

**WEDNESDAY, 8<sup>TH</sup> JULY, 2015**

The Parliament resumed at 9.35 a.m. pursuant to adjournment.

MADAM SPEAKER took the Chair and read the Prayer.

**PRESENT**

All the honourable Members were present, except the Honourable Minister for Youth and Sports; the Honourable Assistant Minister for Youth and Sports, the Honourable Ruveni N. Nadalo, the Honourable Ratu K. Kiliraki and the Honourable Mikaele R. Leawere.

**MINUTES**

HON. LEADER OF GOVERNMENT IN PARLIAMENT.- Madam Speaker, I beg to move:

That the Minutes of the sitting of Parliament held on Tuesday, 7<sup>th</sup> July, 2015 as previously circulated to be taken as read and be confirmed.

HON. CDR S.T. KOROILAVESAU.- Madam Speaker, I beg to second the motion.

Question put.

Motion agreed to.

**POINT OF ORDER**

HON. A.T. VADEI.- Madam Speaker, Point of Order.

MADAM SPEAKER.- Point of Order!

HON. A.T. VADEI.- In relation to the response made by the Minister for Local Government, Housing and Environment, Infrastructure and Transport to Question No. 148 of 2015 in yesterday's *Order Paper* regarding the victims from Natokalau in Ovalau, I have received calls from the family ...

HON. GOVT. MEMBERS.- What is your point of order?

HON. A.T. VADEI.- Standing Order 81.

... that they have not received the \$20,000 as mentioned by the honourable Minister.

HON. OPP. MEMBERS.- Oh!

HON. A.T. VADEI.- Thank you, Madam Speaker.

MADAM SPEAKER.- Thank you, we will take the point of order. We have noted that and we will have a response later.

HON. N. NAWAIKULA.- Could I make a point of order?

MADAM SPEAKER.- Point of Order!



HON. N. NAWAIKULA.- The point of order is in relation to the need to amend this. If I could just explain, the answer given yesterday was that the Government paid this money. Then when asked later, the honourable Minister said, “No, it was the insurance”, but we read in the *dailies* saying that “the Government paid on behalf of the insurance.” That never happened and we need clarification. If that is not corrected, it may amount to a misrepresentation, and I am just trying to help you.

MADAM SPEAKER.- Thank you.

HON. P.B. KUMAR.- I do not need your help.

MADAM SPEAKER.- Thank you for your point of order. It is related to the first point of order and the honourable Minister will provide his....

HON. N. NAWAIKULA.- If he can correct it now, because if not, he can be subjected to breach of privilege if he were to leave it.

(Chorus of interjections from Government Members)

Well, I am trying to help you.

MADAM SPEAKER.- The two point of orders are related, and I thank you also for that clarification. It will help the honourable Minister to provide his reply.

HON. N. NAWAIKULA.- Because it might amount to misleading and it will affect the integrity of this House.

MADAM SPEAKER.- Thank you. The honourable Minister is requested to provide a response to that at a later time.

HON. N. NAWAIKULA.- Or personal explanation!

## COMMUNICATION FROM THE CHAIR

### Acknowledgment of Visitors

MADAM SPEAKER.- I welcome honourable Members to another sitting day of Parliament.

I especially welcome a group of students and teachers from Queen Victoria School, who like our student visitors yesterday, also visited the Parliament Discovery Centre earlier this morning and are now observing today's sitting from the gallery.

It is important for students and indeed for all citizens, to understand the importance of Parliament as an institution. Some of you observing today may very well have the aspirations to run for higher office, and this is to be encouraged. On that note, I wish you all the best in your studies.

I warmly welcome all of you joining us in the public gallery and those watching proceedings on television and the internet and listening to the radio. Thank you for taking interest in your Parliament.



Membership – Standing Committee on Foreign Affairs and Defence

Honourable Members, I also want to announce the appointment of the honourable Alexander O'Connor to the Standing Committee on Foreign Affairs and Defence. I congratulate the honourable Member on the appointment, having to replace Dr. Neil Sharma. I know that with your background, you will certainly make valuable contributions to the Committee's important work.

Responses to Written Questions 74/2015 and 75/2015

I also wish to inform honourable Members that the answers to Written Questions 74/2015 and 75/2015 were submitted, and have been forwarded to the honourable Members who tabled those questions.

Ruling - Point of Order Raised in the May Sitting

I now wish to inform honourable Members that I have a ruling to give this morning on a matter, also raised in the House in the May sitting.

In the sitting of Parliament on Thursday, 21<sup>st</sup> May, 2015, the honourable Semesa Karavaki raised a point of order, alleging that the honourable and learned Attorney-General had deliberately misled the House, when answering questions on 13<sup>th</sup> May, 2015.

I invited the honourable Member to present the evidence to me and I undertook to make my ruling at a later date. The honourable Member has not presented to me evidence in support of his claim.

An allegation of deliberately misleading the House is very serious and maybe viewed as a "Contempt of Parliament." I have previously made reference to the three elements which must be established that a Member deliberately misled the House, the:

- (i) statement must, in fact, have been misleading;
- (ii) Member must have known at the time it was made that the statement was incorrect; and
- (iii) in making the statement, the Member must have intended to mislead the House.

The honourable Member has raised two scenarios which he said, justified his claims that the Attorney-General had deliberately misled the House because FICAC is, in fact, reporting to the honourable and learned Attorney-General and therefore, subject to his direction.

The first scenario referred to an answer by the Attorney-General to a question which asked, and I quote:

"In the absence of a Commissioner, who does the Deputy Commissioner report to, and which Ministry does FICAC come under?"

In his answer, Attorney-General referred the honourable Member to the Promulgation and also the Constitution, saying that the Deputy Commissioner reports to His Excellency, the President. The honourable Member then referred to a meeting which took place in the office of the Attorney-General on 3<sup>rd</sup> September, 2007, which he said clearly showed that the Commission was under the direction of the honourable and learned Attorney-General.

The meeting comprised various parties involved in the criminal justice system and recorded discussions on a number of matters before FICAC. However, there is nothing in the Minutes to support the honourable Member's view that FIFAC was reporting to the honourable and learned Attorney-General, or was in some ways, subject to his direction.

I have considered the evidence submitted in this scenario, and I have come to a conclusion that the tests for establishing with a Member has deliberately misled the House, have not been met. In looking at the Attorney-General's statement in the House, it seems to me that he simply stated the law. Therefore, in this instance, there has not been a *prima facie* breach.

The second scenario relates to answers given by the Attorney-General in relation to the capacity of the Attorney-General to direct the Fiji Independent Commission Against Corruption (FICAC). In his answer, the Attorney-General said, and I quote part of it; "we do not tell them who to prosecute". The Attorney-General also said; "we do not give them any advice on what is the law, what is the assessment and what is the evidence, absolutely zero. If they read the FICAC Annual Report, they would also find that out. If they read the law, the Constitution, they would also find that out".

The honourable Member has provided a number of documents which he said, also supported his claim that the Attorney-General had deliberately misled Parliament in this regard. The first of this document is a letter dated 1<sup>st</sup> August, 2007 from the Attorney-General to the Deputy Commissioner of FICAC and the Commissioner of Police. The letter referred to the withdrawal of charges against two individuals, and the process to be followed in re-charging the persons involved and expediting the trial process.

I have closely examined the letter and although it refers to matters before FICAC, there is no specific evidence that the Attorney-General needed any direction in this matter which would support the claim that he had deliberately misled the House.

The honourable Member also presented evidence by way of some emails which may seemed to suggest that the Attorney-General was aware of the withdrawal of charges of a particular matter before FICAC. However, those emails which were from persons other than the Attorney-General, in my opinion again, do not prove that the Attorney-General gave any direction to FICAC. Therefore, again, I do not believe that the tests for deliberately misleading the House has been met.

In conclusion, I do not believe that the case has been substantiated, that the Attorney-General deliberately misled the House, having regard to the three elements which I had set out which are the benchmarks for determining matters of this nature.

I, therefore, rule that I will not be referring the matter to the Privileges Committee. Thank you.

## **PRESENTATION OF PETITION**

### Rotuma Bill, 2015 and Rotuma Lands Bill, 2015

HON. RO. T.V. KEPÄ.- Madam Speaker, I rise to present a Petition from Rotumans and friends of Rotumans, to humbly ask this honourable House to stop and defer further the tabling, reading and passing into law the two current Bills before Parliament with respect to Rotuman Island and the Rotumans namely; the Rotuman Bill 2015 (Bill No. 6 of 2015) and the Rotuman Lands Bill 2015 (Bill No. 7 of 2015).

Madam Speaker, very briefly, these honourable people brought this Petition to our office when they were ignored, shunt and cast aside by Government when questions were asked back in 2013 by many Rotumans as to why the final drafts...

(Chorus of Interjections)

MADAM SPEAKER.- Order!

HON. RO. T.V. KEPA.- ...of the Review Commission appointed by the Government in 2010 were not published nor referred back to the Council of Rotuma, and the community for further consultation, similar to the 2013 Constitution, before the Bills are tabled in Parliament.

Madam Speaker, very briefly, some of the provisions of the Bill, which are of great concern to the Rotumans are as follows:

- 1) Bill No. 6 of 2015 –
  - a) in Section 1(2) - the new proposed definition of Rotuma differs from the current law. In that, it does not include its dependencies - rocks, reefs and fisheries lying between the 12<sup>th</sup> degree and the 15<sup>th</sup> degree of South Latitude and between 175<sup>th</sup> degree and the 180<sup>th</sup> degree of East Longitude from the meridian of Greenwich.
  - b) In the new proposed definition, Rotuma means the Islands of Rotuma which excludes its waters and reefs, thus impinging on the fishing and royalty rights under Section 30 of 2013 Constitution.
  - c) Section 6 and Section 7 overlap the functions of the Council of Rotuma, and the new suggested forum for the Rotuman people would ultimately lead to the undermining of the role of the Council.
  
- 2) Bill No. 7 of 2015 –
  - a) the Rotumans are deeply concerned about Section 26(1), the adoption of the Rotuman version of the Vola ni Kawa Bula (VKB) for clan land registration on both maternal and paternal lineages is to them, deceptive and deceiving. They require and request further consultation on this, Madam Speaker.

Madam Speaker, in conclusion, the Rotumans are a unique indigenous group, whose destiny has been linked to Fiji since 1881. They have been moral citizens in Fiji but the possible loss of their control on Rotuma Island, their culture and tradition through certain provisions in the Bills, have united Rotumans worldwide, as evidenced through their Petition and concerns which they have made known on social media outlets. What they are pleading for, Madam Speaker, is a voice to be heard through further and more relevant consultations.

With that, Madam Speaker, I present this Petition to this House and it contains 577 signatures and I call that this Petition be directed to the relevant Standing Committee, for further deliberations.

(The Petition was handed to the Secretary-General)

MADAM SPEAKER.- Under Standing Order 37, I refer this Petition to the Standing Committee on Social Affairs.

HON. A. SAYED-KHAIYUM.- I wish to raise a point of order. In fact, it is more a clarification.

Madam Speaker, the two Bills are already before the Standing Committee. The Standing Committee, as allowed under Standing Order 111, says, “Anybody has access to the Standing Committees”. What this Petition seeks to do is actually to intervene with the powers of the Standing Committee.

(Chorus of interjections)

HON. A. SAYED-KAIYUM.- Madam Speaker, what will actually happen is that, you will have a two parallel actions taking place. As Standing Order 111 says, and I quote:

“Standing Committees must –  
ensure that all meetings are open to the public and the media.”

It must encourage public participation.

The Committee itself can go to Rotuma to hear directly from the people and as you know, Madam Speaker, there is no ...

(Chorus of Interjections from the Opposition)

MADAM SPEAKER.- Order! I am not able to hear what has been said. I request that you speak to the Speaker and not directly to anyone.

HON. A. SAYED-KAIYUM.- ... restriction nor timeframe within which this Committee can report to Parliament regarding those two Bills. That is why it has been left open. So, I do not want to go into the merits of the Bill but all I am just saying is that, this could set a very dangerous precedent to the work of any committee. For example, if the Public Accounts Committee is carrying out audit, what if someone brings up a Petition and says that they want to question the authority of the Auditor-General because they did not carry it out correctly. This is the precedent, they are just looking at the short term gain up to their noses.

(Chorus of Interjections by Opposition Members)

HON. A. SAYED-KAIYUM.- Madam Speaker, they are not looking at the long term effects of this. Those 500 odd people who had presented the Petition, by all means, Madam Speaker, can go before the Standing Committee and make their views known. They can talk about the parallels that they believe have been distorted. So my only point, Madam Speaker, is, what are we doing here when we have a particular Bill of Parliament that has been referred to a Standing Committee and then you have a petition trying to usurp the powers of the Standing Committee which actually has the powers like a High Court? What are we doing here? It will be good to get a ruling from you, Madam Speaker. Thank you very much.

HON. N. NAWAIKULA.- Madam Speaker, a point of order. He is entitled to a ruling, but to assist.

When a matter goes to a Standing Committee, it is constrained within what is necessary for that. It's constrained! The public are only entitled to comment on what the Bills are, but the petition allows the public to express their opinion.

(Chorus of Interjections)

Therefore, Madam Speaker, they can go parallel and in a petition they only recommend, no more, and they can take it into account or not.

(Chorus of Interjections)

MADAM SPEAKER.- Thank you.

HON. ROKO T.T.S. DRAUNIDALO.- Madam Speaker, just to assist you in your plenary powers into the administration of this place...

MADAM SPEAKER.- Just because it is a point of order, I am listening but really I do not need assistance. Anyway, let us hear your point of order.

HON. ROKO T.T.S. DRAUNIDALO.- These issues were heartily debated in the last sitting as well, and it had to do with the flag but the issue of petition, having being put to the Committee and yet, the Executive went ahead and appointed the Flag Committee. I just ask you, Madam Speaker, in terms of consistency, that your ruling there be adhered to the same principles. We were allowed to continue and you did say there was no overlapping or breaching of powers in either, and the two can stand independently. I believe that was your ruling, if it could be checked, Madam Speaker.

HON. A. SAYED-KHAIYUM.- Just a point of clarification.

MADAM SPEAKER.- A point of clarification on that point of order.

(Chorus of Interjections)

MADAM SPEAKER.- Order!

HON. A. SAYED-KHAIYUM.- Madam Speaker, just to assist honourable Draunidalo, the matter is different because there are two Bills before the Standing Committee, in this particular instance. The Bills have a different level of standing, in particular it has to be referred to a Standing Committee as opposed to a petition, and I am saying that the petition is going to, in this case, try to usurp the powers of the Standing Committee that you have referred the Bills to. That is the only solution I am seeking, Madam Speaker.

MADAM SPEAKER.- Thank you. Since there has been a lot of debate on this issue, I will reserve my ruling until after tea.

HON. RO T.V. KEPA.- Madam Speaker, I rise on a point of order, Standing Order 60 on relevancy. They have brought this Petition to the House because they have seen what has happened to the indigenous and *iTaukei* land and *iqoliqoli* here in Fiji and they are concerned because of no consultation that the same would happen to them. Thank you, Madam Speaker.

MADAM SPEAKER.- All your comments are taken on board and I will be giving my ruling on this.

HON. ROKO T.T.S. DRAUNIDALO.- Madam Speaker, I have another Point of Order. I believe the Attorney-General did make a comment that the Opposition were here for a short term gain and not looking beyond their noses. If that was the case, and those imputations were made, I ask, Madam Speaker, that that be withdrawn.

MADAM SPEAKER.- Thank you. He had made that statement and its effect at the time the statement was made, I would have called for withdrawal but because it was not made at the time it was taken, I will not call for the withdrawal. Anyway, I have made the ruling on this one and we will be hearing of it after tea.

We will move on to the next item in the *Order Paper*.

## **PRESENTATION OF REPORT OF COMMITTEES**

### Employment Relations (Amendment) Bill (Bill No. 10/2015)

HON. A. SUDHAKAR.- Thank you Madam Speaker, I rise this morning as the Chairman of the Standing Committee on Justice, Law and Human Rights to present the Committee's Report on the Employment Relations (Amendment) Bill, Bill No. 10 of 2015. Madam Speaker, with your permission, I will present a brief summary, an opening of what the Bill is about.

Madam Speaker, our workers who are employed in the Essential National Services and Industries or elsewhere are an integral part of the human resources and the economy in general. They are literally the arms and legs on which our country's services, industries, trade and the general economy run. The status and the rights of the workers of a country are not only a concern for our nation's Government, but also that of international observers.

It will be an understatement to say that the services and industries are also essential for a nation since they form a major part of the economy. The general public and the nation as a whole rely on these sectors of the economy for their wellbeing, and it is for this reason alone, it becomes important to protect these sectors from crisis on any given day, and even in extremely critical situations. Therefore, it becomes important for any Government to provide employment laws which not only protects its workers and allows them certain freedom, but are also consistent with international conventions which our country has ratified.

It also then becomes essential for a government to protect these services and industries from crisis which inadvertently would harm the economy, the people and the very workers who rely on those for their daily bread. The Fijian Government with that vision has sort to amend the existing employment laws of the Country to bring them in line with international best practices, to suit its workers while maintaining the sanctity and affording protection to its Essential National Industries and Services.

I am pleased to present the second report of the Standing Committee on Justice, Law and Human Rights on the Employment Relations Promulgation Bill, 2015 (Bill No. 10 of 2015). This Report, Madam Speaker, examines the submissions and oral evidences heard at the Committee's public hearings in Parliament, and takes into consideration the concerns raised by those presenting oral and written submissions.

The Committee held its first meeting on 28<sup>th</sup> May, 2015 and a response to a call for submissions, held a series of public hearings from 15<sup>th</sup> to 19<sup>th</sup> June, respectively. Due to the short timeframe given to the Committee to report back to Parliament in the July Sitting, advertisements were placed in the *Fiji Sun* and Parliament website calling for written submissions on the Bill.

On behalf of the honourable Members of the Committee, I would like to express my sincere thanks and appreciation to all those organisations and individuals, who made submissions and attended the public hearings. The strength and depth of the Committee's inquiry rests with the voluntary commitment and time of groups and individuals, making submissions and appearing at public hearings. This was evident in the high-quality submissions received and with presenters at public hearings, who candidly provided opinions and advice to the Committee. The Committee has been through the Bill, clause by clause, and has made a number of amendments as outlined in the amended copy of the Bill which appear in the red colour.

Madam Speaker, the Committee, after hearing the submissions, taking into account the international requirements and unique local situations, doing its own research and taking into consideration all matters, have produced this report. The amendment to the Bill have been considered in detail. Along with all other amendments, the concept of Arbitration Court Bargaining Units, Disputes of Interest, Employment

Grievance, Essential Service and Industry, Trade Unions and Workers' Rights have been thoroughly examined.

Madam Speaker, if I may elaborate a little bit on each of these concepts. Arbitration Court, Madam Speaker, is a special court that is designed to fast-track disputes of interest, that is, a dispute that may occur between a trade union and an employer. Previously, there was no facility to fast-track these disputes and they would go to an *Adhoc* Arbitrator or the Permanent Arbitrator as it was in those days but that has now been provided for under the Essential National Industries which, under the ENI, did not have that provision.

Bargaining Units, Madam Speaker, are the special groups which are akin to trade unions and are designed to give special protection to its workers and thus, become essential for a smaller group to look into the rights of those group of workers that a trade union might not be able to do effectively.

Disputes of Interests, as explained earlier, are disputes that occur between a trade union and an employer, and these disputes will now be referred to the Arbitration Court for a faster process.

Employment grievance which are disputes between workers and the employer minus the trade unions and provisions of those will be handle by the Employment Relations Tribunal as the situation has been in the past.

Essential services and industry, Madam Speaker, these are the industries and services that are integral to the economy. Essential services are those that deal with life, death, health and public safety matters of a nation and the rights of these workers to go on strike have not been curtailed, they are there, contrary to what the feelings of some of the groups were which submitted to the Committee. However, the rights to go on strike has been managed through the various provisions of the Bill, which will require giving of notices and mediation services.

Employment grievance, I have already explained and the trade union's rights and worker's rights have also been thoroughly examined by this Committee.

The Committee would like to once again thank this Parliament for referring the Bill to this Committee for scrutiny, the submitters to this contribution and all other persons and entities which have in one way or another assisted the process. The amendments and the report are a result of careful consideration and the Committee respectfully submits this Report to Parliament for its consideration. I am pleased to advise the Parliament that this report has been unanimous and in agreement. The report has come by a thorough agreement of both sides of the Committee and all the suggestions that have given by the Members of my Committee who represent the Opposition have also been carefully scrutinised and adopted. This report and the amendments to the Bill have been made possible through many days and nights of hard work provided by my Members on the Committee and Parliamentary Secretariat staff.

At this juncture, I would like to extend my sincere gratitude to the honourable Members involved with the production of this bi-partisan report, my Committee colleagues, honourable Semesa Karavaki (deputy chairperson), honourable Lorna Eden and honourable Niko Nawakula. I also would like to express my appreciation to the honourable Members who were able to attend our meetings during the absence of substantive committee members, of particular mention, the honourable Cdr. Semi Koroilavesau, honourable Dr. Brij Lal, honourable Mikaele Leawere, hounarable Balmindar Singh, hounarable Alvik Maharaj and the honourable Ratu Sela Nanovo.

Lastly, I wish to place on record our utmost appreciation to the Secretary General and her staff who were present at all times namely Kalo Takape, Savenaca Koro, Lemeki Senibale, Lavenia Ledua, Kitione



Bete, Ateca Tabaki, Penijamini Valebuli, Maurice Shute and not forgetting the Hansard staff. I thank you for the assistance provided during the Committee meetings.

Madam Speaker, with those words are now table the Report of the Standing Committee on Justice Law and Human Rights on the Employment Relations (Amendment) Bill, 2015. Thank you, Madam Speaker.

MADAM SPEAKER.- Please hand your report to the Secretary General.

(Report handed to the Secretary General)

The Bill is now set down for consideration by Parliament.

## QUESTIONS AND REPLIES

### Oral Questions

Honourable Mikaele Leawere  
(Question No. 152/2015)

HON. LT. COL. N. RIKA asked the Government, upon notice:

Can the honourable Attorney General and Minister for Finance, Public Enterprises, Public Service and Communications inform the House as to why Government challenged the appointment of the Honourable Leawere to Parliament?

HON. A. SAYED-KHAIYUM (Attorney General and Minister for Finance, Public Enterprises, Public Service and Communications).- Madam Speaker, I would like to thank the honourable Member for asking this question. Just by way of background, Madam Speaker, Section 66 (3)(a) of the Constitution gives the Attorney General to file a petition in Court, filing such a petition pertaining to the election of members to Parliament.

Madam Speaker, the issue before the Court was, and indeed Government's position was, that under the Electoral Decrees under Section 24(2), the intention was to stop people who were in fact candidates in an election and who therefore were listed to be the next member of parliament that they could not hold public office. The mischief, Madam Speaker ....

HON. N. NAWAIKULA.- I wish to raise a Point of Order

MADAM SPEAKER.- Point of order.

HON. N. NAWAIKULA.- Madam Speaker, in this application, I am asking you to put a stop to this explanation on the basis of relevance and this is the reason. The statement given is an affront to an independent body mainly the judicial or that we hear now have been submitted correctly before the Court and the Court has made its decision. Now, what the honourable Member is trying to do is to take the second bite at the cherry, to convince the public when the Court is not convinced. The proper way to do it is to go and do your appeal, please. Lodge your appeal, do not come here and ask the public to be sympathetic with what you are saying when the judgement already said you are wrong.

MADAM SPEAKER.- Thank you.

HON. N. NAWAKULA.- On this submission, Madam Speaker. Section 24(2), the Court has duly looked into that. So, could you please stop any further explanation from the honourable and learned Attorney General? It is not relevant.

MADAM SPEAKER.- Thank you for that Point of Order. My ruling is that the Business Committee had agreed to this question to be tabled in Parliament and therefore we will have the response from the honourable and learned Attorney General. I will now hear the Attorney-General, please continue.

HON. A. SAYED-KHAIYUM.- Madam Speaker, the honourable member did not even hear me speak fully, how does he know it is an affronted issue. I would like to remind the honourable Member that you cannot appeal, know the law. In a Court of Disputed Returns, you cannot appeal.

(Chorus of Interjections from the Opposition Members)

MADAM SPEAKER.- Honourable and learned Attorney General, please continue.

HON. A. SAYED-KHAIYUM.- Madam Speaker, I do not know honourable Tikoca was a Speaker.

HON. RATU I.D. TIKOCA.- You lost, sit down.

HON. A. SAYED-KHAIYUM.- Madam Speaker, do I listen to him or do I listen to you?

(Chorus of Interjections from the Opposition)

MADAM SPEAKER.- Please address your comments to the Speaker. I have given the floor to the honourable and learned Attorney General and now I am asking the Attorney General to continue. Please allow him to continue so that we can hear what he is saying.

HON. A. SAYED-KHAIYUM.- Thank you. Madam Speaker, the mischief that we are trying to address and the reason why that was raised was that unlike other jurisdictions, in Fiji whenever a person stands for Parliament as we saw in the case of honourable Ratu Tagivetaua, in the case of honourable Dr. Neil Sharma, in the case of honourable Lt. Col. Pio Tikoduadua is that a member of that same party whose next on the list comes up on the list. So you are basically, Madam Speaker, in waiting to be a Member of Parliament.

So, what we were saying, Madam Speaker, the rationale behind that, was that if a person holds a public office, this is in particular relevant not to the Opposition but more to the Government side. It would apply to us equally, so in other words Madam Speaker, if this side of the House, we have 32 members, number 33, number 34 and number 35 can go off and become judges, can go off and become the Deputy Commissioner of FICAC, can go off and become a Permanent Secretary and then, Madam Speaker, immediately one day from being a judge, they can be a Member of Parliament because they know they are next on the list. Guess what will happen, Madam Speaker, when these Members of Parliament in waiting are holding public office? Who do you think they will curry favour with? That was the point, Madam Speaker. Unlike in other jurisdictions where you have a by-election, the Court obviously disagreed with this particular proposition. The reason the Court, Madam Speaker, obviously disagreed with this particular proposition and the reason why the honourable Member has asked this question because obviously a lot of members of the public do not go off and read a Court decision. They actually want to hear the rationale behind it and why did Government do it. They do not like to hear that, Madam Speaker.

This is an explanation as to why it was taken before the Courts. It was not done willy-nilly, it was in fact more applicable to the Government side. So, if we have the next person on our list who maybe

Deputy Commander of the Republic of Fiji Military Forces (RFMF) can become a Member of Parliament tomorrow if someone from this side of the House may unfortunately pass away or resign whatever the case may be.

What we are saying that there is a blurring of the lines between a public office and a Member of Parliament. That is precisely the reason why that was done, Madam Speaker.

MADAM SPEAKER.- Thank you. I will limit supplementary questions to only three. I give the floor to the honourable Lorna Eden.

HON. L. EDEN.- Thank you, Madam Speaker. For further clarification, could the honourable Minister please explain if it is usual for the Electoral Commission to seek an outside opinion subsequent to or despite the opinion given by the Solicitor General?

MADAM SPEAKER.- Thank you. The Attorney-General?

HON. A. SAYED-KHAIYUM.- Madam Speaker, it is unusual. In this particular instance to give the facts, the Electoral Commission had sought an opinion from the Solicitor General and then the Electoral Commission notwithstanding that opinion went off and got an outside opinion from an outside lawyer who has in various instances worked together with the Chairman of the Electoral Commission in their private practice.

What is also highly irregular, Madam Speaker, in this particular instance was that the Chairman of the Commission himself appeared in Court all robed. Highly unusual, because normally independent office, they do not appear. What was also highly unusual, Madam Speaker, was that in this particular instance you may have seen that the Solicitor General did not appear in Court to represent the Attorney General because he saw it as a conflict because he had given an opinion to the Electoral Commission. Whereas the Electoral Commission, they sought an opinion from BC Patel and then got BC Patel to defend his own opinion. That was an irregular situation in this particular instance.

MADAM SPEAKER.- Thank you I give the second supplementary question to the honourable Bulitavu.

HON. M.D. BULITAVU.- Thank you, Madam Speaker and good morning. I thank the honourable Attorney General for his reply. He is trying to do a damage control. He has already lost in Court.

My question to him, does he suggest that the Judge and the ruling in honourable Leawere's case is wrong and whether the people must only listen to his interpretation of law. Does he suggest that the ruling is wrong?

HON. A. SAYED-KHAIYUM.- Madam Speaker, we do not see things as winners and losers.

Madam Speaker, we do not see things as winners and losers. In fact, if the honourable Member read the ruling and I refer him to the ruling.

HON. M.D. BULITAVU.- I have got the ruling.

HON. A. SAYED-KHAIYUM.- Well read it. In there, when the other side asked for costs the Judge actually said that essentially we were looking at the merits of the argument.

Madam Speaker, this how it developed jurisprudence. It is not like you sit back and say I am going to lose or I am going to win. This is how you develop jurisprudence. At no stage, Madam Speaker, have I

said the Judge was wrong. I have basically explained to the question was, why did we take this action. And that is the reason why we took the action. I am not questioning the validity of the judgement, I have not said the Judge was wrong, I have not questioned that. I have given the reasons to why we took the matter up in the first place.

Honourable Leawere is here and is a gentleman unlike perhaps many other people in this House and we welcome him to this House. If the Court had not ruled in favour of the Electoral Commission's opinion, we would have had Ratu Jone Kubuabola occupying the seat. That is what would have happened, Madam Speaker. We were seeking the clarification on the law. They see everything in black and white, winners and losers. We do not see it that way. We are looking at a big picture, we are looking at developing the jurisprudence. I know it is beyond their thinking to think like that. So, there is the rationale. Thank you.

