



REPUBLIC OF MAURITIUS

FIFTH NATIONAL ASSEMBLY

PARLIAMENTARY

DEBATES

(HANSARD)

THIRD SESSION

FRIDAY 11 JULY 2014

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| | |
|---|---|
| Dr. the Hon. Navinchandra Ramgoolam, GCSK, FRCP | Prime Minister, Minister of Defence, Home Affairs and External Communications, Minister of Finance and Economic Development, Minister for Rodrigues |
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| Hon. Lormus Bundhoo | Minister of Health and Quality of Life |
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| Hon. Surendra Dayal | Minister of Social Integration and Economic Empowerment |
| Hon. Jangbahadoorsing Iswurdeo Mola Roopchand Seetaram | Minister of Business, Enterprise and Cooperatives |
| Hon. Mrs Maria Francesca Mireille Martin | Minister of Gender Equality, Child Development and Family Welfare |
| Hon. Sutyadeo Moutia | Minister of Civil Service and Administrative Reforms |

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MAURITIUS

Fifth National Assembly

THIRD SESSION

Debate No. 03 of 2014

Sitting of 11 July 2014

The Assembly met in the Assembly House, Port Louis,

At 3.30 p.m.

The National Anthem was played

(Mr Speaker in the Chair)

PAPERS LAID

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

A. Prime Minister's Office –

The National Identity Card (Proof of Address) Regulations 2014 (Government Notice No.133 of 2014).

B. Ministry of Foreign Affairs, Regional Integration and International Trade –

Agreement for the establishment of a Permanent Joint Commission for Cooperation between the Republic of Mauritius and the Republic of Ghana (Government Notice No. 124 of 2014).

C. Ministry of Tertiary Education, Science, Research and Technology –

The Annual Report and Accounts 2012 of the Tertiary Education Commission.

D. Ministry of Local Government and Outer Islands –

- (a) The Roche Bois Market/Fair Regulations 2014 (Government Notice No. 127 of 2014).
- (b) The City Council of Port Louis (Fees for Classified Trades) Regulations 2014 (Government Notice No. 128 of 2014).
- (c) The Municipal Town Council of Beau Bassin/Rose Hill (Fees for Classified Trades) Regulations 2014 (Government Notice No. 129 of 2014).
- (d) The Municipal Town Council of Quatre Bornes (Fees for Classified Trades) Regulations 2014 (Government Notice No. 130 of 2014).
- (e) The Municipal Council of Vacoas-Phoenix (Fees for Classified Trades) Regulations 2014 (Government Notice No. 131 of 2014).
- (f) The Municipal Council of Curepipe (Fees for Classified Trades) Regulations 2014 (Government Notice No. 132 of 2014).

E. Ministry of Labour, Industrial Relations and Employment –

- (a) The Attorneys' and Notaries' Workers (Remuneration) (Amendment) Regulations 2014 (Government Notice No. 97 of 2014).
- (b) The Baking Industry (Remuneration Order) (Amendment) Regulations 2014 (Government Notice No. 98 of 2014).
- (c) The Blockmaking, Construction, Stone Crushing and Related Industries (Remuneration Order) (Amendment) Regulations 2014 (Government Notice No. 99 of 2014).
- (d) The Catering and Tourism Industries (Remuneration Order) (Amendment) Regulations 2014 (Government Notice No. 100 of 2014).
- (e) The Cinema Employees (Remuneration Order) (Amendment) Regulations 2014 (Government Notice No. 101 of 2014).
- (f) The Cleaning Enterprises (Remuneration) (Amendment) Regulations 2014 (Government Notice No. 102 of 2014).
- (g) The Distributive Trades (Remuneration Order) (Amendment) Regulations 2014 (Government Notice No. 103 of 2014).
- (h) The Domestic Workers (Remuneration) (Amendment) Regulations 2014 (Government Notice No. 104 of 2014).
- (i) The Electrical, Engineering and Mechanical Workshops (Remuneration) (Amendment) Regulations 2014 (Government Notice No. 105 of 2014).
- (j) The Export Enterprises (Remuneration Order) (Amendment) Regulations 2014 (Government Notice No. 106 of 2014).
- (k) The Factory Employees (Remuneration Order) (Amendment) Regulations 2014 (Government Notice No. 107 of 2014).
- (l) The Field-crop and Orchard Workers (Remuneration Order) (Amendment) Regulations 2014 (Government Notice No. 108 of 2014).
- (m) The Light Metal and Wooden Furniture Workshops (Remuneration Order) (Amendment) Regulations 2014 (Government Notice No. 109 of 2014).
- (n) The Livestock Workers (Remuneration Order) (Amendment) Regulations 2014 (Government Notice No. 110 of 2014).
- (o) The Newspapers and Periodicals Employees (Remuneration Order) (Amendment) Regulations 2014 (Government Notice No. 111 of 2014).
- (p) The Nursing Homes (Remuneration Order) (Amendment) Regulations 2014 (Government Notice No. 112 of 2014).
- (q) The Office Attendants (Remuneration) (Amendment) Regulations 2014 (Government Notice No. 113 of 2014).
- (r) The Pre-Primary School Employees (Remuneration Order) (Amendment) Regulations 2014 (Government Notice No. 114 of 2014).
- (s) The Private Secondary School Employees (Remuneration Order) (Amendment) Regulations 2014 (Government Notice No. 115 of 2014).

- (t) The Public Transport (Buses) Workers (Remuneration Order) (Amendment) Regulations 2014 (Government Notice No. 116 of 2014).
- (u) The Road Haulage Industry (Remuneration) (Amendment) Regulations 2014 (Government Notice No. 117 of 2014).
- (v) The Salt-Manufacturing Industry (Remuneration Order) (Amendment) Regulations 2014 (Government Notice No. 118 of 2014).
- (w) The Sugar Industry (Agricultural Workers) (Remuneration Order) (Amendment) Regulations 2014 (Government Notice No. 119 of 2014).
- (x) The Sugar Industry (Non-Agricultural Workers) (Remuneration Order) (Amendment) Regulations 2014 (Government Notice No. 120 of 2014).
- (y) The Tailoring Trade (Remuneration Order) (Amendment) Regulations 2014 (Government Notice No. 121 of 2014).
- (z) The Tea Industry Workers (Remuneration Order) (Amendment) Regulations 2014 (Government Notice No. 122 of 2014).
- (aa) The Travel Agents and Tour Operators Workers (Remuneration) (Amendment) Regulations 2014 (Government Notice No. 123 of 2014).

F. Ministry of Tourism and Leisure –

The Tourism Authority (Tourist Enterprise Licence Fees) Regulations 2014 (Government Notice No. 126 of 2014).

G. Ministry of Industry, Commerce and Consumer Protection –

The Rodrigues Consumer Protection (Control of Price of Taxable and Non-Taxable Goods) (Amendment No.17) Regulations 2014 (Government Notice No. 125 of 2014).

ORAL ANSWER TO QUESTION

ELECTRICITY – GENERATORS CAPACITY, CT POWER PROJECT ETC.

The Leader of the Opposition (Mr P. Bérenger) (*by Private Notice*) asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether, in regard to electricity, he will state –

- (a) Government's response to the recent assessment of the African Development Bank that risk of blackouts will exist in 2015 and 2017 because demand will exceed installed generators capacity;
- (b) if the CT Power Project has been abandoned;
- (c) why the share of wind and solar is negligible to date;
- (d) if the consultancy report on Liquefied Natural Gas (LNG) has been received, and
- (e) why an independent regulator is not operational to date, indicating if the electricity tariffs are set to increase.

The Deputy Prime Minister: Mr Speaker, Sir, with regard to part (a), I wish to inform the House that it is important to contextualise the African Development Bank (ADB) Report, which is, in fact, a Project Appraisal Report which has been prepared by the Bank with respect to a loan to be provided to the CEB for the redevelopment project of the St Louis Power Station, which comprises the installation of 4 fuel oil generating units each of 15 MW of capacity. The ADB has, in fact, assessed the power demand and supply situation in Mauritius. I also wish to put on record that all the data in the Project Appraisal Report are from the CEB, which also validated the Appraisal Report, in line with the normal practice of appraisal of any project by ADB prior to its Board's approval.

In the year 2013, the ADB has established in its report that the peak load was 446 MW – I am using their term – and the effective generating capacity of the CEB and IPPs, which is the installed minus the unavailable generating capacity, was 489 MW. Therefore, the CEB had a reserve capacity of 43 MW, to meet any shortage resulting from the unforeseen breakdown of a generator connected to the grid.

For the year 2015, the Bank has, in fact, stated that without - I stress, without - the St Louis re-development project, the reserve margin will turn into a supply shortfall of 32 MW in late 2015, when the peak load is forecast to be 475 MW and the effective generating capacity will fall by 46 MW to 443 MW. This fall is attributed to the decommissioning of two Pielstick

generators in 2014 and the retirement of four similar machines towards the end of 2015, resulting in a reduction of the installed capacity by 30 MW. Furthermore, two IPPs, Consolidated Energy Limited (CEL) at Beau Champ with a power output of 12 MW and Médine with an output of 4 MW during the crop season, would cease exporting a total output of 16 MW at the end of their contracts in 2015.

For the very purpose of meeting the shortfall of 32 MW in 2015, the CEB in the context of re-development project of the St Louis Power Station, has floated tenders for the procurement of four fuel oil generators, each of 15 MW capacity, convertible to use of LNG - we launched the procurement - on 26 June 2014. The closing date is 11 September 2014.

Two of the four generators are expected to be on grid in November 2015, for the pre-commissioning tests and 30 MW of power would be injected to the grid. The pre-commissioning tests of the two other generators of 30 MW would follow.

Mr Speaker, Sir, however, since the ADB Appraisal Report, other developments have taken place in the electricity sector. In fact, Médine, whose contract for 4 MW power supply is coming to an end in 2015, has already had discussions with the CEB for a refurbished bagasse power plant of 11 MW, to be operational by July 2015. In addition, the CEB is exploring the possibility of continuing with the purchase of 22 MW of coal based power from CEL at Beau Champ after the expiry date of the contract in July 2015.

The availability of 30 MW as from November 2015 from the first two new generators to be connected to the grid at the St Louis Power Station and 11 MW from Médine will, therefore, give an additional supply of 41 MW. Moreover, as stated earlier, there is an additional potential of 22 MW from CEL.

Mr Speaker, Sir, I, therefore, give this assurance to the House that there would be neither any power shortfall nor blackout in 2015 due to shortage of generation capacity.

In fact, the ADB has emphasised in its Appraisal Report that Government and the CEB are strongly committed to the project. The bid documents for the procurement of the engines have already clearly spelt out the need for commissioning by December 2015 with at least two engines connected to the grid as from November 2015.

Mr Speaker, Sir, the St Louis redevelopment project has undergone a thorough and rigorous appraisal process. The CEB submitted an application for an EIA licence in August 2012 which underwent an extensive consultation process regarding concerns on noise level and air quality. The EIA licence was issued in 2013 and the design of the plant addresses these concerns. The new engines will drastically improve the environmental conditions for the inhabitants near the St Louis Power Station.

As regards part (b), Mr Speaker, Sir, as the House is aware, the CT project was initiated in 2006 and serious delays have been encountered in its implementation. The Environment Appeal Tribunal ruled in favour of the project, but imposed very stringent conditions. Accordingly, the promoter has had to redesign the project to meet the stringent standards imposed. These new conditions have further delayed the project. According to CEB's planning, this 100 MW power plant of the CT Power project is required in 2017 to meet demand and replace ageing plants. In the event the CT Power project is not implemented, there will be a power shortage in 2017.

Mr Speaker, Sir, if the CT Power project does not go ahead, it will have to be replaced by similar coal plants elsewhere. In my reply to the PNQ of 22 November 2013, I informed the House that the CT Power project would be operational by the end of 2016. The project implementation schedule has now been revised. The power plant is expected to be on the grid in 2017.

So far, the following agreements have already been signed by the CEB -

- (i) Power Purchase Agreement;
- (ii) Coal Supply Agreement;
- (iii) Shareholders Agreement, and
- (iv) Land-Sub-Lease Agreement.

Mr Speaker, Sir, an important issue is left to be addressed for the finalisation of the implementation Agreement (IA). Government is insisting that the promoter provides proof of funds towards equity as a *sine qua non* condition for the Implementation Agreement (IA).

Mr Speaker, Sir, therefore, the CT Power project has neither been abandoned nor approved yet. The promoter has to meet the important conditionality with respect to equity contribution.

As to part (c), as regards wind and solar in the energy mix, the share of PV to date is around 18 MW. In the pipeline, there is the 29.4 MW Wind Farm at Plaine Sophie to be operational by May 2015 and 10 MW Solar Farm to be operational by June 2015. Moreover, the CEB is considering proposals for an additional 39 MW PV (Photovoltaic). The total contribution of wind and solar by the end of 2015 will be some 60 MW which is not negligible.

However, it has to be noted that the energy generated will only be 100 GWh as compared to some 500 GWh from 60 MW of Farm power plant representing 4% of total generation. Furthermore, the renewable energy supply is costly, intermittent and unreliable.

As regards part (d), Mr Speaker, Sir, the prefeasibility study on the use of LNG started in November 2013 and the draft report has just been received and is being examined by the CEB. The final report is expected by the end of August 2014.

Regarding part (e), Mr Speaker, Sir, the mandate of the Utility Regulatory Authority (URA) is to regulate the energy, water and sanitation sectors as well. So far, legislation has been made for the electricity sector to be regulated, but not for the other two sectors. In the context of the reform of the Water Sector, I shall come up with legislation to enable the regulation of water and sanitation sectors. The exercise is ongoing.

As regards electricity tariffs, the House may wish to note that it is normal practice to review the financial situation of the CEB regularly to ensure its long term financial sustainability. However, no tariff revision is envisaged for the time being.

Mr Bérenger: Mr Speaker, Sir, as far as the ADB Appraisal Report is concerned, will the hon. Deputy Prime Minister agree with me that the bottom line is that we are on a tightrope? Can I quote two parts where the report says the following -

“The CEB intends to start the project...”

We are talking about the St Louis for 15 MW, that is, 60 MW project, and it says -

“The CEB intends to start the project in September 2014, and expects to commission (...)”

That is, the start of the operation.

“(...) expects to commission the project installations in December 2015.”

And it adds -

“Any delay in commissioning the project at the planned date would result in CEB not being able to meet the projected peak demand.”

That is where they talk of the risk of shortages. They even say - and I am surprised the hon. Deputy Prime Minister has not informed us - the African Development Bank fears that the risk is so real that they say the following -

“To mitigate the risk, the CEB should monitor the availability of its generating capacity and the evolution of peak demand during project implementation and, if need be, have recourse to the installation of a gas turbine, (...)”

Another gas turbine -

“(...) which can be ordered and commissioned within six months.”

Which is very optimistic. So, the bottom line is that the African Development Bank thinks that we are already late as far as the St Louis Station is concerned and is even thinking of emergency procedures to procure another gas turbine, and we know how expensive this is to purchase and to operate. Will the hon. Deputy Prime Minister agree that he is giving a very optimistic reading of the African Development Bank Assessment Report and that we cannot go on like that?

The Deputy Prime Minister: Mr Speaker, Sir, I thank the hon. Leader of the Opposition for every two years sounding the alarm and I think it is quite right that he should. But, on the other hand, the facts are there and they change as we go along. Predictions change, peak power changes as we go along, like we discussed last time. In this case, we have two major entrants into the power generation which are Consolidated Energy Ltd (CEL) and Médine. With these two, we are going to have additional power. This is not taken care of in the African Report.

Mr Bérenger: I heard the hon. Deputy Prime Minister even make reference to the very old Pielstick engines, more than 35 years old, un *danger public* and already hurting the health of the inhabitants in the area. There were six Pielstick engines, 35 years old, two have been commissioned off. If I understand the hon. Deputy Prime Minister, the four left that are already damaging the health of the inhabitants, are going to be kept operating until when? The four

engines left were supposed to be decommissioned in 2015; will they be decommissioned in 2015?

The Deputy Prime Minister: Mr Speaker, Sir, in the power generation model, the Pielsticks are out in 2015. Anyway, and, as I pointed out last time, they are being used minimally. They are being used at peak time and on and off, but they are being used sparingly.

Mr Bérenger: The Deputy Prime Minister has given his reading of the African Development Bank Appraisal Report and not quoting, for example, the possibility of emergency quotation for another gas turbine. This, in itself, is a sign that the situation is very serious. We have the CEB that is always reassuring everybody, including the hon. Deputy Prime Minister. We have, on the other hand, youngsters who think that we can do away with all this and rely only on wind. Young people are right to be idealistic, to float up there in the air! And then, in between, we have the African Development Bank that is worried! They are very, very worried! We do not know where we stand! We do not know exactly how the African Development Bank has given a pessimistic reading of the situation.

The African Development Bank has done a great job. I think their appraisal report is very good. Does not Government think that urgently we should appoint a joint team - World Bank where they have beautiful expertise and African Development Bank, the same people, some of them who have done this appraisal report - and work urgently within weeks and gives us an objective view? I hope these youngsters are right. They are not. CEB, I think, is exaggerating in the other direction. ADB has raised *des signaux d'alarme*. Will Government agree to set up urgently this joint team objectively to look at the situation and give us a report? We will know exactly next year, in two or five years' time where we will stand.

The Deputy Prime Minister: Mr Speaker, Sir, I welcome this suggestion. I am informed that the World Bank certainly has the capacity to help us. I am not sure whether the African Bank can do consultation work. I am not sure. But I would like to remind the House that what the African Bank is saying is what we told them, so as to get these things moving fast, otherwise we will still be waiting to 2015/2016. We had to move fast and we impressed on them the importance of doing it fast. I must thank the African Bank. They did respond, otherwise we would still be waiting for approval from them.

The other thing, as I have said, the African Bank has not taken into consideration the new entrants into the power sector. Yes, there are Consolidated Energy Limited (CEL) and Médine which are coming onward. I am not going to enlarge on this by saying that, by next year, we are going to have wind power, which will supplement. Though unreliable, it will help. We are going to have 29 plus 15 MW of wind and solar. This will also help. In the end, whilst we do not take these into consideration when we do power planning it is also helpful.

Mr Bérenger: I heard the hon. Deputy Prime Minister, in the same breath, say that wind and power is unreliable. It is intermittent - we know it is - but, at the same time, he tries to be reassuring that there are new renewable energy sources. Can I put him a question bluntly? Sarako PVP Co Ltd in Bambous has started operating. It was supposed at peak production to produce 15 MW. Am I not right in saying that it has not reached 8 MW?

The Deputy Prime Minister: Mr Speaker, Sir, it so happens that, on the day of the inauguration, I was there and peak was not 15 MW, but it was 15.2 MW. When I asked them how come it is 15.2 MW when their capacity is 15 MW. Their reply was that they have included one or two megawatts, so it was about 13 to 14 MW.

(Interruptions)

I was there.

Mr Bérenger: When the hon. Deputy Prime Minister was at the inauguration, did he have averages? My question is on average since it started operation. Am I not right in saying that he has not reached an average of 8 MW instead of the 15MW?

The Deputy Prime Minister: My information is that it is 12.8 MW.

