



**SIXTH NATIONAL ASSEMBLY**

**PARLIAMENTARY**

**DEBATES**

**(HANSARD)**

**(UNREVISED)**

**FIRST SESSION**

**TUESDAY 11 DECEMBER 2018**

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Deputy Chairperson of Committees	Jahangeer, Hon. Ahmad Bashir
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**MAURITIUS**

**Sixth National Assembly**

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**FIRST SESSION**

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**Debate No. 38 of 2018**

**Sitting of Tuesday 11 December 2018**

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

**The National Anthem was played**

*(Madam Speaker in the Chair)*

**PAPER LAID**

**The Prime Minister:** Madam Speaker, the Paper has been laid on the Table.

**Prime Minister's Office**

The Financial Statements of the National Resilience Fund for the years ended 2012, 2013 and 2014. (In Original)

**MOTION****SUSPENSION OF S. O. 10(2)**

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

**The Deputy Prime Minister rose and seconded.**

*Question put and agreed to.*

**PUBLIC BILLS**

*Second Reading*

**THE SUPPLEMENTARY APPROPRIATION (2016-2017) BILL**

**(NO. XIV OF 2018)**

*Order for Second Reading read.*

**The Prime Minister:** Madam Speaker, I move that the Supplementary Appropriation (2016-2017) Bill (No. XIV of 2018) be read a second time.

The Bill makes provision for a supplementary appropriation of Rs274,300,000 in respect of services of Government for financial year 2016-2017.

Madam Speaker, at the very outset, I wish to draw the attention of the House that this supplementary appropriation is significantly lower compared to previous years and is the lowest one over the last decade. Moreover, this supplementary appropriation is essentially in respect of entitlements provided for in the 2016 PRB Report.

The House will recall that this Assembly, through the Appropriation (2016-2017) Act, voted a total sum of Rs104.4 billion in respect of services of Government for financial year 2016-2017.

After the closure of accounts, the sum actually spent amounted to Rs94 billion. Under-spending was registered under both recurrent and capital expenditure.

Yet, a supplementary appropriation is required in accordance with Section 105(3) of the Constitution as five Votes have exceeded their initial appropriations. The total excess spending under these five Votes was Rs274.3 m. and was essentially met by way of reallocation of funds from Vote Contingencies and Reserves and other Votes that had unspent balances.

These five Votes are listed in the Schedule to the Bill together with their respective sums. The concerned items of expenditure as well as explanatory notes thereon are set out in the Estimates of Supplementary Expenditure (ESE) that has already been tabled in the National Assembly.

Madam Speaker, as I have just stated, the bulk of this supplementary appropriation is in respect of entitlements provided for in the 2016 PRB Report. In fact, around 85% of this supplementary appropriation is under Vote 27-1 Centrally Managed Expenses of Government, where a net amount of Rs232.1 m. was required for entitlements as follows –

- (i) Firstly, Rs159.2 m. for payment of accumulated passage benefits to eligible officers who encashed their benefits during the year;
- (ii) Secondly, Rs99.9 m. for payment of accumulated vacation leave and sick leave to a higher number of officers who proceeded on retirement;
- (iii) Thirdly, Rs23 m. as Government's contribution towards the Defined Contribution Pension Scheme due to an increase in the number of officers joining the Civil Service, and
- (iv) Fourthly, Rs0.6 m. for effecting book adjustments in respect of write-off of advances for years 1981-1986 and 2005-2009.

The excess was actually Rs282.7 m. but was partly offset by under-spending of Rs50.6 m. in other items of expenditure under the same Vote.

Madam Speaker, four other Votes require a supplementary amount of Rs42.2 m. as follows –



- First, a net amount of Rs29.6 m. under Vote 22-1 Ministry of Social Security, National Solidarity and Reform Institutions.

This amount was mainly required for payment of Social Aid, Basic Retirement Pension and other basic pensions following the increase in pension rates with effect from 01 January 2017. In addition, there was a higher number of beneficiaries.

The excess was actually Rs305 m. but was partly offset by under-spending of Rs275.4 m. in other items of expenditure under the same Vote.

- Second, a net amount of Rs9.2 m. under Vote 1-5 Office of the Electoral Commissioner largely for payment of fees in connection with the house-to-house inquiry for the registration of electors;
- Third, Rs3.3 m. under Vote 2-6 Prison Service due to payment of allowances to prison officers as per the PRB Report, and
- Lastly, Rs0.1 m. under Vote 1-4 Electoral Supervisory Commission and Electoral Boundaries Commission. This was required for payment of allowances to the Chairperson and Members of the Commission that was reviewed upward in the 2016 PRB Report.

I wish to inform the House that even after taking into account this supplementary appropriation of Rs274.3 m. the total actual expenditure for Financial Year 2016-2017 is significantly below the total sum that was originally appropriated.

The recurrent budget deficit for the 2016-2017 Financial Year is 1.9% of GDP, that is, below the budgeted figure of 2%, and the actual overall budget deficit is 0.2% above the estimate.

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

**The Deputy Prime Minister rose and seconded.**

**Madam Speaker:** Hon. Armance!

(11.40 a.m.)

**Mr P. Armance (First Member for GRNW & Port Louis West):** Thank you Madam Speaker. So, we are being called today to approve supplementary expenses of the Government for the Financial Year 2016/2017.

If I recall well, Madam Speaker, this is the third supplementary budget that we are approving since this Government took office. We had a first one in 2015/2016, a second one in 2017/2018 and today we have the 2018/2019.

I fail to understand, and this is one of my observations, in that in June we came to approve Rs2 billion that were transferred to National Environmental Fund and yet, we have not included the budget required for year 2016 and 2018. This is an observation. Why has this been left over by the Government in June because this was long due anyway. It should have been included; in June we were in such a hurry to move the Rs2 billion fund from other funds to the National Environmental Fund. This is one of my first observations regarding the Bill.

Madam Speaker, since Friday we had been very busy in this House debating on the amendment to the Constitution. In the middle of the debate today, the Prime Minister brings this Bill to the House and today is Tuesday. Tuesday, we usually have questions and Bills. Because the Bill has come to the House today, a Tuesday, we, MPs, are not been able to put any question. I will make an appeal to the hon. Prime Minister. Next time, he needs to bring a Supplementary Bill to the House, if he can please choose another day instead of a Tuesday. I know; I am not making policy, I am just making an appeal to him.

**Madam Speaker:** That does not form part of your speech on this Appropriation Bill.

**Mr Armance:** Coming to the Bill, Madam Speaker, there have been five items totalling a sum of Rs274,000. Indeed, this is a huge sum of money; money from tax and public money. It is good to know that this money has been spent already and we are just now coming after two years for the approval.

Vote 1-4 –Electoral Supervisory Commission and Electoral Boundaries Commission, there is an amount of Rs112,000 required and we would like to find out from the Finance Minister, why there have been two additional advisers for the period of six months? Of course, I will come back to this during the Committee of Supply, but yet we really want to understand where is the need to have additional advisers?

Again, regarding the increase of fees payable to the Chairman and the Members of the Committee, was the Finance Minister not aware that there would have been recommendation by the PRB and that he should have budgeted same in his Budget instead of now coming to the House?

Same observation goes to Vote 1-5 - Office of Electoral Commissioner. It is only now that we are approving fees payable for house to house investigation, while this is known that

this house to house just took place and I fail to understand why this has not been budgeted before. We know that somewhere, somehow, someone has failed to do his duty and now we have to allocate Rs9.1 m. to his office.

Vote 2-6, Madam Speaker, Prison Services, goes to the same observation that this was wrongly planned. We should have included salary increase already in the Budget and made provision for the PRB report. Now, Madam Speaker, let us come to the Vote 22-1 – Social Security, National Solidarity and Reform Institutions, an extra sum of more Rs29 m. has been required for fiscal year 2016/2017. There has been some flood yesterday over the island, Madam Speaker, the report for the Ministerial Committee is still outstanding regarding the recommendation of an amelioration. The Leader of the Opposition clearly made his point with during a PNQ. Madam Speaker, why am I saying, is that we cannot plan when it is going to rain or there will be flooding. For many years now, the Government has been providing flood allowance for houses being affected by rain and flooding. I believe that the Government has not yet understood that it is better to *prévenir que guérir*. Maybe hon. Sinatambou will give me some explanation about it and we will come again, of course, in the Committee of Supply. What I am saying here is that he could have planned properly for the flood allowance? This is not going to change, Madam Speaker. Every year this number is going to increase.

Now we have to take the matter more seriously. Instead of every time paying huge amounts of money and then come to the House with a supplementary budget, if he can tackle this issue now so that this does not happen again. The same story goes to the social aid. It is again high time to find a solution in the long term. As for persons benefiting from social aid, he mentioned in the Bill that there is a high number of beneficiaries, but again this is going to keep on increasing. The Ministry needs to look deeply into the matter and come with sustainable solutions. We cannot come every time and say that the numbers have increased; now we need more budgets. We just need at one go to plan properly. He has all the database of people, their age etc.; so he has to plan it properly. We cannot come here again every year and say: there is a number of increasing demand. He said his Ministry has the biggest budget of the whole Government. He is right! He also needs to understand that he has to be more efficient and plan properly for the expenditure. I mean every year there is an increase. Why not make some accruals and then offset it again at the end of the financial year if not use? Indeed this is basic accounting practical practice.

Before I finish with the Vote, let me come to one item that retained my attention, it is

item 22900 - *Other Goods and Services payment for catering Services* - I would like the Minister to come forward with the names of the suppliers for this particular fiscal year during the Committee of Supply. I would like to know what has been the variation to the contract of Rs8.1 m. allocated to this company? Why has there been an extra demand for a budget? So, we will come back on this later on.

Lastly, the Centrally Managed Expenses of Government, on a general note, Madam Speaker, I have noted there have been an increase number of requests to cash passage benefits. Madam Speaker, we note that an amount of R650 m. was budgeted and yet we have provided an additional of another Rs150 m. to meet the requirement. One should ask oneself: why is there a huge demand to cash the passage benefits? Why is there such a need for the civil servants to ask for a cash benefit instead of taking advantage of their passage benefits? This is in the Bill. Should we now conclude that the Civil Servant is no more interested with the passage benefits and that their purchasing power has decreased due to the high costs of living.

To conclude, Madam Speaker, I would like to refer to the figures that are in the Bill; recurrent and capital. Under recurrent item, there is a total of Rs252 m. that has not been spent and under the capital item, there is a total of Rs150 m. that has not been spent. My first observation, Madam Speaker, is that the budgeted value for capital projects for the fiscal year that has been unutilised is more than Rs150 m. Why is the Government budgeting for capital projects and the value for Rs150 m. is still unutilised and allocated under other expenses? The highest figures not utilised is with the Ministry of Social Security.

Should I remind the House that there is one Minister who takes care of two Ministries and you can see the result of his performance now? Is there no requirement for projects in this Ministry? Same goes to the recurrent item, Rs162 m. Above the Rs274 m. that the hon. Minister of Finance has asked now, one should understand that the total amount of money that has been spent for the Financial Year 2016/2017 is more than that? The total amount is Rs642 m. and yet underspending over Rs115 m. on capital projects.

Can we conclude that the Government is not focussing on capital projects and allocating the budget elsewhere for other items? How could the Government underestimate a budget by Rs642 m.? Madam Speaker, how can hon. Minister of Finance come to the House today, presenting a Supplementary of Rs274 m. while the figures talk by themselves? It is Rs642 m. that he has overspent in the budget, not Rs274 m.

I will conclude here, Madam Speaker, and I believe now we need a full-time Minister at the Ministry of Finance so that next year we do not have such occurrences again. With these words, I thank you.

**Madam Speaker:** Hon. Sinatambou!

(11.52 a.m.)

**The Minister of Social Security, National Solidarity, and Environment and Sustainable Development (Mr E. Sinatambou):** Madam Speaker, I am honoured and privileged to be given the opportunity of addressing this august Assembly in respect of this Supplementary Appropriation (2016-2017) Bill this morning.

As the hon. Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development stated earlier, this Bill makes provision for a supplementary appropriation of a total sum of Rs274.3 m. of which Rs29, 645,000 is for my Ministry, the then Ministry of Social Security, National Solidarity and Reform Institutions and now the Ministry of Social Security, National Solidarity, and Environment and Sustainable Development.

Now, I must say, Madam Speaker, I was in this Assembly, first, about 15 years ago and as a matter of fact, I can hardly recall a Supplementary Appropriation Bill not being passed on a Tuesday. So, when the hon. Member comes here and his own leader has been a Minister of Finance, as I said I cannot recall, in the last 15 years, a Supplementary Appropriation Bill not being passed on a Tuesday. I think, this smacks of bad faith that you now come and allege that you are being prevented from asking questions. This has been, I think, the cursum of the House, more often than not, and I believe that this is the type of argument which is most unfair coming from the Opposition.

Now, the Estimates of Supplementary Expenditure, commonly referred to as the ESE, is a recurrent feature in the Financial Ecosystem of the Government. Indeed, the Financial Management Manual has made provision for the ESE because budgeting and financial forecasting has never been an exact science. I heard the hon. Member who spoke before me rightly saying *mieux vaut prévenir que guérir*. But surely he cannot expect me, as a Minister, to actually plan and forecast for rain or flooding. But this is the time of demagoguery which now wins the day on the other side of the House.

Now, we are all aware that the Budget process is a long one and involves a lot of consultations, discussions and negotiations. The preparation started as far back as late

February or early March in each financial year with the issue by the Ministry of Finance and Economic Development of the Budget Circular. And then, the Appropriation Bill is passed in the National Assembly sometime in June. I think, this is why it is so unfair to now come and make big pretences because indeed, for all Governments throughout the ages, this has made prediction quite challenging and in most cases, there are bound to be unforeseen circumstances where the budgeted items have been underestimated.

In fact, Supplementary Appropriation Bills are shall I say a *cursus*, an annual conventional happening in this House and we cannot say that we have just discovered America on the map although some might be alleging show on the other side of the House. In fact, the Estimates of Supplementary Expenditure is a healthy exercise which allows the National Assembly, as the guardian and the holder of what I shall call the national purse to request accounts for each cent voted and to be satisfied that same has been spent for the purposes for which it was voted.

Today, this morning, Members of the House would be required to vote the Expenditure incurred in excess of the Expenditure appropriated by the Appropriation Act of 2016, covering Financial Year 2016/2017. The total amount, as stated earlier, amounts to Rs274.3 m. for both recurrent and capital expenditure but it is interesting to note for services relating to five votes only out of a total of 29 votes normally. Thus, the Estimates of Supplementary Expenditure relates to only five Ministries/Departments for which a Supplementary Appropriation has been required. I must stress, Madam Speaker, had those expenditures not been incurred, the services of Government would have suffered in one way or another, and this to the detriment of our citizens.

With your permission, Madam Speaker, I will now say a few words about my own Ministry since this seems to be a major concern for the previous orator before me. As the House is aware, yes, the Ministry of Social Security, National Solidarity takes the lion share of the national budget. For 2016/2017, a total sum of Rs21, 235,000,000, including both recurrent and capital expenditure was voted by the National Assembly. But it is not out of bad management or out of miscalculation that Supplementary expenditure has had to be incurred. As a matter of fact, the amount which appears in the Estimates of Supplementary Expenditure in the Second Schedule of the Supplementary Appropriation Bill relating to my Ministry represents slightly more than 10% of the total amount to be voted.

The additional amount of Rs29.6 m. under *vote 22-1* of my Ministry was mainly due to the increase in pension rates paid as from January 2017 in respect of basic retirement pension and other pensions. An increase in the number of beneficiaries is another reason and so much to be said about the previous orators' words about planning, as if it was bad planning. It has been the cursus that any increase in pension rates is not actually inserted in the Appropriation Bill for the current Financial Year. So, it is quite misleading to come and allege that there is miscalculation on the part of my Ministry.

However, it is good to know that the beneficiaries of basic retirement pensions increased to Rs201,372 in June 2017 and the basic pensions were adjusted by the full amount of compensation provided to the lowest income range. Now, it is good here to remind all those who seem to have consciously or unconsciously forgotten that in that particular Financial Year which is under review today, pension was for those aged 60 years and above brought upward to Rs5,450 from the Rs3,623 from the former regime. For beneficiaries aged 90 years and above, the pension for the year, which is now under review in this august Assembly, was increased to Rs15,450 per month, compared to Rs10,789 per month under the former Regime, more than one monthly pension, compared to those aged 60 years and above. And for centenarians, under the Supplementary Appropriation Bill, which is before this House, the pension was brought to Rs20,450, increased from the figure of Rs12,300 under the previous Regime, an increase of more than Rs8,000, Madam Speaker, which represents two pensions of the former regime.

So, coming now to say: 'Oh, there has been mismanagement that the Government should have planned earlier', this is the way it has been done. In fact, the country will see that we have been working for the betterness of the population of this country. Maybe, I should say quickly that the allowances paid under the social aid were also increased. To name just one, Madam Speaker, funeral grant for the year under review was increased from Rs4,950 to Rs10,000, double.

Moreover, under the social aid, payment for child allowance to beneficiaries was increased from 65.4 m. in 2015-2016 to 85.5 m. in 2016-2017. I also wish to inform the House that as from January 2017, the payment of an income support under the child allowance scheme to the wards of households living in absolute poverty, who attend school regularly, were paid by the Ministry of Social Integration and Economic Empowerment, but the transfer of funds had to be made from my Ministry and this is what is actually also under this estimate of supplementary expenditure.

Now, Madam Speaker, the excess in expenditure from my Ministry was disbursed, I stress that, for a just and noble cause. I have no hesitation in joining the Prime Minister to request Members of the National Assembly to vote not only for this Bill but, indeed, even for this excess in expenditure for my Ministry because, as I stated earlier, it was disbursed for a just and noble cause, because the expenditure there relate mainly to pension paid to the elderly and payments of relevant allowances that provide some relief to the needy and vulnerable groups of our society.

This Government has always stood by the side of the downtrodden and will continue to do so. Madam Speaker, indeed, money matters, but the care, welfare and the wellbeing of our citizens matter most.

I thank you for your kind attention.

(12.04 p.m.)

**The Prime Minister:** Madam Speaker, let me thank the two hon. Members who have intervened on the Supplementary Appropriation Bill.

Let me start by saying that ESEs are very common and, in fact, they are the very tool that allows us to legislate whenever there is over-expenditure with regard to vote items and whenever there is any over-expenditure for any project as such.

I must say I am surprised that the hon. Member has chosen to raise this issue of why we have come with the ESE on a Tuesday. Well, let me say, first of all, he has not been in Government that long, but his party has been in Government and there have been so many previous Governments, all Governments, which have, through the Minister of Finance, brought a Bill for supplementary expenditure in this House and, on many occasions, it has been fixed on a Tuesday. And then, it is the prerogative of Government to decide on the agenda and to decide on Government business and, as it is a priority, as we have so many Bills - anyone can see how much work - we are sitting every day. So, I do not find anything abnormal or exceptional.

But let me tell him something else. Madam Speaker, I have very civilised relationship with the Leader of the Opposition, first of all because the Leader of the Opposition is a constitutional post. And do not conclude anything from what I am going to say, but we do communicate from time to time on issues of business of the House and so on. But as a man of principle, I will only request the hon. Member to ask the hon. Leader of the Opposition on



this issue that he has just made today. Just ask him and he will give you the answer. I will not give the answer in this House.

Now, hon. Armanee is saying: 'Ah, why is it that there has been over-expenditure with regard to those votes? We should have planned'. There are certain things that you cannot foresee; you cannot already plan. We would have liked to. As I mentioned, by Section 105(3) of the Constitution, we are required and we are obliged to come forward with an ESE whenever there is spending which is above that which has been voted in Parliament, whenever a Budget is presented.

Let me re-emphasise what I said. This ESE is the lowest supplementary expenditure which has been presented to this House for more than a decade; we are talking since Financial Year 2005-2006. What does it mean? It shows, at least, the effectiveness of public finance management and the control mechanism that we have put in place to monitor expenditure.

As I said, what is the bulk of the supplementary expenditure about? It is about the 2016 PRB Report and its implementation thereof. It is about increase in basic pension rates. It is about payment for accumulated passage benefits to eligible officers. It is about accumulated payment of accumulated vacation leave and sick leave to higher number of officers. It is about contribution towards defined contribution pay pension scheme due to an increase in the number of officers joining the Civil Service, Madam Speaker. Why is it that at times we cannot forecast what is going to be the exact expenditure? Let me take an example. Passage benefits to Public Officers; it is an option for them. They can choose, they have different options, and some of them decide to encash their benefits. So, what do we do? It is only at a certain point in time that then we see that the expenditure with regard to those payments has increased and gone beyond what was already budgeted and, therefore, that is why I have said we need to come to Parliament to get approval of Parliament.

The hon. Member has also said - it is good that I just mention it. I did not want to go into that, but hon. Sinatambou has dealt with it. On so many other occasions, when his leader himself was Minister of Finance, he has brought in this House ESEs. Let me mention the amount that was requested to be approved by Parliament. In 2012, it was Rs2,082,000,000. In 2013, it was Rs5,889,000,000. Well, just to say that the point that I am making again is, first, that it is not abnormal, and I am not saying that that was also abnormal. That was normal because there has been over expenditure.

Concerning what hon. Armanca said with regard to the National Environment Fund, I am informed that the ESE for the National Environment Fund was for Financial Year 2017-2018. Why was it not included? The ESE cannot be included in the ESE for Financial Year 2016-2017 because they are for two different accounting periods.

The point that the hon. Member made also with regard to underspending of Capital Expenditure, again, I am not the one who will come and say that it is acceptable. In fact, we voted in this House. We would wish that all the projects are completed on time; we would wish that all the money that has been voted is spent because we want to realise as many projects as possible, but underspending does occur every year, under all governments. It does happen not only for Capital Projects but also for Recurrent Expenditure. Now, there are various reasons for that. Sometimes, there are delays; sometimes, projects are not implemented because there has been a challenge, it goes before the IRP.

There are also procedures that we believe would take such a time but, unfortunately, take much longer; there are feasibility studies. At some point, I remember we have difficulty with getting the right consultant and so on and so forth. So, it is not, let us say, for negligence on our part or not for want of willing to go forward with projects that these underspendings happen. But, of course, we have to see to it that there is no underspending because of, let us say, lashes on our side and from each Ministry's point of view, each one obviously has to follow up on those projects and see to it that they are completed in time.

Therefore, Madam Speaker, I don't think I have to be longer than that. As I say, it is usual practice and since this one is one of the lowest in terms of the amount that we are asking Parliament to approve, I see that we have progressed, and I hope that in the future, if ever we come with ESEs, it will be still less than what we are being asked to vote today.

Thank you, Madam Speaker.

*Question put and agreed to.*

*Bill read a second time and committed.*

## **COMMITTEE OF SUPPLY**

*(Madam Speaker in the Chair)*

### **THE SUPPLEMENTARY APPROPRIATION (2016-2017) BILL**

**(NO. XIV OF 2018)**

*Vote 1-4 Electoral Supervisory Commission and Electoral Boundaries Commission was called.*

**The Chairperson:** Hon. Uteem!

**Mr Uteem:** Under *Item 21110.004 – Allowances*. Can I know from the hon. Prime Minister the name of the two advisors and their tasks and duties?

**The Prime Minister:** Well, the information I have is for the Technical Support in the context of the exercise for the next review of Boundaries of the Constituencies of Mauritius. They are two newly appointed advisors, Mr M. Veerasamy and Mr S. Awatar for a period of six months with effect from December 2016.

**The Chairperson:** Hon. Armance!

**Mr Armance:** Under *Item 21110.001 - Basis Salary*, can we have the list of the Members and Chairperson, and the respective fees payable to them?

**The Prime Minister:** Yes, we have it; but, I don't have it with me. I think I will table it. I will just mention the names –

- (i) Mr Yusuf Hassam Aboobakar,
- (ii) Mr Désiré Basset,
- (iii) Mrs Narghis Bundhun
- (iv) Mr Oograssen Devpal Cowreea,
- (v) Ms Vedita Devi Peerun,
- (vi) Mr Georges André Robert.

Well, this one is an old list because I know that the last one has been replaced. At least, there was a vacancy and I know Mrs Attorney Ragavoodoo also is Member of that.

*(Interruptions)*

**The Chairperson:** Please!

**The Prime Minister:** Yes, let me clarify. I thought it was actual membership. So, it was for that period. Mr Pramahunse Bissessur was then a member.

**The Chairperson:** Hon. Lepoigneur!

**Mr Lepoigneur:** *Item 22060 Maintenance - Additional provision required to meet cost of urgent repairs of a photocopier.* Is it for repairs or it is not necessary to buy a new one?

**The Prime Minister:** Well, it says here for urgent repairs, not for buying a new one.

*Vote 1-4 Electoral Supervisory Commission and Electoral Boundaries Commission (Rs112,000) was, on question put, agreed to.*

*Vote 1-5 Office of the Electoral Commissioner was called.*

**The Chairperson:** Hon. Ms Sewocksingh!

**Ms Sewocksingh:** *Item 22060 - Maintenance.* Can the hon. Prime Minister give us some details about this item?

**The Prime Minister:** This is for urgent repairs of equipment. I do not have what is this equipment. So, it is hardware maintenance agreement with State Informatics Limited and other minor repairs of IT equipment.

**The Chairperson:** Hon. Armance!

**Mr Armance:** Thank you, Madam Chairperson. Under item 22120.015 – *Fees icw Registration of Electors – Additional provision required for payment of fees to officers who performed house-to-house inquiry for the registration of electors*, may we know how many officers were involved in this exercise and why has - the Budget is Rs50 m. - there been a very huge demand for increase?

**The Prime Minister:** Well, additional provision was required to meet the accommodation cost of 18 officers of the Office of the Electoral Commissioner and of the Police Department proceeding to Rodrigues in connection...

**Mr Armance:** The Prime Minister is reading the wrong answer.

**The Chairperson:** It is item 22120.015 – *Fees icw Registration of Electors – Additional provision required for payment of fees to officers who performed house-to-house inquiry for the registration of electors.*

**The Prime Minister:** Well, at the time of the Budget exercise, it was not yet finalised that the house-to-house inquiry would be carried out. However, following requests from the Electoral Supervisory and Boundaries Commission to review electoral boundaries, it was

decided to perform house-to-house inquiry for the registration of electors for 2017. The number of officers involved: 2,397.

**The Chairperson:** Hon. Uteem!

**Mr Uteem:** Before asking my question, Madam Chairperson, just for guidance, are we going to do page by page questions?

**The Chairperson:** Sure, page by page!

**Mr Uteem:** So, on this page under item 22170 – *Travelling within the Republic*, may I know from the hon. Prime Minister how many officers travelled to attend the Rodrigues Regional Assembly elections and when choosing this hotel they stayed in, was there any tender before choosing the hotel where they stayed?

**The Prime Minister:** Well, this is what I was saying previously, that to meet the accommodation cost of 18 officers, some of the Office of the Electoral Commissioner and of the Police Department. Now, whether there has been a tender for hotel, I doubt if for such an amount there would be tender. I believe there was no tender.

**The Chairperson:** Hon. Armance, is it on the same page? Page 3? You have a question on page 3. OK.

**Mr Armance:** Thank you, Madam Chairperson. Under item 22170 – *Travelling within the Republic*, since there is a huge demand to go to Rodrigues and there has been some cost for accommodation, may we know from the Prime Minister why has there been this demand to travel to Rodrigues? How many officers have travelled there and the cost for the accommodation?

**The Chairperson:** The hon. Prime Minister just replied.

**The Prime Minister:** Well, I have just answered that the additional was required for 18 officers. But I do not know which hotel they stayed at.

**The Chairperson:** Same page, hon. Abbas Mamode!

**Mr Abbas Mamode:** Under item 22170 – *Travelling within the Republic*, why is it only limited to Rodrigues? Why Agalega is not included for the MPs to visit Agalega?

**The Chairperson:** The regional election. Next page! Does the hon. Prime Minister want to reply?

**The Prime Minister:** Yes. Because the hon. Member should realise we are talking about Estimates of Supplementary Expenditure. Whenever it is with regard to a particular expenditure, it concerns Rodrigues, it is Rodrigues. Now, why is it if there is none for Agalega but I can give you...

*(Interruptions)*

I hope you are not being confused with the fact that the Commission is not doing the same registration for electors of Agalega. They do it. I can assure you they do it.

**The Chairperson:** Page 4, hon. Ms Sewocksingh!

**Ms Sewocksingh:** Under item 22900 – *Other Goods and Services – (i) cater for increase in the rates of uniform allowance*, can the hon. Prime Minister give us more details about this item, please?

**The Prime Minister:** As per the Ministry of Civil Service and Administrative Reforms Circular Letter No. 20 of 2016, the uniform allowance payable was revised as follows (effective from 01 January 2016) –

- Category 1 (allowance excluding cardigan) :Rs4,280;
- Category 2 :Rs4,010, and
- Category 3 :Rs3,890.

Then, there are also additional uniform allowances effective from 01 January 2016 –

- Category 1 (additional allowance excluding cardigan) :Rs280;
- Category 2 :Rs260, and
- Category 3 :Rs255.

*Vote 1-5 Office of the Electoral Commissioner (Rs9,170,000) was, on question put, agreed to.*

*Vote 2-6 Prison Service was called.*

**The Chairperson:** Hon. Baloomoody!

**Mr Baloomoody:** With regard to the personal emoluments and the payments we are doing with regard to the PRB, can I know from the hon. Prime Minister whether the sum includes bonus allowance as prescribed by the PRB?

**The Chairperson:** The hon. Member is referring to item 21110 - *Personal Emoluments?*

**Mr Baloomoody:** Item 21110 - *Personal Emoluments*, yes, all the PRB recommendations. I found that we are paying sick leave. What about the bonus allowance as prescribed by the PRB?

**Sir Anerood Jugnauth:** Well, it is salary compensation, additional provision required following the award of the salary compensation with effect from January 2017. No provision was made in respect of salary compensation for year 2017 during the preparation of Estimates 2016-2017. Hence an amount of Rs951,000 was spent for salary compensation as from January to June 2017 in respect of staff posted at the Mauritius Prison Service.

**Mr Baloomoody:** My question was about the bonus allowance. We see that all the recommendations of PRB are being paid. What about the bonus allowance? Does it include?

**The Chairperson:** Does it include bonus allowance?

**Sir Anerood Jugnauth:** We are not claiming anything in ESE about bonus allowance.

**The Chairperson:** Hon. Uteem!

**Mr Uteem:** Thank you, Madam Chairperson. Under the last item 21111.100 – *Overtime* on the page, can I know from the Rt. hon. Minister Mentor why were these overtime paid and why was there a double in the amount budgeted for payment of overtime?

