rolling black outs, but the point was that there was urgency to attend to the silent degradation of the CEB network over the period 2005 to 2015;
- (ii) during that period, CEB had neglected to maintain its transmission and distribution networks, thus making its installation particularly vulnerable to cyclones;
- (iii) the whole network had, during that period, been subject to wear and tear, vandalism and corrosion, but no remedial measures had been taken, and
- (iv) there was, therefore, urgency.

The 66 kV transmission network comprises 330 km of lines, both over ground and underground as well as 33 substations. The major portion of the transmission network (that is, 289 km) has been erected on steel lattice towers and wooden and rectangular concrete poles, erected some 35 to 45 years ago. The 132 kV towers, which were erected around year 2000, are more robust, and they are currently operated at 66 kV.

Following this conversation, I directed that an audit would need, for obvious reasons, to be carried out independently of CEB. The CEB, as a matter of priority, appointed EDF for an audit exercise of the Transmission system (HTB, i.e. the 66 kV network), which included an assessment of the network and its resilience to cyclones, a diagnosis of the state of the equipment and their installation, identification of risks and recommending measures for the rehabilitation of the network.

EDF submitted a report of its findings in December 2015. A similar exercise on the Distribution system (HTA, i.e 22 kV network) is presently being carried out as a continuation to the first audit. The audit of the Distribution network is expected to be submitted in end 2016.

The main recommendations were -

- Priority 1: Immediate replacement of all main corroded members on the 66 kV Wooton-Champagne line.
- Construction of a new line 66 kV Wooton-Champagne line on concrete poles.

- Priority 2: Replacement of all rotten bolts, corroded fittings and carrying corrosion treatment/painting on 66 kV St Louis-Chaumière & Chaumière-Henrietta,
- Priority 3: Replacement of all rotten bolts, corroded fittings and carrying corrosion treatment/painting on Dumas-Belle Vue, Belle Vue-Amaury and Amaury-FUEL.

I am tabling a copy of the EDF report, and I am communicating one further copy for the Leader of the Opposition. A copy will also be made available on the CEB website for everyone to be able to assess the dangerous state of that network.

In March 2016, Madam Speaker, the CEB awarded the contract for the replacement of members on some 23 towers on part of 66 kV Champagne-Wooton in the region of Midlands. These works have been completed in May 2016. Identical works on 66 kV St Louis-Chaumière and Henrietta-Chaumière will be completed by the end of this year. CEB will issue tenders for the replacement of all rotten bolts, corroded fittings and carrying corrosion treatment/painting on Dumas-Belle Vue, Belle Vue-Amaury and Amaury-FUEL networks. Complete exhaustive works on these towers, which are structurally sound, are scheduled to be carried out in 2017. CEB has already started replacements on some segments. Tree lopping is being carried out island-wide to minimise possibilities of faults. Remedial action is being taken regularly following inspections to replace all damaged items.

The CEB is also constructing new 66 kV lines, which will ensure that, in case a transmission line fails, the second one can carry the full power and avoid power cuts. Three new substations have been commissioned at La Tour Koenig, Jin Fei and Medine, and CEB is currently carrying out electrical works at the new 66/22 kV Case Noyale substation, which is due to be commissioned in December 2016. A new 66/22 kV GIS substation will be constructed at the Airport to cater for the Freeport and Air Cargo developments and surrounding developments such as Omnicane Smart City.

To avoid power cuts during lightning strikes, CEB is installing surge arresters at strategic locations in addition to existing overhead earth conductors and lightning masts.

Reconstruction of Lines

Since June 2015, the CEB has been investing in the reconstruction of lines on an island-wide basis. Bare conductors are systematically being replaced with insulated cables. Currently, 50% of the 22 kV network has already been insulated, and the CEB is targeting to

increase this value to 90% in the next two years. This will have direct incidence on the number of faults caused by foreign objects during cyclones and also by bats.

CEB is also proceeding with the re-alignment of some of its existing network over sugar fields or “*Chassée*”, so as to facilitate access for maintenance and repair works.

Maintenance works

CEB is implementing a preventive and predictive maintenance approach with regular inspections and remedial actions.

Undergrounding of networks

CEB has already carried out undergrounding of its network on feeders at La Tour Koenig, Case Noyale, Jin Fei and has been encouraging the undergrounding of service lines in new residential developments. It plans to underground its 22 kV and low voltage networks in towns and major villages to ensure continuous supply of electricity during cyclone. The aim of CEB is to achieve 50% of this undergrounding works by 2025.

With regard to post-cyclone remedial works -

- a working document is issued annually in September/October prior to cyclonic period, indicating the approach to be adopted during passage of cyclone and post-cyclone reinstatement works, and
- CEB has trained the leading persons of some seven contractors, which are now accredited to the CEB and are fully competent to shoulder the CEB to reinstate the network after a cyclone.

Madam Speaker, I wish to reiterate to the House that the windfall gains arising from the drop in fuel prices are now being cautiously spent in investing for the future economic development of the country.

Thank you.

PUBLIC BILLS

First Reading

On motion made and seconded, the Finance (Miscellaneous Provisions) Bill (No. XX of 2016) was read a first time.

Second Reading

THE FINANCE (MISCELLANEOUS PROVISIONS) BILL
(NO. XX OF 2016)

Order for Second Reading read.

The Minister of Finance and Economic Development (Mr P. Jugnauth): Madam Speaker, I move that the Finance (Miscellaneous Provisions) Bill (No. XX of 2016) be read a second time.

Madam Speaker, the main purpose of the Bill is to give legal effect to measures announced in the Budget Speech and its annex and for matters connected, consequential or incidental thereto.

Thus, Madam Speaker, the Finance (Miscellaneous Provisions) Bill (2016) brings amendments to 58 enactments.

I will elaborate on the main amendments of the Bill starting with the banking sector.

The amendments to the Bank of Mauritius Act and the Banking Act relate mainly to the need to strengthen the regulatory framework, especially in the wake of events that have rocked the banking system last year and revealed a number of weaknesses. Other amendments relate to promoting the development of the banking sector.

Bank of Mauritius Act

Thus Clause 2 amends the Bank of Mauritius Act as follows -

- (a) to grant the Bank of Mauritius authority to regulate and supervise ultimate and intermediate financial holding companies that have at least one subsidiary that is a bank or a non-bank deposit-taking institution;
- (b) to allow the Bank of Mauritius to grant advances to financial institutions and such other entities only against securities issued by Government or the Bank of Mauritius instead of “against such security as the Board may determine”;
- (c) to provide for new families of currency notes and coins to be issued after the concurrence of, instead of consultation with, the Minister of Finance, and

- (d) a new section 50A is being added for the Central Bank to issue Rules without the need for prior approval of the Minister and these shall be published in the Government Gazette.

Financial Stability

To strengthen financial stability, amendments are being made to -

- provide for better coordination among the Central Bank, the Financial Services Commission and Statistics Mauritius;
- empower the Bank of Mauritius to use data maintained in the Mauritius Credit Information Bureau for supervisory purposes and financial stability assessment, and
- include the Minister responsible for Financial Services as a member of the Financial Stability Committee.

Banking Act

Clause 3 amends the Banking Act as follows -

- (a) to remove “investment banking business” from the definition of “bank” so that only the Financial Services Commission regulates that business with a view to preventing regulatory arbitrage;
- (b) to add a definition of private banking business and cater for private banking business;
- (c) to add a new section 3(8) for the provisions of the Banking Act to prevail in the event of any conflict or inconsistency with provisions of other laws, other than sections 110A and 110B of the Insurance Act;
- (d) to provide for subsidiaries of financial institutions incorporated outside Mauritius to submit to the Bank of Mauritius, within one month after publication, a copy of their audited annual consolidated financial statements with a view to facilitating consolidated supervision;
- (e) to allow for the Central Bank to carry out an independent valuation of the assets which a bank holds as collateral;
- (f) to provide for a Receiver to discontinue the operations of a bank which has been placed into receivership instead of continuing its operations.

However, the Central Bank can still appoint a conservator to continue the operations of the bank;

- (g) to add a new section 79A to enable a simplified licensing procedure for a temporary financial institution to take over the assets and liabilities of a financial institution which has been put into receivership by the Bank of Mauritius, and
- (h) to make it mandatory for banks to rotate audit firms instead of its partners every 5 years.

Financial Reporting Act

In the same vein, Clause 23 amends the Financial Reporting Act to make it mandatory for audit firm for companies listed on the stock exchange to rotate every 7 years.

Building Control Act

Clause 4 amends the Building Control Act to -

- (a) extend the definition of “principal agent” to also include firms of architects or engineers registered under the Construction and Industry Development Board Act.
- (b) make provision for plans and drawings that support an application for permit with respect to a proposed construction work to be submitted electronically or such other technological means, and
- (c) reduce the time frame for the issue of a compliance certificate by a local authority from 10 to 5 working days from the date of application.

Business Registration Act

In order to enhance exchange of information, Clause 5 amends the Business Registration Act to provide for the Registrar of Companies to be able to issue business registration card electronically.

Central Electricity Board Act

To facilitate and democratise the development of local renewable sources of energy, Clause 6 amends the CEB Act to provide for the setting up of companies. These companies shall be exempted from the Public Procurement Act and their shareholdings will be opened to small investors.

And Clause 15 amends the...

(Interruptions)

Mr Mohamed: I am sorry to interrupt! On a point of order! I have just heard the hon. Minister of Finance and Economic Development referring to clause 6 which is referred to in the Finance Bill that has been circulated and all the materials have been circulated. At the same time, Madam Speaker, I am reading the ruling that you had delivered yourself last year on 13 May 2015 following a point which was raised by hon. Uteem. The issue that was raised is: in a Finance Bill, can issues such as this one - that those private companies shall not in anyway be under the purview of the Public Procurement Act and exempted from the Public Procurement Act – be dealt with as has just been done in this Bill and referred to by the hon. Minister of Finance and Economic Development in the Finance Act? On the same issue, you, Madam Speaker, had delivered a ruling, if I may call it that way. You had said that –

“Under Standing Order 52 (b), a Finance Bill may, in addition to the measures relating to taxation and national finance announced in the Budget Speech, contain provisions relating to the other measures announced therein (...).”

Meaning announced in the Budget.

“(...) and provide for matters connected, consequential or incidental to those measures”.

And my humble view is the following. At no time in the Budget has the issue of those private companies, no longer falling under the purview of the Public Procurement Act, been referred to directly or indirectly and did not even make mention of it even in the Annex. That is why I took the time to go and find the Annex again and found it. Has the hon. Minister of Finance and Economic Development, during the Budget Speech, even in the Annex, referred to the fact that private companies shall no longer be under the purview or control or subject to the provisions of the Public Procurement Act? No, it has never been mentioned! This is a major legislation that has to be debated.

In my humble view, based on your ruling itself, this cannot stand in this particular Bill. This clause of the law, as being provided, cannot stand anymore based on your ruling of last year. And not only based on your ruling of last year, but based on the ruling of the previous Speaker who had also ruled clearly on this matter.

Now, to just very briefly finish off on this point of order, the question that I put is: has the hon. Minister of Finance and Economic Development referred to this issue of exempting a specific company, creating a different animal in the Companies' Act, by which specific companies will no longer be under the purview of the Public Procurement Act? The answer is no. Did he refer to it in his Budget Speech? The answer is no. Is it consequential or connected or incidental? The answer is no. It cannot be said to be consequential or connected or incidental. It is a different matter altogether that was never canvassed in the Budget Speech, not even in the Annexes.

For those reasons, Madam Speaker, I pray that you rule on this matter before the hon. Minister of Finance continues, because we cannot continue without your ruling to tell us whether this can continue in the debate and I, therefore, base myself upon your own ruling of last year to stand up and say that we wait for another ruling; and I am sure that if it's looking in the same direction as last year, you will agree with me that this cannot form part of this Bill.

Thank you very much.

Madam Speaker: I thank you for your point of order. Can I ask the hon. Minister to demonstrate how this clause has been included in the Bill?

Mr Jugnauth: Well, first of all, Madam Speaker, the hon. Member has referred to a ruling of the previous Speaker that was...

(Interruptions)

Yes! But let me...

(Interruptions)

Madam Speaker: Allow the Minister to talk.

Mr Jugnauth: The previous Speaker had given a ruling when there was no provision in the Standing Orders with regard to what could be contained in the Finance Bill and reference was being made to what was the precedence that has been established in Erskine May with regard to Finance Bill in the UK. Since then, there has been an amendment to the Standing Orders and section 52 (1) (b), in fact, is very clear to me. It says –

“A Finance Bill may, in addition to the measures relating to taxation and national finance announced in a Budget Speech, contain provisions relating to the other measures announced therein - I emphasise on other measures

announced therein - and provide for matters - and again, I wish to emphasise on matters - connected, consequential or incidental to those measures.”

Now, we are dealing with the amendment I have just stated. Clause 6 amends the CEB Act. Now, what was said in the Budget? I’ll refer the hon. Member and Madam Speaker to paragraph 135 which states and I’ll read -

“The Electricity Act and the CEB Act will be amended to accelerate the permit approval process of renewable energy investment projects.”

Now, this amendment, in fact, pertains...

(Interruptions)

Paragraph 127! Yes. There is also reference at paragraph 127 which says and I’ll read -

“To this end, the CEB will create a renewable energy company, which will ultimately become a special vehicle for the production of electricity from solar photovoltaic systems of up to 15 MW. It will subsequently open its shareholding to SMEs, cooperative societies and small investors.”

(Interruptions)

For further support at paragraph 149! No it’s no 149. But anyway, these two paragraphs by themselves are very clear to support the fact that the amendment we are proposing today is, in fact, consequential and incidental to the measures that have been announced.

Mr Mohamed: May I...

(Interruptions)

Madam Speaker: Yes! You wish to add something. Please do.

Mr Mohamed: I would like to say that I heard the hon. Minister of Finance with much interest and each and every of the clauses or the paragraph that he referred to - precisely I said it, I was aware of it before standing up and I did say it - refers to the fact that what the CEB intends to do with regard to renewable energy special vehicles would be created. That is not in any way a matter on which I disagree. On that, I agree with him. But, where I totally disagree is that there is a major piece of legislation, which is Public Procurement Act, that is an Act which is of such substance that has not in itself been mentioned and it should have been mentioned in the Budget Speech or the Annexes. Now,

what the hon. Minister of Finance is trying to say is that because he referred to a special purpose vehicle, it is clearly...

(Interruptions)

If I may continue without being interrupted, Madam Speaker! Please!

Madam Speaker: Nobody is interrupting. Please, continue!

Mr Mohamed: So, what he is trying to say - and there he is trying to say with the help of other Members of Government - is that it is incidental and here it is also consequential. My humble view - and this is, I am sure, the view of all Members of the Opposition - is that this is not consequential, it is not incidental. It cannot be said to be consequential and incidental. It should have been an amendment to the Act, the Public Procurement Act, that should have been entered before this august Assembly separate to the Finance Bill. It cannot, therefore, be said to be incidental because, let's not forget about that Standing Order 52 (b) referred to by the hon. Minister of Finance. We are dealing with private money and we are dealing here not with issues that were referred therein – therein meaning in the Budget – we are dealing here with a separate legislation altogether, that cannot and should not be considered in any way to be incidental or consequential because that would be a dangerous precedent. This is a precedent that has never been laid in this august Assembly and it is a precedent that we should avoid to drown ourselves in. This is dangerous!

Madam Speaker: Yes. I thank the hon. Member for the point of order which has just been made and wherein he feels that in the Finance (Miscellaneous Provisions) Bill there are issues which ought to have been incorporated in distinct legislations. May I draw the attention of hon. Members that in 2009 the then Speaker, hon. Purryag, gave a ruling to which the hon. Member has just referred and I will quote that ruling. He said –

“I rule that the Finance (Miscellaneous Provisions) Bill should not contain 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 in those matters within the spirit and scope of the Bill as defined in the long title”

In the light of that ruling, the Standing Orders were amended. That was in March 2015 to include Standing Order 52 (1) (b). And for the information of hon. Members, I will quote what that specific section of the Standing Orders say. I quote –

“A Finance Bill may, in addition to the measures relating to taxation and national finance announced in a Budget Speech, contain provisions relating to the other measures announced therein and provide for matters connected, consequential or incidental to those measures.”

Now, the long title of the Bill reads as follows and I quote –

“(...) this Bill is to provide for the implementation of measures announced in the Budget Speech 2016 and for matters connected, consequential or incidental thereto.”

So, following the additional information from the Ministry of Finance in the form of Explanatory Notes which has been circulated to all hon. Members and in the light of the explanation which has just been provided by the hon. Minister of Finance and Economic Development, I am satisfied that the provisions of the Bill comply with Standing Order 52 (1) (b). Thank you.

Mr Jugnauth: Thank you, Madam Speaker. May I just also say that I have circulated all the provisions with regard to the different clauses that relate to the Budget Speech or to the Annex so that Members will have an ease of reference to what all the clauses relate.

Madam Speaker, I was saying that - let me repeat that part - to facilitate and democratise the development of local renewable sources of energy, clause 6 amends the CEB Act to provide for the setting up of companies and these companies shall be exempted from the Public Procurement Act and their shareholdings will be opened to small investors.

Clause 15 amends the Electricity Act to simplify the procedures for approving applications by small and medium scale electricity producers generating less than 2 MW of electricity from renewable sources.

Clause 7 amends the Civil Aviation Act to stop crediting the proceeds of the Passenger Solidarity Fee on airline tickets to UNITAID and credit to the Consolidated Fund instead.

Clause 8 amends the *Code Civil Mauricien* to bring clarification to the application of Article 2202-6 of the *Code Civil Mauricien* regarding capitalisation of interest. Henceforth,

this Article will be subject to Article 1154 which does not allow the capitalisation of interests which are due for less than a year.

In line with our policies to facilitate business, clause 9 amends the Companies Act -

- (a) to provide for the appointment of an administrator instead of a liquidator in the event of winding up a limited life company;
- (b) for the Registrar of Companies to remove a company from the Register where an objection lodged before 01 July 2009 has not been withdrawn, and
- (c) to allow for a process where undisposed funds available when companies are being removed from the Register to be vested in a Companies Special Deposit Account or the Curator of Vacant Estates as the case may be.

Clauses 11, 12 and 18 amend the Customs Act, the Customs Tariff Act and the Excise Act, respectively to implement the measures announced in the Budget Speech and its Annex relating to customs and excise, including -

- (a) empowering Customs to suspend the clearance of goods suspected to be counterfeit for a maximum of 21 days instead of 3 days, in the context of the fight against counterfeit trade;
- (b) harmonising the procedure for compounding of customs offences with that obtaining under other revenue laws, and
- (c) allowing the heirs of a deceased owner of a duty free motor vehicle not to become liable to pay the remaining proportionate excise duties, provided that the vehicle is not disposed of within the duty liability period.

The Dr. A. Ferriere Underpass, Port Louis (Authorised Construction) Act 1996 and the Sir William Newton Underpass, Port Louis (Authorised Construction) Act are amended to exempt the State Property Development Company Ltd (SPDC) from the payment of annual fee to the Ministry of Housing and Lands and Municipal Council of Port Louis as SPDC is servicing both underpasses at its own cost.

Clause 14 amends the Education Act to provide for the phased implementation of the Nine-Year Continuous Basic Education project and transitional arrangements.

In clause 16, the Environment and Land Use Appeal Tribunal Act is being amended to reinforce and remove ambiguity in the process for determining and hearing of appeals.

Clause 17 amends the Environment Protection Act to provide the legal framework for the financing of new e-waste management systems that are set up jointly with the private sector.

Clause 19 amends the Finance and Audit Act to avoid having to amend the Schedules to the Act at Budget time in case there has been a change in the portfolio of a Minister and in the appellation of a Ministry or Department.

Consequential amendment is being made for holders of investment banking licences, cooperative credit unions, global legal advisory services licence and captive insurance licence to fall under the purview of the Financial Intelligence and Anti-Money Laundering Act.

To further diversify and consolidate the financial services sector, a new Part XA is also being added to the Financial Services Act to provide for an umbrella licence for investment banking.

New sections are being added to the Financial Services Act to allow the Financial Services Commission to issue a new Global Legal Advisory Services Licence to cater for flagship international law firms to set up offices and operations in Mauritius.

Clause 24 amends the Financial Services Act to allow Global Business Companies category 2 to invest in listed companies on the stock exchange and to empower the FSC to set up a standardised centralised online KYC database for the non-bank financial services sector.

As regards the gambling sector, the Gambling Regulatory Act is being amended to provide for -

- (a) the introduction of a 2 percent levy on the gross gambling yield of all licensees;
- (b) setting up of a regulatory and taxation framework for on-line betting which will be opened to non-resident and foreign punters only;
- (c) betting games to be organised in hotels and restricted to non-residents and foreigners;
- (d) an increase in the betting duty for horse-racing bookmakers operating outside the racecourse, and
- (e) for 50 percent of the net proceeds from the Mauritius National Lottery (Lotto Lottery) to be credited to the Lotto Fund which will be set up as a Special Fund under the Finance and Audit Act.

Clause 26 amends the Hire Purchase and Credit Sale Act to make it clear that interests cannot be charged on any amount that has been prepaid.

Clause 27 amends the Income Tax Act to *inter alia* give effect to the revision in personal income tax allowances, exemptions and tax holidays granted to qualifying enterprises, review the investment tax credit and implement the changes in tax administration as announced.

Madam Speaker, I now come to Corporate Social Responsibility. Clause 27(h) amendments to the Income Tax Act as follows -

First, Companies will be required to contribute through MRA at least 50% of their CSR money to the new National CSR Foundation at the start of their next accounting year. Thus, for companies with accounting period ending 31 December 2016, the new CSR framework will be applicable as from 01 January 2017. The rate of contribution will be changed to at least 75% in the following year.

Second, provision has been made to list the six national CSR priority areas in the Tenth Schedule to the Income Tax Act. Moreover, a number of activities which do not qualify for funding under CSR are also specified. Detailed operational guidelines will be finalised by the Foundation after consultation with stakeholders.

It is proposed to set up the new National CSR Foundation under the Foundations Act and will be under the aegis of the Ministry of Social Integration and Economic Empowerment. It will be managed by a Council, comprising a Chairperson, and members from the private sector, public sector and civil society.

Third, provision has also been made to enable a company or its foundation to continue using its CSR money on an existing or a new CSR Programme, provided it fits within the priority areas, and is approved by the National CSR Foundation.

And fourth, a company may use the balance of its annual CSR Fund to continue providing funding to the CSR Programmes into which it was already engaged prior to August 2016. However, as from 01 January 2019, it will be required to spend the balance in accordance with the six priority areas identified and announced in the Budget Speech or other areas as may be prescribed.

As regards tax administration, I wish to highlight that Clause 27(t) allows the Director General to raise an assessment beyond the three years limit in the case of non-submission by a taxpayer of his tax return on income. Furthermore, to counter abuse cases where a tax

payment has been collected by companies on behalf of the State such as PAYE and TDS, but not remitted to MRA, provision is made for the Director-General of the MRA to claim a penalty not exceeding 50%. In addition, the maximum imprisonment term on conviction of such an offence is being increased from a maximum of 2 years to 8 years.

Provision has also been made to improve the Investment Tax Credit Scheme on expenditure in new plant and machinery by qualifying companies as follows -

- (i) removal of the minimum qualifying amount of investment of Rs100 m.;
- (ii) extension of the number of years any unrelieved tax credit may be carried forward to 10 consecutive income years;
- (iii) extension of the investment window to the year 2019/2020;
- (iv) raising of the rate of the investment tax credit to 15% over 3 years for companies engaged in manufacture of textiles, wearing apparels, ships and boats, computers, pharmaceuticals or in the production of films industry;
- (v) the credit is being extended to a company investing in the share capital of a subsidiary company engaged primarily in the setting up and management of accredited business incubators and accelerators, and
- (vi) clarifying that the period during which unused tax credit under the special tax credit scheme for investment in a spinning, weaving, dyeing or knitting of fabrics factory should have been six instead of five income years.

Madam Speaker to unlock major investment projects and give a boost to innovation, clause 29 amends the Investment Promotion Act to –

- (a) provide that the Investment Projects Fast-Track Committee may request the BOI to issue the relevant permit, licence, authorisation or clearance for a business to start operation in cases where the statutory deadlines for processing of applications by the relevant public sector agencies have lapsed, and
- (b) a new section is added on the Regulatory Sandbox Licence (RSL). The Licence will have to be applied to and issued by the BOI to operate innovative projects for which no legal provision has been made or where there are inadequate provisions in the relevant enactments.

Clauses 30 and 43 amend the Land (Duties and Taxes) Act and the Registration Duty Act to, *inter alia*, give effect to the incentives provided in the Budget for the construction or acquisition of a house, namely -

- (a) any Mauritian citizen who acquires during the period from 01 September 2016 to 30 June 2020 a newly-built dwelling for an amount not exceeding Rs6 m., will be granted full exemption from the 5% registration duty. This exemption will also apply to a dwelling purchased on the basis of a plan or during construction (i.e. under *Vente à Terme* or *Vente en l'Etat Futur d'Achèvement*). This exemption will not apply in respect of a property that is located on *Pas Géométriques* or within the Integrated Resort Scheme, Real Estate Scheme, Property Development Scheme or Invest Hotel Scheme;
- (b) a first-time buyer of bare residential land will be exempted on the first Rs2 m. of land value provided the area of land being acquired does not exceed 20 perches;
- (c) it is clarified that the existing provision enabling a first time buyer of a dwelling that is not newly-built to benefit from registration duty exemption has been maintained;
- (d) a Mauritian who, in the past, may have purchased a residential property, but did not own any as at 29 July 2016 will qualify as a first time buyer. Furthermore, no age restriction will apply;
- (e) under the Construction of Housing Scheme, the upper limit of Rs4 m. of the value of a residence in a project of at least five residential units, registered with the MRA, is being raised to Rs6 m. and the scheme extended to 30 June 2020, and
- (f) no registration duty will be payable on the registration of a secured housing loan contracted by a Mauritian if the loan amount is below Rs2 m., instead of the current limit of Rs1 m. This amendment will be made by way of regulations.

The exemption from land transfer tax on the transfer by an employer to his employee of a free social dwelling.

Madam Speaker, opportunity is being taken to correct an unfairness relating to the sharing, following a divorce, of an immovable property that has been acquired under the *communauté des biens*. Currently such sharing is subject to registration duty. This is unfair because it implies double payment of registration duty on the same property. Thus, in such cases there will be no registration duty when the property is being transferred from one spouse to the other. This again will be made by way of regulations.

Consequential amendments are being made to the Law Practitioners Act regarding the setting up of Global Legal Advisory Services in Mauritius. The Law Practitioners Act shall not apply to holders of the Global Legal Advisory Services Licence.

I will now elaborate on amendments relating to the local Government. Clause 32 amends the Local Government Act to -

- (a) abolish the requirement for obtaining the stand of the Executive Committee, in the process of determining an application for an Outline Planning Permission and a Building and Land Use Permit;
- (b) review the composition of the Permits and Business Monitoring Committee, which will now consist of the Lord Mayor or Deputy Lord Mayor, the Mayor or Deputy Mayor, the Chairperson or Vice-Chairperson of a district council shall be the chairperson; and four councillors designated by the Lord Mayor or Mayor or Chairperson, the Chief Executive, and the heads of the Land Use and Planning, Public Infrastructure and Public Health Departments of the local authority;
- (c) provide that the Local Authority will have only eight working days to seek any additional information, particulars or document from an applicant and on the effective date, issue to the applicant an acknowledgement receipt in respect of the application;
- (d) add a new provision to exempt economic operators carrying out trade activities whose annual trade fee does not exceed Rs5,000 at 30 June 2016 from the payment of trade fees, for a period of three years from 01 January 2017, and
- (e) restore the provisions relating to the updating of the Valuation List used by Municipal Councils for the assessment and levy of General Rates.