Mr Bérenger: The Deputy Prime Minister is relying on such sources to fill the gap. Will the hon. Deputy Prime Minister agree with me that we have two dangerous hurdles? One, the 4.15 MW engines. We are supposed to start to work in September 2014, that's *derrière la porte*, and all four of them would be operational in December 2015, and I quoted the African Development Bank, any delay, *c'est la catastrophe*, and we are already late. So, we are in trouble for 2015. Now I'll come to that in a minute because the hon. Deputy Prime Minister said: if the CT Power Project is off and so on, then we have a huge gap because in the CEB projections, CT Power is projected to start operating in 2017. *C'est derrière la porte*. So, we

have two dangerous hurdles. Next year, if we are late with the 4.15 MW, and in 2017 if CT Power is dropped and we do not move fast, we will have these two dangerous hurdles. I heard the hon. Deputy Prime Minister say that he gives the assurance and so on. Will we go by this time frame that has been set up by the CEB, and, if not, what are we going to do?

The Deputy Prime Minister: Mr Speaker, Sir, I can give the assurance to the hon. Leader to the Opposition and the House that, in November 2015, the first 30 MW will be running and it will be commissioned two months later. The Bank has promised to help to achieve this timetable and it says it very clearly in its report.

Mr Bérenger: If I can move on to the CT Power Project; the hon. Deputy Prime Minister says that it is going ahead, rescheduled and so on and yet, he has said: in the event, if the project is dropped and so on. My point is: one of the fundamental conditions is that the Minister of Finance/the Financial Secretary has to give the guarantee that it is safe financially; that they have the means; that the Ministry of Finance knows who are the shareholders and so on. Hon. Duval, when he was still Minister of Finance, did not give his green light. Now, we have a new Minister of Finance.

(Interruptions)

Therefore, am I right in saying that the Ministry of Finance has still not given its green light, its guarantee and it is one of the fundamental questions?

The Deputy Prime Minister: Yes, I quite agree. There is no disagreement there, Mr Speaker, Sir. The Ministry of Finance has not given its approval yet and this is what I am saying, that the promoter must provide proof of funds towards equity as a *sine qua non* condition for the IA to be signed.

Mr Bérenger: At this stage can I know - because last time I raised the issue here we were told that the CT project will now cost more than Rs10 billion - from the hon. Deputy Prime Minister whether this is still the cost that this project is going to cost the country more than Rs10 billion and I am right in saying that Government has been asked - and the hon. Minister of Finance would have to give that guarantee - to guarantee a rate of return of 20%?

The Deputy Prime Minister: Mr Speaker, Sir, there has been no change so far in the cost of the project. There has been no submission for any change.

Mr Bérenger: As I said, the hon. Deputy Prime Minister has said, in the event of the project going ahead and so on and then told us that if it does not we are in trouble. Therefore, I go back to my question. Does not Government feel that we have to do two things urgently? Firstly, set up this joint team, mostly the World Bank, to have an objective appraisal of what supply and demand will be next year, the year after and so on? An objective, professional assessment! Secondly, we should already be preparing for an international tender should we need fifty or if CT power project is out, we will need, at least, 50 MW of base load? People keep confusing base load with intermittent, with renewal. No, we are talking about base load. What we need the whole night, the whole day, the whole year through.

If CT Power doesn't go through, we are in deep trouble. We will miss in 2016/17, 50 MW/100 MW. Therefore, should not Government be doing two things? Firstly, have this professional objective assessment of our needs next year and during the few years ahead and, secondly, prepare for an international tender. Let us go international. We ask people to come. CT Power, itself, could come in and others; coal, state-of-the-art technology, but it will still be polluting; bagasse/coal, gas, heavy oil and even *fataque*. There was a time when we used to talk about bagasse and joke! Bagasse is, today, an essential part of our electricity production. *Fataque* will become in the years to come. Therefore, we go for an international tender 50 MW and, at the same time, we will get those Rs400 m. that the European Union is not disbursing because we have not gone for tender for the CT Power. Therefore, my question, through the hon. Deputy Prime Minister to Government, is: should we not be doing these two things urgently? Firstly, have an objective assessment of our real needs, not to please anybody, but to know where we stand, and to take decisions *en connaissance de cause* and, secondly, prepare for that international tender.

The Deputy Prime Minister: Mr Speaker, Sir, I have already replied that I agree with the proposition made by the hon. Leader of the Opposition and we will look into these issues as has been outlined by him. But I must say again, I am glad that the hon. Leader of the Opposition is talking about coal with latest technology. This is important. It puts an end to all these debates about coal or not coal, whether heavy fuel oil or bagasse. *Fataque* - we have yet to see *fataque*. In the CEL Project that I have been talking about, there is a provision for 10,000 tons of *fataque* to be burnt if it is produced and when it is produced in that amount.

Mr Bérenger: If I can move on to the renewable energy scene. Can I quote again from the ADB report - which is *éloquent* - which says the following, this is in their annex. The annex is confidential, the report can be obtained easily, but of course, I have the annex also. How does the hon. Deputy Prime Minister react to the following, where the ADB says -

“The renewable energy targets set by the long-term energy strategy - of Government - 2009 and 2025. The renewable energy targets set by the LTES are not being met.”

And they go on to say –

“The share of wind and solar was still negligible against targets of 2% and 1% respectively in 2015.”

‘Negligible’ is the word. And then they advise Government that Government and the CEB should, therefore, fast track the preparation and implementation of renewable energy products to meet the objective set by the long-term Energy Strategy 2009 and 2025 for 2015.

The Deputy Prime Minister: Mr Speaker, Sir, it is important to address the cost implications of all these projects. If we had implemented projects four or five years ago, the cost for PV would have been Rs12 to Rs15 per kilowatt hour. Today, the latest is Rs6.06. Secondly, the issue of where to do these projects? Who does these projects? Who are these people? There is no democratisation because some of them - we tended the 10 megawatts in units of 2 megawatts times five. And who won it? The big boys! And they are late with implementation. You can ask this question: why are they late? Why are they delayed? 10 megawatts, none of them yet! And the credit goes to SARA KO. I must say these are factual. SARA KO has come up in record time with 15 megawatts. And we are still playing around with three or four of those who won the 10 megawatts tender and we are still waiting. Again, we have others in the pipeline, but it is a question of environment. Where to put them? Who have got the land to put them? The Plaine des Roches Project should have been on five years ago. We have problems with the land, but also with the price. We cannot pay Rs7.50 or Rs7.60 today. We want power around Rs5.00 or Rs4.50, but not more. And to those who come with renewable energy projects, the first thing I ask them: Don’t tell me about your technology! Tell me how much it is going to cost to the consumer what you are proposing! If it is below Rs5, you go to the CEB and show your project, otherwise, forget it. I think we should take to this. The latest is Germany. Germany which had

invested so much in renewable energy, photovoltaic and others, today, it is saying: they wasted resources because it is unproved technology. Money spent should have been spent on research and not in financing these projects. We learn as we go along. The reply of yesterday is not the reply of today, nor will it be the reply of tomorrow. We have to keep moving with the time. My concern is security, yes, of course, security, but also there is a question of cost. How much it costs.

Mr Speaker: Last question, hon. Leader of the Opposition!

Mr Bérenger: Well, if it is the last question, then I'll move on to the absence of a regulator. I am sure the hon. Deputy Prime Minister must be aware that before the 2005 General Election, the previous Government had already voted a regulator, an independent regulator - before 2005, we are now in 2014 - can I ask the hon. Deputy Prime Minister how does he react to that comment, again from the African Development Bank? The absence of an independent regulator is preventing the sector from operating at an optimal level. Very serious criticism! From what I have heard a few minutes ago, we still don't know when that independent regulator will come into operation and this is doing a lot of harm to the electricity sector, in general. Can we have a more precise date when will that regulator be set up?

The Deputy Prime Minister: Mr Speaker, Sir, as I have said, the regulator was for energy. The utility sector is energy, water and wastewater and we have to combine these three. A new legislation will be brought in and by that time, we will have a new regulator. We have a regulator.

Mr Speaker: Time is over, please!

MOTION

SUSPENSION OF S.O.10 (2)

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

The Deputy Prime Minister rose and seconded.

Question put and agreed to.

(5.17 p.m.)

PUBLIC BILL

Second Reading

THE CONSTITUTION (DECLARATION OF COMMUNITY) (TEMPORARY PROVISIONS) BILL

(No. V of 2014)

Order read for resuming adjourned debate on the Second Reading of the Constitution (Declaration of Community) (Temporary Provisions) Bill (No. V of 2014).

Question again proposed.

Mr Speaker: Hon. Ganoo!

Mr A. Ganoo (First Member for Savanne & Black River): M. le président, nous voilà, donc, arrivés au terme de nos débats sur le *Constitution (Declaration of Community) (Temporary Provisions) Bill*.

Depuis vendredi dernier, nous nous sommes mis à démolir un pan de notre histoire constitutionnelle. Et, dans le même souffle, nous avons consolidé le socle qui nous permettra de nous libérer davantage des affres du communalisme. Des échanges qui ont eu lieu dans cette Chambre au sujet de ce projet de loi furent très riches et quelquefois fascinants, sauf pour certains dérapages hautement condamnables. Ce débat, M. le président, a reflété les différentes prises de position sur la problématique du *Best Loser System* dans notre société. Il n'en reste pas beaucoup à redire. Toutes les appréhensions, tous les espoirs mais, plus fondamentalement, toute la complexité de l'exercice auquel nous nous adonnons, ont déjà été exprimés et soulevés dans la Chambre. Néanmoins, vous allez me permettre d'ajouter mon humble contribution et je commencerai par resituer brièvement l'origine du *BLS* et je tâcherai d'éclairer la Chambre sur les tenants et aboutissants du nouveau mécanisme proposé par le projet de loi.

M. le président, les années qui avaient précédé notre indépendance ont été marquées par des transformations sociales et politiques majeures. L'introduction du suffrage universel en 1959 ainsi que l'ébullition politique qu'elle a engendrée n'a aucunement facilité la tâche de l'administration coloniale qui devait alors composer avec une classe de politiciens rodés, combatifs, bouillonnants et ambitieux. Le défi de cette administration était d'instaurer un système politique qui allait permettre l'expression démocratique des intérêts politiques, économiques et sociaux qu'elle représentait. Le pays traversait une période de transition et vivait ces dernières années sous le joug colonial tout en aspirant à s'élever à un autre stade de son statut constitutionnel.

La société mauricienne d'alors, M. le président, était profondément divisée pour diverses raisons. Mais, principalement, dû à un manque d'identification nationale, d'un vrai *national consciousness* et, malheureusement, d'une absence de cohésion et d'intégration parmi ses diverses composantes. En tenant compte de ce climat social et politique, cette entreprise était ardue et la conceptualisation et l'aboutissement de ce système tant recherché, de ce système politique tant recherché, se sont étalés sur plusieurs années. La transition, en vue de doter l'île Maurice d'un système politique démocratique et autonome, a été conçue sans heurts majeurs et se concrétisa par le biais des négociations, des *talks*, des conférences sauf en 1965 et 1967 quand furent dépêchés les soldats britanniques dans le sillage des bagarres communales et sanglantes. Ces événements pénibles et sans précédent avaient terrassé l'ensemble de la nation mauricienne.

Therefore, Mr Speaker, Sir, one thing we have to be clear. The task that devolves on the colonial administration was indeed a challenging one, an uphill task, and this political system took many years to come to fruition. It was a long drawn process starting with the 1965 London Conference where the consensus was reached for the first time for introduction of adult suffrage and it went on and on, spanning over many years and ended with the 1966 intervention of Mr John Stonehouse. You will remember, Mr Speaker, Sir, there was the 1957 London agreement, the 1958 Trustram Eve Electoral Boundary Commission, the 1959 implementation of Trustram Eve's recommendation with regard to the introduction of universal adult suffrage and in 1961 the Constitutional Review Conference with the appointment of Professor de Smith as the Constitutional Commissioner; the 1965 holding of the crucial Constitutional Conference appointing the Banwell Commission; the 1966 submission of the Banwell Report with all the

controversies that it provoked, as we remember, and finally, the appointment, as I just said, of the Under Secretary, Mr Stonehouse, who proposed changes to the Banwell's Recommendation. Therefore, history, as it was Stonehouse's intervention which helped to break the then ongoing deadlock and to reach a consensus among all the political parties of the day on the electoral system including the BLS.

The BLS came as an answer, Mr Speaker, Sir, and a solution to the objection of the then Labour Party, the CAM and the IFB to Banwell's proportional system. A concession to one community's demand for a communal role and to increasing concerns of ensuring minority representation.

Mr Speaker, Sir, we can easily guess how the task of ensuring political stability before and after independence in a small island with a fragmented society was a daunting one. Indeed, the main challenge was to adopt an electoral system based on grounds of political principle and party rather than ancestry and religion. The Stonehouse Agreement offered the opportunity to all fractions of the population to elect their representatives in a democratic and fair manner whilst, at the same time, taking into account the strong demand for communal representation.

Mr Speaker, Sir, when one goes through the historical accounts of this period, when one peruses the historical records, one can conclude that, to a large extent, the issue of representation of minorities has been a dominant issue throughout the constitutional development of our country. The numerous talks, conferences had to grapple systematically with this thorny issue. So much so, that with hindsight, one can argue that the colonial power preceded on a trial and error basis until the most acceptable formula to all parties was designed and agreed upon. Looking back, we can say safely that the Best Loser system was *un mal nécessaire et cela, malgré toutes les critiques dont il a pu faire l'objet*.

Indeed, Mr Speaker, Sir, one is left to wonder given the context in which the BLS was designed as a solution to the ongoing tensions and demand for minority representations, what would have happened if it was not invented or devised. Let us acknowledge the wisdom in the BLS system. At least, it channelled communal tensions and deep-seated division into democratic expression of interest and in setting up a democratic framework to absorb communal tensions

and conflicts, the country managed to avoid the cruel fate that many plural societies have been subject to.

We have just to recall the bloodsheds that countries across the different continents have experienced over long periods of time because, Mr Speaker, Sir, as we all know, plural societies have always been the centre stage of power struggle based on ethnic and religious representations. Even homogeneous societies, all over the world, including Europe, have been the prey to civil unrest due to this question of political representation. In fact, Mr Speaker, Sir, the BLS has provided and preserved a sense of stability, of peace, all be it fragile, by endowing minorities with a sense of security in our country. It helped to foster the tolerance that exists today and which is appraised by many international observers despite the very heterogeneous nature of our society, but, Mr Speaker, Sir, this mechanism could have been done away had we, as a Mauritian nation, been able to forge a true Mauritian identity. As you know, the BLS, at its inception, was never meant to be a permanent feature of our electoral system as it was expected, in fact, to have a lifetime of three general elections.

Mais, M. le président, le fait que le BLS a perduré et que nous n'avons pas réussi à l'enlever de notre système électoral démontre que nous avons échoué quelque part malgré nos 46 ans d'existence et tous nos efforts de *nation building*. A qui la faute, M. le président? J'admets, qu'au fil des décennies, le BLS a acquis une dimension symbolique et une charge émotionnelle intense. Il a été une panacée, aidant à cicatriser des blessures électorales quoique lointaines. Mais ce sentiment d'insécurité, M. le président, n'est-il peut-être pas le résultat de la peur instillée par d'autres, par des propos quelquefois dépassant le cadre du débat démocratique.

Having said all this, Mr Speaker, Sir, I concede that many respected opinion leaders have identified the BLS, have qualified it, as the constitutionalisation of communalism. It was even referred to in several judgements and referred to as undemocratic, as inhibiting mauritiansalisation, aggravating communal division in our society and, in fact, the loopholes, the anomalies in the mechanism of the BLS have been subject of severe criticisms by renowned experts including Mr Sachs, Mr Carcassonne and even Dr. Sithanen who have highlighted its inherent weaknesses and unpalatable aspects.

In fact, Mr Speaker, Sir, both the Sithanen and the Sachs Reports have indicated some of the shortcomings arguing that it is anachronistic; its computation is based on the 1972 census and so on. Even our Judiciary has highlighted the inherent problems in the BLS, in the different cases of Sir Gaëtan Duval, Karim Khan and other subsequent cases, Mr Speaker, Sir, and Dr. Sithanen, in his report, found that in many cases, when we look at our mechanism, our electoral system mechanism, he has argued that there are many mechanisms, other than the BLS, inherent in our system which are more effective than the BLS itself in safeguarding minority representation. For example, the three-member Constituency which was devised, as you will remember, in our electoral system.

But, to end on this BLS issue, Mr Speaker, Sir, it is a paradox that despite severe criticisms of the BLS from experts, whom I have just mentioned, they have all now recognised that there is need to subsume the BLS. ‘Subsume’ is the word; not abolishing, Mr Speaker, Sir. What all these reputed experts have recommended is that the BLS be converted into a more credible alternative, modern alternative mechanism which will provide the same guarantee and assurance to minority representation. The mechanism changes, but the end remains the same. Mr Speaker, Sir, just to quote at page 41 of the report of Dr. Sithanen when he was, in fact, arguing what I have just said.

“It is wrong to state that Carcassonne has recommended the abolition of the BLS. He has kept its objective while changing the mechanism.”

And he cites Mr Carcassonne -

« Attention, il ne s’agit pas de supprimer le BLS sans trouver un substitut qui garantisse à chaque communauté qu’elle sera normalement représentée. Des substituts, on peut en imaginer. Le droit constitutionnel et la science politique ont fait, depuis 50 ans, des progrès phénoménaux. Nous avons dans la boîte à outils un nombre d’instruments incomparables avec ceux de nos prédécesseurs. »

And Dr. Sithanen quoting Sachs again -

“The best approach would be to devise alternative and credible means of providing reassurance to the community or communities most supportive of the

BLS. It should be possible to achieve the original objectives of the BLS in a manner that is consistent with contemporary political reality.”

So, Mr Speaker, Sir, I think we should view the BLS in its proper historical context, and stress that it has never been an instrument of division nor was it meant to be used to crop up communalism.

Mr Speaker, Sir, the fight against communalism necessitates a national effort where all parties are willing to give in for the common good, to shape our future as the nation. In 1982, when the freshly elected MMM/PSM Government decided to amend our Constitution to do away with the communal identity question from the census, as has been alluded before in the debates in the House, Mr Speaker, Sir, during the two last sittings, the prime motivation then was to combat communalism and to forge a common sense of mauritianism.

I recall this memorable day, Mr Speaker, Sir, with a lot of emotions. I was then the newly elected Speaker of the House, and I had the privilege of presiding over these debates, and had the immense joy and pride for voting in favour of this amendment, as the then Speaker of the House. This was a gigantic stride towards nation building and a significant contribution to the fight against communalism. We remember - and this again has been referred to - that even the then Electoral Commissioner, the then Chairman of the ESC, proposed, in an official letter, with regard to this amendment, that the Government of the day should do away completely with the BLS.

However, the hon. Leader of the Opposition did remind us last time that, in spite of the growing demand to abolish the BLS from certain quarters, the then Government did not act in that direction since it did not have the popular mandate to bring about such an important change to our Constitution. But, more importantly, Mr Speaker, Sir, was Mauritius ready yet to go to the extent of abolishing completely the BLS? Rightly so, this is a pertinent question, because when we remember, Mr Speaker, Sir, how in 1983 - one year after 1982, and the following years - the social climate in the country deteriorated drastically as a result of political divisions that provoked communal attacks, giving way to a wave of hate speeches. Perhaps our nation was not ready to delve yet into this very deep introspection, and reach a consensus which the abolition of the BLS requires. *Néanmoins, M. le président, l'amendement de 1982 démontre que le MMM,*

sous le leadership de Paul Bérenger, a constamment pris ses responsabilités vis-à-vis de l'histoire en ce qu'il s'agit de la consolidation de l'unité nationale.