**Sir Anerood Jugnauth:** Well, additional provision required for payment of overtime to staff for data input in Human Resource Management Information System.

**The Chairperson:** Hon. Abbas Mamode! Page 5? No more questions. Page 6, hon. Uteem!

**Mr Uteem:** Thank you, Madam Chairperson. In relation to item 31112.011- *Construction of Prisons – Additional provision required to meet final payment to contractor for construction of the prison for Pirates at Beau Bassin*, may I know from the Rt. hon. Minister Mentor the name of the contractor, the initial contract value and the reason for the cost overrun?

**Sir Anerood Jugnauth:** Well, I do not have the name of the contractor. Maybe it is not available! We will circulate it when we will get it.

**The Chairperson:** Hon. Bhagwan!

**Mr Bhagwan:** Thank you, Madam Chairperson. On the same item, construction of the prison for Pirates, being given that it is in my Constituency at Beau Bassin, can we know whether this prison for pirates is operational and since when? How many of these VIP pirates are sleeping there?

**Sir Anerood Jugnauth:** Repatriated! Now, it is being occupied by foreign detainees.

**The Chairperson:** Hon. Armance!

**Mr Armance:** On the same item, Madam Chairperson, may we know the start date of the project and when was it completed? Has there been any variation order from Government side to the contractor for any cost overrun?

**Sir Anerood Jugnauth:** Well, from the note that I have here, the project value was Rs43,927,700.93 and it was funded by the United Nations Office on Drugs and Crime. The project started on 07 June 2013 and was completed in September 2014. Now, it is being occupied by foreign detainees.

**The Chairperson:** Hon. Baloomoody!

**Mr Baloomoody:** I just want some clarification, under *Item No. 31122.999 - Additional provision required for the purchase of one generator and four breathing apparatus*. May we have some particulars on that breathing apparatus and it is used by whom?

**Sir Anerood Jugnauth:** I see that additional provision was required for the purchase of one generator. Four self-contained breathing apparatus were acquired by the Prisons Department to be used by rescue staff members during interventions in emergency situations like fire breaks in areas containing smokes and deadly gases.

**The Chairperson:** Hon. Baboo!

**Mr Baboo:** Madam Chairperson, under *Item No. 31122.999 - Additional provision required for the purchase of one generator and four breathing apparatus*, may we know what is the cost of the generator and the capacity in terms of KVA?

**Sir Anerood Jugnauth:** The sum is Rs3,891,470.

**The Chairperson:** Hon. Adrien Duval!



**Mr A. Duval:** Under *Item No. 31112.011*, with regard to the pirates prison, is the programme to incarcerate and try pirates in Mauritius still ongoing because the hon. Minister Mentor said that they are now being repatriated.

**Sir Anerood Jugnauth:** I suppose it is still ongoing.

**The Chairperson:** Hon. Abbas Mamode!

**Mr Abbas Mamode:** Concerning same item, Madam Chairperson, *31122.999*, was a procurement exercise carried out and who is the successful tenderer?

**Sir Anerood Jugnauth:** It was supplied by ProSafe and Company Ltd. on 15 June 2017.

*Vote 2-6 Prison Service (Rs3,262,000) was, on question put, agreed to.*

*Vote 22-1 Ministry of Social Security, National Solidarity and Reform Institutions was called.*

**The Chairperson:** Hon. Mrs Perraud!

**Mrs Perraud:** Under *Item No. 21111, Other Staff Costs* - payment of overtime, I would like to know the hours of overtime and how many staff is concerned?

**Mr Sinatambou:** I cannot give the number of hours. What I can say is that the overtime allowance was paid to Social Security Officers, Higher Social Security Officers, Senior Social Security Officers and Principal Social Security Officers. Now, the payment was made as follows -

- for the payment of child allowances, it was Rs197,938 to 32 members of staff for the period May and June 2017, and
- the amount of Rs415,149 for 39 staff for the month of July 2016. Now, this amount also covers the payment of flood allowance. There, payment of Rs232,951.25 have been made to 17 members of staff for the month of October 2016.

All in all, I do not have the number of hours as I said, but I can give the following details to the hon. Member. A payment for a total amount of Rs85,555,109 was made for child allowance under different schemes during the year 2016/2017.

**The Chairperson:** Hon. Uteem!

**Mr Uteem:** Under *Item No. 22900 - Other Goods and Services*, provision is being made for the payment to meet catering services. So, may I know from the hon. Minister who won the contract for the catering services and whether there was a tender exercise before selecting the successful bidder?

**Mr Sinatambou:** All procurements are normally done by way of tender. So, in this particular instance, *under item no. 22900*, the payment for catering services was made for the three separate recreation centres and they are as follows –

- the one in Pointe aux Piments was won by Tropical Times Ltd;
- the one at Pointe aux Sables was won by Mythos Company Ltd, and
- the one at Belle Mare was won by Tropical Times Ltd.

I must say there is also a particular additional expense for catering expenses for the International Day of the Elderly in 2017.

**The Chairperson:** Hon. Ganoo!

**Mr Ganoo:** I am intervening on item *21111 Other Staff Costs - Additional provision required for payment of overtime to officers who had worked extra hours for timely payment of flood allowances to eligible beneficiaries*. I am concerned about flood allowances. Can I ask the hon. Minister what is the nature of the work undertaken by the officers who had worked extra hours?

The point of my question is whether these officers also went on site to verify when a complaint of flood has been made by the complainants because now I understand that it is the Police Officers of the region who do that and not, as in the past, Social Security officers who went on site whenever a complaint was made.

**The Chairperson:** Will the hon. Member be brief when he asks his questions please!

**Mr Sinatambou:** Regarding item *21111*, Madam Chairperson, I note that a payment of an amount of Rs6, 648, 828 was made in respect of flood allowances. That was at the rate of Rs169 per member of household in 2016/2017. I only become Minister of Social Security after that financial year, so my knowledge is that it is normally the Police who go and inspect the premises of people whose houses have been flooded to actually confirm that their goods have actually been damaged.

**The Chairperson:** Hon Bhagwan!

**Mr Bhagwan:** Item 21111 *Other Staff Costs - Timely payment of child and flood allowances to eligible beneficiaries*, can we know - if I have not heard you excuse me - the quantum of the allowances? If we can have the details of the allowances as to whether within the quantum how much is for biscuits, how much is for water, how much is for the other components and what type of biscuits also? If the hon. Minister do not have the information, he can circulate it.

**Mr Sinatambou:** I will certainly do. The House will know that the provision of biscuits and water is a long-standing one which goes more than two decades. Even when the hon. Member was a Minister, this is what was being given under the Prime Ministership of his own leader. He ought to know that. As a matter of fact...

*(Interruptions)*

**The Chairperson:** Order!

**Mr Sinatambou:** As a matter of fact, I was astounded to learn when I became Minister of Social Security that what was being bought was one packet of biscuit per refugee centre. This is how miserly it was when they were in Government. So, this has been increased now...

*(Interruptions)*

**The Chairperson:** Order!

*(Interruptions)*

Order!

*(Interruptions)*

Order!

*(Interruptions)*

Order!

*(Interruptions)*

**Mr Sinatambou:** It hurts, I see it hurts!

*(Interruptions)*

Why look for it?

*(Interruptions)*

You look for it!

**The Chairperson:** Hon. Bhagwan, your language should be moderate!

*(Interruptions)*

**Mr Sinatambou:** Madam Chairperson, everything was so quiet, they had to...

**Mr Bhagwan:** He can eat some biscuits and refresh his memory.

**The Chairperson:** Hon. Bhagwan, I am just drawing your attention to the fact that your language should be moderate. We are in the Committee of Supply; your language should be moderate. Hon. Minister!

**Mr Sinatambou:** I thought, Madam Chairperson that this refresher on biscuits and water should be brought to the attention of the House and of the Nation as a whole. Let me now come to the figure. The hon. Member wanted to know the quantum which is made per person. Now, for that particular financial year, Madam Chairperson, the payment for child allowance was Rs168. It ranges from Rs168 to Rs1,438. And for the payment of flood allowance, it was Rs169 per member of households.

**The Chairperson:** Hon. Baloomoody!

**Mr Baloomoody:** Thank you, Madam Chairperson. Item 22100 *Publications and Stationery - Additional provision required for the provision of "payment cards"*, may I know what is the criteria for these payment cards and what is the quantum?

**Mr Sinatambou:** I must say that I myself was a bit surprised what are payment cards. What I know is that this particular budget item is for the purchase of payment cards for a total amount of Rs174,200,095. Now, what I understand those payment cards are, Madam Chairperson, is that they are serially numbered forms filled in by Social Security officers, inserting the name of the beneficiary and the amount of social aid to be paid. It is signed, stamped and handed over to the beneficiary in duplicate for immediate encashment at the nearest Post Office.

**The Chairperson:** Hon. Baboo!

**Mr Baboo:** Item 22900 *Other Goods and Services*, as we have just heard from the hon. Minister, three different contractors have got the contract regarding the three Recreation Centres concerning the provision. May we know what is the value of the contract for each contractor?

**Mr Sinatambou:** In fact, the hon. Member is slightly inaccurate. The three contracts have been won by two contractors, not by three different contractors. Now, the first one for Pointe-aux-Piments was for an amount of Rs5, 954, 098. The second one for Belle Mare was for an amount of Rs3,053,918 and the third one for Pointe aux Sables was for a total amount of Rs3,302,363.

**The Chairperson:** Last question, on page 7, hon. Ganoo!

**Mr Ganoo:** Can I ask the hon. Minister, in the light of the answer he just gave that the...

**Mr Sinatambou:** Which item?

**Mr Ganoo:** First item. He has confirmed that the allowance given to the flood victims is Rs169 per person. Will that stay the same for next year and doesn't he think that the quantum should be different depending on the extent of flooding in the houses because some people have their ration and everything damaged as a result of the floods?

**The Chairperson:** Well, this is a policy question.

**Mr Sinatambou:** In fact, that amount is increased annually, Madam Chairperson.

**The Chairperson:** Page 8, hon. Uteem!

**Mr Uteem:** Thank you, Madam Chairperson. Under item 27210.002 *Social Aid*, Can the hon. Minister provide us with a breakdown of the number of beneficiaries entitled under each different types of Social Aid?

**Mr Sinatambou:** Not for each, but what I can give the hon. Member is that this amount under item 27210 includes, for example, an increased payment for income support for rice and flour. I don't have the figure. For the increase in child allowance, I also don't have the figure. What I have is the number of households which is 17,855 households which actually comprise of 24,767 children who received an amount of Rs85.5 m. in the year 2016/2017 for child allowance. That is the only information I have. For the rest, I will gladly submit the numbers to the hon. Member.

**The Chairperson:** Hon. Ms Sewocksingh!

**Ms Sewocksingh:** Under item 28212 *Transfers to Households – Additional provision required to meet the repatriation costs for nine Mauritian Nationals in distress in*

*Madagascar are and for payment of cash gift to Centenarians.* Can the hon. Minister give us more details about this item?

**Mr Sinatambou:** The information I have is that the payment of airfares for the nine Mauritians amounted to Rs107, 721. Other related expenses amounted to Rs12, 262.40 that comprise hotel, food and transport. That is what I have. That is very difficult for me to say here and now, I shall get the identity of the individuals and submit them to the hon. Member.

**The Chairperson:** Hon Baloomoody!

**Mr Baloomoody:** Under the same item, Madam Chairperson, it says additional provision, we are talking about additional provision for the nine who were stuck in Madagascar. May I know from the hon. Minister, during that financial year, how many in all were assisted? How many patriates were repatriated?

**Mr Sinatambou:** I understand that 11 in all were repatriated.

**The Chairperson:** Hon. Abbas Mamode!

**Mr Abbas Mamode:** Concerning item 26313.081, how many staff are concerned, the number of staff involved?

**The Chairperson:** It is 26313.

**Mr Sinatambou:** No, I do not have the figure, unless I have it here, the number of officers. What I will do is find the numbers and provide the figure to the hon. Member, Madam Chairperson.

**The Chairperson:** Hon. Baboo!

**Mr Baboo:** Item 28212, can the hon. Minister tell us how many centenarians were there for the year 2016-2017 and the total sum paid for the cash gift?

**Mr Sinatambou:** What I can tell the House is that the cash gift for centenarians for the year was 21,200 per centenarian and the information I have here is that we had six of them for that year. I hope the information is correct, however.

**The Chairperson:** Page 9, hon. Mrs Perraud!

**Mrs Perraud:** Item 21111 - *payment of overtime to staff of the Social Security Cadre for clearing backlog of Basic Invalid Pension files and Carers Allowance.* Can we know this backlog is for which period, how many years?

**Mr Sinatambou:** In fact, I must say that there was quite some backlog. I see that we had to pay overtime to 34 members of the staff for the month of September 2016 and October 2016 and the number of Basic Invalid Pension processed, which was actually part of the backlog, was 2,560 cases under 15 years.

**The Chairperson:** Hon. Uteem!

**Mr Uteem:** Thank you, Madam Chairperson. Under item 27210 - *Social assistance benefits in cash*, may I know from the hon. Minister the number of beneficiaries under each item of pensions?

**Mr Sinatambou:** The beneficiaries are, indeed, to be looked at in various age groups. For those who are under 60 years, in July 2016, we had 188,485 beneficiaries and by June 2017, this figure had increased to 197,388. For those 90 years and above, in July 2016, the figure was 3,703 and by June 2017, the figure had increased to 3,854. For centenarians, the figure in July 2016 was 113, the figure had increased to 130 in June 2017. All three together making a total amount of 201,372 recipients of Basic Retirement Pension.

For Basic Widow's Pension, in July 2016, the number was 19,300, but as at June 2017, had been reduced to 18,974, as for orphans, the number in July 2016 was 290 and had increased to 299 in June 2017.

**The Chairperson:** Hon. Mrs Perraud!

**Mrs Perraud:** Item 26210 - *Contribution to International Organisations*, can we know these payments are for which international organisations?

**Mr Sinatambou:** We have here the Annual Contribution to the International Social Security Association in Geneva where we had to effect a telegraphic transfer of 15 Swiss Francs which is Rs557,454.66. That is the information I have.

**The Chairperson:** Hon. Baboo!

**Mr Baboo:** Item 26210, can the hon. Minister tell us what is the sum that is being paid for the annual contribution for the Social Security Association and also, in what foreign currencies is the payment being made?

**Mr Sinatambou:** The hon. Member, I suppose, who criticises me whenever he can, should listen. I just told the hon. lady that the figure is Rs557,454.66.

*(Interruptions)*

Sorry!

**The Chairperson:** It is okay, please!

*(Interruptions)*

**Mr Sinatambou:** I just said also in Swiss Francs.

**The Chairperson:** Yes, page 10, hon. Abbas Mamode!

**Mr Abbas Mamode:** Yes, thank you, Madam Speaker. Concerning item 22120 - *Fees, psychologists visiting inmates*, how the selection is made? Is it those employed in the Civil Service or do we hire persons from outside and how is the selection made?

**Mr Sinatambou:** I understand that there are recruits, because I see here that what we saw is an increase in sessional fees from Rs800 to Rs840 paid to those Psychologists visiting inmates of the Rehabilitation Youth Centres. And here, in addition to the two Psychologists in post, three additional Psychologists were enlisted during the year. So, I believe they are recruited. The only thing which the hon. Member will bear with me, I am not anymore in charge of Reforms Institutions and Rehabilitation. So, I can only give limited information here.

**The Chairperson:** Hon. Uteem! No? Hon. Sewocksingh! No? Hon. Baloomoody!

**Mr Baloomoody:** With regard to item 21111 - *Additional provision required for payment of mileage allowances*, we know there have been many criticisms by the Director of Audit with regard to the abuse, as far as my mileage allowance is concerned. May I know the number of Committee Service Supervisors who are eligible for that?

**Mr Sinatambou:** At least, what I can tell the hon. Member is that my Ministry, we are doing our level best to ensure that every single rupee is spent optimally. Now, what I have here is that the refund of mileage allowance to Community Service Supervisors is at the PRB rate of Rs10.30 per kilometre, subject to a maximum of 200 kilometres per month. Now, what I will do is to obtain the number of beneficiaries and submit the figure to him.

**The Chairperson:** Hon. Mrs Perraud!

**Mrs Perraud:** Item 22120 - *Fees, payment of fees to Resource persons*, can we know who are the Resource persons? Can we have a list? And also, their scheme of duty?

**Mr Sinatambou:** As I said, the hon. Member will appreciate that I am not anymore in charge of Reform Institutions and Rehabilitation, but I can now say that the training fees were



paid for music teacher, zumba and aerobic teacher, for pastry and dessert courses at the Rehabilitation Youth Centre. What I can do is endeavour to find out the information requested and hand over.

*Vote 22-1 Ministry of Social Security, National Solidarity and Reform Institutions (Rs29,645,000) was, on question put, agreed to.*

*Vote 27-1 Centrally Managed Expenses of Government was called.*

**The Chairperson:** Hon. Uteem!

**Mr Uteem:** *Item No. 21110.006 - Cash in lieu of leave (on retirement).* May I know from the hon. Prime Minister the number of staff who went on retirement and opted to have this cash in lieu of leave?

**The Prime Minister:** Yes, there were some 1,711 cases for refund of sick leave and 1,377 cases for refund of vacation leave. For cash in lieu of leave, 2015-16, well, I have 1,694 cases; 2016-17, it is 3,259 cases.

*Vote 27-1 Centrally Managed Expenses of Government (Rs231,111,000) was, on question put, agreed to.*

*The Estimates of Supplementary Expenditure (2016-2017) of 2018 and the Supplementary Appropriation (2016-2017) Bill (No. XIV of 2018) were agreed to.*

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

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

*At 1.04 p.m., the sitting was suspended.*

*On resuming at 2.43 p.m. with Madam Speaker in the Chair.*

*Second Reading*

## **THE CONSTITUTION (AMENDMENT) BILL**

**(No. XXII of 2018)**

*Order read for resuming adjourned debate on the Second Reading of the Constitution (Amendment) Bill (No. XXII of 2018).*

**Madam Speaker:** Hon. Roopun!

(2.42 p.m.)

**The Minister of Arts and Culture (Mr P. Roopun):** Madame la présidente, c'est un moment de fierté pour moi de pouvoir me joindre à ce débat sur un sujet d'importance nationale.

Les débats ont été certainement enrichissants même si certains arguments étaient quelquefois excessifs, où l'émotion a dominé la raison. On a eu un survol de l'histoire par le Premier ministre, le *Deputy Prime Minister* et l'honorable Bérenger. Incomplet d'après l'honorable Sinatambu, qui a suppléé avec d'autres informations. D'autres membres aussi ont parlé de l'histoire de notre pays et c'était passionnant je dois dire.

Madame la présidente, je dois avouer que nous vivons un moment historique. Après 50 ans de notre indépendance, nous parlons de l'évolution de notre système électoral. Je dois d'emblée reconnaître le courage du Premier ministre et le féliciter d'être concrètement venu avec un projet de loi devant cette auguste Assemblée pour permettre un débat ou presque plus de la moitié des membres de cette Chambre ont contribué à leur façon. Nous débattons sur un système qui nous permet, en fait, d'entrer dans cette auguste Assemblée et de représenter le peuple de la République de Maurice et apporter notre contribution dans le développement du pays, de répondre aux différents enjeux et contribuer ensemble à bâtir l'avenir.

Depuis l'indépendance de notre pays il y a 50 ans, nous avons eu un système électoral qui nous a servi et ça a été reconnu par plusieurs membres de cette Chambre. Cela a inspiré confiance, je dois dire, et a contribué à maintenir la stabilité politique, qui a permis la transition du pouvoir souple. Et là, je dois rendre hommage à tous nos politiciens présents et passés qui, gracieusement, au moment où on devait passer la main, l'ont fait d'une façon très sportive et dans des meilleures conditions.

Je dois dire qu'il y a jamais eu, dans les 50 ans de notre histoire, des contestations sérieuses de notre système électoral après les résultats, même si, en 1991, nous nous rappelons tous, que le leader du Parti travailliste était lui un peu perplexe ; ça a été quand même une exception. Je dois dire que même lorsque les scrutins ont été âprement disputés, les élections serrées et déterminantes, comme en 1967, en 1976, en 1987, entre autres, il y a eu cette transition souple. D'autre part, on a eu aussi des situations extrêmes comme en 1982 - jamais prévues - en 1991, en 1995, même en l'an 2000. Et c'est pourquoi il a eu une quasi-unanimité pour dire que le système de *First-Past-the-Post* a été à la base même de notre stabilité politique, permettant la République de Maurice d'être reconnue comme la capitale de la démocratie, figurant parmi, si je ne me trompe, les 20 pays au monde, où il y a *full*

*democracy*. C'est quand même un grand honneur. On a tous, d'une façon ou d'une autre, avec la population de Maurice, participé pour avoir cette réputation.

Allow me, Madam Speaker, to make some remarks on a few points. We have had so many hon. Members intervening and quite a number of points have already been made and I don't want to be unduly repetitive. But I should start by making a few comments on the intervention of two hon. Members, who, in fact, were the very first Members from the opposition who intervened. There was hon. Adrien Duval, one of the youngest perhaps of this House; hon. Shakeel Mohamed, not so young, but of the most stylish, and I must say that there have been lots of criticisms made by him to the address of a few hon. Members here and they reacted to them. I won't repeat or put undue emphasis on them, but I must say that I am a bit saddened that, in my humble opinion, after the intervention of these two hon. Members, perhaps the debate took a very unfortunate twist, and I am glad that hon. Bérenger, who intervened after hon. Adrien Duval, promptly reacted and stated loud and clear that he disagreed completely with what the *le Parti Mauricien* had said. I am sure that he would have acted the same if he had intervened after hon. Shakeel Mohamed.

This reminds me, Madam Speaker, when I am talking about hon. Mohamed, of something which hon. Dr. Husnoo showed me last Tuesday. I do not know if he remembers; a saying which had appeared in *Jeune Afrique*. In fact, *c'est un proverbe chinois qui disait* –

« *Ce ne sont pas ceux qui savent le mieux parler qui ont les meilleures choses à dire.* »

We know how quick hon. Shakeel Mohamed is to fire. He is like Lucky Luke, firing at everything. He showed us also how quick he assumed the role of *reporteur*, live and direct. But both hon. Members, Adrien Duval and Shakeel Mohamed, talked about instances where people were complaining of discrimination. And the same argument was taken by some other Members of the PMSD, I must say, and to a lesser extent I must also say by hon. Ameer Meea, who intervened yesterday. But I am glad also and I wish to emphasise one thing, that hon. Mohamed specified that this was a perception, this was a feeling. He said, I'll just quote –

“I am not saying it is true, I am not saying it is real. But it is the perception today.”

And also, when he was in Government, as Minister under Dr. Navin Ramgoolam, and I am sure that whatever perception he has had, as a responsible citizen and as a representative, he must have reassured them that whatever perception they had, was unfounded. And I am sure

also that he would have told them that if there is a perception of discrimination, there are lots of institutions in our country, like the Ombudsperson, like the Equal Opportunities Commission, even the Judiciary, the Public Bodies Appeal Tribunal, amongst others, where they could have recourse in case they feel that they have been victimised. He also mentioned about the complaints of the inhabitants of Roche Bois, and I am sure and I have no doubt that he must have had explained to them that under our Constitution, we cannot discriminate by place of origin, and that for all instances and purposes, everybody has a fair chance of being employed, be it in the MPA, be it in Cargo Handling or some other places. And I know how dynamic and responsible our friends from the PMSD are, and I am sure that if they felt there is any discrimination anywhere to anybody, they would have raised those issues through PQs in this House, at Adjournment Time and even we have got a few lawyers, they could help *pro bono* to enter appropriate cases in Court.

*(Interruptions)*

Yes, PNQs also. Why not?

I know that hon. Shakeel Mohamed was in Cabinet, and I am sure that there also, he must have raised issues because we know that he always say that he has lots of courage, speaking his mind without fear. He would have raised this also there. But I must say that such comments coming from two Members of the Opposition, specifically hon. Adrien Duval and hon. Shakeel Mohamed, regarding that we are discriminating against minorities, I wish to point out that both of them are the third generation of politicians in this House, and with due respect to late persons who are not with us, I wish to state a few things; that late Sir Abdul Razack Mohamed, respected politician whom I had not the opportunity of knowing personally, had since 1953 up till 1976 been a prominent Member of this House, a close collaborator of SSR and has contributed a lot in the development of our country. In the same vein, Mr Yusuf Mohamed, Senior Counsel, my learned senior in the legal profession, just to remind that Sir Abdul Razack Mohamed has been Minister, Senior Counsel Yusuf Mohamed also has been MP, Minister of Labour, Ambassador, Deputy Speaker in this House, just like our friend Shakeel has been Minister.

The same we can say about the third generation of *les Duval*. Late Sir Gaëtan Duval, another senior from the legal profession, whom I had the privilege of collaborating professionally in many cases, who had been Minister of Tourism, Deputy Prime Minister and who also served us here in this House and outside. The same about our present Leader of the

Opposition, Minister of Tourism, Deputy Prime Minister, Minister of Social Integration – the first ever Minister of Social Integration. We were listening about Roche Bois, about so many.

*(Interruptions)*

You say the best, I have no problem. But at least we should recognise something; whatever you have been saying, it shows certain shortcomings, contradiction in what you are saying.

Hon. Adrien Duval, young Member of this House, was made Deputy Speaker of this House, and now you are talking about discrimination. We have heard Mrs Fazila Jeewa-Daureeawoo, Vice-Prime Minister, the first lady Vice-Prime Minister, woman Vice-Prime Minister. We had also a first lady as President. Just to give you a few examples. It is very easy to say about discrimination, and I must say that in all successive Governments, each and every leader of this country has always showed that they wish to govern with each and every community in this country, and they have done so. And this is why I say it is very unfortunate what we heard a few days back.

Madam Speaker, I must say that there is consensus on various things that we have been discussing so far. We all agree that the First-Past-the-Post system has served us well, that there is some inequity like any other electoral system. I am glad also that hon. Bérenger mentioned that he is not for a full-fledged proportional representation but a dose of proportional representation. He wishes - we wish also - to see how we can to try to find the proper dosage to correct some imperfection in the system.

Let me start by the first which is the Best Loser System, an issue which hon. Prime Minister stated that we are in a situation of legal still made because the hon. Vice-Prime Minister stated that we have got so many cases and now we are in a situation where we have got two options. Either we come with a full-fledged census to replace the 1972 census or we come with a completely new system. Here, I wish to know the stand of the Labour Party and especially the *chef de file* of the Labour Party. I listened attentively to hon. Dr. Boolell both in his tone and content. He was very cautious and he stated clearly: 'Let us come together and find a way forward.' The way forward he stated was spelt out clearly in 2014. He also added that we have to air on the principle of caution on this Bill because we did not want an updated electoral census. Hon. Ritesh Ramful is also against. He considers that this will be a backward step which will cause much harm to our harmony and stability. He went further and stated that there is only one option, that is, move away from community-based electoral

system. I must say also that even the previous Prime Minister, Dr. Navin Ramgoolam, stated that –

*«La majorité des mauriciens incluant nous, c'est-à-dire le Parti travailliste, est contre le recensement ethnique.»*

Unfortunately, our friend, hon. Mohamed, is not with us and I wish, of course, to know what is his feeling about this census. I am glad also that hon. Bérenger mentioned that new census is going to be a *recul dramatique et une division dépassée*. I just pose again to say that we should be clear about the position of each and everyone in this House.

There had also been certain requests that we should go by a referendum or something of this sort. Though one may be seduced by this idea, but let me ask the question clearly and simply: is it a good idea?

*(Interruptions)*

The hon. Member is laughing! Of course, he will have the opportunity to react. Let me quote what hon. Dr. Boolell stated when he intervened –

“We need to air on the principle of caution because a small spark can create a communal towering inferno which we want to avoid at all costs.”

This is what hon. Dr. Boolell stated and perhaps, as a senior Member of this House, we should also try to ponder on what he stated. We heard in this House how a few Members intervened. I do not blame them. I agree that they did it in good faith. I give them the benefit of doubt that they acted in good faith and they were sincere in what they were saying. But I renew my question whether it is a good idea and whether it is not for us, just like our Leaders of the 1960s - Leaders in this House - to assure our leadership role, to take our responsibility in front of history and lead our countrymen in what we feel is in the best interest of our country. This is also a question which I ask each one of us here to reflect upon.

We all know that we have had for years, for decades the First Past The Post system. There had been a lot of inequities, I agree. We should bear in mind what hon. Bodha stated, how do we want to create our electoral system of tomorrow. He mentioned, I believe, *choc - sur quel choc, doit-être érigé, édifié ce système*. Here, I wish to add that the sacrosanct principle over which our Constitution is based is that we should, by all means, try to maintain what comes out of the ballot box. We have our First-Past-the-Post system with 20 Constituencies and 2 in Rodrigues over which have been crafted the Best Loser System

which is also unique in the world, I understand. Do you realise that this Best Loser System in a way it is applied, in its philosophy, it is settled that we should always ensure that whatever difference comes out of the ballot box should invariably be restored and maintained - to the extent as was stated by a few Members here that prominent Members of this House were the victims. We mentioned Prof. Kasenally who obtained, I believe, about 46%, but who was not returned and Mr Ramoly with only 16% was returned. I do not want to repeat other examples, but we should be reminded that this sacrosanct principle had even being reaffirmed subsequently in 1991 when we had an electoral reform after 57/3. It was so vital that we came with constitutional reforms to ensure that even if we have got a situation where Members are not from the appropriate community had to be used to re-establish the balance, we should do it.

We could not do it in 1991 when we had 57/ 3. There were three candidates who lost. One in No. 5, one in No. 12 and the third one, in No. 6. But we managed to do it in 2000, when again we had someone from No. 7 and someone from No. 11 who returned here as Best Loser. Just to tell you how we value this system.

In the debate, when we are talking about electoral reform, we have forgotten one very important component, the electorate. We know that any electoral system is designed, first of all, towards the electorate. It should be something which is understood by the electorate, simple for them to know and they should have trust in the system. This is where we have the stability that we need, and which has given stability to this country for over 50 years. We know how the system is. Once the election is over, each one, in front of his television set, can very easily do a simple mathematics. I am sure even our friend, hon. Rutnah, can do that and straight away knows who is going to form the next Government.

This is very important. This trust of the electorate in a system is vital. This is why we have had lot of difficulties to find something which we can try to equate. The PR system, with this First-Past-the-Post system is the whole debate. This is the debate we have been having since 1982. We have been trying our best to find a solution to that. As stated by hon. Uteem, hon. Ganoo and hon. Bodha, we are nearly there, but now we have to see where we can meet.