Mauritius Revenue Authority Act

Clause 34 amends the Mauritius Revenue Authority Act to provide, *inter alia*, for an Alternative Tax Dispute Resolution mechanism at the level of the MRA to expedite tax appeal cases.

Medical Council Act

The Medical Council Act will be amended to provide for a prospective doctor to be assessed before his enlistment as a pre-registration intern with a view to ensuring that he has the required knowledge, standard, skills and competence.

Morcellement Act

The *Morcellement* Act is amended at clause 36 to provide that an application for a *morcellement* permit be made in one original copy and accompanied by the required supporting documents specified in the guidelines; and for the *morcellement* permit to be issued by the Minister not later than five working days from the date reported to him by the *Morcellement* Board.

National Pensions Act

The National Pensions Act is being amended to provide for -

- (a) entitlement of a widower to receive a pension from the National Pensions Fund after the death of his spouse who has been making financial contributions to the Fund;
- (b) payment of Basic Invalidity Pension in respect of a child with disabilities who is below 15 years of age, and
- (c) option for an employee and his employer to effect higher amounts of contributions to the National Pension Fund than the statutory ceiling, with a view to securing higher benefits from future pension.

National Savings Fund Act

National Savings Fund Act is being amended to enable contributors of National Savings Fund, who retire before or stop being in employment before the age of 60, to receive their lump sum payments at 60.

Non-Citizens (Property Restriction) Act

In clause 39, the Non-Citizens (Property Restriction) Act is being amended so that companies in which non-citizens in total do not hold more than 25 per cent of the shareholding will not be required to seek the approval of the Prime Minister's Office when there is a transfer of property.

I should here point out that I am bringing an amendment to this clause as it stands now in the Finance Bill to better reflect the policy measure announced in the Budget Speech.

The Act is also being amended to allow non-citizens, registered with the BOI, subject to security clearances, to acquire apartments in a building of at least two floors above ground floor.

Public Debt Management Act

Clause 40 amends the Public Debt Management Act to -

- (a) specify that the proceeds from Treasury Bills and other Government securities that are issued for monetary policy purposes shall be deposited at the Bank of Mauritius and used only for redemption of those securities, and
- (b) provide that the Minister may require a risk assessment exercise to be carried out prior to acceding to a request by a public entity for a guarantee on a loan.

Public Private Partnership Act

The Public Private Partnership Act is being amended to allow the BOT Projects Unit to oversee all matters pertaining to public private partnerships with a view to avoiding duplication of resources and aligning the PPP process with the BOT Projects process.

Public Procurement Act

Madam Speaker, the Bill also adapts the Public Procurement Act to new needs and to ensure greater value for money. Thus, the Public Procurement Act is being amended for a public body to -

- (a) seek prior approval of the Central Procurement Board before amending works contract where there are significant variations in the contract value;
- (b) cancel a bidding exercise where substantial modifications are required in the bidding documents and where there is an IT system failure for procurement;

- (c) be exempted from the Act in relation to the purchase, maintenance and repairs of marine vessels in view of the specialised nature of the market for such activities, and
- (d) limit award of the number of lots to suppliers based on criteria to be included in the bidding documents for a better allocation of contracts and improved delivery of goods, works and services.

The amendment to the Public Procurement Act also enables a public body to proceed directly with an open invitation for bids where the public body has previously carried out a prequalification exercise which was unsuccessful, thus minimizing risks of delays and cost escalation.

Representation of the People Act

Clause 46 amends the Representation of the People Act to allow for notices by the Electoral Supervisory Commission and Electoral Commissioner to be made also in electronic form.

Securities Act

A new definition is being inserted in the Act regarding corporate finance advisory services. This is consequential to the powers being given to FSC to regulate investment banking.

Shooting and Fishing Leases Act

Clause 46 amends the Shooting and Fishing Leases Act to provide for eco-tourism activities.

Small and Medium Enterprises Development Authority Act

Clause 48 amends the Small and Medium Enterprises Development Authority Act to provide for individuals and cooperative societies, engaged in qualifying activities and registered with SMEDA, to benefit from the SME Development Scheme, i.e. 8-year tax holiday.

Social Aid Act

The Social Aid Act is being amended to provide for a standard definition of “household” with a view to rationalising various household income eligibility criteria. Thus, for all in-kind assistance under the Social Aid Act such as hearing aids, spectacles and

wheelchairs, it is proposed to apply a uniform household income threshold of Rs30,000 per month.

Concerning the implementation of the new Empowerment Support Scheme under the Marshall Plan against Poverty announced in the Budget, which will become operational in December this year, I wish to point out that a separate Bill to that effect will be introduced by my colleague, the Minister of Social Integration and Economic Empowerment.

State Trading Corporation

The State Trading Corporation Act is being amended to allow the STC to acquire, hold or dispose of an interest in any corporate body for the purpose of bunkering and petroleum related activities.

Statutory Bodies (Accounts and Audit) Act

The Statutory Bodies (Accounts and Audit) Act is being amended to enable a statutory body to remit part of an operating surplus or accumulated revenue reserve arising from special circumstances to its reserve account with the approval of the relevant Minister and transfer the remaining amount to the Consolidated Fund.

Sugar Industry Efficiency Act

The Sugar Industry Efficiency Act is being amended in clause 52, to provide that an applicant for land conversion can submit only one original copy of an application and can do so electronically.

Sugar Industry Pension Fund Act

The Sugar Industry Pension Fund Act is being amended to provide legal certainty that the assets of each employer will be distinct and separate.

Sugar Insurance Fund Act

Clause 54 amends the Sugar Insurance Fund Act to allow the payment of a one-off financial assistance to all planters for sugar crop 2015, amounting to a sum of Rs2,000 per tonne of sugar accrued.

Tourism Authority Act

Clause 55 amends the Tourism Authority Act to rationalise the licensing system for similar activities carried out in the tourism sector.

Provision is made for the introduction of three types of licences; boathouse licence, clubhouse licence and surfing licence. The list of activities and terms and conditions

applicable to each type of licence will, in fact, be prescribed by way of regulations. And, in addition, the validity of the pleasure craft licence is being extended from one to three years.

Operating rental agencies for bus and minibus or for motorcycles will no longer be licensed by the Tourism Authority as these activities are already regulated by the National Transport Authority. Therefore, appropriate regulations will be made.

Transcription and Mortgage Act

Clause 56 amends the Transcription and Mortgage Act to allow public sector agencies and other specified entities as may be prescribed to carry out searches at the Registrar-General's Department free of charge.

Tourism Employees Welfare Fund Act

Clause 56 amends the Tourism Employees Welfare Fund Act for the definition of 'tourism enterprise' to also include any hotel-based or airport-based taxi operator. Provision is also made for these operators to make a monthly contribution to the Tourism Employees Welfare Fund according to rates to be prescribed.

Value Added Tax Act

The VAT Act is being amended to provide for the implementation of the measures announced in the Budget Speech and its Annex. These include, amongst others –

- (a) introduction of a 20 per cent penalty to discourage excessive claims of input and increasing the penalty for late payment of VAT;
- (b) reviewing the VAT Refund Scheme on construction of a dwelling, and
- (c) zero-rating of goods and services, such as, photovoltaic batteries and inverters; production of film for export; CCTV camera systems, and burglar alarm systems and sensors.

Clause 60 repeals the Shooting and Fishing Lease Tax Act as it is no longer relevant since the lease rentals of State lands for such purpose have been increased substantially and are in force in all cases.

Madam Speaker, the income tax exemption which will be granted to seafarers, co-operatives engaged in non-sugar agricultural activities, industrial fishing companies and in respect of specified financial services will be made by way of regulations.

And the exemption from land transfer tax on the transfer by an employer to his employee of a free social dwelling and correction of an anomaly relating to sharing of immovable property following a divorce will be made by way of regulations.

Madam Speaker, I will also bring certain minor amendments at Committee Stage to some clauses of the Bill, namely -

- Clause 4 on the Building Control Act to clarify that the online application for Building and Land Use Permit be made in respect of building having a floor area of more than 150 square meters.
- Clause 23, on the Financial Reporting Act to provide for transitional provision for rotation of auditors of listed companies.
- Clause 27, to remove the figure of six in relation to the CSR priority areas of intervention in section 50 L of the Income Tax Act as well as in its Tenth Schedule.
- Clause 32, to remove sub-paragraph (i) at section 117 of the Local Government Act as the provision is already covered in the Building Control Act.
- Clause 34, on Mauritius Revenue Authority Act to correct a cross referencing error and to clarify the time limit for decision of the Alternative Dispute Resolution Panel.
- Clause 61, on Commencement Clause to specify that the provisions of the Regulatory Sandbox Licence will come into effect on a date to be fixed by proclamation instead of 01 October, 2016.

Madam Speaker, I now commend the Bill to the House.

The Prime Minister rose and seconded.

Madam Speaker: I suspend the sitting for one and a half hours.

At 1.17 p.m. the sitting was suspended.

On resuming at 2.51 p.m. with Madam Speaker in the Chair.

Madam Speaker: Hon. Members, before we proceed with the debating of the Finance (Miscellaneous Provisions) Bill, I wish for the guidance of the House to state that although some latitude is permitted, this does not extend to reopening an entirely general debate on economic policy, as these matters have already been canvassed in the course of the

debate on the Appropriation Bill. So, I, therefore, expect hon. Members to stand guided accordingly.

Thank you.

Hon. Uteem!

(2.51 p.m.)

Mr R. Uteem (First Member for Port Louis South & Port Louis Central): Madam Speaker, allow me at the outset to put on record our strongest possible objection as to the manner in which this Bill is coming before this House today for First, Second and Third Reading under a Certificate of Urgency.

This Bill is 180 pages and purports to amend not less than 57 Acts of Parliament. Yet, hon. Members of this House only received a draft of this Bill last Thursday, less than a week ago. We only received a copy of the existing legislative provisions to be amended yesterday and it is only late last night that we received an Explanatory Note explaining the rationale for most of the amendments being proposed by this Bill. And we are talking about a highly technical Bill. How are we expected, Madam Speaker, to have any meaningful debate on this Bill in these circumstances? Have the hon. Members been given sufficient time to read, to analyse, to digest those amendments? Is this the way to treat hon. Members of this House? Is this the way to treat Parliament and lawmakers?

Last year, intervening on the Finance (Miscellaneous Provisions) Bill, Madam Speaker, I already drew the attention of the House against the practice of lumping together dozens and dozens of legislation under one Bill. Last year, the Bill amended 53 pieces of legislation. This year, instead of taking heed to our concern, the hon. Minister of Finance and Economic Development is doing better, he is lumping together 57 different Acts of Parliament! This is not fair, Madam Speaker. This is not how democracy is supposed to work. We have only had two working days: Monday and yesterday to discuss the Bill with stakeholders. The stakeholders which we contacted understandably could not provide any meaningful comment because they, themselves, had not had time to go through the Bill.

So, why rush through so many amendments? I really hope that it is not because some of us are in a hurry to take a vacation! Yet, Madam Speaker, some of the amendments proposed in this Bill deserve to be debated as standalone Bills after consultation and meaningful debate. For example, let us take the Education Act which is being amended at page 26 of the Bill. The proposed amendment provides for the phased implementation of the

Nine-Year Schooling. The amendment will have an impact on our children, on our teachers, on our schools, on academies but, also on special education needs schools. There are not less than seven pages of amendments to the Education Act. Such an important fundamental reform, Madam Speaker, to our education system ought not be dealt lightly. The amendments to the Education Act deserve to be presented in a standalone Bill. We need a thorough debate on the proposed amendments.

This morning the Education Committee of the MMM held a press conference and urged the hon. Minister of Finance and Economic Development to withdraw the Education Act from the purview of this Bill and I am now also formally reiterating our appeal to the hon. Minister of Finance and Economic Development to withdraw the proposed amendments to the Education Act from this Bill and allow the substantive Minister, hon. Mrs Dookun-Luchoomun, to come with a new Bill which can be thoroughly debated in this House. In his intervention, my colleague, hon. Baloomoody, will comment in more details what the position of the MMM party is on this proposed amendment to the Education Act.

Similarly, Madam Speaker, the amendment proposed to the Local Government Act at page 85 deserves a thorough debate on its own. Currently, we have a Permits and Business Monitoring Committee consisting of the Chief Executives, Heads of several departments and local authorities which consider applications for building and land use permits. They are technicians. These technicians then make recommendations to an Executive Committee which consists of the Lord Mayor and Councillors and if the Executive Committee does not agree with the recommendations, the matter is sent to the Minister of Local Government.

Now, what we are proposing is to change the composition of that Permits and Business Monitoring Committee to include Mayors and Councillors. Mayors and councillors will have a majority of voice in that Committee and they can overrule any recommendation made by the technicians in that Committee. Now, is that a good thing? Is there a risk of abuse by councillors? Is there a risk of undue pressure on councillors to approve the permits? Are there sufficient safeguards, checks and balances inbuilt in the system to prevent such abuse?

These are issues, Madam Speaker, which ought to be debated thoroughly before this House and would have been better debated had the amendment to the Local Government Act been part of a standalone Bill because I am sure that hon. Members, who have been Lord Mayors, former Mayors, former Chief Executives of District Councils, would have

contributed to the debate and given their point of view on whether it is a good thing to now have councillors, elected people, overriding the decision of technicians.

Similarly, Madam Speaker, I think that we would have had a more meaningful debate if the far-reaching reforms being brought to the gaming industry through the proposed amendment to the Gambling Regulatory Authority Act were presented as a standalone Bill. There are not less than 13 pages of amendments being proposed to that legislation. Madam Speaker, I am not an expert in gambling regulatory matters but, I am sure that, given time, other hon. Members would have had interesting things to say about the proposed amendments and their impact.

Having said this, Madam Speaker, I do have one comment about the proposed amendment to the Gambling Regulatory Authority Act. The hon. Minister of Finance and Economic Development is proposing at section 85 the creation of a Lotto Fund which will be administered as a special fund under the Finance and Audit Act.

Last year, in his Budget Speech this is what the then hon. Minister of Finance had to say about Special Funds and I quote from paragraph 253 of last year's Budget Speech –

“I would like to mention that, in line with our objective to bring greater transparency in the management of public finances, all Special Funds will be closed by end June except the National Resilience Fund and the Build Mauritius Fund which will be phased out gradually.”

“In line with our objective to bring greater transparency in the management of public affairs!”

This is what this Government said last year. They are going to get rid of special funds. Now, today, surreptitiously, in the thickness of 180 pages of a Bill, we are introducing a Lotto Fund, a new special fund! Is that transparency, Madam Speaker? And, we all know, Madam Speaker, that special fund is a device used to circumvent budgetary control to make sure that expenses do not have to be scrutinised during Committee Stage of a Budget.

At the level of the MMM, Madam Speaker, we have always been opposed to special funds and we even congratulated the former Minister of Finance when he decided to put an end to the use of special funds last year. But, now, the new incumbent is taking us back into opacity. Is this what Government means by fiscal responsibility, by good governance, by good management of public finance? I don't know if this is what some Members of

Government were referring to when they were talking about this Budget being a *politique de rupture*. But, if it is rupture, it is certainly not one in the right direction!

Now, Madam Speaker, what will this Lotto Fund be used for? We are told at section 85(a) that it will be used -

‘(...)to finance projects and schemes in respect of community development, education, health, sports, culture, heritage or arts and for reimbursement of public debt of Government and for such other purposes as may be prescribed’

So, for example, Madam Speaker, if tomorrow the Government is short of cash to make an expenditure which was not budgeted, to acquire some property which was not foreseen in the Budget, all the hon. Minister of Finance and Economic Development needs to do is pass a regulation and off he goes. No need to come with a Supplementary Appropriation Bill, no need to obtain the approval of Parliament, no need for public scrutiny! Surely, this is not good governance! Surely, this is not transparency! Surely, this is not accountability!

But, unfortunately, Madam Speaker, this is not the only instance where this Finance Bill is introducing opacity and lack of transparency. And, what better way to do it than to bury it in 180 pages of Bills which most of us will never read!

I am, of course, talking about the proposed amendment to the Central Electricity Board Act at page 14 of the Bill. According to the proposed amendment the Board may, with the approval of the Minister, set up such companies under the Companies Act for –

- (a) the implementation of projects relating to the production of electricity from renewable energy sources;
- (b) the use of its network for the development of projects of national interest; or
- (c) the implementation of such other projects as the Board may determine.

I listened carefully to the hon. Minister of Finance and Economic Development when he explained the rationale for introducing the amendment to the Central Electricity Board Act. He would have us believe that the purpose is to cover small, independent business projects involved in small renewable energy projects.

But, Madam Speaker, when we take a closer look at the proposed amendment, we are not talking only about renewable energy and projects of national interest. Subsection (c) is clear -

“(...) the implementation of such other projects as the Board may determine.”

which literally means anything and everything.

By allowing the CEB now to set up companies, we are effectively taking the award of contract by these companies outside the scrutiny of Parliament because we all know too well, Madam Speaker, if tomorrow Members from this side or the other side of the House were to ask questions about the fully owned subsidiary of the CEB, what will the hon. Vice-Prime Minister answer? He will say: ‘Private companies, you know, I can’t answer about it.’ We have examples here. When we ask questions about Mauritius Telecom, he can’t answer. When we ask questions about Air Mauritius, he can’t answer. So, it will be the same thing, when we are going to ask questions about the subsidiary of CEB, he can’t answer. There is total opacity!

There is worse, Madam Speaker. In section 10 (3), there is a new proposed amendment which reads as follows -

“The Public Procurement Act shall not apply to any procurement exercise effected by a company set up under subsection (2).”

Not only are we not able to ask Parliamentary Questions about what these companies will be doing, how they are going to allocate contracts, but now we know that these companies will not have to go through the Public Procurement Act. So, we won’t have any safeguards. Gone are the safeguards offered by the Central Procurement Board. Gone are the safeguards offered by the Independent Review Committee. We are talking about projects which are worth hundreds of millions of rupees, if not, billions of rupees. Now, the Board simply can do whatever they want. They can award the contract to whoever they want, using whatever procurement procedures they want in total opacity, without scrutiny from this House thanks to this amendment which is buried among 180 pages of the Finance Bill.

Again, Madam Speaker, unfortunately the Central Electricity Board is not the only instance in this Bill where we are trying to circumvent the provisions of the Central Tender Board for awarding the contract. The State Trading Corporation Act, which is being amended at page 119, is going to allow the State Trading Corporation now to engage in the storage of petroleum products and the development of bunkering. We don’t have any issue with that. This is the policy of Government. If they want the STC to do bunkering and storage, we are all in favour of that. But then there is a new section 16A which states that -

“The Corporation may, for the purpose of its activities, acquire or hold any interest in any other agency or body of persons, whether corporate or unincorporate.”

So, the State Trading Corporation can do exactly like the CEB. If they want to engage in bunkering, fine! They can do it. But they are now being given power by this House to create a subsidiary for the purpose of taking it outside the purview of Parliament. Does that sound familiar, Madam Speaker? Does that ring a bell? Sure it does! Have we forgotten about STCM Ltd.? Have hon. Members of this House already forgotten what happened to the butter beans from Madagascar? What happened to the sugar deals in Brazil? More importantly, what happened to that packing machine from China which no one could operate because they could not read Chinese? That was all under the STCM Ltd, Madam Speaker. The operation of the STCM Ltd had been ...

(Interruptions)

Wait! The operation of the STCM Ltd had been the subject matter of an investigation by Insight Forensic, a firm owned by the now Minister of Good Governance. What did he do when he was working as a Forensic auditor? What did hon. Bhadain had to say about STCM Ltd?

“We were informed that the main reason for the creation of the STCM Ltd. was to alleviate the existing administrative burden incumbent upon the STC with regard to compliance with tendering procedures and regulations. Clearly, they even tried to hide it. STCM Ltd was set up in order to circumvent with the tendering procedures.”

Then, he goes on to conclude -

“In this regard, the creation of STCM Ltd. appears to be a colourable device employed in order not to present legislative amendments to the existing Procurement Act.”

That was when they were in the Opposition. That was what they were saying. Scandals! They were scandalised by what was going on. And when they are in Government, what are they doing? They are making it legal. It is no longer a colourable device. It is no longer colourful. It is in black and white. We are amending the State Trading Corporation so that the State Trading Corporation can now set up lawfully an STCM and be outside the purview of the Public Procurement Act and outside the purview and scrutiny of this House. They are laughing about it. They are saying: ‘Yes, the Labour Government did STCM.’ But now, what

are they doing? They are institutionalising what they were criticising yesterday. That is what they are doing. When they are in the Opposition, they said one thing, when they are in Government, it's another thing.

Madam Speaker, again this is not the only example of opacity and bad governance. If we look at the proposed amendment to the Public Procurement Act at page 108 of this Bill, the Public Procurement Act will not apply to procurement undertaken –

“(g) by any public body in respect of vessels, including maintenance, repairs and periodic overhauls in a dry dock.”

Why are we exempting the requirement for a public body to comply with the provision of the Procurement Act when it comes to acquisition of a vessel, when it comes to the maintenance of that vessel? What are we doing? Are we setting the stage for another Betamax? Because this is what this will lead up to, awarding a contract for the acquisition of a vessel without going through Public Procurement Act and as incredible as it may sound, Madam Speaker, the explanation provided in the Explanatory Note circulated by the hon. Minister of Finance last night is and I quote –

“The public body must be exempted from the act in relation to the purchase, maintenance and repair of vessels in view of the specialised nature of the market for such activities.”

Because it is a specialised market activity, we do not have to go through public tender procedures. But then, Madam Speaker, that is the very reason why we have section 19 in the Public Procurement Act. Section 19 of the Public Procurement Act allows for restricted bidding. I quote –

“Restricted bidding may be used –

(c) by limiting the participation in a particular procurement to those suppliers included on pre-approved supplier eligibility lists drawn up and maintained by the public body, in such manner as may be prescribed, so as to ensure that suppliers of specialised (...)"

Identical word -

“(...) specialised goods and services (...).”

We already have a provision in the Public Procurement Act for the specialised market. We do not need to have an exemption for the Public Procurement Act so that we can go behind the back of CPB, behind the back of the Independent Review Panel and acquire vessels.

Madam Speaker, again there is no transparency and no accountability. And that's not all! Yet another example of a *recul* in matters of transparency and accountability when dealing with public funds is the proposed amendment to the Public-Private Partnership Act at page 106. Section 14 is being amended to provide that the provisions of the Private Partnership Act will not apply where -

“(b) subject to the Public Procurement Act, there is an agreement or arrangement between Mauritius and a foreign State for a project which allows Mauritius to benefit from the expertise and development experience of that foreign State in a particular field”.

G-to-G! Hasn't this Government, Madam Speaker, learnt its lesson from the mega flop of Heritage City? What did the hon. Minister of Good Governance state in this House when we questioned him about the exorbitant fees that were being paid to Stree Consulting without any tender procedure? G-to-G agreement! Government-to-Government agreement! A choice dictated by Dubai after a meeting between the Rt. hon. Prime Minister and the representatives of Dubai. How much money did we get, by the way, from Dubai in return for appointing Stree consulting? Now, Madam Speaker, that Heritage City is dead and buried, who is going to foot the bill for Stree? I am glad to read today in a newspaper that ICAC - which I don't attach much credibility unfortunately - has started an enquiry into the scandalous manner how the contract was awarded to Stree consulting under the supposed G-to-G arrangement.

Unfortunately, Madam Speaker, this Government has not learnt its lesson! And here we go again! For Public-Private Partnership agreement we won't need to comply with the provision of the Public-Private Partnership Act when there is a Government-to-Government project. So, we will no longer need to go through the BOT Project Unit which is now replacing the Public-Private Partnership Unit. And we know, Madam Speaker, the hon. Minister of Public Infrastructure has already mentioned it in his Budget Speech that there are big, huge, enormous contracts worth billions of rupees in the pipeline with MetroExpress and the Road Decongestion Programme. We know that for MetroExpress, Madam Speaker, we will benefit from the expertise of India. We know for the projects under the Road Decongestion Programme, we will benefit from experience of the Koreans. We know that there is a real possibility that some of the projects for the MetroExpress and some of the projects under the Road Decongestion Programme will now be carried out by way of Public-Private Partnership. And what do we do? We remove it from the purview of the Act. We

remove it from the control of the Procurement Board. Is that transparency? Is that good governance? Is that how we are *nettoyé*?

Madam Speaker, this 180 pages Bill is like small print in a contract. All these provisions which will make it more opaque to question the financing of public projects are being lumped together in this Bill and this is done surreptitiously, without knowing it. And if, by any chance, no one reads about it, so be it. By the time we would have realised what we have done, it will be too late. The Act would have been passed. This is not good governance, Madam Speaker.

Madam Speaker, it is not possible in the time allotted to me to go through each and every legislation that is being amended by the Bill, but before resuming my seat, I would like to comment on two specific legislations that are being amended, namely the Non-Citizens (Property Restriction) Act and the Income Tax Act.

The Non-Citizens (Property Restriction) Act at page 104 of this Bill is being amended so that companies, in which non-citizens do not hold more than 25% of the shareholdings, do not have to get the approval of the Prime Minister's Office when they are going to acquire immovable property. As the law currently stands – any company who has at least one shareholder who is a non-citizen, has to go through the Prime Minister's Office to get the approval, to get a certificate which allows him to acquire this immovable property. And there was a good reason for doing so, Madam Speaker, because Mauritius is a small island. Land is scarce. Already for the ordinary Mauritians, it is very difficult to acquire property. If we allow foreign investors to come in and freely acquire property, there is bound to be land speculation. There is bound to be an upward pressure on price and it will make it even more difficult for even the middle-class of this country to acquire property.

Worse, we will have probably the emergence of foreigners' ghettos with gated walls and electrical wires which we have already seen in parts of Mauritius in the western coast and in the northern part. So, there was a rationale about requiring all approvals to go through the Prime Minister's Office. Of course, there were designated schemes like the IRS, the RES, the Property Development Scheme where foreigners could acquire property. But now I am afraid that we are opening the floodgates because it is very easy on big projects worth hundreds of millions of rupees to have a company with a shareholder who is willing to put only 25% of the shares to own immovable properties in Mauritius.

Another reason, Madam Speaker, why the approval of the Prime Minister's Office was required; it was to ensure that dirty money is not laundered through real estate projects in Mauritius. We have, unfortunately, Madam Speaker, seen in the past how certain unscrupulous real estate promoters including management companies that were duly licensed by the Financial Services Commission, abuse every regulatory loopholes to create a bogus real estate project with many investors both local and foreigners, losing considerable amount of money. We are just uttering a word of caution that, on this side of the House, we are very concerned of not opening the floodgates and allowing dirty money being laundered through our real estate projects.

Similarly, Madam Speaker, we would urge the Board of Investment to exercise all necessary care and carry out full due diligence before authorising non-citizens to purchase apartments as residence in a building of at least two floors. We fully appreciate that we need Foreign Direct Investment. We fully appreciate that we need to boost our construction industry, but we should be careful that by doing so we are not making it more difficult, if not impossible, for the ordinary Mauritians to be able to acquire an apartment in this country.

Madam Speaker, moving to the proposed amendment to the Income Tax Act on page 60 of the Bill; we, of course fully agree with the principle that every person who derives income exceeding Rs15 m. or owning assets which exceeds Rs50 m. to submit a statement of assets and liabilities. This will enable the Director-General of the MRA to report any suspected case of unexplained wealth to the Integrity Reporting Services Agency.