You would recall, Mr Speaker, Sir, the different measures taken with the same purpose, under the leadership of hon. Bérenger, namely the decommunalisation of the football sector, the setting up of the cultural centres to promote our vision of a diverse Mauritian society, the reforms in the Education sector. Mr Speaker, Sir, our ambition of instilling the beauty of a Mauritian identity in our children still holds good.

Mr Speaker, Sir, about a decade or so, the BLS has been the subject matter of litigations and challenge on several occasions before our Judiciary, including the Privy Council. It was finally the United Nations Human Rights Committee ruling that dealt with the level blow to the BLS. We have to place on record our thanks to *Rezistans ek Alternativ* for their perseverance and actions, which have led to the present momentum. In the light of this ruling, of the 'views' - this is the technical word - of the Committee, Mr Speaker, Sir, the State had no choice than to provide an effective remedy, and failure to comply with the views of the United Nations Human Rights Committee would have earned Mauritius the reputation of being a rogue State in the eyes of the international community. The more so, Mr Speaker, Sir, as Mauritius has a good track record of complying with international law. The ruling expressly enjoins Mauritius as follows -

“The State party is under an obligation to avoid similar violations in the future.”

In addition, Mr Speaker, Sir, to the views of the United Nations Human Rights Committee, we all know that there is a case pending before the Supreme Court on the same issue, and more importantly, in its last judgement, the Privy Council has clearly indicated that it will intervene if Parliament fails to redress the situation. Hence, the Bill before this House!

Mr Speaker, Sir, several solutions were open to Government, to the State, to provide an effective remedy as per the United Nations Human Rights Committee ruling. One of them would have been to update the 1972 census with regard to community affiliation, but this, Mr Speaker, Sir, as we all know, would have been a time bomb. And I am convinced that the hon. Prime Minister and the hon. Leader of the Opposition are supported by a strong body of public opinion when they have vigorously opposed this option, because they firmly believe that this

would have jeopardized our national cohesion, and rightly so. The impact of such a decision would have been disastrous for our national unity.

But hon. Xavier Duval, in his speech last time, firmly advocated for this option, and asked for a new communal census to be conducted. The hon. Prime Minister and the hon. Leader of the Opposition have already explained why this proposition should be instantly turned down, but I will give another argument, Mr Speaker, Sir. Hon. Duval, former Minister of Finance, referred to censuses being made in the US and Australia, where each and every member of the population is requested to reveal his ethnicity. According to him, the data gathered from these censuses are then used for positive discrimination policies. But is the hon. Duval aware that the way ‘community’ is defined in our Constitution is being objected to by a significant part of our population? How is our definition of ‘community’ comparable to the definitions used in the US and Australia, which are based on solid sociological research? Is he aware that the current four categories of community, as defined in our Constitution, cause frustration for a significant proportion of the Mauritian population? Even Mr Sachs, in his report on Electoral Reform, highlighted this, Mr Speaker, Sir, arguing that our communal classification, and I quote -

“(...) was based on four communities identified nearly forty years ago on an arbitrary basis with no underlying present-day sociological rationale;”

This classification, Mr Speaker, Sir, as I said, has been the subject of protest by different components of our society who claim that they do not identify to any of the four options offered to them, and feel that the State should not impose an identity on them. And it is a historical fact, Mr Speaker, Sir, that when negotiations were taking place, at one point in time, there was a proposal for the classification of communities into more than four different communities - in those days. There was this proposal, Mr Speaker, Sir, but in a spirit of compromise, the political leaders, then, wisely agreed on four communities only. Why would hon. Duval want the Mauritian State to perpetuate such kind of psychological violence against a segment of our population? No Mauritian should be imposed an identity or a group belonging which reflects a simple aggregation of his ancestral culture, religion or origin. I think hon. Duval, Mr Speaker, Sir, is not enough aware of the social dynamics in place in our society today, and as such,

ignores the complexity of updating the communal census based on our current constitutional classification of community.

Mr Speaker, Sir, a second option would have been available to the State after the views of the committee. It would have been the ideal one, in fact. This has been suggested by the hon. Leader of the Opposition - I think, endorsed by the hon. Prime Minister. It would have been simply the introduction before the House of a comprehensive Bill for an electoral reform which would have subsumed the Best Loser System. This full-fledged Bill, Mr Speaker, Sir, on electoral reform which, according to the Prime Minister, is nearly finalised, provides, in fact – I do not intend to go into this Bill – for three main features. One, a fairer and more equitable electoral system by introducing a component of the PR along with our First Past the Post System. We know why, because our system works so many injustices now, we have to make it fairer and more equitable. The second feature is fostering better gender representation and fairness. More women will be in this House once the new Electoral Reform Bill will be adopted. But, thirdly, Sir, the other feature is precisely doing away with the requirement of a mandatory declaration of a candidate's community.

The Bill, therefore, rests on three main pillars. One of them is precisely to abolish this mandatory requirement of the declaration of a candidate's community. But, Sir, the re-engineering of our electoral system implies a great variety of electoral schemes available to us and the PR component on its own could have included several variants. Therefore, the Prime Minister's argument to the effect that such a reform requires a popular mandate because of its far-reaching implications on the political life of our country is legitimate and understandable.

Mr Speaker, Sir, truly, isn't it fair that before Parliament adopts a new electoral system that the population should be fully briefed, informed and conversant with a particular type of model proposed by Government? That's why seeking a mandate from the population before embarking on such a reform is credible, Mr Speaker, Sir.

Sir, never in our history has Government and Opposition come so close to a consensus on that issue of electoral reform. The MMM has advocated for an electoral reform for the last 30 years. To us, it is a long cherished dream which is about to come true and I am convinced that, as a responsible political party, as a responsible political Leader - the MMM Leader, I mean – the compromises we have made to reach this consensus today have yielded the necessary result. I

mean, Sir, this Bill is nearly finalised and it needs now to be circulated - I mean the comprehensive Bill on electoral reform.

Anyway, Mr Speaker, Sir, history has taught us that no democracy can successfully initiate reform of this nature, reform of its electoral system without compromises and talks. It would be apposite for me, at this stage, Mr Speaker, Sir, to thank the hon. Leader of the Opposition for having pioneered the debates on the electoral reform in our country and also for his consistency and perseverance in this endeavour.

I personally recall how in August 1986, as the then Secretary General of the MMM, I was present in a press conference - I remember there were Mr Cassam Uteem and Mr Dharam Fokeer present in this press conference and for the first time the Leader of the MMM in 1986 submitted to the nation the MMM's proposals for an electoral reform entitled: "A Fair and Workable Electoral System" - the MMM's proposals for consensus.

I also recall, Mr Speaker, Sir, how in 1987, I raised the issue of Electoral Reform in this Assembly during my intervention on the speech of the Throne. I equally recall, Mr Speaker, Sir, how in 1997, I contributed an article to the Commonwealth Parliamentary Association journal 'The Parliamentarian'; an article entitled: "Electoral Reform: Seeking an End to Unrepresentative Election Victories in Mauritius".

Mr Speaker, Sir, the present Bill before this House proposes to amend our supreme law to allow candidates to compete for elections without the mandatory declaration of their community. Sir, this, as has been said before me, is, indeed, a landmark amendment, a milestone in our constitutional history. It will be the first time, *depuis 1967*, after the holding of 12 general elections that a Mauritian citizen will have the right of not disclosing his community and be allowed to compete for elections, Mr Speaker, Sir. This is a major achievement in itself.

Sir, I had the privilege to participate in the works and deliberations of the Committee set up to work on this Bill and also on the Bill for Electoral Reform. I would like *d'emblée* to thank the hon. Prime Minister for having set up, stewarded and monitored closely the works of this Committee. I would like to express my appreciation also to hon. Faugoo who chaired the Committee and for the good work undertaken, Mr Speaker, Sir.

I convey my gratitude to Sir Victor Glover for his wisdom and sharing his wide experience, the Solicitor General, the Parliamentary Council, Mr Seetaram, for their commitment and dedication to the endeavour and, finally, Mr Speaker, Sir, last but not the least, Dr. Sithanen, for his invaluable input as an Electoral System Expert.

Mr Speaker, Sir, a few comments have been made as to why a representative of the MMM was invited by Government to participate in the Committee's deliberation. I think I should answer that, Mr Speaker, Sir, and it is very simple. As I indicated, it was before 1996 that the MMM had been campaigning for electoral reform. We submitted the documents spelling out all our proposals in 1986. The setting up of the Sachs Commission was the doing of hon. Paul Bérenger. We had even transmitted our views to Government before the publication of the White Paper. Which other political party had ever published a public document spelling out clearly its views on a Proposed Electoral Reform, Mr Speaker, Sir? I was in the Committee delegated by the hon. Leader of the Opposition to ensure that the policy directives given to the Committee would include the points on which we had reached an agreement and were translated into legal form, Mr Speaker, Sir.

The MMM was not claiming for any unfair advantage and did not need that, Mr Speaker, Sir. Our record speaks for itself in terms of electoral reform.

Mr Speaker, Sir, this Committee was criticised for having taken an inordinately long time before coming up with a short Bill of four clauses. However, within such a short span of two months, the Committee met only on seven occasions and came up with a full-fledged Electoral Reform Bill together with the present Bill. The present Bill may be only of five clauses, but we are all today conscious of its impact on our electoral system and the political life of our country.

Now that the debates are ending, Mr Speaker, Sir, I am convinced that each and every Member of this House has understood the complexity and the far-reaching ramifications of this short constitutional amendment.

Mr Speaker, Sir, it is pertinent and it will be good to highlight that the amendment to the Constitution that the hon. Leader of the Opposition brought or that the MMM/PSM Government brought in 1982, was of only two words. In fact, in the Bill of 1982, the words "latest published" were deleted and were replaced by "published 1972". Only two words were changed, but we have witnessed the significance of changing only two words in our Constitution. Now, this

argument that this Bill is only of four clauses, Mr Speaker, Sir, does not hold water. What is more important, as I said, is the incidence of the Bill on the political life and on the electoral system of our country.

In a nutshell, Mr Speaker, Sir, the fundamental issue that this Bill tries to solve is how to give candidates the option of not disclosing their community while not violating the fundamental principle of the allotment of the BLS seats and, at the same time, ensure a fair and adequate representation of each of the four communities when this allotment itself depends on the declaration of the candidate's community. This is the crux of the matter, Mr Speaker, Sir. Our Constitution and our Jurisprudence are clear on the fact that the declaration of community made by a prospective candidate at a general election is at the heart of the BLS system which is enshrined in the First Schedule of our Constitution, Mr Speaker, Sir, because precisely the allocation of the eight seats is to ensure a fair and adequate representation of each of the four communities.

Our Constitution even goes further to provide, Mr Speaker, Sir, that although an independent unreturned candidate, that is, he does not belong to any party and if he is not elected, he has no claim to any of the eight seats. Yet, if he is elected, the declaration as to his community plays an important role in determining the eight additional seats, Mr Speaker, Sir. So, by now, I am sure all hon. Members would have been conversant with the complex nature of this amendment, Mr Speaker, Sir.

There was an initial proposal, Mr Speaker, Sir, to solve the thorny issue, that is, how to give the candidates that option of not disclosing their community while, at the same time, not violating this principle of the allotment of the BLS seats to ensure a fair and adequate representation of all four communities. This proposal was to task the Electoral Commissioner with assigning a community to returned candidates who have refused to declare their communal affiliations. This proposal would allow the Commissioner, after consulting public documents or other reliable materials, to determine the community to which the elected member, who has not declared his community, belongs to and that elected member shall be deemed to belong to that community which has been so determined.

Mr Speaker, Sir, this proposal, as you will remember, was to ensure that the allocation of the BLS seats passes the test of Constitutional debate and that was the intention behind this particular proposal. But it was turned down with the same celerity that it was proposed since it was unanimously agreed even by the Prime Minister, the Leader of the Opposition and the Committee that an authority could not decide on the community of an elected member when the latter has decided, by choice, not to reveal his community.

Finally, after deliberations, the formula proposed by hon. Dr. Sithanen was adopted by the Committee because it relied on objective and scientific evidence. Until now, Mr Speaker, Sir, despite the several criticisms against the mechanism proposed in the Bill, as far as I know, nobody, including Members of this House, has come up with a more acceptable formula, which proves precisely the complex nature of the issue. But I concede, Mr Speaker, Sir, several people, several of our citizens, including hon. Members of the House, were genuinely apprehensive and sceptical of the formula proposed by the Bill because they felt that the Bill should have been more lengthily elaborated. But I am convinced that, by now, with the debates that have taken place inside and outside the House, they are now more conversant with the formula and mechanism set out in the Bill.

This is why I would like to reiterate the essence of the Bill, Mr Speaker, Sir. As I said earlier on, after any general election, the ESC needs the Population Census of 1972 which indicates the number and the percentage of each of our four communities. But the ESC also needs the community composition of the 62 Members to proceed with the allocation of the BLS seats. The Commission will then, in presence of those two relevant sets of statistics, perform the step by step statistical exercise of allocation of the eight BLS seats as provided for in the Schedule to our Constitution.

According to the present Bill, if all the elected candidates have declared their community, there will be no change in the existing BLS mechanism to allocate the BLS seats. But when a returned candidate - when somebody was elected...

Mr Speaker: If.

Mr Ganoo: ... or if an elected candidate, if somebody is elected and he has chosen not to declare his community as is provided by the present Bill, as he is allowed to do so, then, the new

mechanism proposed by the Bill becomes operational. As provided for in the Bill, Mr Speaker, Sir, the mechanism is the average number of returned candidates of all four communities during the last nine elections and this can easily be computed by anybody, and this will be used for the basis for the socio-demographic mix of the 62 candidates.

Mr Speaker, Sir, we can concede that this is not an ideal solution. But it has been difficult to find a better alternative. I wish to insist, as the Attorney General and other Members have done before me, I think the hon. Prime Minister also did it, that this Bill is a temporary measure which will apply only for the next elections, but it represents the effective remedy claimed for by the United Nations Human Rights Committee. Therefore, this Bill, Mr Speaker, Sir, will provide for the running of the next general election until the BLS is subsumed in a new method of allotting additional seats.

Mr Speaker, Sir, allow me, as a lawyer, to come to one point. Some Members and lawyers have expressed their qualms about the legal propriety of this Bill on the ground that it suspends and/or modifies the operation of certain provisions of paragraph 5 of the First Schedule 'outside' the text of the Constitution rather than by textually amending, that is, by way of deletion, insertion or revocation in the Constitution. They say, therefore, that this Bill is inconsistent with section 2 of the Constitution. Let me say, Mr Speaker, Sir, that the preparation of this Bill has benefited from the inputs of seasoned and experienced Lawyers, Attorney Generals, Senior Counsels, Parliamentary Counsel and a former Chief Justice, himself an ex-Parliamentary Counsel. None of them have the qualms which I have just mentioned.

I repeat it again, Mr Speaker, Sir, the qualm is about the legal propriety of this Bill on the ground that this Bill suspends, it modifies the operation of certain provisions of the First Schedule outside the text of the Constitution and not textually amending the Constitution. Therefore, the argument is that this Bill is inconsistent with section 2 of our Constitution. But, as I just said, Mr Speaker, Sir, those seasoned lawyers who have prepared this Bill and consultations have been made with others and none of these qualms have been mentioned by these seasoned lawyers.

But, more importantly, Mr Speaker, Sir, we should look carefully at section 47 (5) *de notre Constitution* and the definition of the words ‘altering the Constitution’ is given there. I read

“Altering the Constitution includes not only modifying it by amending any of its provisions or inserting additional operations, but also the making of different provisions or suspending its operation for any period.”

These are the words of the Constitution, Mr Speaker, Sir. Besides, in the recent past, I have gone through several Acts and I have seen, Mr Speaker, Sir, that in the recent past, many Acts and their provisions have been suspended: the Mauritius Family Planning and Welfare Association Act and the Affidavits of Prescription Act.

Therefore, I submit, Mr Speaker, Sir, that this Bill, which provides for the allocation of Best Loser seats using the average number of members from each community over the past nine elections instead of the actual number elected as the next election, does no more than provide for a temporary derogation or suspension of one provision of paragraph 5 of the First Schedule. It simply makes a “(...) different provision (...)” than that contained in the First Schedule to deal with an exceptional situation which may arise, that is, when one or more members are elected without having declared their community. You will see, Mr Speaker, Sir, the drafters of the Bill have been careful and, accordingly, have given to the Bill a long title: a Bill to make special provision as to Declaration of Community. I think, therefore, this should dispel any doubt as to the constitutionality of this Bill. Once, a three-quarter majority votes it - without any doubt it will be done today and given that no one challenges this Bill, Mr Speaker, Sir - the Bill will pass the constitutionality test.

Mr Speaker, Sir, to me, this Committee has done its utmost best to come up with a workable formula to see the country through the next elections given the specific and the unprecedented situation that the country finds itself in today. I mean the views of the National Human Rights Committee; the Bill is being prepared for comprehensive electoral reform; elections are coming. This Committee has done its best to come up with a workable formula to see the country through the next elections given the specific and unprecedented situation that Mauritius finds itself in.

The provisions of this Bill, Mr Speaker, Sir, have been devised to take the country through the next general election. Mr Speaker, Sir, it is a sunset Bill as we call it. This Bill contains sunset provisions because the provisions will lapse after a specific time or date, that is, the provisions will lapse after the next general election. Anyway, Mr Speaker, Sir, for us, on this side of the House, it is clear in our minds that after the next election, the MMM, whether alone or in a coalition Government, will bring power and will honour its pledge of introducing the legislation for an electoral reform as one of its priorities, *c'est-à-dire, M. le président, la boucle sera alors bouclée.*

En guise de conclusion, M. le président, j'ai été membre de cette auguste Assemblée depuis longtemps; je crois un des plus anciens après l'honorable *leader* de l'opposition. Je dois vous avouer à quel point j'ai été, et nous avons été, dans cette Chambre choqués par les propos ahurissants de certains membres de la Chambre lors de la dernière session. Certains de leurs discours ont été prononcés sans même se référer au projet de loi. Nous déplorons le fait, M. le président, que ces honorables membres ont profité de l'occasion pour faire de la politique de bas étage et ont prononcé des discours à fond au relent communal sans se soucier des conséquences de leurs commentaires qui étaient diffusés en direct sur la MBC, M. le président. Les propos tenus par un de ces honorables membres en particulier ont été outrageants, M. le président; indignes d'un membre élu de cette Chambre!

M. le président, Montaigne, ce grand écrivain français avait dit et je cite -

«Le vrai miroir de nos discours est le cours de nos vies»

M. le président, *after having heard these hon. Members* qui d'entre nous, membre de cette Chambre, est contre la justice sociale? Qui d'entre nous est contre l'égalité des chances? Qui d'entre nous ici présents est contre la méritocratie? Mais de là, à jouer au pyromane et patauger dans le communalisme et la démagogie ne mérite que du mépris, M. le président.

