



MINISTRY OF LABOUR AND SMALL ENTERPRISE DEVELOPMENT

**ADDRESS BY THE HONOURABLE JENNIFER BAPTISTE-PRIMUS,
MINISTER OF LABOUR AND SMALL ENTERPRISE DEVELOPMENT**

**At The
Weekly Luncheon Meeting of
The Rotary Club of Port of Spain West
at**

The Cascadia Hotel

St. Ann's

Wednesday July 20, 2016

12:30 p.m.

THEME

***“The Propose Changes to the Severance Act in light of
the Current Economic Climate”***

Bro. Brian Jones

Mr. Richard Teelucksingh - President of the Rotary Club of
Port of Spain West

Rotarians, Rotractors

Specially invited Guests

Members of the Media

Ladies and Gentlemen

Good afternoon.

It is with great pleasure that I join you this morning. I would like to firstly thank Bro. Brian Jones for asking me to address you all and to thank Mrs. Veronica De Souza Phillip of the Rotary Club of Port of Spain West for extending the invitation to me to speak on a topic which has reached into the homes of so many persons in Trinidad and Tobago.

It is public knowledge that the price of oil has dropped dramatically to around \$40 per barrel from over \$100 in 2014. Experts have contended that these prices will remain so for at least the next five years. In addition to diminished revenues from oil and gas, our major export, there is less foreign exchange available to support the non-oil business sectors of the economy as well as to support the current levels of consumption of foreign goods. The ripple effect on business is doubled because people have less money to purchase goods and services. The country has been asked to observe financial prudence at this time until the economy recovers. If there is one thing that I would like you to remember from what I say today it is this: ***“Tough times never last, but tough people do”***. I believe that in our collective duty to our country,

now is the time for all hands to be on deck. Every single one of us here today has a part to play in repairing our economy and the socio-economic fabric of our nation.

The question being put forward today is: RETRENCHMENT OR NO RETRENCHMENT. As a Minister of Labour I will say NO RETRENCHMENT. As part of the business community you should say NO RETRENCHMENT. I say this because we are all in the same boat together. When the storm comes, we ought not throw our precious resources overboard – OUR PEOPLE. These are the same people that have built our businesses, our schools, our nation. These are in many cases loyal employees who have given many years of service. Understand this: when the storm is over, we will be searching for those very same employees who possess immeasurable skills and knowledge to help repair and sail. What organisations need right now is the skills and business know-how to help turn around a business in the face of economic decline.

Businesses now more than ever need to become more adaptive and flexible. Instead of waiting for foreign revenue, we need to think **GENERATE FOREIGN REVENUE**. I would encourage organisations to find new and creative lines of business. I would say – encourage your organisations to search for new business solutions and channel your human resources in those directions. The Government stands ready to give whatever assistance is needed to facilitate business growth, particularly if it generates export revenues.

When quantifying the human element in the equation of retrenchment or redundancy, some may say that the Retrenchment and Severance Benefits Act has vast room for improvement. The impact of retrenchment or redundancy is nothing short of traumatic, even when the employer practices good industrial relations and cushions the loss as best as possible.

Ladies and Gentlemen, we have an intelligent and creative population. Over the years, Government has invested much into education, health

and social services. This serves to provide employers with potentially well educated, healthy employees. Many of our graduates, unemployed persons and recently retrenched persons may be overqualified for jobs that are available. We have to find ways to harness and utilize this very precious resource.

I just want to underscore the point that **retrenchment in large numbers is bad for the economy, bad for business, bad for society and bad for the individuals and affected families.** To the economy, unemployment coupled with decreased revenue stagnates. When retrenchment happens in large numbers, it is difficult for an economy already dealing with decreased revenue to absorb large numbers of unemployed persons. As well these unemployed persons are usually very experienced and highly skilled so getting another job that is close to the standard of living that they are accustomed to is a difficult prospect.

To businesses, less employed persons means less production, less customers and decreased revenues. Again in a state of economic decline,

this can lead to a downward spiral to an organisation. It is this type of vicious circle that can take an economy into a downward spiral as well.

Retrenchment can also have a traumatic and emotional impact on those still employed as well as those who have been laid off. The remaining employees may feel demotivated and insecure which can result in lower productivity within the organisation - especially if the retrenchment process was not properly managed.