However, in my opinion, Madam Speaker, the proposed amendment to section 123C at page 70 of the Bill requires certain clarifications. First of all, when we say that the person will have to file a statement of assets and liabilities, what do we mean by 'assets'? Everything is an asset. To take an extreme example, a pen is an asset. So, I would urge the hon. Minister of Finance and Economic Development -I don't know whether the MRA will do it through guidelines – to set out a threshold of the assets that has to be disclosed, for example, the threshold of Rs20,000 or some figures which will cover mundane small items which are acquired for daily use.

Secondly, 'person' is defined in the Income Tax Act as 'including trust'. I have, of course, no issue with trust who has as settlor Mauritians and beneficiaries Mauritians to disclose all their assets and liabilities. But is the proposed amendment intended to cover also foreign trusts? We have hundreds of trusts in Mauritius where the settlor, where the

beneficiaries are non-Mauritians, where the assets are located outside Mauritius. In fact, we have a whole industry in asset management, in private wealth management. So, are we also going to require these foreign-owned trusts to declare all their assets every year to the MRA? If this is the intent, then, surely, that would affect the jurisdiction of Mauritius as a jurisdiction to set up trust for foreigners.

With regard to CSR, it is very unfortunate, Madam Speaker, that the hon. Minister of Finance has not taken on board the various issues that were highlighted in the recent PNQ which the hon. Leader of the Opposition asked on this subject. The limited priority areas set out in the Tenth Schedule will effectively mean that a significant number of NGOs that are currently receiving CSR funds from companies will no longer be eligible to receive those funds after 01 January 2019.

I would urge the hon. Minister of Finance to, at least, insert a provision that will allow the National CSR Foundation, or the Minister concerned, to, at least, have the power, by regulation, to amend this Tenth Schedule so as to provide some flexibility in deserving cases, which may not strictly fall into the sixth priority area. And it is quite telling, Madam Speaker, that the Income Tax Act should refer to the CSR Foundation, when the CSR Foundation is not even defined in the Act; we don't know its composition. We have been told by the hon. Minister of Finance that it will be a Foundation under the Foundation Act, but we don't know who would appoint members of the Council, what would be the profile of the members of Council, how many members from the private sector, how many members from NGOs and how many members for the public sector.

Madam Speaker, I will end up by referring to a proposed amendment to the Income Tax Act which, to my mind, sums up all that I have stated about opacity, lack of transparency and the deliberate lumping together of amendments to this Bill. I am referring to the proposed amendment to section 24, subsections (7) and (8) of the Income Tax Act at page 62. What we are doing at page 62, Madam Speaker, is to provide that, where a company has invested Rs60 m. in a spinning factory or Rs10 m. in weaving, dyeing, knitting of fabrics, it will be allowed what we call an 'investment tax credit'. So, for the next four to six years, they can amortise that cost of investment. If they spend Rs60 m. over the next six years, every year, they can get a rebate of Rs6 m. - and Rs6 m. is the minimum; it can be higher.

This piece of legislation, which is very technical, has not even been referred to in the Explanatory Note. So, this is something that would have gone totally unnoticed. But when we

read carefully these two sections, Madam Speaker, what are we talking about here? We are talking about giving investment tax credit, a tax break for investment made. When? Between 2003 and 2008! More than a decade ago! Why? And not a word about this! Why are we so generous? Why the tax break? Why this retrospective application of the law? Who are the intended beneficiaries of such largesse? This is what I mean, Madam Speaker, by lack of transparency, opacity.

Madam Speaker, when I intervened on the Budget a few weeks ago, I concluded by saying that this Government will be judged not by what it says, but what it does. Today, in this Finance Bill, this Government is laying the foundation for an era of bad governance, opacity and impunity. Truly, a sad day for the *lepep* out there.

Thank you.

Madam Speaker: Hon. Mrs Dookun-Luchoomun!

(3.25 p.m.)

The Minister of Education and Human Resources, Tertiary Education and Scientific Research (Mrs L. D. Dookun-Luchoomun): Madam Speaker, I note with much surprise the concerns raised by the Members of the Opposition on the issue that the amendments to the Education Act are being brought through the Finance Bill.

May I remind the Members of the Opposition, in particular the MMM, that when reforms in the education system were brought between 2000 and 2005 by the former Minister Obeegadoo, nothing was brought to Parliament. Everything was done just through regulations, whereas in the case of the present reform, tremendous amounts of discussions and consultations have been held with various stakeholders, and today, we are, in fact, debating on these amendments.

So, Madam Speaker, I really can't understand the stand taken by the Opposition, because this morning, it appears that the former Minister has held an urgent press conference, stating that we are passing amendments *en catimini*, where it is totally not the case, Madam Speaker. They went even as far as saying that the PSSA (Amendment) Bill is also being passed through the Finance Bill when, again, it is totally untrue, Madam Speaker; misleading!

Madam Speaker, it is today commonly accepted that the education sector faces numerous challenges, especially in the light of the international development, globalisation,

increased digitisation and other societal changes. In this situation, we are condemned to evolve in line with these transformations. Opting for the *status quo* is no option at all.

It is in this context, Madam Speaker, that clause 14 of this Finance (Miscellaneous Provisions) Bill, which aims at amending the Education Act, becomes a landmark in its own right. It is a landmark because it gives the means to action the comprehensive reform agenda my Ministry has put on rails since last year.

In fact, I must show my deep appreciation to the hon. Minister of Finance for responding to the *bien-fondé* of the Education Reform Programme, one of whose main thrusts is the Nine-Year Continuous Basic Education – NYS.

The Budget has set a milestone because it has provided the necessary financial resources for the implementation of the measures, activities, as well as for the much-needed infrastructural improvements. Now, we will be in a better position to properly set up the structures and lay the foundations for the reform.

Madam Speaker, I need hardly emphasise that the drive for the educational reform and implementation is guided by one fundamental principle. This is a major investment in the future.

Our youth represents the future, and that future, we are duty bound to give them the means whereby they can inspire to fulfil their aspirations. Such a future will remain bleak if we continue to allow a ferocious and cut throat competition to continue to hold sway right from an early age.

It is high time that we give back to our children their childhood; a childhood that the system has compelled them to give up in a scramble for higher and higher scores at examinations. Should we not instead transform their learning experience, their learning environments into an exciting and pleasant one?

It is the sacred mission for us to aim at the whole personal development of our learners, to ensure that they manage to develop all their potential, all their talents, Madam Speaker.

I need to stress that the hon. Minister of Finance has, through the Budget, provided for an investment of no less than Rs2 billion over a period of five years for the implementation of the educational reform.

This Bill, particularly clause 14, shows the way to making that investment worthwhile. It will amend the Education Act to provide for a phased implementation of the Nine-Year Schooling and for the transitional arrangements, as mentioned earlier by the Minister of Finance -

- the new provisions make rule for a revisited educational structure;
- the introduction of new assessments;
- the Primary School Achievement Certificate and the National Certificate of Education;
- the setting up of academies;
- the creation of new pathways for TVET;
- the award of regional scholarships, and
- a new framework for the institutionalisation of the sector.

Madam Speaker, the amendments thus address the main features of the reform and I will elaborate on these.

In the very first place, a new education structure is proposed for the nine years of continuous basic education in line with international standard classification of education. The changes proposed in the nomenclature are as follows. In the new nomenclature the traditional appellations of standards and forms in schools are changed to grades. This is reflected in the amendment of section 2 of the Education Act. Let me highlight that this new appellation has been kept in view during the formulation of the National Curriculum Framework for Grades 1 to 6 that was made public in December last and will also be reflected in the National Curriculum Framework of Grades 7 to 9 currently being finalised. The amendments in section 3 subsection 2 also provide for the conduct of programmes for the holistic development of children, their emotional and social well-being as well as innovative pedagogical practices for effective teaching and learning.

I would wish, Madam Speaker, to highlight the programmes that are highly innovative and seminal in nature. One major innovation is the provision of early support programme so as to stem the tide of learning deficits right from an early age. This will positively impact both on learning outcomes and retention at school. This, Madam Speaker, is how we intend to reduce failure and how we intend to better *encadrer* our students. Support teachers, remedial teachers would be within our school structures as early as in Grade 1 to help our students overcome their learning difficulties.

The other programme relates to emotional and social well-being of learners. *Madame la présidente, qui saurait contredire l'affirmation que la gestion des émotions est une facette incontournable pour le bien-être de l'apprenant? Ceci explique la raison d'être du programme intitulé « Emotional and Social Well-Being of Learners ». C'est là un programme majeur introduit sur une base pilote dans les écoles primaires mais qui sera surtout plus tard étendu aux autres écoles.*

Madam Speaker, to be able to make these innovative programmes a reality, the reform calls for a sustained and ongoing professional development of those to whom the nation entrusted the fate of its children. By professionalising the educators, we make certain that the pedagogical skills are updated for an effective delivery of the curriculum. Above all, such capacity building should become the norm in this new educational paradigm and I am glad to state, Madam Speaker, that over the years, teachers within our system have upgraded their qualifications and today we no longer have uncertificated teachers. Hence, the parts relating to uncertificated teachers are being deleted wherever they appear in the Education Act. Moreover, the prescribed forms in the Schedule to the Education Act concerning uncertificated teachers are also being deleted.

Madam Speaker, provision is also being made for new modes of assessment at the end of Grade 6 and at the end of Grade 9. Under the Nine Year Schooling (NYS), there will also be formative assessment at key stages to provide feedback on the learning taking place. Alternate forms of assessment will be introduced such as school-based assessment, modular assessment and ICT-based assessment in due time. The CPE, a high stake exam, will be eliminated as from 2017. The new Primary School Achievement Certificate Assessment will be introduced at the end of Grade 6 in that year.

Madam Speaker, section 2 of the Act has been amended to provide for new definitions. This section of the Act provides a definition for the term assessment and introduces the new PSAC and NCE assessments. I wish to add here that regulations regarding the conduct of the new PSAC assessment, the regional mode of admission to Grade 7 have been made in 2015 and will come into effect as from January 2017. The Education Act will, therefore, need to provide for the transitional arrangements.

Madam Speaker, I will now seize this opportunity to expatiate on these new assessments that I have referred to earlier. Let me start with the modular assessment under the PSAC. This will apply for history and geography and science. The purpose is to relieve some

of the pressure on the learners and allow them to concentrate on a limited number of subjects assessed at a given time. This assessment will be carried out by the MES and the results will be banked for the final computation. Two modular assessments in the two core subjects will be taken at the end of Grade 5 and at the end of term II of Grade 6. This assessment will be, in the future, ICT-based.

We need, therefore, to develop the preparedness for implementation of such an innovative assessment mode and this in terms of provision of dedicated infrastructure, equipment and, again, I seize the opportunity to express my deep appreciation to the hon. Minister of Finance and Economic Development for having made the provision of Rs250 m. under the Early Digital Learning Programme for the acquisition of tablets for Grades 1 and 2 pupils. This initiative will promote digital learning at an early stage of schooling and will pave the way for greater equity and access to IT facilities by all our learners.

Madam Speaker, as for the school-based assessment, this will concern the non-core learning areas that are crucial for the development of the personality of all our children. We are starting with the communication skills in 2017 and it will be followed by ICT skills in 2018. We all agree that it is not proper that non-core learning areas should have for so long played second fiddle to core subjects. This reform places a major premium on these learning areas and we want them to enjoy the same prominence as the core subjects do.

As regards the National Certificate of Education, it will be introduced in 2020 and will serve for gauging the progression of students to upper secondary and their orientation to either general or technical and vocational education. Under the same section 2 of the Act that I have referred to earlier, provision is being made for new definitions for regional schools and for the Academy. The nine year continuous basic education advocates an exclusively regional mode of admission to Grade 7 as from 2018 and this will be on the basis of the same criteria as is the case for the current admission to Form I in regional schools. Twelve State colleges will be transformed into academies and will only admit students as from Grade 10, currently Form IV, in 2021. Admission to academies remains a matter of choice and will be on a national basis depending on the performance at NCE assessment.

Madam Speaker, as regards the regional scholarships, a new provision is being made at section 33 (c) of the Act for the award of 16 additional scholarships to students, four scholarships per geographical zone. These are meant for the best students from the regional schools alone. An attractive feature of this scheme is that students in the regional schools will

thus have the advantage of being able to compete for both national scholarships and the regional ones. Students from academies will not be eligible to compete for these 16 regional scholarships which are, as I have said earlier, exclusively reserved for students from the regional schools.

Madam Speaker, it is also important to keep in view that the system we are introducing is based on the twin aspects of equity and inclusiveness.

This Bill is bringing relevant amendments to the Act by including for the first time a definition for special education needs, making provision for registration of special education needs schools and the payment of grant-in-aid. These amendments to the Act will help to better regulate the sector, provide enhanced support and facilities and ensure good governance and accountability.

Never before, Madam Speaker, in the Education Act was reference made to the special education needs sector. The hon. Minister of Finance has now given us the resources by increasing the grant element from Rs60 m. to Rs90 m. which will provide a more effective *encadrement* to students with special needs within a proper institutional and regulatory framework. Furthermore, another important measure that will be implemented is the provision of five scholarships to students with disabilities for the pursue of their higher education studies.

Madam Speaker, TVET is being given greater recognition in the educational reform. Provision is being made under section 37 of the Act which deals with compulsory education up to the age of 16 for alternative pathways to be open to a student that, at the end of grade 9, for him to decide whether to join general, technical or vocational education. The possibility of transferring to and from the general and technical vocational streams will also exist.

The new policy orientation is to enhance attractiveness of the technical and vocational education while ensuring greater alignment with the labour market needs. The Budget has provided the necessary means of gradually transforming the technical and vocational training landscape through the provision of state-of-the-art infrastructure facilities in the vocational training centres.

One of the tragic pillars of this reform is the need to have an enhanced system of governance and accountability for improved learning outcomes. To that effect, emphasis will be placed on a closer inspection and quality assurance of the teaching and learning process in secondary schools.

Madam Speaker: Hon. Minister, can I just draw your attention because I am referring to the Explanatory Note also which has been circulated by the hon. Minister and I said right at the beginning that we should not deal with policy issues as such. I have given some latitude for you to explain your programme as per the amendment which is being brought, but can I ask you not to go deeply into policy matters. This has already been debated when the Finance Bill was passed.

Mrs Dookun-Luchoomun: I stand guided by you, Madam Speaker. I just wanted to give some explanations for fear that our friends require some more clarifications.

This will apply for both public and private secondary schools. The Bill accordingly restores the pedagogical inspection powers to the PSSA as was the case in its pre-2000 mandate. In this regard, necessary amendments are being brought to section 7(a) of the Education Act. Madam Speaker, I shall be elaborating on this particular amendment during the presentation of the PSSA (Amendment) Bill before the House. The enactment of these amendments to the Education Act should be seen as a critical step in the implementation process and we, along with all stakeholders, should continue to invest our efforts to create a stimulating learning environment that will open opportunities for all our students to reach their full potential.

This, Madam Speaker, is the idea behind the amendments brought to the House through the Finance Bill and I thank you for your kind attention.

Madam Speaker: Hon. Ganoo!

(3.45 p.m.)

Mr A. Ganoo (First Member for Savanne & Black River): Madam Speaker, I shall make a few comments on the provisions of the Finance Bill. I have selected two or three clauses in the Bill.

As we all know, Madam Speaker, the Finance Bill is a legal instrument that translates many of the proposals in the Budget into concrete measures within an appropriate legal framework so that different bodies can operate and implement policies of Government. So, therefore, the Finance Bill contains proposal of the Government for the levy of new taxes, the modification of the existing structures, the continuance of the existing tax structure and other measures related of a financial nature that require approval by Parliament.

The present Bill that is being presented before this House, Madam Speaker, as it has been said before me, does, in fact, propose the amendment - as far as I can remember - of about 58 legislations in a bulky document, which has been circulated in this Bill before us today, made up of 180 pages.

Madam Speaker, I agree that sufficient time has not been given to all Members of this House. Whilst Government has been elected to rule this country, Government has the final say. I think, in a spirit of good democracy, a Bill which, as far as I know, has taken perhaps 3 or 4 weeks for the State Law officers, for the different Ministries to agree upon with, of course, the input of the Minister himself with the proper coordination being made and so on, but only four or five days have been given to Members of this House to study the Bill, and to come and make comments on the Bill in question. So, this is why I regret that this has been the case this year, independently of what the other Governments had done in the past. I think, Madam Speaker, in the future, Government should review that situation and given ample time to all Members of this House to be able to study the Bill and to come up with comments and positive proposals or criticisms whatever they may be. This is the first point I wish to make, Madam Speaker.

Many of the proposals or the first series of proposals made in this Bill, especially concerning the Bank of Mauritius Act and the Banking Act, Madam Speaker, have been perhaps influenced by the recent events, the realisation of the part of Government that there was some sort of dilution of authority, absence of relevant legislation to address particular problems and the necessity of new ways to conduct business which requires fresh legislation. The first set of amendments, I referred to, I think is clearly influenced from recent events, which have still not been resolved in a decent and proper manner to the satisfaction of one and all.

I am making allusion, Madam Speaker, to the power of the Bank of Mauritius and these amendments are coming at an appropriate time perhaps when the financial services are being called upon to be a new engine of growth. I suppose Government is coming with these amendments concerning the Bank of Mauritius to send the right signals to operators both within and outside the country, but, to me, I think, Government has been pushing the cork too far. Some of the amendments which have been proposed do create an environment where the role of the Minister of Finance appears to be hazy. In principle, Madam Speaker, the separation of the banks' role and that of the Ministry is encouraged in order to ensure the

independence of the bank and avoid monitoring and physical policy to be blended in such a way that they might have counter-productive effects.

As we know, there are many officers at the Ministry of Finance and Economic Development who sit in important committees and decision-making instances, even of the banks. This is why there is the serious risk of contagion – if I may use that word – of directives issued through the representatives of these officers or as we shall see through the amendments to the present legislation.

In section 2(b), Madam Speaker, it is not clear why the board which is designed to operate in all independence, free from the grips of the Ministry of Finance, with the objectives of ensuring policy effectiveness, is now being denied of its independent authority and replaced by, as we see in the law- “securities as Government or the bank may issue”. I do not think we should endorse this amendment. Just as I have reserves regarding the amendment proposed in (e), Madam Speaker, by seeking to replace ‘(...) after consultation with the Minister’ with the new formula ‘the Bank may, with the concurrence of the Minister, determine’ such and such matters.

This is opening the possibilities influenced by the Minister of Finance and Economic Development and this will certainly give the impression of an encroachment on the independence of the Bank of Mauritius and might be looked upon as being dangerous to our monetary policy.

Madam Speaker, the hon. Minister was probably right in calling off the issue of the banknotes. This was one particular event, but I don’t think we should allow the jeopardisation of the concept of the independence of the Central Bank.

Madam Speaker, I come to this question of public procurement. A lot has been said by hon. Uteem, but I will just say a few words about this question of public procurement with regard to the CEB which is clause 6 of the Bill. Clause 6 - Central Electricity Board Act is being amended. No doubt, Madam Speaker, we must allow the CEB to be enterprising to diversify its activities and create different profit centres. These are all good ideas and should be encouraged, but exempting these activities from the control of the Public Procurement Act is a different kettle of fish and is a violation of good governance principle. It is my belief, Madam Speaker, that all public sector projects should be guided by similar principles and as such be subject to the same accountability principle.

Madam Speaker, when we look at the Public Procurement Act, presently the Central Electricity Board which falls under the purview of this Public Procurement Act, I think the threshold is Rs100 m. in terms of works or even in terms of consultancy. We are, therefore, saying implicitly or explicitly in this Bill, that from now on when the company which will be set up by the Board and will implement projects of even more than Rs100 m., there will be no need for these projects to fall under the purview of the Public Procurement Act. Therefore, the Board of the CEB will decide on investments and on the projects of the CEB. I am talking, of course, of the projects referred to in the Bill, that is, renewable energy sources and other projects as spelt out in clause 6 (2) (c) –

“(...) such other projects as the Board may determine”.

Therefore, all these projects now will fall outside the purview of the Public Procurement Board. Is this the way to ensure that public funds are being properly managed, Madam Speaker?

We know that in the Public Procurement Act, Madam Speaker, the law is clear. The Act says that -

“This Act applies to any other procurement effected by a public body, other than an exempt organization.”

And the regulations have defined these ‘exempt organisations’. The ICAC, as far as I remember, is an exempt organisation and not the CEB because as I have just said the CEB is mentioned in the schedule of the Public Procurement Act. The Finance Bill today comes to shield the Central Electricity Board from the necessity of operating under this Public Procurement Act. This is why, Madam Speaker, just as there are other cases in this present Finance Bill today where certain transgressions to our procurement principles are being proposed, I think, we should on the contrary, in the spirit of good governance, strengthen the role of the Public Procurement Office, Madam Speaker. But, unfortunately, we are doing the contrary in the case of the Central Electricity Board by allowing the Board to set up this company for implementation of projects for the production of renewable energy or for other projects as the Board may determine.

I said that, Madam Speaker, because there have been reports in the past. The World Bank, for example, in its Country Procurement Assessment Report on Mauritius, a few years ago, congratulated Mauritius for setting up the right procurement legislation for preparing and strengthening the legal and regulatory framework in the spirit of good governance. The

World Bank has even made comments with regard to electricity projects which should not be carried out without tendering or bidding procedures in the past, Madam Speaker. So, this is why, I think, this proposal today comes a bit as a *douche froide* - if I may use the word- and goes against all the efforts that have been made in order to see to it, Madam Speaker, that projects especially in the utilities area are subject to proper procurement framework.

Madam Speaker, I now come to another clause in the Bill concerning a few other institutions which have nothing to do with procurement. It concerns, for example, the environment in clause 16 of the Bill; clause 32 of the Bill, the Local Government Act; clause 36 of the Bill, the Morcellement Act, and clause 52 of the Bill, the Sugar Industry Efficiency Act.

All these clauses, Madam Speaker, have a common thread. I am talking of the time frame and these are linked to this concept of the ease of doing business. Linked to this question is this concept of silent agreement, the time frame where institutions have to respond to applications made to them. The Environment and Land Use Appeal Tribunal, for example, Madam Speaker, as I said, in clause 16 of the Bill, the law which set up this Environment and Land Use Tribunal, in this law, it is stated that section 5 provides that the Tribunal shall make a determination not later than 90 days after the start of hearing of the appeal, except where there is valid reason and with the consent of the parties. But, as in the other cases to which I will come to, this section is really complied with and inasmuch as the law does not provide for any penalty, any sanction for such non-compliance.

I agree that the new procedural formalities which have been proposed in the Finance Bill today and which was announced by the hon. Minister in his speech will speed up the determination of appeals, but all these new proposals that are being proposed to the House will be frustrated and will become inefficient to the extent that the law itself does not provide for the consequence of non-observance within the statutory time limits.

With regard to the Local Government Act, Madam Speaker, now we see that the Executive Committee will be disbanded. The applications for Building and Land Use Permit will be determined solely by the Planning and Business Monitoring Committee which is a hybrid committee consisting of five councillors, professionals and officers, but with the councillors having a majority in this committee. I think hon. Uteem said this, we are back to square one. The question we have to ask ourselves: is this desirable what we are doing,

allowing the councillors to decide? Is this desirable in terms of orderly and efficient town planning?

We see also in this same clause, Madam Speaker, that the power of the Minister of Local Government to intervene in respect of applications for Building and Land Use Permit is now limited only to public places of worship. In fact, I realise that from now on, Madam Speaker, clause 32 (9) provides -

“Except with the approval of the Minister, no Outline Planning Permission or Building and Land Use Permit shall be issued for any development of land, construction of a building or extensive alterations, or additions or repairs to an existing building for use as a place of public worship.”

That is the power of the Minister of Local Government to intervene in respect of the application for Building and Land Use Permit is now limited, as I just said, to public places of worship. This will put tremendous pressure on the hon. Minister of Local Government. Madam Speaker, I am not too sure whether this is the correct thing to be proposed.

Madam Speaker, related to this clause also, we see that stringent time limits have been introduced to expedite matters, I am talking of the Local Government issues. Again, I say that these initiatives are likely to be inefficient in the absence of provisions in the law regarding the consequences for non-respect of the said time limits. It is a right thing, therefore, in a nutshell, what I am arguing, Madam Speaker, to set time limits, but in the absence of any section for the non-respect of these time limits, it might be an exercise in futility.

The same thing applies to Clause 36 with regard to the Morcellement Act which is being amended, Madam Speaker. Here again, simplification of procedures is a good thing. Time limits are being imposed which is, again, something which is positive, but I repeat that such time limits will be useless in that the law does not provide for penalties for non-observance with the statutory time limits.

The same thing applies to clause 52 of the Bill, Sugar Industry Efficiency Act is being amended. Again, simplification of procedures are being proposed. Time limits are being imposed, but again these time limits will be useless in that the law does not provide once again for penalties for non-observance with the statutory time limits which have been set in the law.

I would like also to say, Madam Speaker, with regard to the Mauritius Revenue Authority Act which is being amended to introduce the Alternative Tax Dispute Resolution

Panel. This is an additional mechanism in order to resolve tax disputes. This is a welcome proposal, Madam Speaker. I think it is being done so on the grounds of convenience and expediency for the taxpayers.

These are the few points I wish to make, Madam Speaker. I have done.

Thank you for your attention.

(4.08 p.m.)

Madam Speaker: Hon. Bholah!

The Minister of Business, Enterprise and Cooperatives (Mr S. Bholah): Thank you for giving me the opportunity to share my views on the Finance Bill. I will be brief and I will stick to matters pertaining to the Business Enterprise and Cooperatives, as I have already extensively commented on the Budget.

The House will recall that during my intervention on 08 August, on the Budget, I concluded by saying that the Budget is now almost behind us. Indeed, the media focus should from now on solely and firmly be on the diligent implementation of the measures announced. And everyone, on this side of the House, will now have to ensure implementation of the measures. Already, Government is working in this direction and I have no doubt that this Government will achieve its set objectives.

This Finance Bill, Madam Speaker, which makes provision for amendments to be made to 58 enactments, has a strong positive correlation with the quality of the 2016-2017 Budget which proposes powerful action to deal with complex issues. The various amendments proposed translate in concrete terms and objectives of Government to come up with the most appropriate response to the population's economic and social emergencies. Likewise, the provisions contained in the Bill under consideration include many measures aiming at modernising the economic architecture. We will, indeed, see that some of the amendments proposed today are simply and rightly so and update in view of the technological innovations brought in various sectors.

Two of the 10 key strategies underlying the pillars of the new era of development advocated for in the Budget directly relate to the business and enterprise sector. We, indeed, has Strategy 1 which is fostering a wave of modern entrepreneurs and Strategy 5 fundamentally reforming business facilitation and expanding our economic horizons. These two, indeed, go hand-in-hand.

Madam Speaker, what are the main complaints of most entrepreneurs? Too many procedures, too many administrative hassles and time-consuming steps before being able to set up or improve a business. I can see that the hon. Minister of Finance and Economic Development is taking the bull by the horns by proposing amendments...

Madam Speaker: Hon. Minister, I have given you some latitude. I took it as being an introduction to your speech to the amendments which are being brought in the Finance Bill. Can you please come to the amendments right away?

Mr Bholah: I am coming, indeed, to that, Madam Speaker. I remember meeting representatives of local authorities in November, last year, to plead in favour of the rationalisation of procedures related to the delivery of permits and clearances to entrepreneurs. This intent can now be transformed into reality thanks to the amendments proposed in the Local Government Act. Indeed, clause 32 amends this Act to abolish the requirement for obtaining the stand of the Executive Committee in the process of determining an application for Outline Planning Permission and Building and Land Use Permit to provide that an application for a BLP be made electronically and to provide that the local authority will have only eight working days to seek any additional information, particulars or documents from an applicant. This is, indeed, Madam Speaker, a major improvement.

Last year, we set up MyBiz, the SME one-stop shop to act as a single window for licences, permits and other clearances required by entrepreneurs. One of the major constraints of this operating model is that all agencies that are present should be on the same wavelength when it comes to information they have. However, in reality, this is seldom feasible, notably with the large amount of paperwork which still contaminates our administrative system.