MADAM SPEAKER.- I will give the last supplementary question as I had mentioned earlier because the issue has been concluded. So, the last supplementary question, I invite the honourable Niko Nawaikula to have the floor.

HON. N. NAWAIKULA.- Madam Speaker, I did not stand up.

MADAM SPEAKER.- You did not stand up?

MADAM SPEAKER.- I will give the next and the last supplementary question to the honourable Dr. Biman Prasad.

HON. DR. B.C. PRASAD.- Madam Speaker, I stood up twice. Madam Speaker, given the confusion and the inconsistency and a flawed provisions in the Electoral Decree and the Political Parties Decree, can the honourable and learned Attorney General tell the people of this country whether he is planning to review the Political Parties Decree and the Electoral Decree, as recommended by the Multinational Observer Group and also suggested in the Election Commission's Report itself?

HON. CDR. S.T. KOROILAVESAU.- Point of order, Madam Speaker.

MADAM SPEAKER.- Point of order.

HON. CDR. S.T. KOROILAVESAU.- It is irreverent to the question that was asked.

MADAM SPEAKER.- Thank you very much. I do agree that it is irrelevant and therefore I will have just one more supplementary question by the honourable Gavoka.

HON. V.R. GAVOKA.- Thank you, Madam Speaker. Madam Speaker, government continues to liken Fiji to Singapore or use Singapore as an example. In Singapore, a Cabinet Minister served as a General Secretary of the Singapore Trades Union Congress. How come a Trade Unionist in Fiji is deemed to be a Public Officer and cannot serve in Parliament?

HON. A. SAYED-KHAIYUM.- Madam Speaker, we do not liken ourselves in every respect to Singapore.

Madam Speaker, the whole notion of the entire country being one constituency is what they have in Israel and other countries Madam Speaker. So, as far as that particular question is not concerned, it is irrelevant to this particular question. The point is that, it is the law and the law needs to be adhered to. It is very simple.

HON. ROKO T.T.S. DRAUNIDALO.- Point of order, Madam Speaker.

MADAM SPEAKER.- Point of order!

HON. ROKO T.T. S. DRAUNIDALO.- Just on this last discussion that we have had. This is the House of free speech, Madam Speaker, but I find it as a kind of an irony that the general public is not allowed to discuss matters relating to judgments of the Court, otherwise contempt charges are very quick to the fore. I just hope that you will make a ruling that in spite of all the discussions we have here, which is the House of free speech and I am not in any way suggesting that we limit that, that we still maintain at the end of the day that whatever attacks that are made to independent institutions, that they are made to the best interest of the country and no way to intimidate any of them, Madam Speaker. I think that is very important.

MADAM SPEAKER.- Thank you.

HON. A. SAYED-KHAIYUM.- I think at no stage in this discussion any of the comments from this side of the House denigrated the judiciary. Their assumptions Madam Speaker, if we rely on them, we will be in so much trouble. That is the assumption they are making. At no stage we denigrate the judiciary. Contempt, the test of contempt is very different and there is a separation of powers. At no way did we say that the Judge was wrong, at no way did we make any scurrilous remarks about the judiciary or the particular Judge in question. No point in time did we do that.

So, Madam Speaker, the reality is, even the Electoral Commission is not the judiciary. The honourable Draunidalo talks about free speech but there are certain privileges that are given, they all talk about privileges, and they need to understand what privilege means. There are certain privileges that is given to this particular institution. Of course it is not to be abused, but in no instance had this side of the House in any way abused those privileges.

MADAM SPEAKER.- Thank you very much. In my opinion the question has been adequately covered. We will move on to the second oral question.

Implementation of the new Minimum Wage Rate  
(Question No. 153/2015)

HON. B. SINGH asked the Government, upon notice:

The Fijian Government recently gazetted the new National minimum wage rate on 1<sup>st</sup> July, 2015. Can the honourable Minister for Employment, Productivity and Industrial Relations inform the House on how the Ministry intends to implement the new national minimum wage rate that came into effect from 1<sup>st</sup> July, 2015?

HON. MAJOR GENERAL (RET'D) J.K. KONROTE (Minister for Employment, Productivity and Industrial Relations).- Madam Speaker, the honourable Prime Minister, honourable Leader of the Opposition, honourable Members, ladies and gentlemen. Prior to the implementation of the National Minimum Wage on 1<sup>st</sup> July which was last week, the Ministry had embarked and undertaken a vigorous nationwide media campaign to inform all Fijians of this very important aspect of Government's labour reform programme which would benefit about a 100,000 workers and their families in this country. Madam Speaker, since the beginning of the year, the media section of the Ministry, with the co-operation of the Department of Information had been conducting periodical television, radio broadcasts and print media releases in an awareness programme and campaign for the benefit of all employers and workers alike.

Madam Speaker, to-date the Ministry's labour inspectors have conducted inspections and awareness training to about 522 of the 3,963 employers who are covered and will be affected by the newly promulgated National Wage Minimum Regulation. Madam Speaker, within the Ministry, there are only 38 labour enforcement officers who are presently engaged in dealing with about 200 employers a month to have this mammoth task hopefully completed within the next six months.

Madam Speaker, there have been some confusion due to the miscommunication over the past few days since the National Minimum Wage Regulation came into effect, and for the benefit of all Fijians, I would like to reiterate as the Minister for Employment, Productivity and Industrial Relations that the National Minimum Wage does not repeal. I say it again does not repeal but co-exist with the current sectoral Minimum Wage rates for workers in the 10 sectors covered under the 2015 Wages Regulations.

Madam Speaker, the 2015 Nation Minimum Wage covers workers in the informal sector as well as those workers in the formal sector who are not covered and affected under the current 10 Wage Regulation Orders. These regulation orders cover the following sectors:

- Wholesale and Retail,
- Hotel and Catering,
- Mining and Quarrying,
- Manufacturing,
- Road Transport,
- Sawmill and Logging,
- Printing,
- Security Services,
- Garment;
- Building; and
- Electrical Engineering.

Madam Speaker, the National Minimum Wage is an initiative of the present FijiFirst Bainimarama-led Government which is created and implemented to assist and improve the lot of about 100,000 workers and their families, who, for many years had been a marginalized sector of our Fiji workforce.

Madam Speaker, this Government continues to walk the talk by creating a society where there is compassion and positive actions for the less fortunate and at the same time fostering an environment for healthy economic growth in which workers have the best prospects for employment, earning sustainable wages and lifting living standards.

Madam Speaker I thank you.

MADAM SPEAKER - Supplementary question, the Honourable Lorna Eden?

HON. L. EDEN.- Thank you, Madam Speaker. Could the honourable Minister please explain what measures are in place to deal with those who do not comply?

HON. MAJOR GENERAL (RET'D) J.K. KONROTE.- Madam Speaker, I hope that we will not have to get to the point where we have to take people to Court because there has been widespread consultations nationwide and the regulations were based on consensus. Most of the issues raised or the changes made have been accepted by the employers and the workers alike, so I hope that we do not have to get to that. However, to be more specific, for example, the employer who fails to comply may be liable to conviction or a fine not exceeding \$20,000 or a term of imprisonment not exceeding two years or both. This is just roughly what the bottom line is in terms of complying and if people fail to comply, the Courts may impose those fines and sentence on someone who offends.

MADAM SPEAKER - Supplementary question, the Honourable Viliame Gavoka?

HON. V.R.GAVOKA.- I thank the honourable Minister for his presentation. I believe it is welcomed by the vast majority of our people. I could just ask him in terms of ensuring people comply, look into the security companies in Lautoka. Some work 12 hours and get paid \$20. But my question is, Madam Speaker, at the retreat we had at the Warwick a couple of weeks ago, one of the agencies Madam Speaker had shared with us their research that a family in Fiji needs a \$165 a week to survive. Could the Government, instead of focusing on the minimum wage, use that minimum \$165 a week as a minimum in order for a family in Fiji to survive? I think it is more meaningful as opposed to an hourly wage of \$2.32 which comes under \$100 insufficient for a family in Fiji. Thank you Madam Speaker.

HON. MAJOR GENERAL (RET'D) J. K. KONROTE.- Madam Speaker, I thank the honourable Member for the question. I was not at the seminar, but in any case, to answer your question, you know the \$2.32 is not the end. Hopefully it will be reviewed periodically depending on the economic growth of the country. It's a question of affordability.

MADAM SPEAKER.- Thank you, I give the floor to the honourable Dr. Biman Prasad.

HON. DR. B.C. PRASAD.- Thank you, Madam Speaker, I thank the honourable Minister for his answers. Just looking at 46 hours a week, \$104.40 per week minus FNPF \$10.40, can I ask the honourable Minister; what is the real wage and whether we should be concentrating more on the real wages rather than just the nominal wages and the percentage rise?

HON. MAJOR GENERAL (RET'D) J. K. KONROTE.- Madam Speaker, I thank the honourable Member for the question, but now after having, and I have spoken at length about the programme, let us not forget, for the first time in Fiji's history, we are providing free education, free tuition, free medical, et cetera, so all that is being taken into consideration.

(Chorus of Interjections from the Opposition)

Madam Speaker, I can go on, but I think the point is, it comes back to the fact that this Government has done a lot to help a lot of the less fortunate of this country. Thank you.

MADAM SPEAKER - Thank you. Supplementary Question, I give the floor to the honourable Ratu Sela Nanovo.

HON. RATU. S.V. NANOVO.- Madam Speaker, I would like to take this opportunity to thank the honourable Minister for what they have done, for increasing the Minimum Wage Rate from \$2.00 to \$2.32 from this month. With a 5-day week at \$2.32 at 8 hours per day, the gross payment to any worker would be around \$92.80; deduct the FNPF component, they will be left with \$85.38 and for them to keep on paying VAT that is equitable to everyone, the VAT component, that will give a very poor net pay again. If the VAT component was also considered for them then this will be enough, Madam Speaker.

HON. MAJOR GENERAL (RET'D) J. K. KONROTE.- Madam Speaker, I think we are talking about the same thing here. Let me remind the House, for the first time, no Government has done so much to improve the lot of our people. We have raised the Minimum Wage from about \$2.00 to \$2.32, that is a big leap. Madam Speaker, I think I have said enough.

MADAM SPEAKER - Thank you. Supplementary Question, I now give the floor to the honourable Nawaikula.

HON. N. NAWAIKULA. - Madam Speaker, I am very concerned, we might be misinforming the public by using the term “national”. We have children here, yesterday we did something wrong, no \$20,000 was paid yesterday. We have children here, yesterday we did something wrong. No, \$20,000 was paid yesterday.

HON. GOVT MEMBERS.- What is your question?

HON. N. NAWAIKULA.- Honourable Minister, you are using the term “national” and yet you said that it does not apply to sectoral workers, which means this is not uniform. So, do you not agree that the term “national” is wrong; it is not uniform, it does not cut across the board? Sectoral workers can have theirs.

HON. MAJOR-GENERAL (RET'D) J.K. KONROTE.- Madam Speaker, I thank the honourable Member for the point, but what Government has done is to protect the most vulnerable in the nation. But at least, we are doing something.

(Chorus of interjections from Opposition Members)

MADAM SPEAKER.- Order! Order!

Honourable Minister, you may resume your seat. It looks like the question has already been answered. You do not have to continue, they already have the answer, thank you very much.

We will now move on to the next oral question and I will now invite the honourable Ashneel Sudhakar to ask his question.

National Export Strategy  
(Question No. 154/2015)

HON. A. SUDHAKAR.- Madam Speaker, I almost forgot that I had to ask a question with all the commotion.

Can the honourable Minister for Industry, Trade and Tourism, please inform the House how is the National Export Strategy benefitting Fijian exporters and businesses?

MADAM SPEAKER.- Thank you, I give the floor to the Minister of Industry, Trade and Tourism.

HON. F.S. KOYA (Minister for Industry, Trade and Tourism).- Thank you Madam Speaker, just to add a little bit more spice to what was said earlier, I only wish the honourable Leader of the National Federation Party had turned up yesterday to the grants that were being handed out and accompanied the honourable Leader of the Opposition to see the joy on those impoverished people’s faces.

HON. DR. B.C. PRASAD.- I had met some of them in the morning.

HON. F.S. KOYA.- Madam Speaker, thank you for the opportunity to take the floor and to respond to the question by honourable Sudhakar and I thank the honourable member for this very important question. The National Export Strategy (NES) is an important initiative of the Fijian Government to enable our exporters to achieve competitiveness and value addition in export diversification and growth in international markets. The Bainimarama Government has always strived to provide for all Fijians with the opportunity to excel in trade and business. This, Madam Speaker, has been possible by the provision of targeted support and assistance. For example, as yesterday, you would have seen the Micro and Small Business Grant which many of the honourable Members of Parliament attended, launched by the honourable Prime Minister is actually targeted towards the development to micro and small businesses.

Madam Speaker, I wish to highlight that the National Export Strategy is specifically focussed to exporters or businesses on the verge of exporting to develop their export capacity. Therefore Madam Speaker, a company needs to be in business for at least two years, in order for them to be eligible to qualify for the grant. Through the NES initiative, the exporters are provided financial support to allow them to upgrade their existing infrastructure or to procure value adding machinery and equipment that will enable them to meet the standards required by these international markets and to increase their export volume.

Madam Speaker, since its inception in 2007, a total of \$9.08 million has been disbursed to 58 projects. It is worth noting that a total of 329 new jobs were created from this particular programme and hence in turn improving the livelihood of about 1,600 Fijians. Madam Speaker, I wish to provide a real example of the positive impact that this particular programme has had. I think many of the honourable Members of Parliament would have seen the newspapers on Ben's Trading Limited, which is a company based in Navua. This is the largest taro exporter in the country. The company was assisted through the NES programme to undertake improvements that would enable them to obtain hazard standards, an Australian Certification and therefore Ben's Trading was able to ....

HON. N. NAWAIKULA.- You should give equal opportunities.

HON. F.S. KOYA.- Madam Speaker, this is an example that is being given by me just to show one of the particular companies.

Ben's Trading Limited was able to continue exporting to large retail supermarket chains in Australia and they recorded about 185 containers Madam Speaker. In addition, recently, Australia's largest supermarket chain, Woolworths, is the newest for Ben's Trading Limited.

HON. N. NAWAIKULA.- It is not a good example.

HON. F.S. KOYA.- Madam Speaker, it is a lifeline for farmers around Fiji and this is also being done in conjunction with the Ministry of Agriculture.

HON. N. NAWAIKULA.- Not a good example.

HON. F.S. KOYA.- Madam Speaker, it is a ready-made market for more than about 70,000 local farmers. It is not just about Ben's Trading, 70,000 local farmers who supply taro and cassava for export. The company also provides employment Madam Speaker for about 186 individuals in and around the Navua area.

Madam Speaker, another positive impact of that particular programme is that, 25 companies have recorded increases in their production with the combined total of 5,232 tonnes from 2007 to 2014 and over the same period, the net increase in export sales of about \$30,966,471 was also recorded. In addition, a total of 87 new markets was secured, for example, markets in Canada, Dominican Republic, East Timor and Sri Lanka to name a few.

Madam Speaker, in conclusion, the employment numbers and export figures will increase with the continued support from the Government. I am pleased to inform that \$2 million has been allocated for the programme this year and \$0.5 million from last year's budget. Madam Speaker, this year, my Ministry will also be targeting assistance towards the Small and Medium Enterprises that are already exporting or on the verge and need assistance to excel in their business and to assist the SME's, Madam Speaker, a grant request of up to \$100,000 does not require any contribution from the applicants. On the other hand, the large companies that request more than \$100,000 in funding will obviously need to contribute one-third of the total request. This is a new criteria that will be utilised from this year, Madam Speaker, to assist the SME Development and Growth. I thank you, Madam Speaker.

HON. ROKO T.T.S. DRAUNIDALO.- A point of order, Madam Speaker.

MADAM SPEAKER.- Point of order.

HON. ROKO T.T.S. DRAUNIDALO.- Madam Speaker, Standing Order 45(4) on answers, I think it is clear from reading written statements that go on for a very long time that what the Minister intends to do is to give a Ministerial Statement. There is provision in the Standing Orders for that. The only thing is when we allow this, this does not allow for the Opposition parties to give their five minutes reply. It is really an underhand way of getting through that section. I ask, Madam Speaker, that in future, it should be really Ministerial Statement.

MADAM SPEAKER.- Thank you. The answer that the Minister had made was statistical in nature and therefore, he had to elaborate on the answers given and I am satisfied that the answers given addressed the question at hand. But we have a supplementary question and I give the floor to the honourable Nawaikula.

HON. N. NAWAIKULA.- Madam Speaker, the problem that we have and it is a sign of mismanagement and inefficiency is the selectiveness, the honourable Minister has mentioned Ben's Trading. That is not a good example.

MADAM SPEAKER.- Your question, please.

HON. N. NAWAIKULA.- If you go to the Public Accounts Committee, they will tell you that you give \$2,000 to this person, none to the other person....

MADAM SPEAKER.- Question, please!

HON. N. NAWAIKULA.- What measures do you have to also look after the other exporters because you are creating a monopoly?

HON. F.S. KOYA.- Madam Speaker, I actually have the criteria and I am going to spell it out to the honourable Member. This Government is a government for all Fijians, not just one particular company. It is for all Fijians and this criteria is not used for one particular company. It is used for all of them and I will spell it out in A, B, C Madam Speaker.

Madam Speaker, all SMEs submissions are assessed using the same criteria, which includes all of these. All forms are marked out of 19 and this is why I use this, Madam, because I have to be specific. All forms are marked out of 19, the points are given on the basis of the following assessments. These assessments are based on business information, business name and address, export licence, quotation, mailing address, current exporter, tax compliance certificate, customs entry and new applicant. A business validation, Madam Speaker, a business risk, business aspects and project viability. This is not just respect with respect to one particular company. This goes across the whole board.

All forms, Madams Speaker, internally based on the set criteria in which preliminary site visits and inspections are conducted to validate all applicants' submissions, Madam Speaker. The thing that properly scrutinises and consolidates all the outcomes of the particular assessments in which genuine applicants are identified to be funded. The very similar way in which we did these grants yesterday, Madam Speaker. They were scrutinised properly and we do not just do this willy-nilly, Madam Speaker, we do not. As I said, this is the Government for all Fijians.

Madam Speaker, genuine applicants are identified, are then recommended to the National Export Strategy (NES) Committee which comprises of, not just my Ministry. It comprises of representatives from the Ministry of Finance's Strategic Planning, Ministry of Agriculture, Fiji Revenue and Customs Authority, Fiji Exports Council, Ministry of Fisheries and Forests, Biosecurity Authority of Fiji, the Fiji Development Bank and of course, the Ministry of Industry Trade and Tourism and who further scrutinise and then recommend suitable genuine applicant for funding to me. Thank you, Madam Speaker.

MADAM SPEAKER.- Thank you, I now give the floor to the honourable Samuela Vunivalu.

HON. S. B. VUNIVALU.- Thank you, Madam Speaker. My supplementary question this morning is, could the honourable Minister explain to the House what is the success rate of the National Export Strategy Programme for the last five to seven years? Thank you, Madam Speaker.

MADAM SPEAKER.- Thank you, honourable Minister.

HON. F. S. KOYA.- I thank the honourable Member for the question. At least, it is a positive question. Madam Speaker, I am proud to inform this House that the success rate of this particular program is 96.55 per cent.

(Applause)

HON. F. S. KOYA.- 96.55 per cent, Madam Speaker. Therefore 96.55 per cent of companies that have been assisted have progressed in their ventures and this has again, as I spelt out earlier, is only possible through the strict monitoring mechanism that we have put in place, Madam Speaker. I thank you.

MADAM SPEAKER.- Thank you. I now give the floor to the honourable Jiosefa Dulakiverata.

HON. J. DULAKIVERATA.- Thank you, Madam Speaker. I thank the honourable Minister for his reply. It is unfortunate that the emphasis on the National Export Strategy is only on Fijian exporters. I come from Tailevu...

(Laughter)

HON. J. DULAKIVERATA.- ...and this is an area where most of the growers are from. They are supplying dalo and cassava and these people have been in the whims of the exporters.

MADAM SPEAKER.- And your question please.

HON. J. DULAKIVERATA.- The question is, what strategy do you have with the farmers? How many of your exporters have contracts with the farmers because if there is a surplus of supplies, the farmers have nowhere to go...

MADAM SPEAKER.- Thank you.

HON. J. DULAKIVERATA.- ...and they are not protected because they are left to the whims of the farmers. How many of the farmers have contracts?

MADAM SPEAKER.- Honourable Minister.

HON. F. S. KOYA.- Madam Speaker, I think I can answer that question very simply. My best friend in this House is the Minister for Agriculture and he is the one who directs us in this particular programme too. So, no one is left behind and he is from Tailevu, by the way.

(Laughter)

I will have this august House know that you yourself, the Minister for Agriculture and I have shared grog in Tailevu. So, we do not forget you, Madam Speaker, we do not forget them.

(Laughter)

MADAM SPEAKER.- Thank you, I now give the floor to the honourable Semesa Karavaki.

HON. S.D. KARAVAKI.- Thank you, Madam Speaker. I thank the honourable Minister for his answer and explanation but there are some sectors, Madam Speaker, that find it very difficult to find markets. Madam Speaker, hardwood industries, especially the pine forests, the only market is local and that is with the Fiji Pine or the company in the west.

Would the Minister explain to the House, Madam Speaker, what plan do they have to assist in this area for owner of pine forests to find markets that are not only available locally but that they find the best markets and that would refer to the markets available overseas and not to be confined to the market locally. Thank you, Madam Speaker.

MADAM SPEAKER.- Thank you, honourable Minister.

HON. F. S. KOYA.- I think that is the question that is irrelevant to the National Export Strategy. But obviously, that question is raised, it is not something that is with my Ministry, the pine does not fall under my Ministry. If he asks the relevant Minister, I am sure, he will get an answer.

MADAM SPEAKER.- Thank you. I give the floor to the honourable Dr Biman Prasad and that will be the last question.

HON. DR. B.C. PRASAD.- Thank you, Madam Speaker. I can tell the honourable Minister that I met several of the awardees yesterday morning and they were all very happy. The National Export Strategy, Madam Speaker, is a good thing and needs to be supported. But can I just ask the honourable Minister to increase our export, especially agricultural exports, you need a good cargo capacity. Can I ask him, whether there is enough cargo capacity within our national airline, to support this kind of strategy?

MADAM SPEAKER.- Thank you, honourable Minister.

HON. F. S. KOYA.- I am not sure if the honourable Member has read the news from what I understand Fiji Airways is bringing in another A330. Those A330 that we have purchased, Madam Speaker, have sufficient capacity at the moment.

HON. OPPOSITON MEMBER.- It does not!

MADAM SPEAKER.- Thank you. We will now move on to our fourth oral question and I invite the honourable Prem Singh to take the floor.

Delay in Construction of Bridges  
(Question No. 155/2015)

HON. P. SINGH asked the Government, upon notice:

Would the honourable Minister for Local Government, Housing, Environment, Infrastructure and Transport answer the following:

- a) Why has there been a delay in the construction completion of the Vatuwaqa Bridge, Stinson Parade Bridge and bridge near Rakiraki village on the Kings Highway almost two years after they were closed; and
- b) When will the construction start and what is the expected completion date?

MADAM SPEAKER.- Thank you, I give the floor to the honourable Minister for Local Government, Housing, Environment, Infrastructure and Transport.

HON. P.B. KUMAR.- Thank you, Madam Speaker. Madam Speaker, really there is no delay, as mentioned by the honourable Prem Singh.

We are talking about building bridges, not swings and slides for the children.

(Laughter)

You people will have to understand.

MADAM SPEAKER.- Order, honourable Minister please continue.

HON. P.B. KUMAR.- Madam Speaker, the Government team through the Fiji Roads Authority (FRA), have gone past the concept design and that is in relation to the two bridges in Suva. In fact, Madam Speaker, these two bridges should not have been failed. Unfortunately, because of the substandard, it came to the notice of Government and Fiji Roads Authority - the report states that it failed. But let me say this, Madam Speaker, that now, the team is working with all the stakeholders and in particular, with the Chinese partners. I am happy to inform that they are doing the detailed plan and the specification for those two bridges....

HON. M.D. BULITAVU.- Still planning!

HON. P.B. KUMAR.- .... and the construction of these two bridges will commence in 2016 and the expected completion time is 2017, Madam Speaker.

Madam Speaker, in regards to the bridge at Rakiraki, the bridge was declared unsafe in 2013 and I am happy to inform this august House that the bridge will be officially opened by the honourable Prime Minister at the end of August this year. Thank you, Madam Speaker.

MADAM SPEAKER.- Supplementary question, the honourable Jiosefa Dulakiverata.

HON. J. DULAKIVERATA.- Thank you Madam Speaker, I thank the honourable Minister for the reply. Last year, when we were in Rakiraki for the town hall meeting, we were informed by the people that there was a collusion between the honourable Minister and the business community in Rakiraki to delay the bridge because it allows the traffic to re-diverted into town.

MADAM SPEAKER.- Honourable Member, please ask your question and do not make allegations.

HON. J. DULAKIVERATA.- Madam Speaker, I just want the assurance from the honourable Minister because these came from the people.

HON. P.B. KUMAR.- Madam Speaker, there is no truth in his statement, thank you.

MADAM SPEAKER.- Honourable Aseri Radrodro.

HON. A.M. RADRODRO.- Madam Speaker, I thank the honourable Minister for his explanation. I thought the two bridges that will be given priority; Suva and Vatuwaqa since these are common access for people that are coming to the city. Anyway, now that you have given the timeline, the question that I would like to ask is will the works on this bridge be tendered again by FRA, or will this be awarded to one of the ongoing contractors?

MADAM SPEAKER.- Thank you, honourable Minister.

HON. P.B. KUMAR.- Madam Speaker, the tender will be out at the end of this year, and at this point in time, I am not going to determine or I am not in a position to determine who will get that tender. Thank you.

MADAM SPEAKER.- Thank you, I will now give the floor to the honourable Salote Radrodro.

HON. S.V. RADRODRO.- Thank you, Madam Speaker. May I just highlight that in this Budget Estimates – *“Turning Promises into Deeds”*, under the priority area, under infrastructure, it says that “major bridge and jetty renewal programme” and has been raised before, the Suva and the Vatuwaqa bridges are very important, it is in the very busy sector. So, can the honourable Minister explain why those two bridges are not being included in the 2015 Budget as stated in this 2015 Budget booklet?

HON. P.B. KUMAR.- Madam Speaker, these two bridges is funded by the Government of China and they will construct the bridge and the FRA will oversee the construction of these two bridges.

MADAM SPEAKER.- There being no other supplementary question, we will now break for morning tea.

The House is now adjourned and will resume at 11.30 a.m.

The House adjourned at 10.30 a.m.

The House resumed at 11.35 a.m.

MADAM SPEAKER.- Thank you Honourable Members, you may be seated. We will continue with our oral questions and I now give the floor to the honourable Aseri Radrodro.

Assistance to Indigenous Fijian Landowners – \$10 million grant  
(Question No. 156/2015)

HON. A.M. RADRODRO asked the Government, upon notice:

Can the honourable and learned Attorney-General, Minister of Finance, Public Enterprises, Public Service and Communications inform the House whether the Government's \$10 million grant commitment to assist indigenous Fijian landowners with the utilisation of their land has been made available and how can it be accessed?

MADAM SPEAKER.- Thank you, I give the floor to Attorney-General, Minister of Finance, Public Enterprises, Public Service and Communications

HON. A. SAYED-KHAIYUM (Attorney-General, Minister of Finance, Public Enterprises, Public Service and Communications).- Madam Speaker, I would like to thank the honourable Member for his question.

Madam Speaker, this initiative by the Government is in line with Government's overall objective to essentially empower people who have been marginalised for a long period of time. As with the grant yesterday, giving the grant to microfinance, similarly with this, as we have seen over the years, 91 per cent of all the land in Fiji is *iTaukei* land. Many people have said that the *iTaukei* people are "asset rich but cash poor." One of the reasons has been, Madam Speaker, is that, if you see most *iTaukei* land that has been developed, they are not actually developed by the *iTaukei* people themselves, someone else comes and take out a large parcel of land then they go and subdivide it and then take the cream themselves. So this is why the initiative has been put in place.

The honourable Member would be glad to know that we have so far received 35 applications, as you know it was advertised in the *dailies*. There is a criteria that has been set for the application, not criteria, but what we want in the application. In the application, we are asking evidence of approval of at least 60 per cent of the qualifying members of landowning units must actually give their approval for the land to be developed, if it is going to be done through the *mataqali* or through the trust. A copy of their registered lease, if there is a registered lease, the details of the trustee or the company established for the purpose of the development, the confirmation, if necessary the de-reservation of the subject land, specific boundaries of the subject land, is there any scheme plan, details of existing structure of the subject land, the type of assistance from Government and the type of development to be undertaken.

In the application that we have received, Madam Speaker, out of the 35; 27 are specifically for subdivision of land for residential, commercial and tourism purposes. Out of these Madam Speaker, nine applications have been submitted, they have in fact given all the details that is required. In fact, some of them have already gone so far in getting an Environmental Impact Assessment (EIA) done. The Town and Country Planning approval is done and some of them in fact have been very good, where they specifically got quotations, so they have actually gone out to FEA and they have a quotation to say "to connect this land requires x amount of thousand dollars or to do the subdivision requires a consultant to come and do x, y and z."