M. le président, l'une des grandes bases de la réussite de notre pays est sans doute la capacité collective d'évoluer dans un environnement de paix et d'harmonie sociale. Notre peuple a déjà compris que, malgré nos différences, il était primordial de construire et d'affirmer notre sens d'appartenance à une nation. Face à de telles dérives sectaires émanant que ce soit des politiques ou des autres *opinion leaders*, il nous incombe, à nous tous mauriciens, animés par

des valeurs républicaines d'inculquer à nos enfants le devoir de bâtir une nation autour de valeurs universelles. Il nous faut sans relâche, M. le président, continuer à dénoncer les fossoyeurs visant à déstabiliser notre cohésion et notre unité si précieuse, notre harmonie sociale que tous les moyens sont bons pour la protéger. Il nous faut impérativement revoir et affuter, si besoin est, notre cadre légal. Certains pays multiethniques, M. le président, ont adopté un *Maintenance of Racial or Religious Harmony Act* pour consolider leur arsenal légal. Il nous faut y penser sérieusement.

M. le président, ayant dit ceci, je conviens que l'inégalité dans une société, indépendamment de ses formes, est synonyme de division. L'inégalité, à mon sens, M. le président, ne se limite pas à la justice sociale ou au recrutement au niveau des emplois, mais au droit à tous les fils et les filles du sol d'aspirer aux plus importantes fonctions au sein de l'état Mauricien.

M. le président, c'est pourquoi, la République a pour mission non seulement de faire l'égalité des chances une réalité quotidienne mais aussi de mater tout dérapage et toute tentative de sectarisme. C'est pourquoi il nous incombe, M. le président, nonobstant - malgré notre riche diversité et nos valeurs ancestrales que nous chérissons tous ici - de bâtir notre République sur la base d'une seule communauté, celle des Mauriciens; d'une seule langue celle du cœur et d'une seule religion celle de l'amour. Vive la République de l'île Maurice!

Je vous remercie, M. le président.

Mr Speaker: This is a proper time to break for tea and to give some time to those who are fasting to break their fast. So, we will resume at quarter past six.

At 5.08 p.m. the sitting was suspended.

On resuming at 6.39 p.m. with Mr Speaker in the Chair.

The Prime Minister: Mr Speaker, Sir, let me start by thanking all hon. Members who have contributed to this important and historical debate. Some have made some pertinent comments, but I note with regret that others have not been able to resist the temptation of riding their hobby horse of blatant communalism to create division and hatred between our people.

But, before I refute some of the points made and correct some of the misunderstandings, let me make some general observations.

Some hon. Members seem to have forgotten why we are actually debating this Bill, on the third day now. I did explain, Mr Speaker, Sir, the background of this Bill when I introduced it on 04 July. Hon. Ganoo just also reminded us of this. But, let me reinstate briefly the plain facts.

We have been speaking of electoral reform since a long time now. There have been seven reports which have been published and four since the year 2000. There have been several Court judgements since and all the judgements have urged us, in no uncertain terms, to bring some formal electoral reform to address the issues that have to be addressed.

I have said since many years now, Mr Speaker, Sir, that it is time that we identify ourselves as Mauritians and not as distinct communities living in different sections as if separate from each other in Mauritius. It cannot be right, Mr Speaker, Sir, that 46 years after independence we still cannot say we are Mauritians when the election time comes. I am the first Prime Minister, Mr Speaker, Sir, to, actually, publish a document with concrete proposals for electoral reform. As I have said, I will be circulating this Bill, very heavy Bill maybe that's what they compare one to the other, but it should be published very soon.

Now, if the Bill we are debating today - what many misguidedly persist to describe as a mini-amendment, has taken so many weeks to prepare - as hon. Ganoo pointed out earlier on, imagine how complicated the preparation of the Electoral Reform Bill must have been! When it is circulated, you will see for yourselves!

I wish, Mr Speaker, Sir, that hon. Members realise how complicated and difficult it is to implement electoral reforms. I am amazed how, at least, some hon. Members, some people outside this House who love writing long, long articles or speak on radio, do not actually have the remotest idea of the complexity of electoral reform and that it is such a major change that we cannot impose it on the people just like this.

Mr Speaker, Sir, they seem to forget that we, as politicians, are the servants, not the masters of the people. We are here to serve the people. So, we must have their opinion on major changes. The people of this country have a legitimate right to have their say on any major

Constitutional Electoral Reform. Mr Speaker, Sir, it is probably more difficult to introduce electoral reform than probably to climb Mount Everest. Very few countries have been able to carry out changes in their voting formula. Even the United Kingdom, the cradle of the First-Pass-The-Post-System has been attempting to reform its electoral system to elect Members to the House of Commons for – perhaps you would be surprised, Mr Speaker, Sir, at least, some will be surprised - over 100 years, they have been talking of electoral reform and still countless reports have been published, but no electoral reform. The latest one - I am sure some Members must have read - was by Prime Minister Tony Blair. He had taken a manifesto commitment to bring electoral reform. He even set up an independent commission headed by Lord Jenkins in, I think, December 1997. Lord Jenkins had a long time consulted all sorts of people and produced his report nearly one year later, in October 1998. Yet, in spite of this, nothing came out of it as for the other countless reports.

There has been, in spite of the hundred years of discussions, no reform of the electoral system in the United Kingdom. 100 years, not 600 days! Canada is another example, another robust democracy, has been considering changes for very, very long time. New Zealand, one of the beacon of Parliamentary democracies, has taken over 75 years to reform its electoral system. Japan struggled for a number of years, long number of years, to reform its voting formula while both France and Italy, after a long debate, changed their formula and then they reverted back to the old system some years later. It is clearly not an easy task as some hon. Members seem to think, otherwise, if it was easy, we would have done it since a long time. I wish also that hon. Members had a quick look in the rear view mirror of history to take stock of how many attempts have been made in the past to introduce electoral reforms in Mauritius.

The subject has been on the back burner for many years now. My friends, who were today on this side of the Opposition, have tried on several occasions to take the bull by the horn. Unfortunately, it is the bull that has taken them, I do not know which part of their anatomy, but it is the bull that has taken them. I can only laugh when I hear criticisms from hon. Jugnauth and hon. Bodha because they belonged to the party that deliberately stifled any attempt to reform the system. I was Leader of the Opposition then, the hon. Leader of the Opposition was Prime Minister. He noted that for the first time the Leader of the Labour Party was for reform. They were a majority in Government, but they deliberately boycotted, stifled and made sure that it

never happened. They had many opportunities to do it, but systematically they found false excuses to shirk away from their responsibilities on this subject.

I am sure hon. Members realise that there is no ideal electoral system. It does not exist. There is no perfect formula. If there was, as I said, all countries would have embraced it. Unlike football, Mr Speaker, Sir, which is the same worldwide as far as I know, there are, probably, as many electoral systems in the world as there are countries. Even in the same country, in France for example, and in the UK, there are many voting formula that coexist depending on the election that is being held, whether it is the House of Commons, the *Assemblée Nationale* or the Regional Assemblies in Wales or Scotland or whether it is the European Union. I can go on giving you examples.

I wish Mr Speaker, Sir, that hon. Members had carefully read the Consultation Paper that I presented on the electoral reform on 24 March before starting making wild and unwarranted statements on such a complex issue. I only think they haven't because, Mr Speaker, Sir, I explained - there have been numerous reports on electoral reform. Constitutional experts have been advising; even when they were in Government, there was the very eminent person Albie Sachs. I, also, after seeking advice not from one, but from many Constitutional experts, tested the hypothesis for the new proposed electoral reform against the data that we have since the 1967 elections. That is why it took me longer, because we need to test these things and then, after careful analysis and reflection and discussions, we published the Consultation Paper on 24 March of this year.

Now, these proposals - I must point this out strongly because I see a confusion - for electoral reforms in the Bill, go well beyond removing the need to declare one's community to be eligible to stand as a candidate in the general election. It is more than this. It is far more than this, Mr Speaker, Sir. It goes beyond just removing, if I may put it that way, the shadow of communalism from our Constitution for it proposes the introduction of a dose of proportional representation to temper the excesses of the First Past the Post System, to reflect fairness and equity while ensuring stability and it will also abolish the need to declare one's community because it does not actually abolish the Best Loser System as hon. Cehl Fakeemeeah has been saying, but by subsuming it; hon. Ganoo even pointed it out. I don't know why if people had read the Carcassonne Report, even him - it's a small report - he is not saying we should abolish

the Best Loser System, but we should find a way of subsuming it differently. That's what he said.

Now, it is also this Electoral Reform Bill that will be circulated, but it is not just this. It is also a major, major step forward for gender representation and a real advance - I see many ladies are here - for women in this country.

A lot of intense work has been done on the Bill, as hon. Ganoo pointed out. I want here to thank the hon. Attorney General, hon. Ganoo himself, the Solicitor General, his deputies, Mrs Narain, Mr Seetaram, Sir Victor Glover, the former Chief Justice, and Dr. Rama Sithanen who did tremendous work, for all the hours they put into this to come up with this Electoral Reform Bill. This is what is called selfless service for a cause.

As I said, Mr Speaker, Sir, the Bill is practically ready except on second thought, there are some alternate proposals that we think could be included to give parties options to choose from. For example, we think parties can have the option of double candidacies if they want it, if they don't want it, don't use it! We also think that for the 20 additional seats, there could be two lists: a List A and a List B - 14 to be chosen from List A, six from List B by Party Leaders for the List B or alternatively, we think it's possible to have only one list of 20, but from which six will be chosen from the Leaders. In other words the two alternative mechanisms will produce the same end result, but looks slightly different. It's an option that we are discussing and maybe we will look at it better and then, we will, if need be, put that in the Bill.

But, as I said before, Mr Speaker, Sir, even though with the Bill practically ready, I believe strongly that the people of this country have a legitimate right to examine it, examine the proposals and then, give us a mandate to bring electoral reforms. As I said, Mr Speaker, Sir, this Bill will be even more complex than this Bill that we have brought, and you have seen, Mr Speaker, Sir, for yourself the passion that has been generated by, what they call, the mini amendment which is not.

Now, it is important, I think for people to know exactly what structure we are going to propose so that they can endorse it at the next general election, and let us not forget, Mr Speaker, Sir, we have had judgements over judgements from our Supreme Court, from the Judicial Committee of the Privy Council since 2000 and they have all been urging us to act and *Rezistans*

ek Alternativ has been asking the Courts to allow a candidate to stand in general elections without having to declare his or her community. As I said, Mr Speaker, Sir, they did not ask for full-blown electoral reforms, neither have they been asking for the abolition of the Best Loser System. What they are asking for is to allow a candidate to stand, but not declare his or her community, and this is less than what we are proposing in our Bill.

The United Nations Human Rights Committee has pronounced itself. They have found that we are in violation of Article 25 (b) of the Human Rights Convention and they have said that we have a duty as a State to provide an effective and enforceable remedy to the violation of Article 25 (b) of the Covenant and that we are under an obligation to avoid similar violations in the future. The words are plain. I don't think we need to translate it now in a different language. Furthermore, let us not forget, there is the last judgement of the Judicial Committee of the Privy Council which concludes by saying that if the issues cannot be resolved politically, they may be raised before the Judicial Committee of the Privy Council by the applicants as a Constitutional challenge which means it will not take ages. They will look at it very quickly.

Now, hon. Cehl Fakeemeeah, Leader of the FSM, says we can ignore the declaration of the United Nations Human Rights Committee as well as the Judicial Committee of the Privy Council. I don't know why unless I misheard it, I heard him say that: 'Oh, the Prime Minister is saying there is no money'. That is not what I said. Let me enlighten him on this issue. The declaration of the United Nations Human Rights Committee, it is true we knew it from the beginning; they cannot actually enforce us legally to do what they are saying we should do. They have made a declaration, but there is no legal force behind. But, there are consequences if you ignore it and they will, the European Union will take sanctions against this.

I was recently, Mr Speaker, Sir, in the European Union-Africa Summit in Brussels. I spoke to many people, not just to one person and they said clearly to me that what they will do - certainly they will do - they will withhold all the financial assistance we receive from them. Two days ago, I was opening an ethanol plant for Omnicane, they have had help through the European Union; that would go, all these measures *d'accompagnement* that we receive, all this will go, that has been made very clear to me already when I attended this EU-Africa Summit. So, I suppose you did not realise this, but it beggars belief that the hon. Member says we can ignore it and I don't need reminding hon. Members that the Judicial Committee of the Privy Council is our

ultimate Court of Appeal. We could not just ignore it and if they read the words in the conclusion of the judgements, they are practically inviting the members of *Rezistans ek Alternativ* that if they do not get satisfaction through the political leaders and the issue is unresolved, then they should come back - they can come back - to the Judicial Committee of the Privy Council with a Constitutional challenge. I know when the case was in front of them, they practically felt they wanted to make comments, but they did not, but they certainly will next time. So, it is absurd to say that we can ignore them; neither of them can be ignored. Doing nothing, burying our head in the sand like the ostrich, is not an option.

That is why, Mr Speaker, Sir, we intend to bring the Electoral Reform Bill. We think we need a mandate from the people. It's nearly finalised, a lot of work - as hon. Ganoo has been saying, it's a huge Bill - in it and I can see what kind of questions, all sorts of questions will be asked but, in the meantime, we have to do something about the declaration of the United Nations Human Rights Committee and also, be careful of the Judicial Committee of the Privy Council which, I think, they will realise. That is why we are debating the transitional Amendment Bill. One is different from the other, but we need to do something now. This is the minimum that has to be done before we get a mandate for the full-blown electoral reform.

Now, Mr Speaker, Sir, concerning this Bill itself, and to respond to some of the misguided arguments from some hon. Members, let me say this. If hon. Members had really perused our Constitution, but also had read carefully and fully understood the significance of, in fact, the First Schedule, especially paragraph 5 of Schedule I, what does the first sentence say in that paragraph? Let me just quote the one sentence. What does it say? It says -

“(...) in order to ensure a fair and adequate representation of each community.”

These are the operative words, Mr Speaker, Sir: ‘fair and adequate representation of each community’. What they mean by ‘each community’? Each of the four communities is, in fact, I think, described in paragraph 3 of subsection 4 of the First Schedule. It is clearly defined, and that is part of our Constitution. We just cannot ignore it. This is also well, well argued by the full bench of our Supreme Court in a landmark judgment in 2005, and I think the hon. Attorney General has referred to it in his speech on Monday.

I note that many hon. Members, even those from the legal profession, who I expected should know better, have often spoken in complete disregard of this fundamental provision of our Constitution, as if it did not exist. They have isolated it completely. In the case of hon. Bodha and in some cases also, they have made proposals that are so aberrant and misconceived that we cannot - actually, it would make an utter mockery of our Constitution. This, Mr Speaker, Sir, in spite of what some people are saying, is a giant leap forward that we are taking today. It is the first time in the history of our country that a Government is bringing a Bill to give the option to our citizens not to be disqualified as a candidate at a general election, if they do not want to disclose their community.

I am glad, and I thank the hon. Leader of the Opposition and the MMM because they have seen where the national interest is, and they have accepted to help. That is why we worked together. I see a lot of hon. Members are complaining why they were not called, but they already said they are against all these things. So, why should I open up? In the consultation document, I said we are not going to open the whole debate to everybody who has now an opinion again! If we know they are entrenched on their opinion, we are not going to. But here, the two parties have decided to collaborate.

And the MSM forgets! They have been in office for around 16 years, I think. Why did they never, never, never think of introducing this historic legislation? You know what they say: 'all talk and no walk'. Mr Speaker, Sir, *on juge un maçon au pied du mur*. I am walking the talk, while others have not even bothered to talk the talk. This is the difference between conviction and hypocrisy. This is the difference between faith in the Mauritian nation and a distorted view of history.

(Interruptions)

This is the difference. I wish that hon. Members appreciated the context, the circumstances, and a sense of history which is key to understanding the amendment being proposed. I think the hon. Leader of the Opposition has given the context in his speech. Hon. Ganoo and hon. Uteem also have given an idea of the context of this Bill. Forty-six years after Independence, as I have been saying time and time again, it is time for us to move on, and consolidate national unity and our national identity as Mauritians.

Now, I heard some people say: “Ah, you are going to change the law and you think communalism will be over!” Of course not! Who said that? But, at least, in our Constitution, which is the highest law of the land, we remove even the shadow of communalism. If they had read the document and had bothered to read the original report - I told them; look at what the other Constitutional experts have said. Look at what de Smith said in 1964. This is precisely what has happened. This is precisely why we see hon. Mrs Perraud uttered the nonsense she uttered. This is precisely why! Because her mind thinks that way now. I don't think the hon. Member is doing it deliberately, but she is thinking that way, or maybe, I don't know; but she is thinking that way. That is the problem. We must, Mr Speaker, Sir, resolutely move forward and construct a nation state that can fulfil the aspirations and expectations of our people, especially the young people. Go and see what the young people are saying about the hon. Member!

(Interruptions)

The hon. Member can write on Facebook and do what he wants. Go and see what they are saying.

(Interruptions)

I am extremely sad, I must say, Mr Speaker, Sir, to have heard some of the speeches that are really, really fit for another age and another century.

(Interruptions)

Really! I thought I was in the 18th or 16th century, God knows! Rabble-rousers, what I call ethnic entrepreneurs...

(Interruptions)

.. .who desperately want to lead the match, to spark a fire, and to fan the flames of communalism. There is nothing more dangerous than what the PMSD has done.

(Interruptions)

There is nothing more dangerous! I thought I was looking at the PMSD of before Independence. I can't even recognise hon. Duval! Different, completely different! Communalism in his head!

Mr Duval: Mr Speaker, Sir, on a point of order. I would like the hon. Prime Minister to point out in my speech what actually he thinks was communal.

(Interruptions)

He is saying that I raised communalism. I have the Hansard here. I took the trouble of re-reading it. I would appreciate if the hon. Prime Minister could indicate which paragraph.

(Interruptions)

The Prime Minister: Mr Speaker, Sir, the whole bloody speech has communalism.

(Interruptions)

You can see the mindset! You can see the mindset! He really thinks that! And do you think that when hon. Mrs Perraud spoke, she spoke without his permission? He doesn't agree with what hon. Mrs Perraud said?

(Interruptions)

Look what he said! I will come to what he said in a minute. Mr Speaker, Sir, hon. Members, any MP with a modicum of intelligence would have already realised that, under normal circumstances, it is impossible to allocate the eight additional seats if a returned candidate has not declared his community. You don't have to be a genius to know this. You don't even have to be an expert. This is crystal clear from the judgement of the Supreme Court and from what has been stated by the Judicial Committee of the Privy Council. It is crystal clear. The two work together. Yet - and this is why it took so long; hon. Ganoo knows this, and I would have hoped the others knew - it took so long, because here this is precisely what we have attempted to do. In other words, it is a very difficult thing to do. It is not a perfect solution, but at least it reconciles two opposite objectives. I hope hon. Members understood also the fact that this amendment is an integral part of a wider Constitutional amendment to reform in depth our Electoral System; as I said, the Bill will be ready very soon.

You know, it is very easy, Mr Speaker, Sir, to criticise; very easy to criticise, but very difficult to make constructive proposals. All along the debate, there have been many criticisms, and yet, on the other side, not one meaningful alternative proposal to address the issues, except

from the hon. Leader of the Opposition and the MMM. Nobody else! Nobody else made any meaningful alternative proposal.