However, clause 5, which proposes to amend the Business Registration Act to cater for the electronic issue of business registration cards by the Registrar of Companies, is in itself a significant measure. This will notably enhance the exchange of information among various public sector agencies, which shall, henceforth, upon mutual agreement, share and use information relating to businesses amongst themselves for the purpose of exercising their functions in a more effective manner.

Madam Speaker, I will now comment clauses 27 and 49, which pertain to proposed amendments to the Income Tax Act and the SMEDA Act respectively. It is to be noted that during debates on the 2015-2016 Budget, that is, last year, more specifically on 13 May 2015, hon. Reza Uteem deplored the fact that provisions relating to SMEs, enabling them not to file

their accounts and not to pay taxes, only apply to SMEs set up on or after June 2015. He went further by stating that we are going to have two classes of SMEs after June 2015: one that will be exempted and the other one that will not be exempted. I admit that, for this one, he was not wrong.

For several months, we indeed received representations from entrepreneurs operating before June 2015, bemoaning the fact that we had omitted to give due consideration to their contribution to the Mauritian economy so far, by granting a tax holiday only to enterprises set up on or after 02 June 2015. I think that the community of entrepreneurs must now be relieved as their appeal has somewhat been heard. Clause 27 (zc) proposes to amend the Income Tax Act by making provision for a fourth year tax holiday for a small enterprise set up prior to 02 June 2015, registered with the SMEDA, with an annual turnover of less than Rs10 m. and engaged in qualifying activities under a scheme approved by Government.

The House will also note the will of the Government to develop a unified, coherent approach in the field of enterprise development, notably with clause 48 amending the SMEDA Act in such a way that an individual operating an enterprise with an annual turnover of not more than Rs10 m. or a cooperative society may now apply for registration with the Authority. Registration was up to now limited to persons operating a small enterprise or medium enterprise. Indeed, Madam Speaker, *l'union fait la force*, and it is definitely more pertinent to regroup all types of enterprises, that is, micro, small and medium and cooperatives as well under the same umbrella, to give more impetus to a sector which is expected to play a vital role in our economy.

Madam Speaker, still with regard to SMEs, I wish to highlight clause 14, which amends the Education Act by, *inter alia*, providing for reforms in the technical and vocational education and training sector with regard to new pathways after Grade 9. Its relevance to SMEs may not seem obvious at first sight, but I must say that this is a measure that comes at an opportune time. Indeed, the skills mismatch is one of the major factors which significantly affects our SMEs, particularly in technical sectors like woodwork or handicraft. This amendment will, thus, address the critical problem at source and will in the long term compensate for the lack of technical know-how in this sector.

Coming to the cooperative sector, Madam Speaker, consequential amendment is being made for cooperative credit unions to fall under the purview of the Financial Intelligence and Anti-Money Laundering Act - clause 22. We all remember the trauma caused, a bit more than

one year ago, by the Vacoas Popular Multipurpose Cooperative Society; a mega fraud. At the level of my Ministry, we have had to take many drastic decisions with regard to this crisis, and I am happy to say that, at the end of the day, we managed to find a mutually beneficial solution for all parties involved.

However, with the wisdom of hindsight, we came to the realisation that there were quite a few loopholes in the legal and institutional frameworks of the cooperative movement and that the Registrar of Cooperatives needs to be empowered to effectively deal with fraudulent cases.

Clause 10 amends the Cooperatives Act in this vein. It prescribes the transfer of the licensing of credit unions with a turnover above Rs20 m. from the Bank of Mauritius to the Registrar of Cooperatives. This transfer will be done in a smooth and realistic manner in the sense that the Registrar of Cooperatives will still benefit from the technical support and assistance of the Bank of Mauritius with regard to the licensing, regulating and supervision of these credit unions. The Registrar of Cooperatives is being definitely empowered, as it will have more control over credit unions, notably by ensuring that every credit union complies with the relevant guidelines issued by the FIU.

Hence, clause 10, Cooperative Act, and clause 22, Financial Intelligence and Anti-Money Laundering Act, are amendments that lay the groundwork for a framework that will not tolerate malpractices as those that have been exposed in the case of the Vacoas Popular Multipurpose Cooperative Society.

Madam Speaker, it is quite obvious that the main amendments suggested by the hon. Minister of Finance and Economic Development, when it comes to the business, enterprise and cooperative sector, are coherent. I am convinced that the Finance Bill, when passed, is set to create a conducive environment that will promote business, good governance as well as attract potential entrepreneurs to venture into taking risks, which are parts and parcels of the entrepreneurial work. When we adopt a holistic approach to the Finance Bill, we very clearly see that it is proposing to set up the appropriate legal framework to put our country firmly on the path to a new era of development and prosperity for the whole nation.

Earlier I said that I will be brief, Madam. I am done.

Thank you.

Madam Speaker: Hon. Dr. Joomaye!

(4.19 p.m.)

Dr. Z. Joomaye (Second Member for Rivière des Anguilles & Souillac): Thank you, Madam Speaker, for giving me the opportunity to speak in the context of the debate of the Finance Bill 2016. In clause 35 of the proposed Finance Bill, there is provision for the Medical Council Act 1999 to be amended. It concerns the entry examinations for pre-registration trainees.

The health sector, be it public or private, is facing several challenges nowadays, Madam. Delivery of healthcare has to be well-structured, uniform, constant, result oriented and cost-effective. The healthcare providers, therefore, have to be maintained to a level of practice that would uphold the quality of service towards the upper end, this, in order to meet the expectations of the population and to make Mauritius acquire the recognition as an international medical hub that we are aiming to be in the region.

This is not an easy task as our medical population is not homogeneous. Our doctors have been trained in different parts of the world according to different syllabuses, sometimes in different languages and from countries of different socio-economic and epidemiologic background. We have had to accommodate them in our healthcare system. We have spent to that effect. It costs us a lot to cater for this purpose to give training to our young doctors to reach the level of practice that meets the international guidelines for delivery of healthcare services, but, Madam Speaker, it will cost us even more if we do not do so.

Several new measures have recently been announced and some have already been implemented to uniformise the level of competence of the medical community. These are –

- (i) the preregistration ...

Madam Speaker: Hon. Dr. Joomaye, I draw your attention that you have to comment and to intervene on the amendment which is at clause 35. If you look at the amendment, you will find that it concerns the entry examinations for preregistration trainees. Can you please make your comment and your intervention on the amendment?

Dr. Joomaye: Yes, Madam Speaker, I was going to talk about the concept of examination for young doctors. So, it all concerns the amendment. These are –

- (i) the preregistration examination of practitioners prior to registration with the Medical Council;
- (ii) implementation of the continuing professional development programme for medical practitioners and dentists, and

- (iii) the entry examination for preregistration of trainees to be recruited as what is commonly called pre-reg.

This is in line with the amendment.

They are all good measures, but they are not the doing of this Government only. I fully agree that there is a need to assess the level of a practitioner before registering. It is so in several countries in the world. Each Medical Council should have the right to carry out a full-fledged assessment in order to really serve the purpose of its existence. However, the methods of assessment have to be appropriate, coherent and adapted to our local context. The choice of the examining body is of prime importance and has to be very judicious. In the choice of the body, will depend the success of the whole process. Indeed, it has to be independent and of international repute. *Il ne doit pas y avoir un soupçon de doute sur l'intégrité de l'institution qui va organiser l'examen d'enregistrement des médecins.* A large consensus has to be sought by the Council before finalising with the examining institution.

We all know, Madam Speaker, that there is a surplus of young qualified and registered doctors on the job market. There is as well a long list of degree holders waiting to be enrolled as preregistration trainees. Introducing new hurdles should not be used as a means to control unemployment in the medical sector. Medical demographics, Madam Speaker, is a science in itself. It corresponds to the matching of the basic laws of demand and supply as far as medical service is concerned.

It is the role of the Ministry of Health and Quality of Life to have a clear strategy for the coming decades on how it is planning to organise the healthcare system. We have to think ahead. It is now that we have to determine how many doctors we would need in the next 25 years. It is about planning and a long-term one.

Today, section 24 of the Medical Council Act is being amended. A new subsection is being added concerning the organisation of examinations for preregistration of trainees. Even if we agree with the principle of this amendment, we are of the feeling that an issue of such an importance should not have been tackled on a piecemeal basis. This is in the same vein of what has been stressed out by my friend, hon. Uteem. It is urgent that the Medical Council Act be reviewed as a whole and the long overdue amendments be brought in front of the House for debate.

Last year, Madam Speaker, the Council sitting at that time, proposed several amendments and communicated same to the Minister of Health and Quality of Life. One of

the main concerns of the Council was the number of nominated members which tends to impact on its independence.

I will end here with an appeal to the hon. Minister of Health and Quality of Life to take into consideration the views of the Council and urgently take action in that direction.

I thank you for your attention.

Madam Speaker: Hon. Fowdar!

(4.26 p.m.)

Mr S. Fowdar (Third Member for Grand' Baie & Poudre d'Or): Thank you, Madam Speaker.

Madam Speaker, the Finance Bill is thick and has more than 60 items of amendments. Certainly I am not going to go through all the amendments, but I have chosen to focus on one particular amendment which is of interest to me and to the accountants and auditors.

Madam Speaker, all the amendments brought to the laws here are to make the country an attractive place to do business. I am sure this will happen once they are all enacted and implemented.

Madam Speaker, I have chosen to focus on the issue of rotation of auditors for listed companies as proposed by the Bill. The amendment proposed with regard to appointment of auditors is that an audit firm shall not audit the accounts of a listed company for a continuous period of more than seven years.

Madam Speaker: Can I know to which clause you are referring in the Bill?

Mr Fowdar: I need to check. It is in the Bill.

Madam Speaker: Yes, but we need to know which clause you are referring to, if that is possible. Okay, please proceed!

Mr Fowdar: It is clause 23. Madam Speaker, the proposed change which is coming to this country is in line with similar changes brought in many other countries, but the rotation of auditors is not new in Mauritius. In fact, section 25 of the Banking Act of 1988 already requires a rotation of the audit partner every five years for the banking sector, but it does not require a rotation of the audit firm. The proposed change is in regard to the listed companies and, therefore, concerns a bigger audience, in particular, the public at large. This change has become more than necessary for many reasons, but, more particularly, because

auditors auditing in the same companies for a long period of time have tendency to become complacent due to the familiarity with the directors and the staff of the company. In fact, a break is needed in order to improve the quality of audit and also to reinforce the independence of the auditors.

Madam Speaker, the modern business environment is unfortunately accompanied by sophisticated financial crimes and it is extremely important that measures are put in place to prevent such crimes to happen. Financial crimes have adverse effects on the economy and do seriously affect the credibility of the country as an investment destination. Unfortunately, Mauritius has not been spared and we have recently seen few Ponzi schemes and also the famous BAI saga. Financial crimes are becoming more complex and it is becoming very difficult to detect and to prevent.

With globalisation and easy movement of funds around the world, financial frauds are more likely to occur and may take different forms and structures. The Police against financial fraud is the auditor, Madam Speaker, but, alas, in many cases, auditors have been found to be complacent, negligent and deliberately acting together with the fraudsters. In many cases, the auditors have been pointed fingers. Very unfortunately, we have witnessed so many types of financial frauds around the world where the auditors have been pointed fingers. Needless to recall the famous Enron case in 2001, where one of the big audit firms, Arthur Andersen, lost its licence after one of the biggest audit failures ever. Since then, year after year, we have continued to witness audit failures.

Madam Speaker, Mauritius has not been spared from the financial crimes although sanctions are still being awaited in some cases. I still remember, Madam Speaker, the famous MCCB crash where it appears that the auditors submitted a clean audit report with no adversity, yet the bank crashed only after a few days of the audit report and, as far as I remember, the auditors were not sanctioned. Recently, we have witnessed the cases of two audit firms that have been accused of negligence with regard to the BAI saga. Although it is clear that the regulators did not play their role properly, yet the auditors are also to be blamed to a large extent in these cases.

Madam Speaker, I hope the FRC, the regulatory body, is investigating and will come up with sanctions in the near future if the auditors are found guilty. The population and the business world in general are watching and are expecting sanctions and this is necessary to restore confidence to the business world.

Madam Speaker, in one of the cases involving BAI, I was myself shocked to learn that a very material item involving a sum of Rs3.6 billion was not investigated by the auditors who produced a clean report and later it was found that it was a mere window dressing, a paper entry and that the sum of over Rs3.6 billion were never paid into the accounts. Here again, Madam Speaker, I expect the FRC to come up with results after their investigation if ever they are investigating.

Madam Speaker, coming back to the proposed amendments, I note that there is no mention. The proposed amendments state that the audit firms can last until seven years and then there would be a break, but it does not mention when the audit firm can be taken back on board after the mandatory break of seven years. Does it imply any time after one year or after another seven years? This is very important. Madam Speaker, if it is after one year, then I believe the expected dividend from bringing a rotation will not be reaped. A longer period of separation would be ideal to break the link arising from familiarity between the auditor and the directors.

There are two other pertinent issues which need some clarity. Again, the first one is: is a rotation also imposed on non-audit services that an auditor may provide to a client company or is it simply limited to the audit work? I hope the hon. Minister will clarify this issue. Secondly, are subsidiaries of groups also subject to some form of audit rotation? There is no mention in the amendment. Madam Speaker, in all, the amendment is extremely good and is in line with advanced countries, developed countries and is welcome.

Madam Speaker, in February last year, the EU published a briefing note as guidance for issues arising from the application of the rotation of auditors and the paper fully discusses the two issues I have raised earlier, and I hope this can help the hon. Minister to implement the rotation of auditors.

I thank you, Madam Speaker.

Madam Speaker: Hon. Ramano!

(4.35 p.m.)

Mr K. Ramano (Third Member for Belle Rose & Quatre Bornes): Madame la présidente, pour ma contribution au *Finance Bill*, je me limiterai aux amendements à être apportés au *Land (Duties and Taxes) Act*, au *Registration Duty Act*, au *Non-Citizens (Property Restriction) Act* et à l'*Investment Promotion Act*.

Madame la présidente, j'aborde ici le volet immobilier que j'ai eu l'occasion d'aborder lors du débat budgétaire et j'ai eu l'occasion de dire que ce budget représente un caractère particulier pour le secteur de l'immobilier. Je parle ici du premier point en ce qui concerne le concept de *first-time buyer* qui a été aboli en 2006 et qui a été réintroduit en 2010 par l'honorable Pravind Jugnauth. J'avais souligné l'année dernière, Madame la présidente, que le seuil pour bénéficier du *first-time buyer* ne reflétait pas la réalité du marché. Avec l'amendement proposé à la section 27 du *Registration Duty Act*, aujourd'hui le prix considéré est de R2 millions pour les terrains vagues et R6 millions pour les immeubles bâtis. Je dois reconnaître que cela est en phase avec la réalité du marché. Au paragraphe 318 du présent budget - toujours en parallèle je fais référence à la section 27 du *Registration Duty Act* - le bon sens a prévalu où il est précisé que -

“318. *A first-time buyer will now be allowed to buy bare residential land free of registration duty, on the first Rs2 million, (...)*”

L'acheteur sera exempté sur les premiers R2 millions et payera 5% sur la différence du prix de vente, ce qui est correct. Je salue, bien sûr, la décision de l'honorable ministre de préconiser, d'une part, l'augmentation du plafond des prix pour les terrains vagues de R1,5 millions à R2 millions, et d'autre part de corriger cette injustice qui existait avant le présent budget qui consistait à taxer 5% sur la totalité du prix une fois que le prix dépassait les R1,500,000. Une fois que le prix dépassait R1,500,000, il n'y avait plus de *first-time buyer*. Tout le monde payait 5% de *registration duty* sur la totalité du prix de vente. À partir du présent amendement, on est exempté jusqu'à R2 millions et on paie 5% de *duty* sur la différence de prix.

La section 27 (3) du *Registration Duty Act* préconise ainsi que pour les *first-time buyers* -

“(...) the duty leviable under this Act on any deed of transfer (...) witnessing the transfer of -

- (i) a portion of freehold bare land; or
- (ii) the right to construct a residential building on top of an existing building (...), shall be reduced by the amount of the duty leviable or 100,000 rupees, whichever is the lesser.”

Cela confirme le fait que le bon sens a prévalu et que seulement la différence supérieure à R2 millions sera taxable à 5% pour les *first-time buyers* avec une contrainte que la superficie ne

doit pas dépasser les 20 perches. Le point que je souhaite souligner ici, Madame la présidente, est la suivante. Je souhaite ici attirer l'attention de l'honorable ministre et de la Chambre sur la question des *first-time buyers* pour l'acquisition des maisons et des appartements. Le présent budget reconnaît deux types d'offres d'achat, soit des offres d'achat des particuliers qui souhaitent vendre leur maison ou leur appartement déjà construit dont ils sont déjà propriétaires. C'est le premier type d'offre d'achat. Le deuxième type d'offre d'achat concerne les offres d'achat des promoteurs, c'est-à-dire, les promoteurs viennent de l'avant avec des projets de plus de 5 *units*, des projets d'appartements ou des projets des maisons *for the construction of a housing estate as registered under 161A (46) of the Income Tax Act.*

Le discours du budget le confirme sans ambiguïté. Ces deux offres sont reconnues. À la page 43, section 317, il est clairement fait mention –

“A Mauritian citizen acquiring a new house or a new apartment during the period 1st September 2016 to 30 June 2020 for an amount not exceeding Rs 6 million will be eligible to full exemption from registration duty. There will be no age restriction.”

A la section 323 -

“As regards promoters, they will be allowed to build and sell residential units of up Rs6 million, free of land transfer tax, instead of Rs4 million currently. The scheme is being extended to 2020.”

Dans son *summing-up*, l'honorable ministre reconfirme que le plafond des prix pour les *first-time buyers* des maisons et appartements est de R6 millions. Je pose la question tout simplement à tous ceux concernés par le secteur de l'immobilier où les membres de la presse vous diront que le plafond des prix pour l'acquisition des maisons et des appartements pour les *first-time buyers* sera de R6 millions à partir du 01 septembre 2016.

Mais, à la lecture du présent *Finance Bill*, Madame la présidente, malgré les mesures annoncées, le plafond est resté toujours à R 4 millions. Ainsi la section 27 (5) (a) n'a pas été amendée et se lit toujours comme suit -

“The duty leviable under this Act on any deed witnessing transfer of a residential apartment or a portion of land with a building thereon shall be reduced by the amount of the duty leviable or Rs200,000 whichever is the lesser.”

Lorsqu'on parle de *Rs200,000 of duty*, cela équivaut à un prix de vente de R 4 millions. 5% de R 4 millions, cela nous fait R 200,000 et non pas R 6 millions.

Mon appel s'adresse à l'honorable ministre de considérer cette proposition d'amendement pour que le plafond de R 6 millions ne s'applique pas seulement aux promoteurs des projets d'appartements mais aussi à l'acquisition des maisons ou appartements déjà existants. Cette proposition d'amendement doit aussi prendre en considération, tout comme les *first time buyers*, des terrains vagues ou l'exemption du *registration duty* sur des *first Rs6 millions* et le paiement de 5% sur la différence.

Il est bon aussi de considérer, Madame la présidente, que lors du dernier budget lorsque le quantum a été augmenté à R 4 millions pour les maisons et appartements déjà existants et aussi pour le *Housing Estate Scheme*. Donc, eux aussi, le plafond a été amené à R 4 millions. La logique veut à ce que les R 6 millions s'appliquent et pour les maisons déjà existantes, comme pour les *newly built houses*.

Madame la présidente, lors des débats budgétaires, j'ai attiré l'attention de la Chambre sur l'injustice qui est causée aux couples divorcés lors des transferts immobiliers entre ex-époux. Il est inacceptable que ces mêmes ex-époux ont à payer et le *land transfert tax* côté vendeur et le *registration duty* côté acheteur à un taux de 5% chacun, alors que de l'acquisition qu'ils ont fait conjointement pendant le mariage, ils avaient déjà payé les frais d'enregistrement et j'avais suggéré que ces transferts entre ex-époux soient exemptés de la taxe.

Lors de son *summing-up* du 16 août 2016, l'honorable ministre a reconnu cet état des choses et il a dit entre autres choses –

"(...)in order to correct an anomaly, the division of assets between ex-spouses following a divorce, assets which have been acquired during the legal community of goods will be exempted from registration duty and land transfer tax."

J'accueille favorablement la décision du ministre de venir de l'avant par voie de *regulations* pour amender le *Eighth Schedule* du *Land (Duties and Taxes) Act*.

A la section 151 du budget, l'honorable ministre a proposé des amendements en profondeur au *Property Development Scheme and Regulations*. Et là, comme c'est mentionné aussi au niveau du *Finance Bill*, la logique veut qu'on retire le maximum *size limit* de 50 arpents ; qu'on retire l'obligation de vendre 25% aux mauriciens ; qu'on augmente le *permissible land size* pour une villa de 50 perches à 1.25 arpents. J'accueille favorablement

ces amendements pour booster ce secteur qui est tombé dans une certaine morosité après le budget de l'année dernière.

Madame la présidente, je souhaite ici aborder les amendements prévus à l'*Investment Promotion Act* et au *Non-Citizens (Property Restriction)Act* pour permettre aux étrangers d'acquérir des biens à Maurice. A la section 155 du budget, il est dit -

“(...)to further open the economy we are allowing non-citizens, registered with the BOI, subject to security clearances, to acquire apartments and business spaces in buildings. The Non-Citizens (Property Restriction) Act will be amended accordingly.”

Madame la présidente, moi-même et beaucoup de professionnels dans le secteur de l'immobilier, ont été surpris par l'audace du ministre des Finances dans ce secteur. Avant pour l'acquisition des *business premises*, c'était réservé à la catégorie *investors* sous le *Investment Promotion Act*, alors que pour l'acquisition d'un appartement dans un complexe de *ground plus 2*, c'était permis aux professionnels, *investors and retired persons holding an occupational permit* ou aux détenteurs des *permanent residence permits*.

Avec l'amendement proposé aux *Non-Citizens (Property Restriction) Act*, Madame la présidente, tout non-citizen, en passant par le BOI tout simplement, a le droit d'acquérir un *commercial space* ou encore un terrain pour construire un bâtiment commercial et tout *non-citizen* a le droit d'acquérir un appartement dans un complexe faisant plus de deux niveaux.

Madame la présidente, je suis surpris qu'il n'existe aucune condition attachée à cette permission donnée aux non-citizens. La seule condition est les *security clearances* donnés par le BOI. Je suis déçu qu'il n'y ait aucune condition, aucun *guideline* proposé par le BOI à ce niveau en ce qui concerne l'acquisition. Pas de restriction en ce qui concerne le montant à être payé. Est-ce que ce sera 500,000 dollars, comme cela a été le cas initialement, ou c'est ouvert à n'importe quel prix de vente.

Je dois souligner que je ne suis pas contre l'idée de permettre aux étrangers d'acquérir des biens immobiliers à Maurice. C'est vrai que le marché mauricien est assez restreint. Mais, la philosophie de la loi le *Non-Citizens (Property Restriction) Act*, c'est principalement de contrôler la superficie limitée du sol mauricien, d'empêcher toute spéculation foncière, toute inflation exagérée du prix foncier, de permettre un accès des mauriciens à la propriété foncière avec une protection particulière du *lower-income group* et du *middle-income group*, d'empêcher aussi toute forme de ségrégation sociale entre *citizens* et *non-citizens*, comme c'est présentement le cas dans certaines régions des côtes nord et ouest du pays.

Je demande au ministre de donner une attention particulière à ce sujet et d'insister au niveau du BOI de venir de l'avant avec des garde-fous tel un seuil de prix afin d'empêcher toute dérive.

Dans le passé, il y a eu des abus à travers des *Trusts* et même des compagnies fictives, tout simplement pour permettre à des *non-citizens* d'acquérir des biens à Maurice.

La section 39 du *Non-Citizens (Property Restriction) Act* est amendée pour permettre des transferts des biens immobiliers aussi longtemps que le pourcentage des actions dans la compagnie ne dépasse pas 25%.

Ce qui est surprenant, Madame la présidente, c'est qu'on enlève le contrôle du PMO et même du BOI et il n'y a pas lieu d'avoir aucun enregistrement au niveau de la BOI, le transfert peut se faire tout simplement entre vendeur et acheteur. Aucune condition n'est imposée dans la loi, aucune distinction n'est faite entre les *ordinary preference shares* ou même *redeemable shares*. Je demande au ministre de considérer une meilleure définition de la loi pour éviter tout abus dans ce domaine.

Je vous remercie, Madame la présidente.

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

At 4.51 p.m. the sitting was suspended.

On resuming at 5.23 p.m. with the Deputy Speaker in the Chair.

The Deputy Speaker: Hon. Minister Gayan!

The Minister of Health and Quality of Life (Mr A. Gayan): Mr Deputy Speaker, Sir, I shall be speaking on clause 35 of the Finance (Miscellaneous Provisions) Bill which deals with an amendment to the Medical Council Act.

The purpose of this amendment is to provide for a prospective doctor to be compulsorily assessed before his enlistment as a pre-registration intern with a view to ensuring that he has the required knowledge, standards, skills and competence in the medical field. I am aware that this amendment must be set in a historical and proper perspective in order to demonstrate its necessity and to give assurance to the House that it is in the interest of both doctors and patients and the public service at large.

Before I come to the rationale of the amendment let me also say, Mr Deputy Speaker, Sir, that we did not know at the time when we started work on this issue that the Indian

Government was also working on what has become known as NEET (National Eligibility cum Entrance Test). It had become imperative for India to set a common exit exam which replaces the myriad university level exams that MBBS students have to take before they start practising medicine. A centralised exam is predicated around these principles –

- (i) quality of health professionals;
- (ii) standardised medical education, and
- (iii) certification of competencies and skills.

When NEET was being passed in India there were mixed reactions and, in fact, what NEET does is to tell MBBS graduates that their right to practise will henceforth be conditional upon their getting through the national NEET exam. This particular provision was challenged before the Supreme Court of India, but the Supreme Court upheld NEET as an important feature in the assessment of health professionals. In fact, all countries, Mr Deputy Speaker, Sir, have a methodology for the assessment of medical graduates. I have spoken about this previously in the House and I do not propose to go over that again.

I wish also to say that this amendment does not mean that we are casting any doubt on the qualifications of those who wish to be enlisted as pre-registration interns or on the institutions where they study. In fact, this exam will give them added comfort and confidence in their knowledge of medicine, their skills and their competence. They should look forward to this exercise as a confirmation of their qualifications and by this entry exam we are adopting a policy of quality assurance for all our health professionals.

I will have to give a brief chronology of the events to show why this amendment has become necessary. In 2011 there was no assessment and no examination for interns. The assessments were being carried out by the respective consultants in charge in each regional hospital. The same situation prevailed in 2012. Then, in 2013 following protests which were received to the effect that certain pre-registration house officers, that is, the interns, were being favoured by their respective consultants in charge, it was decided that an assessment be carried out by a panel of five consultants in charge at the level of regional hospitals.

Complaints were still received then to the effect that graduates of certain countries were being penalised. It was then decided that the assessment would be carried out by the Mauritius Institute of Health in the five major postings: general medicine, general surgery, obstetrics and gynaecology, paediatrics and orthopaedics.

Then in 2013 also the Medical Council introduced an examination for all those who would have successfully completed their training before being registered as general practitioners. This examination is still being carried out by the National Board of Examination of India and the Medical Council of Mauritius. Then, 183 doctors protested and they served a *mise en demeure* on the Ministry to the effect that such a condition did not form part of the offer of enlistment. Advice was sought from the Solicitor General's Office and, in fact, all these doctors had to be exempted from the examination.