So, the applications, Madam Speaker, as I said, are all in this table here. We are currently assessing them within the next few weeks. We have allowed a bit of time for people to apply. In fact, we are still getting people showing interest, we have received `phone calls almost on a daily basis.

There will be some site visits that will be conducted, there are about four or five ones that are probably ready to take off. The site visit will be conducted, we are going to engage some consultants to oversee the project and that is the work done so far.

On a divisional basis, we have 13 applications for the Central and Eastern Divisions; 18 applications for the Western Division; one from the Northern Division and two from the Southern Division. Thank you, Madam Speaker.

HON. RATU S.V. NANOVO.- A supplementary question, Madam Speaker.

MADAM SPEAKER.- Supplementary question, the honourable Ratu Sela Nanovo.

HON. RATU S.V. NANOVO.- I do thank the honourable and learned Attorney-General for all the initiatives that have been shown so far. Just my question this morning is, who will be expected to pay the initial costs of all these developments; the survey, the scheme plans and all those. Is it part of the grant or is it there to be met by the applicants themselves?

MADAM SPEAKER.- Thank you. Honourable Minister.

HON. A. SAYED-KHAIYUM.- Madam Speaker, when we announced this initiative this year, we had said that we were going to utilise these funds, primarily for the connection of utilities to these subdivision proposals, so electricity, water, roads within the subdivision. Like I have said, for some of these scheme plans like I said have already given the quotations for that, we just need to simply carry out the site inspections. Some of them have actually requested, for example, to pay for the consultants to do the subdivision, we want to give priority to those subdivisions that actually have done most of the work so we simply get them connected to the utilities and then we will go down the list and look at which ones have other works being granted or funded through this particular initiative.

MADAM SPEAKER.- Thank you, I give the floor to the honourable Ratu Suliano Matanitobua.

HON. RATU S. MATANITOBUA.- Madam Speaker, I thank the honourable Minister. My supplementary question is, will the Government also provide monitoring and technical support to ensure the success of these grants?

HON. A. SAYED-KHAIYUM.- Most definitely, Madam Speaker, like I said, the site visits will be carried out, we will have consultants outside to specifically look at it. For example, we do not have an engineer in the Ministry of National Planning so we will have consultants to oversee this work and to make sure, this is why we are not hurrying into it. We simply do not give out money and if we have seen that some of the applications that we have received, they have not got the approval of all the members of the landowning unit, in some cases they have got some trustees and some trustees have actually phoned up and said, "Oh, that guy should not have been doing it", so there are those kind of issues that we want to make sure that the projects that are all above board actually will get funded first. Then we can work through with the others because the whole idea is to assist. We are starting off from the premise as to how best we can accommodate, not how best we can reject. Thank you.

HON. P. SINGH.- Madam Speaker, at the outset, let me thank the Government for this initiative for the *iTaukei* people. One of the requirements, as stated by the honourable and learned Attorney-General is that they must have a registered lease. What happens in the case when they do not have a registered lease (it is a *vakavanua*), do they have to obtain a registered lease or is there any provision to disburse these grants on the status quo?

HON. A. SAYED-KHAIYUM.- Madam Speaker, before I answer the honourable Prem Singh's question, I must comment on his psychedelic tie; very nice, it reminds me of the 1960s.

Madam Speaker, in the advertisement, we have said that where the actual landowning unit was to develop the land themselves, they must have 60 per cent of the landowning unit agreeing to that. Then obviously they can then go and get a lease on that particular land because if you are going to subdivide the land, you need to be able to sublease it to other people, who may be interested. So, for example, if a *mataqali* has decided that they want to develop this area for commercial lots, so if you come along and want to set up a factory, you would want a valid lease. The only way that you will get a valid lease is if the head lease is in place. Obviously, you need a lease. You need to have a proper lease for the individuals to be able to go to FDB or if you buy the lease, you are then able to use that as collateral to build your factory, then you need security of tenure. So, yes, you must have leases, *vakavanua* arrangements obviously will not hold up because you are not sure of the title, you are not sure that you have a lease that can be used as a collateral.

MADAM SPEAKER.- Thank you. I give the floor to the honourable Mosese Bulitavu.

HON. M.D. BULITAVU.- Thank you, Madam. I also thank the Government for this initiative. This grant I think has been well accepted by the indigenous community. It has been long overdue. The criteria is quite high in regards to securing a development plan. I think their policies within the *iTaukei* Land Trust Board to get one, there is a premium of \$37,000 that we have to pay plus surveyors' fees plus other fees. However, the other thing that mostly landowners when they get into partnership with other financiers to finance them, they normally send an MOU and that MOU is not binding according to policies of iTLTB. Is there any plans within the grant that can enable development partners for *iTaukei* landowners to enable them to meet the requirements and to develop their land and secure development leases? Could there be some arrangements done within the grant to enable landowners to be in partnership with these developers to enable them to meet the grant?

MADAM SPEAKER.- Thank you. The Attorney-General?

HON. A. SAYED-KHAIYUM.- Madam Speaker, the intent of this is essentially to make sure that the *iTaukei* people have control over the developments because as we have seen, even in the fishing industry, when we used to give licences out to only *iTaukei* people, you have someone behind the back who is actually making all the money. They are using these people as a front. We do not want that situation where you have someone who may come along and offer, "Look, I will give you \$100,000 upfront and we will become partners and the *iTaukei* landowners actually become the subservient partners"; we do not want that. Our priority is for development where they are actually in control, so that is our first priority.

MADAM SPEAKER.- Thank you. I give the floor to the honourable Jiosefa Dulakiverata.

HON. J. DULAKIVERATA.- Madam Speaker, I thank the honourable Minister for the explanation. I, for one have gone around to check on how you could access this for other people, unfortunately, iTLTB could not give an answer. They told me to go to Finance, the person there had been transferred to AG's office, I came there, the Officer had been transferred to Parliament, and no one seemed to know what the process is.

I wonder when was this process came into place and my question, Madam Speaker, is, what is the maximum an individual applicant can get on development; what is the maximum amount that could be issued to an applicant?

MADAM SPEAKER.- Thank you. Honourable Attorney General?

HON. A. SAYED-KHAIYUM.- Honourable Member, thank you for your question.

I am sorry if you have been going from pillar to post but obviously the other 37 people did not have any problems in making these applications. They obviously got to the right people. We have a dedicated officer at the moment, Laite, you can always call. The phone number is here, if you want, I can give you the direct phone number of the individual officer that will help you solve that problem.

Madam Speaker, the question regarding the maximum available, we have set aside \$10 million in this year's budget for this particular grant. We obviously do not want to give \$10 million for one project because we want to be able to help as many projects as possible. Like I said, in the application that we have received, some of them have, for example, said, "We need \$900,000 because FEA has said this is how much it will be, Water Authority said this is how much it will be – these are the letters from them, please help us".

There are some people, for example, in Nadroga where the subdivision has already been carried out, they have run out of money, they do not have enough money to build the road within that subdivision. So you can see already some work has been done. The idea is to best utilize this fund and help as many projects as possible, some obviously require more than others, it is on a case by case basis.

MADAM SPEAKER.- Thank you. The honourable Aseri Radrodro.

HON. A.M. RADRODRO.- Madam Speaker, I thank the honourable Minister for his explanation. The question is relating to accessibility to the landowners. Most of the requirements that are set are basically not readily available to the landowners. What assistance can the Government put out to these landowners or put out to the public in terms of accessibility, so that it can guide them to have access to the requirements that are being set out in the advertisements.

MADAM SPEAKER.- The honourable Minister.

HON. A. SAYED KHAIYUM.- Thank you, Madam Speaker. I would like to thank the response from the Members of the Opposition, just to remind them again that this is the first time in Fiji's history such an initiative has been undertaken by any government. I think that really must be noted, and I think they also acknowledge it. This is a good way to go which also does bring about, in terms of the sharing of the wealth and the growing of the pie, we must have a lot more people participating in it, because it gives them a sense of stake ownership within the growth of the economy. What we have seen in the advertisement, it says, "what to include in the application", we have not said "this is the criteria for the application" so this application over here, for example, this table, we have said here, "covering letter; approval of 60 per cent of *mataqali* - yes/no; details of company – yes/no". It does not mean they are knocked out, that is my point. So, if we have people who are saying, "they may have the *mataqali* actually all agreeing to it", but they may not have, for example, the scheme plan. If they do not have it, we will actually go and talk to them to see how we can develop that and what funds they have available.

Some of them have already said that they have been to FDB and FDB has said; "we will give you the money, as long as you get Government to guarantee that they will pay for the electricity, water and road connection". So, that is the type of thing we do.

HON. OPPOSITION MEMBERS.- Where is the office?

HON. A. SAYED-KHAIYUM.- It is in the National Planning Office where they put in their applications.

HON. OPPOSITION MEMBERS.- Where do they go?

HON. A. SAYED-KHAIYUM.- To Ro Lalabalavu House. You know it is a good thing, come on, try not to undermine it, just focus on it.

MADAM SPEAKER.- Thank you. I give the floor to the honourable Karavaki.

HON. S.D. KARAVAKI.- Madam Speaker, we are grateful to the Government that has done this initiative for the first time in this country. The \$10 million that we are talking about has been allocated. Madam Speaker, given that it has been taking a lot of time for any fund from that amount to be given to any applicant, it may come the end of the year, still no one has received it, would the Government consider transferring this fund (if it is not used this year) and add additional fund for the budget for that year into this fund to be accessed by the applicants?

HON. A. SAYED-KHAIYUM.- Madam Speaker, I can assure the honourable Member that the funds will be used. It is not that we have said that things are in trained, things are in train, we obviously want to carry out a proper assessment. There needs to be proper transparency and a lot of them, like I have said, are very much ready to go, so those funds will be disbursed.

Of course, like all the other ones, they will go through a proper criteria. Like the micro-finance one, it is now June but we have 7,000 applications. The people are ready to take that, so that will happen. The honourable Prime Minister launched it yesterday, it is going to take off, and he is launching another one in Navua on Saturday. In the same way, you will see this take off very soon.

We want to give this grant and make it actually given budgetary requirements and constraints whatever it may be. We want to make it an annual budgetary allocation because obviously, there is a lot of catching up to do. So, we want to make this an annual budgetary allocation, and who knows, perhaps a lot of the people who have visited us have also said; “we will actually be ready in six months’ time to give you the application”. So, we may have a whole round of people coming to us by the end of the year, so we will look at that. We are already assessing it for next year, then we may need to allocate more funds next year.

MADAM SPEAKER.- Thank you. We will now move on to the 6<sup>th</sup> oral question and I invite the honourable Opposition Leader to take the floor.

USP Financial & Governance Issues – Independent Investigation  
(Question No. 157/2015)

HON. RO T.V. KEPA asked the Government, upon notice:

Can the honourable Minister for Education, Heritage and Arts inform the House why has an independent investigation in the financial and governance issues as highlighted in one of the recent petitions to the USP Council not been instituted?

MADAM SPEAKER. - Thank you. Honourable Minister for Education, Heritage and Arts?

HON. DR. M. REDDY (Minister for Education, Heritage and Arts).- Madam Speaker, I am taken aback by noting that the honourable Leader of the Opposition has decided to raise this question in Parliament without raising it with me as the Minister responsible for education who sits in the USP Council along with four other Fiji Government representatives.

Madam Speaker, Fiji has played a very prominent and distinctive role in the establishment of USP since 1968. Fiji has been the largest contributor to USP's operating budget amongst the 12 member countries, and Fiji contributes 79 per cent of the total member country contribution.

Madam Speaker, despite having our own fully fledged national university, Fiji has never shirked away from its commitment to the growth and development of its neighbouring countries and has been continuously contributing increasing amounts of financial resources to sustain USP. Madam Speaker, Fiji is seen as a true leader in the Pacific, caring about the wellbeing of the Pacific Island countries.

Madam Speaker, raising into Fiji's Parliament a USP matter without raising it with the USP Council is an attempt to tarnish the reputation of Fiji in the region, and that also from a former Minister of Education speaks volumes about leadership and wisdom on the Opposition bench.

HON. P. SINGH.- Don't personalise things!

HON. DR. M. REDDY.- Madam Speaker, never before has any other any other Pacific Island country raised a USP matter in their Parliament. My apology to our member countries.

MADAM SPEAKER.- Honourable Minister, I request that you do not attack a Member directly. Answer the question as it is being asked.

HON. DR. M. REDDY.- Madam Speaker, the honourable Member should know that USP has its own processes of dealing with complaints and petitions. These processes are derived from its Charter and statutes and the Council is its highest governance body. It is important that USP as a regional university, with its own governance structure be allowed to operate according to its policies and procedures. These policies and procedures are found on page 2 of the Ordinance and I am going to read that, I quote:

“Complaints from individuals who provide their names should be sent to the secretariat to the Council, who will take the matter to the Pro-Chancellor or the Deputy Chair of the Council as appropriate. The Pro-Chancellor and Deputy Chair with the Secretary to Council will vet the complaints for its seriousness. If a complaint is deemed not serious, the Secretary to the Council will inform the complainant that the matter is annulled.

The complaint should be referred within 21 days and proceed to the Subcommittee of the Executive Committee of the Council prescribed in the Ordinance for the discipline of the Vice Chancellor”.

HON. RO T.V. KEPÄ.- Madam Speaker, I rise on a point of order.

HON. DR. M. REDDY.- Madam Speaker, I have not finished yet.

HON. RO T.V. KEPÄ.- Madam Speaker, can he just keep his speech short and simple and answer the question because it must be relevant under Standing Order 60. We do not need a long tirade on the explanation, just make it short and sweet.

HON. DR. M. REDDY.- The financial and governance issues were raised earlier on. These had been fully dealt with by the Executive Committee of the Council, and the full Council. The Executive Committee and the Council had found allegations without merit. The Executive Committee and the Council felt that the facts from the ground had been opposite to what was being alleged, specifically the Executive Committee already dealt with this at its meeting on 27<sup>th</sup> September, 2011 and the Council had considered the Executive Committee Report and had its own decision at its 73<sup>rd</sup> Meeting on 3<sup>rd</sup> to 4<sup>th</sup> November, 2011.

The most recent complaint which was anonymous was reported by the Acting Pro-Chancellor to the Council at its 80<sup>th</sup> Council Meeting which was held on the 2<sup>nd</sup> to 3<sup>rd</sup> June, 2015 in Kiribati where I was present. The Council noted the following:

- 1) The issues raised in the complaint were already dealt with before; and
- 2) That according to its policy on handling complaints against officers of the university, complaints from anonymous sources will not be considered.

The Council also noted the suggestion that this be made public.

Madam Speaker, USP has two external audits when most organisations have one. Furthermore, USP engages an external firm to conduct a large number of internal audits annually. An independent audit committee with no USP management or staff representative in it, deliberates on all such reports and then provides a report to the Council. The Chair of the Audit and Risk Committee, Mr. Iowane Naiveli, a noted and respected financial expert is satisfied with the financial controls of the University.

Madam Speaker, I rest my case.

HON. RO T.V. KEPA.- Madam Speaker, a supplementary question; as the honourable Minister has stated that the petitions go back to 2011 and we are now in 2015 and some of the member countries have been very concerned about these petitions not being addressed because they are also owners of the University.

Madam Speaker, although the USP main campus is in Fiji at Laucala Campus, USP is owned by 12 member countries, so some of those members have been concerned about the outcome of the petitions because in terms of what USP used to enjoy as an international reputation with accreditation to other overseas notable institutions. How are those issues that have not been addressed going to affect its international reputation, particularly since we heard yesterday that they have also lowered the entry level into USP? So the international reputation Madam Speaker.

HON. DR. M. REDDY.- Madam Speaker, again, load of allegations but as I have said, the most recent complaint which was anonymous was reported by the Acting Pro-Chancellor to the Council at its 80<sup>th</sup> Council Meeting in Kiribati.

Madam Speaker, the honourable Member is saying that the member countries are not happy, but all the member countries' education Ministers were present at that Council Meeting and all of them accepted that there is no case to answer.

MADAM SPEAKER.- Thank you. The honourable Balmindar Singh.

HON. B. SINGH.- Thank you Madam Speaker, can I ask the question to the honourable Minister for Education, Heritage and Arts, if there has been an external report which supports good leadership, good governance and financial stability of USP?

Thank you Madam Speaker.

MADAM SPEAKER.- Thank you, honourable Minister.

HON. DR. M. REDDY.- Madam Speaker, let me note a few, I have got a load of it, but I do not want to waste too much time of this House.

*The Pacific Plan Review 2013 Report to Pacific Leaders, (Volume 1)*, and I quote:

“The Review noted and applauds how the University of the South Pacific has developed such an approach, developing the capabilities and accountabilities of its own governing body and would encourage Pacific Island Forum Secretariat and others to do likewise.”

*Recommendation No. 21* in that Report says:

PIFS should invest in up skilling and professionalising the capabilities, accountabilities and responsiveness of the new Board. (As noted earlier, the University of the South Pacific has exemplary reforms in this regard.)

Secondly, for the information of the other side of the House, in the “USA Report: a US delegation visited USP on 26<sup>th</sup> February, 2014”, and the Report states:

“USAID Deputy Secretary, Dennis Mathieu yesterday paid a courtesy visit to the University of the South Pacific Vice-Chancellor and President, Professor Rajendra Chandra at the Laucala Campus.

Ms Mathieu said “USP is a very unique type of organization, one of the two regional universities in the entire world”, and I quote:

“I would like to commend you for your leadership here at USP in ensuring that this continues to be a premier organisation in the region. We do have a great deal of cooperation with the university such as people, to people exchange and cultural activities.”, she said.

“We are putting together greater emphasis on renewing our commitment to the Asia-Pacific region. We are pleased that we are able to partner with the university. Thank you for your support and collaboration with us.” Ms Mathieu said.

MADAM SPEAKER.- Honourable Prem Singh.

HON. P. SINGH.- Madam Speaker, the honourable Minister’s response has been on internal inquiry – people who are a part of the process. My question to the honourable Minister is; does he have the powers to institute an independent inquiry into the affairs of USP? I think that is the question.

HON. DR. M. REDDY.- Madam Speaker, the power rests with the Council. The Report comes to the Council; the Executive Committee examines the complaint; it comes to the Council, the Executive Committee, which I am part of, recommends to the Council to establish an independent committee, should the need be. Madam Speaker, and liken to volumes of reports which are sold at the University, is an excellent governance model for the entire region. The Council says there is no need to entertain such report.

MADAM SPEAKER.- Thank you and I give the floor to the honourable Niko Nawaikula.

HON. N. NAWAIKULA.- Madam Speaker, can the honourable Minister therefore, confirm to us that currently there is no petition pending, calling for the investigation into the financial governance and issues for USP?

MADAM SPEAKER.- Thank you, honourable Minister?

HON. DR. M. REDDY.- Madam Speaker, after examining the Report of the Council, the University Council members, I am not aware of any other petition, apart from the one that was dealt by the Kiribati meeting, no – none. If there is anything new, Madam Speaker, I would be happy to look at it.

(Laughter)

MADAM SPEAKER.- Thank you, I give the floor to the honourable Leader of the Opposition.

HON. RO T.V. KEPA.- Could the honourable Minister then explain, is he aware of the withdrawal of about \$40 million of Australian AID, to set up the Pacific Islands Centre for Public Administration (in their words) due to poor management?

HON. DR. M. REDDY.- Madam Speaker, that is not a link to this question. Madam Speaker, she can table the question.

MADAM SPEAKER.- Thank you. We will move on to the next item on the *Order Paper*.

#### Written Question

Tariff for Local Manufacturers – 2006-2014  
(Question No. 158/2015)

HON. M.D. BULITAVU asked the Government, upon notice:

Would the honourable Attorney-General and Minister of Finance, Public Service and Communications) advise what local manufacturers the Government has given tariff support to, commencing from the year 2006 to 2014, and outline the reasons for the provisions of tariff support?

HON. A. SAYED-KHAIYUM (Attorney-General and Minister of Finance, Public Enterprises, Public Service and Communications).- Madam Speaker, I thank the honourable Member for his written question. I will table my answer at a later sitting date, as per Standing Order 45(3), and just to note that we do not give tariffs individually, we give it to various sectors, which is how the question will be answered.

MADAM SPEAKER.- Question time is now over. As I alluded to before tea break, I will be making a ruling on a point of order.

#### **COMMUNICATION FROM THE CHAIR**

##### Ruling – Point of Order

The honourable and learned Attorney-General has raised a point of order regarding the capacity of the House to refer petition relating to certain Bills to a Standing Committee which is considering the same Bills.

The honourable and learned Attorney-General is referring to a petition tabled this morning regarding the Rotuma Lands Bill and the Rotuma Bill. In accordance with Standing Order 37, I refer the petition to the Standing Committee on Social Affairs.

In his point of order, the honourable and learned Attorney-General claimed that because the two Bills are currently before the Standing Committee, the referral of the petition to the Committee would usurp the role of the Committee.

The right of citizens to petition their Parliament and the power of Parliament to deal with petition is an ancient right and was affirmed by the Resolution of the House of Commons in 1669. It is a fundamental right of the citizen, which is preserved in our Standing Orders. It is the only means by which individuals can directly place grievances before the Parliament on matters over which the Government has jurisdiction.

It is also an important mechanism to make the Parliament relevant and responsive in modern society as evidenced by the automatic referral of a petition to a Standing Committee. Under the Standing Orders, the Chair must refer the petition to the appropriate Standing Committee. In this instance, the petition, which has been tabled this morning and deals with Bills before the Parliament, is clearly within the House's jurisdiction.

The two Bills which are the subject of the petition were read a first time on 14<sup>th</sup> May, 2015. However, I should point out that those Bills have yet to be referred to a Standing Committee, even if they are so referred. In the future, there is no reason why the Committee cannot consider both the Bills and the petition. It is then up to the Committee to determine how to deal with them and report back to the House. I have therefore, concluded that there is no impediment to the petition that are considered by the Committee, and I rule that the petitions stand referred to the Standing Committee on Social Affairs.

MADAM SPEAKER.- The Leader of the Government in Parliament to move his motion.

#### **PARLIAMENT SITTING CALENDAR – SEPTEMBER 2015-AUGUST 2016**

HON. LEADER OF THE GOVERNMENT IN PARLIAMENT.- Madam Speaker, I move:

That Parliament adopts the sitting calendar for the period September 2015 to August 2016.

HON. CDR S.T. KOROILAVESAU.- Madam Speaker, I beg to second the motion.

MADAM SPEAKER.- I now call upon the Leader of the Government in Parliament.

HON. LEADER OF THE GOVERNMENT IN PARLIAMENT.- Madam Speaker, we are two months away from the month of September and we are almost a year in our new journey as a democratic nation. We are progressing and we are also learning – we are learning a lot of new things, and most importantly, we are reviewing our performances as well, and that is essential for good governance, and that is a key role of leaders and managers in organisations, and Government is not an exception.

One of the key values of the current Government, Madam Speaker, and we do not want just to have values on paper, but we would like to live on the values that we hold so dear is pragmatism - changes made if and when they are necessary. That is one of the core values of the FijiFirst Government, and of course, as I have stated, we would love to live by the values that we hold so dear. I had mentioned that we are reviewing our performance.

Madam Speaker, the motion before the House, of course, it is a fact that there will be a reduction in Parliamentary Sittings during the calendar year. However, it does not take away the role of this august Parliament, and of course, we as honourable Members. I wish to congratulate all honourable Members and thank and acknowledge them this morning for their contributions in this first 10 months in our new journey.

In our review process, Madam Speaker, we strongly feel that there is a need to be more efficient in the way we do business. Efficiency, Madam Speaker, is about achieving the same results or even better, and we will continue to pursue that. Excellence pursue excellence in the things that we do and at the same time, with minimal costs and minimum time. That is efficiency. Of course, we understand that there is a role that this august House has to play but it is a matter of bringing efficiency as well, into the way we do business.

Madam Speaker, I bring to your attention, the representations in the Standing Committees for both sides of Parliament. As the Leader of Government in Parliament, I am also concerned about our participation and, of course, on the other side as well. We all have commitments, apart from coming together in Parliament. There are a few honourable Members, who run businesses; the honourable Sanjay Patel and the honourable Member from Tailevu. He has his own little and honourable business, Madam Speaker.

Madam Speaker, we all have commitments and the participation in the Standing Committees, is a concern. We also have to be fair on all the honourable Members as well. Every sitting, we see substitutes, continuous substitutes because there are other commitments, Madam Speaker, and we hope that with the reduction, we can then plan better and, of course, we make the most of the sittings, as well as allow other Members to attend to other honourable duties as well.

Apart from sitting in this august Parliament, Madam Speaker, we also need to serve the people better and be with the people. I do not want to be seen on television always here in Parliament, I want to visit the farmers. I want to visit the rural stakeholders. It is not only about Parliamentary sittings, Madam Speaker, we have to be given time as well to attend to other businesses.

Madam Speaker, I know that this is against the norms, the practices of yesteryears but this is about making the changes, if and when they are necessary and I welcome the debate in the House today, and I strongly support the motion before the House. Thank you madam Speaker.

MADAM SPEAKER.- I now invite the House for debate and I call on the honourable Prem Singh.

HON. P. SINGH.- Madam Speaker, as the outset, let me say that this is a very badly worded motion as it does not actually include the actual dates of the sitting.

(Hon. Govt. Member interjects)

It is not in the motion.

Madam Speaker, in accordance with Standing Orders 105(2), I propose an amendment to the motion. The motion should read, and I quote:

That Parliament adopts the sitting calendar for the previous September 2015 and 2016, with an additional sitting week in March, June and July of 2016.

(Chorus of Interjections)

MADAM SPEAKER.- I think you all have a copy of this calendar and because you are proposing an amendment to the motion, can we have that amendment in writing? I will give you a few minutes, just to write it down and while you are writing down the amendment to be submitted to us, is there any other honourable Member who would like to speak on the motion?

I will give the floor to the honourable Niko Nawaikula.

HON. N. NAWAIKULA.- Madam Speaker, the motion reads, “That Parliament adopts the sitting calendar for the period September, 2015 to August, 2016. In real terms, that reduces the sitting dates to about four weeks in a year for 2016. The concern is, as you go back to the Business Committee, this was opposed by the Opposition, all of them. The Standing Order says that they must come to a near without enmity, so how can you say that? When half and a half on that basis alone should not go through. However, the point to consider is that, more and more, we are reducing ourselves to a laughing stock amongst Parliaments around the world. ..

(Laughter)

Yes, we are reducing ourselves to this because the maxim that applies that, democracy must not be done but it must also be seen to be done, and that is what we are called for here. If the public are sitting around, they will say, “where are our representatives?” “Oh, they have gone out”.

HON. MEMBER.- They walked out.

HON. N. NAWAIKULA.-They should be there...

(Chorus of Interjections)

HON. N. NAWAIKULA.- ...deliberating on all the Bills.

(Chorus of interjections from Government Members)

HON. N. NAWAIKULA.- Madam Speaker, already, we are abusing our role. Every single Bill that comes into Parliament, is coming under Order 51. It is going to happen again today, in which we are sacrificing the process for democracy. The process for democracy requires us to be seen here to be working and doing as legislators.

In all these Bills where we are coming under Order 51, you are doing away with the most important aspect which is the Committee aspect. The Committee aspect requires us to go through each and every clause so that we are not only doing a process where public are seeing and saying, “yes”, they are going through each and every clause of this Bill”. When we do not do that, a majority of us here, especially those who do not go to the Standing Committees, will be putting their hands up, without even looking at the provisions of each Bill. It also goes on to the integrity of this Parliament, where is it? We are supposed to be here, this is our House.

(Chorus of interjections from Government and Opposition Members)

HON. N. NAWAIKULA.- No, I am going to wait, you can speak now.

(Laughter)

MADAM SPEAKER.- Order! Please allow the honourable member to continue.

HON. N. NAWAIKULA.- Madam Speaker, if I go back to the very sitting, you stressed, Madam Speaker, (this is from you), you stressed “ it is very, very critical that we come here”. You take this as a priority and even in the last sitting, eight honourable Members from that side were not in this Chambers. They were away overseas, here and there, where were they, when they should be here?

HON. A. SAYED-KHAIYUM.- Where were you?

HON. N. NAWAIKULA.- I was here.

(Laughter)

MADAM SPEAKER.- Order!

HON. N. NAWAIKULA.- But there is a difference, I paid for my own fare

(Laughter)

HON. N. NAWAIKULA.- The public...

HON. GOVT. MEMBER .- Nothing to do there.

HON. N. NAWAIKULA.- and every person out there were paying for their fares. It is an abuse!

(Laughter)

MADAM SPEAKER.- Can I ask the honourable not to respond to interjections but to deal with the issue directly.

HON. N. NAWAIKULA.- Then you look at our pay. \$50,000 for me, \$200,000 and \$120,000.

HON. A. SAYED-KHAIYUM.- Madam Speaker, point of order.

MADAM SPEAKER.- Point of Order.

HON. A. SAYED-KHAIYUM.- Madam Speaker, we have a motion on the floor and the motion is about adopting the calendar

HON. N. NAWAIKULA.- Exactly!

HON. A. SAYED-KHAIYUM.- We then have a counter motion or amendment to the motion, which is being drafted, and it appears that the honourable Nawaikula is now going on a long journey. He has moved away from the motion, he is now talking about Standing Orders 51 which is actually allowed under the Standing Orders and now, he is talking about absenteeism, overseas visits, so Madam Speaker, I just wanted clarification as to what is happening to the motion on the floor and the amendment and what is happening with what honourable Nawaikula is saying. Thank you.

HON. N. NAWAIKULA.- The motion is to reduce and you look at that against your remuneration. I am paid \$50,000 to sit here for four weeks, no! And on the other side, some are getting \$200,000, \$120,000, et cetera. Do you deserve that? Do you deserve that? If you reduce that also reduce your remuneration (your pay) and your allowances.