It is good that at this juncture I come with something which hon. Adrien Duval stated regarding the ratio of MPs to population. He stated that this was absurdity. I take again what hon. Bodha stated, that if we want to craft a model on our actual system, it should be by

additional seats and we know that whatever has been proposed is the least that has been proposed by others. But it is good that I mention a few figures. Hon. Adrien Duval compared us with India and he came with an absurd idea that if we take the case of India, we should have had half MPs, representing the whole of this country.

He came with a few other examples, even UK. I doubt whether it could be that half. But now, let me add up on what he stated. Fortunately, we have got Wikipedia these days. I went there and tried to say a few things more than Adrien Duval. I did not take the whole list. I took only a few countries where we have more or less the same population. We have, here in Mauritius today, about 18,000 population for each MP. This is what I understand from what hon. Adrien Duval stated. I took the case of 10 countries: Gabon, with a population of 1.1 million, each MP represents 7500; Lesotho: 1.9 million 12,000, Slovenia: 1.9 million 15,000. Unfortunately, I am not here to choose. I am here just to compare. I will take Estonia. Is the hon. Member happy? I will take Estonia: 1.2 million, the ratio is 12,000. Bahrain: 16,000; Cyprus: 1.1 population 14,000; Trinidad Tobago: 1.3 million 16,000. Mind you, I am not an accountant like our hon. Leader of Opposition, but I did some division works myself and I tried to do a second division with 82 population. Coming from 18,000, it came out to 15,853, just to tell you that we should compare like with like. It is good that we take another example next to us, Seychelles, which is not comparable in terms of population. For a population of 91,000, 1 MP represent 2696 population. This is what I wanted to say.

Now, a lot has been said about leaders choosing candidates. Let me, first of all, share with you my opinion on that issue. When do we have this situation of leaders choosing their candidates? It is under the PR system. Under the PR system, the candidate is not appointed in his own right. The candidate is appointed as representing the party and this makes the whole difference. He is there as a representative of the whole body who have been elected. This is something which is very fundamental and over which I wish to emphasise. And also, as stated by hon. Bérenger and the Attorney General, we already have it in our Constitution, even if it is in an extreme case, but we have it.

If I may with your permission, Madam Speaker, also read what hon. Bérenger stated when we were debating on the Constitution (Declaration of Community) Temporary Provisions Bill. He stated –

“A list of candidates in alphabetical order is going to be determined and the leaders of the parties with the Electoral Commission will appoint from this list using their



wisdom, their knowledge of Mauritius the results of the elections and this is a guarantee because we can't take it for granted that all political leaders are fools.”

This is what was stated. Hon. Gayan also referred to the summing-up of the ex-Prime Minister when he mentioned about a list of 20 from which 6 will be chosen by the leaders. Let me add also on this score what hon. Bérenger stated in the Press, it was *Zinfos Maurice* of 15 September this year and he qualified certain remarks by our ex-Prime Minister as cheap and demagogic and I quote what was stated in this online paper –

« Cheap et démagogique, c'est ainsi que l'honorable Paul Bérenger a qualifié la nouvelle posture de Navin Ramgoolam et du Parti travailliste en déplorant que les leaders politiques auront trop de pouvoir dans le cadre de la réforme électorale. »

This is what was stated.

With your permission, Madam Speaker, let me come to the issue in Rodrigues. Hon. Paul Bérenger, while intervening, stated –

« I wish to challenge Sir Anerood Jugnauth on this Rodrigues' myth. »

And he stated also that if at a given point in time -

« Une majorité est devenue une minorité, un gouvernement a changé de parti, ce n'est pas à cause du système électoral. C'est parce que deux ou trois députés ont quitté le parti pour se joindre à l'Opposition, c'est un mythe, c'est une obsession mythique. »

We heard our friends from Rodrigues, intervening on that, but I believe that we did not pay much attention to that, I will come to a few examples. What happened in 2002, we had election of the first 12, OPR: 8, MR: 4; PR: 2 OPR, 4 MR, and we end up from 8 to 4. We end up with a situation when we had 10 to 8.

Double number of seats for OPR, First-Past-the-Post, it ended with a situation of 10 to 8, and it is the shift of one only for them to be at par.

In 2012 election: 8-4, OPR: 8, MR: 4, PR: OPR plus 3, MR: plus 4, Front Patriotique, plus 2. We ended up with a situation where from 8 to 4, OPR had 11 seats and the other party had 10. From a double number of seats to that of MR, this is what we resulted. And in 2017, OPR: 10, MR: 2, PR: MR got 5 and from a difference of 8, we ended up with a difference of only 3. This is where I state that the *germe d'instabilité* comes and it is this *germe d'instabilité* which accentuates ultimately this situation which we want to avoid here. But I must say also, to be fair that in 2006, there was something quite interesting happened. 2006

they were at par. MR: 6, OPR: 6 and it is only through PR System that MR ultimately got 4 additional seats and OPR got 2 additional seats and from a situation of 6-6, it ended up in a situation of 10-8. At least, here, we see how the PR helped. This is to be fair to everybody and I did not want just to speak part of it but, at least, to the facts as they are.

And, I must say, that personally, for us, we are blessed that we did not embark in a system of PR just like that. I know that Sir Anerood Jugnauth always refers to the case of Rodrigues and God knows what may have happened here if we did not have the situation like in Rodrigues. I must say that...

*(Interruptions)*

Ayo or what...

*(Interruptions)*

This is another issue. Of course, I try to be very respectful to everybody, I know that I have got limited means, limited knowledge, but...

*(Interruptions)*

**Madam Speaker:** Please, hon. Bérenger, no comments! Please, proceed!

**Mr Roopun:** Nobody is obliged to remain in the House, but *ayo* or what, I hope I have the right to make my point. Even if you do not agree, this is democracy.

Now, let me come to electoral boundaries. I must, again, with the permission of hon. Paul Bérenger, quote him again, where he stated that he disagrees completely with PMSD and there is a huge misunderstanding about the role of the Electoral Boundary Commission and that the Electoral Boundary Commission has to work within the four corners of the Constitution...

*(Interruptions)*

Sorry, I have not read. You are going to read it to me, no problem.

*(Interruptions)*

I am a humble lawyer of 30 years standing.

*(Interruptions)*

Okay! I do not pretend to know everything or to diminish anybody. But I asked a question to the hon. Leader of the Opposition, we have been together, hon. Gayan stated so. I know

perhaps my memory fails me, but I never heard for one year this issue of Electoral Boundary Commission being raised when we were together.

*(Interruptions)*

Oh, you confirm! I am re-comforted. I may have missed something, but I did not hear this issue of Electoral Boundary Commission, the issue about whatever problem in constituencies being raised...

*(Interruptions)*

One year!

I just come to that also, if I am not mistaken, the last report was in 2009 and this report has never been brought to the House. If I am not mistaken also, hon. Xavier Duval was No. 2 in Government.

*(Interruptions)*

Deputy Prime Minister?

**Madam Speaker:** Please, do not engage into any conversation with the hon. Minister, please!

**Mr Roopun:** And we know that it is up to Government to come up and bring this report, but I am sure that when he is going to intervene, he is going to enlighten us more of - of course, depending on what he can share with us - what happened about this Electoral Boundary Report over which there is so much being stated now by Members of the PMSD and how we can proceed further.

Here also, I just say *en passant* about the question of gender ratio. There is unanimity here but, at least, hon. Mohamed raised a point stated why 30%, why not 50? This was stated here, but my reading is that we can go up to 66%.

*(Interruptions)*

No, not 100%! Two-thirds, which means that the 30% is just the minimum. But women can go up to being two-thirds of this House - this is my understanding. Just to comfort hon. Shakeel Mohamed on this point - I know that he likes to defend the cause of women - and just to share this with him.

Madam Speaker, I must say that it is good that we have had a debate in this House on electoral reform. At least, *quelques masques sont tombés*; we know exactly where we are,

what is the feeling of many Members in this House about the electoral reform, about the award of the Best Loser System (BLS) and how we should proceed further. A few Members were stating that MSM were *mendié avec le MMM*, but, we came here with some concrete suggestions, which we consider to be fair, honest, realistic, forward looking and I may add also - to take Sir Anerood Jugnauth - practical propositions which are pragmatic. It is good also that we know now the stand of the PSMD; the stand of the Labour Party is a bit *mi-figue, mi-raisin*, as hon. Soodhun stated, but we came with honest proposals. We tried to be pragmatic. At times, it is through a twist of History that MMM now has to face History, because whatever the MMM is going to do will be determinant in this particular Bill.

I was just looking around, Madam Speaker, I don't pretend to be part of the big *famille militant* - I am big, but not a big Member of the *famille militant*, but I do have certain similarity. We have here, in this House, most of the hon. Members who come from that family; we have different shades of this big *militant* family here. We have had extremists - MMSP, like hon. Alan Ganoo...

*(Interruptions)*

No, MMSP as this time.

Hon. Soodhun, MMSP! We had a few *jeunesses militants* here, hon. Ramano, hon. Sudesh Rughoobur, hon. Sawmynaden, hon. Rutnah - who is not here - but also, mind you, ex-MMM, hon. Salim Abbas Mamode, un *ex-jeunesse militant*. We have also two generations of this big *famille militant*; the old generation, Sir Anerood Jugnauth, hon. Paul Bérenger, hon. Lutchmeenaraidoo, hon. Ivan Collendavelloo - I am sorry, I know you are still young. We also have hon. Prem Koonjoo, hon. Eddy Boissézon and the whole lot. It is *un moment de vérité*. This Bill is un *moment de vérité*. I will not say that it is as if they are *mendié* or whatever. Everyone will have to take his responsibility in the face of History. My reading is that *status quo* is not an option.

*(Interruptions)*

I am immune from all these! I must say that, my humble belief is that *status quo* is not an option, Madam Speaker. Over the years, we have had a lot of reports, feelings have been expressed over more than 30 years, we came with proposals and now it is time for action.

*(Interruptions)*

I am concluding, don't you worry. We have heard a lot of views from different sides, but one view which has been very little heard here, which encapsulates what hon. Rutnah stated when he was intervening; he referred to the maiden speech of Sir Anerood Jugnauth. I wanted to quote again what Sir Anerood Jugnauth stated in 1963 for his maiden speech. What was the language he used there, a unifying language as far back as 1963! It is also good that we remember that even at the time when we were talking about the BLS, we had lots of voices which stated that it was not the right direction to go. I believe hon. Ganoo stated that it was supposed to be here for some time, three General Elections. We also heard those who want to remain in the past, they have got their own fear, their own reserve, but I must say that since 1963, today we are in 2018, there are lots of Mauritians who think otherwise. When we are going to vote, we should also bear in mind that bit. It is just okay to come and show this negative part of it. You know, these people would not come on Facebook, they would not express themselves, but their views also count. In the past also, lots of Mauritians felt that we should move forward and what we are proposing today is a formula where we can take a leap forward and, at the same time, try to reassure those who have got some reservation. This is also what I believe we should bear in mind.

Ultimately, Madam Speaker, the decision will come from all of us here. And if I may end on that note, we have to ask ourselves: do we have trust in our politicians, actual and the coming ones? Are we reassured that they will play the game or is this too risky? This is the ultimate questions that each of us should reflect upon. I just hope that good sense is going to prevail and that each one of us is going to take his responsibly in front of the future for what type of society we want to create for ourselves, for our children and grandchildren in the years to come.

Thank you, Madam Speaker.

**Madam Speaker:** Hon. Leader of the Opposition!

(3.40 p.m.)

**The Leader of the Opposition (Mr X. L. Duval):** Madam Speaker, thank you for giving me the floor. I did listen to hon. Roopun with attention and, at times, I wondered whether we were living in the same country. But to paraphrase what he said, his Chinese proverb, I will say that for him he had nothing much new to say but he said it well. So, he said it nicely; at least we have that for this afternoon.

As far as the few points that he raised are concerned, I want to respond to them. We ask PQs, we ask PNQs, the lists of recruitments are never given to us. So, this is why we do not persist. All is shrouded in mystery. On another note, Madam Speaker, I am sure hon. Adrien Duval must be very proud to have attracted the attention of such a senior Minister for such a long time this afternoon. So, I think also hon. Shakeel Mohamed, but, obviously, the truth hurts and this is why we all know when the truth hurts, that is when the opposite side responds. But, as I said, he said everything nicely. So, I am not going to fight with him.

As far as what the population thinks of abolition of the Best Loser System, the hon. Member may remember in 2014, the PSMD's stand never changed. We were against abolition of the Best Loser System; we were for the population census. Labour party and MMM, big political forces, abolished temporarily, whatever it was or whatever they did, messed around the Best Loser System. They lost the election. So, maybe that is also something to bear in mind.

Coming to the body of my speech, Madam Speaker, it is good that I remind the House that the *Lepep* Government no longer has a 75% majority to change the Constitution. Although we had 49% of the votes with the electoral system, we ended up with a huge gift of 75% of the seats in Parliament, and that allowed one or two changes to the Constitution. I cannot also explain how it happened, and had we stayed in Government, perhaps this electoral reform would have gone through. We may have been coerced. We do not know, but we left Government and when the PMSD left Government, after only 2 years in Government, it is my humble opinion, Madam Speaker, that we saved democracy in this country. Because to mess around with the justice system, to put the DPP under *tutelle* of 3 persons which were virtually at the first draft to be appointed directly by the then Prime Minister himself, would have destroyed the justice system and would have destroyed our democracy. It cost us a lot personally. It cost us a lot because we were elected to be in Government but I never regretted one single moment of my decision. I do not know about my colleagues, I hope they did not. And we took that decision for the country, it was not for us. It was for the country. After a lot of things that happened, I do not want to go in the past. In the 1980s, we could not, Madam Speaker, in our conscience; put the DPP under *tutelle* of 3 politically appointed persons. We could not do so and we did not do so, and we left the Government.

And no doubt this has changed the history of the country because maybe today free speech, demonstrations, etc. would not have been as possible as they are today. So, Madam

Speaker, this is the second attempt, since that time, for the MSM-ML to try to change the Constitution. I think it is probably burst up. I may be wrong. In a few moments, we will know whether it is going to pass or not. I have my doubts that it will pass, but let us try at least and draw some lessons about how a Constitution should be changed in a democratic country. That is what we need to learn, Madam Speaker.

When I talked about the Prosecution Commission Bill, within one week, the State Law Office had already prepared the Constitution (Amendment) Bill. Within one week! That is all it took the time. And then it went to Committees, etc. because I objected. But, here, Madam Speaker, can we not agree that we want to change the Constitution, we want to change the electoral system, then, we should go either for a referendum, as many countries do, or a Constituent Assembly, something that can study it in detail and avoid this sort of spectacle that we have had until the last moment by the orator before me, Madam Speaker. So, I think we need to review the way that our Constitution is messed around with. Otherwise, with this electoral system, nothing prevents tomorrow that you get another 75%, with not even 50% of popular vote in an election. And this is not the way to proceed and it has, I think, been disrespectful to our Constitution, disrespectful to the nation, the way that this has happened. Especially, Madam Speaker - and I will come back to that later - no referendums since the *Alliance Lepep* was elected on a promise not to touch the Best Loser System.

What is an electoral manifesto, Madam Speaker? It is a contract, a commitment, *un engagement*, promises made to the public to vote for us. But it is also *un engagement* made by leaders of the party, myself, included. At that time, it was hon. Pravind Jugnauth, hon. Ivan Collendavelloo. We made a promise to all our candidates. They all stood in the elections, thinking that they could rely on the manifesto, because there are also people who have opinions, they are not just ambitious, they want the best for their country, they look at the manifesto and say: 'Ok, I will stand for *Lepep* or I will stand for the Labour Party' on the basis of their manifesto. So, it was a contract also, so, it is disrespectful to the population. But what the Minister has just done? He is also disrespectful to all his MPs because I am sure all of them trusted his word, trusted the manifesto on which we were all elected. That is, Madam Speaker, the point I wanted to make.

I will, in fact, have a lot of respect for any MP on the Government side who decides not to vote for this. Because that is the engagement that they took and that is the engagement that we took as leaders of the coalition with each and every MP. So, I think they should not

worry about not voting for this because it was never our intention, Madam Speaker, to bring any amendment to the law, to the Constitution to do away with the Best Loser system. In fact, I have seen many times Governments not honouring their promises. You want to do like the other? You want to pass a Freedom of Information? It has been in the manifesto for the last 10 years of each party. No one has done it, but to actually go against a promise made, we will not do this, in black on white, and yet do exactly the opposite. That is very rare and, as I said, disrespectful to the nation and to every single person who voted for *l'Alliance Lepep*.

Madam Speaker, this Bill won't get through, hopefully, but if it does get through, it will need some Members of the Opposition to vote for it. Again, I do not know if it is *l'arrogance*, over confidence or maybe I missed something but no one has contacted. There has been no discussion with the PMSD, no *koz kozer*, nothing! I do not know whether other people have been graced. Madam Speaker, I read in the paper the other day, I was in London...

*(Interruptions)*

I was in London, I read in the paper that the Prime Minister also was in London and we must have met. We did not meet, Madam Speaker. London is a big place; I did not even know the Prime Minister was there. So, I will tell you frankly in front of the Prime Minister here, there has been nothing. And I think also this is disrespectful. Because if you are going to change something of this nature - other Members have raised it before - you must talk to the other parties, all of them. Okay, we do not agree, we would have agreed on the women, we would have agreed on the *transfuge*, but we would not agree on the rest.

I think that is fit for the bin. I said that before. We would have got somewhere, but *l'arrogance*, overconfidence, whatever it was, no discussion at all, Madam Speaker. Whether this Bill will pass or if any Opposition party vote for it, I think it is personally a political hara-kiri. You know what the Japanese do. They take a big knife like that and they stick it in the stomach. This is called hara-kiri. I think this is going to happen. I do not think, Madam Speaker, that this will be happening. *C'est une occasion ratée, c'est vrai*. We would have, at least, got some way towards that. I will explain fully later on what happened in that famous Committee that everybody talks about.

Madam Speaker, it would have spared us – I hope the children were not watching – the ugly spectacle of hon. Collendavelloo soliciting for votes in this House. It was an indecent spectacle, Madam Speaker. I think it did not catch any clients either and it is not out



of place what would happen in Jardin de la Compagnie. So, this would have spared this, Madam Speaker.

*(Interruptions)*

I will not repeat it.

**Madam Speaker:** Please, don't use these words!

**Mr X. L. Duval:** Madam Speaker, we are coming up to the Christmas sales soon. Do you know what it reminds me of when they are trying to sell this Bill? When you go to a shop, it says: 'Buy two get one free.' You buy two, that is, you buy the women one third, you buy the *anti-transfuges* and what you get free is the other - abolition of Best Loser System. This is not serious! This is not how you change the Constitution. You agree with two, but you need to have the third one and get this one free of charge. This is not buy two get one free. This is not how you change the Constitution. We need to think about the way seriously that we approach a change in the Constitution in Mauritius.

Now, this Bill is called the Electoral Reform Bill or something like that. I think the Bill should be renamed if I may suggest. The Bill should be renamed and called the Avoidance of Democratic Census Bill. This is what it is in fact. I am sure it is not really the intention of Government to go into all the *simagrée* of 12 here, 10 there. It is not what they want. They just want to find a way to avoid demographic census full stop because that is what the United Nations have requested and we need to find a way to avoid that. So, let us call a cat a cat and say this Bill should be called the Avoidance of Democratic Census Bill and then we will know what we are all about. Madam Speaker,...

*(Interruptions)*

**Madam Speaker:** Can I ask everybody to switch off their phones, please!

**Mr X. L. Duval:** Madam Speaker, it could be the iPad talking to me, but I am not sure, stop this.

Madam Speaker, let us come to United Nations. In 2013, the Human Rights Committee of the United Nations told us quite simply either we reform the electoral system or we have a census because we cannot have the Best Loser System which is based from 40 years or so ago or even more. This is what the United Nations Committee said to us, but, since that time, Madam Speaker, there have been other Committees of the United Nations. The Committee, UN Council or whatever it was, gave us a choice, but what did the other

Committees tell us. Recently on 09 November 2018, the Committee of United Nations on the Elimination of Discrimination against Women, here it says that the Committee recommends that the State party collects data on rural women and other women disaggregated by sex, age, geographical location, disability etc. and whether they belong to a minority group. Recently now, the United Nations have again requested us to have a census. This time it was women. I will go some more, Madam Speaker, so far as the UN is concerned.

Now, I am going to go to the Human Rights Committee on the Elimination of Racial Discrimination, UN Committee and the report is dated 19 September 2018. Now, this is very interesting, Madam Speaker because when the PMSD asked for a census – ‘*Ah, ce sont des communales, des racistes*, whatever - but when the United Nations request that we have a census, are we going to say now the UN itself is racist. This is, Madam Speaker, what the UN said on the Committee on Elimination of Racial Discrimination. This is what it said at paragraph 25, Madam Speaker, I’ll read it if I may -

“The Committee recommends that the State party expedite the process of the electoral reform and reiterates its present recommendation for adequate representation of ethnic groups. The Committee request the State to provide in its next periodic report, statistics disaggregated among others ethnic origin and sex on political representation in the Government, the Parliament, the Judiciary and the Law Enforcement.”

What is that? Request for ethnic data for a census, Madam Speaker! We have not been the only ones. The *Comité Diocésain*, Père Labour, has gone the same way; even more, Cardinal Piat with some changes, but I think basically, he came back to the same line in the end, also requested census data. Let us have a census! Both of these! Are we saying that Cardinal Piat, Père Labour, they are *communal*? Is that what we are saying? I hope that we have not come to this in this House, Madam Speaker. So, the point I wanted to make was that the UN itself has recently, as a few months ago - September - requested ethnic data because it is worried about the situation of discrimination in this country, Madam Speaker.

Now, we calculated that there are 240 countries which performed a census based on ethnic grounds; big countries like America, Australia, Canada, UK whatever you like. In UK, when you apply to a University, they will ask you what is your ethnicity not because they want to cross you out, but they want to make sure that there is diversity - they call diversity there - in their University. Now, you know which country, Madam Speaker, does not ever do

an ethnic census. You know which one, France, Madam Speaker. France, since the 19<sup>th</sup> century, passed a law, it is not authorised to pick up data on an ethnic basis. It is not authorised. You have seen *les gilets jaunes* what happened all through. You may have heard What President Macron said President Macron yesterday. It is just one phrase I will take from him –

« *La crise que nous traversons est le résultat de 40 années de malaise.* »

We have to choose whether we want to be like France that have swept everything under the carpet for the last century or two, at least, for the last 40 years or we want to be like the UK. Theresa May in the UK, is having a few problems at the time - some weeks ago issued a statement saying that she would like private companies in the private sector to issue ethnic data on their staff to show that they are taking diversity seriously. I, Madam Speaker, would prefer, in this situation, to adopt the UK way of life and model rather than the French model because we have seen the problems that the French are having in terms of integration of their minorities.

I have no doubt that a lot of people who are actually demonstrating are, in fact, minorities. In Mauritius, Madam Speaker, we have discrimination at all levels of the country. The youth of our country are leaving this country in thousands. What sort of discrimination? It is not just communities; it is much more than that. It is between the rich and the poor. A rich man goes in a hospital, well dressed, he will get a better treatment than a poor man who has come in the same hospital. This is how it is in this country. It is a country of discrimination. The rich and the poor, people with connections, you know someone, you know a doctor you get better treatment, you jump the queue. This is discrimination. Obviously, if you are related to Ministers, politicians, again discrimination, Madam Speaker, and discrimination also between white and non-white.

There are still, Madam Speaker, some clubs in this country that will admit foreigners who are white, but will not admit Mauritians that are not white. That is still the case in this country in 2018. So, this is a country of discrimination, also of communities and I will come to that in a moment. This big thing, Madam Speaker, that is population census, will upset everybody. Everybody will be so mad at being asked what is their religion. Hinduism, it is a religion. Muslims, you have Arab Muslims, Asian Muslims and African Muslims. So, when you are asking someone if he is a Muslim, you are asking for his religion and for a Hindu, it

is the same thing. Obviously, Sino-Mauritians, it is a hybrid system, that is not a religion and the general population is the remainder.

But in the 2011 census which was done when the Prime Minister was Minister of Finance and I think concluded when I took over, that is perfectly covered. The religion issue - as I mentioned the Best Loser System, Hinduism, Muslims - is perfectly covered in the 2011 population census and we have the figures, the figures are public and are on the Statistics Mauritius website.

And I must say one thing, I looked at the number of people who refused to answer, who just said I am not answering. Out of 1.2 million people, 8000 people did not respond to that question: what is your religion? So, if you can calculate, hon. Rutnah is not here, 99.4% of the Mauritian population responded to that question and not only responded to that question, but straightaway forgot they had ever been asked and we have to remind everybody that question was asked. So it was asked. What is the big difference between that and asking for the census that we are asking for, Madam Speaker? It is virtually the same thing.

So, it happens, it is totally innocuous. You may not like the result. I can understand that you don't like the result of the census, but don't tell me that since 99.4% of the population in 2011 responded to a question: what is your religion without riots, without knife stabbing, without anything like that, they would be upset. I presume in 2021 that same question will be asked again. So, everybody responded and the result is on the website. What does the result say? Nothing to hide about it! The result says what? I will tell you what the result says; it is so detailed. It gives you a 38% Hindu, Hindi speaking. It is not my census, it was done under the Prime Minister when he was Ministry of Finance. So, I can quote it –

“38% Hindu, Hindi speaking, 33% Christian, 17% Muslim - I am just rounding - 10% Telegu, Marathi and Tamil and then a remainder.”

That is the census. It is a fact, it is proven, it is there. 99.4% of our population responded to that. So, it is fair to say that no community in Mauritius - and I am happy about that. There is a major community, bigger than the rest, but there is no majority, nothing, nobody comes above 50%. I am an accountant and that is what a majority is called. So, this is the situation. Madam Speaker, I have heard some persons say that we are happy we will abolish the Best Loser System, it is a foul system. What are we going to replace it with? We will keep that phrase, which is a simple phrase. What is the phrase? We will keep the phrase which says that we keep fair and adequate representation of all communities.

We get rid of the Best Loser System, we get rid of the census and we adopt just one phrase that will solve everything, fair and adequate representation. Let us say we add that now to the Bill. But, Madam Speaker, how would you determine what is fair and adequate? How? You will go to the street and say this guy, I think is that community. How are you going to determine what is a fair and adequate representation? How will you know? Perhaps you didn't know if you read the census what is the actual situation in Mauritius. But how would you know what is fair and adequate?

How would you know which are the elected MPs and what are their communities? You would have to go personally and ask them now, after the election: 'What is your community, please, so that I can find out whether each community has a fair and adequate representation?' Is that, something *bancale* like this, that we are suggesting to replace the Best Loser System? What is the Best Loser System? Meritocracy! You will have to perform well to become a Best Loser. So, meritocracy is competitive, you are competing against everybody else. It is transparent, Madam Speaker, and everybody knows how to calculate it and you can even go to the Supreme Court if you want to check. I have been taken to Supreme Court before becoming a Best Loser.

The Best Loser System has a great deal of advantages. It is a written rule. We cannot change a written rule for an unwritten rule and leave it to the whims and fancies of whoever is the leader of any particular party at that time. And are we going to ask the NSS? Is that how we are going to do? Ask the NSS instead of doing a census to find out - as I am sure they do it at every election - in every constituency how many Tamils we have, how many creoles we have, how many of this we have so that they can do their campaign. It is from that basis which is neither transparent nor open, nor open to challenge. Is that how we are going to work out?

So, Madam Speaker, the Best Loser System has served this country well, it has preserved peace and harmony and my own wish is that it continues to do so in the future. But I will give you the reason one day where I will be happy to take out the Best Loser System. It makes me no pleasure - myself a true Mauritian coming from the Duval family, a true Mauritian family - to have this speech today. It is not something I really want to say, but I have to say because it is my duty as Leader of the Opposition, as Leader of the PMSD, as a responsible politician, to say things as they are today in this House. It is my duty to do so and that is what I am doing. It does not give me pleasure, but I have to do my work and I will do it up to the very end, Madam Speaker.

So, Best Loser System is fair, it is transparent, it is competitive, it is a written rule, it is better than anything else that is being proposed, especially not this and it is totally absurd. Absurd provision that Leaders should after the election decide from glorious unknown persons, family, friends, donors, as if we are choosing Members for the House of Lords. Is not that how we choose Members for the House of Lords? Each Party Leader decides: 'I am going to have this one. He is a big donor to the Conservative Party, let him become a Lord. That one here may be my cousin, let him also become a Lord.' Is that how we are going to do, here, in this House of Parliament? To appoint people like this, on that basis, with no check and balance and no transparency. I do not think so.

So, Madam Speaker, the Best Loser System has another advantage is that each Deputy, each Member of Parliament has a constituency to work. Hon. Adrien Duval was very right in saying that you cannot have 22, a quarter of the House or something like that - a quarter of the House, 22 MPs with no constituency. All they will do is to come on a Tuesday for six months of the year and sit here and talk and vote. They have no constituency, that is all they are going to do and we will pay these people. I think it was *L'Express* that calculated that each MP costs the taxpayer Rs2.6 m. per year. It is an enormous amount of money, it is not necessary. These MPs are not going to be real MPs. They are going just to be stooges here in the House with nothing to do, no Constituency, I think he called it '*sans circonscription fixe*'. I think, even I am quoting hon. Adrien Duval. So there you go!

So, Madam Speaker, on the Electoral Boundaries, I so wish that there were prison sentences for people violating the Constitution, because you cannot have this, a terrible harm has been done to this country, enormous harm. Hon. Roopun was right. In 2009, there was cosmetic mostly attempt, feeble attempt - check it - to change some constituencies. It was a step in the right direction, nothing near. The Government of the time - I was not Prime Minister - chose not to bring it to Parliament. But the question that remains and ought to be studied is whether or not, it ought or not to go to a Government to decide whether the Electoral Boundaries Commission Report should be adopted or not, because in the UK, it does not go to the Government. It goes straight to Parliament. Why? Maybe, it should not even go to Parliament. There is a conflict of interest, Madam Speaker, we are all humans. None of us likes - and I did not deal with the 2009 Report - but I can imagine that nobody likes to have this Constitution changed at the eve of the election.

So, when the ABC Boundaries Commission sends it to the Government, maybe there, I do not want to do it, I do not want this change. So, if there is one Electoral Reform that needs

to be made is for us, firstly, to put real independence in the Electoral Supervisory Commission/Electoral Boundaries Commission. I mean, we have enough. I am going to be nice. I am not going to say anything nasty, but this is enough because cousins, friends, this and that, I mean, this is enough.