In 2014, to ensure that pre-registration house officers would be assessed by the MIH there was this new condition inserted in the letter of enlistment. This is to ensure that everybody who would like to practise as a doctor had to meet certain minimum standards. Then in 2012 as well - I know a lot has been heard about this Miscellaneous Provisions Bill being used as a diversion from proper amendments to the major pieces of legislation - let me say that in 2012 four fundamental amendments were brought to the Medical Council Act through the Economic And Financial Measures (Miscellaneous Provisions) Act of 2012. These measures were –

- (i) eligibility criteria for undertaking medical studies;
- (ii) examinations prior to registration as medical practitioners by the Medical Council of Mauritius;
- (iii) setting up of a Postgraduate Medical Examination Board, and
- (iv) continuing professional development.

I must repeat that before 2012 no examinations were being held for doctors prior to their being registered by the Medical Council. They were being registered under section 22 of the Medical Council Act.

But we have introduced certain measures. We have introduced examinations since 2013 for all doctors and dental surgeons prior to their being registered with the Medical and Dental Councils. We have also set up Postgraduate Medical and Dental Boards for those who want to be registered as specialists. Even there we have some problems as many of those who come to be assessed to be specialists are found to be unsuitable for that particular grade. Thirdly, in order to improve the skills and to keep abreast of innovations and new technologies in the field of medicine, CPD (Continuous Professional Development) courses and programmes are now mandatory from August of this year. This applies to all doctors, dentists, specialists and if they do not follow the CPD then they are not entitled to practise. We have also worked with the Medical Council to come up with a close list of recognised

medical institutions where Mauritian students can pursue medical studies and these studies must also comprise clinical training provided at the chosen institutions.

This amendment has been dictated by these considerations and also because of the lack of uniformity and standardisation and disparities in the level of medical education which are provided in countries where our students go for studies. Because of those disparities there is an urgent need to regulate the level of competence both in theory and in practice of those students who wish to practise medicine. This is why we are proposing that an independent body of international repute organises the entry exam. Since 2013 it is the National Board of Examiners of India that has been doing it and it seems that that practice will continue.

We want to pave the way, Mr Deputy Speaker, Sir, for all our health professionals to meet the basic requirements prior to their being allowed to practise whether in private or in public. The Medical Council will organise this examination around September or October in collaboration with the National Board of Examiners of India. It is only after the students have passed that exam that they will be enlisted as pre-registration interns and they will be allowed to follow their clinical training.

So, I believe, Mr Deputy Speaker, Sir, that this particular amendment is necessary. In fact, I am happy that hon. Dr. Sorefan who spoke on behalf of the Opposition ...

(Interruptions)

Dr. Joomaye, sorry. I think he changed his hairstyle. I was confused about his hair.

He also said that he has no qualms about this amendment, and I am happy that there is consensus in the House about the need for our doctors and dentists to be of comparable international standard. It is a fact that our doctors have been trained in all sorts of countries, with different languages, with different prescription skills, and it is necessary that we have, at least, one standard in Mauritius before they are allowed to practice.

This is what I had to say.

Thank you.

The Deputy Speaker: Hon. Baloomoody!

(5.32 p.m.)

Mr V. Baloomoody (Third Member for GRNW & Port Louis West): Thank you, Mr Deputy Speaker, Sir.

Mr Deputy Speaker, Sir, I intend to intervene on clause 14 of the Finance Bill - I am sure everybody is aware - regarding the amendment to our Education Act.

Mr Deputy Speaker, Sir, let me at the outset reply to the hon. Minister when she stated that, during the 2000-2005 (MSM/MMM Government), there were no amendments brought to the Education Act with regard to reform. First of all, let me remind the hon. Minister that, at a certain moment, she was part of that Government and the Rt. hon. Prime Minister was Prime Minister, and after that, the hon. Leader of the Opposition was Prime Minister. In fact, there have been three, not one, not two, but three amendments to the Education Act.

(Interruptions)

Let me finish!

Any Minister is advised by the Attorney General's Office. If the Attorney General's Office says that we have to amend the Act, we go and amend the Act, and the only way to amend the Act is to have a full debate on the amendment to the Act. If the State Law Office says that we do not need to amend and to go by regulation, we go by regulation. But, in this particular case, there was a need to amend the Act, and to amend the Act, we need a full debate, where the Minister presents the Bill at first reading, and then at second reading. All the Members of this Parliament who want to intervene, who have an interest in education, intervene and put questions, and then the Minister replies. After the reply, if we are not satisfied, we ask further questions at Committee Stage. This is what a debate is. This is what an amendment to an Act should be. Not hiding behind the shield of the Finance Bill to amend such an important Act; an Act which will have many consequences, not to this generation, but to the future and future generations. This is why we have asked the hon. Minister of Finance not to move for this part of the Bill, so that we can have a full debate. I am sure, knowing the number of parliamentarians who want to intervene on education, the interest of this House, we would have had more than two-third of this Parliament who would have probably intervened.

On the Human Rights Bill, which was just a photocopy of the previous one, we had more than 20 orators. And, on such an important Education Bill, we hide behind the shield of the Finance Bill, and *en catimini*, bring the amendment without a full debate.

Let me say one thing. The hon. Minister has intervened this morning, and she has left more doubt on the implementation than people had before. People who have listened to her

phoned me and sent me SMS. They told me that it is not even clear. There are so many questions to be asked. Even this morning, the hon. Minister must have received a letter from the Roman Catholic Secondary School Union asking questions about issues in the reform, that is, the Nine-Year Schooling.

The hon. Minister is saying that she has cleared the issue. It is not only to this institution that it should be clear, but to the public at large! Every stakeholder should be aware. So, this is why we say that there should have been a full debate on such an important issue.

What are we having today? The Minister has spoken as an intervener, but also as the mover of a Bill today! She has intervened like any Member of the House. The way that she has intervened gave us the impression that she, herself, is not sure about the implementation, whether we are ready for that implementation, what effect it will have in the long run to our institution; positive or negative. Otherwise, she would have come with a full debate and answered to our queries. Today, what will happen? I am going to ask a full question on the Bill. Who is going to reply? The Minister should reply and not the Attorney General! The Attorney General is not here to implement policies. The Attorney General is here to advise Government on legal issues, and when it comes to policies, how we intend to implement, it is the role of a Minister. The hon. Minister of Finance cannot answer. He is not the Minister responsible for the portfolio of education. He cannot answer with regard to the question I am going to put with regard to that Bill and which will remain unanswered because the hon. Minister will not be able to answer, and this will create more *flou* in the eyes of the public regarding that Bill. So, this is our stand.

Education is an issue where we do not want to have any political gain from it. It is an issue where there should have been consensus, not only in this House, but with regard to all stakeholders. Yesterday morning, I phoned a few stakeholders and some were even surprised. They were surprised when they received the letter this morning. They were not aware that the amendment to the Education Act is becoming law today. They were not aware that we were introducing the Nine-Year Schooling. This morning, I made it a must to listen to all the radios, including the MBC radio, which I very rarely listen. None of the news, be it at 8.00 a.m., 9.00 a.m. or 7.00 a.m. mentioned that the Education Act is being amended. They talked about other issues. They talked about the Banking Act and the Financial Act. They were not aware! So, the nation was not aware that we are going to change the educational system next year. Most of the stakeholders were not aware.

Let me be clear. Up to now, what we have had is only a copy of a slide which was projected to all Members of Parliament. We were all invited. I attended, and most of us attended because we are interested in the education of our children and of our future generation. That's all we have. Up to now, we have not had a full brief, an exclusive document, a comprehensive document, telling us exactly how this system will work. Today, we are voting a Bill where Members will not be able to debate. The hon. Minister will not be able to answer questions on that particular and such an important issue.

Mr Deputy Speaker, Sir, let me come to the Bill itself. I am not going to debate the Bill because I have to debate only the amendment. So, I will come to the amendment and ask questions. But who will reply to my questions? There are questions which have been put to me - not my question - by stakeholders, by people who are in the profession, academics, students, rectors and managers. We would have expected the hon. Minister responsible for the portfolio to answer.

Now, let us look at the Education Act in section 2. The definition of "Form VI College" is being deleted. Deleting the definition of 'Form VI College' and 'principal'!

(Interruptions)

It is being deleted! Answer!

So, we should not forget that it was the MSM/MMM Government which introduced the Form VI College. I have had queries from the Islamic College at Cité La Cure. It is a Form VI College. Now, you don't answer me! I want an official answer which will go in Hansard so that the public can read. Not just sit down and say: it remains; it goes; it will come; it will be replaced! No, we don't want this! We want official reply. What will happen to the Islamic College at Cité La Cure, which is a Form VI college?

Now, the most important issue, we are talking about abolition of CPE and nine-year schooling. So, we are introducing two examinations: one at the end of Grade 6 and one at the end of Grade 9.

(Interruptions)

No, it is not there! This is why I am asking for a debate. The Speaker had to stop the hon. Minister. We have to have a debate. This is why we say there should have been a debate. Today, we have only one examination which gives a certificate. The CPE examinations! The Standard III examination does not give a certificate. Now, we are going to have two

examinations. One is at Standard VI and one at Grade 9. And when we know, we are keeping the CPE.

(Interruptions)

Don't talk about *examen national*! I know about *examen national*, but it is not a certified examination. It does not lead to any certificate, it is just an examination. But now we have to pass these two examinations, then we'll get a certificate and to get a certificate we have to compete. You have to pass an examination.

(Interruptions)

Replying to my PQ B/549, this is what the hon. Minister had to say regarding how you will be admitted in Grade 7. So, we are talking about the equivalent of CPE. Same age!

"All students will move on to Grade 7 (...)."

(Interruptions)

Can you please sit down and listen! Because whether you say yes or no, it will not go in Hansard and nobody will know!

(Interruptions)

The Deputy Speaker: Hon. Members!

(Interruptions)

Hon. Baloomoody!

(Interruptions)

Mr Baloomoody: "All students will move on to Grade 7, but the admission will be done on a regional basis as it is done right now for regional schools depending on the students' results."

So, results are still important at Standard VI. The competition is still here and if there are several good schools in the region, the one with the best result goes to the best school. Regional! So, we still have that competition.

(Interruptions)

Can I be allowed to speak without being interrupted by the hon. Minister?

The Deputy Speaker: Hon. Mrs Dookun-Luchoomun, please don't reply from the bench...

(Interruptions)

Mr Baloomoody: She chooses to hide behind the Finance Bill in order not to reply...

(Interruptions)

The Deputy Speaker: I have given my ruling, hon. Baloomoody! I don't need to repeat!

Mr Baloomoody: Now, we are keeping the two examinations. Instead of one, we are going to have two, and both examinations are important for you to move forward. So, there is competition even at Standard VI and at Grade 9. Now, the same sub-section (2), talks about a special education needs school. This is very important. It means a school which provides a specialised education to learners with disabilities or students having learning difficulties and requiring additional specialised services. We all know this is against the principle of the UN report where it says that we should get these children into the mainstream.

(Interruptions)

We all know, Mr Deputy Speaker, Sir, that this is important because we have had a report which says that we should encourage these children in the mainstream. We should not have a specialised school for them. They should be treated as equal. To a PNQ put to the hon. Minister of Social Security, National Solidarity and Reform Institutions, she replied that she is talking to the hon. Minister of Education and Human Resources, Tertiary Education and Scientific Research to ensure that these people who are disabled do join the mainstream. So, no specialised school! And here we are legalising and institutionalising what the international institution has told us not to do. Unfortunately, again, we won't be able to have more clarification on this issue.

Now, section 3 (d) –

“A College which provides post-primary education for Grades 12 and 13, leading to a public examination of the level of Higher School Certificate or its equivalent.”

What is the definition of a ‘college’? It is not defined. We have deleted ‘Form VI College’. What is a ‘College’? The Academy! There is a debate with regard to the RCA, Roman Catholic schools. Are they going to join the Academy? Are we going to have Academy schools or will there be a separate entity where you will do your SC, HSC, as it is now? We have asked this question several times and the hon. Minister has given evasive answers:

consultations are still on; the RCA is on-board. But we know they have send papers, they have made representations that they are not going to join the Academy. So, are we going to have *l'éducation à deux vitesses* in the private sector? They have issued a communiqué that they are not going to be on-board. So, what are we going to have in that sector? One is the academy and the other one the RCA having their own schools as it is now. So, are we going to have *l'éducation à deux vitesses* or two parallel mainstreaming, one going in that direction and the other one going in the other direction?

We are still not clear about the equality of treatment for those who are abled and those who are disabled. We don't know *per capita*. Are we spending the same sum of money? Are we giving them the same facilities to attend schools? Are they having transport facilities? The *per capita* issue! We have asked many times that it should be the Ministry which should enforce compulsory education up to the age of 18. It is not in the amendment Bill. We will come with the PSSA Bill tomorrow. We have another issue, so I won't refer to the PSSA today.

With regard to scholarships, the hon. Minister informed us this morning that it will apply only to regional schools, not to academy. May we know why? Why is it that those choosing to go to the academy don't have the opportunity to have a scholarship? These are questions which need to be answered. Subsection (1) says -

“By inserting, after the word ‘schools’, the words ‘including special education needs schools and technical and vocational institutions.’”

There is no mention of polytechnic. Why, again? So, it is unfortunate that all these questions which I have put will remain unanswered or we will have an answer *à côté*, without the principal person concerned with education enlightening the House.

So, on this side of the House, the MMM, we are making an appeal to Government to withdraw these amendments for the time being. Let us come at the next sitting - I don't know whether it will be November or December - with an Amendment Bill where we can have a full debate, a clear debate and most of the stakeholders would have an opportunity either to inform us about their concerns, about the pros and cons of the Bill and we would have other educators to contribute. In front of me, I see at least 4 or 5 educators. I am sure they have something to contribute. I am sure they would contribute to make it better and have a consensus on this debate. Unfortunately, we are going in *catimini*. There is no debate. There will be no answer. My question at Committee Stage will remain unanswered because the hon.

Minister of Finance cannot answer for the Minister of Education. This is where we are today, in a complete mess, with regard to such a serious issue of education which is a fundamental issue for our children and the future generations. I rest my case.

Thank you.

The Deputy Speaker: Hon. Yerrigadoo!

(5.51 p.m.)

The Attorney General (Mr R. Yerrigadoo): Mr Deputy Speaker, Sir, before I address you specifically on the ambit of clauses 24 and 31 - because I have listened to a couple of Members and hon. Uteem on the fact that there are some parts of the Bill where we use the terms “as may be prescribed” - allow me to state that it is certainly not objectionable to use the formula “as may be prescribed in the Bill”.

Now, this is because it is a legislative drafting device and this device does not take away *le droit de regard* of the legislature in terms of the scrutiny of legislation by the National Assembly. Now, as I said, a number of amendments will be brought by regulations and this is why the phrase “as may be prescribed” has been resorted to.

In this context, I have to refer to section 122 of the Constitution as well as section 20 of the Interpretation and General Clauses Act. I shall not be reading them, but the essence of section 122 talks about parliamentary control over certain subordinate legislations. Mr Deputy Speaker, Sir, we all know that these have to be tabled and laid before the National Assembly and one would have 30 days to challenge them. Of particular relevance is section 20 of the IGCA on ‘Commencement and disallowance’ which in subsection (1) states –

“(1) Subject to section 22, every subsidiary enactment shall come into operation on the date of its publication in the *Gazette* or on such earlier or later date as may be specifically provided in the enactment.”

And, of course, it goes on. But, what is important is subsection (3) –

“(3) No subsidiary enactment may be amended by the Assembly (...)"

And, we talk about the 30 days to be opened up to challenge after it is being laid on the Table of the Assembly and when under subsection 4 –

“(4) Where a subsidiary enactment has been disallowed under subsection (3), the Attorney-General shall give notice of the disallowance by

regulations and the subsidiary enactment shall cease to have effect from the date of the publication of the regulations.”

So, Mr Deputy Speaker, Sir, I hope that is now beyond doubt from the provisions of both section 122 of the Constitution and section 20 of the IGCA that Parliament retains its power to scrutinise and disallow subsidiary legislation.

The Finance (Miscellaneous Provisions) Bill provides for implementation of a number of measures. For the first time, not only have detailed provisions been circulated, but also Explanatory Notes which help all Members of this House gather the context of the amendments.

The two specific clauses I wish to allude to are those which pertain to the Global Legal Advisory Services Licence which will ensure that young professionals in the legal field will have a wider array of opportunities to use their knowledge and will be able to take their career to the next level.

Amendments are being brought to the Financial Services Act and to the Law Practitioners Act to enable the setting up of global law firms in Mauritius.

Clause 24 (c) of the Bill seeks to introduce the concept of Global Business Advisory Licence in a new proposed section 77A of the Financial Services Act. Further, clause 24 (c) also introduces the concept of the Global Legal Advisory Services Licence. That licence will be delivered by the Financial Services Commission and will enable the FSC to issue an Advisory Services Licence to an entity which is licensed or registered in a foreign country. All the requirements are very well laid out in this. Whilst the FSC will regulate the licensees, the Law Practitioners Act is also being amended, of course, to include the definition of Global Legal Advisory Services Licence and, of course, ensuing amendments. What is very important is that we all know that it is not the first time that the Law Practitioners Act is being amended. But what is the purport this time? It is to enable those big players to come into Mauritius bringing with them the business they generate elsewhere and give an opportunity to local law practitioners to be able to gain experience and work in a wider and different field. Of course, when the application is being done the Attorney General’s office shall be involved in the process and the Legal Secretary, as is, shall cause to be published the list of all these firms/practitioners/legal consultants that will be so licensed. The amendment also caters for such other conditions as are specific depending on the nature of each case which the FSC may impose. Now, for the sake of clarity, let me highlight that the proposed

amendment which purports to introduce the new section 2(a) of the Law Practitioners Act does not imply that lawyers who work for the holder of the Global Legal Advisory Services Licence would be able to roam freely into our courts as some of our colleagues fear. Of course, we all know that the purport of this amendment has been carefully studied, I must say, by the Solicitor-General and officers of the Attorney General's office and we all know that the right of audience is intrinsically linked to the fact that you are on the roll of practising barristers in this country. Currently even without such amendments, if a foreign lawyer were to appear in any case before our court we all know the set prescribed procedure already existing under the LPA to enable so. Again, what the proposed amendment purports to do is to create the market for global law firms to choose Mauritius as a venue for setting up their offices and to then allow them to retain local law practitioners to give advice, of course, on Mauritian law. As I said, it is not the first time we are going to a different *palier*, a different step in our legal area. I am sure my learned friend, the Minister of Financial Services, will be able to expatiate on this. It is part and parcel of the new gearing of our financial services sector in the widest spectrum to enable Mauritius to be jurisdiction of substance as far as financial services are concerned. These are the two amendments I wanted to dwell over but before I finish Mr Deputy Speaker, allow me to thank all the officers of the Attorney General's Office who have been working relentlessly since the Budget Speech was read out in this House; who have put in very long hours of work over the few weeks and over the weekends, and I have to place on record and commend them for their good work. I also wish to conclude by placing on record the unanimity with all scenes with regard to positive comments that have followed the presentation of this Budget and those amendments which are being brought today by the Finance Bill will usher Mauritius in a new era of development.

Thank you, Mr Deputy Speaker Sir.

The Deputy Speaker: Hon. Mohamed!

(6.59 p.m.)

Mr S. Mohamed (First Member for Port Louis Maritime & Port Louis East): I have listened with much interest into the process of today's interventions. I must admit that I am a bit dazzled by the new process that has been adopted today. I had always thought that we should not comment on policy. We should not in any way comment on Government policy but should stick to budgetary provisions and budgetary proposals and exactly what is

referred to under the new Standing Order - if I am not mistaken, if my memory serves me correctly, Standing Order 52 (1) (b) as was ably referred to and I say “ably”, referred to by the Speaker this morning.

Now, in spite of that, I have heard with a lot of interest my good friend, hon. Baloomoody who very, very rightly so pointed out how the hon. Minister of Education has tried, at some stage of those proceedings today, to enter the debate on policy, to try to explain and justify why this Government has come with this nine-year schooling project. She was called to order, rightly so, by the Speaker of the House and the reason why she was called to order is because one should not embark upon any debate with regard to policy. If this stands true, to stay in line with the provisions of the Standing Orders and to stay in line with the provisions of what rulings we have had from the Speaker last year and the Speakers before and the tradition and the Standing Orders, one should not therefore hide behind the Finance Act in order to avoid a debate. One may not like what the Opposition is saying but the fact remains that we do not have the right today to debate on Government policy. In other words, it is a barrier that is placed before each Member of Parliament. It is a procedural truth that we have to abide to. We have no right to do so. Then, if this barrier is there precisely, the whole reason is to stop us and it means also one should not come up with a piece of legislation that cannot be debated upon because it is the duty of this august Assembly, Members here, to debate on every policy but it should be brought in as a proper legislation.

So, it is, therefore, correct for us to say that procedurally speaking it is not the first time that this matter is being raised in this House. If I am not mistaken and if my memory serves me correctly, even former Governments or maybe one of the Governments I belonged to between 2005 and 2010 did also do something of this nature. And, I do recall that the Speakers in those days did rise up to the occasion and did not depart from what the process had to be and stood up and said: ‘you cannot talk about policy’. In other words, do not hide behind procedural aspects by coming up with legislations and this is what has been done.

(Interruptions)

The Deputy Speaker: Silence! Order, please! Hon. Mohamed, please come to the Bill now!

(Interruptions)

Mr Mohamed: I have to! I am doing that!

(Interruptions)

The Deputy Speaker: Please, do so!

Mr Mohamed: I am doing that!

(Interruptions)

And their excuse I hear each and every time right now is because it is in this Bill. Now I am questioning myself the fact that it is in this Bill, I am debarred, each and every Member in this House is debarred from debating on it because it is a matter of policy.

(Interruptions)

So, if that is the case and some people feel I am rubbing it in, they are right. I am rubbing it in! That is what I am doing and it is my duty...

(Interruptions)

The Deputy Speaker: Hon. Mohamed, please sit down!

(Interruptions)

The hon. Speaker gave a ruling earlier to the effect that you should stick to the amendments and focus on this. So, please now, you have made your point, come to the amendments!

Mr Mohamed: So, since I have rubbed it in enough now...

(Interruptions)

...let me first go to one of the issues that was raised by the hon. Attorney General. The hon. Attorney General referred to clause 24 of the Finance (Miscellaneous Provisions) Bill and if one looks at clause 24 which is at page 45 of the Bill - if I may be allowed to go through it - it talks about amendments to the Financial Services Act and about specific clauses of the Financial Services Act which is 77A as a new section altogether and 77B. And, what I read here with a lot of interest, Mr Deputy Speaker, Sir, is the following, it says at 77A (4) –

“For avoidance of doubt, this section shall not apply to a person authorised to provide legal services or give legal advice under the Law Practitioners Act.”

Now, what is of utmost interest also, if we go further, is clause 31. At clause 31 which is at page 84, the Law Practitioners Act being amended, there is a section 2A which talks about Application of Act -

“This Act shall, subject to sections 10AA and 10B, not apply to the holder of a Global Legal Advisory Services licence under the Financial Services Act.”

And when I, together with my learned friends, went to that particular section which is section 10B, it is clear therefore that through legal manoeuvring, some may call it legal drafting, they have clearly decided to remove within the ambit of the Law Practitioners Act people working under this new appellation, legal practitioners, albeit the Global Legal Advisory Services with whom they would have informed the Attorney General from the Financial Services Commission and obtained the permit.

So, the question is: through this legal operation, section 13 of the Law Practitioners Act will not apply with regard to discipline. In other words, imagine the scenario because each and every time a legislation is passed one has to at least look at the practical side of things. A client goes to see a lawyer working under this licence, the Global Legal Advisory Service, he has a licence albeit. The client has a complaint to make with regard to the lack of professional attitude or wrongdoing in his profession by this law practitioner but, working under this specific scheme that would mean that because of the construction of the law, section 13 of the Law Practitioners Act would not apply and, therefore, the question would remain: whom will this client who is aggrieved will go to see in order to make the complaint? Where will he be able to make his complaint? And the answer to that is nowhere! The answer to that is that he will not be able to make a complaint before the normal avenues provided for under our legislation.

So, in the process, through this intelligent manoeuvring of the Government who has provided for this piece of legislation we are creating two categories of lawyers. One who are law practitioners amenable to discipline under section 13 of the Law Practitioners Act and another who are free birds, who will be jetting around and who will have no qualms whatsoever, no answers to give to whomsoever and will not be amenable to any disciplinary action because precisely clause 31 in this particular piece of legislation specifically says in this new section that it shall not apply to the holder of a Global Legal Advisory Service. At the same time, we will also have law firms which are joint ventures, approved by the Office of the Attorney General, they will be amenable to discipline. Three categories of law practitioners in a move of this magic wand!

This is why I think that it is important here: yes, we should open our frontiers; yes, we should open our economy; yes, our lawyers should have experience; no, we cannot create more than one category of law practitioners; no, we cannot have part of our law practitioners who are not amenable to the disciplinary action provided for under section 13 of the Law Practitioners Act. Now, as I said, in this particular instance I would expect the Attorney

General, in a debate which would have surrounded the amendment to the Law Practitioners Act, to be able to rebut what I have said. I would have expected him to be able to enlighten the House with regard to this issue. But, he cannot now because he is not in a proper debate as such, we are taking this matter in the midst of a Finance (Miscellaneous Provisions) Bill and, therefore, we cannot have that legislation. And it is not for the hon. Minister of Finance to answer to that, but it is for the Attorney General who has to carry the accountability and burden of this process.

Now, with regard to clauses 24 and 32, I have clearly explained that we are creating several categories and worryingly so, another category that will not be in discipline and this, therefore, will not go well for the reputation of Mauritius when it comes to an interesting jurisdiction to do business in.

Now with regard to another element which is clause 6. A lot of my hon. friends have talked about clause 6. A lot of friends from Government have also spoken to me about clause 6. Now clause 6, which is at page 14 of this Bill ...

(Interruptions)

I thank the hon. Vice-Prime Minister for translating fourteen to *quatorze*. That shows that he is following! Very often, we will see 14 which will become 28! Let us go on. Later on, maybe, he will try to imitate me. But I hear he was very, very poor at that.

When we come to the Central Electricity Board Act, what I don't understand is precisely the following. Why is it that the hon. Minister, who is also a well-respected lawyer, - whom I have respect for as a lawyer - will come later on today and say there is no need clearly for us to go through this amendment. It is only to underline the fact that we already do not have to comply with the Public Procurement piece of legislation. So, it is only to clarify matters, he will most probably say that we have come up with this particular clause under the Finance Bill. Let us not get twisted and mixed up because of legal interpretation. My point is the message that Government is sending out. I do remember the hon. Minister, himself, criticising the former Government for what he called *manque de transparence et opacité*. I did hear him personally and every single Member of Government criticised - not later than a few days ago - the total lack of transparency with regard to the methodology of work of the former Government.

Now, I fail to understand why is it that they criticised *avec tant de véhémence* and some sort of *semblance* of what they are saying that they believed in it when in actual truth,

they have a chance for the first time, Mr Deputy Speaker, Sir, to show. There is a saying: 'To put money where your mouth is.' The saying is that why is it, therefore, that they criticised the former Government for *manque de transparence* and here you underlined and clarified the fact that the Public Procurement Act shall not apply to any procurement exercise effected by a company set up under sub section 2. This is in my humble view legalisation. You are legalising *l'opacité*. This is what you are asking Parliament to do. Outside there, you say that you want to be transparent. Outside, you say that you have to show exactly what is going on. Here, you are talking about legalising through parliamentary process *l'opacité*. I would like to hear the hon. Minister answer on that and not take us on a merry-go-round with regard to legal interpretation. I would like to come down to earth. What the common man out there was told and explained that they would be transparent ...