(Chorus of interjections)

If the public is paying you so much to come here, then why have this motion to tell the public that we will do not want to be here. We do not want to be in the House, who they elected for us to be here.

HON. P. SINGH.- Reduce your pay by 50 per cent!

HON. N. NAWAIKULA.- It is totally unreasonable.

MADAM SPEAKER.- Honourable Members are allowed 20 minutes.

(Hon. Govt. Member interjects)

HON. N. NAWAIKULA.- No!

MADAM SPEAKER.- Honourable Members are allowed 20 minutes and I reckon the issues that you are raising is relevant.

HON. N. NAWAIKULA.- It is relevant. If you do not come here, do not get paid. It is user pay. User pay is very important.

(Laughter)

It is user pay! You know, they elected us to be here to be paid for that much money and now, we have a motion to go out of Parliament. Well, we should also take away that money.

HON. MEMBER.- With absenteeism?

HON. N. NAWAIKULA.- Absenteeism yes, that as well.

(Hon. Member interjects)

HON. N. NAWAIKULA.- I can talk and talk but, Madam Speaker, that is the reason why I said that this is totally unreasonable and we should vote against it.

MADAM SPEAKER.- Thank you. Before I call on the honourable Mosese Bulitavu, we now have the amendment to the motion that we will deal with now. The amended motion reads:

“The Parliament adopts the sitting calendar for the period September, 2015 to 2016 with an additional sitting week in March, June and July, 2016 as per Standing Order 105(2)”.

We will continue with the debate but at the end of the debate, we will vote on the motion first and then the amendment to the motion at the end of the debate.

The honourable Mosese Bulitavu has the floor

HON. M. BULITAVU.- Madam Speaker, I would like to contribute to the debate on the motion that is before the House, to reduce the sitting calendar this year.

We just had our Elections in September last year, we have a new Parliament and it is still learning and considering the amount of workload, Madam, it will be up to you. Some of the Bills are on their way to the Committees, some are pending, so this has to be considered by the amount of time that we should meet and the time that should be considered to reduce the workload so that we do not have any other backlogs on pending matters that people are urgently looking for answers on. When this came on television, many people have been responding well. People are saying in the *iTaukei* language; “*Esa vinaka sara ga qo. Me ratou yavalati vakalevu*”. These are the things that people are saying and it is an opportunity. This is good, to air this and it is an opportunity for the people to check the government, to check them every time.

However, Madam Speaker, to reduce that to four weeks, people need access to what is real democracy. To even look at democracy, they talk about this in our community and it also develops them, Madam Speaker, on their capacity to know what is democracy, what are the issues that are before the House and most of them learn from what they hear and see on television. It guides them to where they want to go to, apart from other government programmes that are running on the Executive Arm of Government but Parliament must not be programmed on the executive quarterly reports, we should come and meet only four times a year, to consider things that can be programmed to them and Parliament is a separate arm of the State. We are legislators and we need Bills to come in, not only bills that are proposed by Government but other private bills that could be coming from the Opposition side. This can give an opportunity to Government on the concepts they could also develop, in order to make laws that will suit our people.

The other thing that the Leader of the Government in Parliament raised in regards to the commitment of most of the honourable Members, that has already been dealt with in the Standing Orders. Once an honourable Member is absent or is not going to come, he/she has to inform you, Madam Speaker. It has already been dealt with. If you are going to be absent, you can follow the right procedures which are set out in the Standing Orders. So, that has already been dealt with, it is a non-issue, the work commitments, our time out to the community, I think we have time to go to the people. Even with an additional four weeks into the timetable, we still have plenty time to go back to the people.

I see that the motion could limit the debates and also people to assess Members of Parliament on how they perform and to also guide them to the next election in 2018 on how honourable Members of Parliament are performing in Parliament. Question times are very important, decisions and how they debate, these are the criteria our voters will be looking into and for us to limit that and we do not give ample time for them to make their assessments, we deprive them the right, even the right to vote.

My contribution to motion, Madam Speaker, I think you have to make a ruling. To uphold the dignity and honour of this Parliament, I think it is up to you on how this Parliament can be in operation so that matters that come in will not, in anyhow, be obstructed by the limitation of time.

Madam Speaker, I do not support the motion to reduce the number of Parliamentary sittings.

MADAM SPEAKER.- Thank you. The honourable Semi Koroilavesau.

HON. CDR. S.T. KOROILAVESAU.- Madam Speaker, I wish to rise in support of the motion. Basically what I would like to imply, if I was a member of the Opposition, I would totally agree with the motion because the basic fundamental responsibility of Parliament is basically to make laws or amend laws which is the responsibility of the Government.

HON. OPPOSITION MEMBERS.- No, no, no!

HON. CDR. S.T. KOROILAVESAU.- So, if the Government is happy in introducing Bills and are happy with the conditions that that the civil servants are carrying out their responsibilities, then there is no need to be sitting on extra time in Parliament. The Parliament basically sits to amend or make new laws. I think if we put that into the proper context, they will be happy. The Opposition will go out and do other things that are more important than sitting here for half days in one week.

(Chorus of Interjections)

I have emphasised this before. If we can sit from 9.30 a.m. until 4.30 p.m., then we are actually using and utilising or maximising the time that is allocated to us to sit and discuss issues. Thank you Madam Speaker.

MADAM SPEAKER.- Thank you. The honourable Tupou Draunidalo.

HON. ROKO T.T.S. DRAUNIDALO.- Madam Speaker, I think the Opposition's task this morning is to convince the Government and yourself, as to why we need to sit more often. I am very happy that you alluded to in your ruling that you have just given, the history of Standing Committees and Parliament.

I recall, Madam Speaker, when I was part of your delegation to Wellington, together with the honourable *Turaga Na Tui Namosi* who sits here, that while we were in the Parliament House, I did draw your attention to oil on canvas which was a drawing depicting the signing of the Bill of Rights after the glorious revolution, Madam Speaker, and we made a little joke about it. I do not know if I made a commitment not to bring it up in this Parliament but, Madam Speaker, the whole purpose of Parliament is, yes, Government brings laws but the Opposition has a role to play as well and that is, to keep the Government in check. If we are not here more often, Madam Speaker, it means that we allow the Executive to continue unchecked for those many months or weeks, and issues arise every day in the administration of Government by the Executive.

(Honourable Govt. Member interjects)

That would be good, and they can return to their other work the next day. Other issues will crop up and then we can keep them in check there, Madam Speaker. However, as we discussed about that oil on canvas and we have to know the history so we know why there is this requirement to have Parliament and sitting and checking of the Executive because the king, who is a tyrant, did not care about the rights of anyone below him. There was a Feudal System, whatever he said, went. "I decree that so and so happens", so it happens and when the people's representatives were in some form of Parliament, he did not care too much about what they thought.

Madam Speaker, just in June last month, the United Kingdom celebrated 800 years of *Magna Carta* and *Magna Carta* was the first step to have a chip at the powers of the King, and that was for the benefit of Nobles and Barons. Of course, that is how human nature is.

It further evolved because still the king refused to be reasonable and they had a very bloody revolution and after that came the signing of the Bill of Rights which is now the bases of even our Constitution, Madam Speaker. Also, the honourable Attorney General said in the long session that we had in this House, that we have to strengthen this House and this institution, Madam Speaker, the institution of keeping the Executive in check. How do we do that if we go for long periods without coming to this Parliament and airing issues, Madam Speaker? In fact, this Constitution which the Government brags about, clearly sets out the separation of powers.

The Executive has a job to, the Legislature has a job to do and I did say in that very lengthy debate, Madam Speaker, where I referred to Section 131 of the Constitution which is the power of the Military Forces which I said then, and I maintain, that it seems to have a plenary and bigger power than this Parliament. So, is the Government saying that because this Parliament does not really have that role of checking the Executive, it does not matter? There is Section 131. They are the real check on the Executive. How dare they? How dare that the institution of the Executive which is beneath this Parliament, be given such a role directly or indirectly, Madam Speaker! And I ask you, really with all of the powers that you have to protect the privileges of this Parliament and what this Parliament stands for, and I thank you for going back to the history of it, that we remember why thousands and thousands and thousands of people shed their blood to get us this freedom and to get us the purpose for having this Parliament to check on the Executive, Madam Speaker, in a civilised manner which does not involve guns or having an armoury, sitting there and a constitutional provision under Section 131.

Madam Speaker, I ask you to take your powers and your role in protecting this house, this Institution very seriously in the consideration of these issues, it is about checking the Executive, Madam Speaker. That is what it is about and the more we sit, the better it is, the more strong it is for this Institution because, Madam Speaker, I agree with the honourable Attorney General on what he said in the last debate on that issue; we need to build this House up. These people who are watching us on television that they see that we are above every other institution of State, Madam Speaker, and that is what thousands of people shed their blood for in the glorious revolution. Let us, in effect, spit on their graves and what they died for to bring us this freedom. Thank you.

MADAM SPEAKER.- I now give the floor to honourable Dr Mahendra Reddy.

HON. DR. M. REDDY.- Madam Speaker, after hearing the arguments put forward from the other side, I am still trying to figure out what is it that they are after; is it the money as the honourable Nawaikula said?

HON. OPP. MEMBERS.- Aw!

HON. DR. M. REDDY.- No, no, let me explain!

Madam Speaker, the honourable Nawaikula only read this sheet and said, “four weeks”. In fact, he should read both. He said, four weeks he is paid \$50, 000 and we are paid \$200,000. He is paid \$50, 000 for four weeks and we work for 52 weeks but we are paid four times \$50, 000. That is the first issue.

The second issue, Madam Speaker, is that if their argument is their ability to come and debate issues here, Madam Speaker, our experience this year has shown that we have not been utilizing the existing time given to us, that is what we are saying. He is using this years’ experience, the amendment has been sought. What we are saying is that, if we need extra time, we could extend the hours and that is not an issue but what is the use of time tabling hours when we do not need it. That is the argument we are putting forward.

Madam Speaker, I am saying that we want efficient utilization of time and hours of the Members of this side, that is what we are arguing for. Thank you.

MADAM SPEAKER.- I now give the floor to the honourable Salote Radrodoro.

HON. S.V. RADRODRO.- Madam Speaker, may I begin by highlighting the prayer that we pray every morning and I quote; “ Oh God we come together in your name in this Parliament, to debate the Nations affairs and pass laws for the benefit and welfare of all Fijians”.

Madam Speaker, by reducing the number of weeks to sit, it takes away that opportunity for us to come here and debate and particularly, for our nation which has just come out of military rule for the last years, we welcome our new democracy, and we have just about to end the first year. I believe the second year and the third year is very important for us, and we need more time to come and sit in this Parliament and debate, particularly when the last years have been characterised by suppression of our human rights, suppression of the people’s voices, suppression of the media, and where the element of fear and intimidation was part of the day.

HON. N. NAWAIKULA.- Correct!

HON. S.V. RADRODRO.- We lived in a very controlled environment and we welcome this new democracy where we want to be free to raise our voices, to raise the voices of the people we represent in this august Parliament. And having to reduce those weeks means we are not going to be accountable to our voters, we are not going to keep the Government in check for transparency and accountability and,

therefore, I beg for defer from the Leader of the Government in which he says that efficiency means minimal time and minimal cost, the reason we are reducing the number of weeks. However, we must go back to our prayer in which we are here to debate and debate needs time. We cannot debate effectively with limited time and that is why we are particularly moving on to the second year, maybe we could increase it just to two more weeks or three more weeks.

The Leader of the Government in Parliament also mentioned about the Committee. If we are not sitting here, then we can engage in the Committee work. Madam Speaker, for this year which is about to end, the Standing Committee on Social Affairs has never met and yet, reports have been tabled in this Parliament. So, if you are going to continue in this pace whereby we are going to be limited to the time that we are given to come and debate in this Parliament, then how can we be effective in our role to be able to keep the Government in check and to be able to ensure that there is transparency and accountability in terms of our duties, particularly with the Executive arm.

We know that previously, there was the Auditor-General's Report for the how many years, finally it reached this House and we do not want that to happen. We want the Auditor-General's Reports to be tabled in this House every year. So, if we are going to be limiting the time that we are going to be here, to sit, to discuss, to debate the issues about our nation, then we are failing in our duty Madam Speaker

HON. OPPOSITION MEMBERS.- Hear, hear!

HON. S.V. RADRODRO.- Therefore, Madam Speaker, in regards to this, I do not support the motion. Thank you Madam Speaker.

MADAM SPEAKER.- Before we carry on, please I would like to remind honourable Members that we are also debating the amended motion that I had read earlier.

### **SUSPENSION OF STANDING ORDERS**

HON. LEADER OF GOVERNMENT IN PARLIAMENT.- Madam Speaker, I move that Standing Order 23(1) is suspended, to allow the House to complete the debate on the motion before the House.

HON. CDR. S.T. KOROILAVESAU.- Madam Speaker, I beg to second the motion.

Question put.

Motion agreed to.

### **RESUMPTION OF DEBATE ON THE PARLIAMENT SITTING CALENDAR – SEPTEMBER 2015-AUGUST 2016**

MADAM SPEAKER.- I now give the floor to the honourable Gavoka

HON. V.R. GAVOKA.- Madam Speaker, I wish to contribute to the dialogue today on the number of sittings and at the outset let me just say how surprised I was when I learnt this yesterday that we are reducing the number of sittings of Parliament. As my colleague had shared with us, we have just come out of eight years of different kind of rule, one that we are not accustomed to – darkness. We came out of that, Madam Speaker, we spent a lot of money on the elections, we refurbished this beautiful auditorium and barely nine months into our democracy, we are now reducing the number of sittings. Our people must be watching us and the excitement they have had over the last couple of months about their democracy, that there is freedom in the land, that there is something that they used to be part of their lives years ago has returned and there is excitement in the land; we know that. Here we are, barely into the first year of

our Parliament, and we are reducing the number of sittings. What kind of message are we giving our people?

Madam Speaker, yesterday I brought up the point about the workload of a 50-seater Parliament. I mentioned that in the 71-seater Parliament, the workload was much bigger and they had a template to follow. For this one, it is a new kind of Parliament, it has only 50 seats. We need to understand how it works, we need to understand its workload before we make this kinds of changes. We are barely into it, it is only nine months, let us fully understand it; the Committees and the other subsidiary parts of the Parliament, let us fully understand it before we make these changes.

I come from the private sector and to me workload is very important, how we marry the dynamics in any organisation. I do not think we have done that. I do not think we are justified at this point to reduce the number of sittings. It is just so disappointing, Madam Speaker, and I brought up yesterday as to the support we receive from overseas. We have visited parliaments in the United Kingdom, Australia and New Zealand and I ask the question, what do we learn from them? Did they immediately reduce the sittings of Parliament, reducing the voice of the people?

Madam Speaker, I am beginning to believe that the Government in reducing this, is more interested in the exercise of executive power, and not interested in legislation. I think this is very important, Madam Speaker. Legislation is equally important in the governance of a country. Yes, they have the numbers, they can push these things through, but Madam Speaker, we need to be one people, we need to address these things in totality before the exercise in executive power. They should not be free to do it anywhere they want and this is going to happen with these four weeks in 2016. Can you imagine, Madam Speaker, we sit one week in February, one week in April, one week in June and one week in August. I am questioning myself, am I going to become a sinecure, getting paid for doing nothing. Let us just take it slowly, we have come out of eight years of difficulties, we are just beginning to see the light, let us look at the workload; another analysis of this, let us get committees to sit together, not just someone arbitrarily saying, let us just reduce it from seven weeks to four weeks. People are used to their democracy. I believe in the previous parliament, they sat for 59 to 60 days, here we are, in one year for the first eight months, we only sit for 20 days. Someone just said to me, “*Oqori eratou sa rere.*” That is what the public is saying “*Eratou sa rere.*” Because the way you people are hitting them in Parliament, *e ratou sa rere o ratou na Matanitu.* That is what they are saying, Madam Speaker.

MADAM SPEAKER.- Please refrain from using the vernacular.

HON. V.R. GAVOKA.- I plead with everyone, please, we are honourable Members ...

HON. CDR. S.T. KOROILAVESAU.- Don't feel it.

HON. V.R. GAVOKA.- ... there are 50 of us, this is a new Parliament, we are setting a new platform for our democracy. This is a new parliament – 50 seater. I believe we are one of its kind in this world, Madam Speaker, or this part of the world. So, let us take it slowly, let us fully understand how it works and then go from there, by 2017 and 2018, if indeed we can prove that the work load as suggested here suits this kind of sitting, by all means do it. It is just so premature and irresponsible at this time, Madam Speaker, to come to a decision like this.

Madam Speaker, I support the amendment to this, we vote for these four, but we also include the other three weeks that have been put in the motion.

HON. A. SAYED-KHAIYUM.- Madam Speaker, true freedom, true democracy comes through empowering people in a tangible manner. True freedom and democracy does not mean that this is, if we sit here long periods of time, therefore we have true democracy or therefore we have true freedom. No.

It is about introducing, it is about having in place laws, policies that actually empower people in a very tangible manner, not just because we sit here and debate and the lack of quality of debate from the other side, Madam Speaker, is quite lamentable.

HON. OPPOSITION MEMBER.- Just speak for yourself.

HON. A. SAYED-KHAIYUM.- So, Madam Speaker, at the moment, let us put it into perspective. The Standing Orders says that we sit from 9.30 a.m. to 12.30 p.m., then we sit from 2.30 p.m. to 4.30 p.m.; that is five hours only. And we have a two-hour lunch. Most of the Ministers on this side of the House probably do not even have lunch some days because they are so busy with their work. We have a two-hour lunch, we start at 9.30 a.m., so we already have five hours, but then out of those five hours, as seen this week, we have only worked till 12.30 p.m.

Madam Speaker, the point is, as the honourable Leader of the Government in Parliament has said, we already have a lot of time within the Standing Orders. If there is more time required in the day, we can go ahead and deal with those matters. Someone has referred to the Business Committee proceedings, we also highlighted the Business Committee proceedings as we stated to the other side, Government plans to introduce more laws, more Bills next year. There will be a lot of work for the Standing Committees.

The honourable Nawaikula talks about all the Bills need to go to the Committee, you will be getting a lot of work for the Committees. On the other hand, he talks about 51, we have a couple of Bills today that are not even more than one page or half a page. They want to send that to the Committee also. We cannot be sitting here, the rest of the country cannot be twiddling their thumbs just because they want to send everything to the Committees. The Rotuma Bills have been sent to the Committees without any restriction, not even a time gap. They can come back in two years' time, if they want. So, the reality is, Madam Speaker, that where ever there have been Bills that requires specific amount of time, need a lot more public consultation, et cetera is being sent to those committees, where there are functionally-type of amendments made to the Bills then we have Standing Order 51 being applied.

Now, Madam Speaker, we have had the other side also walked out on two substantive matters before this House. They walked out on the Budget, the most important document for any government. Governments have fallen because the Supplier Bill has been blocked. Governments have fallen because the Supplier Bill has been blocked. If they were so persuasive, Madam Speaker, they could have made some very good contributions to the Budget. Who knows, amendment could have taken place but they forsook that actual opportunity.

Then, Madam Speaker, we had the largest, possible Bill before this Parliament and other previous Parliament, which is the Companies Bill, more than 400 pages long. They were again not here and yet, they have the audacity to talk about being accountable to the people of Fiji. That is what they have done with the opportunity and with a longer period of calendar that was given to them last year. That is what they have done, they squandered it. So, Madam Speaker, we have what we have before us.

As I was reminded that many people actually have been praying every morning, they thank God that the FijiFirst Government actually won, because we are actually putting runs on the board, we are doing initiatives that the honourable Prime Minister did at Albert Park yesterday. What we talked about, about assisting the *iTaukei* people, through the development of their lands. These are the things that these Ministers do 52 weeks of the year and assisted by the ably backbenchers of this side.

Madam Speaker, the reality is this, the timetable has been proposed, if you see the timetable has been proposed, in the calendar year for Parliament starts in September of this year; September till August 2016. We have in fact; also as we have suggested and you can see now, the Budget is going to be delivered on 6<sup>th</sup> November. We have brought it forward. Originally, the Budget was set for early December, we

have brought it forward to say, let us have a debate on it, let us do it sooner, so we have a lot more efficiency, rather than having it only in December.

Similarly, Madam Speaker, we have said that let us have these four months in which we will have the debate. If we need to sit longer, let us sit longer, let us sit late - 9, 10 and 11 at night. Let us have a one hour lunch. Most Fijians do not have two hour lunches, so many workers in this country do not have two hour lunches. They do not get paid \$50,000 for sitting for four weeks in a year. If you take September, then we have seven weeks from September to August next year, that is what is happening, Madam Speaker.

So the reality is that, we must work harder, we must work longer periods, we must work full periods, we must be constructive in our debate and at the same time, the whole notion of statesmanship, of state craft ship is governing for the people, is delivering services, not just simply here having arguments. They actually want to see the runs on the board, they need roads, bridges and jetties built. They need assistance for microfinance, they need assistance in development, they need new policies and the government has to execute. We need to execute it, Madam Speaker, not simply do this, execution. I know they are not used to the idea of execution. They are used to the idea of simply talking. That is what they are missing. They miss the idea of talking. We miss the idea of doing work, that is what we are missing. Madam Speaker, this is why these dates have been proposed. Thank you, Madam Speaker and I support the motion.

MADAM SPEAKER.- Thank you, I give the floor to the honourable Dr. Biman Prasad.

HON. DR. B.C. PRASAD.- Thank you, Madam Speaker. As usual, some Members on the other side are confused, and ...

(Chorus of interjections from the Government Members)

.... in particular, I think the honourable and learned Attorney-General is confused about the role of Parliament, about the role of the Executive, and about different arms of the Government. As a Member of Parliament, Madam Speaker, some of the Members on the other side, including the Minister that as a Member of Parliament, my job is only to come here and sit in Parliament. Let me tell you what I have experienced and this is very important for our people.

As a leader of a party, I get people coming to me every day, including weekends and they are saying that we need to ask more questions. We need to ask more questions and Government should not worry about questions, in fact if we ask more question on this side, it is helpful, it is helpful to the Prime Minister to know what his Cabinet Ministers are doing. It is very important Madam Speaker, therefore that we understand the role of the Parliament, the role of Parliament in democracy in this country.

Madam Speaker, I also get the impression that some honourable Ministers from the other side of the House are so used to that they call "efficiency", executing, does not mean that we dilute the principles of transparency, accountability and our responsibility to the people of this country as elected Members. This is why, Madam Speaker, you would recall in the Business Committee, I did say that we, for example, the Budget session and I can understand the honourable and learned Attorney-General's remarks about us getting out of this Parliament, we have the right to boycott this Parliament, if we feel that we need to do so.

HON. OPPOSITION MEMBERS.- Hear, hear!

HON. DR. B.C. PRASAD.- During the Budget, we raised a very, very important issue; the Budget Estimates were not provided. The Budget was not presented in a proper way ...

(Chorus of interjections from the Government Members)

... and we made a point, Madam Speaker, and we, as Members of Parliament, as a leader of the party, I have the right to boycott any session of this Parliament, and if it is necessary, we will do that again. As honourable Members on the Opposition side, we will do that.

Coming back to the debate in this Chamber, Madam Speaker, there is an assumption about efficiency. Efficiency is one thing, effectiveness, outcome is another. What we want, Madam Speaker, ....

HON. CDR. S.T. KOROILAVESAU.- Relevance!

(Laughter)

HON. DR. B.C. PRASAD.- Madam Speaker, I am surprised my honourable friend is talking about relevance. He is trying very hard to make himself relevant.

(Laughter)

Madam Speaker, let me come back to the actual sitting days. I think the original calendar that emanated from your office and the Secretary-General's Office actually had a sitting in March, May and July. I did say to you and to the Members on the Government side in the Business Committee that let us have that schedule. I think it is incumbent upon Members of Parliament, both this side and backbenchers on the other side, I see the backbenchers on the other side are very quiet, they probably need to have more questions, and we need to have more questions instead of six. We probably should look at 12 questions in a day, Madam Speaker.

Madam Speaker, in most Parliaments, the Opposition has a lot more questions than the government. In fact, the Opposition has very specific question to the Prime Minister. I am sure the honourable Prime Minister will enjoy answering a lot of those questions.

MADAM SPEAKER.- Please do not address directly to the Member, address your debate to the Speaker.

HON. DR. B.C. PRASAD.- I am addressing it to you, Madam Speaker.

MADAM SPEAKER.- Yes, not directly to another Member.

HON. DR. B.C. PRASAD.- Madam Speaker, the honourable Prime Minister is distracting me.

(Laughter)

MADAM SPEAKER.- I did not see that.

HON. DR. B.C. PRASAD.- Let me come back to the point again, Madam Speaker. I think this is a very important issue. I think we are serious about Parliament. We are all looking forward to a very good term in Parliament and let me remind the Government side, sometimes, when they look at the issue raised by the Opposition, they always seem to think that they are going to remain in government for the next 50 years.

(Laughter)

They should realise, Madam Speaker, that the same issue could be affecting them one day if they sit on this side and we are on the other side.

Madam Speaker, we could use the same principles and ride roughshod over them. So, this is not about numbers, Madam Speaker, this is not about majority. This is about looking at how we can make this Parliament more effective, how we can be more accessible to the people and I tell you, Madam Speaker, a lot of people want us to ask questions. I am telling them; “We cannot ask a lot of questions. We have only three questions, we only have three supplementary questions.” That is what we are saying, Madam Speaker, so I do hope that the Government will stick to the original calendar that was provided by the Secretariat which includes sessions in March, May and July.

I support the amended motion, Madam Speaker. Thank you.

HON. A. SUDHAKAR.- Madam Speaker, I will be very short and will try to make it more practical than sensationalising like the other side.

Madam Speaker, the Leader of the Government in Parliament has quite aptly put it that the business of this Parliament does not only happen in this Chamber but also happens in the two Committee Rooms when Committees sit. I speak as the Chairman of the busiest and most hardworking Standing Committee of Parliament. My Committee sits on certain occasions until 12 midnight and that is something that the Opposition should take heed of and learn from that. The amount of grey hair that I now have compared to what I had in September 2014 when I joined Parliament, is a testimony of that, the amount of hard work that I put in.

Madam Speaker, the reason why I am mentioning practical examples is because, the six weeks in total from September that are proposed by the honourable Leader of Government in Parliament is actually a good idea because it will allow the real work of the Parliament to continue in the Committee sessions as well. From the last parliamentary sitting until now, my Committee has been sitting all throughout, trying to look through and scrutinise the Bills and other honourable Members of my Committee are also here who have helped me, now with the reduced days of Parliament sitting, Committees can sit and do more work. The idea that is being proposed here is a good one, and as I have said earlier, it gives Committees more time. As the honourable Draunidalo has said, there are other Committees that have not sat, but it will give an opportunity to all the Committees to do enough work or work as hard as my Committee and sit for those days that Parliament is not sitting, because according to the Standing Orders, the Committees cannot sit when Parliament is sitting. So, we are basically taking days of the Committee sitting and giving it to Parliament.

My Committee also sits during Parliament sittings because we have to do some work. With those words, Madam Speaker, I support the original motion and I hope that the other side realises that sitting in this Chamber and asking questions is important, and it is also important to sit in the Committees and do some real work.

MADAM SPEAKER.- I now give the floor to the honourable Leader of the Opposition.

HON. ROKO T.V. KEPÄ.- Madam Speaker, can just I address the two hour lunch. That came about through the Standing Orders of which this side of the Chamber did not have any say in it, and I believe that the compilation of the Standing Orders which has not been amended, came about through a Decree and I believe that from very reliable source that the honourable Attorney-General had a big say in the Standing Orders. So, the two hours is not from our side, Madam Speaker, although I have to say ...

HON. OPP. MEMBERS.- Oh! Sad!

HON. ROKO T.V. KEPA.- ... that the two hours, none of us sits around doing nothing, we are all very busy, working and looking at our duties and responsibilities.

Madam Speaker, on this motion that is before Parliament, the average sittings (and I know that the Government do not like to go back in history), but I will go back to the years of 2003 to 2006. The average sittings then were 54 days, and that was besides having the House of Representatives, there was also the Senate (Upper House) Meeting that the secretariat had to deal with. So, in 2003 to 2006, the average sittings were 54 days. In 2015, I am looking at 43 days, and I welcome the amendment that you have stated that is before the House, that we are going to be looking at in 2016.

Madam Speaker, the Government drives the agenda from Monday to Thursday, so they are responsible for bringing the Bills before the House that we are to debate on. Our breaking off early on any given day from Monday to Thursday is because the Government has not forwarded the Bills that we should be debating on when we are sitting in Parliament. Then they bring about the Bills when they fast-track it under Standing Order 51 which is not good for us and this is what happened last year, Madam Speaker, when we had the 13 Bills fast-tracked through Parliament, and there was hardly any time for debate. So, we are looking at laying the responsibility back to Government that they are the ones who should be looking at the *Order Paper* from Monday to Thursday and I have to thank the Opposition side, because Friday is always a full day in which we finish at 12.30 p.m., which is there under the Standing Orders, and we have been able to do that so far, Madam Speaker.

In terms of the amendment to the 2016 Calendar, we welcome that, Madam Speaker, but we also ask the Government side to please bring forward Bills that we should be debating on in Parliament, and that is what we are here for.