We must have a proper independent Electoral Supervisory Commission, especially if we want to give importance to the financing of political parties, they will develop more importance, more role to play, we cannot stay with this Electoral Services Commission, Supervisory Commission or Electoral Boundaries Commission. Can you imagine? I am sending my party's accounts to Mrs Ragavoodoo who is well-known, very close to the other party. This is why, Madam Speaker, we must respect our institutions. Anyway! So, the Electoral Boundaries Commission, one thing which we would support is total independence, nominated not by the Government and not by the Government via the President either, and properly nominated, properly independent with powers and certainly, respecting to the letter the Constitution which does not give the right to the Electoral Boundaries Commission to decide on communal issues - nowhere. The only place, and that is in the Best Loser System, First Schedule, where it says the Best Loser System looks at fair and adequate representation. Nowhere in Section 39 of the Constitution does it say that Electoral Boundaries Commission should look, when it is calculating the Constituencies, at fair and adequate representation. It has violated the Constitution. But I have a remedy for that. I am not stupid enough to go and say these things without having a remedy. There is a remedy for that. I will disagree with one of the speakers previously who said that what we wondered was to merge, I think, Constituencies No. 2 and No. 3. We are not stupid, we know there are 20 Constituencies, that I know. I can count up to 20 but, of course, we need to be able to redistribute the electors so that they have better, they have more equal representation, because the votes have to have equal weight, that is, the basis of elections. I know hon. Roopun is a major lawyer, but I have gone to see a QC specialising in this in the UK and he has assured me of his support. We will take it to Court because it is not legal. That does not mean that I want to have a *débalancement*. That does mean that.

I think that we have to respect the Constitution. We have equal constituencies of equal weight and we can think of No. 2 and No. 3, even No. 4. We can think of Baie du Tombeau going to Constituency No. 4. We can think of Vallée des Prêtres going to Constituency No. 3. We can think of Pailles, Guibies, La Butte going to No. 2. We can think also of Constituencies No. 14 and No. 13. A child of primary

school could draw a better constituency line than the Electoral Boundaries Commission. No. 13 has 32,000 electors; No. 14 has 63,000 electors. This is the situation. So, obviously, we can think of this. We can abide by the Constitution; if necessary change the Constitution for this. But it is clear that the way that the boundaries have been drawn is undemocratic and it will violate the Constitution. The remedy, of course, is to increase the Best Loser System because then, if you have a *débalancement* coming from whatever has happened, compared to your census, then you would increase - not decrease - your Best Loser System. This is, Madam Speaker, the way I can see that we have both a democratic system with equal votes in each constituency, at the same time, ensuring that no minority is left aside. For me, if there are other people that are oppressed, if the Tamil, *par exemple*, feels oppressed, who am I to say that the Tamil should not be in the Best Loser System? Why? If they feel oppressed, and I give you the only reason that I will accept tomorrow to abolish the Best Loser System in a moment. We are here for the oppressed. I am not here to defend the big millionaires in this country. We are here paid for to defend the *tidimoune* and we will continue to do that. I am happy that 12 social cultural organisations, Hindu House, Sanatan Dharma Temples Federation, very famous, Marathi, everyone, 12 of them deponed by their lawyer and supported the fact that we need to redraw the boundaries.

I am happy, Madam Speaker, that this happened like that and to show also that it has got nothing to do with communalism. Rodrigues, Madam Speaker, 29,000 electors, if you take the average in Mauritius, each constituency should have 44,000 electors. Rodrigues does not need to have a third one. I am sorry, it does not need to have. And, if I may make this humble appeal to my friends from Rodrigues, they can involve also in the life in Mauritius, not just in Rodrigues, you are also Mauritians fully. When I ask a PNQ on Rodrigues it is because I feel Rodrigues is part of Mauritius. There is no reason why you should limit your questions only to Rodrigues, Port Maturin and all that. Open it! And also, think of all these Rodriguans who are suffering in Mauritius, thousands and thousands are living as squatters. That is also something - and hon. Soodhun agreeing with me.

*(Interruptions)*

Yes. That is also something that needs to be. I am not saying this in bad faith. I am saying that this is something that needs to be everybody in Parliament, is a Member of Parliament for the whole nation. So, I don't think Rodrigues needs on a purely mathematical figure, because I cannot say that we have two small constituencies on one side and the other side say



we need three, we can't. I need to be honest and truthful in what I do. I know that afterwards people will use that against me, this is life.

Now, what do we do, Madam Speaker? There was a very good article written, I think, by Mr Lecordier, in *Le Mauricien*, who said that if a patient is sick - the guy is a Jesuit priest, I think he was a laureate also. I know him, he is a Jesuit Priest now in Paris or wherever in Europe. He said, if the patient is sick, take the patient to the doctor, the doctor will do a radiography or whatever it is, even use the scalpel to see what is the problem and to find a cure. We don't want to end up as France; we want to see what the problem is, understand what the problem is and find a cure, Madam Speaker. So, we are here, and I just want to talk about this famous article in *L'Hebdo*, with your permission, because that gives you an idea. Maybe this famous article escapes the mind of hon. Roopun. I am also in this article. I have reason to be happy. The article shows, Madam Speaker, *le débalancement dans la fonction publique*. You may say, maybe, that Creoles are not intelligent enough, cannot make it, or I don't know what you can find as a reason. What can be the reason? Give me reason! Are we too stupid to be in the *fonction publique*? There must be a reason if you have le *ministère de l'égalité des chances*, 96% Asian. *Ministère de l'Énergie*, 100% Asian. *La Santé!* Madam Speaker, so important, le *ministère de la Santé* - I am not going after hon. Dr. Husnoo, I give him a chance this time - 94%, and only 6% Christian, Madam Speaker. But when you go to the hospitals, are not you allowed to have a good service, are not you allowed to have diversity? This is the problem! The Ministry of Tourism, where I have been so often, that is not bad - I think hon. Roopun did not read it. That is 74%, that is the highest representation for non-Asian. In the Government, it is Ministry of Tourism. The rest is good for people to know, to read and I thank *L'Hebdo* for the courage that it has had to publish this article.

*(Interruptions)*

Okay! Let's take the Ministry of Sports - I am not going to say who wins medals. The Ministry of Sports, 100% Asian! Not one single Creole, put it like this, working, according to *L'Hebdo*, in the Ministry of Sports. That is the situation in Mauritius today and I would welcome hon. Roopun's view on why this is so. Are we too stupid that we can only run on a racetrack but we cannot help in a Ministry. Tell me please what is your solution because this is what I am going to ask at the end my speech. What is the solution apart from mistreating me - not you personally - what is your solution?

**Madam Speaker:** Hon. Leader of the Opposition, don't engage in a conversation with the Minister.

**Mr X. L. Duval:** For sure! Apart from mistreating me, Madam Speaker, what is the solution of the Government to this issue? This is a serious matter, it is not a joke. I have no problem, I was not aggressing him or anything. I was very nice.

**Madam Speaker:** No! Hon. Leader of the Opposition, even if you are not addressing him, you cannot engage in a conversation with somebody.

**Mr X. L. Duval:** For sure! Okay! Now, what about Cabinet itself, we know 100% here, 95%. What about the Cabinet itself, Cabinet is not a PS. What is Cabinet, who chooses the Cabinet? The Prime Minister chooses the Cabinet, he chooses how much to give to his allies, which posts to give to his allies. There is a bit of negotiation, but that is how it is. And the Cabinet, Madam Speaker, if you take Muslims and Christians, 50% according to 2011 Census. Why is there only 26% represented in Cabinet? I will tell you a story and I want to explain why this is important. Once, I was dealing with the previous Prime Minister - a previous Prime Minister, I will not say who it is - and we were negotiating hard with a very strong group of people. Maybe, my friends might remember. We were negotiating with a very strong group of people, and the Prime Minister took me aside - I was even for a while Chairman of that Committee - and says: 'Xavier don't worry. *Mo pu montrer zott ki sa ve dire pouvoir politique*'. So when you lose political power, you lose everything and when the Electoral Boundaries Commission disenfranchises a large part of the population, this is what happens to this country, there is a loss of *pouvoir politique*. This is what happened, this is the truth, hon. Dr. Arvin Boolell might remember what it was that Committee; the tough decision. We won in three days. In three days, everything was accepted and we get all that we wanted. So, Madam Speaker, when you lose the *pouvoir politique*, you lose everything. This House is already badly representative of the nation. The Cabinet is even worse, the Cabinet appoints the President, the Vice-President, the PSC, the LGSC, the Commissioner of Police, the Commissioner of Prison, and everything comes out of the Cabinet and this House. And when you distort it here, you distort the whole country, the whole symbiosis in one way or another and that is what happened. This is why the United Nations are after us, this is why they are asking for a census, because they are not stupid, there is internet, they know what is happening and they know that a large part of the population, through the Boundaries Commission, had been disenfranchised in this country. Their votes have no value and the only thing that gives it a little bit of value is the Best Loser System because it corrects some

of it. Not all of it by any means, it corrects some of it and this is why, as Leader of the Opposition, I am standing and saying today that I will never vote for abolishing the Best Loser System. I will never do so as long as I can see that there is still a distortion in our political system.

Madam Speaker, coming back to the Electoral Boundaries Commission, the Banwell Report 1966, did you know what was the smallest constituency at that time, it was No. 7, Rivière du Rempart. I think it had 13,000 people. The largest was La Caverne-Phoenix with 19,000. We have 6,000 difference. Today, between the largest and the smallest constituency, you have 42,000 difference. 300%! One constituency bigger than the other constituency! So, we must recognise that. We must address that. If the Electoral Boundaries Commission does not do it willingly, it will have to do it, Madam Speaker, through action in the Court. So, I say again, we need to think and act in the interest of the whole nation.

Madam Speaker, I have not attacked anyone. I have seen so many attacks against the PMSD here. I do not know whether myself personally, we are here, we are there. But it is a shame because it is not our way of attacking people. Even hon. Tarolah, we did not go for him. It is not our personal way of life. He made a mistake; I hope he has paid for it. We are not going personally ourselves to do it. Although we do not approve of showing your 'zizi' and all that to everyone! We do not approve that. I hope that he has suffered enough shame in his life. That is what I hope. But why all these attacks! There have been allies to all of them. We worked well; we left on a matter of principle because you wanted to do away with democracy. That is what happened. So, now coming and inventing this and that about the PMSD under Sir Gaëtan Duval!

*(Interruptions)*

Yes, not you! The hon. Member thinks I am talking about him. We are not! We are talking about the rest. I can look at a few people, and it is not fair, Madam Speaker. He was loved by everyone in this country. He was against independence, he had his reasons. *La grande alliance* made this country what it is today. It saved democracy, it saved the economy and it saved communal relation in this country, *grand l'alliance*. We suffered from that but we never complained. And in my house at Grand Gaube, everyone would come and go in the house, everyone. When he was in prison, I do not want to go into that as well. When he was put in jail, there were riots all over the country and he had to be released. But when he died, Madam Speaker, you can say what you like about Sir Gaëtan Duval, when he died Madam

Speaker, 300,000 people lied on the streets for hours. From Grand Gaube to Goodlands, to Petit Raffray, to Port Louis, to Quatre Bornes, to Curepipe wherever you want, Phoenix, lied on the streets. They were fighting to touch his coffin, people of all communities, this is a fact of life, this is the truth of Sir Gaëtan Duval, Madam Speaker.

So, to come and say today that he was communal, this is all rubbish, absurdity. When some people die, I do not wish anyone to die, maybe 300 people will not come to their funeral. Here, we had 300,000. Maybe they are lucky if they get a thousand. So, do not criticise this type of Statesman unless you really mean it. Of course, Madam Speaker, we do not forget what Maulana Haroon said. He said, in fact, if you vote one way or the other, even worse will happen to your tomb. So, let's be careful when we talk about people who have died, who have served this country well and who are not here to respond to disgusting remarks that are made in this House, and some of them by his colleagues in the *barreau*, Madam Speaker. I find it disgusting and I say that, and everyone in Mauritius loves Sir Gaëtan Duval, and that is a shame. You bow your head down with shame for this, Madam Speaker. Madam Speaker, I hope that these people who talk, Maulana Haroon will take care of them.

Madam Speaker, what do we do? Coming to a little technical point that I will take, not many, on this Bill, we know that the Best Loser System, Sir Gaëtan Duval went in 1982 to the Supreme Court. He braved every hostile crowd outside and he came to this House as Leader of the Opposition. This is history because the Leader of the Opposition was the Best Loser System applied, and he was a great lawyer. Now, what about what you are proposing? Are you sure, have you made your calculations that there will always be an Opposition in the Bill that you are presenting today? Because I think that there may well not be any opposition. I hope not but if the mathematics work out wrong and for some reasons the said alliance wins 60% of the votes, the other party going alone with a few of their 'everyone going alone or whatever' gets less than 9%, what will happen? Where will the Opposition be? No Opposition because this Bill, apart from its other flaws, unfortunately, has one additional flaw, is that it does not guarantee there will be an opposition in this House. Because if every party gets less than 10% apart from the winning party and it can happen by the way some parties are splitting up, then what happens? Then you get no opposition. So, is that *une évolution*? As the previous orator told us, it was an *évolution du système démocratique*. The previous system guaranteed an Opposition, the new system no opposition. That is an *évolution*.

Obviously, it is unlikely that this would happen but it can happen, and we need to prepare for all cases where that could happen. So, Madam Speaker, I am not going to be that long. I am going to tell you about the absurdity of having, I think I mentioned, the 15 additional MPs sitting for 6 months of the year. I won't talk about this. There will be more pressure on ministerial posts. For sure, we will need to increase the posts of Ministers because already with the few MPs that are there, they all want ministerial posts, and PPS, overseas travel, duty-free cars and, of course, the pension for the rest of their life. Our country does not deserve this sort of additional expenditure. Save the money, buy a few dialysis machines, some toilet paper maybe. You do not know what you can get with that money, but do not waste it on 15 additional MPs when we cannot put toilet paper for the poor guys having dialysis in Mauritius, have better schools, higher pensions for our poor, for our elders. This is where I would agree that the money should go in.

Madam Speaker, we are nearing another election, and I am worried about this. What value will the population put on an electoral manifesto? It is a very careful question that I am going to ask, especially *l'Alliance Lepep*. Having gone 100% completely reversed to what was promised on the Best Loser System, what value the population would put on another electoral manifesto from the Government? Will they believe it or will they think it is just *faire zoli, sonn bien*? We have experts who write manifestos in the Government. It sounds good. Hon. Bodha is very good at this. It sounds good. Let's write it and then we do not need to abide by it! Will the population not lose faith completely in electoral manifesto and electoral system, if at the eve of another election, we go completely against what we had promised them to do, Madam Speaker?

Before I end, Madam Speaker, I want to deal with this famous Committee that I chaired. I was Deputy Prime Minister; I used to chair most of the Committees because the Prime Minister rarely chaired Committees. It seems to be something that I had to carry for the rest of my life, but I do accept it. I chaired the Committee. I do not know how many times we met. I cannot remember. It was a very long 'terms of reference'. Since people have opened the debate on the Committee and it has been allowed, so I will also be able to shed light on this Committee, Madam Speaker, with your permission. These were the attributions of the Committee –

- introduction of a dose of proportional representation in the National Assembly;
- mandatory declaration of community;

- anti-defection measures;
- widening powers of the ESC;
- financing of political parties, and
- amendments to the electoral system.

Now, we were three political parties in that. I am sure our friends could not be of bad faith. We decided to deal with the easiest ones first, isn't that right? We decided to deal with the easiest ones where we would have consensus first. We dealt with financing of political parties. We dealt with Rodrigues and we dealt with my friend, hon. Dr. Husnoo, on Local Government. These are the three things that we did. We never even discussed it because we knew that this was going to be a problem. I had just left the Labour Government a few months ago on that issue. So, I was not prepared to raise it at that time. It was to be left for later. This is much later. This is four years later, but it was to be left for later and we never raise that issue. I trust that my friends on that Committee at that time will remember this as being the truth. We never discussed it because it was not on the agenda at that time and that is the truth of the matter. However, we did touch on women. I still remember the face of hon. Mrs Dookun-Luchoomun and also hon. Bodha on that Committee when, one member, hon. Collendavelloo, became adamant, violent that we should not give a third guaranteed number of seats to women candidates. I remember this, Madam Speaker, I remember looking at hon. Bodha because we had agreed before...

*(Interruptions)*

I know he is a fair man. He will remember. We had agreed before him and me that this would be the next easy thing to do...

*(Interruptions)*

No! It was the next easy thing to do. He was adamant that we should not – you know his way of booming...

*(Interruptions)*

So, we all remained quiet. He said no, well maybe we will postpone it for later. You forgot! This is the truth. I and hon. Soodhun would say, Madam Speaker, before God, this is the truth. That is what happened. I was seeing him soliciting, asking people to vote because of the thing that he was very much against. However, I can accept that after three years, he would have changed his mind. I I can accept that, but when you open a Pandora's box, you open it for everyone, not just for yourself.

On the issue of Rodrigues, Madam Speaker, I had all the trouble in the world - the National Assembly knows about - not to get a horrible system of Government in place there where the more seats that the First-Past-the-Post – and the Rt. hon. Sir Anerood Jugnauth would remember that because he is a straight guy, he would not mess around. He wanted, Madam Speaker, the more First-Past-the-Post you get, the more PR you get. But we got help from hon. Pravind Jugnauth, etc., and it was not accepted. It would have been horrendous. So, that is the truth about the Committee, Madam Speaker. Unfortunately, I would not have wished to raise it. It is not my habit, but I have been put in a position where I had to raise it.

Madam Speaker, what is expected of us? What can we do? On what basis, Madam Speaker, will we do away with the Best Loser System in Mauritius? It should be our aim. It should be what we want to do. Madam Speaker - although I am sure she does not keep very friendly relations with me - our previous President, she was too young, too new for the job. That is why. I am sure she is not a bad person. This is what she says, I think today, in *Le Defi Quotidien* –

*«Le jour où les institutions privées et publiques fonctionneront sur la base de la méritocratie, ce jour-là, le Best Loser System disparaîtra naturellement.»*

This is what she said.

What is required, Madam Speaker, for nation building? What is required for everyone to feel secure? It is for an effort to be made! The boundaries essential under the Best Loser System an effort to be made in the country, you cannot deny the problem. You can do as the French - put the ostrich, *la tête dans le sable*, but you cannot deny the problems that exist and the problem needs to be dealt with. This Government is not more at fault than previous Governments, maybe in some ways less at fault. I will be frank also on that, but it has happened for years and years and years, and even so much that people are used to it. So, they are shocked when I talk about it. What needs to be done for nation building is to see to it that everybody gets a fair chance; that the word ‘diversity’ should become everyday word in our vocabulary, Madam Speaker. We are able to say that this Ministry has diversity, the Police Force has diversity, the University of Mauritius has diversity and everybody has diversity. We must make a real effort at nation building. We must we make a real effort for inclusion. I was Minister for Social Integration. Why did we create that Ministry? Why does it exist? Obviously, because a lot of people have not integrated! I would want to see one day that the Ministry of Social Integration disappears and that everyone in this country, every Minister,

every PPS, every MP becomes himself an agent of integration, Madam Speaker. This is my wish and this is my condition for tomorrow; one day in the future, probably the distant future, that we would vote to abolish the Best Loser System above all because we have reached the status of a nation.

Thank you, Madam Speaker.

**Madam Speaker:** Hon. Prime Minister!

(4.46 p.m.)

**The Prime Minister:** Madam Speaker, let me first respond to a few remarks that have made the hon. Leader of the Opposition. One of them, he complained why is it that there has been no *koz kozer* on this Bill. When I have listened to him today not only on this Bill, I must say, we disagree on quite on a number of things, but more so, with regard to this Bill. On behalf of Government, we had held a press conference, we had made public our proposals, we had sent a document to each party represented in this House and to independent Members also. We expected at least to have - whether you call it constructive or whatever - counterproposals. There have been, as he rightly pointed out, maybe if I heard him correctly, some organisations.

In fact, political parties also not in this House, individuals also and even organisations which are not actively engaged in politics have made several proposals. I think, in my speech I mentioned that a number of those who have made proposals but which were not obviously acceptable because the gap between what we were proposing and what they were saying was so wide that it was difficult to engage any meaningful discussion.

The hon. Leader of the Opposition, I have been following what he has been saying publicly in a number of Press conferences or elsewhere, and again listening to him today has confirmed his stand. If I can understand him correctly, the root - apart he talks about meritocracy, institutions and so on - of the problem for him is the delimitation of the electoral boundaries, and he has come very hard against the Electoral Boundaries Commission. So, where is the room for us to talk? I am ready to talk, I said we are ready, we are open to any discussion, but again the difference is so fundamental that I don't think that it would be meaningful even to start any discussion. And then, he is talking about when the patient is sick. This patient has been to, you know, how many clinics? There has been this Select Committee Report of 2004, the Carcassone Report of 2011, the Sithanen Report of 2012 of which he formed part of the Government.



Now, I hope he is not going to tell us that he was not the Prime Minister therefore he had nothing to say. Consultation paper, he was not in that, on the electoral reform, I believe in 2014 and then the electoral reform proposals of the Labour Party and the MMM, this has been on the agenda for years and years Madam Speaker. We have been discussing and sometimes when foreigners look at us here, they are also amazed because today we are in Alliance with the *Muvman Liberator*. We have been, as far as the MSM is concerned, with the MMM, with the Labour Party, with the PMSD. I mean who has not been with each other here in this very House and discussing?

One of these issues has been obviously electoral reform. We have disagreement, yes, we have had, but we cannot go on like this. And that is why I am going to respond to what has been suggested both by the MMM and the *Mouvement Patriotique* also. We refer the matter to a Select Committee, Madam Speaker. It is as if we are saying: let us continue to go round and round and round and round. It is as if the dog ...

*(Interruptions)*

You have suggested a Select Committee?

*(Interruptions)*

After the election, Okay! Okay, *Mouvement Patriotique* then! But even after the election because all the elements are here. We all know. I can say *chapeau* to Dr. Rama Sithanen, he has been working so much on this that he made a thesis out of it and he became Doctor in this field also.

I think the way we are going here - I am not claiming for myself, I am far from going to become a Doctor - some of us here will become Doctors in electoral reform. We are going to make specialists of electoral reform in this country. This is what we are going to produce. We have the must and that is why we came with this Bill. You are sad also, I am sad also that we are in such a situation. But we have to do something concrete, we cannot just keep on talking, discussing, trying to agree and I think this is the time that we have to, each one, assume our responsibility.

The hon. Leader of the Opposition is saying that: 'well, you put it in your manifesto.' Yes, let me remind him what we put also. For fairness, you should mention everything that we put in our manifesto. In the programme, we said our electoral system will be reformed to introduce a dose of proportional representation in the National Assembly and guarantee better

women representation. An anti-defection legislation will be introduced to make it more difficult for MNAs to cross the floor. A financing of political parties Act will be enacted.

Now, I agree in our manifesto we said the BLS will not be abolished, but, Madam Speaker, when we are faced with a situation where on the one hand the United Nations Human Rights Committee has made a pronouncement which says what it says, there is no need for me to go into the detail of it. One of the fundamental issues where I think we all agree when we read the pronouncement is that we can't keep on with the mechanism of nominating Best Losers on the basis of the 1972, I believe, census. This is outdated and Government, therefore, has to take a stand. The pronouncement does not tell us what we have to do, but there is this observation.

We, here, on this side, the MMM also and I heard also the *Mouvement Patriotique* that we do not agree and I heard also the Leader of the Labour Party, Dr. Navin Ramgoolam also mentioned that we do not agree for a census. Therefore, what do we do? And then, we also have the case of *Rezistans ek Alternativ* before the Supreme Court of Mauritius where they are contesting the fact that they should be allowed, whenever they want to stand as a candidate, not to be obliged to declare their community. What do we do? Because I say I have put it in my manifesto and he will come to the Court or I will go to the United Nations Human Rights Commission and say: 'Look, I have put it in my manifesto.' Therefore, I say put and I do not do anything! We have to act responsibly and we have to act.

Now, this is why, Madam Speaker, I say it was a truly historic opportunity, in fact, to mark a turning point in the political history of Mauritius. As I said, we have to choose between, we say modernization, as opposed to stagnation. Okay, you don't agree, fair enough! But our electoral system is old, very old. 50 years after independence, we had to re-imagine the electoral architecture and this is why we have come before this House with proposals for a modern electoral system.

As I say, hon. Members, I have listened attentively to all speeches. I would like to thank everybody. It does not mean to say that when we disagree I do not - I listened carefully, I tried to understand each Member's arguments, but, as I say, probably we had taken a too hopeful view of the situation, but even though I have appreciated the solid and substantial arguments that have been put forward by some hon. Members. I must also say that the debate has been clouded by some Members who are resisting change just for the sake of resisting or maybe also due to short sightedness. And I was very disappointed to hear the speeches of a

few Members with really heavy communal undertones. I must say, I didn't believe that I would hear that kind of argument. I believe that such arguments, such kind of speeches is fit, maybe for another age, but certainly not 2018.

The type of rhetoric they are using, which targets a specific sentiment, is not fit for our country in this 21<sup>st</sup> century. In fact, it can do a lot of damage to nation-building. Therefore, we are convinced that, unfortunately, some of the Members are out of tune, but the country, especially, the younger generation, they have new expectations and they are ready for the change we are proposing. I said I was too optimistic in believing that the political class, as well, was ready for change. I was wrong. Some of them are still not out of the communal swan.

As for the Labour Party, well, I actually have no surprise that hearing what the Leader of the parliamentary group said. I think you are fighting a losing battle; you are defending outdated ideas, which are bound to die one day or the other. As I said, there are expectations in this country and we all have to understand this. The Constitution, Madam Speaker, accordingly to me, one day or another, will have to eliminate the reference or any reference to ethnic or religious groups. It will happen. It might not happen now, I don't know when, but it will happen. Those who resort to communal tactics to counter our proposals are getting lost in the source of politicking. As I say, we have a historic opportunity for change and I would call some of the rabble-rousers in this House, have chosen to fan the flames of communal tension. This is more dangerous than mere political opportunism and I don't know how I would not be able to try to exploit religion and ethnicity for short-term gains. I say, at least, this is not my style, but we shall cling to our political beliefs, whatever be the consequences. And I must say that some Members have also missed the point or may be deliberately distorting or diverting the debate. There have been some incorrect statements and it was, therefore, necessary for us to debunk the falsehood that they have been spreading and clarify certain misinterpretation.

Now, on this side of the House, we have given a fitting rebuttal to a number of their arguments. Nevertheless, I would like on my part to take a few arguments which have come from the other side. Let me again take the suggestion that was made by the hon. Leader of the Opposition and other Members of the PMSD to reinstate the communal census. Again, Madam Speaker, I will say emphatically no; I will say in the most unequivocal terms that I shall never support the inclusion of a question on ethnic categories in a census, in a census for electoral purposes. We are talking about two different things when you mentioned about the

census that was carried out. I consider it to be retrograde and it will be detrimental to nation-building. A census that asks Mauritians to classify themselves by community and ethnicity is improper. It is, in fact, contrary to our values. We, on this side of the House, stand for a secular and modern nation. And to those who may be too young to fully understand the dangers of fragmenting our nation, to those who are not aware of the true Mauritian spirit and to those who are obsessed with partisan considerations, I shall say, please, have some respect for our nation and I shall urge them to stop to try to divide the people further. I say it to divide the people further. The ethnic census that the PMSD is calling for has chilling implications.

The argument that an ethnic census would be useful for social re-engineering is simply untenable. As I say, there is no need to continue to compartmentalise our population and we try to do that, when I heard the Leader of the Opposition saying to try to fight poverty and social exclusion. There are more effective ways, there are other ways, more appropriate for achieving this goal, and this is what precisely this Government has been doing since we came to power. And we must also not underestimate the practical difficulty - difficulties, I would say - associated with such an exercise. Because, Leader of the Opposition, you must understand one thing. You are talking about carrying out a census for the purposes of having updated figures with regard to the four communities mentioned in our Constitution so as for the Best Loser to be nominated on the latest figures. What four communities do we have? What four communities do we have, mentioned in the Constitution? And if somebody in the census says: 'I am a Mauritian', what do you do? The hon. Leader of the Opposition mentioned that out of the household budget survey that was carried out. *Non?*

*(Interruptions)*

Population census that was carried out, people...

*(Interruptions)*

Yes, under me, under you, whoever, it does not matter. I am saying there is a marked, a fundamental difference between that census and this one that you want to carry out for electoral purposes.

*(Interruptions)*

There is. Somebody will answer - I just take a few examples - this is Mauritius, Madam Speaker. Somebody who is of one community married to another community and has a child. I do not know which community would you say the child would be born.

*(Interruptions)*

General population? *Ah!*

Madam Speaker, I am very serious about what I am saying. You know, in fact...

*(Interruptions)*

**Madam Speaker:** Hon. Leader of Opposition, please! Nobody disturbed you when you were speaking. You can't place name on anybody! Nicknames are not allowed!

**The Prime Minister:** Let me make my point. So, Madam Speaker, the Leader of the Opposition said, well, in the population census, out of so many people who have answered the questions - he mentioned thousand, let us say, even hundred. Who is going to decide for those who have answered that I am Mauritian, I am *de l'Assemblée de Dieu*, I am *Pentecôtiste*, whatever it is, who is going to classify them in what category? Who will have this power? You are going to give that to the Electoral Supervisory Commission because they are the ones who make the calculation for the Best Loser?

*(Interruptions)*

No! Madam Speaker, therefore, it is going to be...

**Madam Speaker:** No crosstalking! Leader of the Opposition, you can see you are disturbing the hon. Prime Minister!

**Mr X. L. Duval:** Madam Speaker, hon. Roopun asked me a question, why don't you hear?

**Madam Speaker:** If hon. Roopun did, then I would ask him not to engage in any crosstalking, especially out of respect for the hon. Prime Minister.

**The Prime Minister:** Madam Speaker, therefore, we must also be wary of the unintended consequences of reintroducing ethnic census. Mauritius is a young, small, complex and plural society. An ethnic census will only rekindle ethnic and religious debate and create rifts within the population. This is why I believe the majority of the population, specially the youth, rejects this type of census. And it is not surprising. I must say that, there is only one party, - because I heard all the others speaking against the census - the PMSD which is in favour of this abhorrent and anachronistic practice. I must, admittedly, say because the Leader of the Opposition mentioned that some countries are still resorting to ethnic census, but that does not mean that we should emulate them. Not only the questions

about ethnic categories are objectionable in principle, but they will be highly artificial. Does it make sense to ask these questions to citizens who have broken down walls and developed a strong sense of Mauritianism? Instead of, I would say, going backwards, we need to strengthen the identity and sense of belonging of the nation. There is no necessity in the modern age to force people to identify themselves as belonging to one group or another. We belong to the nation, not to a community, not to a caste or race. Our vision is to promote nationhood while making our unique cultural diversity a source of strength. We shall safeguard and encourage pluralism within our society, but we shall avoid, reject and resist, at all costs, this proposal for ethnic census.