A couple of proposals have been made, but they are so preposterous that they are not even worth the paper from which they were read. Not even worth this!

I will give you an example, Mr Speaker, Sir. I am referring to the points raised. Hon. Bodha argued that we should allow party leaders to choose their BLs, as it is now, and obviously the hon. Member does not realise that this, as it is now, goes totally counter to the letter and the spirit of the Constitution that speaks of a fair and adequate representation of each of the four communities. This, at the moment, is objectively determined by the Best Loser formula which the Electoral Supervisory Commission uses. I cannot imagine that a proposal like this should emanate from a lawyer. Honestly, I cannot. I am not trying to be unkind, but I cannot.

I wish hon. Members would also acknowledge that we cannot hedge every possible electoral outcome. It is impossible! There is no perfect electoral system that can do this. It is impossible. There always can be an element of unintended consequences in any proposal. Mr Speaker, Sir, even in the current system as it is, there are risks of some communities not being represented at all or being severely under-represented in Parliament and this happens. Any alert observer would have seen this already. There is no perfect formula. We need some ground rules to make the system operational in the overwhelming majority of cases. Now, as I say, it is not possible to hedge each and every conceivable scenario.

If you remember, I referred I think to the 1991 Judgment of the Supreme Court from former Chief Justice Glover, ex-Chief Justice Lallah and I think Justice Ahmed. They even pointed out in this. Even, us, we have made - sometimes you cannot see the unintended consequence that comes before you. They make reference to the proposals of Stonehouse which was A, B, C, D, E. They say: "Somehow proposal E was not taken on board when the Constitution was made and they speculate. They say they cannot think it is bad faith, either from the colonial power or from people here, especially the colonial power because they were deciding everything. They do not think it is bad faith, but what probably happened, nobody ever thought that in Mauritius there will be one day - if you look at the elections how they have been-

there is a possibility that there will be a 60-0. It has happened twice. As I have said, I am looking forward to it happening a third time, very soon.

(Interruptions)

So, it can happen. The hon. Leader of the Opposition says: “*Jamais deux sans trois.*” Murphy’s Law: what won’t happen will happen!

I wish hon. Members also understand that the Best Loser System will still be in place for the next general election. I cannot understand why hon. Fakeemeeah said we are abolishing it, speaking of a conspiracy to eliminate something that will continue to exist is the height, Mr Speaker, Sir, I am sorry, of disinformation and demagogy. Hon. Fakeemeeah is repeatedly saying it, that myself, hon. Leader of the Opposition; you put up posters that we are abolishing the Best Loser System, and worst, you bring religion in it, you say it in the months of Ramadan – these posters. How can you possibly do something like this in this day and age! That is the price to win power? If that is what we have to do to win power, good luck to you!

Mr Speaker, Sir, anybody again, with a little knowledge understanding of the Bill and a paucity of legislative knowledge would surely have recognised that the Best Loser System will function at the next general election as it has since 1967. Equally, I can tell you, the objective of the Best Loser System in terms of Parliamentary diversity and rainbow representation will remain in the reform that is actually being finalised. What we have said and I think hon. Ganoo explained it very clearly - I could not put it more clearly than he did – that the objective of the Best Loser System will remain, we are not abolishing it, but the mechanism will change. That is what we are doing. It will consolidate democracy, it will consolidate national unity in addition to being fairer to women and also a point that they seem to take lightly. Women are more than 50% of the electorate. We have to take care of our women force. I am sure they would have noted who were those who just do not care; they will come election time, they will get this and that, but they do not actually care, because if they care, they would not say what they are saying.

Some hon. Members have tried to stir up, I must say communal feelings by suggesting that this Bill will deprive the Chinese community. I am going to say it as it is, as it is being said in some quarters...

(Interruptions)

'carré carré' – from representation in our Parliament. Some have said, hon. Jugnauth has said that this system will deprive, the Hindus will lose out. Others are saying the General Population will lose out. Now, nothing could be further from the truth, Mr Speaker, Sir. How can this happen? You just have to look at the statistics to know this. Let me say it clearly, in fact, if you had looked at statistics, in every election since Independence, every one of them, there has been an MP from every community in Parliament and, at least, one MP from the Chinese community - in every election. The Chinese community, none were selected through the Best Loser System since 1967 precisely because they are not under-represented.

Now what happened in 1948, because I see some of them in the *réunions nocturnes* or whatever it is called, obscurantist I should say, they are saying: 'You see, Bérenger and Ramgoolam, they are finishing this community'.

All this is being said; I have the reports. Now, they allude to the fact that hon. Leader of the Opposition has said in 1948, look what happened, the Muslim community did not get a returning Member to Parliament and they say the scenario can repeat itself. This scenario will not be repeated and the reason is very simple. In 1948, as the hon. Leader of the Opposition explained, the number of voters increased because I thought they had learned how to write their names, but still a majority of people were not voting; there was no universal suffrage in 1948. With the advent of universal suffrage, the Muslim community has always been represented in Parliament and the same goes for the Chinese community. But because, Mr Speaker, Sir, there are people what I call *pyromanes* - I think you rightly said - *have semé le doute*, that is why I am bringing an amendment which has been circulated - I suppose you'll have it at Committee Stage - to remove any shadow of doubt which might have been created for obscure purposes or cheap political gains – God knows what! – just in case they said. We are maintaining, but what we proposed is there, but added a new section 4(2)(b)(ii), just for the avoidance of any doubt.

And I repeat it, Mr Speaker, Sir, our Constitution and our electoral system need to evolve to adapt to changing times. Societies are never static. 1968 is not 2014. In 1982, as the hon. Leader of the Opposition said - he is right to have said it - it was the first step which was taken to do away with the mandatory collection of data about a citizen's community in the census; it was the first step. I said even it was a farsighted decision. I can understand, they did not abolish or subsume the Best Loser System, because they felt they had no mandate, just like what I am

saying now. They did not have a mandate for this. But by this decision, when we stopped the Census, it was clear that the seed of the eventual problem was sown and that the Best Loser System inevitably started living on borrowed time, because a time will come when it cannot respond to the criteria.

We did not need the United Nations Human Rights Committee to tell us this inescapable fact, but we have to look at reality and grasp the bull by the horns, as I said.

Let me now, Mr Speaker, Sir, respond to some of the points raised by hon. Members and I shall take this opportunity to clear the air, I think, on some unfortunate insinuations that some Members have made. First of all, some have said that the Bill has been drafted in an infelicitous – inappropriate, in other words, manner - and that Clause 4(b)(i) which relates to the determining of the appropriate community of an elected Member who has not declared his community and allocation of additional seats after the next elections is pregnant – to use the words – with ambiguity and it is a clear intention to mislead.

I totally reject this unfounded allegation unless the hon. Members want to play politics and to stoke, as I said, unwarranted fear in the minds of some people.

I must confess, Mr Speaker, Sir, that it was an extremely difficult Bill to draft. I do agree because we wanted to accomplish two aims that are contradictory in our Constitution.

How do we allow the option for candidates not to declare their community while also to ensure that the allocation of the additional seats is consistent with the provision of the Constitution for a fair and adequate representation of each of the four communities? This is where the dilemma lies. Those who understand mathematics - I do not think that you need additional mathematics for that - they should know that you cannot have two unknowns in one formula. You cannot have two unknowns in one formula! You must absolutely freeze one of the unknowns to be able to move the other unknown, otherwise you cannot have! I do not know, I get the impression that this is not being grasped, but never mind!

(Interruptions)

As I said, Mr Speaker, Sir, this is the challenge we had. There are two unknowns which are contradictory, but, in spite of that - and that is very Mauritian - we put our heads together and we found as best a solution as can be found. There is absolutely no intention to mislead anybody.

Any hon. Member who says so, has either not understood it or he is deliberately trying to play on the fears of the people.

One hon. Member mentioned - I think it was hon. Pravind Jugnauth, this is when the Leader of the Opposition objected - that the ESC will determine - I know he has withdrawn the word, Mr Speaker, Sir, but I still want to clarify it with your permission. I am sorry; I am referring to another Member. One Member said that the ESC will determine the community of the returned candidate who has not disclosed his community. One of the Members said that. How can that be? It is absolute nonsense and plainly untrue!

There is no question of determining the appropriate community of an elected candidate who has not declared his community unless he is referring to the original draft, where one lawyer mentioned if that is the solution, we will have to look at the censuses and all this. But that is gone a long time! It is not in the Bill! He is reading an old Bill!

Mr Speaker, Sir, how can we assign a community to an elected candidate who has himself or herself decided not to disclose his/her community? How can we actually do this? It is very clear therefore that either it has been misunderstood or there is a twisted interpretation with a deliberate intent. They intend to mislead people. Some Members have asked what mechanism will be used to determine the Best Losers. This is where hon. Pravind Jugnauth especially said: "The ESC has already predetermined the communities which will benefit from the BLS." Mr Speaker, Sir, I really, honestly, find this baffling, to say the least!

You may wish to note that Mr Subron of *Rezistans ek Alternativ* gave an interview and do you know what he said? He said that he cannot understand those who say the mechanism is not explained, as it is very clear. Mr Subron has clearly understood it. The mechanism is there! I know he had to withdraw it, but I still say it is not true. It is not as straightforward as some appear to think. That could be true.

First of all, Mr Speaker, Sir, just to make - you cannot be plain - who can predetermine the results of an election? Who can predetermine who the candidates will be in the election? That is something that happens afterwards. First of all, the leaders or the parties have to decide who the candidates are. Then, they have to be elected and then you get the results. You cannot predetermine anything in an election.

Mr Speaker: Hon. Jugnauth withdrew the word!

The Prime Minister: I know, but I just want to clarify and, at least, enlighten him a little bit, just in case he probably still has doubts. He will probably go and say the same thing in his *réunion nocturne*.

(Interruptions)

But I thought if I clarified his mind, maybe he will understand. You have to know that the election results have to come out first and it is only then that the Best Losers will be chosen. This is elementary! You cannot choose the Best Loser before the election. It is impossible!

Secondly, Mr Speaker, Sir, once the election results are known - I think many people do not understand this, I must say; it is complex - the Electoral Supervisory Commission then decides the first four Best Loser seats on the basis of which communities irrespective of party - completely irrespective of party - are under-represented according to the 1972 Census because that is the last census. As I said, when a party, a party alliance or whatever is filing candidates, already, Mr Speaker, Sir, let us not forget, it is a fact that there can be over-representation of one of these four communities when you are filing the candidates yourself. There can be! Then, if candidates from this community are elected, clearly they are already going to be over-represented according to the 1972 Census. Therefore, they are not going to get the Best Loser seats. The Best Loser seats are for the communities which are under-represented. If, at the very start, when the parties file their candidates, a community itself is under-represented, then it is clear that they will benefit from the Best Loser seats because this is precisely why the Best Loser system is there! The first four seats, Mr Speaker, Sir, as I say, are there to correct the under-representation of one of the four communities which is defined in Schedule 1 paragraph 5 of our Constitution.

If you want it plainly, this explains why you have had Best Loser seats going, not always, but mainly to the General Population and then a bit less to the Muslim community. If you look at the patterns, you will see it. I am not inventing it. This also explains why the Sino-Mauritian community has never benefitted from a Best Loser seat since the 1967 Elections. Never! Go and see! Because they were not under-represented, that is the reason and the chances of this happening are practically zero, hypothetical. You can say it is hypothetical.

But, as I said, Mr Speaker, Sir, just because this doubt has been created by some, in order to make it absolutely clear, I have brought in this amendment which has been circulated. The amendment is not one of substance. Again, I have to explain this. It is not one of policy change. It is a clarifying one, just to make it absolutely clear; this is what it is doing. Mr Speaker, Sir, I know many here clearly do not even understand how the Best Loser System works. It is clear that they do not understand because once the first four seats have been allocated, the second set of Best Loser seats are allocated on the basis of the appropriate party and under-representation of communities. This is with a view to redressing the imbalance in the majority caused by the allocation of the first four seats because the first four seats could easily go to the Opposition, so, you have to rebalance the will of the people so that it can happen. Then you do not transform a party which has won an election and make it lose the election.

That is what the whole system is like and a Constitutional amendment was made in 1992, in fact, to restore the balance in respect of the second set of four seats, and they say 'irrespective of community' - that is the amendment that was made - in case candidates from the appropriate under-represented community are unavailable as all have been elected. As I said, Mr Speaker, Sir, in the judgement of 1991 by the former Chief Justice Glover, at the time there were Senior *Puisne* Judge Lallah and Justice Ahmed, they pointed out this loophole, as I have explained earlier on, that a Government, which has been elected by 32-30, can become a minority 32-34 if this is not corrected and that was only corrected in 1992.

As a result of this amendment in 1992, two MPs from the Hindu community - to clarify hon. Pravind Jugnauth's thoughts - were appointed Best Losers in the 2000 General Election, even though the Hindus were statistically not under-represented. They were not, but, because for the imbalance problem, they got in. Prior to this amendment, it is good also to note if they know the history of this country, if you look at what has happened in this country, they will see that the Hindu community only benefitted from the Best Loser System. They've got one Best Loser seat only in 1967, only then because it was under-represented according to the 1962 census. People were voting on party alliance very often. That is why you will see it was not on communal alliance as it is sometimes now.

So, it is important to note also, Mr Speaker, Sir - that is another thing that I think some hon. Members actually do not understand - that not all eight seats are determined at the start. It

is never like this, the BLS. It is one after the other; step by step. Once the first seat is allocated, the whole exercise has to be redone, that is, the exercise of who is under-represented. It has to be worked out again, then only the second seat is allocated. That is where a lot of people cannot understand it. So, you can see, Mr Speaker, Sir, it is a complex system, the Best Loser System. There are three conditions that need to be satisfied. First of all, it starts with the appropriate community which is under-represented irrespective of party and they get allocated the first four seats. Then they have to look at the appropriate party with the appropriate community, and then they have to ensure as far as possible that the majority of the winning party or alliance is not compromised thereby changing the results of the election or even compromising it as far as possible.

As I said, it is a step by step, recalculating every time the one seat that is allocated. That is why also, Mr Speaker, Sir, the allocation of seats can be erratic, illogical, irrational. That is not just the only reason, that is one of the reasons. You know there is an example, I hope you won't mind my saying it, which speaks for itself and which illustrates very clearly what I have just said can happen; it's the case of the hon. Leader of the Opposition, himself, in 1987 in a way unfairly, but that is the system. Because in 1987 – I am sure he remembers – Mr Régis Finette, who was in the PMSD, had polled 13,541 votes. He had got 47.4% of the votes whilst Mr Bérenger had got polled 15,332 votes compared to 13,541. Whilst Mr Finette had polled 47.4%, Mr Bérenger had polled 48.4% of the votes, but he did not get the seat, it was Mr Finette who got the seat. When the seat had to be allocated to a member of the General Population, then – as I explained, Mr Speaker, Sir, they look at the community first and then community plus underrepresentation - Mr Bérenger was, at the second time, in the appropriate community, but not in the appropriate party. That is why this happened. It had happened to us also in the case of Clarel Malherbe and Candahoo, both of them in the same alliance, both of them from the General Population, Clarel Malherbe got a much higher percentage vote than Candahoo, but Candahoo got in not Malherbe. This was because of different symbols. Mr Speaker, Sir, that seat which Mr Bérenger did not get - look at the percentage - because what had happened then the appropriate community was not the General Population, but the Muslim community. Therefore, it is Mr Peerun, of the same party, who had polled 44% and got 12,999 votes, is the one who was elected in spite of the fact that Mr Bérenger had polled 48.4% and over 15,332 votes. They both belonged to the same

party. Go and read the document please because there are other examples I have given precisely because of this.

I must remind hon. Members that the mechanism is actually the same today and still based on the 1972 census. So, you can expect again some erratic, illogical and irrational selection to occur.

Now, Mr Speaker, Sir, there was another point made that the meaning of the average number of returned candidates for each of the four communities to be worked out from clause 4(2)(b) is, by itself, as I said, a simple exercise. It is not a difficult exercise. There is no ambiguity at all as these figures are publicly available. That is what Mr Subron said. They are available. The hon. Members can get those figures. Maybe some hon. Members do not agree with the formula, but that is a different matter. But to argue that there is a shroud of mystery and deliberate attempt to hide the figure is actually totally irresponsible, Mr Speaker, Sir, if not plainly stupid, unless they have any hidden agenda.

The figures also cannot be misleading. As I said, many people have already worked them out. They are objective. They are published by an independent institution not by us, it is there or them to see.

Mr Speaker, Sir, there was an allegation that the proposed formula could distort the allocation of additional seats to an appropriate community. Again, hon. Pravind Jugnauth said that. He said that if, for example, so many candidates, maybe ten candidates from a particular community – I think he was referring to the Hindu community – who decide not to declare their community and they are elected. As a result, that community will be deemed therefore, for the calculation purposes, to be under-represented and the ESC will then have the obligation, according to him, to allocate the additional seats to candidates who have declared themselves under that particular community.

First of all, Mr Speaker, Sir, who, in his right set of mind, would do something like this. The hon. Members want to start communal problems in this country. It will be totally irresponsible to do this. But, as a matter of fact, the hon. Member is proving exactly the very essence of clause 4(2)(b) that he is criticising. That is why the clause is there. Had we not introduced that specific clause and simply replaced the 'shall' by 'may' then that possibility

might have existed, not being allocated to the right community. But clause 4(2)(b) is included precisely to prevent such an occurrence. If one or more elected members have not declared their community and to avoid what the hon. Member, himself, has given as an example, the average figure mentioned in the clause shall apply. In other words, it will ensure that the allocation of additional seats does not go against the provision of the Constitution, that is, for a fair and adequate representation of each of the four communities, which is the whole objective of paragraph 5 of the First Schedule to the Constitution. As I said, this has been emphasised. If you just read the judgment of the Supreme Court, you will see there. I am not amending this. As I said, Mr Speaker, Sir, we all know who have benefitted from the BLS over the years. We know accurately the community belonging to all the 62 returned candidates at every General Election since 1976.

Now, hon. Jugnauth again said that the calculation in the clause would replace the 1972 census, if I heard him right, I was here. But again, this is not true, Mr Speaker, Sir. We simply cannot replace the Census of 1972. We just cannot do it. We don't want to do it, but we also cannot do it. Even if we are unhappy about that 1972 Census, it will still be used to allocate the additional seats at the next General Election as there is no other alternative.

(Interruptions)

Wait, I am coming to this! There is no better alternative, Mr Speaker, Sir.

Some of the proposals made, Mr Speaker, Sir, by some hon. Members, they, actually, go against the provision of our Constitution. But I shall come to this in a minute. I think what is happening, Mr Speaker, Sir - I might be wrong - but I think what is happening. It is that the hon. Member is, unfortunately, mixing two very different statistics. I think that is what is happening. That of the ESC which they use to allocate the BLS seats;

- (1) the population breakdown into four communities as obtained from the Census of 1972, and also the second set,
- (2) the community mix of the 62 elected Members, as the result of the First Past The Post elections are known.

The first one will not change in any way at the next election - I will come to your criticism in a minute - that is, the ESC will still use the 1972 Census because if we follow your argument, then, what do you want us to do? To abolish the BLS? Say, you can want this! But nobody here - at least, we don't want to abolish the BLS. If you don't want, then, as I say, you cannot have two unknowns in one formula. That is why the 1972 Census is there. But, I think, he is confused because it is betrayed when he, himself, criticised such a use later in his speech. That is what I think.