HON. A. SAYED-KHAIYUM.- Madam Speaker, I rise on a point of order *viz-a-viz* a clarification. The honourable Leader of Opposition said that the Standing Orders that we have now came out through a Decree, and that it has not been amended since then. That is absolutely not correct. The Standing Orders that we have before us says "Amended Standing Orders that went through the Standing Orders Committee" which consisted of both Members from the Opposition and also from this side of the Chamber. This Standing Orders have been subsequently amended by this Parliament through the Committee Stage, so it is not true to say that it is something that is introduced purely by the Government prior to the Elections. In fact, it was reviewed and was being amended by this Parliament - for the record.

MADAM SPEAKER.- Thank you for that clarification. We still have another two honourable Members to contribute to the debate and I would like to request them to be succinct in your contributions to the debate so that we can have lunch at 1.30 p.m. until 2:30 p.m

HON. RO T.V. KEPA.- Madam Speaker, I rise on a point of order, Standing Order 60 in terms of relevance. The two hours that I spoke about was in the original Decree and that one has not been amended.

MADAM SPEAKER.- Thank you. I now give the floor to honourable Dulakiverata.

HON. J. DULAKIVERATA.- Madam Speaker, this is your House, your institution. If this motion is going to go through, to reduce the number of days of sitting, it will reduce the relevance of this institution.

The role of the Opposition, Madam Speaker, is to scrutinise the Government, their work, so we need time to do that. Time and again, they have introduced Bills in this Parliament, they fast-track those Bills without any debate. Therefore, we need more time to look at that.

The time to reduce the number of days of sittings is too early, Madam Speaker. As had been alluded by my fellow colleague that we have just been through eight years of dictatorship.

HON. MEMBERS.- Oh!

HON. J. DULAKIVERATA.- So, we are just experiencing democracy - new democracy, so we need the people to enjoy this democracy. So, we have to come in and teach them (the Government) what democracy is about. What are you running away from?

(Laughter)

Madam Speaker, if we are going to have a four-week sitting ...

HON. GOVT. MEMBERS.- Six weeks!

HON. J. DULAKIVERATA.- All right, six weeks sitting, we will only have four to six days, the Opposition will only have four days.

So, Madam Speaker, I think there are lots of things that we have to do, and do not think that if we are not in government, we have nothing to do. We have people who come to us; the dissatisfied people, people who have been promised so much. They come to us to complain and ask if we can raise their issues in Parliament. They tell us “next time, we would not vote for Fiji-First.

(Laughter)

They make a lot of promises but they do not deliver.”

Madam Speaker, sometimes to help these people, we have to write letters to Ministers, discuss with them, send emails, but they do not reply. So, the most effective way is to come here and ask them, so people who are asking can believe us that we are working on their requests.

Madam Speaker, with those words, I support the amended motion.

MADAM SPEAKER.- Thank you. I will now give the floor to honourable Semesa Karavaki.

HON. S.D. KARAVAKI.- Madam Speaker, before the House are two motions; first, the motion by the honourable Leader of Government in Parliament, which is obviously to reduce the sitting period of Parliament and secondly, we have the amended motion, which is to increase the sitting period in Parliament. We need true wisdom to properly reflect on these two motions.

HON. N. NAWAIKULA.- Amen!

(Laughter)

HON. S.D. KARAVAKI.- Madam Speaker, we have heard the background of the first motion – the motion to reduce, and we understand that that is how the Government proposes to carry out its work, to balance out the work of coming to Parliament and sit here and also to go and carry out their mMinisterial work in their portfolios. That is the way they want to carry it out, because as has been alluded to in this Parliament, they are in démodé of executing their policies, and over here, we may be doing a lot of talking and they are very much interested in having to execute their policies.

One confusion that gets into the way, Madam Speaker, that we seem to neglect and ignore the role of the Civil Service. The Civil Service are the ones who execute the policies. The Ministers are there to

see the carrying out of the policies but if they are actually interested in executing the policies, then they obviously have no time for this Parliament. They have no time to come over here because the execution of policies are made by the Civil Service, and they need to be given credit for that because the Government has clearly put them in a position where they are very reasonable to the old people of the country, because any occasion at any event, they would be there and the photograph would be taken, and would be in the dailies, the Ministers every day you will be doing something, but those are the roles that are conducted or executed by the Civil Service. And if they have true wisdom, let the Civil Service carry out those duties, and they should be here to carry out theirs.

One very good example that we just had over here was yesterday in just the Park across, in the giving out of the grants. That truly is execution of the work and the honourable Prime Minister was there, he was very visible in giving out all those and he appeared in the television, well that, Madam Speaker, is their mode of operation. That's their mode of operation.

HON. A. SAYED-KHAIYUM.- You don't like it.

(Chorus of interjections from Government Members)

HON. S.D. KARAVAKI.- Madam Speaker, how much does it cost to erect all those structures over there for that particular occasion, which could have been just done in an office by the permanent secretaries? But instead, that is the way they operate, they deprive the Civil Service of the credit that belongs or should be given to them. And for that reason, Madam Speaker, the honourable Minister for Education too, he is very eminent, very visible in the paper for doing a lot of things, which it removes totally the visibility of the Public Service - unnecessarily and they are the ones doing the work. And I understand the honourable Minister for Agriculture would like to attend to the farms, the permanent secretaries and the workers are there in the farm, he can just go anytime when there is no sitting in the year. So, it is no excuse to reduce for that purpose, that he should be there in the farm, Madam Speaker.

Madam Speaker, we need true wisdom, we need to get out of it. We do not look at politics, we look at our sincerity, how sincere we are in the duties that we called to do. Also that is one of the reasons why some people who run their private business, Madam Speaker. I am one, and I have never missed any day of sitting, and I do not see any reason why it should be reduced. I have never missed a sitting day, Madam Speaker, to give that as an excuse.

(Chorus of interjections from Government Members)

You see, Madam Speaker, I see all the reasons given, they do not hold at all. And for that, I speak with sincerity, and I support the amended motion. Thank you Madam Speaker.

MADAM SPEAKER.- Thank you and I now give the floor to the honourable Prem Singh.

HON. P. SINGH.- Madam Speaker, I just like to put into perspective some of the comments from the Government side. Do they realise that it is their call, for business during Parliamentary sittings, the shortened hours during sitting days? Madam Speaker, we are gravely concerned at the violation of Standing Order 23 of the Parliament of the Republic of the Fiji Islands. This is regarding sitting days of Parliament. We note that since Parliament started last October, most week days, that is from Mondays to Thursdays, Parliament rose before lunch, or in some cases, after lunch, but well before 4.30 p.m.

We further note that motions file by honourable Members are only dealt with on Fridays and on Fridays, the Standing Orders stipulate that Parliament rises at 12.30 p.m. That leaves them a maximum of three hours to debate motions and adjournment motions, following question time. This is inclusive of the half-an-hour morning tea break. Madam Speaker, we find this unacceptable.

Madam Speaker, during the last sitting. Parliament rose before an hour. Section 23(1) of the Standing Order clearly stipulates that Parliament should sit between 9.30-12.30 p.m. and 2.30-4.30 p.m., from Monday to Thursday. Throughout our Parliamentary history, since Independence, Members' Motions and Bills were also listed for First and Second Readings, meaning debates from Monday to Thursday, provided they conform to the Standing Orders. Parliamentary democracy returned after a lapse of almost eight years. As Members of Parliament, we need to heed to the words of His Excellency the President, Ratu Epeli Nailatikau when he opened Parliament on 6<sup>th</sup> October, 2014. This is what he said, and I quote:

“Let us dedicate ourselves once and for all to the democratic ideal of genuine equality for all Fijians and resolve to work constructively now to a new democracy in this refurbished Parliament for the benefit of all our people.

I appeal to you, as your President, to work cooperatively together, to advance the national interest and to adhere to the high standards of collective and personal conduct. As democratically elected Members of Parliament, your first duty must always be to keep the trust and confidence of those who have sent you here. They look to you to set an example to the nation and especially to our young people of dedicated and service.”

His Excellency's advice, Madam Speaker, is highly relevant to the issue we are raising.

Correspondence thorough the open columns of the two daily newspapers during Parliamentary sittings have expressed disappointment about the extreme short durations of sitting days. Similarly, during my visits to electorates, questions have been raised about the issue, people even point out that a worker who is paid eight hours a day, works for only an hour. He or she will not be paid even, they may face disciplinary actions. This is creating bad perception, Madam Speaker, amongst, the people who do not accept the fact that their issues cannot be raised in Parliament because Parliament rises early.

Madam Speaker, having said that, the crux of the amendment is that, Parliament is the highest authority in the land. It is a highest court of the land and it is this Chamber where Members from both sides come and exchange views, debates on issues and, of course, this gives an opportunity for the Opposition to scrutinize the Government's actions, plans and policies.

A lot has been said about the separation of powers. So, in no way we are to be limited or constrained. These shortening of sitting dates, Madam Speaker, in my view, is trying to curtail or control debates. So, therefore, I move that the amended motion be carried. Thank you.

MADAM SPEAKER.- Thank you. Before , I call on the Leader of Government for his write of reply, the amended motion as it stands as I had read to you earlier, says that Parliament without a sitting calendar for the period of September, 2015 to 2016, within an addition sitting week in March, June and July in 2016. That is the amendment to the motion. I now give the floor to the Leader of Government for his right of reply.

HON. LT. COL. I. B. SERUIRATU.- Madam Speaker, we do appreciate the comments made on the motion before us. Let me assure the other side of the House, Madam Speaker, and of course, the honourable Members that this Standing Orders is discussed in the Committees, so it can be changed by the Committees responsible. So, it is not a divine document and it can be changed.

Likewise, with the calendar as well for the sittings, I did mention in my introductory remarks, Madam Speaker, that we have learnt from the sittings of 2015. That is why we have come up with the proposal for 2016, and of course, we will also have the opportunity to look at the next year's (2017) sitting calendar in this honourable House again next year. Of course, we will take it into consideration what we

have learnt from the calendar that is before the House today. So, we will have that opportunity again on the Standing Orders, and of course, for 2016.

People do come, we have more people that come to Government about their issues and, of course, we are also listening to them. Reducing the number of sittings does not take away, in any way, Madam Speaker, the integrity of this House, no way, it does not take away the integrity of the House. Of course, there is democracy in motion, there we have checks system in place, and of course, there are mechanisms already as a check and balance system, for our democracy.

We are not scared, but it is obvious that the other side of the House cannot take the crux, they cannot take the pressure when it comes to important issues. We welcome the debates, but it is a matter of maximising the periods allocated to us because one thing is to come and sit here and debate, but it is the quality of the debates as well as, Madam Speaker.

HON. GOVT. MEMBERS.- Hear, hear!

HON. LT. COL. I.B. SERUIRATU.- That is why we have come up with the motion before the House.

The other side of the House did talk about the role of the civil servants as well but, Madam Speaker, in good leadership, we delegate authority but you do not delegate responsibility...

(Chorus of interjections)

HON. LT. COL. I. B. SERUIRATU.- Let me repeat that, Madam Speaker, in good leadership, we delegate authority but we do not delegate responsibility.

OPPOSITION MEMBERS.- Inaudible interjections.

HON. LT. COL. I. B. SERUIRATU.- Ministers are questioned this House about the performances of their Ministry.

(Chorus of Interjections.)

They have the responsibility in the Constitution, and that is why we have to be away from the House, following up on the programmes of Government. Madam Speaker, we on this side of the House, strongly recommend that our motion remains and we thank you for your attention.

MADAM SPEAKER.- Before we go to the vote, I would like to request for a seconder to the amendment to the motion which we have not heard yet, the motion that I had read you twice already. Do we have seconder to that motion?

HON. M. D. BULITAVU.- Madam Speaker, I beg to second the amendment motion.

(Laughter)

MADAM SPEAKER.- Before Parliament goes to the vote, I would like to just have some signal from our IT people if the electronic digital voting system is working. We will vote for the amendment first and then for the original. but this is not working?

(Inaudible interjections)

HON. M. D. BULITAVU.- Madam Speaker, a point of order. We are dealing with very serious matter and Standing Order 18 is with regard to your power. You have the control and administration, the power of this House. You are the boss in this House, Madam Speaker. And, I would like you to invoke the Standing Order 20 - additional power, Madam Speaker, that we do not put this to our vote. We should

not decide. I am asking for you to invoke, Madam Speaker, and for you to make a ruling on this on a later date which could be the end of the week, or could be another sitting ....

GOVERNMENT MEMBERS.- No, Madam Speaker.

HON. M. D. BULITAVU.- ...because it is very important. I am talking to the Speaker and not you.

(Laughter)

HON. M. D. BULITAVU.- I need a written ruling, Madam Speaker, I regards to this because it comes down to the decorum, the honour and dignity of this House. You are the Head of Parliament and the decision must come from you, Madam Speaker. I request you to invoke the Standing Order before we take the vote.

HON. A. SAYED-KHAIYUM.- Madam Speaker, if that was the case and why did he second the amendment motion?

(Chorus of interjections)

HON. A. SAYED-KHAIYUM.- ...Why did he second the amended motion if he did not want a vote on a motion?

(Chorus of interjections)

HON. A. SAYED-KHAIYUM.- It is very simple.

HON. M. D. BULITAVU.- I am seeking the additional power for you, Madam, to invoke.

GOVERNMENT MEMBER.- You are confusing the Leader of the Opposition!

(Laughter)

MADAM SPEAKER.- We were given a lot of time to re-debate, we have heard comments from both sides of the House, in fact, we have gone on an additional one hour which means reducing our lunch hour and we have had two motions, the amendment to the motion and the original motion and they both had been seconded, and we are into the normal procedures of the House, that we put this motion to the vote now. So, Parliament will vote on the amendment motion.

Question put.

Votes cast:

Ayes	-	14
Noes	-	29
Not Voted	-	7

Motion Lost.

We will give the electronics to have a rest before we can operate again, and I would ask all honourable Members to just be patient for one minute.

HON. ROKO T.T.S. DRAUNIDALO.- Madam Speaker, I seek clarification, while we are waiting for this. Would you clarify to us this Sitting Schedule issue, whether that has always been a matter of a motion that is debated and decided by vote in Parliament or whether Parliaments as a matter of practice, it has been the prerogative of the Speaker after consultation with the Parties? I am just seeking that

clarification, Madam Speaker, whether what we are doing is proper and we continue what has happened previously. I am asking that, Madam Speaker, because my learned colleague here alluded to your powers and I just did not want us to, in any way, in this Parliament usurp the powers that you have and decide on the issue of the Sitting Schedule.

MADAM SPEAKER.- Thank you. The Draft Calendar for the next Session was developed by Parliament but put to the Business Committee for their endorsement. Therefore, the Calendar has been put in the Business Committee and they have made some amendments to the original draft, and the rule is that, the motion is brought to Parliament for the approval of Parliament, through the vote. This is why we are going through this procedure now.

We are now ready to vote for the original motion, that you have before you.

Question put.

Votes cast:

Ayes	-	29
Noes	-	14
Not Voted	-	7

Motion Agreed to.

MADAM SPEAKER.- I thank you for your indulgence and your patience, honourable Members. We will now adjourn for lunch, and we will return at 2.30 p.m. Thank you for your patience.

The Parliament adjourned at 1.35 p.m.



The Parliament resumed at 2.30 p. m.

MADAM SPEAKER.- Since we have the forum, we will continue and next in the Agenda is the motion by the honourable Attorney-General.

### **FIJI ROADS AUTHORITY (AMENDMENT) BILL, 2015**

HON. A. SAYED-KHAIYUM.- Madam Speaker, pursuant to Standing Order 51, I move that:

- a) The Fiji Roads Authority (Amendment) Bill, 2015 must be considered by Parliament without delay;
- b) The Bill must pass through one stage at a single sitting of Parliament;
- c) The Bill must not be referred to a Standing Committee or other Committee of Parliament; and
- d) The Bill must be debated and voted upon by Parliament on Thursday, 9<sup>th</sup> July, 2015 but that one hour be given to debate the Bill, with the Right of Reply given to me as the Member moving this motion.

Thank you Madam Speaker.

HON. LT. COL. I.B. SERUIRATU.- Madam Speaker, I beg to second the motion.

MADAM SPEAKER.- I now call on the honourable Attorney-General, Minister for Finance, Public Enterprises, Public Service and Communications to have the floor.

HON. A. SAYED-KHAIYUM.- Madam Speaker, prior to the promulgation of Fiji Roads Authority Decree, 2012, the maintenance and general management of all public roads in Fiji were performed by the Department of National Roads (DNR).

In 2012, the functions and the powers that were performed by DNR was transferred to FRA, and that was established under the Decree to better manage the responsibility of DNR - to rehabilitate and modernise existing roads in Fiji and indeed, build new roads. The assets, interests, rights, privileges, liabilities and obligations of the State in relation to DNR were also transferred to FRA. The Decree was later amended in 2012 and 2014 to address procedural matters that needed to be amended to ensure the efficient functioning of FRA.

At the moment under the Decree, the Minister responsible for FRA is specifically stated as a Minister responsible for roads, and that was previously the Prime Minister. On 25<sup>th</sup> September, 2012, the responsibility of FRA including all its written laws were assigned to the Minister for Infrastructure and Transport under Legal Notice No. 46/2014. This assignments to the respective Minister continues today under Legal Notice 46/2015.

The amendment to the Bill, Madam Speaker, specifically:

Clause 1 provides for the Short Title and commencement of the new Act. For the purpose of clarity, Clause 2 of the Bill simply amends the definition of “Minister” in Section 2 of the Decree so that the Minister in the Decree would refer to the “Minister responsible for the Fiji Roads Authority”, as opposed to specifically stating a Minister.

Clause 3 of the Bill amends section 5 of the Decree by inserting a new subsection 2(A). Sub-section 2(A) states, that, “The Chief Executive Officer of FRA shall be an *ex-officio* member of the FRA Board with no voting rights”.

Clause 4 of the Bill amends section 11 of the Decree by inserting a new sub-section (5) that ensures that the FRA Board meets, at least, once every month.”, so it is more of accountability. The amendments, therefore, Madam Speaker, is to:

- (i) Refer to the Minister who will be responsible for FRA;
- (ii) The CEO becomes the Board Member without any voting rights; and
- (iii) The FRA Board meets only once a month.

Thank you, Madam Speaker.

MADAM SPEAKER.- I now invite debate on this Bill.

HON. N. NAWAIKULA.- Madam Speaker, do you propose to take each Bill at a time? I ask that, Madam Speaker, because the motion under Standing Order 51 is asking the House to approve that we short-circuit the process. Yes, because the procedure comes under Section 87, and we want to debate and oppose that.

MADAM SPEAKER.- I beg your indulgence, honourable Members. This Bill is only being tabled today and will be debated tomorrow morning.

HON. N. NAWAIKULA.-Madam Speaker, can we have a clarification on that? If we are debating tomorrow, what we are debating, the motion or the Bill itself?

MADAM SPEAKER.- We are debating the motion now and the Bill will be debated tomorrow. So, I invite a debate on the motion.

HON. N. NAWAIKULA.- Madam Speaker, I submit that we should also take each Bill one at a time because we need to understand the contents rather than putting it altogether.

Madam Speaker, these Bills are being tabled under Standing Order 51 which says, and I quote:

“A motion requesting that Parliament consider a Bill without delay –

- (a) may be moved put without notice; ...”

And, that is what is happening here, and that is what we are opposing.

The reason why we are opposing this, Madam Speaker, is that, Standing Order 51 should be used as an exception and not as a rule. If I may point out, most (if not all) of the Bills that have come before this House have come under Standing Order 51 and by that, we are sacrificing due-process. We are sacrificing our role, and we question ourselves, if we are doing that, then Standing Order 87 is redundant.

Standing Order 87, if I may point this out, and I quote: “A whole Chapter 7 is given to the process of putting Bills through the Government”, which is our job here. It is there from Standing Order 83 to Standing Order 92, and it allows us to scrutinise the details of a Bill. For example, after the First Reading, we debate on the policies which is the reason why a law should be passed or not. Then, when you go to the Second Reading or the Third Reading, you only debate on the contents, on this clause and this clause, not policy.

Now, Standing Order 51 allows us to sacrifice all that and this motion is even asking that these Bills are not to be referred to the Standing Committee. The Standing Committee is important to invite the public to give their opinion in relation to a Bill. Now, the honourable Attorney-General has stated that this Bill is very brief. No, it is not brief. Section 2(a) will be amended to allow or entitle the CEO to be an *ex-*

*officio* member. Now, that has very wide implications in which the public needs to know. The public needs to have their opinions. I am saying this from what was stated before because of their own inefficiency in not giving our Bill, because we were tabled this without notice. We should have notice. So, we only have to hear from them and say what was said.

Then, Madam Speaker, the need to meet on a monthly basis.

HON. A. SAYED-KHAIYUM.- At least.

HON. N. NAWAIKULA.- Well, at least, Madam Speaker, but my point is, these are important things. This is where our work come in, as legislators, and we go back to what we were debating today. If we do this, we are sacrificing the totality.

Madam Speaker, I am asking you to rule that this is out of order because this should only be used as an exception and not a rule. They should first come in under the normal process Standing Order 87 and when we find there is an urgency, we need to speed it up, then and only then we apply under Standing Order 51.

Madam Speaker, I am not only opposing the motion, I am asking you, Madam Speaker, to strike it out. It is an abuse of process.

MADAM SPEAKER.- Thank you. The honourable Minister for Education?

HON. DR. M. REDDY.- Madam Speaker, let me use the arguments put forward by the honourable Nawaikula, who said that we go to the Committee, if we are dealing with policy matters or policy changes.

Madam Speaker, in taking his argument, there is no policy change in this, it is functionary change. Unfortunately, a qualified lawyer as such does not understand the difference between functionary change and a policy change.

MADAM SPEAKER.- The motion is still open for debate. There being no other comments, debate on this motion, I will now ask the honourable Attorney-General and Minister for Finance and Communications for his right of reply.

HON. A. SAYED-KHAIYUM.- Madam Speaker, I will be very brief like this amendment.

Madam Speaker, as the honourable Minister for Education highlighted, there are functionary issues pertaining to this amendment. As the honourable Nawaikula would know that many boards in many statutory organisations have CEOs sitting as an *ex-officio* Board Member without voting rights. It is not something peculiar.

HON. N. NAWAIKULA.- That is for the Standing Committee to decide, not the House.

HON. A. SAYED-KHAIYUM.- The LTA Board has a CEO, sitting an *ex-officio* member. Honourable Karavaki told me yesterday, he is the one who drafted the LTA Act. The LTA CEO sits as an *ex-officio* member. Madam Speaker, the reality is that this is a very brief amendment, if honourable Nawaikula was to send every single thing to the Committee, that is all we will be left with.

Today, the iron is this, he wants everything sent to the Standing Committee but the honourable Leader of the Opposition presented a petition that wants to stop the work of a Standing Committee. The petition actually said that this Bill should not proceed; that is what the petition said as told to this Parliament by the honourable Leader of the Opposition. So what do they want?



Madam Speaker, I move speaking in favour of the motion. It is a very brief amendment and we would like to have this done because it does affect the day to day functioning of this particular institution.

MADAM SPEAKER.- Thank you very much . The motion has complied with Standing Orders 51 and therefore we will vote on the acceptance of this motion and the Bill to be debated tomorrow. Parliament will now vote, does any member oppose the honourable and learned Attorney General's motion?

Thank you, we will now put the motion to a vote.

(Laughter)

Votes cast:

Ayes:	29
Noes:	14
Not voted:	7

MADAM SPEAKER.- Thank you. The motion is in the affirmative.

The Honourable Attorney General, Minister for Finance, Public Enterprises, Public Service and Communication to move this motion.

### **LAND TRANSPORT (AMENDMENT) BILL, 2015**

HON. A. SAYED-KHAIYUM.- Thank you, Madam Speaker, pursuant to Standing Order 51, I move that:

- A. the Land Transport (Amendment) Bill 2015 must be considered by Parliament without delay;
- B. the Bill must pass through one stage at a single sitting of Parliament;
- C. .the bill must not be referred to a Standing Committee or other Committee of Parliament; and
- D. the Bill must be debated and voted upon by Parliament on Thursday, 9<sup>th</sup> July, 2015 but that a one hour time limit be given to each side of this House with the Right of Reply given to me as the member moving this motion.

HON. LT. COL. I.B. SERUIRATU.- Madam Speaker, I beg to second the motion.

HON. A. SAYED-KHAIYUM.- Thank you, Madam Speaker. Madam Speaker, this amendment Bill emerges from the recent Land Transport Authority Report that came about and indeed does address some of the issues that has been raised also by honourable Members of the Opposition regarding certain amendments to the manner in which LTA conducts itself and the law pertaining to that. This Bill seeks to amend the Land Transport Act, 1999. The Act amongst other things, Madam Speaker, makes provision currently for the awarding of demerit points for certain offences under the Act. These demerit points, Madam Speaker however may be awarded by the Land Transport Authority or the Courts in addition to penalty fines. So a person can have a penalty fine and also have demerit points imposed upon that person for the same offence and emanating from the same set of facts.

As such there is a need for the Act to be amended, to ensure that where fixed penalty is to be paid for an offence, demerit points are not awarded by the Authority. That is what we have seen that has been happening where people may actually pay a fine, then LTA unilaterally notwithstanding the fact that they paid the fine decides to demerit the points that they have as license holders.

Accordingly, Madam Speaker, the Bill essentially removes the issuance of demerit points by the Authority and limits the awarding of demerit points only to be done by the Courts. Clause 1 of the Bill, Madam Speaker, provides for the short title and commencement of the new Act.

Clause 2 amends Section 87 of the Act by removing reference to demerit points in relation to the regulation made by the Minister to be specified and noticed under the Act.

Again Clause 3 refers to the deletion of the demerit points under Section 89 and the award of demerit points by the Authority.

Clause 4 of the Bill again amends Section 90 by deleting the sub-sections that relate to demerit points and disqualification. And again, Madam Speaker, because of those changes, Section 93 becomes obsolete or subsection (2) of that. Essentially, Madam Speaker, again it is less than a one page amendment, purely for removing any references of demerit points to be awarded by the Authority. It should only be done by the Courts and we have had a lot of complaints, of course, Madam Speaker, I know members from Vanua Levu have also raised these issues with me where people have raised this issue, where people feel there is a double jeopardy. They are being punished twice for one offence emanating from the same set of facts. So, Madam Speaker, this is why we saying that this is an urgent matter and needs to be addressed and that we seek that this motion be take tabled and approved. Thank you, Madam Speaker.

MADAM SPEAKER; I invite debate on the motion. The Honourable Karavaki will have the floor.

HON. S.D. KARAVAKI.- Thank you, Madam Speaker. Unlike the other Bill on the Fiji Roads Authority, the amendment to be presented in this Bill is quite substantial. It is quite substantial because this is a major part of the Act of the LTA; the awarding of the demerit points. This was done through the very wide consultation before it was being included as a part of the Land Transport Act, and it needs to go through the same process again. Because it cannot be Madam Speaker, subjected to Standing Orders 51 without having the people to contribute to it again. There are always two sides of the argument. We cannot just listen to one side and forget about the other side.

We can see Madam Speaker, the kind of conduct that we have on the road by drivers, and for that reason, that is why the demerit points was put in there to bring discipline to people who used the road. There are many lives being lost and the argument, Madam Speaker, is because is double jeopardy. No it is not. One package is for the penalty, not two, just one package. Just like people who are sentenced to jail and also ordered to be beaten up - 6 strokes.

(Inaudible interjection)

That was not based on double jeopardy. That is a wrong argument to bring it here. But the law still remains, you cannot just change it either way you want to change, because the law is there and we have to follow it; you cannot argue it on the argument that it is a double jeopardy; it is not. All other countries use this. It is not a double jeopardy problem in their own country, no one is taking it to Court to challenge it, even if it is taken to Court, the Court will not rule in their favour because it is not double jeopardy and we cannot use that over here.

This Bill, Madam Speaker, is very substantive and it should be referred to the Committee to look at it and people to contribute. In my view, Madam Speaker, I believe the Government should seriously consider that. It does not harm anyone if it is given to the Committee to have a look at it and hear the people just like it was done in the past when this Act was first put together.

That, Madam Speaker, is my contribution and I would like to ask Government to re-consider that, that it should be put to the Committee and have the people come and submit their views before it is be finalised. Thank you Madam Speaker.

MADAM SPEAKER.- I invite the honourable Minister for Tourism to have the floor.

HON. F.S. KOYA.- Thank you, Madam Speaker, I will be very brief. I think what we have heard from the honourable Karavaki that it needs to go to the Standing Committee in order for public consultations to happen. Well, this particular Bill, Madam Speaker, the paragraph that has been referred to with respect to demerit points, it comes out of a public consultation exercise that was conducted by the Attorney General's Chambers, and this is exactly where it comes from. The consultation exercise has already happened. This is what the people have asked for and I am sure those honourable Member on the other side from Vanua Levu will accede to that. That is probably where most of the opinions came from, but it has already been done, Madam Speaker. It is an exercise in futility, a double jeopardy is what will happen if it goes to a Standing Committee. It is as simple as that.

I support the Attorney General's motion, Madam Speaker.

MADAM SPEAKER.- Thank you. I call on the honourable Niko Nawaikula to have the floor.

HON. N. NAWAIKULA.- I repeat what I said before that Standing Order 51 should be applied as an exception and not as a rule. And here, if I hear correctly, the purpose for the award of demerit points in addition to penalty. That to me is double jeopardy and you need to hear the people. You need to hear the drivers, you need to hear association and you would be very embarrassed because if it comes to the Committee, then we will have an opportunity to refer this back, have another opinion on this because there are tonnes and tonnes of authorities that say you cannot punish a person twice. But that is the thing we are sacrificing here and that is the whole point. The other point is that, if they take time to follow procedure and come through Standing Order 87, they will time to look at this then we will not be wasting this time. We will understand and say, "oh, we will go through this one, we will go through that one". But you decide to come in under Standing Order 51 which makes it all confusing for everyone. I oppose it.