Madam Speaker, on the issue of the review of the electoral boundaries, which was raised continuously, systematically in this House and outside by the Leader of the Opposition and Members of his party, the House will appreciate that under the Constitution, it is the Electoral Boundaries Commission which bears the responsibility to carry out this review. This task is not within the province of the Executive.

As the House is aware, the Commission has already embarked on the review of electoral boundaries for its next report, which is due in 2019. The last report of the Commission was submitted in 2009, but was set aside by the then Prime Minister. In fact, the report was never presented to the National Assembly for reasons which are, in fact, best known to the Labour Party and the PMSD Government at that time.

I heard something which is really, I would say, *enfantin*, coming from the hon. Leader of the Opposition. He said: 'I was not Prime Minister, Navin Ramgoolam was Prime Minister'. He was Deputy Prime Minister...

*(Interruptions)*

He was a senior Minister in Government.

*(Interruptions)*

Yes, but a senior Minister in Government. You are thinking for such a long time about the problem of constituency, delimitation about boundaries, about the number of people, electors in one constituency and the other.

*(Interruptions)*

When this happens, the Prime Minister then in your Government does not do anything, keeps on sitting - I would not say something else! But, you don't even say anything! You don't say,

‘look this is something which is fundamental to the PMSD, we want something to be done’. And not only about the report, forget about the report, but so many years you have been in previous Governments, what have you been saying, what have you done? It is now that you are wiser. Therefore, I would really express my disappointment and resentment. I must say that they are unwarranted criticisms made publicly against the members of the Electoral Boundaries Commission. The members of the Commission - to me - have been doing their job with the highest degree of professionalism and integrity, which has been acknowledged, in fact, both nationally and internationally. I am not an expert in History, but I have tried to gather information, tried to understand why it is that our boundaries have been like that. I mean, hon. Bérenger has spoken about it, hon. Ganoo has spoken on this issue. I don’t need to allude further. There is a context, there is a reason why it has been designed in such a way and, therefore, we must be very careful and that is why I completely disagree with the remarks that he made, which I consider really deplorable against such an institution, Madam Speaker.

Madam Speaker, I also heard some Members criticizing the proposed increase in the number of MNAs, which they say will be too high, compared to some other countries. Well, as I said in my speech on Friday, the number of MNAs as we are proposing is, in fact - I not comparing with other countries, I am just comparing with what all of us here, one way or the other we have proposed - the previous proposals that have made. The increase in the number of MNAs, to me, has to be increased because this is the price that we have to pay to move towards a more inclusive, participatory and representative decision-making.

Let me say, in its submission to the Sachs Commission –

- (i) the Labour Party had proposed then 95 MNAs;
- (ii) the MMM had proposed 90 MNAs to the Sachs Commission;
- (iii) the Sachs Commission Model C recommended 100 MNAs;
- (iv) the Select Committee on PR also recommended 100 MNAs;
- (v) Sithanen’s Report 2012 – 82 MNAs, and
- (vi) the last Labour-MMM Alliance (2014) – 83 MNAs

We are proposing 81 MNAs, a number which, of course, in very exceptional circumstances may go up to 85.

With this formula we are proposing, the losing party may get more PR seats than the winning party. Let me give an example, where the losing party gets 57% of the votes against

43% for the winning party. It nearly happened in 1983, where the 1<sup>st</sup> party got 37 First-Past-the-Post seats with 43% of eligible votes, against the 2<sup>nd</sup> and 3<sup>rd</sup> parties which got a total of 23 seats with 57% of votes.

It is also false to state, Madam Speaker that with Government's proposals, the majority between the First-Past-the-Post winner and the First-Past-the-Post loser will become wider. This is misleading as the whole mechanism is aimed at ensuring that all times, the majority arising out of the First-Past-the-Post results remains exactly the same after allocation of PR and additional seats.

And it is also significant to note that under the formula we are proposing, in fact, the losing party will be compensated by the allocation of additional seats in case it receives less PR seats than the winning party. Let me give a few examples -

In 1982 and 1995, where the results were 60-0, the losing parties got only 4 Best Loser seats.

Under the proposed system, the losing parties would have received 9 seats, that is, 3 PR plus 6 additional seats.

The second example is the 1991 General Elections, where the results were 57-3 and the losing parties had got only 4 Best Loser seats.

Under our formula, they would have received 9 seats, that is, 5 PR plus 4 additional seats.

The third example is 2000, 2010 and 2014 General Elections where the losing parties would have received 4 additional seats against 2 for the winning parties.

Madam Speaker, let me now come to the Best Loser System. This has been, I must say, the central part of debates. Some hon. Members are still in favour of maintaining the Best Loser System as it is, that is, with the concomitant mandatory declaration of community by prospective candidates. Let me quote what Professor S. A. de Smith, the Constitutional Commissioner had to say in his November 1964 Report about any form of communal representation, and I quote –

“Some of the proponents of communal representation sought to show that this would discourage communalism and strengthen tendencies to vote along party lines; others conceded that it would encourage communalism but asserted that communalism was in any event an ineluctable fact of life in Mauritius. My own belief is that the



immediate effect of the introduction of communal representation in any form would be to intensify communalism by endowing it with the accolade of legitimacy, that candidates in an electoral campaign would experience irresistible temptations to appeal to the narrower communal prejudices, that there would be increasing demands for communal representation in other walks of private life, and that the long-term effects would be deleterious both to the minorities which now think of it as a safeguard and to the general welfare of the island.”

Madam Speaker, it is significant to note that the Law Reform Commission of Mauritius had in a report released in May 2014, expressed its agreement with the views of Professor de Smith and also stated that the system of communal representation is contrary to human dignity and is inimical to the rule of law. The Law Reform Commission was of the view that one of the main objectives of electoral reform should be, and I quote –

“The elimination of communal representation (...) whilst, ensuring representation of diversity of electorate. This objective can be attained through introduction of some form of proportional representation in the electoral system, whilst maintaining the current First-Past-the-Post System.”

I must say also that the Commission was in favour of a closed ranked-based PR list as it is in line with international best practice. And, Madam Speaker, this is the most important part. The Commission stated in its report that, and I quote –

“It shall be the responsibility of political parties to ensure that candidates on the PR list and for constituencies represent the diversity of the electorate.”

Madam Speaker, let me also remind the House what hon. Bérenger had to say on the Best Loser System in this House in 2014, and I quote –

“I take it today there is near unanimity *que le Best Loser System est dépassé*. I do not think it would be very helpful to try and work out at what point in our history, at what point in time, it became *dépassé*, it is *dépassé*. There is near unanimity that the Best Loser System is *dépassé*, must be replaced by something that reassures everybody, that takes care of what has been there in the mind of certain people since 1948, but that does away with the obligation for people to declare their community when they stand as candidates and for a communal electoral system as exists until today, Mr Speaker, Sir.”

Madam Speaker, let me also remind the House and, in particular, the younger Members of the PMSD, of what Sir Gaëtan Duval, then leader of the PMSD said in this House in 1982 on the Best Loser System, and I quote –

*« Je ne crois pas qu'il faille aller à un référendum, etc., pour abolir le best loser system. Je crois qu'il est nécessaire, une fois pour toutes d'en finir avec, et de le remplacer par une sorte de représentation proportionnelle(...). Je crois que, peut-être, cette clause constitutionnelle peut perpétuer le communalisme dans nos institutions (...) et j'avais dit à cette époque-là, que tôt ou tard (...) »*

This is important, Madam Speaker –

*« (...) tôt ou tard il faudrait nous défaire de cette clause constitutionnelle (...) je demande au gouvernement qu'il n'ait pas de scrupules, aucun scrupule à venir abolir le best loser system (...) et maintenant, il semble que la majorité, que l'unanimité même de l'Assemblée se fasse autour de l'abolition du best loser system, mais en le remplaçant par une sorte de représentation proportionnelle. »*

It is important, Madam Speaker...

*(Interruptions)*

**Madam Speaker:** Order!

**The Prime Minister:** ... to quote different Judgments in connection with this issue.

- (i) *In ex-parte* – Electoral Supervisory Commission in 1991, the Supreme Court questioned whether a fair and adequate representation may be guaranteed through the Best Loser System when it is based on outdated census figures. The Court considered that this was a problem for the legislator to solve - rightly so. Other Court Judgments, later on, also reiterated that this issue should better be resolved politically rather than through the Court;
- (ii) In *Carrimkhan v/s Lew Chin and Ors* in 2000, Judge Seetulsingh, in his judgement, observed that it is difficult for a Judge in the Supreme Court to determine whether somebody belongs to a particular community just by looking at his way of life. Besides, one may change his way of life from one election to another. Let me quote what the Judge had said in his concluding remarks, I quote –

“(...) it has not been possible for me to look objectively at the way of life of the Respondents to determine their community, I have to confess that our Constitution is lacking in those respects and that this has to be remedied. We understand that a project of electoral reform is on the cards and hope that these defects would be remedied in the near future.”

The Supreme Court, Madam Speaker, was expecting this matter to be addressed in the project of electoral reform which was supposed to be in the pipeline, but which we all know never materialised.

Now, all candidates in a general election are required to declare their community on their Nomination Form. If they do not do so, their papers are invalidated by the Electoral Commissioner. It has been cited, but it is good that I cite it again. In *Narain & Ors v/s Electoral Commissioner & Ors 2005* the Court held that the provision in paragraph (5) of Regulation 12 of the National Assembly Elections Regulations 1968 is, to the extent that it purports to provide that the nomination of a candidate in view of a general election shall be deemed to be void and of no effect if he has not made a declaration in compliance with paragraph (4)(c) of that regulation and is repugnant to section 1 of the Constitution, and has been invalidly enacted. The hon. Judge also expressed regrets that the electoral reform, announced since long, had not materialised

In the case of *Electoral Supervisory Commission v/s the Honourable Attorney-General (2005)* - as a sequel of the previous one - the full bench of the Supreme Court highlighted the problems inherent in our Best Loser System, namely –

- a) the consecration of communal consideration in constitutional term;
- b) the difficulty of the Court in determining the way of life of members of the Hindu, Muslim and Sino Mauritian communities;
- c) the “fair and adequate representation” of communities which is unrealistically based on the 1972 official census.

The Supreme Court again observed that - Madam Speaker, this again is what our Courts have been repeatedly been saying - these problems could only be solved by the Legislator and not by the Judiciary. Likewise, in the case of *Dany Sylvie Marie and Dhojaven Vencadsamy and Ors v The Electoral Commissioner [2011]*, the Judicial Committee of the Privy Council observed that, I quote -

“It would be much better for these issues to be decided as a result of political debates and, if necessary, constitutional reform than through the court”.

The Judgement further stated that –

“if the issues cannot be resolved politically, they may be raised before the Judicial Committee in the future”

We do not know what is going to happen, what can happen in the future. Again, all these are the very reasons why we have come before this House because all the courts of law have been telling us, it has to be resolved politically. It has to come through constitutional reform.

Now, as highlighted by several Members on this side of the House, Mauritius, as a Party to the International Covenant on Civil and Political Rights has been enjoined by the United Nations Human Rights Committee to consider whether the community-based electoral system is still necessary and avoid similar violations in the future.

Madam Speaker, as hinted by a few Members, apart from the Best Loser System, our electoral system already contains several special features to guarantee the political representation of all main segments of the population. It is important to note that experts agree that the Best Loser System has a very limited contribution in ensuring inclusiveness. As a matter of fact, over the 10 general elections held between 1967 and 2010, 82 % of MNAs of one particular ethnic group entered Parliament through the normal First-Past-The-Post. For another ethnic group, the figure is 78% and for a third community, the number is a remarkable 100%. I do not need to mention which community group.

Besides, in the model we are proposing, party leaders will most certainly provide for “broad-based and inclusive representation” in their party list and in the designation of additional seats. Obviously, it stands to reason that leaders, while submitting their PR list, will fill candidates who are likely to correct any apprehended underrepresentation.

Let me speak for my part. Should this Bill be enacted, Madam Speaker, I say, I undertake, I give a commitment as Leader of this alliance to put on our PR list and, in order of priority, communities which are likely to be underrepresented after the First-Past-the-Post result. I take another commitment that in the discretion to allocate additional seats to correct any further imbalance should it be necessary. Here, I would say, our system, what we have proposed is, in fact, more flexible than what has been proposed by the Labour/MMM alliance. I am not talking about the mode of PR representation. That is another debate. We agree to disagree, yes. When hon. Bérenger said that our proposal was for a list to be

submitted to the Electoral Supervisory Commission of six members at latest on Nomination Day, our system, you can choose from those unreturned candidates on the First-Past-the-Post election and those who are on the PR list who have not been returned as PR candidate. Therefore, the choice is wider and the possibility of making any correction in terms of ethnic imbalance also can arise – I would not say only communal imbalance in terms of our Constitution. I do not want to go into the details of it, I think, we are all so much accustomed with this situation. Let me quote hon. Bérenger, what he said in 2014 debate here. This is very important. It was quoted by hon. Roopun, but it is good that I repeat it again. I quote -

“It took us a long time and, as I said, it is not ideal, what we have worked out finally is that the eight best losers will be replaced by a system where the Parties submit, on nomination day, a list of candidates in alphabetical order and the leaders of the parties registered with the Electoral Commission will appoint from this list, using their wisdom, their knowledge of Mauritius, the results of the elections, and this is a guarantee because we can’t take it for granted that all political leaders are fools. No. There are people who genuinely care for national unity, for the progress of this country and this mechanism *a rassuré tous ceux qui étaient inquiets qu’on peut dépasser le Best Loser System tout en rassurant ceux qui étaient inquiets*, Mr Speaker, Sir. A big breakthrough. This is marvellous, I would say. I am proud that it was my doing and then the hon. Prime Minister came along and we have all moved together, Mr Speaker, Sir.”

*(Interruptions)*

Yes. Congratulations! But I must say, I cannot agree more with you, hon. Bérenger on this. As I said, in fact, the formula that we are proposing with regard to this aspect I am saying - because I don’t want to be demagogical - will do better in ensuring a fair and adequate representation of all the different components of our society, given again the flexibility that the leaders will now have.

I cannot resist, Madam Speaker, I have to say this. Hon. Bérenger and Dr. Navin Ramgoolam were in alliance. They agreed and, I think, they came up with this in the political agreement for the alliance and, obviously, included was this issue of the discretion given to the leader of the alliance to choose from that list. Now, Dr. Navin Ramgoolam, in the meantime at a political rally in Quatre Bornes, came and said: “Well, I never agreed to that.” But, Madam Speaker, this is where people lose faith in politicians. As I say, well, at that time,

he might have agreed for political interest, let us say, but, at least, come forward and say: “Look, well, this is what I agreed previously, but now I have changed my mind and I do not agree to give that power, that discretion to the leader to choose and then he keeps on saying - I do not want to go into what he has mentioned again.

Let me come now with regard to gender representation. Again, I would like to mention that the Law Reform Commission was of the view that there is a need to correct the underrepresentation of women and consider that the major responsibility for that rests with the parties. Madam Speaker, with regard to representation of women, let me emphasise that paragraph 3 of the Schedule provides that every party shall ensure that not more than two-thirds of its total number of candidates should be of the same sex, and this means that it is open to a political party to fill up to two-thirds of women. So, it is not limited to 30%.

I hope I have not misunderstood hon. Mahomed when he said: “Why is it that we are limiting it? It is not limited, it is the minimum. But then, obviously, any party can go beyond that. I do not say this just to rebut to what the hon. Leader of the Opposition has said, but as far as I can remember I have been in Government now four years with my friend, hon. Collendavelloo. I know his *pensée avant-gardiste* and I have never heard him saying that: “Ah, why is it we are giving one-third as a minimum for women?” As I can recollect, in all discussions pertaining to other issues, he has always been forthcoming with regard to the advancement of the cause of women. In fact, I congratulate him for that.

*(Interruptions)*

Now, hon. Mohamed said that it took us four years to come up with our electoral reform proposals and the same was couched in a few pages. Well, let me remind him - although he did not come with a reform as such - that the Labour Party/MMM electoral reform proposals were laid down on a single page and they had, I would say, the most brilliant, competent experts on electoral reform. They came up, Madam Speaker, look at that! This is what they came up with electoral reform. And again, if I have to go through that although it does not say, it is practically what we are proposing today, except I agree when hon. Baloomoody and Reza Uteem made the point that the mode of nominating the PR candidates, well, here, we have a difference in the way that they should be nominated.

Madam Speaker, in regard to adequate representation, again hon. Baloomoody said that where is it written in the Bill that each and every component of our rainbow nation will be guaranteed to be represented in this Assembly? I don't know, I would have expected hon.

Baloomoody to come up and tell us how it would have been guaranteed again in this proposal the same way that hon. Bérenger spoke about the rainbow nation will be adequately represented in the Assembly. I would say this is not fair because hon. Bérenger has given you the answer. He said: ‘Look leaders, what we have been doing all this time?’ All the leaders! In fact, all the leaders of the main parties! When we choose candidates, how do we choose candidates? We know we are guided by certain reality of the constituency and also on the rainbow nation. We see to it that we have every representation in our party. This is how we fill candidates. This is how when also we nominate. I won’t go into that debate, I find this very unhealthy to go into the debate of the percentage of such community. Why is it that again you have discovered that only today? You have been in so many Cabinets. I don’t know why is it that you have never come out publicly to say: “Well, why is it that I am in a Cabinet?” As long as you are in a Cabinet, it was okay, it was good. When you are not in the Cabinet, then percentagewise this and that ...

*(Interruptions)*

Look, I am not perfect, but you have to be fair. So, it should not be, hon. Baloomoody. I was replying to you, it should not be, you have made the point yes, you have criticised, but the answer, hon. Bérenger has given you that answer. And this is what we do. We have to assume our responsibility. I have said earlier, it is obvious, Madam Speaker, as far as I am concerned and as hon. Bérenger has said, in 2014 he said it, and I am sure he will also look into it. Let us say if this Bill is enacted, I am sure on the PR list who are we going to put top most priority? We know, we have a list of all the Best Losers who have been nominated for the past years, how many of them and from which community. This is what we will do. Again, I emphasise on the advantage of our system. Our proposal is that when we are going to choose from the additional seats, the discretion that is given to the leader of the alliance or the party, obviously, he will use it in the same way in order to compensate for underrepresentation.

Madam Speaker, let me also clarify one issue which was raised on anti-defection measures. It was hon. Abbas-Mamode who said: “*Pourquoi le gouvernement n’est pas allé jusqu’au bout du problème du transfugisme?*” Well, let me point out, first of all, that the anti-defection provisions proposed in the Bill apply only to Members who are allocated a PR or an additional seat. In reason to the regard why the anti-defection provisions are not being extended to Members elected under the First-Past-the-Post, let me explain that such measures may give rise to complex issues. We have looked into it, we have gathered especially legal arguments as to whether it would be in favour or against why we cannot probably disqualify

an elected Member on the ground of defection. Because it can contravene section 1 of the Constitution. This issue, Madam Speaker, will depend on the interpretation which the Supreme Court will give to the word “democracy” in section 1 of our Constitution. In other words, the issue will depend on whether “democracy” will be interpreted as one where elected representatives are able to vote according to their conscience or one where elected representatives have to vote along party lines.

The Supreme Court of Mauritius has so far, obviously, not pronounced itself on this issue. The Courts of different countries, however, have adopted different positions with respect to the constitutionality of anti-defection provisions. Let me say, in India, South Africa, the Courts have upheld the constitutional validity of anti-defection measures and such measures were held to be unconstitutional in Papua New Guinea, where the Constitutional Court refused to accept that the representative system imported from the Westminster model allowed defection measures. The Court held that an MP’s right to vote on a proposed law was amongst the most fundamental of his or her duties and there was no authority to deny the performance of that duty under any circumstances. The right to vote had to be a real exercise of legislative power and not one that was pre-determined by decisions made and instructions issued outside of the parliamentary Chamber.

In fact, most Western democracies, like the United States, the United Kingdom, France and Italy do not have legislation controlling crossing of the floor, nor does Australia. The only attempt at control is through conditions in the party’s constitution and those countries that do have legislation to control defection are India, South Africa, Fiji, Namibia, Papua New Guinea, Trinidad and Tobago, Vanuatu, Zambia and Zimbabwe and so far, experiences in these jurisdictions have revealed, in fact, many of the difficulties associated with anti-defection legislation and they have suggested that such laws are problematic at best and unworkable at worst. In India, for example, after an anti-defection law was introduced, more defections occurred each year, on average, than occurred before.

The fact that a Commonwealth Constitution is a Westminster-Export Constitution does not automatically mean that floor-crossing is permitted or disallowed as Westminster-export constitutions did not seek to regulate this matter and this explains also the variations in the decisions that have been taken by several Commonwealth countries on the constitutionality of the anti-defection provisions. Now in Mauritius, we don’t know, it is not certain that such measures, if ever we had introduced them would pass the test of constitutionality, again



because the Court has never had to pronounce itself on the type of Parliamentary Democracy that Mauritius has imported.

Madam Speaker, I think I also need to clarify one more thing. I can recall that hon. Shakeel Mohamed stating that Members of the National Assembly to whom the proposed anti-defection provisions will apply, will lose their seats in the event that they are removed from the party by the leader. *Ce sera la dictature du leader*.

Let me clarify and let me say that this is not the case. In fact, such a member will lose his seat only if he chooses, on his own, to leave the party and not if he is removed from the party.

Madam Speaker, in regard to the mode of allocation of PR seats, now let me say, I recall what hon. Bérenger stating that it will not cure the disproportionality between votes and seats.

Madam Speaker, as I have explained very clearly in my speech on Friday last and here we have a major difference, I agree, we have opted for this mode because it is simple, practical, easily understandable and above all, it guarantees political stability and, as was rightly pointed out by the Deputy Prime Minister, we did not invent this method. It was one of the models proposed by Sachs, namely model A. Let me quote what Sachs had to say on this model, which, admittedly, was not his preferred model, but let me quote –

“This model would accordingly have strong advantages as far as simplicity and familiarity are concerned. It would also do little to disturb stability produced by the present system”.

As I said, Madam Speaker, for us, stability and governability are sacrosanct and we should not compromise on that. And let me say that, yes, true it is, I have been in Government with the Deputy Prime Minister 2000-2005. I know his stand at that time. Again, we have been together, I know his opinion on this issue. We have had lengthy discussions and I must say, we all move from that. I don't want to address to a particular party, but let me say one thing. We might not agree on certain things with regard to the proposal, but somebody said it - I think, hon. Bodha before - *qui peut plus peut moins*. At least, it is one step in the right direction.

Can you imagine, Madam Speaker, we have been discussing about proportional representation in this country for so many years; it has been a taboo subject also. At one time, there are people who never even wanted to hear about proportional representation. But we are

moving some way, we are progressing, let me say, in terms of ideology, in terms of accepting certain things. And I would think that, okay, we might not agree with the system, we have our preferred system, but it would have, let us say, broken the ice, at least, it would have been a first step. Then, there would be eventually other governments also, they would come, they would probably try to improve on the system, depending, of course, on the political and the social context that we will be evolving then. But, for me, I thought that there has been a consensus on our side, it was not easy, I must say. When you say that it took us four years, but it was not easy. But, at least, within Government, we have come with a consensus and we have come with this Bill in this House.

Now, this issue of stability, I don't know if I can read properly from the proposal of the MMM and the Labour Party. I looked at it carefully and I note that Government's stability for them, at that time, was equally very high on the electoral reform agenda. And let me quote from their electoral alliance agreement, I quote –

“The main features of the electoral reform agenda are to ensure Government's stability, to consolidate democracy, to enhance party fairness, to foster broad-based socio-demographic inclusion and to promote fairer gender representation”

So, Madam Speaker, for the Labour Party and the MMM, Government's stability took precedence over consolidation of democracy and enhancing party fairness. This is how I read it. Maybe there are other interpretations. In the speech of hon. Paul Bérenger, he also stated in regard to the allocation of the six additional seats that this does not exist. Yes, he said that this does not exist in any other countries in the world. He said then that we are bringing a *machin*, this is the first country in the world that we are going to bring a new *machin* to this. But then, I would ask a question, the best loser system, as far as I know, is a mechanism that is unique to Mauritius. I have tried to check to see whether other countries have this system with the community defined in our Constitution, I have not seen that anywhere else in the world.

So, just because additional seats have been devised by us and it suits our specific context, it does not mean to say that it is necessarily bad or unworkable. It is a Mauritian solution for the Mauritian context. Now, I have to come to this, Madam Speaker. It is good that I say something that has happened, because the hon. Paul Bérenger, of course, he is *un érudit de l'histoire de l'île Maurice, l'histoire politique surtout de l'île Maurice. Moi, je voudrai citer aussi une partie de l'histoire que j'ai vécue dans cette Chambre en 2014.*

En 2014, il y a ‘*koze kozé*’ ; we know. Donc, il y le leader de l’opposition d’alors, et puis, le Premier ministre, le Dr. Navin Ramgoolam qui entame le ‘*koze kozé*’ qui dure, je ne sais pas, pendant assez longtemps pour que le Parlement ne siège pas pendant neuf mois, mais ce qui est grave, madame la présidente, c’est ce qu’ils sont venus nous proposer. Il y avait ce problème de déclaration de communauté pour les candidats, il fallait trouver une solution. Alors, on vient de l’avant avec *the Constitution (Declaration of Community) (Temporary Provisions) Bill*. Madam Speaker, I don’t want to go into the depth of what has happened and so on, because the Government of the day then, and the blame is squarely on Dr. Navin Ramgoolam, then Prime Minister. He was working on a proposal for electoral reform for how many years; it never came. Because we all know, it’s a fact, he used this issue of electoral reform as a bait - I use his own words - to attract the MMM into an alliance. Okay, fair enough, that was done. But you know, and this is what I say, sometimes I am very disappointed because I was a Member of this House and I spoke on that Bill.

Let me also respond to an issue which was raised by hon. Bérenger, because he said, well, why is it that we have had consultations with the Electoral Supervisory Commission, with the Electoral Boundaries Commission. Well, we should have put their views, tabled in Parliament during this debate.

Madam Speaker, during the 2014 debate I was making - and I will come to that in a few minutes - a point that the community, with regard to the nomination of Best Loser, had already been predetermined and there was an objection taken - because I am not going to repeat my arguments, it is there for anybody to read in Hansard. I was explaining to the House how it has been predetermined, and hon. Bérenger stood up and took a point of order. He said, and I quote –

“Is it in order to say such things concerning an independent institution, the Electoral Commission, which are being broadcasted live, casting aspersions like that on the Electoral Commission, and expecting the hon. Prime Minister supposedly to become the *porte-parole* of the same Commission? I put it to you (...)”

*(Interruptions)*

Yes, the Speaker ruled. Yes, it’s a shame, I must say. Madam Speaker, *j’étais têtu parce que* I knew the point that I was making was the right one, and it was the right one. And I was stubborn...

*(Interruptions)*

Yes, I was stubborn. But, look what happened. I put it in the form of a question, and I was allowed by the Speaker then. And again, hon. Bérenger stood up, point of order –

“Mr Speaker, Sir, can I take the same point? Because what was alleged, I mean, the Electoral Commission is no longer here but they can’t defend themselves.”

So, why is that those arguments that were taken in point of orders then, why is it that now, they do not apply and hon. Bérenger is asking us now, put in the report. I have said, Madam Speaker, I do not want the views of the Electoral Supervisory Commission, the Electoral Boundaries Commission to be the subject of debate and for all kinds of, I don’t know what criticisms or whatever it is for this House.

Let me come to the 2014. Madam Speaker, again, this is history, we were in the Opposition obviously and I was trying to understand what the Bill was about, what they were trying to do, and I said, look, from my reading, *ils sont en train de fausser* the nomination of the Best Losers. Because we all know, Best Losers, First-Past-the-Post, the results and then there is a mechanism that is a calculation that is done by the Electoral Supervisory Commission to nominate Best Losers. *Qu’est-ce qu’ils ont fait, Madame la présidente, et ça l’histoire doit le voir* - it is already on record. Ils ont déjà prédéterminé le nombre et les communautés qui vont être nommées comme Best Losers, *d’après cette loi*. And I pointed out initially - I thought that I might not have understood this legislation well and I pointed out, look, with what you have been proposing, there will be two communities that will be left behind, they will not be able to be nominated, one would be the Sino-Mauritian community and the other one would be the Hindu community. And you know what they did, they came up with an amendment, last minute, because I drew the attention, then they realised; I am not expert. I am not expert in constitutional matters and so on, but with all their constitutional experts at that time, they found out that I was correct and they came up with an amendment, where it said that no candidate belonging to a community and so on, the first additional seat required to be allocated, shall be allocated to the most successful unreturned candidate belonging to that community because the Sino-Mauritian would have been left out. And you know what happened, Madam Speaker, if there was not this amendment, if I did not draw their attention?

During the 2014 elections, no Sino-Mauritian was elected, and Alain Wong Yen Cheong, fortunately because of this, he was nominated Best Loser. This is a fact. Madam Speaker, let me say another thing which really flabbergasted me. At that time, I could try to

understand, at least, I know the MMM, they have always claimed to be *un parti avant-gardiste*, fighting against communalism, they are trying to remove all these communal barriers and so on, fair enough. Can you imagine, we voted this Bill for the 2014 election, temporary provisions, and hon. Bérenger was so proud that he came along with that idea, removing 'shall' and putting 'may', so that a candidate for the general election is not obliged, if he so chooses not to declare his community, that was very good. I applauded. Madam Speaker, if you look at my speech, I drew a number of flaws in that Bill, but yet, the MSM, we said, we are going to vote for the Bill.

We voted in favour of that Bill because as a party we also we are fighting. We want communalism to regress. I hope there will come a day where a candidate who stands for a general election does not have to declare his community. And I stood up in this House and I said: "Look, we vote for the Bill. It is going to become Act, and I am not going to declare my community when I am going to register as a candidate". And you know what the Labour and the MMM did? They instructed all their candidates to declare their community when they stood as candidate. This is history, Madam Speaker. It is good to talk about so many things but this is history, and, therefore, you have to face what you have done also.

Madam Speaker, let me remind the House that the people are watching our political leaders, and I am sure they will condemn any attempt at obstruction and especially so if it comes from a party which did build up a reputation in the past for its uncompromising stances on the theme of '*Ene sel lepep ene sel nation*'. The people will not forgive any inconsistency on the matter as serious as electoral representation.