The Deputy Speaker: Hon. Mohamed!

Mr Mohamed: Should I?

The Deputy Speaker: No, you can continue!

Mr Mohamed: Thank you very much.

Now, with regard to clause 15 of the Electricity Act, which is another important section which I thought I may have to cover. In clause 15, at page 32 of the Electricity Act, the particular clause is the appeal to the Minister clause. That is one which we will have noted here that many legislations in the older days existed in such a way that whenever someone was felt aggrieved by a decision of a Board, it was forwarded to the Minister like in the case of the Minister of Public Infrastructure and Land Transport that if ever there is someone who is not happy with the NTA decision, they appeal to the Minister. Same in that particular legislation, here also we have the same principle. What I am suggesting here is that we should depart from such principles because I do not believe that it is right for a Minister to decide on appeal issues of such a nature. I am of the view that the Executive should not have a role whatsoever in the decision-making process of any one application that is rejected. There should be a tribunal for that. There should be people independent. No politicians. None whatsoever!

The reason why I say so is simply because there should never be any finger pointed at any Minister and, in particular, there should be no finger pointed at this Vice-Prime Minister. So, the hon. Vice-Prime Minister will go on and insist that this is the way it should be simply because it is the case and there is nothing wrong in there. He is going to paint a picture to try

to explain that there is nothing to hide, but it is normal process. What I am saying is this could have been so in the old days, but the trend worldwide is that members of the Executive, Members of Cabinet should not have this power because this tends to cloud matters and creates once again *encore plus d'opacité*.

If the hon. Minister of Finance comes forward to say that we have done that in order to speed up matters. Really! Is there any delay that is established within which the Board must refer this matter to him? No! Is there any delay within which they must refer this matter to him? No! But there is a delay within which he must decide once he receives it. Once again, there is confusion with regard to the delay that it takes to get to him. So, it could take a long time to get to him and then he would then have to decide within 14 days. How long must it take for it to get to him? That is another issue which I believe could really bring some corrections to.

I have seen with much interest the Investment Promotion Act which was an issue which I wanted to raise today. That would be at clause 29 of this piece of legislation. Clause 29 talks about all the incentives being proposed to a specific industry. It talks about the registration at the Board of Investment for private health institutions. This morning I heard the hon. Minister of Finance clearly state that no agreement as yet has been signed in the particular case of Omega Ark with regard to Apollo Bramwell. I heard the hon. Minister of Finance saying clearly that there is no agreement which has been signed. I heard him very clearly explaining - at some stage getting very carried away - with regard to the delay and why it has finally become the preferred bidder. I will not get into this.

But what is interesting in the answer, Mr Deputy Speaker, Sir, this morning, is the following: the hon. Minister said that no agreement had been signed. When I read the website of Omega Ark PLC today...

(Interruptions)

The Deputy Speaker: This is not related to the amendments!

(Interruptions)

It is not related!

Mr Jugnauth: Mr Deputy Speaker, Sir, there was a PNQ this morning about Omega Ark, but this Finance Bill has got nothing to do with Omega Ark. The hon. Member was here. If he had the opportunity to intervene, he would have intervened.

The Deputy Speaker: I completely agree with the hon. Minister. This is not related to the amendments, and there was a PNQ regarding this subject this morning. There was ample time to speak about this.

Mr Mohamed: At clause 29 of the Bill, there is a provision at Part III which talks about Registration with Board of Investment and I also read here –

- “(ii)(d) Any investor who wishes to operate –
- (i) a private hospital under the Private Health Institutions Act;”

That is why I am of the view that, when I talk about Omega Ark, it is a private hospital within the provisions of this Finance Bill. So, that is why one of the conditions referred to by the hon. Minister of Finance and Economic Development this morning was the fact that it had to be licensed under the Private Health Institutions Act, and this is referred to at clause 29 of this Finance Bill. That is why I am talking about it. Now, the fact that I did not put a question this morning was neither here nor there, because I do not want to be in any way disrespectful to the Chair. But what happens here is: Am I relevant? The answer is yes, because it is referred to here, in the Finance Bill.

Now, I continue. Why is it that, with regard to the Private Hospital and Private Health Institutions, I have to give an example to show why I question the following: how is it that, at clause 12, where it talks about registration, is this being provided for Omega Ark? That is a question. Is this piece of amendment that is provided here, this provision that is provided here to suit specifically the owners of Omega Ark?

(Interruptions)

I am sorry! Why am I out of order?

(Interruptions)

I see that it hurts, and the question I ask...

(Interruptions)

The Deputy Speaker: Silence, please! Order, hon. Jhugroo!

(Interruptions)

Hon. Ameer Meea!

(Interruptions)

Mr Mohamed: And the thing is that the question I ask, which is a legitimate question, is not only one that I am asking, but I am only becoming *le porte-voix* of what I am hearing outside. People are asking me to put that question! And this is what I am asking for the people outside.

(Interruptions)

Is this...

The Deputy Speaker: Silence, please!

Mr Mohamed: And I say it again. Is this piece of legislation being prepared to satisfy only one operator? If that is the case, then it is very serious. Or does that explain...

(Interruptions)

Mr Collendavelloo: I am rising on a point of order, if I may. I feel I must rise on a point of order. The hon. Member knows very well that he is imputing motives to the hon. Minister of Finance and Economic Development.

(Interruptions)

Please! He is saying that the Minister of Finance and Economic Development...

(Interruptions)

...is introducing a legislative amendment in order to suit a particular operator. Now, if the hon. Member imputes such corrupt motives of the Minister of Finance, then it is out of order.

The Deputy Speaker: Hon. Members, I have listened to the point of the hon. Vice-Prime Minister. Hon. Mohamed, First Member for Constituency No. 3, should be mindful of his language and any accusations that he might have. I would remind the hon. Member to stay on the provisions - although he is doing so - of the amendments of the Bill. He has been lengthy enough about this. I would ask him to please move to the next amendment.

Mr Mohamed: Let me just also underline the fact that, in the comments I am making, I am in no way pointing the finger at the hon. Minister of Finance!

(Interruptions)

The Deputy Speaker: Hon. Minister, please sit down! I have to say it again. Perhaps I was not sufficiently clear before. I agree with the hon. Vice-Prime Minister that, by saying that in the Finance Bill, the hon. Minister of Finance has included this specific clause 12 -

whether you are asking the question, whether it has been specifically for one hospital - it does impute motives.

Mr Mohamed: I ask a question and, therefore, the hon. Minister of Finance is free to stand up and say 'no'.

(Interruptions)

Mr Deputy Speaker, Sir, I will use something that the Vice-Prime Minister himself had used with regard to what I said. He said, "Basically, if the hat fits, so be it!" I never wanted, in my mind, to even think of anything corrupt, but if the hon. Vice-Prime Minister has this in his mind, I leave it to his own conscience.

(Interruptions)

The Deputy Speaker: Hon. Mohamed, please move on to the next amendment! Let's carry on with the business of the House!

Mr Mohamed: I have not finished with this. I will have to move slightly slower than the Deputy Speaker wishes I do. Now, why do I say that I have questions in my mind? Because what surprises me is that we have today, in Mauritius, a private operator that is not licensed, that has already given contracts of employment to its employees, signed and sealed and delivered, which is Omega Ark, and it has not even paid a penny yet with regard to this. Now, I would like to hear the hon. Minister of Finance come and tell us and give assurances to the House that, at no time, will any deal that was agreed upon in a MoU, this particular clause would be in any way retroactive; it will not be retroactive and will not in any way apply to Omega Ark. Then, I will be reassured that, in actual fact, this is not a legislation that applies to any one operator, and it does not in any way have in mind Omega Ark. But I would like him to give reassurances that this is the case and it will never give the incentives that he is referring to in this legislation to Omega Ark. Now, that is with regard to clause 29.

(Interruptions)

That's how touchy they are!

The Deputy Speaker: Silence, please! Order!

Mr Mohamed: This is the law that is coming afterwards and obviously it cannot be retroactive; otherwise, that will explain why they have not signed. What is also shocking, *en passant*, I must say, they say nothing has been signed and the website of Omega Ark says everything has been signed.

The Deputy Speaker: Hon. Mohamed!

(Interruptions)

Mr Mohamed: Anyway! With regard to clause 39, which is about the Non-Citizens (Property Restriction) Act, we have heard the Government talking a lot about the need to protect our real estates, our lands. We have heard the Government; the Rt. hon. Prime Minister, with reason, has said, during political campaigns, that we have to ensure that our lands are protected, our real estates are protected. We heard the Rt. hon. Prime Minister say how we must ensure that we do not put all our eggs in one basket with regard to construction; we should diversify. And we have heard the previous Minister of Finance, how he came to this House and tried to talk about the importance of helping Mauritians acquire and have an IRS or a RES, have a Mauritian content, *un pourcentage* for Mauritians to be able to acquire real estate.

Now, in this particular legislation, it is a different ball game altogether. Now, in any company where a non-citizen has not more than 25% shares, that company can buy immovable property in Mauritius without the permission of the Prime Minister's Office because this will be an amendment to the Non-Citizens (Property Restriction) Act and it says here –

- “(d) in the case of a non-citizen or person not resident in Mauritius, where –
 - (i) there is a transfer, sale or disposal of property to a company in which non- citizens do not hold more than an aggregate of 25 per cent of the shareholding of the company; and
 - (ii) such transfer does not result in the non-citizens holding more than an aggregate of 25 per cent of the shareholding of the company; or
 - (iii) there is a transfer of shares in a company provided that this does not result in more than 25 per cent of the shares of the company (...).”

This, basically, even in the Explanatory Memorandum clearly tells us that as from now on with this piece of legislation any company in Mauritius, as a non-citizen and that non-citizen does not hold more than 25% of the shares, that company can own property in Mauritius without the permission of the PMO. That is the case today. So, at the same time, we have pieces of legislation that come and talk about the need for foreigners to go through security check at the Board of Investment to buy apartments in ground plus two. But, here, if the

foreigner owns not more than 25% shares in the company, that company can own property without any security check.

Imagine, therefore, all the structures that can be created through this for the foreigners to even have a maximum of 25% in several companies and owning, therefore, even agricultural land. So, through the operation of this piece of legislation, the Non-Citizens (Property Restriction) Act, a foreigner owning not more than 25% in a company, can become part owner, in other words, of even agricultural property, of even a lease without the permission of the PMO. This is a drastic departure from the policy of all successive Governments to protect the interest of our nationals with regard to property rights.

I have heard Members of this Government always say that we have to be very careful as to who are those foreigners coming to own property here. They have to have security checks; we have to ensure that prices of property for the Mauritian common men and women do not rise so much so that they can no longer be within their reach. But now, 25% only and through a lot of legal structuring, a non-citizen through proper structuring, though this loophole, is going to put Mauritians in a hole because the prices of property are going to increase, we are going to have clearly, it is going to be beyond the reach of the normal citizens, the men on the streets and they will end up being only *des locataires* and foreigners are going to be even owners of agricultural land, in Mauritius. All this in the name of attracting FDI!

What I find surprising and sad is that the hon. Minister of Finance and Economic Development did not even mention this in his presentation of the Bill. I think that it is important for him to clarify *quels sont les garde-fous, quelles sont les mesures pour protéger le mauricien lambda, quelles sont les mesures pour protéger ce jeune qui veut acheter une maison, un appartement ou un morceau de terrain, quelles sont les mesures qui vont être là pour assurer ce jeune mauricien et mauricienne que ce ne seront jamais les étrangers qui deviendront propriétaires de leur terre*. Here, when we remove this *garde-fou* where the Prime Minister's Office's authorisation is no longer required, then anything is possible.

So, I fail to understand how we could take such a drastic measure and not even define what type of land because we say 'any property', 'any immovable property'. It could even be on State land. 25% of foreigner, he does not need the Prime Minister's Office permission, he can go and buy a lease...

(Interruptions)

And that's it!

And even if the hon. Vice-Prime Minister has good intentions, he will not legally be able to do anything about it because that's the law. So, if we want to ensure that Mauritians no longer have access to real estate, this is the beginning of the end. In the past, no matter what we can say on all regimes, at least, there was this *garde-fou*, there was this means of ensuring that there was a filtration process, and this is now disappearing.

I would like also to refer to clause 27 which is, if I am not mistaken, at page 62. At page 62, there is an important piece here – as hon. Uteem has talked about it, I will not go on also about it. He has basically referred to this and expressed his disbelief and I expressed mine as well with regard to 2003-2008. We are talking about small enterprises qualified under an approved scheme, here we are talking about, specifically, enterprises that have invested in specific industries: weaving, dyeing, knitting of fabrics factory. I would like the hon. Minister to come and explain what is this measure for? Who is it aimed at? What exactly is the benefit that our country is going to gather from this measure? What exactly is the benefit that our accounts of the Republic of Mauritius will gather from this? Has there been a study to understand the rationale behind it? I would like to understand and when there is no explanation to explain the rationale of giving such *largesse* under this particular amendment of the Income Tax Act, then it leads to doubts that we linger. But I am sure that if there is an explanation that is forthcoming from the hon. Minister of Finance and Economic Development, it could really help matters.

Now, there are also amendments that I have seen at clause 32 which is at page 87 and that concerns the Local Government Act. At page 87, clause 32, I see here that there is going to be a drastic change. Once upon a time a Lord Mayor or the Deputy Lord Mayor, a Chairperson of a District Council and a Vice-Chairperson of a District Council were never on the Permits and Business Monitoring Committee. Clearly, there is a drastic change.

Accountability is of utmost importance, Mr Deputy Speaker, Sir. Each and every time that the hon. Minister of Local Government stands up and sometimes he has to be briefed by what has happened in municipalities or district councils and he is accountable to this House for what goes on and he obtains these information from officers who are civil servants such as the Chief Executive and he is also accountable. Those are, in other words, accountable officers and there is, in other words, a straight line between all those parties who are accountable, from the Chief Executive who once upon a time - and it will be different

soon, because of this amendment, he will no longer be the one to chair the Permits and Business Monitoring Committee. He will not be the one, the civil servant, who is accountable to chair, but it will be a politician elected who is not accountable to the Minister who will chair.

So, what this amendment will do now is that it will be for the Lord Mayor or the Deputy Lord Mayor who will chair or for the Chairperson of the District Council or the Vice-Chairperson who will chair that Committee and the Councillors will also be on that Committee, and none of those people are accountable to the hon. Minister of Local Government! It, therefore, places the hon. Minister of Local Government in a very difficult situation of accountability because he will have to come and justify what they have done and they can refuse to give him information because they are not accountable to him. The person who is accountable in law is being demoted. He is becoming a simple member of that Permits and Business Committee. It may have been like that in the old days but one of the main reasons why it changed is precisely because of the accountability issue to avoid possibility of corruption. That is why it was changed. But, now if we are reverting to what it was like before, when the argument of all political parties in agreement with the change, all political parties were agreed that this should change to avoid corruption and possibilities and potential corruption. Now that we are reverting back to the past, we are placing the hon. Minister of Local Government in a very difficult position and I do not envy his position because he will have to struggle to get information from political people, politicians and this will put him in a situation where he will have to go through thick and thin. Then again, I mean others will take advantage of his very wide and generous back, but fair enough!

What I am trying to also get at here is what was not in this piece of legislation. I started out by saying what was in the legislation and what basically was never referred to in the Budget but talked about. There was something else that was talked about in the Budget and I have gone through the Budget at paragraph 97 – the Global Headquarters Administration Licence, 8-year tax holiday –

- 5-year tax holiday for licences issued by the FSC;
- Treasury Management Centre License;
- Asset and Fund Managers license;
- International law firms;
- Investment Banking and Corporate Advisory License;

- Overseas Family Corporation License, and
- once again, 5-year tax holiday for Foreign Ultra High Net Worth Individuals;
- Tax holidays will be subject to meeting conditions of employment creation and substance.

The way that this was told, the way that this was presented in the Budget, eight times tax holidays are mentioned in the Budget! Eight times! Five times it was mentioned even that it would be introduced as a new incentive scheme to attract industrial fishing companies to operate from Mauritius. So, 8 years and 5 years! When I go through this piece of legislation, the Finance (Miscellaneous Provisions) Bill, I do not find any of those provisions to implement those decisions. There are no legal provisions there to implement what was announced in the Budget and my question is: why? Why is it that the Income Tax Act is not being amended in any way to provide for the tax holidays?

When it was announced, it was announced as though it was going to act as a catalyst to create thousands of jobs. It was going to change the scenery and attract all those companies; it was waiting for those companies to come in. It was announced, but why is it that, in spite of the fact that it was announced, presented *en fanfare* as going to be something great for job creation, it is not in this particular Bill? And, this is a fair question. On this particular issue, I think it was fair for me to mention, Mr Deputy Speaker, Sir, each country/each foreign jurisdiction has got its own interpretation as to what substance means.

Certain countries would think that substance would be gauged by the quantum of investment and here I talk about those companies that were supposed to benefit from those tax holidays. Certain countries may gauge and assess investment based on the fact that it is listed on the Stock Market or not. Certain countries may gauge substance for those foreign companies based on the number of employment they have created. It may also decide on whether the place of effective management is indeed Mauritius. Decisions are made from here. That it has an office space not only a post box, not only a virtual address but a physical space that people use for management. Those are elements that are used in the equation to decide what substance is. When the hon. Minister of Finance and Economic Development talked about those tax holidays I would like to clarify one point which everyone seems to have gone quiet about or, at least, I did not hear anyone talk about that. It is that this business of tax holiday is not viewed with a good eye...

The Deputy Speaker: Hon. Mohamed, how is this relevant to the amendments right now?

Mr Mohamed: It is announced in the Budget but not here!

The Deputy Speaker: But, you are going into the policy. Can you please stick to the...

Mr Mohamed: No, I can assure you that I am going only for five seconds on this. I can assure you.

The Deputy Speaker: Well, don't dwell on the policies, please!

Mr Mohamed: I can assure you I will not, but what I am trying to get at here is the OECD does not in any way view positively this whole concept of tax holiday and I have the report which I can table to show exactly that. Hon. Minister Bhadain can go on saying that and I have the report that I can table to show him exactly that. There have been observations made to Ministerial Committees at the OECD and chapters written on the dangers of tax holiday and how it can hit back and backfire against a country specifically because there is no one way to assess substance.

Now, I am of the view that maybe there is one reason why it is not in the Finance (Miscellaneous Provisions) Bill because precisely there is no consensus on this. Had it been such a measure that, without any doubt, would have helped this country, would have been in line with what hon. Minister Bhadain believes, I am sure the hon. Minister of Finance and Economic Development would have brought it here. Most probably further study on the part of the officers of the Ministry of Finance and Economic Development, further study on the part of experts and able people at the Ministry of Finance and Economic Development have shown that this, which is defended *avec* vehemence and passion by hon. Minister Bhadain, is, in fact, empty because this whole issue about substance is clearly defined as being something that has no consensus on it across jurisdictions. South Africa has one way of judging substance, England has another, Mauritius has another, India has another. That is why those countries, members of the OECD, have really pointed a finger at this system because it is something which is eroding their source taxation.

Now, I would like the hon. Minister of Finance and Economic Development to come and explain why is it that when he presented it and he talked about, it was going to contribute to the development of Mauritius, creating jobs, creating substance. I would like him to come and explain and maybe there is a valid explanation, that the reason he did not bring it in this particular piece of legislation and tell us maybe we will understand because I think it is important for us to understand why there is a difference between what was presented in the

Budget Speech as opposed to what is presented in the Finance Bill. This is important for the people out there to be able to assess.

Thank you very much.

The Deputy Speaker: Hon. Minister Bhadain!

(6.50 p.m.)

The Minister of Financial Services, Good Governance and Institutional Reforms

(Mr S. Bhadain): Thank you, Mr Deputy Speaker, Sir.

Before moving to sections 23 and 24 of the Bill which touch upon the activities of my Ministry, I am going to quickly brush on section 2 which deals with the Bank of Mauritius Act being amended and clause 2(a) which basically introduces the concept of ultimatum and intermediate financial holding companies which are now going to be monitored by the Central Bank. When we look at the Bill itself it says 2(b) subsection (ii) to –

“regulate and supervise –

(ii) ultimate and intermediate financial holding companies, incorporated in Mauritius, which have, within the group, at least one subsidiary or joint venture, or such other ownership structure as the Bank may determine, which is a bank or non-bank deposit taking institution licensed by the Bank;”

Now, here, Mr Deputy Speaker, Sir, I have to congratulate the hon. Minister of Finance and Economic Development for bringing that into the Finance Bill because this is exactly what happened with BAI. We have spent months and months to find solutions to all those who have been suffering as a result of that. Now, with this measure, all the related companies' structure which we have seen in the BAI complex group structure would now, when there is a bank in the middle - like was the case of Bramer Bank - this will now be subject to scrutiny by the Central Bank and we can have a look at the ultimate and intermediate financial holding companies as well. So, this is a very welcome initiative in the Finance Bill.

Secondly, in terms of 2(b), I heard hon. Ganoo mentioned that clause 2(b) which refers to -

“ in section 6, in subsection (1) (o), by deleting the words “security as the Board may determine” and replacing them by the words “securities as Government or the Bank may issue”;

Now, everybody is talking about good governance these days. Whenever there is something which they feel might upset them or they feel these are not to their liking then it becomes bad governance. But when you look at what this section means, basically it is referring to securities which are also issued by Government because Government do issue bonds, Mr Deputy Speaker, Sir. In fact, whenever bonuses are paid at the end of the year, there is excess liquidity on the market. The Central Bank may well issue Government bonds to mop up the excess liquidity which is there. This is why we have this section saying “securities as Government or the Bank may issue” and it has nothing to do with what hon. Ganoo mentioned in terms of the Minister of Finance and Economic Development denying the Central Bank, their independent authority or their general independence. Certainly it has nothing to do with good governance!

Then, of course, we move on to the Banking Act. Again, there are measures in there which basically deal with what we have seen with the BAI scandal. Of course, there are definitions of affiliate which is being introduced in relation to financial institutions and then it includes a number of scenarios in terms of subsidiary companies. So, all of that is going to bring more transparency, more accountability and it is going to make sure that this country does not see anything like that scandal that we have seen in terms of the structures which were operating before.

Then, just to move on very quickly, Mr Deputy Speaker, Sir, in terms of the Banking Act, clause 3 (a) introduces the concept of investment banking business. I will come to that when we talk about clause 24 later on. Hon. Mohamed has decided not to be with us because I was going to explain to him what the financial services vision is all about, but he decided to go. But anyway, this is one of the measures which is being brought in because now we will see investment banks in this country. If we want to really move the banking and the financial services sector into this new era of development and create jobs and get people to come and invest in Mauritius, we need to have the relevant legislation which allows for that and now we can have investment banking business in Mauritius which we couldn't have before.

Similarly, clause 3 (b) introduces the whole concept of private banking business. In the case of investment banking it is going to be regulated by the Financial Services Commission, but the private banking side will still be regulated by the Central bank. Amendments, therefore, have been made to the Banking Act in this context.

Now, when we move on to other sections, we also see – again, this is a measure which relates to the BAI case that we have seen - in clause 3 (e) which amends section 7 (ii) for the Bank of Mauritius to refuse an application for a banking licence from a group which already has a banking licence and is predominantly engaged in banking activities with a view to alleging the concerns of the Financial Stability Board Evaluation Team regarding parallel owned banks. If you really have a banking licence, we have seen that with Bramer Bank and then there was Century Banking and other scenarios. So, all of that are measures which are going to make sure that our financial system is protected. People in this country are protected when they are putting money into groups which have that kind of structure.

Now, we move on very quickly on clause 10 which deals with Co-operatives Act being amended. Clause 10 provides for Co-operative Credit Unions to implement anti-money laundering policies. Again, we have seen scandals under the previous regime, the Vacoas Multipurpose Cooperative Society where so many people lost their money and if it was not to the ability of my colleague, hon. Sunil Bholah, to basically sit with them and explain to them how solutions could be found, again, that would have been disastrous for the small people who have put money into those Cooperative societies. But here, the Financial Bill is creating a new way of reporting to the Financial Intelligence Unit whenever there are such issues regarding money laundering and proceeds of crime which then takes me very quickly to section 23 of the Bill dealing with the financial reporting side.

Quite a number of things have been said in this House today about rotation of auditors. I think hon. Fowdar - who also has decided to go - mentioned that. When you talk about rotation of auditors, it is a welcome measure, he said, in terms of making sure that there is no complacency in the way that auditors carry out their works especially if they have been in a relationship with a major client for many years. There have been many cases. He referred to the case of Enron in the US, but, of course, you have had Polly Peck, BCCI and Maxwell in the UK. You have got Stanford and so many in the US. But in Mauritius, we have also had our fair share of cases, Air Mauritius auditors where fingers were pointed at. Then, of course, we had the MCB/NPF case, the First City Bank case, the Delphis Bank case and it went on. Now, BAI is another example where auditors, fingers were pointed at. So, we need to be able to pass the necessary legislations to make sure that our system does not condone that kind of behaviour where auditors have become too familiar with the clients whether it is in terms of wining and dining or in terms of the fees that are being charged.

The law now makes provision that you have to rotate after seven years for listed entities. I think, again, I must congratulate the hon. Minister of Finance and Economic Development for that. But what hon. Fowdar mentioned was whether this relates to non-audit services as well. I am sure the hon. Minister of Finance will probably take that up in his closing speech, but the way I read it is ‘no’. It does not relate to non-audit services. It is only the level of assurance which is being provided when you are performing what is known as a statutory audit and you are saying whether the financial statements are true and fair or not. This is when this particular clause will apply.

Now, again in terms of the Financial Reporting Act, clause 23 (a) introduces the fact that the National Committee on Corporate Governance must have a representative who sits on the Financial Reporting Council. That was very important, the linking out, the work which is being done by the National Committee on corporate governance. We will very soon, may be in one or two weeks, issue the new code which has not been looked at for the last 10 to 12 years, the new code on corporate governance for the private sector, but also for State- owned enterprises. After Cabinet has had a look at it, this will become something which all the organisations have to adhere to. But also in section 23(c), section 65 of the Financial Reporting Act has been amended for the National Committee on Corporate Governance to cooperate with the Financial Reporting Council on corporate governance relating to State-owned enterprises. We have seen so much, even the recent issue of payment of legal fees and so on and so forth. All of that has to be looked at in terms of the whole concept of good governance which is being introduced by this Government. Nobody can expect us to get everything right in less than 20 months.

And of course, through experience, through live cases, through what we are seeing, we are not only correcting the mistakes of the past, but we are also correcting some of the things which are coming up as we are putting this proper ecosystem, that proper structure in place. And this new code will do that. So, again it is a welcome initiative in terms of national committee on good governance being working in collaboration with the Financial Reporting Council.

This takes me now to section 24 of the Bill, Mr Deputy Speaker, Sir, which first and foremost, I shall mention this new initiative where section 73 (2) of the Financial Services Act is being amended to allow Global Business Companies Category 2 to invest in listed companies on the Stock Exchange. This is something that the Stock Exchange of Mauritius has been talking to us in terms of, if we really want to increase the level of activities which is

taking place in the Global Business Sector in Mauritius, we must be able to let those GBC 2 companies list on the Stock Exchange and bring that volume of activities. Again, it is a very welcome measure.

Now, it takes me to some of the issues which hon. Mohamed has been mentioning about Global Legal Advisory Services and also, hon. Uteem, I believe.

(Interruptions)

The bottom line, Mr Deputy Speaker, Sir, with great respect to hon. Mohamed, he has not understood anything. He has not understood what the law says. He has not understood this. Why? It is because when we are talking about global law firms, it is part of the overall strategy of bringing the level of activities into the financial services sector in Mauritius. Now, of course, we have created the Financial Services Promotion Agency. Of course, the BOI is there, but when we are talking about promotion and getting people to come and invest over here, we have looked at other models like the Dubai model, the DIFC. What did they do over there? They have attracted all the law firms first and when you get the law firms in, you get the level of activity in and that creates a momentum in your economy. And this is exactly what we want to achieve. We had to sort out the situation with the Double Tax Treaty with India. We have done that. For 10 years it has remained like that. Same thing with the Double Tax Treaty with South Africa, for four years it has remained like that.

