

WRITTEN ANSWERS TO QUESTIONS

PRESIDENTIAL COMMISSION - COURT OF APPEALS

(No. B/534) Mrs A. Navarre-Marie (First Member for GRNW and Port Louis West) asked the Prime Minister, Minister of Defence and Home Affairs whether, in regard to the recommendation contained in the Report of the Presidential Commission chaired by Lord Mackay for the creation of a Court of Appeal Section at the Supreme Court, he will state the reasons as to why it has not yet been implemented.

Reply (Attorney General): The objective of the Presidential Commission (chaired by Lord Mackay of Clashfern) was, as Members of the Assembly would recall, to examine and report upon the structure and operation of the judicial system and legal professions of Mauritius, with a view to improving the administration of justice in Mauritius.

The Presidential Commission thus recommended not only the division of the Supreme Court into 2 sections, i.e a Court of Appeal Section (the jurisdiction to which appeals from every level of court in Mauritius, i.e the High Court Section of the Supreme Court, the Intermediate Court and the District Court should be taken) and a High Court Section (which should retain all the present first instance jurisdiction of the Supreme Court, including the supervisory jurisdiction analogous to that available under the prerogative by way of judicial review), but also the following, amongst other things –

- the new High Court should (for expediting its business) be constituted in a number of divisions, like the Commercial Division, the Civil Division, the Criminal Division, the Family Division;
- any party aggrieved with any final decision of the Court of Appeal Section of the Supreme Court should be entitled as of right to appeal to the Judicial Committee;
- those who support the Director of Public Prosecutions (DPP) in the State Law Office should constitute a separate department, reporting to and managed by the DPP, and with no responsibilities except those relating to prosecution;
- changes in the constitution of the Judicial and Legal Service Commission (JLSC).

As regards the creation of a Court of Appeal Section and a High Court Section of the Supreme Court, it must be noted that this entails a number of amendments to various pieces of legislation. My Office has accordingly been working on a series of Bills and is in the process of finalizing those draft Bills, which will give effect not only to the creation of the Court of Appeal and the High Court, but also to a number of other reforms recommended by Lord Mackay. The Bills in question are as follows –

- (A) the Constitution (Amendment) Bill) - which amends various provisions of the Constitution so as to provide for the recommendations made by Lord Mackay, to which I referred earlier;
- (B) the Judicial and Legal Provisions Bill – which amends a number of enactments to give effect to the proposed changes in the Constitution, is consequently being prepared not only to provide for the division of the Supreme Court into a Court of Appeal and a High Court, but also to implement certain other recommendations of the Presidential Commission relating to proceedings before the Master’s Court, divorce proceedings, service by registered post in civil proceedings, the composition and powers of the Rules Committee, and the issuing of warrants of arrest against witnesses who fail to attend Court. Some of the various enactments which are thus being amended by the Judicial and Legal Provisions Bill (JLPB) in order to cater for the above matters include the following –

Bankruptcy Act

Code Civil Mauricien

Courts Act

District and Intermediate Courts (Civil Jurisdiction) Act

District and Intermediate Courts (Criminal Jurisdiction) Act

Divorce and Judicial Separation Act

Interpretation and General Clauses Act

Law Practitioners Act

Registration Duty Act

Sale of Immovable Property Act.

The repeal of a number of enactments is also being provided for in this Bill. Moreover, consequential amendments will have to be made to not less than 80 enactments.

As already pointed out, the reforms we are envisaging do not limit themselves to the creation of a Court of Appeal. Those reforms are definitely wider and concern various aspects of our judicial system and administration of justice in Mauritius. Indeed, it is also to be pointed out Mr Speaker Sir, that the Government will also be coming up with the following pieces of legislation –

- the Courts (Amendment) Bill – which amends the Courts Act in so far as qualifications to serve as a juror are concerned and which provides for an extension of the category of persons who cannot be summoned as a witness before any court in any matter unless a Judge in Chambers grants leave to do so upon being satisfied that any such person has material or relevant evidence to give in the matter.

- the Court Ushers (Amendment) Bill – the object of which is to liberalise the profession of usher by enabling suitable persons who are

not public officers to perform the functions of a Court usher and be known as registered ushers.