Mr Speaker, Sir, it cannot be both. Either you keep it or you change it, but it cannot be both. As I say, for lack of a better alternative, until the full electoral reform is introduced, and we have said, it would be for one election. So, who are these crooked minds? I don't know how they bend - *tordus, je voulais dire, M. le président* - who can think of how they can make the thing not work and create problems. Who are these people? You are seeing who they are!

Let me stress, Mr Speaker, Sir, that the second statistics will not change at all if all the returned candidates have declared their community, and that is what I think they are trying to do from what I understand. If everybody declares and they are elected, the BLS, as we know it, would be exactly applied in the same way as provided by our Constitution.

It is only in the case of one or more Members not declaring their community and then being elected that they will have to use precisely the formula that we have put, and we think it is the best formula available.

Mr Speaker, Sir, again, I said don't forget the mandatory requirement of the Constitution to ensure a fair and adequate representation of the four communities. It is essential.

Many have been saying and wondered about the alleged omission of the specific mechanism to allocate the additional seats. But, again, Mr Speaker, Sir, I just explained, Mr Subron has grasped this earlier on. The mechanism is there, but it should be pointed out that in the existing legislation, the process for the allocation of BLS seats is spelt out very clearly, while the details of the way it operates are carried out by the ESC. In fact, that is why I am saying, I think, many people are not grasping the mathematics that drive even the allocation of the first four seats. I think that is where the difficulty is. The distribution of the second four seats is much

more complicated, as I said, and, at times, we have had to go to Court to seek an interpretation from the Courts.

What we are proposing, Mr Speaker, Sir, in this clause, is much, in fact, simpler to compute. It is an average that anybody can work out, can calculate and then the ESC will proceed exactly as it does today. As rightly pointed out by Mr Subron, Mr Speaker, Sir, and many others who have done their homework, it is very simple to compute if there is no great difficulty. And, as a matter of fact, I see many observers have already worked out the figures. I understand that hon. Duval, somehow I don't know, I think he has understood - he has given the figures, the system from what I see because he said: I hope it is this, but I hope it is not that. It is not that. It is this.

(Interruptions)

He is a Chartered Accountant and former Minister of Finance; he should be able to understand this. He has understood it. I will give him credit for this one. But, unfortunately, not all former Ministers of Finance have understood it.

I am, therefore, at a loss to understand what some hon. Members want to convey by saying that the formula is not in the Bill when, in fact, it is there and it can be easily computed.

It is rather unfortunate, Mr Speaker, Sir, that some Members of this House have tried to give a communal twist to the computation of the allocation of the seats to imply that in one case two given communities will be allegedly penalised while in another case, two other communities will be penalised. In other words all four, (a) and (b). But, Mr Speaker, Sir, it is a well-known fact - it is basic, in fact - that in a zero sum game everybody cannot lose. That is why it is called a zero sum game, not everybody can lose, but they think everybody will lose in this zero sum game. This is convoluted reasoning. For me, I can see now they have a clear hidden agenda for them.

Mr Speaker, Sir, as mentioned earlier, we know which communities have benefitted from the BL seats, what is the community of the 62 candidates elected at each election since 1976. It all depends which of the communities are underrepresented; which candidates you have chosen and it starts the day your Party or Alliance files their candidates.

Now, coming to the point of hon. Jugnauth, at one time he said they are opposite, but, anyway, let's come to the point. You've just said it again that the 1972 Census is still being used and, therefore, it is in violation of the United Nations Human Rights Committee Declaration. But it also says that "this calculation would replace supposedly the 1972 Census, again because you are going to violate." It is a contradiction. Either we are using it or we are not using it. But let's say you are coming down to the violation of the Covenant. He says he finds this scandalous. But let me clarify this in simple terms.

The calculation, Mr Speaker, Sir, is not replacing the 1972 Census. It is not. It is the latest census that we have and the BLS which we are not abolishing either, as hon. Fakeemeeah has said, depends, as we know, on the census and the one that we have, the latest, is the 1972 Census, from what hon. Fakeemeeah said. If you follow the logic, then you want us to abolish the BLS yourself. You should put a poster saying you are abolishing the BLS. You want to abolish the BLS, not us!

If hon. Jugnauth had read the findings of the United Nations Human Rights Committee carefully, he would have seen that the cause of action of *Rezistans Ek Alternativ*, what did they say? They said that the State of Mauritius was in violation of Article 25 (b) of the Covenant by depriving their candidates from standing at a General Election if they do not declare to which community they belong and the ESC and the Courts were right. This is the Constitution because the BLS system depends on the census. So, if you do not declare, they cannot allow you to stand because it is difficult to calculate.

If you read the declaration of the United Nations Human Rights Committee properly and put it in its context - I don't know why you did not put it in its context, I think that is where the mistake is - what does it say? It says -

- (1) Asking a candidate at a General Election to declare to which of the four communities he or she belongs does not - and if you refuse to accept his or her candidature, then it is a fundamental breach of his or her human rights and you are in violation of Article 25 (b) of the Covenant.
- (2) it says you have to reconsider whether the community-based electoral system is still necessary, and

- (3) if you do, then you must update the 1972 Census which we knew we did not need them to tell us this.

Now, what are we doing today, Mr Speaker, Sir, to address the problem of the UNHRC, the Bill that we hope will be adopted today? By that Bill, once it is adopted, we address the first problem, that is, the main problem, the fundamental problem that there would be no requirement for a candidate to declare his or her community to be able to stand as a candidate. That requirement will be done with, and that is the main requirement. That was the complaint of *Rezistans ek Alternativ*, and that is the main thing that they said: violation of the human rights, because it's a fundamental right; you are not allowing them to stand as a candidate, because in any country they should be allowed to stand. And when we do this, we will not be in violation of Article 25 (b). We are providing, in fact, an effective remedy to that violation. That is the crux of the matter.

Point two, they say that we have to reconsider; we should reconsider the BLS, the community-based electoral system. But that is precisely what is going to be addressed by the electoral reform later on. The main thing, the important thing now, is to stop the violation of Article 25 (b). That is what we are doing. Once we have done this, then, with the electoral reform, we will be subsuming the Best Loser System. It will not be a community-based electoral system. So, if we do this now, the question of updating the 1972 census does not even arise. We won't need it! It is as simple as this, Mr Speaker, Sir. And the alternative of updating the 1972 Population Census to reflect population mix is not going to be on.

Now, Mr Speaker, Sir, I ask myself, really, honestly; I am not being rude or something. But, honestly, do you really believe who, in his right frame of mind, can even think of asking us to redo the 1972 census? It would be a Pandora's Box. I don't know whether you have read this; even the 1991 judgement I mentioned. You will see there is a quotation. They make remarks about which communities there are in Mauritius. They subdivide the communities. Is that what you want for Mauritius? It would be a real divisive solution. It cannot be accepted.

Hon. Cehl Fakeemeeah has a point - which I will grant him - when he argues that the United Nations Human Rights Committee did propose that as one of the two alternatives. It is a melting pot. You don't agree on this, but you agree on that. It's good! You can come together.

(Interruptions)

The second one being to have an electoral system that is not based on communities.

Mr Speaker, Sir, I must say I cannot even imagine how can people say this. In 46 years of independence, we are going to start a census? Both the hon. Leader of the Opposition and myself have stated in no uncertain terms, and right from the start, that it is totally out of the question, and I am glad because they are the main Opposition party. We simply cannot do this in modern Mauritius 46 years after independence; it would be retrograde, it would be reactionary and it would be a repugnant alternative, Mr Speaker, Sir. As has been argued by Sachs, by Carcassonne, by Dr. Rama Sithanen, there are good alternatives to ensure broad-based rainbow representation in the National Assembly. There are alternatives, and this is what we are going to propose with the electoral reform which is being finalised.

Hon. Guimbeau said that there will be two categories of candidates. Those who will declare their communities will participate in the allocation of the additional seats, while those who actually do not declare will not participate in the best loser, they will not get best loser seats. And I must say hon. Guimbeau is right, absolutely right to say this; it is unfair! I recognise that it is unfair. So, what will we be doing now? What is going to happen? Those who, in fact, declare they are Mauritians and, therefore, they are not going to declare, they will be penalised. But, unfortunately, it is inescapable for a very simple reason.

As stated by the Supreme Court, Mr Speaker, Sir, the declaration of the candidate's community is at the very heart of the Best Loser System. Now, if a candidate does not declare his or her community, they are forfeiting their right to participate in the allocation of these additional seats. The Bill provides for this, but as I say it will apply for one election. But that is the price we have to pay! There is no other solution. As I said, many people have said that, but give us the solution! That is the price we have to pay if we want to give the option of a candidate not disclosing his community.

In fact, Mr Speaker, Sir, I have said earlier, each one of us have a duty towards the actual requirement of the Constitution. We are elected Members of the Assembly, and we are going just to flout our Constitution, just to make it difficult for others, just to create communal problems! That is my plea to you. Think again, because if you do what you are saying you will

do - not all of them said. I know hon. Soodhun will declare, because if he does not declare - he will be out anyway - he will be more out...

(Interruptions)

No? You will be in! Good luck!

(Interruptions)

Six is enough. *To capav ale reposer aster!*

(Interruptions)

It will apply, as I said, for one general election only. That is why it is a transitional provision.

In fact, each one of us, Mr Speaker, Sir, we have a duty towards the requirement of our Constitution. Schedule One of the Constitution is unchanged, and it remains paramount. Section 4(2)(b) must be read in conjunction with paragraph 5 of Schedule One. They cannot be read in isolation. Those who are saying that they will not declare their community will be going against, therefore, the Schedule One, against the Constitution. That is what they will be doing. In fact, if they do this, is that they don't want the system to work, they want to create all these problems I have been referring to. But this is precisely, Mr Speaker, Sir, why we have put in such a mechanism instead of just changing the words. But, we must not forget Schedule One of the Constitution is overriding. There will always be people, Mr Speaker, Sir, who will never propose solutions, never, but they will be quick to find problems, what problems they can create to prevent the solution from working. That is what we are having for obscure purposes, for God knows what. But, as I said, there is no ideal solution. There can never be, but because of doubts created, I have decided to move the amendment that has already been circulated.

Now, hon. Guimbeau also proposed the alternative of appointing - if I understood him properly - best loser seats to the most successful unreturned candidates irrespective of communities. I think that's what he proposed - I was listening to him in my office. Unfortunately, this will be against the provision of the Constitution, which says that the seats must be allocated to the appropriate community. Therefore, we cannot do it. In the language of the Constitution, it has to be distributed to underrepresented communities after the results of the

First Past the Post alone, and a quick calculation of the results of the 2010 elections would show that many of these seats would not have gone to those appropriate communities if we had done that. Both points were good, but unfortunately, we cannot do it.

The alternative of allowing Party Leaders to choose who to appoint as best losers, I think I have referred to this, but it is preposterous under these circumstances. In fact, it is the worst proposal I have heard, because not only it goes against the very provision of the Constitution, for a fair and adequate representation of each of the four communities, but it introduces an element of subjectivity, partiality or discretion in allocation of these seats. If we change the whole system with a new electoral system, that is different, but not now. Today, these seats are determined in an objective and rule-based manner by an independent institution, which is the ESC. Now, how would one determine who will obtain the first seat, who will obtain the second seat and go on until the eighth seat? How can one balance the formula to avoid that the will of the people is not frustrated; impossible, and, therefore, cannot even be contemplated. Others have said: why do we not proceed with the full electoral reform now and have to wait for the next? I have already mentioned this, Mr Speaker, Sir. We want to have a clear mandate, because I think the people of Mauritius have the legitimate right to see what we are proposing. I am sure some will criticise it; I am sure. But, at least, we need a mandate to go ahead.

The reforms currently being finalised, Mr Speaker, Sir, constitute the very significant changes in the voting formula of our country. In the consultation document itself, there are at least ten major policy decisions that have been proposed, plus there are other spillovers and consequences. This is certainly not a simple change in an ordinary law. It is not a change in a tax law! It is a change of the Constitution and the Electoral System.

And remember, the Best Loser System - I think hon. Ganoo reminded me of it - when it was put in our Constitution, was meant to be for the most to apply for three elections. What has happened? Ten elections, we are still with the same system. As I say, this new Electoral Reform Bill may well be with us for a very long time. So, the people have a legitimate claim to have a say in the process. That is why we want to get the endorsement of electorate.

Mr Speaker, Sir, I believe I have replied to most of the major points that have been raised, and I hope against hope to have cleared the misunderstandings, and I hope hon. Members

have understood that whatever their quarrel, we must look at the national interest and not differently. Some have spent their time trying to divide - we know this, Mr Speaker, Sir; divide and rule - while others hail from political parties which will forever belong to the dark ages of history, as far as the national unity of the Mauritian nation is concerned.

Mr Speaker, Sir, I am proud and honoured that I lead a political party which has always been on the right side of history as far as emancipation of the nation is concerned, as far as the emancipation of our society is concerned, and as far as the emancipation of our people is concerned. While others want to 'instrumentalise' our natural human differences, and they are very little - I have said it so many times; 99.9% they are like me, but they won't agree. They are trying to play on these differences for sheer cynical, political calculations. I am driven by a dream, the aspiration, the unbending resolve to keep strengthening the notion of a common citizenship, a common sense of identity and a common destiny, Mr Speaker, Sir.

(Interruptions)

This is why I set up the pilot project for the National Institute for Citizenship Education, which is doing very well; very popular. It is a nation building programme for the youths of our country to build a strong strength sense of patriotism. So, they know about their rights and their duties as citizens of this country. We want to build a common sense of identity and destiny, Mr Speaker, Sir. It is very, very important that we do this. I see some want to do exactly the opposite.

When I heard hon. Mrs Perraud - I don't want to be unkind, but I have to react to what she has said because it is untrue. I don't know whether the hon. Member was encouraged by her leader or not, but I was surprised and sad, I must say, because I did not expect this from her. But now I know. If you read our Constitution, if you just read our Constitution, you will see that the founding fathers of our Constitution, all of them, went backwards to ensure that all communities in our rainbow nation are treated equally without any discrimination. When the hon. Member said that - and it is terrible; this is the most dangerous thing that can happen in this country when a Member of Parliament utters these words. I know the hon. Member is young, but she must be more responsible - one community is being penalised for jobs in Government, I find this unbelievable! We do not live in a perfect world.

Mrs Perraud: On a point of order, Mr Speaker, Sir. I have my speech in front of me. I just want the hon. Prime Minister to show me where I stated that only one community is being penalised. Thank you.

The Prime Minister: This is what the hon. Member said, and on television also she said.

Mr Speaker: Yes, I don't think it is a point of order, but the hon. Member has the right to raise a point of personal explanation.

(Interruptions)

Mrs Perraud: On a point of personal explanation, then.

The Prime Minister: I will answer the hon. Member when she makes her point! I will tell the hon. Member to go and look at the Constitution why she thinks that a Public Service Commission has been created and put in our Constitution. Why does the hon. Member think that the DFSC was created, and who names the members of the PSC and the DFSC? She should ask her friends now! Her new friends! Who names?

(Interruptions)

I agree with her that we do not live in a perfect world. There will always be people, Mr Speaker, Sir, who discriminate; in every country in the world. There is no discrimination in America? There is none in UK? There is none in France? In every country you have.

(Interruptions)

But to say that some people are getting jobs and others are not getting, that is not - the hon. Member said it on television, in public.

But our founding fathers, Mr Speaker, Sir, gave us a Constitution which guarantees the fundamental rights, modelled on the Human Rights Convention. I have had top lawyers coming from England looking at our human rights. They are amazed, and they have told me. In fact, if she bothered to compare the Constitution of Mauritius with those of other Commonwealth countries, she would see that our Constitution is unique in the Commonwealth. Just go and

compare! There are many things that are common, but ours is unique. But I agree that we have to strive to eradicate unfairness everywhere where we see it; that I totally agree.

I have always believed, Mr Speaker, Sir, that all humanity is one, whatever our origins, our colour, our religion - I don't know what else - our community. It is an ideal that I say I will fight for always. This is why I went even further. I set up an Equal Opportunities Commission, so that each and every citizen can feel that they get an equal opportunity to thrive and attain his or her goal, and it is working. I set up a Public Bodies Appeal Tribunal, against the advice of the Civil Service, I must tell you. They did not want to hear about it. They think I am doing something that will create all sorts of problems later on. I went against that, so that if you feel that you are discriminated against, you can have a quick redress instead of waiting to go to the courts, and wait for ten years or whatever. I set up the Truth and Justice Commission to close the deep wounds of our past. We need to heal, Mr Speaker, Sir.

I never, never have and never will leave any stone unturned to rally, to *rassembler* all Mauritian citizens around this one common sense...

(Interruptions)

...of destiny and identity. This is why I find it absolutely shocking that anyone today, in 2014, could suggest that we start counting, categorising our population in rigid, hermetic, straight-jackets, as if, which is the surest way to stifle the flourishing, I should say, of the fluid citizen-based common identification of the nation. That is the surest way of doing it. Needless to say, Mr Speaker, Sir, I most vigorously denounce such historically retrograde ideas, and I will never cease to forcefully fight against such evil-minded propositions which are downright dangerous for the social harmony of this nation.

The Labour Party, as I said, always stood for progressive values and the advancement of all Mauritians as a cohesive and united nation in all its diversity. We will continue to uphold these principles. Mr Speaker, Sir, when we see what has happened - when I say this, some people take exception, but it is a fact; these are the two biggest parties in Mauritius. It is a fact! Just look at all the results you want to look at! No one should be surprised that the Labour Party and the MMM, when national interests are at stake, tend to converge on that point. We have our

differences; of course, we do. Two big parties and you don't expect to have differences! In my own party, there are plenty of differences.

(Interruptions)

I am sure in theirs too! That is what democracy is about. But when the national interest is concerned - that has been the case, and it is being the case again - you are surprised that we are coming closer together and they are pushing you off?

(Interruptions)

Because you are retrograde! You cannot stand in for what modern Mauritius should be! That is why there is convergence, Mr Speaker, Sir.

(Interruptions)

I know what your wish is, but it won't happen. Your wish, not my wish.

Mr Speaker: The 'your' is not 'your'!

(Interruptions)

The Prime Minister: Let me conclude, Mr Speaker, Sir, I want to borrow a paragraph from what is known as the "Duty, Honour, Country", speech by John MacArthur. Look what he said –

"Duty, Honour, Country.

Those three hallowed words reverently dictate what you ought to be, what you can be, what you will be. They are your rallying points: to build courage, when courage seems to fail, to regain faith when there seems to be little cause for faith; to create hope when hope becomes forlorn. The unbelievers will say they are but words..."

That's what they will say they are but words!

"... but a slogan, but a flamboyant phrase. Every pedant, every demagogue, every cynic, every hypocrite, every troublemaker, and I am sorry to say, some others of an entirely different character, will try to downgrade them even to the extent of mockery and ridicule."

But everyone knows. I have used these words because we can see what is happening here, Mr Speaker, Sir.