While I do not want to stray from my point, I must say that there is a process to be followed as an employer. The Retrenchment and Severance Benefits Act 1985 provides for the procedures to be followed in the event of a redundancy, whereby:

- Formal notice (where retrenchment is greater than five)
- Consultation with regard to a solution
- Minister's intervention
- Time off to seek alternative employment

It is important that both employers and employees adhere to the law and the principles and practice of good industrial relations as they adjust to the changing economic times. As I make mention of this, the Ministry has held the first set of Consultations on this piece of legislation on 18th May, 2016. Stakeholders E.C.A., JTUM, ILO have submitted their comments as required by 30th June, while the Law Association requested an extension of time to submit its comments by 31st July, 2016. So, we are on target.

To society, Retrenchment has a psychological effect as well as an effect on crime. In some cases where companies have absorbed much labour in surrounding areas to the physical location, entire communities suffer.

To individuals, the impact of being retrenched can be devastating on the worker. Consider that it is a hundred percent cut in salary. To workers with family responsibilities, there may be implications for mortgage payments, other loans, financial responsibilities to children etc. For a retrenched individual it affects both the financial security of an

individual, as well as their personal sense of worth. And to families dependent on individuals the burden becomes a financial and psychological one.

Ladies and gentlemen, in the spirit of responsibility to our nation, our organisations and to our fellow workers and citizens let us do some soul searching examination of other alternative cost reduction strategies so that the financial crisis does not have to translate into job losses. The economic benefit of retrenchment to a business is often eroded by hidden costs and unforeseen negative consequences of such action.

While your respective organisations reposition themselves to respond to the changing economic climate, alternatives that employers can consider to retrenching for the purpose of cutting expenses should be explored. These include agreed wages freezes, pay cuts, decreased work hours, temporary layoffs, reduced benefits, redeployment of employees into other lines of business and job sharing.

As an alternative to retrenchment, an organization may redeploy or rotate employees within the company or group of companies when the job scope is expanded or restructured. Employees who are redeployed should also be provided with the relevant training or retraining.

In certain sectors, a reduction in working time may be a viable alternative to retrenching employees. The underlying premise is that employees agree to reduce their working time for a commensurate reduction in salary. Consideration can also be given to an increase or decrease in shifts and length of shifts. You can ask employees to work only a few days per week and/or for shorter periods.

Ladies and gentlemen, employers who are retrenching employees must do so responsibly and fairly. As an employer, if you plan to retrench workers, take a long term view of your manpower needs, including the need to maintain a strong core of employees. Engage the Union if your Company is unionized. Do not discriminate against employees by selecting based on factors such as the ability to contribute to your

company's future business needs. The LIFO principle – last in first out principle - MUST be observed. Treat affected employees with dignity and respect, and where you resort to such, consider having a longer retrenchment notice period for your affected employees.

It is my sincere hope that the alternatives to retrenchment which I have presented will be considered as we strengthen the human resource capital of our country.

Our economic situation will change and I am confident that we will emerge stronger and more efficient. As a people, economic fundamentals and capabilities will improve. However, we must use this time to restructure, strengthen and upgrade our capabilities.

I want to say that business and labour should be committed to working together to develop workable plans to avoid retrenchment. Ladies and gentlemen, it is important that Employers and Trade Unions continue to build good relationships with each other. I speak to relationship building

in its truest meaning where two-way communication exists. Management needs to involve the Union in change management processes, be open and transparent. If both parties understand the concerns of each other, it would be easy to strike win-win situations. Who will then benefit? **ALL** will benefit - the Company, the Union, the Workers, the Country.

On the part of Government, it is important to have direct contact with this segment of the workforce and to demonstrate we understand and care. My Ministry, in collaboration with other stakeholders, has attempted to provide immediate, short and medium-term assistance to unemployed persons and where necessary, their families, to mitigate against the negative financial, social, physical and psychological effects of unemployment and empower them towards re-integration into decent work in the shortest possible time.

This assistance includes the establishment of a National Retrenchment Register (NRR); provision of new job opportunities; provision of seed

capital and start-up business financing and support in forming Co-operatives; formation of small businesses and Co-operatives-focus on training and development and hosting of an Empowerment Jobs Expo for Retrenched Workers in April 2016 titled “Turning Adversity into Opportunity”. The Jobs Expo afforded unemployed persons the opportunity to register with the National Employment Service (NES), interact with potential employers from various sectors and access information and assistance in the areas of financial literacy, health and wellness, counseling, training, retraining, certification and entrepreneurial development.

Ladies and Gentlemen, the Retrenchment and Severance Benefit Act is just one of the several pieces of legislation currently engaging the attention of the Ministry of Labour and Small Enterprise Development.