Madam Speaker, as I stated earlier, this was a long awaited Bill. This is the first time since independence that a Bill, on electoral reform of this magnitude, has been introduced in the National Assembly. First time! There have been all sorts of talks but nobody has dared to walk the talk. This Government has done its part. I was expecting Members to rise above party politics and not to succumb to narrow minded lobbying. I was expecting them to stand up for democracy, unity and nationhood. It takes courage and determination to stand by your ideals and convictions.

We have a rare opportunity to adopt an electoral reform that is fair, inclusive and ensures stability and that is fit for the 21<sup>st</sup> century. For me, it is a matter of deep regret and disappointment that the debates have, so far, failed to generate a consensus for the consolidation of our democracy.

Madam Speaker, now that all have expressed their opinion, we know that, for this Bill to be passed, we need a three-quarter majority. We have 69 Members in the National Assembly. Therefore, we need 52 Members to vote in favour of the Bill to get it through. On our side, we have 45 Members. Therefore, we are short of 7. After having heard all the different parties represented in this House, it is clear that the PMSD, the MMM, the Labour Party, the *Mouvement Patriotique*, hon. Ramano and hon. Mrs Selvon are not voting in favour of the Bill. Therefore, it is clear that we would not reach the required number to get the Bill adopted.

Thank you, Madam Speaker.

*Question put and agreed to.*

*Bill read a second time and committed.*

## COMMITTEE STAGE

### THE CONSTITUTION (AMENDMENT) BILL

(No. XXII of 2018)

**The Prime Minister:** Madam Speaker, I move under Standing Order 55(2) that the Committee Stage of the Constitution (Amendment) Bill (No. XXII of 2018) be taken at a later sitting.

**The Deputy Prime Minister rose and seconded.**

*Question put and agreed to.*

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

*At 6.16 p.m., the sitting was suspended.*

*On resuming at 6.53 p.m. with Madam Speaker in the Chair.*

*Second Reading*

### DECLARATION OF ASSETS BILL

(NO. XXIII OF 2018)

*Order for Second Reading read.*

**The Prime Minister:** Madam Speaker, I move that the Declaration of Assets Bill (No. XXIII of 2018) be read a second time.

Madam Speaker, it is with deep satisfaction that I am presenting this Bill to the National Assembly today. It is a Bill that has long been awaited and is long overdue. Through this Bill, we are today not only fulfilling yet another of our electoral promises, but we are also adding a significant and effective element in our overall anti-corruption and integrity framework.

The House will recall that the current asset declaration system for Ministers and Members of the National Assembly was introduced for the first time in 1985 with the passing of the Declaration of Assets Act.

In 1991, the Act was repealed and replaced by the present Declaration of Assets Act. However, the 1991 amendments did not constitute a radical overhaul of the 1985 asset declaration regime. Only the provision regarding publication of declarations was amended and some other minor changes were also brought thereto.

Another amendment was brought to the legislation in 2002, with the enactment of the Prevention of Corruption Act, which made of ICAC the depository of all asset declarations made under the Declaration of Assets Act. Prior to that, all declarations were deposited with the Clerk of the National Assembly.

Madam Speaker, since then, there have been no substantive changes to the legislation on asset declaration, with the notable exception of the 2011 amendment, through which the provision for disclosure under paragraph 5 of the Act was simply deleted. Consequently, there was no possibility at all of having access to the declared information.

Madam Speaker, failure to review and revamp our legal framework for asset declaration over the years has greatly compromised its effectiveness as a tool to pre-empt and combat corruption. This is the reason why, during the last election campaign, we undertook to review and reinforce our existing asset declaration system. As a matter of fact, Government Programme 2015-2019 provides that Government will come up with a new Declaration of Assets Act for MNAs and high-ranking public officers, with a view to pre-empting and eradicating fraud, corruption, malpractices and irregularities in all aspects of public life and restore our national values.

Accordingly, soon after Government assumed office, a Committee of Officials was set up under the chair of the Secretary to Cabinet and Head of the Civil Service to examine numerous issues pertaining to a new declaration of assets regime.

Subsequently, a Ministerial Committee under the chair of the Deputy Prime Minister and Minister of Energy and Public Utilities was set up to look into the proposals made by the Committee of Officials.

The Ministerial Committee met on several occasions and thoroughly examined all the fundamental aspects of the proposed new declaration of assets regime.

The proposals made by the Ministerial Committee have been examined. The whole process has taken some time, given the complexity of many of the issues associated with asset declaration which, in fact, required due care and caution. I seize this opportunity to convey my appreciation to the Deputy Prime Minister and members of the Ministerial Committee for the good work.

Madam Speaker, as I stated earlier, through the presentation of this Bill today, we are fulfilling yet another of the commitments we made vis-à-vis the nation. I must point out here that this is but one, among several other measures which we have already implemented to enhance transparency in public life and build trust in our institutions. There are several other, equally important, measures which are in the pipeline and which will further enhance our overall good governance framework.

Madam Speaker, my predecessor and I, we have answered numerous PQs in this august Assembly on Government's pledge to come up with a new Declaration of Assets Bill. I must say that several Members, on the other side of the House, expressed doubt and scepticism about Government's intention to introduce such a Bill. Hon. Dr. Boolell is on record for having said, in this House, very recently, that there will be no draft legislation and that it is stillborn.

Let me say, Madam Speaker, that others may make promises which they will not keep, but when we make promises, we do keep them.

I would also like to point out here, Madam Speaker, that there were no provisions for a review of our asset declaration system in any of the Government Programmes between 2005 and 2014. It is this Government that, on acceding to power in 2014, made a firm commitment to overhaul our asset declaration framework. The presentation of this Bill today bears testimony to the fact that we do not make empty promises, and we mean business, especially when it comes to promoting integrity in public life and upholding the principles of good governance.



Madam Speaker, in determining the approach, design and framework of the proposed new asset declaration system, we have drawn inspirations from the guidelines and publications from the World Bank and the OECD on this subject and also from international best practices. But I must say that the Bill is largely home-grown, as we have taken into account the weaknesses and the loopholes in our existing asset declaration system, the evolution of our anti-corruption framework over the years, the local context and the available resources, amongst others.

Madam Speaker, as stated in the Explanatory Memorandum, the object of this Bill is to make better and more comprehensive provisions for the declaration of assets by holders of important offices in the public sector.

Let me now give an overview, and explain the rationale, of the main provisions of the Bill, in particular the clauses which relate to the following dimensions and core fundamental aspects of the proposed new declaration of assets system –

- (i) content of disclosure – that is, what to declare;
- (ii) breadth of disclosure coverage, that is, who should be required to declare his assets;
- (iii) who should be the depository of the declarations;
- (iv) whether the declared information should be made public;
- (v) what should be the frequency of filing a declaration of assets,  
and
- (vi) offences and sanctions.

Madam Speaker, let me first explain our proposals regarding the breadth of disclosure, that is, what are the assets and liabilities that will have to be declared under the new law.

As the House is aware, under the existing Act, “assets” has a very narrow definition and includes only –

- (a) immovable property or any interest therein;
- (b) shares or any interest in a partnership, *société* or company, and
- (c) motor vehicles and boats.

It is also noteworthy that the existing law imposes an obligation to equally declare the assets and liabilities of spouse, minor children, grandchildren and children of age. In relation to children of age, the declaration must specify any property sold, transferred, donated to each one of them, in any form whatsoever, including income or benefits from any account, partnership or trust.

Madam Speaker, as I indicated earlier, the main objectives of the proposed new asset declaration system are to improve public integrity and maintain the confidence of citizens in public institutions. Asset declaration also provides an effective reminder to public officials of their duty of accountability that comes together with the public office. Furthermore, whilst reducing the incidence of illicit enrichment, it also provides the necessary foundation in international anti-corruption efforts.

With a view to achieving these objectives, clause 2 of the Bill is widening the definition of assets, which will now comprise -

- (i) money, in any currency, in local banks and foreign banks;
- (ii) cash in hand exceeding one million rupees in any currency accepted as legal tender in any country;
- (iii) securities, including stocks, bonds, treasury bills or other units held in Mauritius or abroad;
- (iv) shares or any interest in a company, *société* or partnership;
- (v) any item of jewellery, precious stone or metal, or watch exceeding 500,000 rupees in value;
- (vi) any freehold or leasehold immovable property –
  - (A) registered in Mauritius or abroad;
  - (B) which, at the time of declaration, has been purchased but is still subject to registration in Mauritius or abroad, and
- (vii) motor vehicles, boats, ships or aircrafts.

Madam Speaker, I wish to point out that assets held by a person, for and on behalf of the declarant, in the declarant's capacity as ultimate beneficiary, will also have to be included in the declaration of assets.

Madam Speaker, clause 3 provides for the breadth of disclosure coverage, that is, who should be required to declare his assets.

As the House is aware, under sections 3(1) & 3(2) of the existing Declaration of Assets Act, the following officials are currently required to declare their assets –

- Ministers;
- Members of the National Assembly;
- Members of the Rodrigues Regional Assembly;
- Councillors of the Municipal City Council and Municipal Town and District Councils, and
- Commissioners of the Executive Council of the Rodrigues Regional Assembly.

Moreover, certain other categories of public officials are also already required to declare their assets under different pieces of legislation, such as –

- the Mauritius Revenue Authority Act;
- the Public Procurement Act;
- the Bank of Mauritius Act;
- the Prevention of Corruption Act;
- the Financial Intelligence and Anti-Money Laundering Act;
- the Information and Communication Technologies Act;
- the Gambling Regulatory Authority Act, and
- the Competition Act.

Madam Speaker, in line with our commitment, as enunciated in the Government Programme 2015-2019, we are widening the breadth of coverage and henceforth, in addition to the public officials who are already required to declare their assets and liabilities under the existing Declaration of Assets Act, the following persons will also be required to declare their assets and liabilities under the new law –

- (a) Public Officers of the level of Deputy Permanent Secretary and above in every Ministry and Department;
- (b) Judicial Officers of the level of District Magistrate and above;
- (c) Chairpersons, Chief Executive Officers and officers of the level of Deputy Permanent Secretary and above of parastatal bodies, State-owned enterprises and other statutory entities, excluding entities not exposed to the risk of corruption, which will be prescribed later on by way of regulations, and

- (d) Advisers and officers employed on contract and drawing salary at the level of a Deputy Permanent Secretary and above.

The Act will also apply to the Speaker of the National Assembly and, at a later stage, its application may be extended, by way of regulations, to such other categories of public officers who are exposed to the risk of corruption.

Clause 3 further provides that where the same person holds two different positions in which the incumbent is required to declare his assets, that person shall file only one declaration, and that would be under this new law.

Madam Speaker, in determining the question as to who should be required to declare his assets, we have been guided by the level of perceived risks in the different areas of public administration and the available resources. Given that there are considerable costs involved in maintaining an asset declaration system, we have had to take into account certain trade-offs, such as limiting and targeting coverage so as not to overstretch our resources. Most experts recommend limited coverage so as to ensure effective implementation. Besides, experience in other jurisdictions indicates that extensive coverage is often impractical, unnecessary and leads to what is called information overload.

Madam Speaker, I now come to clause 4 of the Bill, which enjoins every person covered by this new legislation to make, within 30 days of assuming office, a declaration of his assets and liabilities with ICAC, including the assets and liabilities of his spouse and his minor children.

The declarant should also specify in his declaration any property sold, transferred or donated to his children of age and grandchildren, in any form or manner whatsoever.

Madam Speaker, let me now come to clause 5 of the Bill, which makes provision for the form and content of declaration. Under the existing law, a declaration is made by way of an affidavit, in the form specified in the Schedule, sworn before the Supreme Court or in the case of the Commissioners of the Rodrigues Regional Assembly, before the Magistrates in Rodrigues.

In view of the relatively large number of public officers who would now be required to declare their assets, and in order not to burden them with the need for an affidavit, clause 5 provides for them to file their declarations by way of a "Prescribed Form", instead of an affidavit.

However, declarations to be filed by other officials will continue to be by way of an affidavit.

Madam Speaker, it is to be noted that the declarant will not be required to specify the value of any declared asset, except where such asset consists of cash. The reason for this is to avoid imposing unnecessary burden on the declarant. However, the latter will have to specify the nature of his interests in their assets, including any joint ownership.

Madam Speaker, in regard to frequency of declarations, the existing law provides that a fresh declaration shall be made where the state of the assets and liabilities is so altered as to be reduced or increased in value by a minimum of Rs100,000.

The new law makes different provisions in regard to frequency of declaration. As a matter of fact, clause 6 of the Bill provides that a declarant, except for public officers and Chief Executives and officers of local authorities, shall make a fresh declaration where he acquires or disposes of –

- (i) any freehold or leasehold immovable property in Mauritius or abroad, and
- (ii) a motor vehicle, a boat, a ship or an aircraft.

In regard to public officers and Chief Executives and officers of local authorities, they will be required to make a fresh declaration with ICAC -

- (i) at every interval of five years, following the date of the first declaration, and
- (ii) within a period of 30 days after leaving office.

Madam Speaker, in deciding on the frequency of filing a declaration, we have taken into account, in particular, the advisability of balancing the need for up-to-date information, on the one hand, and the need to avoid an unduly onerous obligation on the officials, on the other hand.

Madam Speaker, let me now come to the depository of the declarations. As we all know, under the existing law, the declarations of assets made by Ministers, MNAs and Commissioners of the Rodrigues Regional Assembly are deposited directly with ICAC, while the declarations made by Members of the Rodrigues Regional Assembly and Councillors of a Municipal City or Town/District Councils are first deposited with the Clerk of the Rodrigues Regional Assembly or the Chief Executive of the Municipal City/Town Council or District Council, as the case may be, before being transmitted to ICAC.

Henceforth, all declarations of assets under the new law will have to be deposited directly with ICAC.

Madam Speaker, we do not consider that it is necessary to create a separate and distinct institution for this purpose. Given that an asset declaration system is, first and foremost, a tool to combat corruption, we consider that ICAC would, in the circumstances, be the most appropriate institution to be the Depository. ICAC is equipped, in all respects, to act as the Depository.

Furthermore, for a better and a more effective monitoring, we also consider it to be more appropriate to have all declarations made under this law to be deposited with a single institution.

Madam Speaker, I now come to the provision regarding the thorny issue of disclosure of declaration, that is, whether the declared information should be made public.

Madam Speaker, the Declaration of Assets Act of 1985 made the following provisions regarding disclosure of declaration, I quote –

- “(1) Subject to subsection (2), the Clerk shall not communicate to any person other than the Speaker any declaration filed with him except in accordance with such directions as the Speaker may give.
- (2) The Speaker shall not authorise the disclosure of any declaration filed with the Clerk except –
- (a) where the person making the declaration has consented to the disclosure; or
  - (b) where the declaration is required to be produced in Court in the course of an inquiry under the Commissions of Inquiry Act or a prosecution under section 6 of this Act or section 126, 132 or 133 of the Criminal Code;
  - (c) to the Prime Minister and the Leader of the Opposition.

Madam Speaker, when the 1985 Act was replaced in 1991, the provision for disclosure was changed as follows, I quote –

“On receipt of a declaration under section 3 or 4, the Clerk shall, in accordance with such directions as the Speaker may give, cause such declarations to be laid before the Assembly”.

Madam Speaker, as hon. Members are aware, in 2011, an amendment was sneaked in the Local Government Act, whereby the whole of section 5 of the Declaration of Assets Act, pertaining to disclosure, was deleted. As a result of that amendment, and as from that date, no disclosure was possible and is still not possible.

Madam Speaker, we have carefully examined this core aspect of the asset declaration system in the light of experiences and best practices in other jurisdictions. According to publications by both the World Bank and the OECD on asset declarations, the trend is towards greater public access to the declared information, but striking the right balance between public disclosure and protection of privacy, which remains a subject of debate.

The World Bank publication indicates that, and I quote –

“Many countries are still struggling with the question as to whether and how to make asset declaration information accessible to the public, the central issue at stake being whether or not public access to the information violates the privacy of public officials or poses a threat to their security....The dilemma of income disclosure versus personal privacy is very delicate indeed.... Some authors also argue that declarations made available to the public can be misused by sensationalist media and can be used to generate rumours about public officials”.

Madam Speaker, most countries have reportedly adopted one of the following three main approaches –

- (i) full public access to the declared information;
- (ii) granting partial access to meaningful information, and
- (iii) no access at all.

Madam Speaker, we are very much in favour of more transparency in public life. However, Mauritius being a small country, with a specific social and cultural context, we acknowledge the fact that there is a legitimate concern about invasion of privacy and risks to personal security, if the information were made public.

Although there is a heavier obligation on MNAs and senior officials, we consider that it would not be fair and proper to allow an indiscriminate disclosure of their assets declarations.

One must also not forget that a declaration of asset regime is only one among other tools that we have to fight corruption and illicit enrichment. We also have several other institutions like, for example, the Integrity Reporting Service Board, FIU, ICAC, the Asset Recovery Unit and the MRA, which are involved in the fight against corruption and money laundering.

A reasonable balance should, therefore, be struck between disclosure, on the one hand, and protection of privacy and personal security, on the other hand.

Madam Speaker, clause 7 of the Bill accordingly makes provision for a disclosure mechanism that represents a sensible balance between the need for transparency, on the one hand, and protection of privacy and personal security on the other.

As a matter of fact, ICAC is being authorised to disclose to the public the declarations made by Members of the National Assembly, including the Speaker, Members of the Rodrigues Regional Assembly and Councillors of Municipal City Council, Municipal Town Council or District Councils. However, in relation to these persons, ICAC will not be authorised to disclose to the public information pertaining to –

- (a) money, in any currency, in local banks and foreign banks;
- (b) any item of jewellery, precious stone or metal, or watch, exceeding 500,000 rupees in value, and
- (c) cash in hand not exceeding one million rupees in any currency accepted as legal tender in any country.

We consider that the disclosure of such information will put at risk the security of the declarant and his family members.

For the same reason, the declarations of public officers will not be disclosed to the public.

However, in order to increase the effectiveness of the law, the declared information would be available to investigating bodies, under judicial oversight, for detection of cases of possible criminal offences.



Accordingly, the new law makes provision for the following enforcement authorities to apply to the Judge in Chambers for the disclosure of a declaration and the Judge may, on good cause shown, order the disclosure of the declaration, that is –

- the Police;
- the Enforcement Authority under the Asset Recovery Act;
- the Mauritius Revenue Authority;
- the ICAC;
- the Financial Intelligence Unit;
- the Integrity Reporting Services Agency under the Good Governance and Integrity Reporting Act;
- or such other body as may be prescribed.

Madam Speaker, Part III of the Bill makes provisions for ICAC to –

- (i) issue directives to any person to whom the Act will apply;
- (ii) monitor the assets and liabilities of any declarant for the purpose of detecting and investigating corruption and money laundering offences or illicit enrichment;
- (iii) impose a penalty of Rs5,000 per month for failure without reasonable excuse to submit a declaration within the specified period – a person dissatisfied with the decision of ICAC may seek redress at the Supreme Court by way of Judicial review.

Madam Speaker, let me now come to offences and sanctions. Effective sanctions help to promote disciplined compliance and reinforce the credibility of an asset declaration system. Therefore, it is important for the sanctions to be proportionate and appropriately enforced.

Clause 11 of the Bill accordingly makes the following provisions –

- (i) any person who fails to make a declaration or who wilfully makes a false declaration shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years;

- (ii) any person who, in any other manner, contravenes the Act or any regulations made under it, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees, and
- (iii) any spouse who, without any reasonable excuse, fails to collaborate in disclosing his or her assets and liabilities for the purpose of fulfilling a requirement under the Act, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 6 months;

Moreover, notwithstanding section 114 of the Courts Act and section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act, a Magistrate will have jurisdiction to try any offence under the Act and may impose any penalty provided for by the Act.

Madam Speaker, clause 12 provides for all prosecutions under the Act to be instituted by, or with the consent of, the Director of Public Prosecutions. Moreover, any declaration made under the Act shall be admissible as evidence before any Court of Law for the purpose of prosecution.

Madam Speaker, clause 13 empowers the Prime Minister to make such regulations as he deems fit and any such regulation may provide for –

- (i) extending the application of the Act to such other category of persons or officers, and
- (ii) anything that may be prescribed under the Act.

Clause 14 is repealing the present Declaration of Assets Act. Clause 15 is amending the Prevention of Corruption Act so as to empower ICAC to –

- (i) issue directives under the Declaration of Assets Act 2018;
- (ii) monitor the assets and liabilities of persons under the Declaration of Assets Act 2018, and
- (iii) impose penalties in accordance with the Declaration of Assets Act 2018.

Clause 16 makes provision for filing of declaration of assets with ICAC on the commencement of this Act.

Clause 17 provides that the Act shall come into operation on a date to be fixed by Proclamation.

Madam Speaker, we have no doubt that the proposed new asset declaration regime, embodied in the Bill, will be an effective tool in our fight against corruption and illicit enrichment. It will not only improve the regulatory framework relating to declaration of asset, but will also enhance public trust in our institution and in holders of public office.

The House will appreciate that there is no single best practice design that can achieve all the outcomes of an asset declaration system. But the one proposed in this Bill has been so designed as to fit the local context and realities and also achieve its objectives with a reasonable degree of certainty.

Madam Speaker, this Bill bears testimony to our unequivocal and unflinching commitments to public governance and openness in the conduct of the affairs of the State and also to our firm undertaking to restore and maintain a culture of transparency and integrity in our public institutions. We have no doubt that this Bill will be welcome by the public at large.

Madam Speaker, others with ulterior motives, they have promised to deliver and will promise to deliver, but they have not delivered and will not deliver because the *status quo* serves their purpose best.

Madam Speaker, with these words, I commend the Bill to the House.

**Mr Gayan rose and seconded.**

**Madam Speaker:** I will now ask the Deputy Speaker to take the Chair.

*At this stage, the Deputy Speaker took the Chair.*

**The Deputy Speaker:** Hon. Adrien Duval!

(7.32 p.m.)

**Mr A. Duval (First Member for Curepipe & Midlands):** Thank you, Mr Deputy Speaker, Sir. Mr Deputy Speaker, Sir, the Prime Minister will be happy to know that the PMSD is supporting this Bill. We are supporting it, Mr Deputy Speaker, Sir, *dans la forme un peu moins mais dans le fond, en tout cas oui*. The fundamentals of it, we do agree but then we have some reservations with regard to who this filing has to be done. I will get to that later and also with regard to some things that have not been included into the Bill and that I will make, I hope, constructive criticism, Mr Deputy Speaker, Sir.

Mr Deputy Speaker, Sir, it is understood in this House and in the country that declaration of assets of officials is an important part of having a transparent democracy, of

having and holding people to account, especially those of us who stand in elections, who have voted for and who have, first of all, to be transparent in what we own as well as to our interest that we may have.

The first thing that comes to my mind about this Bill, Mr Deputy Speaker, Sir, is that it targets mainly declaration of assets, in order to combat fraud and corruption but does not, so to speak, give any indication as to its role in combating undue influence and combating conflict of interest. And I hope that the hon. Prime Minister after will enlighten us because he has spoken about the OECD examples and he will surely know that in countries like in Canada, Mr Deputy Speaker, Sir, there are bodies that deal with conflicts of interests with regard to members of the executive, of the judiciary, of all the Members, senior officials that are targeted into this Bill. And the ICAC, although it is in the law, whether it will combat undue influence and conflict of interest is, at least for everyone, is for us the main reservation.

Mr Deputy Speaker, Sir, in Germany, the Bundestag when they had sought some German MPs to take it to Court that declaration of assets of their personal assets, of their income, of their side activities should not be made public, they took it to Court and Mr Deputy Speaker, Sir, the Constitutional Court in Germany, it held that MPs, Ministers, elected Members, in our case of District Councils, Municipal Councils, Village Councils, etc. ought to disclose their assets. And it is on the principle of transparency. This is what it says –

“The Act of voting in election requires not only freedom from coercion and undue pressure but also that voters have access to information that may be of importance for their decision. Parliamentary democracy is based on the confidence of the people. Trust without transparency, which allows one to follow what is happening in politics is not possible. The voter must know whom he chooses.”

An interest linkage, Mr Deputy Speaker, Sir, in economic dependencies of the Members are obviously of considerable interest to the public, and such knowledge is important not only for the voting decision but it ensures the ability in the case of the German Parliament and its Members regardless of covered influence by paying interest, represent the people as a whole and the confidence of citizens in this ability and ultimately in parliamentary democracy.

So, it goes as to the heart of parliamentary democracy.

Let us start with what is positive in this Bill. The fact that they have extended, the Prime Minister, in this Bill, has extended the application in this new Bill which repeals the

previous one. There is a wide range of assets that now falls into Part I of the Bill. As the Prime Minister explained, money in currency, cash in hand, securities, etc. There is one thing that I think should be added to this, which says –

“(v) any item of jewellery, precious stone or metal, or watch, exceeding 500,000 rupees in value;”

Should add ‘as the rest in Mauritius or abroad’. And this has not been added and I do not want to score political gains from this, but if we take the case of the Minister who is investing into the gold, surely it was abroad. So, it should cover the precious stones abroad, jewellery abroad and I think they should be added to fall within the spirit of what is trying to be achieved here, which is not contested. The intention here is effectively to combat this. but then, Mr Deputy Speaker, Sir, when you go to the next page with regard to who actually applies, who this Act will apply to. First of all, you have judicial officers starting from the rank of magistrates up to the Chief Justice. And then you have public officers, and public officers within the meaning of the Constitution means any person drawing on emolument in an office established under the Constitution, so therefore any office under the Constitution, except for the Electoral Supervisory Commission, the Electoral Boundaries Commission, the Public Service Commission, the DFSC, these do not fall within the meaning of the public officer, and, therefore, I think it should be extended to these as well. Because the scope of corrupting Members, for example, of the Public Service Commission or the Electoral Supervisory Commission is real, and, therefore, we should not make an exception for Members of these Commissions and I think we should extend it.

But also, Mr Deputy Speaker, Sir, the Office of the President falls under the Private Office at least under the meaning of ‘public officer’ and I ask the question: ‘why has not the President’s Office - the President is the President of the Republic – and the Vice-President of the Republic been added within the scope of this Act for application?’

In fact, allegations against the President receiving gifts, the platinum card saga, there is a Commission of Inquiry on this. Recent examples as well for the Secretary to the President, Mr D. A. and yet it has not been added to this Act. I think that it should apply to the President, it should apply to the Vice-President. I do not see any issue of immunity because it applies in France to the President of the Republic who also enjoys from immunity of office. So, I did not think it is an immunity problem anyway.

In any case, Mr Deputy Speaker, Sir, it is a declaration that you make and, therefore, there should be no problem as to immunity, but we should be able to know. Especially with *les secousses qui ont affecté au plus haut sommet de l'État notre pays* we should, in fact, include the President and the Vice-President. We should also include, Mr Deputy Speaker, Sir, as I said, members of the PSC, the DFSC, etc.

The Act, itself, Mr Deputy Speaker, Sir, concerns, first of all, the public officers. Since we are on that, it concerns every public officer, senior public officer from the rank of Deputy Permanent Secretary upwards and therefore it is equivalent or it also concerns every Chairperson and Chief Executive Officer of State-owned enterprises and statutory bodies.

Here, Mr Deputy Speaker, Sir, we should again include members of Government owned enterprises as well, but especially the Board of statutory bodies like we take the example of the Sugar Investment Fund Board and what has happened recently. The Leader of Opposition has, on two occasions, brought this issue to the House. An inquiry has been set up on this. When we think about, for example, the Economic Development Board having members from the private sector sitting on that Board where there is bound to be cases of conflict of interest, Mr Deputy Speaker, Sir, we need to include those members as well. I do not see why Government has not included members of the Board and has limited itself only to the Chairpersons and Chief Executive Officers. So, I think this is extremely important for transparency given that certain statutory authorities like the Financial Services Commission, the Bank of Mauritius, the Economic Development Board, the Gambling Regulatory Authority will yield so much power and there is so much scope for corruption that members ought to be included and the recent past could not make a stronger case for that. So, I hope that this would be taken on board.

Mr Deputy Speaker, Sir, there is the issue, when you turn to page 4, which goes to the declaration of politicians, MPs, Members of the National Assembly, the Speaker, the Rodrigues Regional Assembly, the Municipal City Council, the Municipal Town Council, all elected persons, their declaration to be made to the ICAC. It applies for everyone in fact, but when you turn to page 4, it is apparent that now we shall be bound to make a declaration of our assets and liabilities to ICAC including those of our spouses and minor children. But the issue here, Mr Deputy Speaker, Sir, is the ICAC and this is one of the most fundamental problems that we have with this Bill although we support it. We still have a problem with the fact that it is the ICAC who is going to be the one accepting, taking our declaration, dealing with them especially since there is that element of disclosure to the public. Apart disclosure,

well the rest – if you look at section 5 - with regard to the value of the assets that one may own; with regard to the amount of money that he may hold in a bank account etc., it will not be made public. Firstly, the issue here is: can we trust the ICAC to even do its job within the spirit of the law? When we know, Mr Deputy Speaker, Sir, *les boulets qu’aujourd’hui traine l’ICAC depuis la venue de ce gouvernement au pouvoir, depuis 2014* when you will remember that on the day after this Government was voted into power, and I do not know if you remember that the Director-General of ICAC was barred from coming into office by police officers. Then we appointed another one from the USA and even before Cabinet took the decision to appoint him, he had already left his job and come back here. Then you find that whole affair with interference, at least, perception, which is then confirmed. Let us not forget in the affidavit of no other than the Director of Public Prosecutions which says, I have it here, just to quote some parts. Speaking of the ICAC, it says -

“I aver that the complete lack of reliable and independent evidence of any wrongdoing on my part would warrant an investigation...”

**The Prime Minister:** On a point of order, Mr Deputy Speaker, Sir. I believe the hon. Member is referring to an affidavit which is subject of a matter which is still pending before the Court. So, is it proper for the hon. Member to impart that evidence which is before a court, which is not yet subject to adjudication before this House?

**The Deputy Speaker:** I shall refer the hon. Member to section 40 and section 44 where it is mentioned that -

“Reference shall not be made to any matter on which a judicial decision is pending in such a way as might, in the opinion of the Chair, prejudice the interests of parties thereto.”

So, I will request the hon. Member to refrain from referring to what he is doing. Thank you.