Now that we have sorted out those problematic issues and we have renewed the great relationship which exists with those countries, it is high time that we come up with the measures in our country, in our financial services sector to be able to boost it up and bring it into its next phase of development and it will also bring a lot of benefits in terms of job creation of course, but also getting people to do the right jobs, moving up the level of sophistication because when you look at the Global Business Sector in Mauritius, we are talking about administrative jobs, we are talking about people filing documents, we are talking about people opening companies, we are talking about people doing all the administrative work, but here we are talking about captive insurance, everything that hon. Mohamed has mentioned in terms of treasury management being in the budget in terms of global headquartering, regional headquartering, attracting high net worth individuals, moving into captive insurance, getting the fund managers in, getting them to come and manage their funds here in Mauritius rather than using a management company, looking at the asset management side. All these measures were announced in the Budget. Of course, they are

going to be implemented. And again this is an answer to what the hon. Member - particularly in his typical style - has made as if like we have announced things that we are not going to do, and also create some kind of perception that the hon. Minister of Finance and Economic Development and the hon. Minister of Financial Services do not work together.

That is not true! That is certainly not true! We consult on everything, we work on everything and these measures are going to be introduced by way of regulations and this is the answer to what he has said. True it is not there. It is coming through regulations and there are specific reasons as to why these regulations will be passed to do that.

So, when we look at what the hon. Member has said about the Law Practitioners Act in Mauritius, fair enough, that particular section says that global legal advisory services licensees will not fall within the ambit of the Law Practitioners Act. But what is also interesting is that we should first and foremost look at what this type of company does and then we will realise that it is not doing everything that a lawyer does in Mauritius because it is limited to and I will very quickly try to find the relevant section here, the Law Practitioners Act being amended. It says here –

“‘Global Legal Advisory Services’ means the activity referred to under section 77A(1) of the Financial Services Act.”

And when we look at section 77A(1), it says –

“subject to this section, an entity whose main activity is to provide legal services pertaining to global business, international arbitration, corporate law, taxation law and foreign and international law”.

So, saying that these foreign lawyers will come to Mauritius and do everything that a lawyer does in Mauritius and go to court and have the right of audience and be able to fight cases in court, this is not true. It is certainly not true! And also, as has already been said by the hon. Attorney-General, in order to practise law in Mauritius, you need to be on the roll of barristers. Then you become what is known as a practising barrister or else you are a non-practising barrister. So, we all know how it works, but again it has been said in a very flowery way to create fear.

Now, of course those licensees, the global legal advisory services licensees, if they breach any conditions of their licence, they are amenable to sanctions by the FSC and also the Attorney General’s Office. So, it is not as if that these licensees can do whatever they want and they are not going to be sanctioned because what hon. Mohamed was saying was if you

remove that applicability of the Law Practitioners Act in relation to them, they basically cannot be disciplined. It is not true! It is in the Bill. They can be disciplined. They can be sanctioned if they do something which is not right. And then of course the hon. Member went on to say that we are creating two categories of legal practitioners. Well, let me say it, Mr Deputy Speaker, Sir, we are not creating two categories. We are attracting global law firms to come and develop the financial services sector so that we can move that sector into its next phase of development and contribute in terms of GDP growth and as the hon. Minister of Finance and Economic Development has stated, it will take us to the new era of development.

The Financial Services Sector will have to play a major part in that. Already it represents now 12.2 % of GDP which is an increase of 5.4% from the previous year. It is one of the sectors, if not the only sector in Mauritius which has moved up in terms of an increase in growth rate. So, we need to continue that and move towards that 15% GDP contribution target that we have set ourselves for 2019.

Now, in relation to the Non-Citizens (Property Restrictions) Act, again, I heard hon. Mohamed mention a lot of things in terms of structures that can be put in place so as you are going to get people who are going to come and abuse the system. The hon. Member did not mention the word, but I think what he was referring to were those pyramid schemes where you can abuse the system in terms of real estate projects in Mauritius and so on and so forth. But just by looking at the Bill at Section 39, the hon. Member missed one section. He did not read it and then he went away so that I would not remind him of that. So, if you look at section 39 (b)(ii) (d)-

“in the case of a non-citizen or person not resident in Mauritius, where –

(i) there is a transfer, sale or disposal of property to a company in which non-citizens do not hold more than an aggregate of 25 per cent (...)"

These are the words! An aggregate! Now you can't have any complex structures in terms of an intermediate holding company or another company in another country and then manipulating that shareholding because the law does not allow for that. It says ‘in aggregate’.

You can't have more than 25%. And I think hon. Uteem also missed that, because...

(Interruptions)

Well, I very much believe he did, because if you look at the next subsection, it also says...

(Interruptions)

Twa ki conne tigit ...!

The Deputy Speaker: No crosstalking!

Mr Bhadain:

“(iii) there is a transfer of shares in a company provided that this does not result in more than 25 per cent of the shares of the company, in the aggregate, - again, these words have been added - being held, directly or indirectly, by non-citizens.”

So, whether it is a direct holding or an indirect holding, in aggregate it cannot go more than 25%. So, this is the section which prevents any sort of abuse.

Now, moving on, Mr Deputy Speaker, to section 45, the Securities Act has also been amended to actually bring in the relevant provision. A new definition is being inserted in the Act regarding corporate finance advisory services, which is consequential to the powers being given to the FSC to regulate investment banking. So, that also would contribute to having the right legal framework in terms of how this new vision for the financial services sector is going to operate.

And then, just to finish on this point, Mr Deputy Speaker, hon. Uteem mentioned the issue regarding section 27 of the Income Tax Act and unexplained wealth. The whole reason that this section has been brought in is basically to empower the Integrity Reporting Agency now to be able to liaise with the Mauritius Revenue Authority and whenever there are cases which basically exceeds Rs10 m., a report is made by the Mauritius Revenue Authority to the Integrity Reporting Agency, so that cases of an unexplained wealth are properly looked at. This is what it is! I heard hon. Uteem mentioning that everything is an asset. How can everything be an asset? We have some liabilities too. And he says: how do you define an asset? But you go to the Oxford Dictionary, you will see. It is something which is generating future economic benefits. That's what an asset is. He said he wants it to cover a Trust. Well, he is an expert in Trust! We know about the Trust that has been set up recently, which the hon. Vice-Prime Minister has been very much referring to. So, here, our expert in Trust wants the Trust to be in. But an asset...

(Interruptions)

The Deputy Speaker: No crosstalking!

(Interruptions)

Hon. Uteem, no comments!

(Interruptions)

Hon. Uteem!

Mr Bhadain: He says he is...

(Interruptions)

The Deputy Speaker: Hon. Uteem!

(Interruptions)

Hon. Uteem!

(Interruptions)

Hon. Uteem!

(Interruptions)

Hon. Uteem!

(Interruptions)

Hon. Uteem! Hon. Baloomoody!

(Interruptions)

Hon. Uteem, are you disregarding the Chair like this? Don't disrespect me! I am speaking to you! Allow the hon. Minister to talk!

(Interruptions)

Allow him to talk! You had your chance to talk!

(Interruptions)

Mr Baloomoody: On a point of order! He is imputing motives and he is challenging his professional qualifications.

(Interruptions)

His competence as a professional. This is not allowed. This should not be allowed.

The Deputy Speaker: Hon. Baloomoody, in what way is he imputing motives? Please enlighten the Chair!

(Interruptions)

In what way?

Mr Baloomoody: That he is not a competent professional to draft the Trust that he has drafted in the past for the Government of the day.

The Deputy Speaker: This is not imputing motives! Hon. Bhadain, please continue!

Mr Bhadain: Touchy! Very touchy, Mr Deputy Speaker. Anyway! It's not because somebody has actually drafted the law on Trust that basically that person can go and misuse Trust.

So, when the report is made by the MRA to the Agency, the Agency will look at all situations of unexplained wealth and that, of course, will include certain Trusts and also other vehicles which may have been used.

These are actually my observations on those sections of the Bill. And just to say in terms of what hon. Uteem has actually stated in terms of this Government...

(Interruptions)

The Deputy Speaker: Hon. Uteem, please, no comments!

(Interruptions)

Hon. Uteem, I have given you a ruling.

(Interruptions)

Hon. Uteem!

(Interruptions)

Hon. Uteem, don't test me, please! I told you twice now, no comments! Please!

Mr Bhadain: So, in terms of what has been stated that this Government will be judged on its actions and not on what it says, of course, we are going to be judged on our actions, and this is why we are working so hard. And some people who believe that they come and even attempt...

The Deputy Speaker: Hon. Bhadain!

Mr Bhadain: ...to contribute to join us over here, *to pou reste labas mem!*

Thank you, Mr Deputy Speaker, Sir.

The Deputy Speaker: Hon. Dr. Sorefan!

(7.16 p.m.)

Dr. R. Sorefan (Fourth Member for La Caverne & Phoenix): Thank you, Mr Deputy Speaker. I will be very, very brief, and I will just touch on two issues, two sections of the amendment: the Bank of Mauritius Act, section 50A, and the Medical Council Act amended, clause 35.

The Bank of Mauritius Act, section 50A, Power to make rules, reads –

- (1) The Bank may make such rules as it may determine for the purpose of the banking laws.
- (2) Any rules made by the Bank under subsection (1) shall not require the prior approval of the Minister and shall be published in the Gazette.”

I think this is very dangerous because we are giving too much power to the Central Bank, and when they make rules without prior approval of the Minister, they are not answerable. Actually, it should require prior approval, so that whatever they do, all the rules they make with the approval of the Minister, then the Minister becomes answerable to this House; we can ask questions. Are we going in such direction that the banks – we know what they are doing – can come with rules to protect their directors, directors of banks and other banks?

I will give an example. The son of a Permanent Secretary of the PMO, two months ago, got a loan of Rs8 m. from the State Bank without guarantee, without collateral. Can these people make rules to protect people like this? The son of a PS from the PMO. That's what I want to know. Whether...

The Deputy Speaker: Hon. Dr. Sorefan, can you substantiate whatever you are saying?

Dr. Sorefan: Well, I am saying it in this House!

The Deputy Speaker: No! Can you substantiate your allegations?

Dr. Sorefan: I don't have to. I am in this House.

The Deputy Speaker: You have to!

Dr. Sorefan: No!

The Deputy Speaker: Hon. Dr. Sorefan, let me remind you that, according to the Standing Orders, you should not make empty, frivolous allegations. So, you should be able to substantiate these allegations if you are making it!

Dr. Sorefan: Well, when I come to this House, when I say something outside, some Ministers, one Minister especially knows that when I get my information, I come with true information. It's for the hon. Minister of Finance to check with the State Bank whether I am telling the truth or not. Well, on this issue, I leave it to this House to decide, because it is very important that the hon. Minister of Finance have a say in the rules that the Central Bank is making, so that it is answerable. Whatever information we get, we come to the House and ask questions that the Minister of Finance can answer on behalf of the bank.

Now, let me come to the Medical Council Act amended at clause 35. The Medical Council Act will be amended to provide for a prospective doctor to be assessed before his enlistment as a pre-registration intern with a view to ensuring that he/she has the required knowledge. Knowledge is academic, standard skills. The skills in medical terms mean surgical skills, medical skills and competence. The medical students go to an institution wherever in the world, they are trained and they are assessed, they take an examination with internal and external professors in the institution, they get a degree whether it is in Mauritius at SSR Medical College or in any other country. They come with a degree. How can you assess their skills through written papers? Later on I will talk about the national examination. As we do an examination, skills are assessed by the professors on clinical terms at bedside in the clinical theatres. That is where we assess skills.

Here, we have changed the rule. We have got representations in the past, as the Minister has said and we had examinations after they had done their clinical internship. That was good because they had certain experience skill-wise. But, representations always come, Mauritius is Mauritius, people are never satisfied. Then, what did we do? Now, we are talking about doing the examination before taking them as interns and, at the same time, we are talking about judging their skills which will be very difficult. As the Minister has mentioned, here, we say by the competent authorities, but we have only one worldwide and you mentioned India, the National Board of Examiners of India.

Does the hon. Minister know how India came with this National Board of Examiners? Let me inform the House that in India there were so many medical and dental schools growing like mushrooms and the Medical and Dental Councils were suspended by the Ministry of Health because of this. They were just dishing licences and the level of qualified doctors from every corner was there. That is why they came with the centralised examination, but we don't have mushroom schools here. I will explain...

(Interruptions)

I will explain! So, India came with this examination and the Minister, I am sure, knows very well that the Supreme Court took the Medical Council of India to task. There was a big problem there!

What we are saying is that we imported...

(Interruptions)

No, we did not import the mushroom of medical colleges, we imported that issue...

The Deputy Speaker: Address the Chair, please!

Dr. Sorefan: We imported the way they did it in India to Mauritius which is not comparable. The national examination, when we included it here, did not work. So, now we are going to do it before taking them. I know the House will go for this amendment even if I object, but they will go for this amendment. I will ask a question: when those pre-reg, those degree holders take the examination, we have a lot of them waiting, more than a hundred and, say, if all of them get through, can the Ministry of Health and Quality of Life absorb all of them in the hospitals?

(Interruptions)

They pass the examination, it is not a 50% or 60% that you select, but that is where the problem comes. If you pass the examination, you are qualified to be in. It is not on points. In medical terms you don't talk like in the CPE where you get A+ or A- or whatever. In medical terms, you get your degree and that's it.

So, that will create a big problem for you to select them.

The Deputy Speaker: Hon. Dr. Sorefan, address the Chair, why don't you understand that!

Dr. Sorefan: Yes, but there are some...

The Deputy Speaker: No, you address the Chair!

(Interruptions)

Dr. Sorefan: Yes, sorry.

The Deputy Speaker: Don't be disrespectful to me, I am warning you!

Dr. Sorefan: Okay.

The Deputy Speaker: You address the Chair!

(Interruptions)

Dr. Sorefan: Yes, Mr Deputy Speaker, Sir. When we are talking about the Indian examination in Mauritius, we can't come with the way the Indian people do the academic examination. We must adopt what is good for Mauritius, organise something for Mauritius. We can do it. We have competent people and we can do it.

Now, Mr Deputy Speaker, Sir, our Medical Council register lists all medical institutions that it thinks are fit to give the courses and they enlist them. When they come, you are on the list. As probably most of you know, the Medical Council does not know who to select, who to list, still going on, ten in China, one in Pakistan, in England and so on and so forth. They don't know. That is the problem with the Medical Council. They are creating problems. They want to have a list and when they recognise this list - actually it used to go through Parliament that the list has been recognised - that means you accept the syllabus because when I was in the Dental Council before we enlist an institution, we get all the syllabuses and all the technicalities to see whether the institution can give the course properly. They have done the examination over there, they come here and now we are going to reassess.

The hon. Minister said we don't want to create doubts in the person or private institution as if we are doing examination for even those who have taken degrees abroad. I was in England and when I go to England I make sure that I meet some of my professors. I met one of them and do you know what he said? He said: "How come Mauritius creates doubt on the University degrees from England? Dr. Sorefan, you are qualified from London Hospital, University of London, how come if anyone now gets qualified from London or anywhere else, they have to go through an examination that will be set up by a recognised institution?" So far, we know it is India. How come? They can't understand that. That is where the question mark comes.

(Interruptions)

But, we have the means, Mauritius has got the means. We have to stand on our own feet and we can do it, set up our own examination, if need be.

The hon. Minister mentioned that in year 2012, there were four clauses in the Finance Bill regarding the Medical Council. The question was: when the Bill was approved regarding the institution of CPD, three or four years have gone.

(Interruptions)

Whatever!

The Medical and the Dental Councils, Mr Deputy Speaker, Sir, up to now are still inviting through the press service providers. We put laws without realising whether we can implement them. Here in the Medical and Dental Councils, we cannot. I am sure the hon. Minister has got a letter from the Mauritius Dental Council to postpone this idea of points because the Medical and Dental Councils cannot get service providers to give lectures and points so that one can be registered. I am sure the hon. Minister will have to waive this and we will learn it through the Medical and Dental Councils.

Mr Deputy Speaker, Sir, we are bringing this amendment following the grievances of people. When they say this, we do this. We must have a body to sit and think about the Mauritian way, for the Mauritians because we are talking for the Mauritians who come here. We can do it, Mr Deputy Speaker, Sir. I am sure I can give my help to the hon. Minister on this; I have got proposals. On this, I thank you, Mr Deputy Speaker, Sir.

The Deputy Speaker: Hon. Members, Madam Speaker will now resume the Chair!

At this stage Madam Speaker took the Chair

Madam Speaker: Please be seated! Hon. Collendavelloo!

(7.33 p.m.)

The Minister of Energy and Public Utilities (Mr I. Collendavelloo): Madam Speaker, I shall be focusing on two sections, section 6 is at page 14 and section 15 is at page 32, I believe, the amendments to the CEB Act and to the Electricity Act.

Let me start with the CEB Act. I have listened with great care to the points raised by the Opposition. I agree that I understand their apprehensions. These apprehensions stand from the scandalous abuses for corrupt motives of corporate veils by unscrupulous Labour Party officials who abused of the corporate structures of subsidiary companies especially at the level of the State Trading Corporation in those days. This has led even the Labour Party to react in 2009 when the Statutory Bodies (Accounts and Audit) Act was amended to insert a prohibition on public bodies, on statutory bodies to create subsidiary companies because the CEB and the STC, for instance, had created subsidiary companies without any control.

That Act was passed in 2009. But this prohibition is not an absolute prohibition. It is a relative prohibition because Parliament can amend, as we are trying to do now, the parent

Act, the Act creating the statutory body in order to enable statutory bodies such as STC, CEB - the two companies are in issue in this Finance Bill - to create subsidiaries on conditions which are spelt out in the law and during the debates. This is why there has been an amendment and it is wrong to say that this is a *catimini* amendment. When we hear the lot of *catikata* which has been said in the course of the debate, we cannot say it is *catimini*. Precisely, the purpose is to put in front of the House the intention which is avowed here and I shall come to this almost immediately.

I remind the House that in paragraph 127, as the hon. Minister of Finance referred to this morning, it has already been announced that CEB would set up a renewable energy company for production of electricity from solar PV system. This is the policy of the Minister of Finance, of Government. Then in paragraph 146 - I am sorry, I have said 149 this morning, in fact it is 146 - the Minister of Finance has announced that CEB would use the fibre optic cable network to provide high-speed broadband to internet service providers. It is a bit complicated, but never mind this is what is going to be done.

Now, there are, of course, safeguards. First of all, I am announcing the objects for which these companies will be set up. Secondly, there is a safeguard. CEB won't be able to do whatever it wants, it will need the approval of the Minister and that, of course, implicitly means the approval of Cabinet. Therefore, it will not be a free for all that CEB does as it wants. The objects I have said will be restrictive and it is not the intention of Government to allow CEB to divest itself of its statutory duties. We are now dealing with new adventures which CEB cannot, on its own, handle in this competitive world in which we live. Let us see! There are three objects -

- (i) renewable energy;
- (ii) the optical fibre network, and
- (iii) the other operations which I shall call ancillary operations.

First of all, renewable energy, up to now, CEB has been a facilitator. It has set up the structures to enhance renewable energy so as to allow the private sector to come in and produce electricity from renewable energy, but the pace must be quickened and CEB has got the facility of doing this. CEB won't be able to do this within that heavy structure which it has; this is a specialised body and for that purpose a company will be set up, call it CEB Green Energy, for instance. What is going to happen? We have engineers specialised in renewable energy, and I have met a few bright ones I can tell you, when they are recruited at

the CEB, they become general cadre of engineers. So, they do not specialise. They cannot put into practice the specialised skills that they have because they are in the cadre. And what is worse, they start at the bottom of the scale and they cannot get a good salary, and therefore they go to the private sector. We want to encourage these young people to come in. And more than that, we are going to create what we call green jobs. Already, now, we have 30 technicians being trained at Riche Terre because we will need technicians for that purpose. Therefore, CEB will now become a competitor and not a facilitator. It will be an operator, a player in the field. I say this because we are preparing for the coming into operation of the Utility Regulatory Authority. Let me say that the members have been chosen and we are awaiting the procedures.

Therefore, CEB will no longer be a sort of arbitrator. It will no longer be the facilitator. It will compete with everyone. But how can it compete with this heavy structure? This is why a company must be set up for that purpose. Initially, CEB will be the sole shareholder of that company - I will come to the amendments later, listen to me for the moment - but then progressively it will attract fresh capital, SMEs, Cooperatives, Planters' Association, but also if need be, strategic partner. We can think of, for instance, Rose Belle Sugar Estate which has lots of land and we should come in with a capital and get the benefit from this, but it will be for the company to decide.

The second one is the optical fibre network. CEB has a network of 66kV line, 330 Kms. It is being used only for their own internal communications to operate their computers in order to alert them of breakdowns etc. This is called the SCADA. This asset required an initial investment of Rs70 m. Rs70 m. which are sleeping! Now, CEB has said, and we have agreed, that we need to optimise this network so as to provide bandwidth to the existing telecom operators. The first step has already been done. A consultant, a subsidiary of EDF specialised in the use of surplus fibres on electricity network has already carried out a feasibility study. On the basis of that feasibility study, now we enlisted the services of a Project Manager, and this subsidiary company, called it fibre net company for the moment, will build and operate the fibre net infrastructure and will appoint a strategic partner. But for this, we need to have a company. We cannot allow a strategic partner just to enter into CEB as it is now. We need a company where that operation will be carried out. The fibre net project will be executed in 18 months. This is the timeline and wholesale data services are expected to be launched in December 2017. This will attract jobs of high-level IT specialists and lots of young people who are IT diploma. It will not be like the renewable energy. It will

not attract massive employment, but quality employment, quality jobs to operate in this fibre network.

This will help to bring down investment cost in the backhaul network of existing telecom operators and ultimately bring down the cost of our Internet services. CEB will be able to optimise the use of its optical fibre and provide a fallback wholesale network in case of cyclones. It will pave the way for migration of data from 4G to 5G and then the IT/BPO sector will be able to be connected to the international bandwidth services and therefore the purpose is to support all the economic development to improve quality of life through enhanced access to information, distant learning, telecommuting, telemedicine and even entertainment. All this will be done and this is keeping - not only in keeping - in compliance with the instructions which the Rt. hon. Prime Minister declared in Vision 2030. We won't wait for 2030. 2030 will be next year and that is important.

The third level of intervention, this is for ancillary services; corporate, legal, financial services will be required for these two companies in the medium term - not now - we will be able to do this. These are the objects of the company. The next issue is procurement and that is what we find in section 6 (3) of the Bill.

“The Public Procurement Act shall not apply to any procurement exercise effected by a company set up under subsection (2)”.

I take the points that have been raised by the three interveners of the Opposition and I think they are right. The way that it is drafted, it is as if you are making them become like Rey & Lenferna or Henri Le Maire or whatever. This is not the intention. This has never been the intention. The intention is not to allow a free for all that is the companies do what they want as hon. Mohamed - who is now back luckily - stated.

(Interruptions)

Your points are well taken, but let me say that was not the intention. Let us see what is the intention? There are three solutions.

Firstly, these companies renewable energy, the hon. Member said they have to go within the Public Procurement Act like all public bodies. If you decide this, then you kill these companies. You kill the operations immediately. That cannot be the intention because in a competitive world such as renewable energy, fibre net optic, if you are going to go through public procurement, IRP, etc., then it is not in 2017, 2030, you will still be there. Therefore, that cannot be the situation.

The second alternative would have been just to keep quiet. Not to say anything about it and leave it in *catimini*. And this would have been in *catimini* and then just tell the hon. Minister of Finance to put in the Procurement regulations, two lines; CEB Renewable Green Energy Company, CEB Fibre Net Optic Company, CEB Corporate Legal Services Company. Then, that would have been a lack of transparency altogether. I have hidden this from Parliament when I know that this is what I want to do.

So, the third one is what is the real intention, and I am sure there will not be any disagreement. The Public Procurement Act tells us that the Minister of Finance may, by regulations, declare a public body to be an exempt organisation. Already, as hon. Ganoo pointed out, CEB can procure contracts up to Rs100 m without the Central Procurement Board. That's a lot of money. But, it's not a lot of money for CEB because they have huge contracts of billions of rupees. When St. Louis is going to be set up, that goes through the Central Procurement Board because of the value. But there is a second point which is in the procurement regulations.

When CEB purchases goods for resale, for instance, it purchases renewable energy or electricity from Independent Power Producers, it purchases it from Belle Vue, it goes on the network and it sells it back to the public. It is an exempt organisation. CEB is already an exempt organisation for the purchase of goods for resale. Therefore, there is no magic in it.

What is to be allowed is that CEB, these two companies, will, if the Minister of Finance agrees, and it will go through the Minister of Energy, through the Minister of Finance, through Cabinet and then we will decide whether that company will be an exempt organisation and for what purpose: restricted purpose, free-for all. It will depend on what are the companies' requirements. But I agree that the way that that matter had been drafted in the initial proposed Bill, would legitimately give rise to the adverse comments which we heard.

This is why the hon. Minister of Finance has asked me to agree to his proposal for an amendment to section 6, to be very clear that every company set up under subsection 2 shall be deemed to be an exempt organisation within the meaning of the Public Procurement Act. Now, what does it mean? There is a directive of the Procurement Policy Office which applies to all public bodies. It says: "If you are an exempt organisation, you need to have procurement rules confirmed by the PPO. You need to have a Bid Evaluation Committee. You need to have tender procedures streamline, of course, to suit your purpose, but approved by the PPO and, therefore, the Ministry of Finance." Therefore, it will not be the free-for-all.

It will be a procurement exercise. The procurement rules will be published and in case of non-compliance, an aggrieved bidder will go to Court. Three months ago, the whole process of renewable energy was stopped at CEB. Why? Because an aggrieved bidder had gone to the Supreme Court to say: “CEB has breached its own procurement rules.” And the Judge gave an injunction against CEB. We’ve fought the case. We did not agree with the aggrieved bidder. We went before the Judge and the case was dismissed. But it is the rule of law. Everything must be done according to the rule of law. And this is what is going to happen. Let me allay the fears of one and all and let me reassure everyone. Especially with these two amendments, it is not the intention of having a free-for-all, there will be procurement rules, the streamline to meet the requirements of these two companies in accordance with the Procurement Policy Office.

The next point is the Electricity Act. There have not been many comments on this. The purpose is to allow the small scale, the rooftops to be quick to get their solar energy and step up the process, especially with the coming into force, with the incorporation of the Renewable Energy Company.

To reply to hon. Mohamed, he comes up with all sorts of theories, appeals to Ministers. Well, he should know, we have been debating this for I don’t know how many times in this House, he was in Government in 2005 – whatever or he was not in Government – when the Utility Regulatory Authority Bill was passed, for 12/13 years, the Labour Party did nothing about it. Now we are setting up the URA, of course, if a person is dissatisfied with the decision of CEB, where does he go? Well, he goes to the Minister for the moment! But this is a transitional provision with the coming into operation of the URA in the next few weeks or so, that will become redundant. A new Electricity Act will be in force and the appeals will be to the Independent Body of which we are talking, that is, the Utility Regulatory Authority. You could have saved a lot of the time of this House by just checking or asking hon. Osman Mahomed, he would have told you that this is how it is. It is not a difficult matter at all. Therefore, Madam Speaker...

(Interruptions)

Madam Speaker: No interruptions!

Mr Collendavelloo: Therefore, I will not go into the details of this amendment because they have not created any opposition or any dissent on any side of this House.