Mr Speaker, Sir, just to make sure I do not forget, everybody knows I stand for unity. Everybody knows this. Under my watch, rainbow nation, unity are the key words. I have always ensured this, Mr Speaker, Sir, but exceptionally, just to make it clear because I respect the Constitution, because I know the Constitution is there I have to respect it. Exceptionally from this one example, from this one election, this transitional provision will be there, I intend and my Party intends to respect the Constitution and we will, therefore, remain faithful to the Constitution, for that election only we will declare our community, we have to. There is no other way.

(Applause)

Everybody knows, Mr Speaker, Sir, that throughout my political engagement - just like what is happening, we see sometimes happening to the hon. Leader of the Opposition, I have never been spared any criticism - justified or unjustified; but I have not been spared, whether based on facts or sheer myth-making, any slander on my character. In spite of all this, Mr Speaker, Sir, I proudly stand here, even stronger in my unflinching aspiration to rally the whole Mauritian nation around a common sense of identity and destiny - that I have no doubt. To lead our country to an ever-brighter future, specially for the younger generations. I stand even stronger in my resolve to shape the future of this country so that the young of this country will for a long time, continue to sing the praises of this country and the fact that we are –

One Nation,

One People,

And we have one Destiny.

Question put and agreed to.

Bill read a second time and committed.

(8.14 p.m.)

COMMITTEE STAGE

(Mr Speaker in the Chair)

THE CONSTITUTION (DECLARATION OF COMMUNITY) (TEMPORARY PROVISIONS) BILL

(No. V of 2014)

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

Clause 4 (Declaration as to community not mandatory)

Motion made and question proposed: “that the clause stands part of the Bill”.

The Prime Minister: Mr Chairperson, I move for the following amendment as circulated

“In Clause 4(2)(b) by adding the following new subparagraph, the existing provision being numbered subparagraph (i) –

- (ii) In the event that no candidate belonging to a community has been returned as member to represent a constituency and the allocation of additional seats pursuant to subparagraph (i) will result in no additional seat being allocated to any available unreturned candidate belonging to that community, the first additional seat required to be allocated shall be allocated to the most successful unreturned candidate belonging to that community and belonging to a party.”

Mr Bérenger: Mr Chairperson, the hon. Prime Minister has circulated this amendment yesterday and he explained when summing-up, the rationale behind that amendment and I would like to add a few words.

Generally, Mr Chairperson, there has been, unfortunately, an attempt to give a communal flavour to our debates. It has been argued before I get to the amendment itself; it was argued that somehow the Best Loser System as it is or as it will be with our amendment, plays against the Hindu community, quoting figures since 1967, the Hindu community has benefited from only so many Best Losers. The whole point - we know, and the hon. Prime Minister has made it clear – is that any community that is sufficiently represented will not benefit from Best Losers. *C’est la logique même*, that’s the *raison-d’être* of the Best Loser System; but that was mischievous. He started trying to put that in the minds of the Hindu community. Mischievous! But what has motivated this amendment to the amendment is even worse, Mr Chairperson. There have been

people who have phoned every society in the Sino-Mauritian community over the last week – phoning to create panic. And what has been the argument? That is why I support fully the amendment to the amendment brought and circulated last night. What was the argument? Filthy, worst than the first argument that tried to panic the Hindu community and it did not work, of course. In that case, he says: “Look at the figures. The Sino-Mauritian community has not benefitted from any Best Loser.” And it was added, “This time, most probably, there won’t be any elected Member”. Therefore, for the first time, the Sino-Mauritian community will have no elected representative. Mischievous, dangerous, Mr Chairperson! And I repeat, I am ashamed because I know who phoned every society. Shameful! To create panic, Mr Chairperson.

The Sino-Mauritian community as it is in our Constitution has not benefitted, it is true factually from any Best Loser since Independence, because at every election there has been, at least, one. In 1967, there were two. But since 1976, one Member of the Sino-Mauritian and in number the Sino-Mauritian community being smaller than others, therefore, they have not benefitted from the Best Loser. Normal, because the point of the Best Loser is to see to it that if a community is under-represented, it gets a Best Loser and the Sino-Mauritian community has not benefitted because it has been represented adequately since Independence. This is already what was in the amendment, but I am glad to make doubly sure, to be explicit because there has been this attempt to create panic in the Sino-Mauritian community.

I am all in favour of that amendment – it’s not adding anything - it is making doubly sure, it’s making explicit what was already in the main amendment before us today. Therefore, we support, I support this amendment all out.

The Chairperson: Yes , hon. Jugnauth!

Mr Jugnauth: Thank you, Mr Chairperson. The very fact that an amendment is being brought at the eleventh hour to Clause 4(2)(b) of the Bill proves that I was right when I raised serious concerns and reservations.

(Interruptions)

The Chairperson: I want some order! Allow the hon. Member to make his point, please.

Mr Jugnauth: I say again, I was right to have raised serious concerns and reservations regarding this Clause when I intervened last Friday. Had I not drawn the attention to the serious

anomalies in-built in the initial Clause 4(2)(b) of the Bill, had I remained silent on the mechanism and the consequences that might happen in the subsequent application of part of the Bill, as the hon. Prime Minister and the hon. Leader of the Opposition have chosen to do, the Bill would have been adopted *comme une lettre à la poste* and it would have been a very serious blow to our democracy!

Mr Chairperson, despite the vehement reactions from different quarters with regard to my reservations and arguments, I am sure that, as at now, the hon. Members of this House would have realised the pertinence of the concerns that I have raised. Mr Speaker, Sir, as a parliamentarian...

The Chairperson: Chairperson!

Mr Jugnauth: I am sorry! Mr Chairperson, as a parliamentarian in the Opposition, I again say, I could not have remained silent. When democracy is at stake and when our constitutional rights...

(Interruptions)

...are being baffled, and I acted on the principle that all the four appropriate communities that are defined in our Constitution, have the same rights and arithmetically one cannot exclude any one of them. I say this, any one of them! Whatever be the new formula, one has a duty to see to it that there is no injustice against any of the appropriate community that has been mentioned in our Constitution.

Mr Chairperson, let me say, again, and I say this for the record also, it was never my intention to make any allegation against the Electoral Supervisory Commission and I looked at my speech again. What did I say? I stressed - and I'll quote one part of it - on the fact that, and I quote -

“This Government is acting in an arbitrary and unfair manner and the Electoral Supervisory Commission has been left with the daunting task...”

(Interruptions)

“... of carrying ...”

The Chairperson: I have...

(Interruptions)

Quiet! Silence, please! Yes.

(Interruptions)

It is elementary that whatever observation is made, it should be made in relation to the amendment. We are not here to debate what has already been debated. So, I would appeal to the hon. Member to stick to the amendment purely and simply.

(Interruptions)

Mr Jugnauth: Yes, Mr Chairperson...

(Interruptions)

...what I am saying...

(Interruptions)

What I am saying is that my comment today on this amendment is, in no way - whatever interpretation is given is no allegation against the Electoral Supervisory Commission because they will have to interpret.

The Chairperson: The hon. Member has said it. Okay!

Mr Jugnauth: Yes. They will have to interpret.

The Chairperson: Proceed on the amendment, please!

Mr Jugnauth: And they will have to apply that clause.

(Interruptions)

The Chairperson: Silence, please!

Mr Jugnauth: So, as I said, again, the circulation of this amendment to clause 4(2)(b) of the Bill has proven me right. Nevertheless, I am satisfied that the points that I have raised have, at least, compelled the hon. Prime Minister to have a fresh look...

(Interruptions)

... at that particular....

(Interruptions)

Well, you have had a look!

(Interruptions)

You have listened to the points and you yourself you said, hon. Prime Minister...

The Chairperson: Make your point, hon. Member!

Mr Jugnauth: Yes, but, Mr Chairperson, the hon. Members should be able to, at least, listen to my speech.

(Interruptions)

The Chairperson: Yes. Yes, proceed!

(Interruptions)

Silence, please!

Mr Jugnauth: So, the hon. Prime Minister...

(Interruptions)

The Chairperson: No provocation!

Mr Jugnauth: ... had a fresh look at that particular clause and consequently he has deemed it fit to come with the amendment he has circulated.

The Chairperson: He the hon. Prime Minister!

Mr Jugnauth: The hon. Prime Minister. But I still maintain that there are still anomalies that will arise with regard to the application of clause 4(2) (b) as it is proposed to be amended.

True it is, Mr Chairperson, that the hon. Prime Minister has realised that a gross injustice might be done. I say 'might be done' because there is one thing I don't understand, the hon. Prime Minister has regularly referred to Murphy's Law, something that...

(Interruptions)

... Murphy's Law, something that we don't...

(Interruptions)

Unintended consequences, as has been said.

(Interruptions)

The Chairperson: Silence! No interruptions!

Mr Jugnauth: Members of one side of the House can vote Murphy's Law, it is as if on this part of the House, we are not allowed to evoke Murphy's Law!

(Interruptions)

That is why I am saying!

(Interruptions)

What we need to do is we need to look at what has been explained, how this formula will work and what are the consequences. I am here to look at all the possibilities. The hon. Prime Minister has said that it has taken so long to, in fact, look at the projection with regard to implementation of whether one formula is right and what will happen. So, it is also my duty and it is also our task to apply whatever formula is being proposed to us today and to see what result it will give and whether that result is going to be fair and just to everybody.

So, that is why I am saying, this amendment as proposed is, first of all, in reference to 'a community', whereas the First Schedule to our Constitution clearly defines 'an appropriate community'. We know there are four: Hindus, Muslims, Sino-Mauritians and General

Population. Even if this initial clause 4(2)(b), now subparagraph (i), refers to ‘appropriate community’ and now that subparagraph (ii) has changed ‘appropriate community’ to ‘community’, if we look at subparagraph 4(2)(b)(i), it mentions ‘appropriate community’, which is in line with what our Constitution says. Now that subparagraph (ii) has changed ‘appropriate community’ to ‘community’ only, that is why I say it might create another absurdity, another anomaly.

Mr Chairperson, again, I note with concern that there is another thing which has not been properly addressed.

The Chairperson: With regard to the amendment?

Mr Jugnauth: Yes, with regard to that amendment. Because I said, in calculation, applying again Murphy’s Law, it can happen that two communities could be excluded. I say this because there are genuine concerns, the more so that the Constitution gives the same right to each of the four defined appropriate communities. It can happen, as I say, unintended consequences, that one community finds itself being excluded from that calculation and, again, from that amendment because if it is true that after the last nine general elections - I agree with facts - we all have calculations for the best losers. We have....

(Interruptions)

I am talking about this amendment. We are talking about best loser.

The Chairperson: Let me listen and then I will rule!

Mr Jugnauth: So, we know that the best losers have been attributed mainly...

The Chairperson: No!

(Interruptions)

Silence, please!

(Interruptions)

Hon. Member, confine yourself to the amendment; don’t go outside it!

Mr Jugnauth: Yes, I ...

The Chairperson: No, you are reopening the debate! I would not allow.

Mr Jugnauth: Mr Chairperson, it is about the ...

The Chairperson: I would not allow reopening of the debate. We are at Committee Stage, there is a precise amendment and I expect precise comments and observations. This is my ruling.

(Interruptions)

Mr Jugnauth: Mr Chairperson, what the hon. Prime Minister has said is that the purpose of bringing this amendment is to make doubly sure that no community is excluded from the calculation of the Best Loser System. So, I am...

(Interruptions)

It is excluded from Parliament.

(Interruptions)

Okay.

(Interruptions)

The Chairperson: Please! No comments!

(Interruptions)

Mr Jugnauth: So, it is my duty...

The Chairperson: Why do...

(Interruptions)

The hon. Member should listen!

Mr Jugnauth: It is precisely what I am commenting upon whether, - if there is any unintended consequence - in spite of bringing that amendment, there is any possibility that either

an appropriate community is excluded or not. I am commenting on that unless if you ruled me; you do not want me to speak on that. I will abide by your ruling.

The Chairperson: As long as you are dealing with this amendment, you are in your right to speak.

Mr Jugnauth: That's what I have explained. I am dealing with that amendment. As I said, for me, there is no justification in concluding that, even with this amendment, all the four appropriate communities will be treated fairly. As I said that appropriate community – there is still the possibility that it can be deprived of being eligible for Best Loser.

As I said, when I look at the figures - with regard to that amendment – what will happen if we talk about unintended consequence. How do we know the result of the next general election? It can happen that, after the next general election, you have 30 candidates of an appropriate community who are elected and then what will happen. That is the question I asked. Can we agree that the appropriate community will, in those particular election scenarios, therefore be excluded from designation of the Best Loser.

Therefore, Mr Chairperson, what I am saying is: there is nothing communal in what I am arguing.

The Chairperson: But there is one thing. You should not anticipate.

Mr Jugnauth: Sorry!

The Chairperson: You should not anticipate. You have to deal with the amendment as it is before you.

Mr Jugnauth: Yes, but can I say...

The Chairperson: Well, let me finish. If the hon. Member is going to anticipate, well anticipation will lead us to nowhere.

Mr Jugnauth: Mr Chairperson, I am not anticipating. I am also saying that my argument that I put forward, there is nothing communal in what I am saying. If you allow me, I

will just say that I am defending the principle of fairness and justice, which is described in our Constitution...

(Interruptions)

The Chairperson: Silence!

(Interruptions)

I want some order!

(Interruptions)

I want some order! No interruption from both sides, okay!

Mr Jugnauth: I am not the defending any particular appropriate community, but a principle that should apply equally to the four appropriate communities as it has been defined in our Constitution. Mr Chairperson, I maintain that, in trying to correct an anomaly, we are, in fact, sinking in the sense of even more anomalies. Again, can we imagine how long ...

(Interruptions)

The Chairperson: No interruption!

Mr Jugnauth: You can imagine how long the hon. Prime Minister was mentioning earlier that some say it took 600 days after the ruling of the United Nations Human Rights Committee ...

(Interruptions)

Well the hon. Member has a point of order ...

(Interruptions)

The Chairperson: Hon. Member! You would agree with me that you mentioned the 600 days in your speech on the Bill. You are coming again to those 600 days. According to the Standing Orders, your approach should be focused on the amendment. You cannot make such a speech again at Committee Stage. This is quite elementary.

Mr Jugnauth: Mr Chairperson, that amendment was circulated late last night. Am I not entitled to comment on the very fact that this amendment ...

The Chairperson: Well, shall I remind the hon. Member that the debate on the Bill is over. We are at Committee Stage. Please, understand the principle of the Standing Orders. We are at Committee Stage. Proceed on the amendment!

Mr Jugnauth: Yes, but Mr Chairperson ...

(Interruptions)

The Chairperson: I want some order!

Mr Jugnauth: May I say that this amendment has been circulated and I received it late last night and...

(Interruptions)

The Chairperson: Order!

Mr Jugnauth: It is being moved today. My point is: as the hon. Prime Minister has said earlier some people do not even have the remotest idea of the complexity of this Bill. Now, the point I want to make - it is a complex constitutional matter which requires reflexion and has taken such a long time to come forward with – is that, at least, we should have been given time to reflect on this.

(Interruptions)

But, anyway, I mean, it has been moved today ...

The Chairperson: Hon. Member, speak on the amendment!

(Interruptions)

Allow the hon. Member to make his point!

Mr Jugnauth: Let me end, Mr Chairperson, by saying that again the application of this clause would indeed end up in further violating Article 25(b) of the International Covenant on

Civil and Political Rights. More so, I have heard, on the one hand, it is a fundamental principle to allow and to which we all agree here on this side that no one can be debarred from standing as a candidate for a general election, if he or she does not want to declare his community. But, at the same time, the guru of the dream team is advising everybody that we should declare ...

Mr Bérenger: Mr Chairperson, on a point of order, again the amendment we are discussing is not the main amendment. It is this amendment circulated yesterday and all it says is that should one community not have – any community, but it is the Sino-Mauritian community that is targeted – any elected Member and should the result be that that community will not have a Best Loser then it will have the first Best Loser. That is all we are supposed to discuss.

The Chairperson: Yes, the hon. Leader of the Opposition is correct.

Mr Jugnauth: Let me conclude ...

(Interruptions)

The Chairperson: Silence, the hon. Member is concluding!

(Interruptions)

Quiet, please! Let me hear the conclusion of the hon. Member.

Mr Jugnauth: Let me conclude, Mr Chairperson, by saying that, in fact, with this amendment in trying to cure an evil we might even create a monster and I hope this does not happen. That is my worry. That is the worry of MSM. As I said again, it was far from being communal as I have been accused. I have tried to put the point with regard to what obtains in terms of fairness, equality and justice in our Constitution.

The Chairperson: Alright, thank you.

Mr Duval: Mr Chairperson, I will also join hon. Jugnauth in strongly deploring the fact that we – at least in this side of the Opposition – have been given less than 24 hours to look at this amendment. When we realise that we are amending the Constitution, 75% of votes are required in this House. One can only think - I am not talking about unintended consequences - this is an unforeseen circumstance that is being corrected if we are being fair and honest about

what we are doing. This is an unforeseen circumstance. No one has thought that perhaps one community would not be represented at all should one elected member of the Sino-Mauritian community not get elected in the actual First Past The Post. This is an unforeseen circumstance. How many other unforeseen circumstances there may be in this change to the Constitution that we will, maybe, never again be able to change?

So, Mr Chairperson, what I am saying is this: this amendment recognises the risk that the average that is being calculated under clause 4(2)(b) may not, in fact, reflect at all the result of the election. That is what it is saying. It is saying, in fact, that if no Member of the Sino-Mauritian community is elected, although, on average since 1976, - I have looked before - there has always been one; then there is going to be a problem with the Best Loser System. What happens? As hon. Jugnauth has mentioned, if other communities and I have to talk about communities because this is what the Bill is about.

I cannot talk about the Bill without talking about communities. What happens if other communities are - obviously, nobody is saying that they are not going to be represented at all. That would be going very far. But, if they are substantially underrepresented in the forthcoming election - 2014 or 2015, I don't know when it is going to be - then, obviously, the amendment that the hon. Prime Minister is proposing to the Bill is not going to go far enough because it deals only with the case of the supposed Sino-Mauritian community and that does not deal with any other case. I mentioned during my speech about the ranges and averages. An average is a fix figure. A range is, since 1976 we can see, for instance, that sometimes there are 40 members of one community who are elected, at times it is five members of the same community. It is here.

(Interruptions)

Yes. The Hindu, yes! That is such a case and everything else is like that. You can take any other community and you will see that there are differences in the number of actual MPs returned. Therefore, what I am saying is that there could be, in the next election, a substantial change from the average which will lead to one community being underrepresented under the Bill that is being presented, and this amendment does not, unfortunately, deal with it at all.

The Chairperson: Yes, hon. Ganoo!

Mr Ganoo: Just one short intervention, Mr Chairperson. I will just want to clarify one point raised by hon. Jugnauth. I mean, he was asking the question: Why is it that in the amendment mention has been made of the candidate belonging to ‘a community’ and not ‘appropriate community’, as has been mentioned in the Bill? The Bill, in 4 (2) (b) makes mention of -

‘(...) of determining the appropriate community (...)’

Then, the average number will be used, but why in this amendment that we are circulating and that we are debating now. It reads -

“(...) in the event that no candidate belonging to a community”.

This is one point which he raised. But the answer is very simple and his argument is misconceived because the schedule to our Constitution defines what ‘a community’ is and furthermore defines what ‘an appropriate community’ is.