**The Prime Minister:** Mr Deputy Speaker, Sir, may I. That part which has already gone on record, has to be withdrawn?

**Mr A. Duval:** Okay, fair enough! It has slipped my mind, hat it was still sub judice. Fair enough, I will withdraw it. It remains a fact that there have been serious accusations against the ICAC, against its independence, against the fact that it is meddled with. This is the perception. This is what is being said in affidavits. This is, in fact, how the public sees the ICAC. When you take all the cases of this Government against its members by the ICAC supposedly being investigated, there is a long list from Choomka – in fact, hon. Soodhun is

still supposedly being investigated. Then you understand that the ICAC cannot be trusted. The ICAC does not deserve the 'I' in the first letter in its name, the Independent Commission Against Corruption and that the ICAC is *à la solde du gouvernement*. So, what is the point of a Declaration of Assets Bill? If we are voting this Bill, if we have consensus here, it is really to *régler le problème de la corruption dans notre pays, M. le président, que ce soit au niveau de la classe politique, au niveau de l'exécutif, au niveau des hauts fonctionnaires, au niveau des corps paraétatiques, au niveau du judiciaire.*

It is to do away completely with the perception that there might be - even if there is not - corruption. But then, when you put it into the hands of the ICAC, it loses all credibility. This is the point that I want to make. Are we going to trust the ICAC?

Let us say a Member of Government, this Government or another Government acquires wealth or does not make a declaration or there is a reason to prosecute him under this Act, are we seriously going to think that the ICAC will actually enquire on that Member in such a manner as to, in fact, after having clearance from the DPP, initiate proceedings? So, I do not have this perception. To me, I would not expect so much from the ICAC because of the way it has been politicised for years. Even before this Government, the way that it is meddled with, influenced and especially the way that perception, at least, it is *à la charte du gouvernement*.

So, I think, like in other countries it is being done, you have surely seen the OECD report. In some countries, it is through the tax authorities like the MRA who is in charge of actually taking over all the declarations and ensuring with regard to the assets that as far as possible there is no corruption, assuring that all the assets are declared and assets are not being hidden, assuring that they are not disproportionate with the earnings and this would be a job that would perfectly fit the MRA. It already does it. The MRA, I think here we all agree, is much fairer than the ICAC in terms of, at least, perception and, therefore, I would trust more the MRA with this. Or even why not the Director of Public Prosecutions? It used to have the Asset Recovery Unit under it. Why not a specialised unit under the Director of Public Prosecutions? That perception here is that it is fair, at least, for us, that it is independent, it is credible and that it can do the job much better than the ICAC. I think this should have been the way forward for this Government to inspire some credibility in this Bill four years late and to show that, in fact, *les quatre ans d'attente étaient pour une raison aujourd'hui qui paie, d'instaurer la crédibilité, d'instaurer la confiance* rather than sending it to the ICAC and we all know what is going to happen.



So, that for that reason, Mr Deputy Speaker, Sir, I think that we should move from what is in terms of disclosure that is required under this Act, which is part disclosure, part privacy to full disclosure on that very basis. Because I do not think the Government will put the declaration of Assets responsibility under the office of the DPP nor will it do under the MRA and that it will persist through the ICAC and for that reason it should, at least, make it a full disclosure for everyone, at least, elected, a full disclosure so that if the ICAC does not do its job, then public opinion will.

If the ICAC, as it has done for the past years, continues to be biased in its approach and closes its eyes to whatever the Government does or to whatever allegations there are - and God knows there are plenty - then public opinion will. Let public opinion be the judge of that. There is a right to privacy. The Prime Minister has quoted from articles in the OECD Report. There is a right to privacy, but, I think, in Mauritius if it is to work this legislation, if it is to achieve the objective that it is setting out, then it should, if ever you continue with the ICAC root then you should make disclosure of the declarations of all Members of Parliament, of the Speaker, of District Council etc. completely public. Then, at least, we are sure that in case that institution, the ICAC fails, again like so many other institutions and since we cannot rely on them, then, public opinion will be the judge of that.

So, this is for me, Mr Deputy Speaker, Sir, *la seule principale démarcation que nous avons dans cette loi. C'est sur une chose aussi simple que l'autorité qui sera aujourd'hui responsable de la déclaration des membres de l'Assemblée et de toutes les personnes visées, tous les élus en tout cas et aussi bien sûr les autres membres du judiciaire et les hauts fonctionnaires etc.*, for me, again the fact that we cannot rely on the ICAC.

Anyway, moving on, Mr Deputy Speaker, Sir, if you look at section 5 of the Act, with regard to the form and content of declaration, I do not understand why all those concerned with section 3 of the Act with regard to Members of the National Assembly, Members of the Rodrigues Regional Assembly, of the Council, Deputy Mayor, Lord Mayor etc. have to file in the form and manner prescribed at section 5 1(a) i.e. by swearing an affidavit while Members, Judicial officers, Senior officers etc. do not have the same requirement to file for an affidavit. I know the Deputy Prime Minister will speak after me. If it could be explained, why is it that the requirement has not been explained, it has not been prescribed yet. Why it has been made for, at least, by way of affidavit and hopefully he can tell us in what manner it will be made for those other Members of the Judiciary or public officers etc.

And then, Mr Deputy Speaker, Sir, our other issue with regard to this legislation is again the fact that it should apply, it should have a wider application and this is my concluding remarks is that it should have a wider application to all those people today sitting in institutions like, for example, companies; the Mauritius Telecom, Air Mauritius where Government is a majority shareholder, but which do not strictly fall into the application of the Act here under section 3 (g) with regard to State-owned enterprises.

If it does, I hope it does, if the hon. Deputy Prime Minister could clarify whether it will apply to the CEO of the Mauritius Telecom, the CEO of Air Mauritius, board members, well, chairperson of these two companies and also with regard to all the special purpose vehicles that have been created now and which is the new fashion of this Government, like CEB Fibernet, CEB Greenhouse, Metro Express Limited, etc. And it fits also for the novice.

As a matter of clarity, again we have no major issues with this Bill, except for the ICAC. I think the least that Government could do, given that we are supporting the Bill, is to, at least, clarify that, if it will find its application to Air Mauritius, Mauritius Telecom, and whether they do propose to enlarge its scope of application to also Board Members, again of institutions like EDB or the GRA, etc.

So, I hope that the hon. Deputy Prime Minister could clarify this. And then, of course, given that, again I repeat, important institutions like the Electoral Supervisory Commissions, the Public Services Commission do not fall within the ambit of the law, in the sense that it is not included in the public office, section 111 of the Constitution, if it will be made applicable.

So, as a conclusion, Mr Deputy Speaker, Sir, we believe that if Government renders declaration of assets of officials, I have no problem with it, of MPs, of elected officials public, so that they may be held to account by public opinion, instead of making it falling under the responsibility of the ICAC, which we all know what it is, then I think Government itself would score a lot of points, it would render the whole exercise of declaring assets much more credible, but unless and until it is done, there will always be doubts as to whether it is, in fact, being done in the way this law actually in its spirit, in the way that it wishes to combat corruption, it wishes to combat fraud and also, if the ICAC will be in a position to combat undue influence, conflict of interests of all those who are required under the Declaration of Assets Bill to file a declaration of assets. Thank you.

**The Deputy Speaker:** Hon. Collendavelloo!

**The Deputy Prime Minister:** Thank you, Mr Deputy Speaker, Sir. I am trying to organise myself.

Mr Deputy Speaker, Sir, I shall have a few general remarks before I come to certain particular matters and, at the same time, I shall in between try and explain the position which we have adopted through the Inter-Ministerial Committee on...

*(Interruptions)*

Sorry, I will increase as we go along. And then, I will, at the same time, try and clarify certain matters, some with justification being raised by the hon. Member speaking for the PMSD.

Let me start by quoting, just as the Prime Minister did, the Government Programme 2015-2019, in Chapter 248, concerning Good Governance, the Government Programme –

“Government will eradicate fraud, corruption, malpractices and irregularities in all aspects of public life and restore our national values. To this end, a new Declaration of Assets Act for MPs and high ranking public officers and a Financing of Political Parties Act will be enacted.”

The issue is simple, the issue is universal and the issue does not date from one decade ago. It dates from a very long time, ever since Government was instituted, the first real Government and Civil Service being in China, where they started a very long time ago on their anti-corruption drives, not that they have been successful, not that any country has been successful. Why? It is money and power do not make good bedding partners. Power is where you have the centre of decisions and these decisions are bound to affect the fortunes of some people. You have to build the road, there must be a procurement process to award a contract and there immediately arises a cloud of suspicion. That is something which has been in the minds of citizens of the world over. The idea has emerged that the assets of politicians and certain public officers should be monitored. Now, in this Bill, if we see that we are talking of high-ranking public officials, we are talking of the persons who are listed in the Bill. I would not go over everyone, but they are all cited in the Explanatory Memorandum.

Now, it has been asked: well, why don't we extend to Members of Board of parastatal bodies, then we need to go into hundreds of companies like Mauritius Telecom where the State has got interests. Well, where do you stop? Be careful, the problem of corruption is that if you try to flood, then all the information will flood the real corrupt, they will hide within the corrupt. If you start with getting all Board members of GRA, EDB, MRA, all these

parastatal bodies, then you will be flooding the officers and then the machinery will get clogged or you will need to use so many officers to treat all these documents, to file them that the Declaration of Assets Act will have no value at all, there will be absolutely no time to check and the machinery will get clogged. And then, there are other matters, like Mauritius Telecom, we have private partners, the State Investment Corporation is shareholder in so many companies in Mauritius. Are we going, and can we, do we have the right to impose on officers of private companies, where the State happens to have a minority stake or even a big stake, to just declare their assets? We have got to be careful and to proceed cautiously when you look at all this.

The question has also been asked: well, why don't we have everyone making affidavits? Again, do you realise how many people will be hit by this law? The number of advisers, officers up as from level of Deputy Permanent Secretary and above, all queuing up to make affidavits. This is why for the higher important officers, like MPs, Ministers, etc, they have to make affidavits. For all the others, there will be prescribed forms which they will need to sign and this would go on, they will file it at the ICAC.

In 1985 and 1991, we have the two Declaration of Assets Act. And, after 1991, we have had tremendous developments internationally and within our local legislation with regard to declaration of assets, with regard to corruption. The first was probably the Prevention of Corruption Act and the FIAMLA (Financial Intelligence and Anti-Money Laundering Act) which put in a new body of law to fight corruption and it set up the ICAC.

I hear the PMSD talk of the independence of the ICAC. But two points I wish to raise here. When the ICAC was originally set up, there was an Appointments Committee to appoint the persons in charge, the Commissioners and Deputy Commissioners, now Director General. Then, there were also Watchdog Committees to ensure that the ICAC works in independence. The first thing that the PMSD did, when together with its partner, traditional partner or bridegroom-to-be apparently, was, first of all, to put the power of appointment directly in the hands of the Prime Minister, and then, remove all the Watchdog Committees. It has stayed like this up to now. I have said, very often, that this is what renders that perception of independence, but, the PMSD, they got to be consistent with themselves.

*(Interruptions)*

Alright, yes, I have not said the contrary. This is why I am mentioning specifically the PMSD. I am not even mentioning the Labour Party as principal culprit because the

Labour Party, at least, it is consistent, this is what I see. The PMSD talks one language and then it talks another language; I am not implicating the Labour Party in this. The PMSD, they are in the Parliamentary Committee; the Opposition is in the majority in the Parliamentary Committee on ICAC. They think that the Director General is incompetent or not independent or whatever. Have they ever thought of using Section 23, because in the Parliamentary Committee, if they are dissatisfied with the Director General, they call him, and they put the charges to the Director General of the ICAC, and then, the Committee votes whether to suspend him or not if they are true to their word, if they really believe in what they are saying. It is easy just to say things against the ICAC. Use your powers under the Prevention of Corruption Act and then you use the route that is open to you. We cannot just say: Ah no, we cannot file declarations with ICAC because we don't trust them. Is that a reason for not filing a declaration because we don't trust people? They are the depositories, if they do not do their job according to law, they will be censored. I am not, therefore, in agreement at all with what they say about the ICAC, of the perception of what they have at the ICAC. The conflict of interest! I think the hon. First Member for Curepipe and Midlands should see Section 13 of the Prevention of Corruption Act. Conflict of interest exists in our law, which means that any officer must disclose his interest whenever there is a decision of his Office which he has to make.

We have had other matters which have been inserted in our law. Suspicious transactions, not only banks, but other persons, legal officers, lawyers, persons dealing with exposed persons must report any suspicious transaction of which they are aware, and the failure of a bank to do that can lead to serious trouble. There is the Financial Intelligence Unit, the Mauritius Revenue Authority and, of course, the Good Governance and Integrity Reporting Act which set up the Integrity Reporting Board. Therefore, there is being a gamut of legislation which has come as an armada against corruption and the Declaration of Assets Act comes to form part of that new system of law.

The United Nations Conventions against Corruption has been largely instrumental to countries setting up their Anti-corruption legislation. Article 8 of the Convention prescribes that –

- “5. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, *inter alia*, their outside activities, employments,

investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.”

And the provisions to which I have alluded are the provisions which make us compliant with the United Nations Conventions; the Declaration of Assets Act ensures that we are going to always comply with this Convention.

Now, in its Implementation Review for Mauritius in September 2018, the United Nations recommended the following for Mauritius as a Member State –

“In accordance with its obligations under Article 8, paragraph 5 of the Convention.

- (i) The recommendation was that we should strengthen the Asset Declaration System for public officials, including through the adoption of the envisaged new law.”

That is, in September 2018, as the law was already envisaged, the United Nations had looked at our new law and they had urged us to adopt our envisaged new law. This is what we are doing tonight.

- “(ii) To amend its Asset Declaration System to also include information regarding foreign based assets, signatures and other values.”

That is, securities etc. This is what, hopefully, we are doing tonight and we hope we will be compliant with the Conventions. I can add that this also is a task of the Parliamentary Committee; the Parliamentary Committee should have been assisting Government in that task because the fight against corruption is not the fight only of Government. It is a national effort and a Parliamentary Committee is set up precisely for that purpose to help in the development of the law - like hon. Adrien Duval has done with his suggestions. Well, for them, within the Parliamentary Committee - so that we may be guided.

We are extending the scope of assets. We are learning day by day from 1985-1991 and now, today, the hon. Prime Minister has expatiated on this. I do not want to use the time of the House. We have extended the categories of persons required to make a declaration of assets, and yet being careful, being mindful not to clog the machinery as I have said. Public disclosure, where do we start when we end? We do not want a State of voyeurism at the same time, but it is important that the public knows the evolution of the assets. We cannot expect members of the public to go and look at the Registrar General’s Department to check everyone or the company’s registry to check whether you have got shares in such and such

company, and to go or journalists to do that. it should be in a centralised document where all certain assets will be made public for certain categories, and then there are constitutionally implications for other categories of officers.

Perhaps I could conclude with what is happening the world over now. Now, the corrupt can no longer stay in bed quietly. Corrupts are being the subject of worldwide chases. We have got treaties with several countries, assistance between countries. We have got several things which are being done on the international score whether bilateral or multilateral to chase the corrupt. We need to use it. Of course, there will be people who will continue. I do not want to comment on recent experience of top politicians who have been caught with unexplained wealth, but we remember what was the hoo-ha which was created when we passed the law on the unexplained wealth. The Integrity Reporting Board, it is doing its job and that is something which has got to be done.

Let me conclude with two examples, one is Equatorial Guinea. As from 1996, they discovered oil. It became a curse for this country; this led to *coup d'État*. And now you have got perhaps the oldest ruling leader of Africa, Obiang, his net worth is USD 600 m., that is his net worth as assessed by 'Fortune' Magazine. In 2003, President Obiang makes a public statement. He says he has been compelled to take full control of the National Treasury in order to prevent civil servants from being tempted to engage in corrupt practices. And then, the National Treasury, more than half a billion dollars was placed in 60 accounts controlled by himself and his family in a bank in the United States. Of course, the Federal Reserve Bank was quick to pounce on these dollars. It is still under inquiry.

In France - I have worked out the list from what I got from the Internet - is France Teodoro, he has 3 Bugattis worth about EUR 6 m., one Ferrari, one Maserati, one maybank, whatever it is, one Rolls Royce Phantom. He may be a dreamer but he is not the only one. A Maserati Coupé and 2 Ferraris which he has. I mean, there are people who have, people they have gone, *bateaux mouches* with Dom Pérignon, etc., they have a lifestyle which is unexplained and not only nationally, internationally they are haunted now. They are hounded and this is why the Declaration of Assets Act is important. Because then it becomes easy. You have one document which you have sworn or signed, and that can be counter checked very easily, whether you have a safe, whether you have a foreign bank account, whether you have American Express cards. What does somebody do with 20 American Express cards? Not ordinary cards but all sorts of different cards or whatever it is; black cards or whatever.

On the other hand, you have José Mujica, he is the President of Uruguay. He has a small flower farm and he has a Volkswagen. We also have politicians who have Volkswagen but he was offered USD 1 m. for his Volkswagen, he refused. He has resigned now. He is the poorest President; he has been the poorest President of the world. Now, his Declaration of Assets is there, probably as has been suggested, he is a fake pauper. He was a rebel in the army, in the guerrilla and they say he took a lot of money, stuffed somewhere. People will get him because his declaration of assets would be false. Because he would be declaring a flower farm and a Volkswagen. So, that is the whole purpose of declaration of assets. We take Obiang; we take Mujica and we have the real intent which is behind the Declaration of Assets Act.

We hope that this will continue to help the Nation, not only Government but Government, the Opposition, everyone, the whole country to continue to fight corruption.

Thank you for your attention, Mr Deputy Speaker, Sir.

**The Deputy Speaker:** Hon. Paul Bérenger!

(8.28 p.m.)

**Mr P. Bérenger (Third Member for Stanley & Rose Hill):** Yes, Mr Deputy Speaker, Sir. The MMM has always been in favour of a strong made public Declaration of Assets Act for years. And we denounced the former Government when from one Declaration of Assets Act to the next one, we went backwards and finally the declaration of assets disappeared completely. Therefore, of course, we will vote for this piece of legislation, because, as I have said, for years, years, we have been criticising the 2 Declaration of Assets Acts that we have had and absolutely useless they were.

But I must say, Mr Deputy Speaker, Sir, that as time went by - it is already 4 years that this Government has been in power - the way the hon. Prime Minister replied to numerous PQs from hon. Aadil Ameer Meea and others, created a serious doubt that we were not going what had been promised, that is, a good new Declaration of Assets Act. We were very happy that this piece of legislation - we will criticise certain aspects later on, I shall, but we were very happy, we will vote for this piece of legislation. *Et on est soulagé* that, in fact, a good Declaration of Assets Act is before the House.

Of course, we know that in this case, we are not amending the Constitution, therefore Government does not a three-quarter majority in this case. But as I said, and I heard the PMSD also say that we will be voting for this piece of legislation.



The key issue has always been, and is still disclosure. The best Declaration of Assets Act that is kept secret or in *a tiroir* is useless. This was the case with the two former Declaration of Assets Acts. It provides in legislation beautiful things plaguing every loophole, but if it is kept secret, if it is not disclosed, it is absolutely useless. That is why I must say that I am not totally happy with the wording concerning disclosure at Section 7 - Disclosure of declaration, Subject to subsection (2), I read –

“ICAC shall disclose to the public the declarations made by members of the National Assembly, including the Speaker (...)”

I cannot be satisfied with these wordings. Why has that paragraph been kept so vague? Subject to subsection (2), ICAC shall disclose to the public the declarations made by members of the National Assembly. How, where will those declarations be disclosed to the public? I have been listening. No, it should have been spelt out. There is nothing preventing you to amend, to say and making it clear that, for example, these declarations should be provided so that members of the public can consult those declarations. I am not happy, I must say. Why has this part of the Bill stayed so vague? It is not too late at all if the intention is really to allow the public to come and consult the declarations. It should be spelt out. Having said that, this is to me a very important point. It would show the intention of Government to really have a new Declaration of Assets Act with complete disclosure. I agree fully with what the first speaker on the Opposition side said concerning ICAC. Listening to the Deputy Prime Minister, I have the impression that he does not know. For a number of years now, the MMM members of Parliament, representing the Opposition in the Parliamentary Committee, have resigned because ICAC has no credibility left at all. This has been the case for a number of years. I am very surprised to hear the Deputy Prime Minister. I don't know if it is pleasantly or not, but I am surprised to hear the Deputy Prime Minister take the PMSD to task for having joined with the former Government in doing this and that and, in particular, in amending the ICAC legislation to get rid of the Committee of Appointment and so on. Perfectly right, but he has been there for four years, why has he not amended the Prevention of Corruption Act, to go back to where we were, improving probably because we were thinking about it, we went too far. There is no excuse that now, after four years, you are coming with a new Declaration of Assets, very good, but there is no excuse that you have not come if you mean what you say. The previous Prevention of Corruption Act was something serious, solid, which it was, go ahead, come forward. I hope that the hon. Prime Minister has heard what his Deputy has said. Now, that he has taken a stand, we will be keeping the

pressure until the next general election. *Nous prenons un engagement* to amend the law. If it is not done before the general election, the law will be amended to go back to what the Prevention of Corruption Act was before it was weakened completely by the former Government. Having said that, I fully agree with hon. Duval that ICAC has no credibility left. None at all!

Therefore, I am very uneasy that we have to give to ICAC the responsibility of receiving, of keeping those declarations and of making them available in ways which I hope are spelt out to the public. I am very, very uneasy, especially when the declaration shall be made by way of affidavit, in such form as may be prescribed. So, I take it that what has to be prescribed and so on will be done by ICAC. It adds to my concern, but then we have a problem because ideally it is ICAC which should be responsible for that, but a real ICAC not what we have had for the past few years. So, I said it a bit earlier, there is need to amend the Prevention of Corruption Act to go back to what ICAC was in the past. There is need, as far as we are concerned, to revamp completely ICAC if Government is serious about this piece of legislation and other means of fighting fraud, corruption, abuse of institutions whether we like it or not. Being given the number of scandals, of abuses every day in the press, we read it is not only ICAC, Government has a serious credibility problem as far as fraud, corruption, abusers and weakening of institutions in general.

So, we welcome very much this new Declaration of Assets Act, *mais nous sommes très sceptiques*. We will see how things work out. We will see how all this develops, Mr Deputy Speaker, Sir.

Having said that, two remarks, at section 7(2) -

“ICAC shall not, in relation to the persons (...) disclose to the public information pertaining to -

(a) money, in any currency, in local banks and foreign banks;(…)”

With no limits whereas a bit later on it says -

(b) cash in hand not exceeding one million rupees,(…)”

*Bon, li pas enn ti cash!* But still we can go along with that.

There is a limit therefore. Cash in hand not exceeding Rs1 m. will not be made public. Fair enough! Rs1 m. cash in hand, it is a lot of money. But why not put such a limit on money in any currency in local banks and foreign banks? There also, I think, there should be a limit. Let us put the same limit. One million! Over Rs1 m., in any currency, in local banks and

foreign banks should be declared in the same way as cash in hand exceeding Rs1 m. which has to be declared, Mr Deputy Speaker, Sir.

Last point, loopholes. I must say that I have not been able to find any clear loophole at this stage. But I must say also that I am not happy with the way ultimate beneficiaries, under this piece of legislation, will be identified. The whole problem of *prête-nom*, the way companies and trusts can be manipulated, we know that there are specialists in these *trucs du métier*, how to use trusts, how to use companies one into the other and so on. I don't see much in that piece of legislation to prevent all this.

On a point raised about State-owned companies, state-owned enterprises are included, but there is no definition in that legislation. It includes what? I think it needs to be clarified. State-owned companies, there is no definition in this piece of legislation and, I think, it would be good for Government to clarify this point.

So, Mr Deputy Speaker, Sir, we will vote this piece of legislation, but with a lot of suspicion. And we expect, for this piece of legislation to be taken seriously, there must be a follow-up as far as ICAC is concerned and there should be, I believe, more details provided on the way that ICAC will disclose to the public the declarations. Thank you, Mr Deputy Speaker, Sir.

(8.43 p.m.)

**The Minister of Social Security, National Solidarity, and Environment and Sustainable Development (Mr E. Sinatambou):** Mr Deputy Speaker, Sir, I would like, first of all, to thank you for giving me the opportunity of addressing this august Assembly on the occasion of the introduction of this Declaration of Assets Bill.

Asset declarations of public officials are, Mr Deputy Speaker, Sir, a powerful tool to prevent corruption, detect illicit enrichment and conflicts of interest. From this perspective it, therefore, quite normal that I should share the deep sense of satisfaction of the hon. Prime Minister and Minister of Finance and Economic Development for bringing what he has himself called this long-awaited and long-overdue piece of legislation. But I must hasten to add, not long-awaited and long-overdue for the last four years because we know that it is since the early 1990s, meaning more than 25 years, that there should have been this long overhaul and, shall I call it, this new structure for declaration of assets in this country.

Indeed, this Government took the commitment to review and improve the integrity system in order to bring and ensure anticorruption. And here, I would first start by saying

how much I regret that I will have to take another contentious tone regarding the two orators who have spoken on the other side of the House before. And that is because systematically they try as far as I am concerned to destroy the credibility of the Institutions of this country. Systematically, there is scepticism towards either nation-building or towards what should be, in fact, acknowledged as being good institutions.

The hon. Deputy Prime Minister, Minister of Energy and Public Utilities mentioned earlier in his speech José Mujica, the former President of Uruguay. Now, the House may not know that Uruguay, Australia, New Zealand and Mauritius are the only four countries in the whole southern hemisphere to qualify as full democracies under the democracy index of the Economist Intelligence Unit of the United Kingdom. Here are four countries, the only four countries in the southern hemisphere to have actually qualified as full democracies and, in fact, Mauritius turns out to be the only country in Africa and in Asia to be among the 20 countries to be full democracies in the world. What do we hear? We hear what I consider really to be anti-patriotic stance, like it is, the ICAC has no credibility. Why? It is because it has not found the people that they want. We have heard a number of replies in a number of communications, the tremendous number of people who have been arrested, who are or have been prosecuted.

But it just so happens that they want to choose who will be the accused people. They want to choose who should be the guilty people. In other words, they want ICAC to be their puppet. They claim it to be the Government's puppet, but, in fact, it is they who want it to function in their way. They can go so far if there is any issue about the credibility of an institution. You challenged it. You don't come under the garb of immunity to just launch scathing attacks and just cast accusations. You go to the proper institutions. We always say inside this House and outside this House that we have an independent Judiciary. Let us go to Court, let us challenge the institutions because here, I think, that the Government should make no apology for, in fact, having chosen ICAC because ICAC is the right institution. I beg to disagree with the hon. Member who spoke before from the PMSD because he felt that the law which is being brought before this House today only targets assets to combat fraud and corruption. I would like here to correct what I consider to be an inaccuracy because Part II of the Prevention of Corruption Act of 2002 clearly covers *trafic d'influence* and *conflit d'intérêts* in its sections 10 and 13. Therefore, it is totally incorrect to think that the declaration of assets as it is being brought here today before this House would only cover fraud and corruption. It clearly extends to *trafic d'influence* and *conflit d'intérêts*.

Mr Deputy Speaker, Sir, I think, we should know that according to the World Bank more than 150 countries have introduced asset disclosure requirements for their public officials. Many of these countries make asset declarations available for public scrutiny and public access to declarations multiplies their anti-corruption value as civil society and journalist often play a crucial role by uncovering irregularities and figuring former verification of declarations by anti-corruption or asset declaration agencies. This, in my view, will be important because in our country, whether we like it or not, we must accept that we have a vibrant Civil Society and media.

Now, I heard the hon. Member from the PMSD when he spoke, making a distinction from the German Courts about the public disclosure of private assets of public officials and their family members and the clash which this might have with their rights of privacy and data protection. True it is, that those those rights are important, but here, I would like to share with the House that the European Court of Human Rights has held that both those rights are not absolute and can, therefore, be restricted, provided that these is a basis in law and a legitimate public interest which justifies the restriction and, indeed, prevention of corruption and exposing unexplained wealth of officials are serious and legitimate public interest.

I think we can go so far as to say that corruption is a threat to national security and undermines the well-being of citizens. Which is why I believe it is unfair that at the very outset of what is a more or less comprehensive piece of legislation once you start by saying that there is scepticism. We say it is being long awaited. We know that it is about 25 years late. When it comes we start, we cannot start by speaking of being sceptical. Let us give it our support. Let us give it our chance to make it work. If you look at this piece of legislation, I am quite happy that hon. Bérenger, who is such a season politician, who is a former Prime Minister, a former Leader of the Opposition, had to say that he has found no clear loophole, at this stage. I think that this is a good starting point, not by starting and actually trying to destroy ICAC, not by starting and saying that we are sceptical, not by starting and saying that Government should show that it really means what it is doing.

Let us start with the right approach. Let us start with the consensual tone that a piece of legislation of that nature deserves. Because you should concede, never before under the law of the land did we consider for the slightest second to make other people than MPs, Ministers, Municipal Councillors, District Councillors to be under a duty of disclosure of their assets. To me, this evening is a great night because we are actually giving the means to this country to show that it deserves, in fact, to go higher up on the Democracy Index, because it is

actually putting in the measures, the steps which would help it to show that it is a vibrant democracy. Let us not keep hammering the country with bland – how should I call them? – accusations, with scything attacks on our institutions. This has gone on for too long. It is high time that we actually look back to better things.

I believe, therefore, Mr Deputy Speaker, Sir, that it is a welcome step that today, such legislation is being debated upon, with a view to its adoption which requires the comprehensive disclosure of assets and income information of public officials and their family members.

In fact, Mr Deputy Speaker, Sir, I have made a point to go and find a World Bank publication which is entitled: ‘Getting the full picture on public officials: a how-to guide for effective’, which goes back to 2016. And it allowed me to make a comparison between the Declaration of Assets of 1991 which is going to be deleted today and the assets which are going to be covered under the new legislation.

Under the former legislation, we had immovable assets which were covered. These are covered under both sections, section 2 of the Act to be repealed today, under section 2 subsection (a) and under section 2 subsection (vi) in the new Bill. Now, what is important about that is that, that study makes a comparison about the various categories of information for disclosure in different parts of the world. It is interesting to know that under the categories of information typically found in declaration forms in 153 countries which were surveyed, 80% of Sub-Saharan countries actually have a disclosure which encompasses immovable properties in their legislation. When it comes to stocks and securities, the repealed legislation had nothing which covered it. When it comes to bank accounts, the repealed legislation had nothing in it. When it came to cash, not in bank accounts, there was nothing in the existing legislation. Same for items of jewellery, precious stones or metal or watches worth more than Rs500,000 each, this was not in the repealed legislation.