MADAM SPEAKER.- Thank you, I invite the honourable Dr. Mahendra Reddy to have the floor.

HON. DR. M. REDDY.- Madam Speaker, again I am lost. They do not understand the basics. The basic is this, Madam Speaker, that we do not want to give the absolute authority to LTA to say, "we will take away the points and we will implement it." There is a separation of duties here. You cannot be both judge and jury. That is what we are trying to do and I think the fundamental of this is that we are trying to give an opportunity for people to be heard again by the Courts, they will decide. So, there is a separation here, Madam Speaker and we support this motion.

MADAM SPEAKER.- Thank you. I give the floor to the honourable Prem Singh.

(Laughter)

HON. P. SINGH.- Thank you, Madam.

MADAM SPEAKER.- Sorry, I withdraw the Doctor, I can leave it if you like.

HON. P. SINGH.- Thank you, Madam Speaker, I take a slightly different view to this. The Bills have been introduced under Standing Order 51 and the contributors from this side have suggested that it has to be referred to the Committee. That aside, I seek a clarification from the honourable and learned

Attorney General. I believe this comes about from the recommendation of the investigation that you have had, and I believe you had submitted that report to the honourable Minister of Transport. I also understand that the Minister was to appoint a review committee which would have looked at these things before we  
....

HON. A. SAYED-KHAIYUM.- Read the report.

HON. P. SINGH.- ... make changes to the legislation. Has that exercise been completed or what is the status of that?

MADAM SPEAKER.- Thank you. You have the floor honourable Minister, Praveen Kumar.

HON. P. KUMAR.- Madam Speaker, I feel very strongly that the honourable Member has not read the recommendations - the LTA Report.

It is a public document, Madam Speaker, and in that report there are certain things that the Minister will implement immediately by form of a regulation and there are certain recommendations that the Review Committee will deal with. It is crystal clear.

Now going back to what was said by the honourable Semesa Karavaki, that does not mean that he was drafting the Act, that does not mean we cannot change. The other day my good friend tabled a petition in this House and in that petition he talks about what we are talking about right now, that people should not be penalised twice and this is what we are trying to correct. What else do you want? Thank you.

MADAM SPEAKER.- Thank you. There being no other input to the debate. I will give the floor to the honourable Attorney General to speak in reply.

HON. A. SAYED-KHAIYUM.- Thank you Madam Speaker, I will be very brief, perhaps just to respond to some of the questions that have been raised.

Madam Speaker, the honourable Karavaki had facades the law. In fact, when the Bainimarama Government was appointed, one of the first things he did, I think round about 2007/2008 was reduce the fines, for example, not wearing a seat belt from \$80 to \$40. Before when you went over the speed limit, immediately the first breach of the first section, you had to pay \$80. When at that time, Madam Speaker, when a weekly wage of a driver could be \$150 a week, if he had a \$80 fine, what does that mean? It leads to corruption because the person stopping them knows they cannot afford it. The person that has been stopped knows he or she cannot afford it so there is a compromise – there is a \$20.00 fine. That is one of the first amendments we did.

So, the reality is, Madam Speaker, just because there is a law, it cannot be changed, it does not mean it cannot be changed; it can be changed. Times change, people respond to it. Regarding consultations as honourable Koya has said that we had consultations in Suva, Nausori, Sigatoka, Nadi, Lautoka, Ba, Rakiraki, Savusavu and Labasa. Very well attended. We had hundreds of submissions - verbal and written. And it is all compiled in a report. The report is available, if the honourable Members really want to be able to know what is happening, they can ask for it; no one ever did. It appeared in the papers. If they are so concerned about it, they could have asked for it. No one on this side of the House will refuse them the report; any documentation. Members of the media got a hold of it. It was distributed to the media, circulated widely. They have friends in the media, they can ask them for it too. They can ask us. Not a single Member has asked the Minister responsible for transport.

So, Madam Speaker, the reason why it is also very urgent, we have to realise the practical impact of it. When you are a mini bus driver or any other kind of driver and earning a living from it and you have

this double jeopardy, apart from the fact that you have this penalty, fine, alright double jeopardy for the same offence. If you had the fine and then you had a demerit points, then actually you can lose your source of livelihood. You may be suspended, you lose your livelihood because of the fact that someone in LTA unilaterally decides they can take off your demerit points and that is what has been happening. Some officer in the Labasa office may unilaterally decide to do that and that is what we are trying to avoid is to remove the subjectivity in the awarding of the demerit points, because it is such a big issue, it must be awarded by a Court of law.

That is what we are saying Madam Speaker, because it affects real people, it affect their real livelihoods and that is precisely why there is an urgency to this matter. This is why it is brought under Standing Order 51, it is a very simple amendment to remove all references of demerit points to be given by LTA itself as opposed to the Court of law.

MADAM SPEAKER.- The Parliament will now vote.

Question put.

Vote cast:

Ayes: 28

Noes: 13

Not voted: 9

The Motion is in the affirmative.

We will now move on to the next motion and I give the floor to the Attorney General, Minister for Finance, Public Enterprises, Public Service and Communications to move this motion.

### **INCOME TAX (AMENDMENT) BILL, 2015**

HON. A. SAYED-KHAIYUM.- Madam Speaker, pursuant to Standing Orders 51, I move that:

- A. the Income Tax (Amendment) Bill, 2015 must be considered by Parliament without delay;
- B. the Bill must pass through one stay through a single sitting of Parliament;
- C. the Bill must not be referred to a Standing Committee or other committee of the Parliament;  
and
- D. the Bill must be debated and voted upon by Parliament on Thursday 9th July, 2015 but that one hour must be given to debate the Bill, with the Right of Reply given to me as a member I am moving this motion.

HON. LT. COL. I. B. SERUIRATU.- Madam Speaker, I beg to second the motion.

MADAM SPEAKER.- The motion is open for debate. Thank you the Parliament will now vote. There being no opposition, the motion is in the affirmative

HON. N. NAWAIKULA.- Read it all then we vote. We have to make that stand as a matter of principle.

MADAM SPEAKER.- The honourable and learned Attorney General, you still have a provision to make a statement on this motion.

HON. A. SAYED-KHAIYUM.- Madam Speaker, the Fiji Association of Sports and National Olympic Committee (FASANOC) is a parent body of 39 national sporting federations and they are the

organiser of Team Fiji to the Pacific Games held in Papua New Guinea from this week (July 4<sup>th</sup> to 18<sup>th</sup> July, 2015). Similarly, the Fiji Rugby Union is the organiser of the Fiji Rugby Team to the Rugby World Cup held in England from 18<sup>th</sup> September to 1<sup>st</sup> November, 2015. Madam Speaker, as you know, a lot of these sporting bodies look for sponsorships, they look for cash donations to be able to ensure that our teams perform to the best of their ability and have all access to all amenities that is required by them.

Madam Speaker, what this amendment to the Income Tax Act does is to encourage cash donors to sponsor and make donations to FASANOC and Fiji Rugby Union to be able to fund these two organizations, and as a result of that, we will be incentivising these organisations, indeed BSP, for example has sponsored the Pacific Games on the understanding that there would be some sort of tax deduction for them allowable through the Income Tax Act. This is what this Bill seeks to do, Madam Speaker.

Madam Speaker, and before I go onto that, I sure none of us in this House wants to deprive our Fijian teams whether in the Pacific Games or the World Rugby this opportunity.

The second part of this Bill, Madam Speaker, is Sixth Schedule to the Act provides incentives to Film Production Companies in Fiji. As you know, there has been much talked about production coming into Fiji and we have one of the most attractive rates of over 47 per cent rebate to the total spend of the production houses' expenditure in Fiji. In other words, they have to bring foreign currency into Fiji, they have to put that foreign currency in our accounts and then they have to spend that money in Fiji, of which any production spent, any allowable expenditure, not all expenditure, any allowable expenditure there are certain guidelines, they get a 47 per cent rebate. Why do they get that, Madam Speaker? It is because, as has been seen throughout the world, production spend in movies has a 2.8 multiplier effect. In other words what that means that every dollar that they spend in Fiji, we get 2.8 dollars because of that we have multiplier effect, because of jobs that are being created, services that are bought, for example, leasing properties, fishing areas, whatever it is, they pay compensation for that and this is how the multiplier effect works.

At the moment, however, Madam Speaker, there is a cap on the maximum allowable expenditure. So any expenditure or movie production that exceeds \$25 million, the maximum allowable rebate is only \$11.75 million. No one has done that type of spending in Fiji but we have got a cap. We now have interest from many companies and in particular at the moment, the honourable Minister for Industry, Trade and Tourism, through Film Fiji is negotiating with a very large Hollywood company that wants to actually use Fiji not just as a location but have Fiji as a centre piece within the script. And many of the actors are "A" rated actors that will be acting in this movie, so therefore the amount of publicity that Fiji will get using both our national airline in various locations in Fiji, will promote Fiji throughout the world. In particular, if we have "A" rated actors. So, Madam Speaker, in order to be able to attract them, because if there is a cap in terms of the production spend, then they will only use Fiji for a few days and go and use some other country for the location.

One of the problems that we have in Fiji, Madam Speaker, is that our film industry as far as the actual equipment et cetera is concerned, we are not as highly developed. For example, they cannot simply walk into Fiji and have modern day camera equipment available, studios available, we do not have that, so it is a bit task to attract them so when such a production does want to come, we need to grab it with both hands and we are off course are working on that area. So what this does, Madam Speaker, is increase the current threshold from \$25 million to \$60 million.

Madam Speaker, what the Bill specifically seeks to do is amend the Act. Clause 1 of the Bill provides for the short title commencement date. Clause 2 of the Bill amends Section 21(1) of the Act by inserting new paragraphs, these paragraphs allow for 150 per cent income tax deduction on taxpayer who makes a cash donation to FASANOC or to the Fiji Rugby Union for Fiji's participation in the Pacific Games and of course in the World Cup respectively. Some may ask why was this not brought earlier on?

We could not bring it, because this application from FASANOC came a bit later on. Clause 3 amends paragraph 68(2) of the Sixth Schedule to the Act by increasing the tax rebate threshold from \$25 million to \$60 million. However, Madam Speaker, we have actually put a cap on the amount of the \$60 million that could be used for paying actors' wages and salaries because we want to cap it. Obviously we do not want \$60 million, and \$40 million of that being paid for just salaries because we want more money to be spent in Fiji so we put a cap on the wages and salaries. So that is what this amendment Bill does, Madam Speaker, and I move the motion.

MADAM SPEAKER.- Thank you. The motion is open for debate, if any.

HON. N. NAWAIKULA.- To save time, if it can be noted that we will repeat what we said then we can go straight to voting, even though there are a lot of substantial things here.

MADAM SPEAKER.- Thank you. There being no opposition then the motion ...

HON. N. NAWAIKULA.- We are opposing, we go to vote.

Then the Parliament will vote on this motion.

HON. ROKO. T.T.S. DRAUNIDALO.- Madam Speaker, as a matter of clarification, we are opposing the process. We are not addressing the substance of the Bills yet which I believe that the honourable and learned Attorney General is saying that should take place tomorrow. Just for clarification, we are opposing the process section 51 for the reasons already stated by learned colleague.

MADAM SPEAKER.- Thank you. Your opposition is noted.

Question put.

Votes cast:

Ayes :	29
Noes:	14
Not Voted:	7

The Motion agreed to.

**WORKMEN'S COMPENSATION (AMENDMENT) BILL, 2015**

HON. A. SAYED-KHAIYUM.- Madam Speaker, pursuant to Standing Order 51, I move that the Workmen's Compensation (Amendment) Bill, 2015 must be considered by Parliament without delay, the Bill must pass through one stage at a single sitting of Parliament, that the Bill must not be referred to a Standing Committee or other Committees of Parliament, and that the Bill must be debated and voted upon by Parliament on Thursday, 9th July, 2015 and that one hour be given to debate the Bill with the Right of Reply given to me as a Member moving this motion.

HON. LT. COL. I.B. SERUIRATU.- Madam Speaker, I beg to second the motion.

HON. A. SAYED-KHAIYUM.- Madam Speaker, this is also another urgent matter that affects ordinary Fijians.

The Workmen's Compensation (Amendment) Bill, 2015 seeks to amend the Workmen's Compensation Act, Cap. 94. A major problem faced by injured workers and the dependents of deceased

workers is the very low compensation payouts that are disproportionate to the current cost of living thereby contributing to poverty. The last review of the compensation quantum was conducted 21 years ago in 1994 – two decades ago, and there is therefore an urgent need to increase the quantum to be compatible, at least, with the current cost of living.

HON. N. NAWAIKULA.- You were there for eight years.

HON. A. SAYED-KHAIYUM.- The Worker's Compensation Unit that is responsible for the administration of the Act has developed and is currently implementing a standard operating procedures benchmarked to the ISO 29001.

Madam Speaker, clause 1 provides for the short title commencement date, clause 2 amends Section 3 of the Act by providing the definitions of “de-facto partner”, “labour inspector” and “Minister”. Currently, the Act recognises illegitimate children as a dependent, while his or her mother is not recognised; that is most unfair. As you know now, Madam Speaker, under the Bainimarama-led Government, we amended the Family Law Act to recognise de-facto spousal maintenance, which unfortunately the previous parliament took out. Therefore, the new definition of de-facto relationship is included to effect the equal distribution of compensation claims under the Act.

Clause 3 amends section 6 of the Act by increasing the maximum compensation payout for death from \$24,000 to \$50,000. This is approximately an increase of 108.33 per cent.

Clause 4 amends Section 7 of the Act by increasing the maximum compensation payout for permanent total incapacity from \$32,000 to \$67,000.

Clause 5 amends Section 8 of the Act, and as you can see, Madam Speaker, we are simply changing the figures. So it does not require some grand inquiry. Clause 5 amends Section 8 of the Act by increasing the maximum compensation payout for permanent partial incapacity from \$24,000 to \$50,000.

Clause 6 amends Section 14 of the Act by inserting a new subsection on the issuance of a fixed penalty notice. If an employer does not comply with the reporting of an injury to the Ministry, this becomes a problem. So the Ministry must be able to issue a fixed penalty notice. If you see, Madam Speaker, we have varied that according to the size of the actual business because you cannot have one size fits all. You cannot have a fine for a multi-national corporation and they get away with it, and the same fine being imposed, someone is running a mechanic shop and has only three people. We also want to assist small businesses.

Employers who fail to report an injury to a Ministry commit an offence and have to pay a fixed penalty. The fixed penalty to be paid by employers are varied, depending on the consolidated revenue of an employer in a financial year. So, therefore, if an employer has consolidated revenue of less than \$500,000 in a financial year, the fixed penalty is \$500. If the employer has consolidated revenue of more than \$500,000 but less than \$2 million in a financial year, the penalty is \$1,500. If an employer has consolidated revenue of more than \$2 million but less than \$5 million in a financial year, the fixed penalty is \$3,000. If an employer has consolidated revenue of more than \$5 million but less than \$20 million, the fixed penalty is \$7,000. If an employer has a consolidated revenue of more than \$20 million, the fixed penalty is \$10,000 for each unreported case or injury.

If the employer fails to comply with the directive to furnish financial reports or documentation, then he or she commits an offence and has a fine not exceeding \$50,000.

Madam Speaker, clauses 7 and 8 allow for the inclusion of a fixed penalty notice. So in fact most of the amendments that you see there, Madam Speaker, is all about the actual notice, starting from page 3 and page 4 as to what will be the form of the notice. Thank you, Madam Speaker.

MADAM SPEAKER.- Thank you. Based on the procedure agreed to, the Parliament will now vote on the motion.

HON. ROKO T.T.S. DRAUNIDALO.- Madam Speaker, a clarification. I do not think my learned colleagues said that there was an agreement that we were going to just proceed straight to the vote. The Bills deal with different matters and we do not have any forewarning of the details that are in them. Like this one, for example, Madam Speaker, it all sounds very good in here and are worthy of support and fast tracking, but I just wonder if the Government could consider two things in relation to this particular Bill, because we do not know everything, the 51 of us in here. That is why we get alternative views and the views of the employers, I would have thought would be important to this one, and that is why parliaments have Committee process. Is this not an employment cost that is involved here, the considerations of these increases and would have that in any way affect the labour market, which is already, as acknowledged, a difficult one? So much so that a Minister from the Government has suggested that people go and plant cassava in villages.

I am saying this, Madam Speaker, because we have to hear from that sector because they are affected and I am trying to explain in the context why we are opposing the process, because we do not know everything, and as the honourable and learned Attorney-General has said in reference to another Bill, if indeed consultations were held, can we have a report of some sort? I know that we have been referred to one, but as a matter of process, does that not now mean that the executive can carry out consultations and bring this through a fast track system, then what is the purpose of Parliament scrutinising Bills?

HON. N. NAWAIKULA.- You might as well close down the House.

HON. ROKO T.T.S. DRAUNIDALO.- This is why I am just trying to explain, Madam Speaker, to enlarge on what has already been said, as to why we are opposing the fast track process. The intentions may be excellent and so as what is in the Bill but we have also got to worry about process, and again, it affects the standing of this House of which you have powers.

MADAM SPEAKER.- Thank you. Since the honourable Member has made a comment or debated on this motion, there being no other comments, I will then ask the honourable and learned Attorney-General for his Right of Reply.

HON. N. NAWAIKULA.- Make it short too.

(Laughter)

HON. A. SAYED-KHAIYUM.- Madam Speaker, the reality is that these amounts have not been plucked out from the air, obviously the Ministry of Employment does its background work. The reality is that people are getting injured, we need to be able to increase this compensation, as I have said. The quantum needs to be increased, it has been 21 years, it has not been increased. If you go and ask the ordinary worker that - do you want this increase or not. Of course, he or she will say "yes." You want security for your family upon your death, of course, they will say "yes." If your hands are chopped off at work, of course, they will say "yes". So it is not something to be dilly-dallying around with, and in the same way as the Bainimarama-led Government did; increase the third party insurance, without any increase in insurance premiums. That is what we did a few years ago, and I am sure the insurance companies, the workers, the employers do not actually pay this. They take out, Madam Speaker, workers compensation insurance and the insurance companies also will look at this and look at the quantum that is being paid out and, that has not been paid out for 21 years. It is not going to suddenly mean that people will be sent home.

We now have labour laws to protect that of course, and indeed further amendments have been made which we will be debating later on this afternoon, that gives further rights and further protection to

workers. This again is a consolidation of that, again it is a consolation of the fact that now employers actually pay ten per cent. It must be remembered, Madam Speaker, they pay ten per cent towards the Fiji National Provident Fund. They now pay as being loss on the honourable member, only 20 per cent corporate tax. So therefore, they have the ability to cater for these expenses that looks after the welfare of ordinary workers, ordinary Fijians who are working in this country. That is what it at stake here, Madam Speaker.

MADAM SPEAKER.- Thank you, the Parliament will now vote.

Question put.

<u>Votes Cast:</u>		
Ayes	-	29
Noes	-	14
Not voted	-	7

Motion agreed to.

### **MEDIA INDUSTRY DEVELOPMENT (AMENDMENT) BILL, 2015**

HON. A. SAYED-KHAIYUM.- Madam Speaker, there is another amendment that we are discussing this afternoon. Pursuant to Standing Order 51, I move that:

The Media Industry Development Amendment Bill 2015 must be considered by Parliament without delay; that the Bill must pass through one stage at a single sitting of Parliament; that the Bill must not be referred to a Standing Committee or other Committee in Parliament, and that the Bill must be debated and voted upon by Parliament on Thursday 9<sup>th</sup> July, 2015; but that one hour time limit will be given to each side of this House with a right to reply, given to me as a Member moving this motion. Thank you, Madam Speaker.

HON. LT. COL. I.B. SERUIRATU.- Madam Speaker, I beg to second the motion.

MADAM SPEAKER.- Thank you, and now I call upon the honourable Attorney General and Minister of Finance, Public Enterprises, Public Service and Communications, you have the floor.

HON. A. SAYED-KHAIYUM.- Madam Speaker, the Media Industry Development (Amendment) Bill 2015 seeks to amend the Media Industry Development Decree. The Decree was promulgated in 2010 and provides a regulatory framework for the media industry. The Decree establishes the Media Industry Development Authority, amongst other things that facilitate the provision for quality range of media services, and to ensure that such services in Fiji are maintained at a high standard.

Madam Speaker, to further improve the Media Industry in Fiji and increase the viewer of programming options for Fijians, it is essential that the Decree be amended to cater for foreign-based pay per view service providers, as well as cost ownership for these services, thereby encouraging more investment in the broadcasting sector and also to remove penalty provision in this Decree which makes reference to journalists.

Now let me explain Madam Speaker. In a nutshell, what this does, Madam Speaker, as you know the law as it stands, we do not allow foreign ownership of the media in Fiji anymore. We also, Madam Speaker, like many other countries they have their provision. Madam Speaker, we also do not allow, like other countries cross ownership of media organisations. In other words, if I am a majority shareholder in a newspaper organisation, I cannot also be a majority shareholder in a television because the level of influence that can be asserted by one person or one company is known. Most countries do that, they have that in Australia, in fact when Ruben Murdoch wanted to buy a company in the media organisations in United States of America, he gave up his Australian citizenship and took up American citizenship, simply

so he can comply with the law of United States of America. So it is not something that is uncommon, but what this provision seeks to do Madam Speaker, is that it seeks to ring fence pay television.

What we are saying now is there this opportunity in pay television for foreign ownership, foreign owners to come and set up pay television as we know it, like we say Sky Pacific. In this amendment, we will allow that. We will also allow, Madam Speaker, in this amendment cross ownership for pay television. So, for example, the owners of Fiji Times that run a newspaper company can with this amendment go and set up a purely pay television company, if they want.

Now pay television Madam Speaker, comes through two means; one is through satellite and the other is terrestrial. Now, what clause 2 does is, it inserts a provision that enables a foreign person, a media organisation, registered under a Decree, so already registered media organisation do provide subscription based pay television services through satellite or terrestrial transmissions, provided such television services are limited to entertainment and sports programmes or channels sourced from a foreign country. No local content, including local news is aired or shown by any news provider, except commercial advertisements which exclude advertising of political parties, foreign governments, inter-governmental organisations, etcetera. And that such a provider must obtain a special licence approved by the Minister which is subject to various conditions.

We also looking through these means and raising revenues for Government. As some of you would know Madam Speaker, some of the members of this House, for example Telecom company at the moment, they pay licence fees which is based on one per cent of their annual gross revenue. So that lends money to the coffers of Government. So this is what this amendment does, it allows for pay television more place to come into the market and also Madam Speaker, I can, it is a bit of an open secret.

Digicel is currently talking to Fijian Holdings, they want to buy Sky Pacific. Now under the current laws, Digicel will not be able to buy Sky Pacific from Fijian holdings, because Digicel is a foreign company. What this amendments does, it will allow Digicel to be able to negotiate with Fijian Holdings and to be able to buy Sky Pacific, if they want to do so. It will also allow any foreign based company to come in, set up pay television. So Fijians have access and this competition in the market regarding pay television.

Now, Madam Speaker, the other provision is there, it says "There is provision in the Media Decree at the moment." As you know, we have the Media Industry Tribunal. In the provisions of the Tribunal, the tribunal can have findings; they can fine a journalist, up to \$1000. They can fine the editor and the publisher, I believe up to \$20,000, \$25,000 or 250 penalty points, and a company up to 1000 penalty points, these translates into dollars.

Now, Madam Speaker, what these amendment does is it removes completely the ability of the Tribunal to fine journalists. So once this amendments takes place, even if the Media Tribunal fines against the journalist, they cannot be fined, they can issue apology for the only two entities or only to individuals that can be fined would be the publisher or the editor that has a higher sense of responsibility, not the ordinary journalists and also, the company itself. So that is what this amendment seeks.

Firstly, it is to remove the fine for journalists, which I think no one in this House would object to. Secondly, is to allow for pay television to come into Fiji by foreigners, even locals and open it up subject to certain conditions that can be attached, and also to allow for a company like Fijian Holdings to be able to sell Sky Pacific to a foreign company. Thank you, Madam Speaker.

MADAM SPEAKER.- Thank you, the motion is open for debate, if any. The honourable Tupou Draunidalo, you have the floor.

HON. ROKO T.T.S. DRAUNIDALO.- Thank you, Madam Speaker. It is more of seeking clarification from the Minister, just a very quick scheme of this Bill, this new section 42(a), can you explain

further whether this means, with reference to news channels that we currently watch through pay television; BBC News, Aljazeera and all of that, are those affected and how? Does this section mean that the new service provider that provides those services has to get a licence from you, with the terms and conditions and/or does this section mean that those service providers can provide the service that they do, but they are limited to entertainment and sports programmes which means news of any sort including the international news is barred unless the licence is obtained from you, or does that only restrict the services to local content which goes through those foreign owned entities?

Those are just the questions on the issue of process. I know, tomorrow, we are going to debate substance, if the honourable Minister could clarify that, and if that is in fact, an enlarging of the scope of censorship under the Decree to cover entities that are covered by the Media Decree so that it did not only captures those who are already registered, but those who now required this new licence. We are just seeking your clarification before the House debates the substance.

MADAM SPEAKER.- I call on the honourable and learned Attorney-General, there are so many questions, maybe you could make a reply now.

HON. A. SAYED-KHAIYUM.- Madam Speaker, Absolutely Not! I think it is quite clear, the law is quite clear. It says “no local content including local news”. So at the moment, Sky Pacific is showing BBC, Aljazeera, CNN, of course, they can all be shown because it is all foreign-based. All it is saying is that no local content including local news, period! That is it, very simple. They have to get a licence because there are certain conditions that will be attached. For example, licence fees and we have to make sure that they use the right technology. In fact, we are more interested in the technology and the frequency and how will they use that. What will be the cost surrounding it, for example, the set top boxes. We are more concerned about the technological use than anything else. I think the law is quite clear on the content, but we are more concerned about is in terms of the license fees and also the technology that they will use.

MADAM SPEAKER.- Thank you, I will now give the floor to the honourable Niko Nawaikula.

HON. N. NAWAIKULA.- I wish to make the point that it is not that we will not object to this. That is not the point here. The point is the need to consult. Now, we heard that in one Bill, consultation was made. That is in the LTA Bill, not in the Workmen’s Compensation. Maybe not on this one too. So, there is no public consultation. This fact of this motion is saying, that there will be no further consultation because the Standing Order Committee will not be sitting. The point is, we need to emphasise the value for democracy, transparency. We need to be transparent in what we do. That is why we consult and when we oppose this motion, we are sacrificing that.

MADAM SPEAKER.- Given that there is no other input, I will now give the floor to the honourable and learned Attorney-General for his right of reply.

HON. A. SAYED-KHAIYUM.- Madam Speaker, the matter before the House is quite simple. I think one part of being in this House also is to show leadership, is to be decisive and to be able to discern what is the complicated matter and what is a simple matter and what is a complicated matter. I am not talking about decisiveness, Madam Speaker, on this side of the House, I am talking about on that side of the House because they are very fickle, and the point is, these are very simple matters. As has been highlighted, they can always talk to us afterwards, they can discuss matters, it is not just simply a question of yelling at each other across this floor. They were so concerned about the LTA Report, they could have got it from the honourable Minister. That shows proactive-ness on their part.

Madam Speaker, in the same way with the Income Tax Act, we have these people at FASANOC that need BSP to sponsor them. We do not need a committee to decide just two weeks before the Fijian rugby team participates in the World Cup. These things need to be sold, sponsorship need to be sought, they need to go much beforehand to potential sponsors and get those deals. They cannot get those deals if the law is not amended, so that is why we need to do it, Madam Speaker, just precisely why these Bills are

being brought in. In the same way we need to bring about this deal, otherwise Fijian holdings will lose a potential customer, and I remember some months back, when we were talking about divesting state-owned enterprises, we had some members from the other side talking about why can Fijian Holdings not allow to do this, et cetera. Here, we are facilitating it for Fijian Holdings and they want to object it. They want to stall it.

(Chorus of interjections from the Opposition side)

Madam Speaker, you see how sensitive they are about it but let me tell you, it is constructive obstruction. The reason why it is, because we cannot be twiddling your thumb for months from end, and they lose the deal. Here, you essentially opposed it. They have essentially opposed it.

Madam Speaker, time is of essence and that is something that is lost in the Opposition. They do not understand commercial imperatives, they do not have the sensitivity, they do not have the commercial understanding, they do not have the financial nous to understand that.

Madam Speaker, thirdly, they do not have the sensitivity to understand what ordinary Fijian workers, ordinary Fijian drivers, taxi drivers are going through. Here is a Government trying to bring this law quickly to the people actually to be able to live their lives better and they want to go to a Committee.

MADAM SPEAKER.- I thank the honourable and learned Attorney-General for his right of reply. The Parliament will now vote.

Question put.

<u>Vote Cast:</u>		
Ayes	-	29
Noes	-	14
Not Voted	-	7

Motion agreed to.

### **EMPLOYMENT RELATIONS PROMULGATION (AMENDMENT BILL) 2015**

HON. A. SAYED-KHAIYUM.- Madam Speaker, as you may recall that we had in May of this year put a motion before Parliament under Standing Order 51 that the Employment Relations (Amendment) Bill be considered by Parliament without delay and that it be referred to a Committee. It was immediately referred to the Standing Committee then, and as we heard the report that was given by this Committee which was then tabled in this august House by the Chair. I would like to thank the Chair and members of his Committee, which includes the honourable Nawaikula...