- the Institute of Judicial Studies Bill – the object of which is to provide for the establishment of the Institute of Judicial Studies for the purpose of promoting proficiency and ensuring the maintenance of standards in the judiciary with a view to enhancing the justice system in line with what obtains in advanced jurisdictions.

It may also be noted that the Law Practitioners Act, under which the Council of Legal Education (CLE) is established, is also being **reviewed** in so far as the functioning of the CLE and courses conducted by the latter are concerned. Moreover, our law relating to divorce is also being **reviewed** in order to provide for divorce by mutual consent.

Once the different Bills are finalised, Mr Speaker Sir, Government intends to circulate them so that the views and comments of all relevant stakeholders may be obtained, in view of the numerous implications of these Bills. Indeed, the financial implications for instance (in terms of infrastructural facilities and staff etc.) will also need to be given due consideration, especially in view of the difficult economic situation which not only Mauritius, but the whole world is presently facing.

Members of the Assembly will also note that at the level of the Supreme Court, a number of reforms have already taken place, administratively. Indeed, there is presently a Family Division and a Commercial Division of the Supreme

Court which respectively deal with family matters and commercial matters. The number of Judges of the Supreme Court has also been increased from 13 to 20. Furthermore, the Courts Act was also amended in 2007 to enable the Supreme Court to hold sittings, throughout the year, for the despatch of criminal business, as it is the case for other business. This has, in fact, resulted in a drastic reduction in the number of criminal cases pending trial before the Supreme Court.

As regards other recommendations made by Lord Mackay, which have already been implemented, they are as follows –

- Small claims (1999)
- Procedure to swear affidavits (no longer before Master and Registrar or Deputy-Master and Registrar)
- Wasted Costs Order (1999)
- Administration of Courts and Tribunals –
 - Director of Court Services
 - Digital Recording of Proceedings in Supreme Court
 - Prosecuting Counsel (reactivated)
 - Bail and Remand Court (1999)
 - Community Service Order (2002)
 - Facilities to record confessions on audio tape or by video (1999)
 - Setting up of the Mauritius Law Society (2005).

NOUVELLE DECOUVERTE – DRAINS

(No. B/565) Mr S. Lauthan (Third Member for Port Louis Maritime and Port Louis East) asked the Minister of Local Government, Rodrigues and

Outer Islands whether he is aware of the problems faced by the inhabitants of Roussette Road, Nouvelle Découverte, during heavy rainfall and, if so, will he, for the benefit of the House, obtain from the Moka/Flacq District Council, information as to if consideration will be given for the urgent construction of drains thereat.

Reply: I am informed by the Moka/Flacq District Council that in view of the fact that Roussette Road at Nouvelle Decouverte slopes away from the main road, surface run-off water coming from the main road and both sides of the road accumulates therein.

I am further informed that it will not be possible to construct an open drain along Roussette road due to the fact that it is a “No-through” road and is surrounded by privately owned properties. However, the Council has indicated that it will consider the construction of an absorption drain on that road in the next financial year, in order to remedy the problem of flooding in that region.

ALBION - FOOTBALL GROUND - UPGRADING

(No. B/571) Mr M. Allet (Second Member for Beau Bassin and Petite Rivière) asked the Vice-Prime Minister, Minister of Tourism, Leisure and External Communications whether he will state if the National Development Unit has handed over to the Tourism Fund the design and scope of work for the construction of the change room and exterior toilet block of the Albion Football ground and installation of flood lights and, if so, when, indicating when works are likely to start.

Reply: I wish to refer the Hon. Member to the reply I made to Parliamentary Question B/283 at the sitting of the House on 15 April 2008 in which I stated that the Community Development projects at Albion would be implemented in phases.

Accordingly, following consultations held with the representatives of Albion Village Council, it was agreed that my Ministry would implement the “Upgrading of the Albion Beach” project on a priority basis. As the Honourable Member is aware, the project is already being implemented and is expected to be completed in July 2009.

I am further informed that the “Upgrading of the Football Ground” is one of the projects that was identified to be implemented in the region of Albion. Mega Design Ltd was accordingly requested to submit a cost estimate in respect of that project. The Consultant submitted a concept plan together with a cost estimate of Rs 5.5 M in August 2008. My Ministry subsequently requested him to proceed with the preparation of the necessary designs and drawings on the basis on that cost estimate.