(Interruptions)

It is two different things, Mr Chairperson, Sir.

(Interruptions)

The Chairperson: Silence!

Mr Ganoo: Let me finish! In the First Schedule, section 3 of the Constitution - I must have time and I must make my point in silence, Mr Chairperson - talks of communities -

“(1) Every candidate for election at any general election of members of the Assembly shall declare in such manner as may be prescribed which community he belongs (...)”

Further down, section 3(4) says –

“For the purposes of this Schedule, the population of Mauritius shall be regarded as including a Hindu community, a Muslim community and a Sino-Mauritian community; and every person who does not appear, from his way of life, to belong to one or other of those 3 communities shall be regarded as belonging to the General Population, (...)”

Now, we come to section 5(8) of the First Schedule. Listen, Mr Chairperson -

“The appropriate community means, in relation to the allocation of any of the 8 seats, the community that has an unreturned candidate available (...).”

So, clearly, there is a difference between what ‘community’ means; ‘an appropriate community’ which is more as a specific definition.

(Interruptions)

So, the drafters of this amendment were not fools when they were using ‘community’ and, as hon. Bérenger has just explained or the hon. Prime Minister, it is very simple what this amendment which we are discussing today aims at. It simply aims at ensuring that if in any of these four communities after the next elections, it happens that no Member has been elected, for example, if in a Sino-Mauritian community, there is no Sino-Mauritian within the 62 Members who will be elected, then the attribution will be subject to the requirement that this Sino-Mauritian community is, in fact, represented by one Member and one best loser Sino-Mauritian. The first one will be the Sino-Mauritian community and this applies to all three other communities, Mr Chairperson. This is clear.

The Chairperson: Okay. Yes, hon. Prime Minister!

The Prime Minister: Mr Chairperson, I am glad that hon. Ganoo has made the point; he is a former Attorney General himself and former Speaker. He made the point. That is exactly the point that I was going to make.

I am surprised, Mr Chairperson, that those who want to disrupt the system, we have heard of the sick minds who were ringing people in the Chinese community, who were even encouraging them to go to Court, they are the sick minds who were saying that the Hindus are going to be affected, now, they all want to take paternity to my amendment. It is thanks to them! They are the ones who brought it down and now they want to take paternity.

(Interruptions)

I hope it is parliamentarian to say that there are too many smart Alecs and ...

(Interruptions)

The Chairperson: Silence!

The Prime Minister: There are too many smart Alecs and clever Dicks who think they know everything. Young, but they think they know! Go and read! I think he gave the proper explanation. It was, in fact, deliberate, if I may say it because there are four communities. A ‘community’, as hon. Ganoo has explained, becomes ‘an appropriate community’ if it is unrepresented. That is the main thing.

The other thing that I have noted under the veil as if ‘I don’t want to attack any community’; in fact, that is exactly what they are doing, but the veil is: ‘No, I am not doing it.’ Hypocrisy as usual! But, Mr Chairperson, about unintended consequences - and I am glad you know now who ‘Murphy’ was and what ‘Murphy’s Law’ is, but, Mr Chairperson, I explained, there is nobody in the world who can predict all the intended; it does not exist, but we have to be careful. When former Chief Justice Glover said: ‘I wish we had it.’ Of course, he is right. We would wish! But then you will say what – I have taken one year to prorogue Parliament. So, we want to do it quickly; we can’t have all the experts, but we think we have done, and I congratulate again the State Law Office, the Solicitor General and his team, hon. Alan Ganoo and Dr. Rama Sithanen and Mr Glover because they have done a wonderful work in little time and this is exactly. That is why it is called actually ‘unintended consequences’, you cannot predict everything. Even anywhere else!

And the other thing - I think hon. Duval has said something else. He has talked about percentage. It was never meant to be a mirror exactitude of the percentage. Go and read it properly! You will see. The Best Loser System is not meant to be a mirror image. Approximation, yes, but not mirror image. I don’t think you understood it.

Amendment agreed to.

Clause 4, as amended, ordered to stand part of the Bill.

Mr Duval: Mr Chairperson, I would like to move for the revised amendment that I have circulated. Mr Chairperson, it asks this House to be faithful to the provisions of the Government Programme which were read in this House by the Vice-President, which was passed in this

House and which required, in very strong terms, that the population be consulted prior to the changes in the Constitution. If I may read part of Chapter V of the Government Programme 2012-2015, which was, as I mentioned, passed in this House. It is the Programme of the Labour Party and the PMSD and it says, Mr Chairperson, that –

“Constitutional reform requires the buy-in of the people at large and cannot be decided by the political class alone.

Government will introduce new enabling legislation providing for the people to be consulted by way of referendum on major constitutional and other issues”.

I think, nobody is suggesting that this minor or whatever amendment would be passed after a referendum; we are not saying that. We are nevertheless saying that the Government be true to its commitment towards the population and will insert as appropriate at clause 5 of the Bill, the following new clause, if I may read it, Mr Chairperson –

“5. Mandatory Referendum

Where after the General Election, a Bill is presented to the National Assembly to amend the First Schedule of the Constitution with regard to the mode of allocating additional seats,(...)”

- which we all agree, is a major amendment -

“(...) such Bill shall not be passed by the National Assembly, unless prior to being presented, the Bill has been approved in the referendum whereby at least fifty percent of votes have been cast in favour of the Bill.”

Mr Chairperson, we have seen even with the previous amendment in what confusion the population has been, in what confusion Members of this House have been right until - I think, it was Monday - when the hon. Attorney General spoke on the Bill, he spoke much ahead of the time that he was meant to speak because I think Government realised that there was so much confusion in this House and outside this House as to exactly what the mechanism...

(Interruptions)

Let me finish! As to exactly what the mechanism...

The Chairperson: Are you speaking on the referendum issue?

Mr Duval: Yes, I am. I am speaking about it, yes. If I may speak, if it is still a democracy, I can speak, I can say, Mr Chairperson, we know what the confusion was. We want to avoid this sort of confusion. We want to avoid any sort of withholding of information. We want everything to be out in the open. We want the people to be able to decide exactly what is the voting system that they require and, for this reason, Mr Chairperson, I am asking for a referendum before the Bill is presented. I am also saying, Mr Chairperson, that we all agree that the electoral system is biased, that the electoral system does not correctly reflect the voting of the population because of the First Past the Post, because of the electoral boundaries and, therefore, cannot be relied upon to provide an appropriate opinion on whether the electoral system should be reformed or not, and, therefore, Mr Chairperson, I am moving for this motion that Clause 5 be added and, at the same time, of course, that is, the Explanatory Memorandum reflects the new amendment.

Thank you.

The Prime Minister: Mr Chairperson, I want to have your ruling. This proposed amendment has actually nothing to do with the present Bill. Absolutely nothing! I don't know how the hon. Member is misconceived; it is completely outside the scope of the Bill since the object of the Bill is to alter the Constitution so as to give an option to a candidate whether or not he wants to declare his community or not at the general election. It is an option. Amendments, in fact - if you read what the hon. Member has said, Mr Chairperson - are meant to fall within, they have to fall within the intended objectives or parameters of the Bill, but this is completely outside the scope. In fact, it is here making reference to a Bill to be introduced in the future, that is what the reference is, not to actual. So, how can it be accepted as an amendment to the Bill? In fact, his amendment should be put to a referendum.

Mr Bérenger: Mr Chairperson.

The Chairperson: Yes.

Mr Bérenger: I want to make an appeal to hon. Duval, but before I do that, may I remind him, he is circulating an amendment in lieu and stead of the proposed amendment which he had circulated. He is right to do that because he was proposing - under the amendment which is being replaced - an amendment to the Explanatory Memorandum; futile, as you said. Therefore,

he has had to add a new section. He has added a new section, Mr Chairperson, fair enough. Now, the new Clause 5, I mean, honestly, it should be, at least, in good English.

(Interruptions)

No, I am not making a joke. I mean let us read it. It says -

“Where after the General Election, (...)”

What general election? At least, if he was saying the next general election.

“Where after the General Election, (...)”

“(...) the Bill has been approved in the referendum (...)”

It means that forever. So, it is badly drafted. But that’s a minor point. My main point and my appeal to hon. Duval is exactly what the hon. Prime Minister has just said. He has said that the Bill now before the House - not the amendment - has nothing to do with what he is proposing. What he should do is *garder son droit*. After general election, he can come with an amendment like that. When the Bill comes on electoral reform itself, then he can move, if he is in the House.

(Interruptions)

No. I am not joking. I am saying anybody who is in the House after the Bill on electoral reform is presented, then, he can move that amendment. He cannot, it is not even in order to move it now, because his amendment has nothing to do with the Bill that is before the House. Therefore, my appeal - because anyway we are going to vote it out - is to *réserver son droit* to prepare, to present that amendment when the main Bill comes for electoral reform, then he can present that and if it is voted, there will have to be a referendum before the Bill after the general election comes into effect, not now. Now, I say, it is not in order because it has nothing - as the hon. Prime Minister has said - to do with the Bill before the House.

Mr Faugoo: If I may be allowed to, Mr Chairperson. The hon. Member by bringing this present proposal to amend the Bill which is before this House is, in fact, trying to amend the Constitution of this country. I will explain why. He is not only amending this Bill because we

have a Constitution and it is clear in the Constitution which section you can amend by a three-quarter majority in Parliament and which particular section you need to go for a referendum. I have in mind section 1 of the Constitution, you need to go for a referendum before amending that section. There are two sections; 1 and 47. Now, through the amendment, the hon. Member is trying to put in this Bill which only needs three-quarter majority and will make it mandatory for the Government, will require the Government to go for a referendum before we come to the House with a Bill which does not require a referendum according to the Constitution. So which is which? We cannot amend the Constitution by a proposal to amend this particular Bill, Mr Chairperson. The proposed amendment does not stand. The Constitution sets out its own provisions as to when a referendum is needed. We cannot amend the Constitution through the present Bill.

The Chairperson: Yes, hon. Ganoo!

Mr Ganoo: Mr Chairperson, *je vais puiser mon argument* from Erskine May *pour objecter à la proposition de l'honorable Duval*, and Erskine May never errs, Mr Chairperson. Erskine May says what is the object of an amendment -

“It is to modify a question, a Bill, in such a manner to increase its acceptability or to present to the House a different proposition as an alternative to the original question”.

And we all know what is the original question in this Bill; it is the mandatory declaration of a candidate's community. The amendment must be relevant to the question and the amendment is inadmissible and out of order if it is irrelevant to the subject matter or beyond the scope of the Bill. This Bill is dealing with the doing away with the mandatory declaration of a candidate, Mr Chairperson, and Erskine May also says where the scope of a Bill is restricted, the scope of amendment is also severely restricted and this Bill, the four clause Bill, the scope is restricted, the scope is about again the mandatory declaration of one's community. Therefore, the scope of amendment is severely restricted and organisation of a referendum has nothing to do with the mandatory declaration. This is the purpose of the Bill, Mr Chairperson, and anyway - as has been pointed out by the hon. Leader of the Opposition, I think - the amendment is talking of the next Government, not this Government. This amendment will be binding another Parliament

when the Bill will be amended regarding the Best Loser System, when the Bill will be presented after election. How can this Parliament bind the hands of another Parliament?

Mr Duval: I will remind the hon. Leader of the Opposition that it is never futile, I think he also mentioned that, Mr Chairperson, it is never a futile exercise to remind a Government and a Prime Minister about the word....

The Prime Minister: Are you now saying that you are wrong. You are defying...

(Interruptions)

Mr Duval: Mr Chairperson, it is never futile to remind a Government and a Prime Minister of the commitment it has taken vis-à-vis the population to have a referendum before major Constitutional amendment, it is never futile. That's the first thing, Mr Chairperson.

(Interruptions)

The second thing, I don't know if the hon. Leader of the Opposition wanted to correct my English. I hope not. I think it is the drafting that he was talking about rather than the English; it is different. The drafting is different than the English. The drafting, Mr Chairperson - I don't know if it was addressed to myself or to your office. But I understand it, it is plain English, and I hope that the hon. Leader of the Opposition was not criticising your office.

As far as the Bill is concerned, Mr Chairperson, to amend the Constitution, as the hon. Attorney General...

(Interruptions)

Am I allowed to talk, Mr Chairperson?

The Chairperson: Yes, you are allowed to speak, but you have to be careful what you talk about! Because you cannot speak on anything you want to talk in this House!

Mr Duval: I am so short and so careful! Thank you.

The Chairperson: Yes, be careful!

Mr Duval: Of course, this is a Bill to amend the Constitution. So, anything you put in there, whether it is clause 5 or 6, is going to amend the Constitution. I think we all realise that, Mr Chairperson, Sir. As far as what motivated me to have this amendment - it has taken a little bit of time of the House, but it was worthwhile to remind of the commitments that I mentioned - is the fact that in the very Explanatory Memorandum, this is clearly shown to be a first step for the subsuming. The hon. Attorney General mentioned in his speech that I had - in his words, in his thoughts - wrongly used the word 'subsuming'. No! I mean subsuming! Because we are not agreeable to abolishing the Best Loser System. We are still saying 'subsuming' in its appropriate version of the meaning according to the Oxford Dictionary, which is 'including' in another system. So, Mr Chairperson, I only proposed this amendment - which I understand will not be accepted by the majority - which is not futile, and has been motivated by the Explanatory Memorandum. And it is never futile to remind someone of his commitment to the population. Thank you.

Mr Bérenger: Mr Chairperson, Sir, I never said that the proposal to have a referendum is futile. The hon. Member should listen carefully. I never said that. I said that the first version of his amendment that planned to amend the Explanatory Memorandum was futile, and you ruled it to be futile. I never said that the request to have a referendum is a futile request. I never said that. I said that the first version of his amendment was futile, and he has had to amend it. But I repeat my appeal; this is not even in order. He should keep his right! Should he be in Parliament after the general election...

(Interruptions)

But the amendment is not in order! The hon. Prime Minister rightly said so! The hon. Member, with this Bill which is before us, cannot do that.

(Interruptions)

Mr Mohamed: Mr Chairperson, Sir, having listened to everyone, just for a few seconds I would like to take the time of the House. Having listened to everyone and more specifically hon. Alan Ganoo, it is clear that this amendment cannot be put to the vote. What I humbly request, therefore, Mr Chairperson, that we do, we expect your ruling, since it goes beyond the scope of

what is being proposed; it is unacceptable according to what you have referred to, hon. Ganoo has referred to, according to Erskine May. Therefore, it should not be put for a vote.

The Chairperson: I have to say the following: the original amendment which dealt only with the Explanatory Memorandum was futile. I said it, and I maintain my ruling. Then, afterwards, we received an amended version of the original amendment, but this time it contains an amendment to the substance of the Bill. Therefore, we consulted Erskine May and we found that it was in order. So, this was circulated.

Secondly, the drafting of this second amendment is not that of the Clerk. It comes from hon. Duval, and it was circulated as he handed it to us.

(Interruptions)

With regard to the question of why this second amendment was accepted, I would refer hon. Members to Erskine May, page 583, under the subtitle of ‘Preamble’ of the 24th Edition.

Now, having said so, we have to proceed for the vote. I have to put the question.

On question put, amendment defeated.

The title and the enacting clause were agreed to.

The Bill, as amended, was agreed to.

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

Third Reading

On motion made and seconded, the Constitution (Declaration of Community) (Temporary Provisions) Bill (No. V of 2014) was read a third time and passed.

The Prime Minister: Mr Speaker, Sir, I beg to move for a division.

(Division Bells were rung)

On question put, the House divided.

AYES

1. Hon. M. R. C. Uteem
2. Dr. the Hon. M. R. Sorefan
3. Hon. S. Soodhun
4. Hon. M. K. Seeruttun
5. Hon. Mrs L. N. Ribot
6. Hon. K. Ramano
7. Hon. Mrs M. J. Radegonde-Haines
8. Hon. J. P. F. Quirin
9. Hon. L. S. Obeegadoo
10. Hon. Mrs M. A. Navarre-Marie
11. Hon. D. Nagalingum
12. Hon. K. C. Lee Kwong Wing
13. Hon. G. P. Lesjongard
14. Hon. Mrs M. N. F. Labelle
15. Hon. P. K. Jugnauth
16. Hon. P. Jhugroo
17. Hon. Mrs S. B. Hanoomanjee
18. Hon. A. K. Gungah
19. Hon. E. J. R. Guimbeau
20. Hon. A. Ganoo
21. Hon. J. F. François
22. Hon. Mrs L. D. Dookun-Luchoomun
23. Dr. the Hon. S. Boolell
24. Hon. J. C. Barbier
25. Hon. V. V. Baloomoody
26. Hon. S. M. A. Ameer Meea
27. Hon. A. R. G. M. Issack
28. Hon. Mrs P. K. Bholah
29. Hon. J. C. Léopold
30. Hon. D. S. Khamajeet

31. Hon. A. H. Hossen
32. Hon. P. G. Assirvaden
33. Hon. Mrs K. B. Juggoo
34. Dr. the Hon. B. Hookoom
35. Hon. Ms M. G. S. Anquetil
36. Hon. Ms K. R. Deerpalsing
37. Hon. R. A. Bhagwan
38. Dr. the Hon. R. R. Hawoldar
39. Hon. M. Peetumber
40. Hon. P. R. Bérenger
41. Hon. S. Moutia
42. Hon. Mrs M. F. Martin
43. Hon. J. I. M. Seetaram
44. Hon. S. Dayal
45. Hon. S. C. Sayed-Hossen
46. Hon. L. Bundhoo
47. Hon. J. Yeung Sik Yuen
48. Hon. S. Mohamed
49. Hon. M. Choonee
50. Hon. L. H. Aimée
51. Hon. S. Ritoo
52. Hon. L. J. Von-Mally
53. Hon. T. Pillay Chedumbrum
54. Dr. the Hon. R. Jeetah
55. Hon. D. Virahsawmy
56. Hon. S. V. Faugoo
57. Dr. the Hon. V. Bunwaree
58. Hon. Mrs S. Bappoo
59. Dr. the Hon. A. T. Kasenally
60. Dr. the Hon. A. Boolell
61. Hon. A. K. Bachoo

- 62. Dr. the Hon. A. R. Beebeejaun
- 63. Dr. the Hon. Prime Minister

NOES

- 1. Hon. C. M. Fakeemeeah

ABSTENTIONS

- 1. Hon. Mrs M. J. Perraud
- 2. Hon. J. H. T. Henry
- 3. Hon. C. G. X. L. Duval

ABSENT

- 1. Hon. P. Roopun
- 2. Hon. N. Bodha

AYES: 63 NOES: 1 ABSTENTIONS: 3 ABSENCES: 2

Mr Speaker: I wish to inform the House that the Constitution (Declaration of Community) (Temporary Provisions) Bill (No. V of 2014) has on the final voting obtained 63 votes, that is, has been supported by a three-quarter majority, as required by section 47 (2) of the Constitution. I declare the Bill has been read the third time and passed.

ADJOURNMENT

The Prime Minister: Sir, I beg to move that this Assembly do now adjourn to Tuesday 22 July 2014 at 11.30 a.m.

The Deputy Prime Minister rose and seconded.

Question put and agreed to.

Mr Speaker: The House stands adjourned.

At 9.17 p.m. the Assembly was, on its rising, adjourned to Tuesday 22 July 2014 at 11.30 a.m.