HON. N. NAWAIKULA.- I did not sign it.

... and the honourable Karavaki. I do not say you signed it, I just said you were part of the Committee and other Members, Madam Speaker,

Madam Speaker, I would also like to acknowledge the hard work that went behind the scene, in particular by the Chair, I did not have any interaction with the honourable Nawaikula on that Committee basis.

Madam Speaker, as you know that in May when we had moved the motion, we said that the Bill must be debated and voted upon by Parliament in the July session, which is this session.

I rise to speak on the Employment Relations Bill that is before Parliament, and Madam Speaker I would like again to reiterate or recap the background to the Bill.

Before I do that Madam speaker, I would like to move a motion, I move that the Bill, as amended, and tabled by the Standing Committee on Justice, Law and Human Rights be adopted and approved by Parliament for assent by His Excellency, the President.

And the Bill, Madam Speaker, is the one before us and is marked in black and red.

MADAM SPEAKER.- Thank you, do we have a seconder?

HON. LT. COL. I.B. SERUIRATU.- Madam Speaker, I beg to second the motion.

MADAM SPEAKER.- I now call on the honourable Attorney-General and Minister for Finance, Public Enterprises, Public Service and Communications to have the floor.

HON. A. SAYED KHAIYUM.- Thank you, Madam Speaker. The amendment to the Employment Relations Promulgation 2007 has come about in the Tripartite Agreement that was signed by the honourable Minister for Employment, Productivity and Industrial Relations for and behalf of the Fijian Government, the CEO of the Fiji Commerce and Employers Federation, the General Secretary of the Fiji Trades Union Congress, Mr. Felix Anthony that was signed in Geneva in Switzerland in March of this year.

Under the agreement, Madam Speaker, the parties agreed that:

- (1) the review of the labour laws including the Employment Relation Promulgation be conducted by the Employment Relations Advisory Board (ERAB); and
- (2) comply with the ILO Conventions; There were a number of complaints, that two in particular that was before the ILO Committee that said that Fiji was in breach of the core ILO Conventions.

Madam Speaker, in that Agreement, there was also an Agreement that we will present a Bill to Parliament no later than August 2015 session to ensure that we have compliance with the core ILO Conventions and the law must come into effect no later than the end of October.

Madam Speaker, just to highlight, when we came back, the EREB was convened and in fact, the Minister wanted to expand the composition of EREB, in other words, invite members from employer and employee organisations other than what was traditionally sourced from. In other words, there was a proposal that rather than just having members nominated by FTUC, we could have members from FICTU, for example.

So, Mr. Attar Singh was lingering around the corridors today and we wanted people like him also to be in EREB but FTUC unfortunately objected to that and Government's main priority at that point in time was to ensure that we have a quick compliance and adherence to the core ILO Conventions. Because, Madam Speaker, we had the spectre or this threat that we will have a Commission of Inquiry against Fiji if we did not have compliance with the core ILO Conventions. So we then had these meetings with the FTUC representatives, the Government representatives and representatives from the Fiji Commerce and Employers' Federation and a Bill came out of those consultations that they had and then the Bill, as you know, Madam Speaker, was presented to this House and because of the urgency of the matter, it was then referred to the Standing Committee for it to be brought back today and voted upon, Madam Speaker.

The pertinent features of the Bill, Madam Speaker, following the submissions that were made to the Standing Committee, there were extensive consultations and submissions made. Indeed, FTUC and various other unions made submissions and indeed for example, representatives from ILO made submissions also.

At the end of the day, Madam Speaker, all laws are to be made by the country of its origin. We have certain core ILO Conventions and this Bill actually ensures that we have compliance with the Conventions, so Madam Speaker, what this Bill does essentially, it repeals the Essential National Industries Employment Decree, it repeals the Employment Relations Amendment Decree and it repeals the Public Service Amendment Decree.

The Bill basically, Madam Speaker, brings all workers that are in the Essential Service Industries including officers serving in Government or statutory body under the Essential Service Industry Decree, in one consolidated labour legislation. So there is no separate laws, so what it does, Madam Speaker, this particular section that deals with essential services, all of that under the Employment Relations Promulgation. It also then addresses the key fundamental issue of what was raised at the ILO, our freedom of association.

After the Essential Industries Decree, Madam Speaker, if a company or a sector was deemed to be essential, then the employees of that company could not go and join an outside trade union. They had to form their own Collective Bargaining Unit from within. What this Bill does, Madam Speaker, it stops that restriction. What it does say now, even though you may be under an essential industry, you can still go and join an outside trade union and that union can represent you, but if you want to form your own collective bargaining unit, you have the right to do that too. That is your freedom. You can choose to join an outside trade union, you can chose to have your own Collective Bargaining Unit and that is, it complies with the freedom of association.

Madam Speaker, it does allow the issue of collective bargaining. The Bill provides detailed provisions to enable all workers and employers to freely engage in collective bargaining, that is, trade unions and employers are at liberty to negotiate collective agreements. The workers and employers in essential services have full rights to engage in collective bargaining. The Bill provides an effective and efficient mechanism for parties to engage in collective bargaining. It creates, Madam Speaker, an Arbitration Court for collective bargaining and parties are unable to reach a collective agreement, then either party now has the full authority to have any disputes resolved through arbitration by a Tripartite Arbitration Court.

In fact, such a similar tripartite court existed during the late Ratu Sir Kamisese Mara days when he was Prime Minister in the 1970s and indeed it is something that is similar that existed in Singapore. The Arbitration Court is essentially made up of the tripartite partners, the Arbitration Court consists of a Chairperson, appointed by the President of the Republic of Fiji and two other members selected by the workers' representatives and the employers' representatives. Each or two of them can go and they constitute a tribunal. The Arbitration Court adjudicates matters relating to all disputes of interest arising out of collective bargaining, and pertaining to relations of employers and workers which are connected with the employment or non-employment or the terms of employment or any person.

The Bill also provides the Arbitration Court with all the necessary powers and jurisdiction to expeditiously adjudicate all disputes of interest in national services industry. The Bill further provides that the Chair and members of the Arbitration Court shall have the same rights, privileges, protection and immunity as Judges of the High Court.

The right to strike: the Bill also provides the same process and mechanism for strike and lock-outs in the Essential Services Industries which had previously existed under the ERP, that is, if a strike is contemplated by a trade union in respect of workers, in or in control of an Essential Service and Industry, in pursuance of a dispute within the workers and employers, then the trade union must conduct a secret ballot and must give 28 days' written notice of the strike to the employer and a copy of the notice to the Arbitration Court. Of course, Madam Speaker, as you will understand, being a person from the medical profession, simply if someone's mouth is opened for a tooth to be extracted, the nurse simply cannot walk away and say "I will go on strike", she will have to give notice. In the same way, Madam Speaker, if your

flight is about to take off and the pilot simply cannot say “Well, I have decided to go on strike” they must give notice because it is an essential service. So, Madam Speaker, that is what it relates to.

In relation to lock-outs, Madam Speaker, the Bill provides that no employer engage in an essential service industry may lock-out workers on the other side in that Essential Service and Industry unless the lock-out is lawful. Twenty-eight days’ notice is given by the employer to the Arbitration Court and the trade union.

Madam Speaker, what this Bill does is that, it restores the right to strike and lock-out to exactly what the situation was under the ERP in 2007 for essential services. No doubt, the list of essential services have increased and that is very critical for us as a developing country, we are developing our economy. Further amendments, Madam Speaker, there were some amendments that were recommended by the Parliamentary Committee after they heard the submissions from various parties that made representations to them. The Bill, for example, amends provisions of the ERP that refer to the discrimination on the basis of gender, to be replaced with the robust grounds of discrimination listed under the Constitution.

The amendment now includes HIV AIDS status also as a ground under discrimination.

This amendment allows to better protection of workers but providing an exhaustive list of grounds under which discrimination is prohibited.

The definition of collective agreement as further amendment in line with the initial definition under the ERP, as the initial definition was more exhaustive.

Initially, Madam Speaker, Clause 70 of the Bill dealt with the referral of disputes and employment grievance to the Permanent Secretary.

The Standing Committee further amended the Section to remove the term “employment grievance” on Clause 70 of the Bill. The term “employment grievance” was removed because employment grievances are issues between the individual worker and the employer, and are dealt with by the Employment Relations Tribunal. Hence, such employment grievances do not need to be referred to the Permanent Secretary as in the case of disputes. That gives the employees a lot more opportunities to be equally heard.

Initially, Section 191BD of the Bill says that the Arbitration Court may seek the opinion from the Solicitor General. It says, I quote: “The Arbitration Court may refer a question of law arising in relation to any trade dispute...” The Standing Committee has retained this Section to give the Arbitration Court the discretion to seek advice from the Secretary General in cases, except trade disputes involving Government. If there is a dispute, say between civil servants and the Government, the Arbitration Court may not seek the opinion of the Solicitor General as it could be seen as conflict.

Initially Section 191AQ which refers to the Exhibition of Awards stated that an employer bound by an award was obliged to make available true copies of the award to the workers. They also impose on the worker the added obligation to have the award displayed at the entrance to any premises. The Standing Committee further amended the Section to remove the added obligation of displaying the award at the entrance to any premises as this was seen to be impractical and cumbersome for employers.

The Bill was also amended by the Standing Committee, Madam Speaker, to include the provision that allows to the right of appeal of a decision of the Minister as a right to the Arbitration Court. So, now if the Minister makes a ruling, they can also appeal the Minister’s ruling to the Arbitration Court. Such an appeal, of course, must be lodged within 28 days from the date of the proposed appellant receiving the decision of the Minister.

Madam Speaker, with that said, I would like to move that the Bill as amended and tabled by the Standing Committee on Justice Law and Human Rights be adopted and approved by Parliament and assented by His Excellency the President. Thank you very much.

MADAM SPEAKER.- Thank you. The Bill is now open for debate. I must remind the honourable Members that the debate will only be on whether we should pass or not pass the Bill, and not really on the content.

HON. N. NAWAIKULA.- Madam Speaker, I will open the debate from this side of the Chamber.

Madam Speaker, I am sad to announce to the workers of this country that this Bill has not lived up to the expectation and it has also not conformed to the ILO Recommendations.

There are two aspects that the ILO is concerned about – the Essential National Industries (ENI) Services Decree. According to ILO, there should only be 16. Now, we were assured within the Committee that that will be cured but looking at the Bill today, that has not been cured. So, I am very unhappy to say that.

The other point that we had raised especially was that, the appeal to the Arbitration is subject to an appeal from the Solicitor General and we say that this is a conflict of interest. Cure this! Put it to somewhere independent, however that has not been done. So, the employees and unions must know today that we have not conformed and they should continue to take the other avenues to bring the Government to account. That is the important point that I wish to make, Madam Speaker.

The issue about this Promulgation is that, the Government has not repealed the ENI Decree but instead, it has taken it and put it 'lock, stock and barrel' within the ...

HON. A. SAYED-KHAIYUM.- No, no!

MADAM SPEAKER.- Please continue, honourable Member.

HON. N. NAWAIKULA.- You will have the right to answer when it is your turn on the other side.

Madam Speaker, on the first briefing from the Solicitor General, he said; "you are just changing the dress". It used to be a red dress, now it is blue.

Everything is there but instead of the Decree, you have taken all that is within the Decree and you put it into the Employment Promulgation – lock, stock and barrel, without taking anything out. That is the point of concern. Therefore, the Unions should take this up, that we have not complied and that is one of the main reasons why they signed the Tripartite Forum in Geneva. The Government undertook firstly, to discuss with the Employment Advisory Board, they did not discuss with them. There was no unanimity.

They imposed their will upon the workers. They pushed this through and the problem here is that, because now they have the mandate whereas before it was a dictatorship, they will say; "the Government of Fiji passed this Bill". It will be no longer us as dictators but now it will be the Parliament. So, it becomes a parliamentary dictatorship.

HON. GOVT. MEMBERS.- Aw!

HON. N. NAWAIKULA.- Exactly, that is what is happening here because you have the mandate, you can do that.

HON. A. SAYED-KHAIYUM.- Yes, we have the mandate!

HON. N. NAWAIKULA.- Exactly. They are using that to breach every fundamental convention, including ILO so that now, they can tell ILO; “No, the people of Fiji passed these laws, not us”. That is the problem that I wish to highlight in opening this debate. Honourable Karavaki and other Members on this side, will continue from here.

HON. DR. B.C. PRASAD.- Madam Speaker, being the fundamental objectives of the Bill was to restore the workers’ rights to Freedom of Association and Collective Bargaining in compliance with the ILO Conventions 87 and 98 and indeed, ILO Declaration on the Fundamental Principles and Rights at Work, we agree with those objectives. I think the Bill has the right objective. Unfortunately, Madam Speaker, when I was listening to the submissions and comments and indeed, when I was talking to honourable colleagues from the Opposition who are on the Committee, it gave me a lot of confidence that Government was actually going to recognise ...

HON. N. NAWAIKULA.- At first.

HON. DR. B.C. PRASAD.- ...how critical it was to make some necessary amendments to the Bill. However, when I received the Bill and if you look at the Report, Madam Speaker, you will actually find that the Report makes good recommendations and the Report actually says that this so and so clause should be amended to comply with the ILO Conventions. So, I think that the Committee was actually trying to help the country to actually comply with the ILO Conventions but what we have in front of us, Madam Speaker, is essentially the same thing that was presented to this Parliament with some very minor, not very important amendments. So, basically, we are from a frying pan into a fire now.

Madam Speaker, we have had this big debate on the ENI Decree and, in fact, the demonising of the union movement and union leaders in this country for the last seven or eight years was actually been a shriek. In fact, some of those people who were in Government before the Elections obviously had the services of some union leaders and they were not complaining then but today, they are complaining about every union leader. Indeed, the Political Parties Decree, Madam Speaker, and the Electoral Decree also imposes restrictions on trade union leaders so again, it is in contravention to ILO Conventions of Freedom of Association.

HON. A. SAYED-KHAIYUM.- It’s not so!

HON. DR. B.C. PRASAD.- Well, you may think so but that is what the ILO Convention says.

HON. J. USAMATE.- That’s your opinion.

HON. DR. B.C. PRASAD.- It is also important, Madam Speaker, to understand why ILO take such a serious view of the contraventions to these Conventions and the honourable and learned Attorney-General is on record of identifying that only a few countries in the world have actually attracted the wrath of ILO in terms of a Commission of Inquiry and he admits, Madam Speaker, that if there is a Commission of Inquiry, and if we have to go and defend that Commission of Inquiry, we will look bad, and I do not think anyone in this House, including the honourable Prime Minister wants Fiji to be subjected to that kind of Inquiry, so he admits that there are going to be consequences of an inquiry on Fiji - on trade, on our economy, and the rest of it. He himself has identified it, yet, Madam Speaker, I am actually surprised as it actually sounds dumb to me that we are not simply accepting that, and say “Hey, let us just comply with the ILO Convention.” Simple.

We have had union movements, Madam Speaker, in this country for the last so many years. We did not stop; our economy did not get disrupted; and trade union leaders did not go and terrorise the business community.

In the 70s and 80s, the Tripartite Forum, under the then Prime Minister, the late Ratu Mara and others, it worked very well.

(Inaudible interjections from Government Members)

Alright, though you had some breakdowns every now and then, but it did not destroy this country, Madam Speaker, so to demonize trade unions, demonize trade union leaders, and to the extent of contravening ILO Conventions, which we have signed, makes no sense. We are in a democracy, let us ease up.

Let me just go back to the substance of some of the issues.

The essential services industries: Madam Speaker, I thought that instead of increasing the number of industries under the essential services, we will decrease it. In fact, what we have done is, we have increased it, and I thought in the Committee I heard from the submissions, including the ILO submissions, and submissions from everyone who appeared before the Committee, they talked about essential services.

The following, according to the ILO, may be considered to be essential services, and let me list some of these:

- (i) Hospital sector;
- (ii) Electricity services;
- (iii) Water supply services;
- (iv) Telephone service;
- (v) Police and Army - disciplined forces;
- (vi) Fire-fighting services;
- (vii) Public or private prison services;
- (viii) Provision of food to people, and the cleaning of schools for example; and
- (ix) Air Traffic control; this may be considered essential services.

Madam Speaker, but the following, according to ILO, do not constitute essential services in the strict sense of the term:

- (i) Radio and Television;
- (ii) Petroleum sector;
- (iii) Ports;
- (iv) Banking;
- (v) Computer services for the collection of excise duties and taxes;
- (vi) Metal and Mining Sectors;
- (vii) Transport;
- (viii) Airline pilots;
- (ix) Production, Transport and Distribution of fuel; and
- (xi) Railway services, amongst others.

So, in terms of the additional essential services being added to this Bill, it does not make any sense, and in fact, the ILO submission to the Committee made it very, very clear that one should not go beyond the reasonable definitions of "essential services", and in fact, what we see in this Bill is the additional list, and there is no need for that, Madam Speaker.

The other point that I want to make, Madam Speaker, is the issue of bargaining units. Again, the existence of a bargaining unit, simultaneously with the freedom to join a trade union can present possible barriers to workers in bargaining units and trade unions.

The important principle that the ILO pointed out, Madam Speaker, is the number of persons required to establish a trade union, and basically it says that they should be fixed at a number that is reasonable, so that the establishment of a trade union is not hindered.

Again, there is no reason to include a bargaining unit if the Bill's objective is to restore the workers' rights, freedom of association, and really there was no need to set up this bargaining unit, basically to frustrate, some people are talking about a choice. But, why have a bargaining unit, when you are saying that you are restoring the trade union workers' rights.

(Inaudible interjection)

Well, both of you can jump ....

(Chorus of interjections from Government Members)

You can dance with the important points that I am making.

Madam Speaker, the other point that I want to make is the issue of strike. Again, clause 173B relating to strike ballots has not again been amended by this Bill, and this sets the strike ballots and requires a 50 per cent vote of full members who are entitled to vote.

The Committee of Experts on the application of Conventions and recommendations had previously commented on the application of this section in its 2012 Report. This is the ILO Report, and the Committee again, Madam Speaker, requested the Government to take necessary action to amend Section 180 of the ERP, so that the responsibility for declaring strikes illegal lies with the independent body which has the confidence of all the parties involved.

So there you go, Madam Speaker. While we started with the good objective of restoring workers' rights, freedom of association to comply with ILO Conventions, what we have in the final analysis does not address the ILO Conventions 87 and 98.

So what we would be approving, Madam Speaker, today in this Parliament will still attract a Commission of Inquiry on Fiji.

HON. A. SAYED-KHAIYUM.- You want it.

HON. DR. B.C. PRASAD.- We do not want it.

Madam Speaker, we do not want it, no one wants it, and that is why we are saying that this Bill is actually moving towards inviting that inquiry on us. After having admitted publicly that the Commission of Inquiry is going to invite negative impact on Fiji, we are still going ahead with this Bill and going against, Madam Speaker, on the recommendations of the Committee.

If you look at specific recommendations that the Committee is making, it is directly suggesting amendments, and the union movement did come on board. All the union leaders took that as a positive step, and in the honourable Prime Minister's own admission, Madam Speaker, that he wanted to work with the union leaders and move this issue ahead.

Madam Speaker, I think the honourable Prime Minister needs better advice on this, and his objective to work with the union leaders is a good one, and we all support that, but if you get this Bill passed with these provisions still in place, you are not going to attract or invite goodwill from the union leaders and workers of this country.

Madam Speaker, I think, it is still time for Government to reconsider some of those provisions. And it is not going to change or move mountains, in terms of how the workers would be treated in this country, how the union leaders are going to be an obstacle to the Government's economic policies. It is not going to be anyone of those, in fact, what it will do if we do make those changes and comply with all the recommendations of the ILO, we will invite even more goodwill. We would be able to create an environment to work together. I think this is a great opportunity, Madam Speaker, for Government to demonstrate that and unfortunately, they failed with the lack of respect to the recommendation of the Committee, and some of the submission that have been made by very eminent, responsible, knowledgeable, trading leaders in this country, lawyers and others...

GOVERNMENT MEMBERS.- Like who?

HON. DR. B.C. PRASAD.- ...Madam Speaker, I am not distracted by such ridiculous interjections ...

(Laughter)

HON. DR. B.C. PRASAD.- ...let me say this, I think this is a warning to the people of this country, that this Government does not want to move towards genuine democracy. They still want to keep control, in this particular case, control of the union leaders and workers, Madam Speaker. This was an opportunity, unfortunately, they failed.

MADAM SPEAKER.- I will give the floor to the honourable Minister for Health and Medical Services.

HON. J. USAMATE.- Madam Speaker, I rise to support the Bill before the House. First of all, I would like to say "a genuine democracy is a country where everybody has an equal vote"...

GOVERNMENT MEMBERS.- Absolutely!

HON. J. USAMATE.- ...There has been no other Government before this Government that made sure that happens. When you have that, then you have the base to general democracy. That is the essence of the real democracy. You cannot have the real democracy, unless, you are treating and seeing everyone as an equal human being. For the first time ever, under our Constitution, no other Government has been able to achieve this.

GOVERNMENT MEMBER.- Yeah.

HON. J. USAMATE.- I is something that you should congratulate those of us on this side...

(Chorus of interjections from Opposition Members)

HON. J. USAMATE.- I think one of the things that we have to remember is that, we are a country that has national sovereignty. We determine our future, yes, we have International Conventions and we have ratified those Conventions. A Conventions in ILO, a Conventions of Freedom Law Association, all of those. We have those conventions, when you have a conventions, people will interpret those conventions differently. Someone can come and make a statement to the Standing Committee with that person interpretation of a conventions. We can also look at the same conventions, just as you can look at this bottle of Fiji Water. You look at it from that side it looks red, we look at it from this side it looks blue but we are still looking at the same bottle of Fiji Water

This is the point, I am making. We believe, I am sorry for the Members on that side, I am not able to differentiate between the different colours....

(Laughter)

HON. J. USAMATE.- ... We believe, that the way that this Bill has been presented, it complies with a conventions. I think that the thing that makes me disappointed greatly, with this, speaking about the ILO conventions because some of the countries that hid are talking about Fiji not confirming to this conventions and taking trying to take us to tasks. Some of this countries themselves, have not rectify the conventions. This is the strangers thing, you do not rectify the conventions, and then you try to take to Fiji to tasks. That what is happening right now.

GOVERNMENT MEMBERS.- They do.

HON. J. USAMATE.- From the largest countries in the world have not rectify, this very same conventions. So, the world is not really an equal place. That is the point, I am trying to make, we are national country. Our, ultimate focus is to Parliament to focus on what is best for our country. In whole, in total, holistically, not just a once small segment. So, the things that the Government is putting together, is looking at what is the best for the country as a whole. That is why, I believe that some of the factors that we have, in this amendment, are good for us. The honourable Members that talked before, talked about the fact that we have just taken ENI out, and put it lock, stock and barrel in this one. That is completely false.

The decision has already been made. The honourable Attorney-General has already indicated that if he was in the essential industry, now, you can join trade unions. Before, they were not allowed to do that. There are a lot of other things, so it does not been taken for claiming sinker into this new Legislation. I believe that under this amendments, a lot of the right that were in the Employment Relations Promulgations are now freely available to workers in this country. They can still take up their grievousness if they have disputes that they have, there is a formal magnesium to resolve those disputes. They can have their grievousness, it also very strongly re-enforce the idea of removing discrimination and I now very thankful that in this particular Bill, we are talking about removing discrimination against those with Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS). That is very important for medical standard point. I hope also, I have seen the future we could also look at removing discrimination, against those with Tuberculosis (TB) because that happen sometimes also. I think one of the other reasons that I really support this particular Bill, is because now we just have one labour Legislation that covers everybody...

GOVERNMENT MEMBER.- Yeah!

HON. J. USAMATE.- Previously, we had the ENI, we had the few others, now we have been able to consolidate, because this Government is always about improving, not just improving in the level of our service delivery outside that but also improving in our Legislation, one legislation together makes it easier to manage the country. And, I think also if you think about what Government has done for the workers of this country. Nobody can say that this Government has not cared for the workers of this country. Just recently, we have put in the National minimum wage. National minimum wage is for people who are working in the market, they have been paid \$20 a week. Now, at least they can get \$90 a week. That is a huge increase, at the same time, you will notice a few days ago, out here in Albert Park, we were given out grants to assist people who are establishing Micro-Enterprises. Some people have talk about improving this national minimum wages to \$200, if you are renting a Micro-Enterprise, you cannot afford to pay \$200 to your employees. You cannot do it, so, if you want to grow your Micro-Enterprise's, you cannot set your wages too high. So, what we are doing in Government, we are looking at this holistically. We are not looking at things one eye like this, no, we are looking at it with both eyes open and we are looking around to make sure that whatever we do is in the best interest of this country for now and for the future that, Madam Speaker, is why I support this Bill, thank you.

MADAM SPEAKER.- Thank you, I now give the floor to the honourable Faiyaz Siddiq Koya.

HON. F.S. KOYA.- Madam Speaker, I would be very brief, Madam Speaker, but I would like to point out something specific to what concerns me and I think the Minister for Agriculture, Rural & Maritime Development and National Disaster Management also. That is the development issue, Madam Speaker. This country is in serious development mode, and there has to be a balance, Madam Speaker, that exists and the balance has to be strong and this particular Bill that has been brought before the House, does exactly that. It has to balance responsibilities it has with respect to how development plans are, and what workers need to do et cetera and all those things.

I give you specific example, Madam Speaker. What was being asked for by the unions, was that they would be allowed to strike without notice. This was one of the things that was being asked for. Madam Speaker, to put that into perspective, what happens at the end of the day if there is a right to strike without notice.

Suddenly, Fiji Airways Staff go on strike, the trade goes out the window. Tourism goes out the window, tourism brings in so much into this economy, Madam Speaker, that it affects them. So, when you do this Bills, this is what must be born for most in their mind. It is a development perspective that they need to look at also.

We are a growing nation, we cannot be held to ransom, ever was and where in this moment. We cannot, and we have strike out a balance, there was a serious demand of work that went in, for this particular Bill to come to this particular stage. And, I agree with what the honourable Jone Usamate said earlier, and of course, with the Attorney-General.

So bearing that in mind, I think I probably can speak for the Minister for Agriculture also, that, those things are important to this nation, and that is what the Government is doing. We are in a mode of development, and you cannot have what they are asking for. Everything that the Opposition ever says is negative. It is always negative. They always seem to find holes somewhere where there are no holes. They have dug themselves a hole, they cannot dig themselves out of. May be, it is time that they look up and say, 'Can you please give us a helping hand?' We will do so.

Madam Speaker, with just that small issue, it is development perspective. From my perspective, from my Ministry, it is a development perspective that leads us to build such as this, and I whole heartedly support this, Madam Speaker.

MADAM SPEAKER.- Thank you. Before we continue, I will just ask the honourable Leader of the Government in Parliament to have the floor.

### **SUSPENSION OF STANDING ORDERS**

HON. LEADER OF THE GOVERNMENT IN PARLIAMENT.- Madam Speaker, I beg to move:

That Standing Orders 23(1) be suspended so as to allow the House to complete the debate on the Motion before the House.

HON. S. PATEL.- Mr. Speaker, Sir, I beg to second the motion.

### **RESUMPTION OF DEBATE ON THE EMPLOYMENT RELATIONS PROMULGATION (AMENDMENT BILL) 2015**

MADAM SPEAKER.- Now, I will have to give the floor to the Opposition, and I invite the honourable Viliame Gavoka to have the floor.

HON. V.R. GAVOKA.- Thank you, Madam Speaker. I would like to contribute to the debate on this subject, Madam Speaker.

Firstly, Madam Speaker, on the subject of democracy where Fiji First continues to run home the fact this has never been like this before. However, there is also one thing, an element in Government called, 'the tyranny of the majority', and this is what we are seeing in Fiji today.

You may know, Madam Speaker, that in the United States when they were framing the Constitution, they were afraid of this because the majority can also be the mob, and you know the rule of the mob is frightening. This is what is happening in Fiji today. There is a mob here, whatever they want goes. That is why the United States created the Senate, to review what the mobs want, slow it down and giving a more balanced view on how things should go.

Madam Speaker, that side of the House continues to say that we are children, we do not understand these things, I ask them to look at the framing of the US Constitution and it will clarify to them, that is exactly why the Senate was created. Therefore, let us not have this huge majority talk because it leads to the rule of the mob, and we are seeing a lot of that today. It is something that we hope not to see in the future, Madam Speaker.

Madam Speaker, looking across the House, I do not know how many of them have dealt with unions. People like us, the unionised industry knew how to work with them. Today, Madam Speaker, I would like the Ministry to go to Lautoka and talk to the security people employed in there, who have gone time and again to the Employment Office in Lautoka to complain that they work from 6 o'clock in the morning to 6 o'clock in the evening and get paid \$20 a day. No one listens to them.

HON. GOVT. MEMBERS.- Which company?

HON. V. GAVOKA.- Go and find that out yourselves. Go check with the Employment Office in Lautoka, they have been there many times and nothing happens. We all know what happened to the GPH staff, they went to everyone in Government; four times to the Prime Minister's Office, they were told they could not see him. We all know that. The unions help you to look after our workers.

Today, Madam Speaker, a lot of these construction business, people who are setting up business, go and check what they are paying the workers. Go and check! In Nadi today, they bring in workers from all over Fiji and this is something very critical, I wanted to bring it up on another topic, Madam Speaker. Our indigenous workers, moving from some of the provinces outside of the West are coming into Nadi and working and being paid \$20 a day, and sometimes do not even get paid for 14 or 20 days. This is what the unions can do, to help check these types of practices by the employers. You can't do it, Government cannot do it, Madam Speaker. That is why it is wrong the way we look at the unionists. Let us be very clear about one thing. We all enjoyed our conditions, but who fought for those conditions? Our unionists. I was a Union member, I became an employer but deep down, Madam Speaker, they were the ones who set the platforms for us, for a fair treatment for everyone in this country, borrowing from the practices from the UK, and other parts of the world including what we see today with ILO.