Therefore, the only issue which we are left with is that issue of procurement. With that new amendment, it has become clear what we want. I, therefore, commend the Bill to the House, at least.

Thank you.

Madam Speaker: It is for the Minister of Finance to commend the Bill to the House.

Hon. Jugnauth!

(7.58 p.m.)

Mr Jugnauth: Madam Speaker, let me, first of all, thank all Members who have intervened on this Bill. I have to be particularly thankful to all my colleague Ministers who have, not only shed light on a number of issues that have been raised, but have also answered, in fact, to a number of queries that have been put forwarded by the Opposition. My task even is easier because hon. Ivan Collendavelloo has even commended the Bill to the House.

Néanmoins, Madame la présidente, laissez-moi réagir par rapport à certains points qui ont été soulevés par l'Opposition. Je ne vais pas répondre dans l'ordre parce que je n'ai pas tout noté.

Let me first react to the process that we have adopted. Hon. Uteem is complaining and hon. Ganoo also. I can't remember if the Members of the Labour Party have complained about the process!

(Interruptions)

You have complained? You always complain!

First of all, Madam Speaker, I thought the MMM claimed to be a well-structured party, to have the best brains and to be always ready. I thought that one week would have been enough for them to peruse through this Bill and to be able to have gone through all the amendments that we are making to this Act. But, I would say, I would be puzzled because - maybe hon. Uteem has not been in this House for long, but hon. Ganoo - unfortunately, he is not here - we have been together in a Government. I see hon. Bérenger who is on the list is not here, but he would have confirmed to you that, in 2001, we had circulated the Finance Bill. You know what, Madam Speaker? As usual, on a Friday, Cabinet sits. It approved the Finance Bill. Members received the Finance Bill normally Friday late night or Saturday morning. So, we had Saturday, Sunday and Monday. We had three days, and the Order Paper for that Finance Bill was First reading, Second reading, Committee Stage and Third reading.

Just in a matter of three days! But, today - I don't know if they listen to what they say - they are complaining that we have given one week, and one week is not enough!

(Interruptions)

But, what I find offensive - I would say that in reply to hon. Uteem - is that hon. Uteem candidly made a remark, *en passant*, to say that some of us were in a hurry to go on vacation - I have noted what he said - and that it is against democracy for what we are doing.

(Interruptions)

Well, first of all, we should already have been on vacation! We are sitting today and we are ready to sit also. We are not scared of facing the Opposition. But we will sit up to when. Of course, we have other businesses to look into, and the Leader of the House, of course, at the appropriate time, will adjourn. But, talking about being anti-democratic! But, may I remind the hon. Member, in 2014, nearly for a whole year, this House did not sit!

(Interruptions)

And he is talking about a process of being anti-democratic! I don't want to go into the details, but just to remind him of what they did and now reproaching us about being anti-democratic!

(Interruptions)

The hon. Members...

(Interruptions)

... were provided with a full detailed annex to the Budget Speech, which outlined all the legislative amendments and the purposes for which they will be made. As I said, secondly, we have circulated the Bill one week in advance, and we have also circulated a full explanatory note to the hon. Members, outlining the reference to the Budget Speech and the Annex. Fourthly, all hon. Members had plenty of time to debate on the philosophy and the measures that have been announced in the Budget Speech during Budget debates.

Since hon. Mohamed is here, I better reply to this one before he leaves. You know, I too listened very carefully to what he has said about Omega Ark. I would say such bad faith or if it is not bad faith, such nonsense then! He can't come to this House and make a show, citing that we are amending the law just to suit the interest of one company! I will refer hon. Mohamed to page 39 of the Annex - I hope he has read! - Healthcare and medical tourism, and I read -

“To give a boost to the healthcare sector along with medical tourism and encourage the export of our healthcare activities, the following measures will be adopted”

I come to (b) -

“(b) VAT will be exempted on the construction of a purpose-built building for a nursing home under the Private Health Institution Act (...)"

And it goes on to talk about residential care, which is of no interest, but he has mentioned Omega Ark.

This section is for building a new hospital, and you get VAT exemption; not for the acquisition of an existing hospital!

(Interruptions)

So, how stupid can one be or how can you be of bad faith to come before this House and to start making allegations that this is...

(Interruptions)

Mr Mohamed: On a point of order! I am sitting very quietly, but I honestly believe that it is very unparliamentary to call anyone stupid and of bad faith. So, I...

(Interruptions)

... will humbly request that the hon. Minister withdraws that, because he was specifically referring to me, and I can assure him that, as I appreciate what he is saying, I humbly request that he please remove those words. Simple!

(Interruptions)

Mr Jugnauth: I have referred to the allegations that have been made by the hon. Member as stupidity, and I maintain that what he said was stupidity!

Madam Speaker: Can I give my ruling? I have taken note of what the hon. Member has said, and the hon. Minister of Finance and Economic Development did not point at you and said, ‘Hon. Mohamed, you are stupid.’

(Interruptions)

In what he just stated, he said how stupid one can be. So, don’t take it as if he is addressing it to you, hon. Member!

(Interruptions)

Mr Mohamed: And what about the bad faith?

Madam Speaker: Same applies!

(Interruptions)

Mr Mohamed: I am not surprised!

Mr Jugnauth: Let me also...

(Interruptions)

... reply to the issue that the hon. Member has raised about granting an additional year to allow companies getting on a spinning mill to carry forward unrelieved tax credit for an additional year. In fact, the reason for this amendment is to clarify the period during which the unused tax credit under the Special Tax Credit Scheme. It is to resolve an issue of interpretation of an income year as opposed to a year of investment. We have already reacted to this issue of the non-citizens.

Let me reply to the issue that was raised with regard to procurement of vessels which will not be subject to Public Procurement Act, because it has been said that there is already a provision in section 19 concerning restricted bidding and why not make use of it. But we can't make use of section 19 because it is applicable only to low value procurement and not for vessels.

With regard to the other issue which was raised concerning statement of assets and liabilities, I am informed that the form and manner of submission will be prescribed prior to finalisation of the particulars which will be included in the statement. In fact, MRA will consult the accounting firms and other stakeholders in order to come with this form. The statement of assets and liabilities will only apply to individuals. In fact, MRA will issue guidelines to this effect and the objective is for MRA to build a database of high network individuals.

With regard to CSR, it has been stated why is it that we have limited the priority areas. In fact, they can be amended. There is a provision and we can add also to the priority areas.

Regarding the Gambling Regulatory Authority Act, it has been said that it is providing for a Lotto Fund and why is it that there is this special fund, but there is nothing new, in fact, in this utilisation of the Lotto Fund. In fact, section 85 of the Act, use of money that is paid into the Consolidated Fund already specifies that the money should be used to

finance the implementation of projects relating to community development, the promotion of education, health, sports and culture. In fact, the proposed allocation of the funds was being published as appendix in the Estimates each year and submitted to the National Assembly. What is being proposed is to have a formal process of selection of projects that may be submitted by NGOs, sport associations and artists.

The Lotto Fund will be a complement to the National CSR Foundation. For transparency and accountability purposes, there is need to set up the Lotto Fund as a special fund under the Finance and Audit Act by way of regulations. I can inform the House that the regulations will provide for the following, that is –

- a Committee for the management of the funds and its composition will also include relevant stakeholders;
- functions and powers of the Committee;
- preparation of financial statements;
- auditing of accounts by the Director of Audit, and
- tabling of audited Financial Statements to the National Assembly.

I can also remind the hon. Member that, I think, for three years, that is, for 2012, 2013 and 2014, if you'll have a look at the appendix in the Budget Estimates, you will see that there is a list of all the items, the allocations and the amount that has been spent under each item and, again, of course, the same procedure will apply. Therefore, Members can rest assured that any question, it will be transparent because it will be open to public scrutiny, any question can be put in the House and, of course, if it falls under my Ministry, I will be answering to questions. Rotation of auditors has been answered by my colleague.

There was an issue raised by hon. Ramano, I think, that a Mauritian acquiring newly built dwelling during the period 01 September 2016 to 30 June 2020 will be exempted from registration duty provided that the value of the building does not exceed Rs6 m. Now, the existing exemption regarding the purchase of a building, which is not newly built by a first-time buyer has been maintained, but the existing threshold is Rs4 m. on the value that will apply because the purpose for this new measure is to give a boost to the construction industry and for there to be an incentive for newly built houses or apartments.

My colleague, the hon. Vice-Prime Minister has very ably replied to the issue of procurement and the CEB. In fact, it is good to note that in the Public Procurement Act of 2006, 'exempt organisation' means a public body which is excluded from the application of

the Act in relation to contracts referred to in the First Schedule and the First Schedule mentions CEB. Of course, it is for the purpose of buying and selling energy. That is the intention of Government.

In fact, I will be also moving for an amendment to delete clause 6 (a) (iii) and replacing it by a company set up under subsection (ii) shall be an exempt organisation within the meaning of the Public Procurement Act. In fact, the amendment has already been circulated.

There was an issue concerning the Bank of Mauritius which was raised by hon. Dr. Sorefan. I think the hon. Member must understand that we are not talking about the laws. We are talking about the operational rules. The Bank of Mauritius acts as a regulator which looks into the way the financial institutions are being run and, therefore, they make the rules. I think it is very proper for the Bank of Mauritius, in its own independence, to come up with whether there are new rules, whether there are amendments to rules, but that these rules should not be subject to the consent or to the approval of the Minister of Finance.

Again, maybe rightly so, it was the Deputy Speaker then who had requested the hon. Member to refrain from making allegations because whatever a private institution, whatever loan has been given, it is not within my purview. I am not able also to look into this matter because it is a private institution. If the hon. Member has, of course, information, we can pass it on to the regulator and the regulator can deal with it. Or if it is a criminal matter, well, then there is an institution. The Police also can deal with it.

With regard to tax holidays, in fact, just to quote what has been said in the budget, will be granted to seafarers, cooperatives engaged in non-sugar agricultural activities, industrial fishing companies and in respect of specified financial services and these will be made by way of regulations and this has also been answered by my colleague.

With regard to CSR, I think, hon. Uteem raised the issue that there will still be some NGOs who will not be eligible, but let me remind the hon. Member that there are going to be very clear guidelines. Amongst those guidelines, I think, it is clear that a lot of the NGOs are already operating in those sectors. But, anyway, the foundation will still be able to provide funding to deserving NGOs. Let me repeat again, *en passant*, I can understand quite well because Members do not have full information about how some companies were spending their CSR money. I have stated to this House that I was myself shocked when I looked at

certain financing that was done with regard to really non-deserving organisations or clubs for the wrong purposes, in fact, and not for those objectives that we have always established.

Well, whenever a Member would intervene with regard to the amendment to an Act which falls under the purview of one Minister, then that Minister is not able to reply. Therefore, we should remove the provisions of that amendment so that we have a full debate. In that case, Madam Speaker, we won't be able to amend any Act because all these amendments will pertain to an Act and, therefore, there will always come a time when the last hon. Member will say: "Well, since I am intervening now, the hon. Minister will not be able to reply". He will have the opportunity to reply. He will have the opportunity to make the point before this House. The very purpose of this Bill is, in fact, for that reason and therefore, I do not find merit in that.

The last issue may be is with regard to what was said about the Metro Express, that there is no transparency only because India is financing, but let me tell the hon. Member that India is giving money free. It is grant money, but it is grant money with a number of conditions and if we want to get the money, we will have to abide by those conditions also. So, I think it is only right that they choose to impose on us a number of conditions that if we agree then we will be able to use that grant money. So, I think that is nearly all the issues that have been raised and again let me thank all the hon. Members both from the Opposition and Government sides who have contributed to this debate.

Thank you.

Question put and agreed to.

Bill read a second time and committed.

COMMITTEE STAGE

(Madam Speaker in the Chair)

THE FINANCE (MISCELLANEOUS PROVISIONS) BILL

(No. XX of 2016)

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

Clause 4 (Building Control Act amended)

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

Mr Jugnauth: I move to amend Clause 4 –

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

- (b) in section 15, in subsection (2)(a), by adding the following new subparagraph, the word “and” being deleted at the end of subparagraph (i) and the word “and” being added at the end of subparagraph (ii) –
 - (iii) forwarded by the architect or engineer, as the case may be, by such electronic or other technological means as the relevant local authority may direct;”

Amendment agreed to.

Clause 4, as amended, ordered to stand part of the Bill.

Clause 5 ordered to stand part of the Bill.

Clause 6 (Central Electricity Board Act amended)

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

Mr Jugnauth: I move to amend Clause 6 -

“by deleting in paragraph (a) the proposed new subsection (3) and replacing it by the following subsection –

- (3) A company set up under subsection (2) shall be an exempt organisation within the meaning of the Public Procurement Act.”

Amendment agreed to.

Clause 6, as amended, ordered to stand part of the Bill.

Clauses 7 to 22 ordered to stand part of the Bill.

Clause 23 (Financial Reporting Act amended)

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

Mr Jugnauth: I move to amend Clause 23 -

“ in paragraph (c), in the proposed new section 41A –

- (i) in subsection (2)(b), by deleting the words “up to such time as its current contract with that company comes to an end” and replacing them by the words “subject to such conditions and for such time as may be prescribed”;
- (ii) by adding the following new subsection –
 - (3) Notwithstanding subsections (1) and (2), an audit firm may be exempted from the application of this section where it meets such conditions as may be prescribed.”

Amendment agreed to.

Clause 23, as amended, ordered to stand part of the Bill.

Clauses 24 to 26 ordered to stand part of the Bill.

Clause 27 (Income Tax Act amended)

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

Mr Jugnauth: I move to amend Clause 27 –

“ in the proposed section 50L, in subsection (2)(b)(ii), by deleting the figure “6”;

Amendment agreed to.

Clause 27, as amended, ordered to stand part of the Bill.

Clauses 28 to 31 ordered to stand part of the Bill.

Clause 32 (Local Government Act amended)

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

Mr Jugnauth: I move to amend Clause 32 –

“in paragraph (i), by deleting subparagraph (i), subparagraphs (ii) to (v) being renumbered as subparagraphs (i) to (iv);”

Amendment agreed to.

Clause 32, as amended, ordered to stand part of the Bill

Clause 33 ordered to stand part of the Bill.

Clause 34 (Mauritius Revenue Authority Act amended)

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

Mr Jugnauth: I move for the following amendments in Clause 34 –

“in paragraph (d), in the proposed new section 21C –

- (i) in subsection (7), by deleting the words “subsection (7)” and replacing them by the words “subsection (6);”
- (ii) in subsection (10), in paragraph (a)(ii), by inserting, after the word “proceed”, the words “, within 28 days from the date of the decision referred to in subsection (6),”;

Amendments agreed to.

Clause 34, as amended, ordered to stand part of the Bill

Clauses 35 to 38 ordered to stand part of the Bill.

Clause 39 (Non-Citizens (Property Restriction) Act amended)

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

Mr Jugnauth: I move to amend Clause 39 –

- (i) by deleting paragraph (a);
- (ii) in paragraph (b), in subparagraph (ii), by deleting the proposed new paragraph (d) and replacing it by the following paragraph –
 - (d) where a company, in which non-citizens do not hold more than an aggregate of 25 per cent of the shareholding of the company, purchases or otherwise acquires, sells, disposes or otherwise transfers property or deals in shares provided that such transaction does not result in such shareholding exceeding, directly or indirectly, 25 per cent.

Mr Mohamed: Before the question is put with regard to Clause 39, I see here that there is an amendment that has been circulated following comments that we had made with regard to that particular section of the law. I had drawn the attention of the House that the 25 per cent meant as it stands, even with this particular amendment, a non-citizen can now be

owner of even agricultural land and there is no limitation to it. If it is 25 per cent owner of the company, that company can now own agricultural land or land which is leasehold, any right therein, anywhere in Mauritius without the permission of the Prime Minister's Office. So, I re-iterate my request to the hon. Minister that this removal of all checks and balances to protect our real estate for posterity that it be re-considered and that, at least, some checks and balances be put therein in terms of an amendment. At least we do not give the possibility to agricultural land and our leasehold lands to go out to foreigners, all be it even if they hold 25 per cent maximum in a company and that, at least, the Prime Minister's Office and the Rt. hon. Prime Minister's advice be given to that. So, I would, therefore, request that this particular Clause, if the hon. Minister is not ready with it, be removed altogether and it be repealed because this is very dangerous. I humbly request that this be done in order to protect our real estate. I understand that there has been a move on Government following my remarks earlier on. Because I have the impression that the remark I made has drawn the attention of the Rt. hon. Prime Minister on the dangers therein, but unfortunately the amendments that have been proposed do not in any way sort it out and if this amendment goes through, I humbly say, it would mean that a company with a maximum 25 per cent owned by a non-citizen can own any real estate in Mauritius without knocking at the door or even bothering about the Rt. hon. Prime Minister's discretionary opinion on that. Please, if the hon. Minister could just stop on this and re-consider it at another time.

Thank you.

Mr Jugnauth: May I just be given some time, Madam Speaker, to consult.

(Interruptions)

The Chairperson: No! We can't! We can't do that! It's not according to principles.

(Interruptions)

Mr Jugnauth: I move that clause 39 be deleted.

Amendment agreed to.

Clauses 40-60 ordered to stand part of the Bill.

Clause 61 (Commencement).

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

Mr Jugnauth: Madam Chairperson, I move for the following amendments in clause 61 –

- “(i) in subclause (1), by deleting the words “and (o), 36” and replacing them by the words “and (o), 29(e), 36, 49”;
- “(ii) in subclause (4), by deleting the words “, 49”;

Amendments agreed to.

Clause 61, as amended, ordered to stand part of the Bill.

First Schedule, Second Schedule, Third Schedule, Fourth Schedule and Fifth Schedule ordered to stand part of the Bill.

SIXTH SCHEDULE

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

Mr Jugnauth: Madam Chairperson, I move that the Sixth Schedule be amended as follows –

- “(i) in the proposed Sixth Schedule, in Part A, in the heading, by deleting the word “SIX”.”

Amendment agreed to.

The Sixth Schedule, as amended, ordered to stand part of the Bill.

The title and enacting clause were agreed to.

The Bill, as amended, was agreed to.

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

Third Reading

On motion made and seconded, the Finance (Miscellaneous Provisions) Bill (No. XX of 2016) was read the third time and passed.

ADJOURNMENT

The Prime Minister: Madam Speaker, I beg to move that this Assembly do now adjourn to Thursday 01 September 2016 at 2.00 p.m.

The Vice-Prime Minister, Minister of Housing and Lands (Mr S. Soodhun) rose and seconded.

Madam Speaker: The House stands adjourned.

MATTERS RAISED

(8.36 p.m.)

CONSTITUENCY NOS. 1 - 4 - STREET HAWKERS

Mr O. Mahomed (Third Member for Port Louis South & Port Louis Central):

Madam Speaker, my Constituency, Constituency No. 2 is one where there live many street hawkers, *merchants ambulants*. Not only in my Constituency, but as well in Constituency Nos. 1, 3 and 4.

Now, as you are aware a few months ago, they have been compelled to stop their vending activities along the streets where they have been for decades and have since been relocated on two sides, namely Decaen and La Gare du Nord. Many of them have contacted me and have shared their following qualms to me –

- (1) People who do not live in Port Louis are operating at these two sites;
- (2) Because of this genuine hawkers from Port Louis, some of them have had the misfortune of being located deep inside these two sites, Decaen on the other side, and the consequence of this is that they can hardly sell their stuffs. So, they no longer have a source of income and they are thus facing real hardship;
- (3) Some genuine street hawkers, even those with hawker's licence have not been able to secure a place at these two sites;
- (4) Some fruit sellers who have been relocated at La Gare du Nord are selling foodstuffs in very smelly environment because of effluents flowing there, I am told and to think that only recently Port Louis was elected one of the best destination for street food.

Madam Speaker, in recent weeks, many of them have tried their hard luck to earn a living by resorting to what we call '*vend dan lamain*'. But I am told that they have had to constantly bolt away, if I may use this term, if not, they get insulted, and more importantly, have their stuffs confiscated by a team of Police Officers based at Port Louis South Division called 'Tornado'.

(Interruptions

I am going to table it.

I am here tabling a press article of Sunday 17th on this Tornado.

Now, this situation has been going on since then. Now, some street vendors have even narrated that they were beaten up and that they have reported the case to the Human Rights Commission.

I am going to table such a letter just now.

Now, while the street vendors are no longer able to sell their stuffs, ironically some shop owners along the streets of the capital, along Farquhar Street, for example, I am told, have replaced them and that they are selling their stuffs where the *marchands ambulants* used to be. The only difference now is that they are licensed to do it. This is a most disturbing situation, Madam Speaker.

I know that it has been explained in this august Assembly that the permanent solution to the street hawker problem resides in the Port Louis Smart City Project, but this is a long road ahead.

My plea this evening to the hon. Minister of Local Government is to look into this awkward situation, that is, people being arrested and mishandled and having to incur severe losses because they are having to look for their daily subsistence. I am most willing to share with the hon. Minister the name of the people who came to see me. And my second plea to him is that he meets them in order to address this issue because, if not, it will culminate further into a *drame humain* and I thank him for his positive consideration.

The Minister of Local Government (Dr. A. Husnoo): Madam Speaker, I have taken note of all these complaints. I can assure the hon. Member, firstly, as he is going to circulate it, I am going to get the names and everything afterwards.

Firstly, now the hon. Member is telling me that there are people from outside Port Louis. But there were lots of people who are hawkers, who were staying in Port Louis, but now they have moved out. So, they are outside Port Louis, but they were registered hawkers. That's why they have been given a stall. That's number one.

Secondly, the hon. Member is saying that genuine hawkers have not got a stall. I would like to get the names because all people who are genuine hawkers and who have badges and whom we know that they are working, we try to give them a stall to work. So, if the hon. Member has any name, please give it to me and I will look into it.

As far as cleaning is concerned, the last time the hon. Member mentioned it, I discussed it with the Lord Mayor of the Municipality of Port Louis. They are paying contractors to clean these two places, but if there is any deficiency, I will look into it as well. I have raised that point with the Lord Mayor last time and he told me there are contractors cleaning these two sites. But, anyway, I am going to take it up with him.

As far as people having their goods confiscated, that is why we came with these measures, in the first place, because we can't allow hawkers to be on the roads. I mean, I know the Police is trying to be hard, but we talked to the hawkers trying to get them to understand that they have to move to these places temporarily. I am afraid one or two people, unfortunately, keep working on the road and naturally, the Police takes some action. It is tough, but they have to take action because if we allow two, five or ten people today, tomorrow we are going to get 50 people on the road. We can't continue like that.

As far as shop owners are concerned, even then we don't allow it and I have had meeting with the Lord Mayor and the Police to make sure that the shop owners do not put their stuff on the pavement. So, we have had meeting for that as well. Thank you.

Madam Speaker: Hon. Uteem!

(8.42 p.m.)

PORT LOUIS - ÉCOLES DE FOOT – RE-OPENING

Mr R. Uteem (First Member for Port Louis South & Port Louis Central): Thank you, Madam Speaker. I would like to raise an issue relating to *écoles de foot*. The House will remember that on 17 May 2016 I asked a Parliamentary Question and the hon. Minister of Youth and Sports stated and I quote –

“We have taken the decision that, as from 01 July 2016, all the *Écoles de Foot* all over the island will be re-opened as per the numbers and even increased accordingly.”

In fact, answering to supplementary questions, three times he said that *all écoles de foot* will be re-opened as from 01 July 2016. In Port Louis we have ten *écoles de foot* and up to now only six have been re-opened, the four that have not been re-opened are the ones in Tranquebar, Champ de Mars, Cassis, Abercrombie and Plaine Verte.

So, I will make a humble request to the hon. Minister of Youth and Sports if he can keep his words and have these remaining four *écoles de foot* reopened as soon as possible.

The Minister of Youth and Sports (Mr Y. Sawmynaden): Madam Speaker, I think six, we are getting there and I think now with the Budget definitely we are going to open all the *écoles de foot*. Once we have enough kids and the trainers are on, definitely we will open all the *écoles de foot*.

Madam Speaker: Hon. Baloomoody!

(8.44 p.m.)

HUMAN RIGHTS COMMISSION - COMPLAINTS

Mr V. Baloomoody (Third Member for GRNW & Port Louis West): Thank you, Madam Speaker. I tend to raise an issue of national importance with regard to the Human Rights Commission. As you are aware, Madam Speaker, in 2012 we amended the Protection of Human Rights Act and created Divisions and one of the divisions was the National Preventive Mechanism Division which is chaired by a Deputy Chairperson.

One of the functions of that Division is to enquire into any written complaint from any person alleging that any act of his human rights has been, is being or is likely to be violated by the act of omission of any person acting in the performance of the public function confirmed by any law or otherwise in the performance of the function of any public officer or any public body. So, they are here to enquire into written complaints.

Now, it has come to my attention that the Human Rights Commission in breach of its statutory duty has written to the Prison Services and has informed the Prison that as from now on no written complaints from prisoners should be sent to the Human Rights Commission and this is creating real tension in the Prison amongst the prisoners and the Prison officers.

So, I am asking the Rt. hon. Prime Minister as this is a serious matter which can create great problems in the prisons, that he intervenes urgently vis-a-vis the Human Rights Commission and see why we have reached such a situation. Thank you.

The Prime Minister: I will look into it, Madam Speaker.

SCHOOLS - SOLAR ECLIPSE - SAFETY MEASURES

Mr D. Ramful (Third Member for Mahebourg & Plaine Magnien): Yes, thank you, Madam Speaker. I have an issue addressed to the hon. Minister of Education and Human Resources, Tertiary Education and Scientific Research concerning the viewing of the solar eclipse tomorrow by the students attending school. Now, we all agree that this is a very

important and good pedagogical experience for the students because they will be able to physically witness this rare phenomenon tomorrow.

However, when I look at the papers I have heard this morning the President of the GTU as well as some parents, they are expressing concerns about the safety measures that have been taken by the Ministry at the level of the schools. It has been said that apparently not all schools have received the protective equipment and that apparently there is not sufficient staff to ensure the safety of the students tomorrow.

Now, in the light of all these concerns I heard nothing from the Ministry of Education and Human Resources, Tertiary Education and Scientific Research. May I request the hon. Minister at least to take the opportunity today - I know it is very late – to make a statement assuring the parents because a lot of parents will not be sending their children to school tomorrow fearing a problem. So, may I request the hon. Minister to make a statement.

The Minister of Education and Human Resources, Tertiary Education and Scientific Research (Mrs L. D. Dookun-Luchoomun): Madam Speaker, it is important for me to inform the House that the Rajiv Gandhi Science Centre has, weeks back, carried out two workshops with teachers of both the primary and secondary sector. The schools have been provided with protective spectacles for students. Obviously, the spectacles were on sale.

Now, all schools have been provided with these and we have requested Headmasters and Rectors to make sure that students are retained in class, but to provide them with the opportunity of viewing the eclipse using the spectacles. We have taken these measures at the level of the schools, but we do understand that certain parents may still have apprehensions and they can, obviously, take the decision whether to send their children to school or not. But the schools have been provided with the spectacles and we are not saying that we have spectacles for each and every child, but the teachers must take measures to ensure that when the children view the eclipse, they have to use the spectacles.

Now, obviously, over and above instructions have been given, circular letters were sent to all schools. We have taken the measures that need to be taken. Parents should inform their children. The media has done a good job to a certain extent to explain what are the protective measures to be taken. But then, I must say that the newspapers tend to talk about a lot of things that are totally untrue and we have to be able to make a distinction between what is right and what is wrong. But nevertheless, I will still ensure that all the Headmasters take necessary measures and I would make an appeal to parents also to take the responsibility.

Thank you, Madam Speaker.

At 8.51 p.m., the Assembly was, on its rising, adjourned to Thursday 01 September 2016 at 2.00 p.m.