As Minister of Labour, I have publicly given the undertaking to address the issues of Labour Reform in Trinidad and Tobago. This Government stands by its commitment to uphold its agreement with the Joint Trade

Union Movement, which has informed our Policy on Labour. Ladies and gentlemen, this is the first time that labour has had such a frontline role in the Government's Agenda.

Modernizing the legal and regulatory frameworks to make them applicable to these times continues to be high priority item for this Government. We see legislative review of these Labour Laws as critical to improved employer-employee relations in Trinidad and Tobago.

The closure of steel giant ArcelorMittal's local plant saw the termination of a workforce of 644 persons; Central Trinidad Steel Limited (CENTRIN) served retrenchment notices to 200; while Construtora OAS served retrenchment notices to 860 plus workers. These are just the larger numbers that have been reported and heavily publicized in the past few months, but several smaller amounts of workers from various companies have been sent off the job since.

The law makes it mandatory to notify the Minister, in writing when retrenching five or more persons. We have noted that companies have tried to circumvent the reporting of job losses by laying-off workers in batches of four or less. Although unscrupulous and to some even unethical, these are just a few tactics used by companies to bypass the law. This, and several other issues are of great concern to this Government and we have given the undertaking to address them in the shortest possible timeframe possible. The Ministry of Labour and Small Enterprise Development established a National Retrenchment Register on March 18, 2016 as a measure to assist us in obtaining more updated, real-time figures on retrenchment.

The recent developments surrounding ArcelorMittal ladies and gentlemen, emphasizes the need for current legislation to evolve to meet the needs of changes in society and treat with the real issues of today.

The Retrenchment and Severance Benefits Act, Chapter 88:13 is an Act which prescribes the procedure to be followed in the event of redundancy and to provide for severance payments to retrenched

workers. The International Labour Organization adopted the first instrument specifically dealing with termination of employment in 1963. Subsequently, the Termination of Employment Convention (No. 158) was adopted in 1982, entering into force on November 24, 1985.

Under Article 12 of the Convention, the ILO provides for a worker whose employment has been terminated to be entitled to

- (a) A severance allowance or other separation benefits;
- (b) Benefits from unemployment insurance or assistance or other forms of social security or
- (c) A combination of such allowance and benefits.

The Convention and related Articles introduce the concepts of unemployment insurance, an unemployment benefit and limits to these aforementioned entitlements for workers terminated for serious misconduct. While this Convention is not yet ratified, these are just some of the standards and benchmarks that Government is reviewing to

align itself to international best practice with respect to how we treat with workers and employers with respect to severance and benefits.

This is not first time that this Act has come into question and proposals put forward for its revision. This Act was motioned since March 2009 under the previous PNM Administration, yet no amendments have been tabled in Parliament to date. In that Motion, it was indicated that the Ministry had been for some time in the process of developing a Policy to inform legislation to either amend or repeal and replace the existing Act.

The CARICOM Model Legislation regarding the Termination of Employment was also reviewed. During the period in 2009, the Ministry engaged with the International Labour Organization (ILO), along with other CARICOM Member States in an exercise towards the harmonization of labour laws in Member States. This showcases that it was the PNM Government's intent to look at the revision of the laws to ensure that it was mutually beneficial to all stakeholders. It shows that it was a topic for review and revision, as it was on the cards for

amendments. This begs to wonder what was done over the last five years.

My Ministry has already begun to dissect the Act and highlight some of its deficiencies. One of its major shortcomings is that it does not address the issue of workers who lose their jobs when the employer declares bankruptcy of the company. While the Companies Act, 1995 addresses the issue of insolvency, the benefits within this Act is minimal presenting little to no assurance to employees.

We also recognize that under Section 43(5) of the Companies Act, “several and other terminal benefits” is ranked third in order of priority for preferential payments. In such instances, there is usually very little to distribute when the Companies fixed assets are sold and rarely enough to satisfy workers’ claims. Therefore, the Companies Act, in its current form is deficient in addressing the problem of workers being laid off due to insolvency.

As a Government we are determined to act in the best interest of the country, however, we must ensure that workers benefits and rights are given greater protection.

As I close, I leave you with this quote I came across in my recent readings, **“Economic recession is a time that differentiates between ordinary and extraordinary firms; the former will fire while the latter will hire for it has a vision to build a sustainable business empire”**. (End quote)

Today, amid all that is falling apart, I challenge you to find solutions to build ... to build your empire and our empire, our beloved twin island Republic of Trinidad and Tobago.

May God continue to bless us and may God bless our nation. May God continue to bless our President, Prime Minister and Leader of the Opposition.

I thank you.