Madam Speaker, if one talks to the workers in this country today, they are saying that this Government's true concern is about growing investment, they are not caring about the workers. We appear to be welcoming anyone in this country, they are talking to Government, but the reality of it is this, you cannot do it on your own. You need the Unions to fight for the workers. You need the Unions to monitor the situation in the workplace so that justice can be done for our workers. You can pass laws, but

you cannot implement it, you cannot monitor it. That is why, Madam Speaker, it is so sad that the unionists are being treated in this manner. They came to contribute with much good will. We heard so much about what was happening. We were really glad that there was dialogue; there was a Committee working and putting things together. We were very happy about it, and we were talking to the ILO, but the disappointments when it comes to the Bill, nothing has changed.

Madam Speaker, I just wish this could be taken back, we relook at it, we need to find our place in this community by respecting our workers better, which is not included in this Bill, Madam Speaker.

MADAM SPEAKER.- Thank you. I now give the floor to the honourable Ashneel Sudhakar.

HON. A. SUDHAKAR.- Thank you Madam Speaker, because there had been some questions raised about how the Report was made, and how the Committee operated, it becomes imperative upon me as the Chairman of the Committee to explain very briefly how this Committee actually formulated this Report.

First of all, Madam Speaker, contrary to what honourable Dr. Prasad has said, my Committee does not make recommendations, my Committee makes the actual amendments.

Madam Speaker, 10 submissions were made to my Committee, nine of them were oral, and one was written. There were unions, ILO representative, there were employers and there were people from the Bargaining Unit too who came before my Committee and they made their submissions. My Committee included two members of the Opposition, honourable Nawaikula and honourable Karavaki, and also honourable Leawere and honourable Nanovo who were there as Sitting Members. We scrutinised all the submissions; took the points down, did a summary of those points and we had general discussions. We had point by point discussions. We had line by line reading of the Bills. If there was any disagreement, we did discuss. I was honoured to say this morning that this Report was unanimously agreed. And in fact, there were provisions for voting. The UNDP Representative told us that if there was disagreement, we could call for a vote. I asked my Members if there were any issues that they wished to raise, and I was pleased at that stage that all of these matters were clarified. In fact, I went to the extent of having a conference call with the ILO Representative from Malaysia for more than an hour, and we posed certain, direct questions to him, and those question and answers are on pages 16-19 of my Report. In those questions, the ILO Representative told us that this is their position, there was no direct attack or direct word to take certain industries out of the Essential Services and Industries. There was concern and which we have addressed, that there were the ILO Conventions that were in question; ILO Convention 87 (Right to Organise), and ILO Convention 98 (Right to Collective Bargaining). Those Conventions have very general words or articles of how a country, which has ratified these Conventions. It does not say you make a, b and c, it is a very general sentence. Now, my Committee collected and heard submissions on what each party thought of those, and I can give examples.

When one union said that the Arbitration Court is a very good idea, the other union said that the Arbitration Court is not a very good idea. We cannot put both of those in a certain piece of legislation, it will become unworkable, so we read through the, scrutinise those submissions, we went back to the Bill and we read to make sense of it. Then we went back and read the Conventions and saw how it aligned with those. Then we went back to ILO and we had a conference call and spoke to them. In fact, the ILO representative, Mr. Allen Palsy, who appeared before the Committee agreed that whilst the essential national industries which are listed in Schedule 7 is the general essential services which ILO agrees to, however each country is free to make their grey areas and each country is free to make certain industries essential which are essential to their economy and their life and health matters for instance he did agree. In fact, he did agree that life and health matters could also include City Councils, the garbage collectors if

the garbage go on a strike for seven days garbage will pile up on the streets and in all the homes and that becomes a life and health matter.

Those are the areas that the Committee did consider. We also considered that Fiji is not like advance economies of Germany and Sweden where you can take a bus ride to another country. We have our ports we have the airports where we need those aeroplanes to come in for passengers for trade for cargo. Fiji which in the middle of the ocean the unique situation that Fiji can determine that those are the grey areas that ILO agreed with us that those Fiji can tailor made their essential industries. What is essential to Fiji may not be essential to the United States, China or to Europe but these are the areas that we did consider. It will not be correct to say that the unions were asking were simply disregarded what the unions were asking were simply disregarded, what the employees were asking were simply disregarded.

We in fact had all the submissions before us and the members of the Committee will agree that we had all the submissions tabled actually had and went to the extent of having the entire Report on the screen and we went section by section to look at it to see if there was any other changes that were needed to be made. Of course we cannot accept everything that was submitted to us. We cannot include the convention word by word but it is the general terms we adhered to and we looked into this and I am proud to say that even in the conversation I have with the ILO, the ILO representative was here to present ILO agreed that those 17 ideals, the ideal list of industries and services but it is not exhaustive. It is not the end of the story. We can have other industry and in fact ILO's only criticism was the right to strike that was not in the Essential Industries Decree (ENID) and the right to organise in those industries.

Now this has been given back to the workers. There is now a right to form a union. In fact there are more rights, you can form bargaining units if you are good at that. If you do like that bargaining unit you can shut that bargaining unit down and join a trade union/. If there is a 100 workers in a particular essential industry and 25 of them want to hold a bargaining unit they can form it. The rest of the 75 can either remain neutral or join a union. A very few countries of the world have this freedom where you can chose between your groups which will take your voice higher up. We have done that. Tho

The Arbitration Court, which my members will speak on later. The Arbitration Court is a unique system to Fiji and it is designed to fast track this essential industry disputes. Previously the situation was if there was a dispute in a certain industry you have got the permanent arbitrator or you will have ad-hoc arbitrator who could take months in awarding the dispute. Now there is a requirement that within two weeks of hearing being completed the dispute has to be resolved and the award has to be given. These are the things that ILO even appreciated, even some of the unions appreciated that Fiji is actually done good, done well in allowing the workers to have the right to organise and even giving the workers further right to collective bargain and there is no impediment in fact I am surprised to hear somebody saying that ILO will not agree to it. In fact ILO agreed to these things. If they come back and tell us they do not agree I will obviously ask them questions to the ILO representative.

Interpretations could be taken in many ways but I went through and I went to the extent that I said earlier in clarifying these issues. In fact the Committee members were there and there were three of us from the government side and two from the opposition side and there was no vote taken. In fact if there was any disagreement a 1 vote would have been taken and in fact the result of the votes can be checked there was no vote taken there was in fact in the morning I said this Report is unanimous. And that is mostly what I have to say Madam Speaker, that it was imperative but with no disrespect intended to my Members or the honourable Members on the other side but I was hopeful and I achieved that this Report was actually discussed around the table and it was signed as a unanimous Report and presented this morning.

Therefore, the Committees work that has now been put in question I stand by the Report. I am not here to defend my Report just because I made it. It is a unanimous Report by the Committee.

Thank you Madam Speaker.

MADAM SPEAKER.- Thank you. I will now give the floor to the honourable Tupou Draunidalo.

HON. ROKO T.T.S. DRAUNIDALO.- Madam Speaker, let me refer briefly to the references made because the other side keeps talking about equality I will keep referring to the Sections in the Constitution which prove that there is no equality and that is Section 13 and Chapter 10.

As to international relations and the hypocrisy of it that is been referred to by the honourable Minister I am not going to comment too much on that Madam Speaker. The good thing about being principled on some issues it does not matter if you agree with the side or not if it is wrong it is wrong. Whether it is the ILO or whoever else it is Madam Speaker and I will confine my speech on this Bill to the Arbitration Court issue. Madam Speaker, it is really hopefully the Attorney General can come back with clarifications on some of the issues that I raised this afternoon and mostly it is to clarify whether or not this Bill breaches the Constitution. In particular the separation of powers principle Madam Speaker.

The judicial powers of the state have been given to the Judiciary and from my brief reading of the Bill the Arbitration Court appears to be giving that executive body Madam Speaker. It is an executive body giving it judicial powers which if that is the case Madam Speaker that would be breach of the Constitution which gives powers to the judicial body which is separate from us and separate from the executive it is in another place hence we should not interfere with that.

Before there was any doubt as to whether or not this was executive body this so called Arbitration Court we only have to see the Section that talks about questions of law being referred to the Solicitor General. Granted not when matters that relate to the government are at issue but that would pretty much to lawyers and I am pretty disturbed that a colleague and a lawyer has expressed the opinion that there is nothing wrong with the Arbitration Court.

This fundamental Madam Speaker, and the Constitutions itself separates the powers along those lines. I am asking this to the Attorney General so that they can get it in order that it may be challenged later and then we find that this Bill fails because it breaches that giving of judicial powers to a body that is not a judicial body.

This so call Arbitration Court is an executive, part of the executive and it cannot have judicial powers. And the seminal case in this to help the Attorney General's large chambers I am sure they can go into further research into this in the Boilermakers decision in Australia from the Australian High Court talked about separation of powers between the executive and who you can give judicial powers to.

And I suspect Madam Speaker that it is something for clarification that the reason why this executive body has been given judicial powers or from my reading of it is to make up for the ouster clause which is in the Decree Madam Speaker.

The ouster clause which says you cannot take any of the decisions made under the Decree to a Court of law one that properly exercises judicial powers.

Now again Madam Speaker, I have said this in relation to other ouster clauses if we believe in the independence of the judicially and we support it and we want it to carry out its judicial functions without interference we should trust them to exercise judicial powers Madam Speaker and should not be allowing these ouster clauses in legislations and degrees which then it looks to me necessitates this almost breach of the Constitution is to be confirmed by a court of law later and I am sure the unions would be happy to take up with lawyers who have the time to do this, on whether this giving of judicial powers to an executive body is a breach of the Constitution.

Just a little mention of this ouster clause issue, Madam Speaker and the honourable and learned Attorney-General referred to it in the first matter that was dealt with this morning and that was the issue of Court of Disputed Returns - a very specialised jurisdiction Madam Speaker.

Madam Speaker, the main concern why that jurisdiction has been given this very special prominence of having this ouster clause, because as a matter of public policy, the powers that be at the time and how constitutional history has evolved, it was thought that the public good that comes from determining who is a Member of Parliament has to be exercised quickly so that the House of the People can carry on with its business without appeals being tied up in Court and half of the members not sitting in Parliament because matters are in the Courts.

So, that is why that Court of Disputed Return was given that very special ouster clause and even in that Madam Speaker, the hundred years of jurisdiction I think in a matter that came before our Supreme Court in which the Chief Justice of New Zealand (I believe she is still the Chief Justice of New Zealand) Justice Sian Elias was a member of our Supreme Court. I think it was in 2004 and it was the appeal by the honourable Member sitting next to me. At that time, I was a junior in the legal team, Mr. Dorsami Naidu was senior counsel and even in that very special jurisdiction and even Madam Speaker, where the Constitution spelt out clearly that the jurisdiction of the Court of Disputed Returns, even then, Justice Sian Elias, Madam Speaker said, that what we are dealing with is a human right and because it was such and how human rights have progressed over the last few decades that her interpretation of that section as a dissenting opinion was that the ouster clause could not stand as a matter of determining the rights of the person that came before her in that matter that she could rule the way that she did.

And again I think, Madam Speaker, that is a very specialised and different and we are talking about workers' rights and human rights and this issue of having a Court which really is an executive body exercising a judicial function. I just hope the honourable and learned Attorney-General and his chambers have looked very well into it, and that we are not going to be asked to approve something that is usurping the powers of the judiciary, their judicial powers and giving them to the executive body. That is my contribution, Madam Speaker.

MADAM SPEAKER.- Thank you. I now give the floor to the honourable Balmindar Singh.

HON. B. SINGH.- Thank you Madam Speaker. Madam Speaker I would like at the outset share the same sentiments that the honourable Chairman of the Committee, honourable Sudhakar had shared.

Madam, it is sad to hear from the outset that honourable Niko Nawaikula, being a Member have shown disappointment on this Bill. He was party from day one, and which we are all party too, when there was a bipartisan approach that was taken, but it is sad to see that he had just left.

Madam Speaker, I rise to contribute to the Report on the Employment Relations Promulgation (Amendment) Bill, 2015 (Bill No. 10 of 2015).

The Bill aims to provide equal and fair opportunities to the employer and the employees respectively Madam Speaker.

The amendments harmonise the cordial relationships between the employer and the employees and has ratified ILO Conventions 87 and 98 respectively. The amendment is aligned to the international best practices to suit each workers while maintaining the protection to essential national industry and services even Fiji has different economic environment and needs, and has limited resources and capacity.

Madam Speaker, further to the amendment, the Bill aims to provide for bargaining units, which the workers of an industry can join which will co-exist with trade unions. The objective basically, Madam Speaker, is to give the workers more choice in seeking which group they choose to represent them and allow to co-exist with the trade unions and the workers are free to one or the other.

Madam Speaker, the Bill further allows the bargaining units to register itself, as a trade union is being allowed to register itself.

Madam Speaker, the bargaining units have advantages as the members are from the industry and in reality has a better understanding of the operations and working conditions, and would have a comparative edge to negotiate in good faith without prejudice, and having to be held at ransom for political gain.

Madam Speaker, I would like to share an example before I conclude my submission. An example of good bargaining unit exists in Fiji Airways, where the employer and employees has been negotiating in good faith and they have a very harmonised relationship.

Madam Speaker, I stand to endorse the Bill before Parliament.

MADAM SPEAKER.- I now give the floor to the honourable Lorna Eden.

HON. L. EDEN.- Thank you Madam Speaker. I will be very brief. Madam Speaker, our Committee has earlier alluded to by our Chairman spent many long hours listening to and deliberating over submissions regarding Bill No. 10.

I am in total support of the amendments before us today and would like to highlight just one of the many benefits that would come about as a result of these amendments, mainly the creation of the Arbitration Court.

Madam Speaker, in the past, disputes would typically be processed by an independent arbitrator and this process would go on for months and in some cases longer. With the introduction of an Arbitration Court, the Arbitration Court is now bound by a time limit of just two weeks to make their award. This Madam Speaker, is a win-win situation for all concerned and enables all concerned to get on with business as quickly as possible.

In fact, Madam Speaker, the entire amendment Bill is geared in such a way that both employees and employers can sought out their disputes fairly and speedily with the minimum of disruptions which is what we all want that the end of the day.

Madam Speaker, someone commented to me that I might not be impartial because I am an employer. Madam Speaker my answer to that was yes, I may have been an employer, but let us not forget that my children are employees along with many of my family members and friends. So, of course what I want is to be fair for all.

Madam Speaker, at the end of the day, what is the use of an employer without employees. So, naturally we are very mindful of fairness for both sides of the scale. In fact, Madam Speaker, on the flip side, we cannot have employees without an employer, and we cannot have a prosperous country with will move ahead without either. So, I urge everyone in this House to please vote in favour of our amended version of Bill No. 10.

Thank you Madam Speaker.

MADAM SPEAKER.- Thank you. I invite the honourable Semesa Karavaki.

HON. S.D. KARAVAKI.- Thank you Madam Speaker, I rise to make my contribution to the Bill before the House. For the information of the House, I am the Deputy Chairman of the Committee on Justice Law and Human Rights that had looked into this Bill.

I stand with a heavy heart today, Madam Speaker, on the reason that I have to endure and to finally see how politics unveil itself.

Madam Speaker, I also see the difficulties in the process that the committee, the Standing Committee has to go through especially when you look at the Bills, because Parliament does not have his own Legislative drafters. If we are to forward any suggestion or any recommendation for changes of amendments in the Bill, we have to take it to the Solicitor- General's office, and that has not been easy with this one especially Madam Speaker, there is a provision in here which we had agreed to, not only because we had agreed to it, just because it was raised by almost all submittees, and that is the provision where he has the Solicitor General to give advice to the tribunal, and we had agreed to that Madam Speaker, that it must be given to an independent body or someone outside of the Solicitor General's office. But the Bill, when it comes back, it still has the Solicitor General in there. My concern Madam Speaker, is that because it was taken to the Solicitor General's office to amend it, on our own recommendation that it should be changed, and not only that, that was also raised by the ILO, and also the submittees and according to my understanding that it should have been done that way. I am very surprised that it is still here Madam Speaker.

I am also concerned Madam Speaker, with due respect to the members of the Committee, the Chairperson of the Committee, I am very surprised because my instruction from our side was very clear. My instruction from our side was very clear because we had talked about it, we had reviewed or what had been tabled before the Committee and it was the safest way that we are to be seen to do, is to return the number of essential services to the original 16. That was what we had conveyed to the committee, and I believed myself that was taken to appear in the Bill. Unfortunately, the first thing that I looked into this morning when I received the Bill is to look into the definition of "essential services". To my surprise, Madam Speaker, when I looked in there I see that no changes had been done, because according to the submissions that we had received, and also according to the advice given by the ILO that the safest thing for Fiji to do is to go back to the 16 original essential services that are in Schedule 7 of the ERP. But I am surprised Madam Speaker, that they are still all here. With due respect Madam Speaker, the Chairperson had explained his views about all the other services that are included in here and Madam Speaker, when we sat to deliberate on this and also listening to the ILO official from Bangkok, I was at first at that point in time, I understand that they were referring to the 16 to be preserved, to the one to be in the Bill. That is what they are comfortable with. Unfortunately Madam Speaker, I left because sunset was almost there on Friday so I had to ask to leave.

HON. GOVT. MEMBER- Why?

HON. S.D. KARAVAKI.- I told you – sunset.

Madam Speaker, that was my understanding and I had seen that the safest way for Fiji to approach this Bill, because the situation that we are in, is to revert back to the 16 essential services that was in the schedule 7 of the ERP and also allow ERP to discuss if there is at any point in time needed to be any essential services to be added on, then it must come through ERP to Cabinet and to Parliament. But unfortunately, Madam Speaker, in here in this Bill this power is given to the Minister, to the honourable Minister for Labour. It is given to him, he can add on any industries to become essential services, and the view that has been given by the ILO that when you put these in the essential services, it restricts the right of the workers, it restricts the right of the unions because the essential services, that is the very reason why these industries and then added on to the schedule because it restricts these rights, otherwise if it is not necessary, it is not need to include all those industries in there. That is the only objective but I see Madam Speaker, in my contribution that to look at the unions and the workers in that way, he is really, you know paranoid. Is he a paranoid? We have seen the history of this country, we have not seen the people just go to strike for no reason. We have seen the unions are very responsible, very responsible - they want to negotiate. They fight for the workers' right.

My view Madam Speaker, in my contribution, I believe that Fiji will have to answer to this. As a Nation you know, I would like to say this because we have a report and that has been with due respect to the Chairperson, he said that it is an unanimous report. I am explaining here why I do not agree with this Bill because the views that I espoused in there and the expectation that I was expecting to see, the changes in the Bill did not appear.

We admit, Madam Speaker, that we had situation that maybe different with other countries but we have to follow the normal process. We have to talk about it with the unions, we had to take it to the ILO. We cannot just do things on our own and at the end, they come down hard on us. The people in this country will suffer as a result, we will suffer. There are channels to follow Madam Speaker and I stand this evening Madam Speaker, looking at the Bill, I see that many things that should have been put in here are not here and I did not see any reason why we should have Madam Speaker, made a teleconference with those people in Bangkok again because one of the ILO officials appeared before us over here and to me, I thought the only reason why we did that was to really change what was has already been put before us, and it is unfair because his far away, he does not have access all the information that we have here. We really need to understand the advice his given is given on very limited information given to him.

With that, Madam Speaker, I see that it is a very difficult task that the Committees will always face in future and one of the issues that I would like Madam Speaker to take in account is to establish a drafting section over here in Parliament, that it is independent and totally independent from everything else just to what they are told to do and not to be influenced by the executive in what the Parliament does in deliberating and making decision on the Bills before it.

For that reason, Madam Speaker, I stand to make my contribution and I am concerned with what will happen, and I do not support this Bill as amended.

MADAM SPEAKER.- I now invite the honourable Konrote to have the floor.

HON. MAJOR GENERAL (RET'D) J.K. KONROTE.- Madam Speaker, I rise in my capacity as the Minister for Employment, Productivity and Industrial Relations, to add my contribution to the debate that we have before the House. At the outset, Madam Speaker, let me say that the Bill is testimony of this Government's commitment to honouring what we signed back in Geneva on 25th March, 2015.

Please allow me to refer to a comment made by the honourable Gavoka about doing it alone. This Government is all about inclusiveness, we have no intention of going it alone. We believe in engaging our tripartite partners and for that, I am most grateful and appreciative of the contribution by the workers and the employers alike. A lot of hard work has been done over the last couple of months and more recently the last couple of weeks. Of course, it is a hard fact of life that we cannot satisfy everyone, but this Government has made a start in the right direction by engaging our tripartite partners to make sure that industrial relations in this country is maintained at a very harmonious and equally beneficial state of play.

By saying that, I would like to remind this House again about what this Government has done over the last nine months since I assumed responsibility as a Minister for Industrial Relations. I am happy and very proud to say that no other Government in the past has done what this Government has done. You heard the comments about how a lot of the work had been improved, how the workers and the employers have been engaging with one another in moving the country forward. As a Minister, with my experience over the last nine months, I have been impressed by the goodwill, the tolerance and good faith in the way the staff and I have engaged our tripartite partners in trying to move this country forward. As I said, of course, we cannot please everyone, but we are making a start.

On that note, I would like to commend, thank and congratulate the Committee, honourable Ashneel Sudhakar and his hardworking team for their hard work, and at the same time, acknowledge and

thank the Solicitor-General and the Attorney General's Chambers for their input into trying to make it work.

Madam Speaker, I thank everyone who have been involved. We are running out of time, I believe that the ILO has given us until November to come back with the answers that they require, but we are working towards that; this is only the start. Thank you.

MADAM SPEAKER.- Thank you. I now invite the honourable Attorney- General, Minister for Finance, Public Enterprises; Public Service and Communications to present his right of reply.

HON. A. SAYED-KHAIYUM.- Thank you, Madam Speaker, my apologies for that.

Madam Speaker, a number of issues have been raised, many of them have actually been unrelated to the Bill *per se* before this Parliament. They talked about democracy and various other things, but the issue beforehand, Madam Speaker, is about whether this amendment addresses the outstanding issue before ILO and the allegations of the breaches pertaining to collective bargaining, the right to collective bargaining and the right to Freedom of Association. Indeed, Government had accepted that those breaches had taken place and this Bill addresses those issues. How does it do it? It allows for collective bargaining for all employee and employer groups, even though they may be in the essential industries category. It allows for the right to join a trade union or not to join a trade union. That freedom of association is also allowed under this Bill.

Madam Speaker, please let me remind this Parliament that less than 30 per cent of the workers in this country are unionised. Yes, there is exploitation going on. Security guards, construction workers, but where are the unions? Your Atar Singhs, your Daniel Urais, your Felix Anthonys and all the other people, they are the trade unionists, Madam Speaker. They are the heads of these union organisations. They are generally concentrated wherever there is a State-owned enterprise or where there is governments, because they go for the easy-pickings. The workers who get exploited, the construction workers, the security guards, you do not see them working the floor in those areas. Less than 30 per cent of the workers are unionised but 70 per cent are not unionised; that is not the issue Madam Speaker.

The honourable Leader of the National Federation Party talked about essential industries and the list being too long. The honourable Karavaki spoke about that too. That is not the matter beforehand. As the Chairman has pointed out in the discussion with ILO, that is not the matter of dispute between the ILO governing body, the matter of dispute with the ILO governing body is whether the Fijian workers have the right to collective bargaining, whether the Fijian workers have the right to join trade unions; they are the two critical issues. Those two issues have been addressed. Even people in essential industries, even though the list may be long and there are many reasons, as the honourable Minister for Health and Medical Services very clearly elucidated that the conventions are there as a guideline. Yes, if you are a signatory to the convention, there is an accepted norm that you will adhere to that. At the end of the day, it is the sovereign right of a country to establish what is essential to that country.

I can tell you that in the past number of years, many operators from the tourism industry have approached the Government to say, "put the tourism and hotels under essential industries." We have said no. There are other organisations that have come forward and said, "put us under essential industries", we have said no. It is not done willy-nilly. It is done for a particular purpose, it is done for the fact that we recognise that Fiji is a developing country, that there are certain industries that are very critical to us, they may not necessarily be critical to other countries.

HON. S.D. KARAVAKI.- That is not in the definition.

HON. A. SAYED-KHAIYUM.- That, Madam Speaker, is the point. Let me raise a few other points. The issue here, as I have said before, is that there have been issues talked about, one of the workers will be exploited, we are not looking after the workers; we have just today tabled a Bill regarding worker's compensation, we have increased FNPF payments, we have not said they cannot join trade unions, national minimum wage, free medicine, free education, free water, all of these provisions are there to help the workers of Fiji, to help even those people who are not even employed. So, Madam Speaker, the reality is this, without labouring the point too much as many of the speakers from this side of the House have very clearly enunciated what the provision is. The point is that this Bill helps us to comply with the core ILO Conventions. There should be a bi-partisan approach to ensuring that we do not have third parties interfering with our economy. That fundamental issue should be the provision. We have many countries in the world where trade unionists disappear overnight, where there is child workforce. Madam Speaker, yet there is no commission of inquiry, yet the unionists try and work together with the government of the day and work with the employers. Many of them do that, they do not go running off to ILO nor do their Members of Parliaments stand up and say, "May be there will be a commission of inquiry" because they put their country first. And here are the laws that are trying to put their country first, whilst at the same time, balancing the issues that pertain to the country and whilst at the same time, protecting the workers' rights. This is a very positive step, Madam Speaker.

Let me also tell you, Madam Speaker, that the union movement is not all united. We had one of the unionist who was here today saying, "Why do you not put us in ERAB?" One of them who was in ERAB the other time said, "Do not put him in too, otherwise I will not attend". Many of these unionists belong to different political parties. There is a conflict. That really, Madam Speaker, is a reality in Fiji, notwithstanding all that mush.

We have navigated our way out of this, and that navigation is by way of this Bill. There are many other ancillary issues pertaining to workers' rights, that we want to address through it and ask ERAB because I can tell you that the Fiji Trades Union officials have threatened us. They said, "If you bring the FICTU in, we are not going to sit in ERAB. The Minister for Employment will tell you that, and that is the fact. So what we have done, we have navigated our way through this. We have not and as honourable Usamate pointed out, lock, stock and barrel has not been adopted for ENI into the ERP, no way! ENI said, you cannot join a trade union but this amendment says you can. The ENI said, "you must only have bargaining units" but this one says you can have either or. We have workers coming up to our office saying, "We do not want to join a mainstream trade union because most of these people are politicians". Because we get swept away in their political agenda, we just want someone to look after our rights. So, they must have the opportunity to form their own units. They are nothing in contravention of ILO.

The honourable leader of the National Federation Party did not raised a single point regarding any breaches of ILO through this amendment. He only talked about the list being too long, that is not the breach. So, Madam Speaker, as was highlighted by the honourable Minister for Industry and Trade that Fiji is a developing country, there are certain issues we need to take into consideration. We need to be able to look to the future, and we need to be able to be in that mode of thinking that lets everyone collaborate. There are certain industries that may not be essential in other countries are essential for us. As the honourable Chairman pointed out, the air services need to be an essential industry, over 90 per cent. Honourable Gavoka knows this that over 90 per cent of all our tourists...

(Laughter)

...come from airlines. We are trying to make Fiji a transshipment hub. We cannot have people just walking off or strike. These things are very critical, we are trying to create Fiji into a financial hub. We need to be able to have those disciplines, but at the same time those protections are given to those workers, even in those essential industries. They have the right to organise, they have the right to join a trade union and they have the right to collective bargaining.

Honourable Daunidalo questioned whether this Arbitration Court is constitutional or not. If someone wants to challenge that, they have the full right to do so. In the same way, we have told them previously, they would be challenged in other decrees, take it to court. They have the full right to do that. Ouster clauses do not apply and you know that. Take it court! You have taken other things to court, you take anyone to court, that's on foot, feel free to do so. You are not restricted. In the same way, the workers are not restricted, so Madam Speaker, we need to come together as a nation, to say this Bill now addresses those issues pertaining to the absence the freedom of association, the absence of collective bargaining. We now have that, let us see how we can work together. Let us see how we can sustain jobs, let us see how we can grow jobs, and that, Madam Speaker, is a critical issue that we have before us. I just wish, Madam Speaker, that all honourable Members of this House are future focused.

MADAM SPEAKER.- Thank you very much, and I thank you for that robust debate that we have just had. The Parliament will now vote. Does any Member oppose that a Bill for an Act to amend the Employment Relations Promulgation 2007 and for related matters, Bill No. 10 of 2015, be read a third time and do pass? Parliament will therefore vote on this Bill to be passed.

Question put.

<u>Votes Cast:</u>		
Ayes	-	29
Noes	-	13
Not Voted	-	8

Motion agreed to.

Bill reported with amendments, read a third time and passed (Act No. of 2015)

SECRETARY GENERAL – A bill for an Act to amend the Employment Relations Promulgation 2007 and for related matters enacted by the Parliament of the Republic of Fiji.

MADAM SPEAKER.- I thank you all for the discussions today. This brings us to the end of our sitting this afternoon. Refreshment has been served and we would like to invite all honourable Members and also our visitors at the gallery to partake in that afternoon tea.

The Parliament is now adjourned to 9.30 tomorrow morning.

The Parliament adjourned at 5.22 p.m.