However in March 2009 when the Consultant submitted the designs and drawings, he estimated the final project to cost Rs17, 535,430. This amount appears to be on the high side having regard to the numerous other priority projects

which the *forces vives* have proposed to be implemented in the region and to the limited amount of funds presently available at the Tourism Fund.

My Ministry considers that it might not be worthwhile to invest such a large amount in only one project and is accordingly having consultations with the *forces vives* to decide on the components of the project that should be undertaken on a priority basis.

I wish to add that the Tourism Fund has financed the construction of a Fish landing Station at Albion. The project has already been completed in August 2008.

MINISTRY OF ENVIRONMENT & NDU - HEALTH TRACKS

(No. B/572) Mr R. Bhagwan (First Member for Beau Bassin and Petite Rivière) asked the Minister of Environment and National Development Unit whether, in regard to the Health Tracks constructed by his Ministry since 2000 to 2005, he will state –

- (a) their locations;
- (b) the cost thereof in each case, and
- (c) if he has received complaints for the upgrading thereof, indicating the actions taken.

Reply: The information sought is being tabled.

DR. HASSEN SAKIR STREET, PORT LOUIS – ROAD HUMPS

(No. B/573) Mr S. Lauthan (Third Member for Port Louis Maritime & Port Louis East) asked the Minister of Public Infrastructure, Land Transport & Shipping whether, in regard to the setting up of road humps along the Dr. Hassen Sakir Street, Port Louis, between its junction with the Diego Garcia and the Paul & Virginie Streets, he will state where matters stand.

Reply: The Traffic Management and Road Safety Unit of my Ministry has carried out the necessary surveys for the placing of the new Traffic Calming Device along Dr. Hassen Sakir Street, Port Louis between its junction with Diego Garcia and Paul & Virginie Streets. The humps based on the normal mode rail and pedestrian mode rail, as appropriate, will be placed soon.

ST JULIEN D'HOTMAN – FOOTPATHS & HANDRAILS

(No. B/574) Mr S. Dayal (Second Member for Quartier Militaire & Moka) asked the Minister of Public Infrastructure, Land Transport & Shipping whether he will state if he will consider the advisability of constructing footpaths and putting up handrails, along the main road of St Julien d'Hotman, from upper Kalimaye to the Restaurant Sanju and on the right hand side, from the Rama Krishna Mission to the Inattendu factory.

Reply: The Road Development Authority will consider the construction of footpaths and the installation of handrails, wherever necessary at St. Julien d'Hotman to ensure safety of pedestrians.

PROVIDENCE, QUARTIER MILITAIRE – FOOTPATHS

(No. B/575) Mr S. Dayal (Second Member for Quartier Militaire and Moka) asked the Minister of Public Infrastructure, Land Transport and Shipping whether he will state if he will consider the advisability of constructing footpaths at Providence, Quartier Militaire, from the football playground up to Bombay Road.

Mr Bachoo: Sir, I am informed that the Road Development Authority is looking into the proposal to construct footpaths at Providence, Quartier Militaire.

MOUNT ORY – CREMATION GROUND

(No. B/576) Mr S. Dayal (Second Member for Quartier Militaire and Moka) asked the Minister of Housing and Lands whether, in regard to the acquisition of land at Mount Ory for a cremation ground, he will state where matters stand.

Dr. Kasenally: Sir, I would like to refer the hon. Member to the reply I made on 25 November 2008 to PQ B/1335 where I indicated that a site was being identified in the region of Le Bocage, Moka for the construction of a cremation ground. However, the site is located within view of human habitation and is, thus, not appropriate for a cremation ground. In the circumstances, an alternative suitable site is being identified in consultation with the relevant authorities and the stakeholders, prior to the acquisition of the land for the cremation ground.

PROVIDENCE, QUARTIER MILITAIRE – LEVELING OF ROAD

(No. B/577) Mr S. Dayal (Second Member for Quartier Militaire and Moka) asked the Minister of Public Infrastructure, Land Transport and Shipping whether, in regard to the leveling of the road at Providence, Quartier Militaire, near Bombay Road, he will state where matters stand.

Reply: The leveling of the road at Providence, Quartier Militaire is scheduled to start in August this year.