However, what is interesting to know is that when it comes to cash, which is not in bank accounts, only 20% of Sub-Saharan countries, which have a Declaration of Assets Legislation, have such a provision, and only 16 countries in high-income OECD countries. True it is, that we may find room for improvement of different types for different items, but what comes out of the study and what comes out of my sort of going into them, is that there are areas where we are doing just on the average of Sub-Saharan Africa; there are areas

where we are now going to do better than high-income OECD countries in the assets which are going to be the subject of declaration and disclosure.

Now, this being said, Mr Deputy Speaker, Sir, I think it is also good to know that there is the fact that the Bill has, indeed, been, to a certain extent, borrowed from OACD and World Bank sources. And here, I want to say something on the principles. Mr Deputy Speaker, Sir, a cross comparative analysis of assets disclosure requirement internationally shows that, first of all, an ever growing number of countries have introduced declaration of assets provisions in their law.

Now, what is important, however, is that there is a document entitled: ‘Good practices in asset disclosure systems in G20 countries’, which states –

“Disclosure systems should be as comprehensive as necessary to combat corruption but should require only the submission of information reasonable and directly related to the implementation of laws, regulations, and administrative guidelines, as appropriate, governing the conduct of public officials.”

What is meant by this, is that there should be principles which will explain why we are not covering everything and anything in this Bill. Reasons why we are not demanding disclosure not only declaration of everything and anything, but why we are not demanding the disclosure of everything and anything under this legislation.

Indeed, the general consensus regarding what has been called the High Level Principles governing legislation for Declaration of Assets from the OECD states that there are six principles. The first one is fairness.

“(...) Disclosure requirements should be set forth clearly for the public official and for the general public and should be an integral component of laws (..) governing the conduct of public officials(....)”

Why?

“in order to establish shared expectations for accountability and transparency.”

The second principle is, indeed, transparency. The Third is that the provisions for the disclosure should be targeted at politicians, senior leaders and those in at risk positions.

It states that –

“Disclosure should first be required of those in senior leadership positions and then, as capacity permits (...).”

I stress -

“(...) as capacity permits of those in positions most influencing public trust or in positions having a greater risk of conflict of interest (...).”

Why am I saying this, Mr Deputy Speaker, Sir, is because in this country there is a tendency, *tout dimoun voler*. As soon as you are in a position of authority, *voler!* And you just repeat it 25 times, and that’s it, you become one. If it hadn’t succeeded, you repeat it another 25 times. The 50<sup>th</sup> time, yes, you will be a *voler*. That is the way it is here. You just look at the number of times they tell you ICAC is not credible. At some stage, it will stick. No evidence! If there is evidence go to Court, no, it will just be repeated *ad nauseam*. That is why we have to make sure that we proceed under those principles.

The fourth principle is that the provisions for disclosure etc. should be supported with adequate resources.

“Disclosure system administrators should have sufficient authority, expertise, independence, and resources to carry out the purpose of the system as designed.”

The fifth principle is that the information should be useful.

“Disclosed information should be readily available (...).”

Not just to go and know what I own or what the hon. Prime Minister owns, but –

“(...) for use in preventing, detecting, investigating, imposing administrative remedies for and/or prosecuting corruption offenses regarding conflicts of interest, illicit enrichment, and/or other forms of corruption.”

Here, I can assure you, Mr Deputy Speaker, Sir. If we were to actually, as I would call it, open the floodgates, there would be - I must say that the hon. Deputy Prime Minister, Minister of Energy and Public Utilities has used the right word. The exact word would be ‘voyeurism’. *Je vois d’ici le voyeurisme surtout sur un des membres qui tomberait sous la coupole de cette loi ferait l’objet*. This is why we have to do it within the line of the fifth principle.

And, the last one is that the rules should be enforceable.

There should be –



“Penalties and/or administrative sanctions for late submission of, or failure to submit, and submitting false information on a required disclosure report should be effective, proportionate, and dissuasive”.

Which is why if we look at the provision dealing with offences, in particular, here, Section 6 of the repealed Act provided up to a Rs50,000 fine and up to two years’ imprisonment for providing false information. That is why it is totally unfair and improper to try and accuse this Government of not being serious about fighting corruption here, because we are coming up with the new Clause 11(1) of the Bill, which actually stipulates that, henceforth, any offence of providing false information renders the wrongdoer liable to a fine of Rs1,000,000 and up to five years’ imprisonment. So, I believe we can indeed safely say that this particular piece of legislation does fulfil what it actually has been brought for, that is, review and an improvement of our integrity system of our anti-corruption legislation.

I believe that we have certainly not compromised on the effectiveness of the mechanism and that what we have brought before this House is worth the paper it is written on and certainly does not deserve the unfair accusations or remarks which I have heard. I am, however, quite happy to note that both the PMSD and the MMM have said they would vote for the legislation, but, for God sake, let’s not be demagogue and find flaws which do not exist. For God sake, give it the chance to have the success it deserves. For God sake, let’s, for once, try to work positively for the future of this country.

On this note, Mr Deputy Speaker, Sir, I must congratulate the hon. Prime Minister, once again, for coming up with this piece of legislation and I thank you for your kind attention.

**The Deputy Speaker:** Hon. Dr. Boolell!

(9.06 p.m.)

**Dr. A. Boolell (Second Member for Belle Rose & Quatre Bornes):** Thank you very much, Mr Deputy Speaker, Sir.

Let me reassure our friends on the Government bench that disclosing the truth should not hurt, and it has nothing to do with demagogy. Before I come to the main thrust of this Bill, let me make it quite clear that the principle goal of an Income and Asset Disclosure System is to combat corruption. In countries where there has been substantial decline with respect to corruption, when you look at the correlation it relates to detailed disclosure

requirements, and I have put emphasis upon detailed disclosure requirements. For example, Latvia experienced a decline in corruption as a result of detailed disclosure requirements.

The Bill, of course, has its merits; the merits, I do agree, far outweigh some of the demerits, which I will highlight at a later stage. We know what the objective is. It is to ensure that we strike the balance between disclosure and protection of personal safety and confidentiality. Mr Deputy Speaker, Sir, we have travelled a long way since the Declaration of Assets Bill was introduced in March 1985, and it was as a result of a report submitted by Mr Goburdhun that the decision was taken to impress upon MPs to declare their assets. And, what was the recommendations which was made, and which was read by the Leader of the Opposition then, I read –

“I recommend that legislation be passed to make any Minister or public servant guilty of corruption if he or any person on his behalf is in possession or has at any time during the period of his office been in possession of assets and property not commensurate with his known source of income, unless it satisfies a tribunal set up by the Prime Minister, that he has acquired all his assets and property through legitimate means.”

And the funny thing was when the asset was filed to the Clerk of the National Assembly, the Clerk keeps a record. You know, he could send it to the Prime Minister and the Leader of Opposition, but, of course, we have travelled a long way, as I have stated. From 1985 to 1991, there have been many economic changes and one of the sectors that become the pillars of our economies is the Financial Services Sector. Of course, when you have a Financial Services Sector, you have to make sure that there is proper regulatory, proper institutional and legislative framework.

My concerns, Mr Deputy Speaker, Sir, is what have we been doing since then. Successive Governments have done the fair share, but, unfortunately, over the last four years, I must say that we have allowed big spender to enter this country with toxic assets. I am sure the Deputy Prime Minister would not disagree with me because he has the competence to issue Certificates of Competency to those who have come in this country with toxic assets, and it is a fact. I am not going to highlight the problems which we have been having with Angola, the mutual legal assistance which has been exchanged to ensure that information is disclosed. And we had no choice but to take corrective measures and to redress the situation so much so that we had been taken to task, not only by ESAAMLG, OECD and the European

Union. But some corrective measures have been taken but let me impress upon our friends on the Government bench that the credibility of Mauritius has taken a huge setback.

Now, we are coming with a legislation which is a fair legislation. The net is being widened and we are told that there will be new categories of people who will become holders and they will have to file their declaration of assets and liabilities. But who are we going to file our declaration of assets and liabilities? To ICAC? And I totally agree with what has been said by hon. Adrien Duval and by the former Prime Minister, ICAC has no credibility. And I say it without fear or prejudice because we know what happened shortly after Members of the Assembly filed the declaration of assets. Within a short span of time, God knows who did it, but everything appeared in the Press. All the information regarding declaration of assets of MPs, new MPs who were sworn in with the new mandate of this Government, all the information appeared in the Press. So, how can we trust ICAC?

*(Interruptions)*

Yes, disclosure of information, as the Prime Minister is saying. Probably that is the reason why there is provision in the legislation to disclose the assets and liabilities of MPs. But the problem is credibility of institutions. That is why I am one of those who say that if I have an opportunity to file my declaration of asset and liability to MRA, it is probably the best thing for me to do. Of all institutions, probably it has more credibility; probably it has a better culture of integrity. Where else would I go? ICAC cannot be trusted. So, you may tell me what are the powers vested upon MRA.

Now, I have to say if I have nothing to fear, why am I afraid to disclose? I would go even further to say, why is it that what I can disclose should not even be published in a Government Gazette? Why should it not be under the tight scrutiny of members of the public?

If we want to wage war on corruption and fraud, I would have expected Government to say that in the months to come or probably when Parliament resumes after recess, to come with legislation to wage war on fraud and corruption. I have in mind a serious fraud agency. And many questions were asked in Parliament with respect to Declaration of Assets Act, amendments that need to be brought.

The question was put in July 2014 by the then Leader of the Opposition. The then Prime Minister talked of recommendations which were made by the Parliamentary Committee on ICAC for further legislative reform pursuant to Section 61 of the Prevention of

Corruption Act. Now, why do we need to come with a more effective legislation? I say that because in the light of recommendations made by the United Nations, based on recommendations United Nations Convention Against Corruption, we totally agree that there cannot be a 'one size fits all' because if we believe in the building strength and with the administration of an asset declaration system, that takes a considerable time. I grant you the Prime Minister is right to come with this legislation, but we need to give thought to waging war on fraud and corruption and to make asset declaration information accessible to the public.

Hon. Bérenger had made some valuable suggestions with respect to a ceiling as to the amount of money that should be declared. I am not saying that we have to disclose almost anything and everything, but, of course, if there is ground that we have acquired wealth in an illicit manner, the agency has to act and take appropriate and corrective measures. I totally agree that with respect to disclosure of declaration, section 7 (2), I see no reason why we cannot have a ceiling with respect to money in local banks and foreign banks.

There is perception and there is reality, and, of course, now that we are widening the net to bring in as many high cadres of the Civil Service within that net, what I would expect Government to do, to come with a schedule list of those who are eligible to be holders of office and should be accountable to, call it ICAC, or for that matter any agency which I consider to be relevant, where we can declare our assets. I agree that we cannot clog the system, hence the reason as to why some Members can certainly prescribe and file their declaration of assets before Magistrate or relevant persons and bodies.

Mr Deputy Speaker, Sir, let me also state in no uncertain terms that we need also to look at funding of political parties because, very often, politicians use political parties as a means to launder money. It is a fact because we do not declare the funding that we obtain at any one time, during electoral campaign or whenever we need to stage public meetings. There is no provision for that. I know the hon. Prime Minister would say that probably we are coming with new legislation on financing of political parties, but I think this is an issue that has to be discussed at the bar of public opinion and allow people to make an informed choice concerning funding of political parties.

As far as enforcement is concerned, much has been said and I will come back again to ICAC. I still feel, in the light of concern expressed by Members on the Opposition bench that we need to give a thought to make declaration of our assets to MRA. For reasons which I

stated earlier, it has credibility, it has a culture of integrity but even then MRA is not that safe.

There have been criticisms levelled against MRA and these reflect badly in the manner with which these institutions are run. There is a credibility gap in this country and unless this is being addressed, wherever we deposit our Declaration of Assets, there is still, as we say room for improvement. My plea with respect to this legislation, it is a step in the right direction, but since we are under scrutiny and for the sake of proper scrutiny, there is a call for declaration of assets. We should not be afraid to declare our assets, allow the public to scrutinise what we have unless you know overnight we have a zero, who has become a hero, has acquired immense wealth and is now living in millionaire row, but he has nothing to be afraid of. By all means do so, there is no problem to disclose assets and to have those assets properly scrutinised. For God sake, we are introducing new legislation with respect to Declaration of Assets, but if we want to report progress and if we want the institution to function properly, we have to make sure that collateral institutions deliver. Unless there is transparency and accountability and there is proper conduct of businesses by relevant institutions and organisations involved in combating fraud and corruption, this exercise, unfortunately may become a futile exercise. In the words of the Deputy Prime Minister who can afford to look people into the eyes, on one issue, I agree with him, the system may be clogged.

Thank you, very much.

**The Deputy Speaker:** Hon. Gayan!

(9.23 p.m.)

**The Minister of Tourism (Mr A. Gayan):** Thank you, Mr Deputy Speaker, Sir.

Mr Deputy Speaker, Sir, I wish to start by saying that, in our Government Programme 2015/2019 as have been mentioned by the hon. Prime Minister, the Deputy Prime Minister, we did say very clearly in paragraph 248 that –

“Government will eradicate fraud, corruption, malpractices and irregularities in all aspects of public life and restore our national values. To this end, a new Declaration of Assets Act for MPs and high ranking public officers and a Financing of Political Parties Act will be enacted.”

For four years, Mr Deputy Speaker, Sir, whether it is the media or in the House, the impression has been created that this Government is not going to honour its pledge to come with a Bill on the Declaration of Assets. I think this promise has been kept and I hope that all those who have been saying bad things about the intention and the political will of this Government will make amends and change.

Mr Deputy Speaker, Sir, I have listened to hon. Dr. Boolell about some disclosure of declaration of assets made by MPs. I am not aware whether there has been any public institution that was instrumental in that kind of thing. But a Declaration of Assets Bill is not a stand-alone Bill in our system. When we say that we are imposing an obligation on Members of Parliament, Ministers and all the people mentioned in the Bill to declare their assets and to file that asset by way of an affidavit with the ICAC, it does not mean that, that is all that exists in this country. If I want to know what other immovable property is owned by any person in this House, I can simply go to the Registrar's Office and I will get the list of all the things. If I want to know how many shares anyone has in any company, I can also pay a fee and get all the information. So, there are already institutions and procedures where information can be made available to the public and it is done regularly. Earlier on, when we were debating the other Bill, the electoral reform on the Constitution (Amendment) Bill, the Leader of Opposition came up with a list of employees of ministries. We are a small country and everything is opened, but that is not all, Mr Deputy Speaker, Sir. When we are talking about the Declaration of Assets, in fact, it was Sir Anerood Jugnauth who, in 1985, came to the House with the first Declaration of Assets. I was in the House then. When that Bill came in the House, the Leader of the Opposition was hon. Bérenger. He said then that that Bill was an eyewash. I am happy that today he has changed completely and he welcomes this Bill.

*(Interruptions)*

Okay, he has grown up in the meantime.

*(Interruptions)*

He has grown up! But anyway, I am just saying, Mr Deputy Speaker, Sir, the Opposition is always there to find faults with anything that Government does, but, at least, on this Bill whether it is the PMSD or the MMM, they have both said that they are going to support the Bill. Of course, they will have some suggestions to make, but that is fair enough; that is part of parliamentary life.

Before I come to the clauses of the Bill, I want to say that - in fact, it has been mentioned by the hon. Deputy Prime Minister also - the background to this Bill is the United Nations Convention Against Corruption and, in that particular Convention, there is a general principle. The general principle is that public bodies need to create a climate where the public service provision is transparent and impartial, where it is known that the offering and acceptance of gifts and hospitality is not encouraged and that the personnel or other interests should not appear to influence official actions and decisions. This is the basis of a culture of integrity that is being imposed on all public officers and people who have responsibilities. I must also say, Mr Deputy Speaker, Sir, that we need to have the clear objectives of the Bill in mind because, unless we know what we want to achieve, we may get derailed and we will possibly lose focus.

So, we are talking about of a Declaration of Assets, we are talking of financial disclosure, we are talking of disclosure of all interests in all assets because this has to be part with a meaningful anticorruption process. This Bill intends to combat illicit enrichment. It will prevent conflicts of interest. It has to be effective and credible and this is why the Bill makes provision for access to certain parts of the declaration. We should not forget also. I know that some hon. Members have spoken about full disclosure etc., but there is a balance that needs to be struck when we are dealing with disclosure of assets and public access to all the declarations. It is the need to preserve the privacy of all Members, of all those who are under an obligation to make a declaration of assets and there is also the threat to their security. In some countries, by having full public disclosure, there have been burglaries, there have been kidnappings, there have been all sorts of attacks on people because people know exactly what they had in their houses. So, we have to strike a balance and whether we go to the World Bank or to the OECD, we will always find, as part of the philosophy of the declaration of assets, that we need to take into account the local conditions, the culture of the countries, the traditions of those countries because this is what makes the law acceptable.

Mr Deputy Speaker, Sir, let me also say something about the PEPs. No one has talked about PEPs. All of us here in this House are PEPs - Politically Exposed Persons. When you are a PEP, you are a second rate citizen. And when you are a PEP, you are a second rate citizen. You cannot open a bank account like any other individual. Not only, us as Members, our family, our children, even if they are of age, not only due diligence happens in their cases, but enhanced due diligence. So, this is why I say that it is all easy for people to come and say politicians are corrupt etc., it is not easy for anyone here to go and open a bank

account. I challenge anyone to go simply and open a Bank Account. Try to transfer Rs100,000 from one account to another account. You will be asked questions because the structure has changed from 1985 to what it is today. It is not the same climate; it is not the same environment. So, when we are talking of declaration of assets, we must bear in mind also the other things that have happened.

Mr Deputy Speaker, Sir, I am sure hon. Uteem and others who are involved in financial aspects will understand the very heavy rules that are been imposed by the OECD, by FATF and by World Institutions on countries for valid reasons. We all want to have a financial system that is clean. We all want a system that does not get involved in money laundering or corruption or arms dealing or whatever. But we need to understand that in a country like Mauritius, we have to be very careful about what we do with the declaration of assets that we are proposing. A balance is always necessary when we are talking about the privacy of a person and the threat to his security and the public interest.

In some countries, Mr Deputy Speaker, Sir, people have gone to Court to challenge not only the declaration of assets, forget about the public access to declaration because they say it is a violation of their privacy. We are going ahead because we believe that, we, as politicians we have nothing to hide. People can say all sorts of things about politicians, but all the Members in this House know that whatever we do, whatever we say, we are scrutinised. We have a system in this country. If I want to purchase an immovable property tomorrow, I go to the Notary and I pay immediately, the MRA and all the bodies will be asking questions as to where I got the money. It is right that this is the case. And this is why we believe that when we are talking of declaration of assets, we are talking of ICAC, ICAC not being credible, what are we doing? We are asking Members in this House and some other officials to go to the Supreme Court to have an affidavit to disclose all your assets and your liabilities. ICAC has nothing to do with that particular initial process. Having done that, you deposit that with the ICAC and ICAC is not alone according to the Bill that you are presenting, Mr Deputy Speaker, Sir.

I refer to the disclosure of declaration, clause 7 (4) and I quote –

“Any enforcement authority may apply to the Judge in Chambers for the disclosure of a declaration and the Judge in Chambers may, on good cause shown, order the disclosure of the declaration.”

And what are the enforcement authorities? The enforcement authorities in sub-clause 5 –



““enforcement authority” means the Police, the Enforcement Authority under the Asset Recovery Act, the Mauritius Revenue Authority, ICAC, the Financial Intelligence Unit, the Integrity Reporting Services Agency under the Good Governance and Integrity Reporting Act, or such other body as may be prescribed.”

So, even if you have done something that one of those enforcement authorities considers irregular, they can still go to the Judge in Chambers and ask for an order. So, it is not ICAC alone and ICAC is given additional powers under clause 9 –

“Power to monitor assets and liabilities –

Notwithstanding any other enactment, ICAC shall monitor the assets and liabilities of any declarant for the purpose of detecting and investigating corruption and money laundering offences or illicit enrichment.”

This is the power that is being given to ICAC. And there are other powers that are also being given to ICAC, like issuing directives etc. But the point I wish to make, Mr Deputy Speaker, Sir, is that this Declaration of Assets is not a standalone Bill, it comes with a package of other measures, other authorities that accompany the assets and other acquisitions of Members of this House.

Mr Deputy Speaker, Sir, sometimes we talk about the politics of ethics or the ethics of politics or ethics in politics or politics in ethics. All these things come under this declaration of assets. But what we require is a system that gives confidence to the public, that gives confidence to other authorities, but that affidavit which we have sworn or solemnly affirm contains all our assets and liabilities, not only of our assets but our spouse and minor children.

In this Bill, Mr Deputy Speaker, Sir, we have defined assets very wide. It is a very wide definition that we have given to assets and I believe that it is right. We are saying that money, in any currency, in local banks and foreign banks, has to be disclosed. Whether you have an account overseas or not is covered in this particular Bill. I think it is right, that this is something that is important to give confidence to everybody that politicians are not there, as hon. Dr. Boolell, who is not here, said that some politicians or some people join politics in order to be able to launder money or amass money. I am sure he knows what he is talking about. I don't want to be nasty at this time of the night.

*(Interruptions)*

Hon. Bérenger mentioned something about the interpretation clause, on his doubts about who is the ultimate beneficiary. Mr Deputy Speaker, Sir, the system that we have today with the OECD, with FATF, with the ESAAMLG, with the banking structures, with the disclosure, KYC and everything, everybody knows who is the ultimate beneficiary of anything. Of course, there are big trusts etc. that try to launder money, that try to hide assets, but with what is happening in the world of Finance today, it is virtually impossible for anyone to hide money anywhere.

It is going to take some time. There was something about the UAE, UAE thought that it could ignore whatever the World Bank and OECD was saying about anti money laundering and everything. They threaten France. They said: if you are going to impose these conditions on us, we are not going to buy your Airbus A380. That sent shock waves in Europe, but then what happened? They had to comply because failure to comply entails lots of sanctions and with the power of the US Dollar, no country can really afford to lose all their correspondents. So, it is all connected. We need to be fully aware of what we are talking about. So, this is why I say when we are talking of declaration of assets, we are talking of everything. We are talking of ICAC and we are talking of Asset recovery.

Mr Deputy Speaker, Sir, the hon. Prime Minister has given a long list of the people who have to declare their assets and I do not propose to go into that. But let me say that it is important for the Declaration of Assets to include the assets of the spouse and the minor children. I think it important because there have been cases where people try to put properties of whatever the names of their children, but all this will come part and parcel of this culture of integrity that we want to have as a result of the passing of this Bill. We go further in clause 4 subclause 4, Mr Deputy Speaker, and this is important also and I quote –

“(4) Where a person makes a declaration under this section, he shall specify any property sold, transferred or donated to his children of age and grandchildren, in any form or manner whatsoever, including income or benefits from any account, partnership or trust.”

I think this is also important because we go, not only to the children but also to the grandchildren and, this also, I believe gives confidence to the process that we are coming up with.

Mr Deputy Speaker, let me say a word about the ‘Form and content of declaration’. I am referring to clause 5 subclause 2 –

- “(2) A declarant shall, in relation to a declaration made under section 4 –
- (a) not be required to specify the value of any asset included in the declaration, except where such asset consists of cash;”

Now, it is very difficult to put a value on an asset that you may have, something may be worth Rs10 today, it may be worth Rs2 the next day or Rs20. So, it puts an unnecessary burden on the declarant, but the asset will be disclosed, the asset will be there, but putting a value. Because if you put a value which is not according to the Government Valuer, etc., you may be committing an offence and this is not something that is in the spirit of what we want to do. We want to have all assets and liabilities disclosed, but the value of any asset needs not be specified.

I think it is good that we mention this. I have mentioned about affidavit, but if having lodged the affidavit with ICAC, and there is an MP or a Minister who acquires or disposes of any freehold or leasehold immovable property in Mauritius or abroad or a motor vehicle, etc., then he has to make a fresh declaration. For this fresh declaration, he does not have to do it by way of affidavit, he simply has to make a declaration in writing to ICAC and that will be part of his original affidavit.

We have talked about the public disclosure. I think it is important for what I have said earlier on about the risk of kidnapping, etc., not to give any publicity to precious stones, metal or watch. I believe that there are very few watches, except the Rolexes that can be worth Rs500,000 but...

*(Interruptions)*

Hon. Bérenger mentioned something about Clause 7(2) –

- “(2) ICAC shall not, in relation to the persons referred to in subsection (1), disclose to the public information pertaining to –
- (a) money, in any currency, in local banks and foreign banks”

Now, Mr, Deputy Speaker, he suggested that we should put a limit on the amount. I do not think it is necessary because when you are talking of money in Banks, you can always trace the money.

If tomorrow there is any query or any concern by any Authority, the Judge in Chambers will give an order and all the transactions, all the tracing of the money will be available. So, I do not think that it is really very necessary to place that kind of burden because, as I said at

the beginning of my speech, we are talking of an integrated structure, an environment where everything is monitored and this also will be monitored. So, I do not think that, that is something that will really help in any way.

Mr Deputy Speaker, I had said that I was not going to be long, but as for prosecutions, of course, the DPP will have to give his consent before any prosecution. But let me say also, hon. Adrien Duval spoke about conflicts of interest. He has not been a Minister, but the hon. Leader of the Opposition has been. When you become a Minister, you are given a Cabinet handbook and in that handbook, it is clearly spelt out what you can do with regard to conflicts of interest and what measures you must take in order to avoid conflicts of interest. This is something that is important for everybody to know that not only are we bound by the law of this country, but we are also as Ministers bound by the Cabinet Rule Book. And it is important that we know about this because the culture of integrity that we are coming up with, means that we need to have a system which not only gives confidence to everybody, but also gives confidence to Ministers and to everybody that we are working within a framework of legality.

We should not give the impression that everything is rotten. I agree with hon. Sinatambou who says that it is not in the public interest to continue day in, day out to downgrade and to diminish the role of institutions. We may disagree with those who are at the head of institutions, but the institution is an institution. And this is why I believe that an institution must be respected. It is the institution that we are talking about, it is not the person. And it is not only for ICAC that I am saying this, I am saying for any other institutions, whether it is the Judiciary, whether it is the Prime Minister. You may not like the Prime Minister, but he is in the Office of the Prime Minister and you must respect that office. It is this attitude towards institutions that will make us really become a modern country. We should not play the game of certain media people who keep downgrading and publishing all sorts of things that give a bad image and poor image of this country.

Mr Deputy Speaker, we are not alone in the world where things can go wrong. Of course, things can go wrong. We are all human. No one is perfect. The Bill that the hon. Prime Minister has brought to the House is not a perfect Bill. Of course, it can be pulled off, but if the Opposition wants to give the impression that it has to a perfect Bill, then I think they are on the wrong track.

Let me just give you an example of what happened last week in England. Westminster, Boris Johnson, the former Foreign Secretary, had to make a full and unreserved apology over the late declaration of more than £52,000 in income. He had forgotten to disclose it and he was taken to task by the Parliamentary Commissioner for Standards who said that the former Foreign Secretary had failed to register his payments on time on nine occasions in the previous 12 months and the sanction that he was given, he accepted that he had breached the rules of House of Commons and he recognised his mistake, but he said he had no intention to mislead the House and he had offered a full and unreserved apology. And the Parliamentary Commissioner said this, she said she agreed to a reprimand because the financial interests are minor and the breach of the rules were inadvertent, neither this criteria were met. But, anyway, I am just saying that Boris Johnson, even at that level, they can make mistakes. But in our case, in our Bill, we don't have any apology or anything. If somebody really messes up, we have the full rigours for the law that will be applied. And this is why I think, not only do we have all the other institutions that give confidence to the system, but we also have the sanctions provisions in the Bill that will give added confidence to the public.

I believe this is a Bill that was long awaited and I am happy that everybody in the House will be voting for it.

Thank you, Mr Deputy Speaker, Sir.

**The Deputy Speaker:** Hon. Fowdar!

(9.51 p.m.)

**Mr Fowdar:** Mr Deputy Speaker, Sir, I move that the debate be now adjourned.

**Mr Hurreeram rose and seconded.**

*Question put and agreed to.*

*Debate adjourned accordingly*

### ADJOURNMENT

**The Prime Minister:** Mr Deputy Speaker, Sir, I beg to move that this Assembly do now adjourn to Wednesday 12 December 2018 at 11.30 a.m.

**The Deputy Prime Minister rose and seconded.**

*Question put and agreed to.*

**The Deputy Speaker:** The House stands adjourned.

Adjournment Matter! Hon. Osman Mahomed!

**MATTER RAISED**

(9.52 p.m.)

**SAFE CITY PROJECT – HUAWEI – CAMERA INSTALLATION**

**Mr Osman Mahomed:** Thank you, Mr Deputy Speaker, Sir.

I am raising an issue of the attention of the Rt. hon. Minister Mentor. The House will recall that on 16 October 2018 in PQ B/800, I had questioned the Rt. hon. Minister Mentor about the feasibility study, which is a technical financial study, in connection with the Safe City Project, a project being implemented by Huawei to the cost of Rs19 billion. Well, as per his reply, we understood that the firm Deloitte did the feasibility study. Yesterday, *L'Express*, Mauritius, in an article titled –

*« Huawei dans la tourmente: Maurice à risque avec ses 4,000 caméras intelligentes? »*

The journalist Karen Walter drew attention on the arrest of Mrs Meng Wanzhou, the Finance Director and daughter of the founder of Huawei on the 01 December in Canada.

Now, as per the article, India, New Zealand, Australia, and soon Japan are to make Huawei *non grata*. It is well-known that the USA have flagged security issues with respect to Huawei in the past. At present, the project is ongoing, installation of cameras by Huawei in Mauritius. The issue is that personal data of the citizens will be captured and may be used in the manner Huawei so decides and there is fear that there can be intrusion in the lives of the citizens. In the light thereof, I am making a request to the Rt. hon. Minister Mentor that to request the Data Protection Commissioner to supervise the data collection and manipulation part of the project for the time being. This will go a long way to reassure one and all in the country. I am hereby tabling the newspaper article for reference.

Thank you.

**The Prime Minister:** Mr Deputy Speaker, Sir, let me say that I am surprised that the hon. Member is relying, first of all, on an article in the Press to make certain allegations with regard to a company. We do not know what has happened in the other countries. Do you know? You, yourself, mentioned that there was one person responsible for Huawei - we know it is in Canada - who has been arrested. And do know why she has been arrested exactly? What are the charges that have proffered against her? And you are saying that it is with

regard now in some countries to data and so on. Do we have any evidence of what has occurred here? If there is, tell us, show us concretely. What, do you think I am going to reply on what is being said in a newspaper? *Enfin!* Then, you can come before this House every day with a newspaper, saying this and that. We cannot reply on that kind of articles that have been published. If there is something which is serious, of concern, then, obviously, we will look into it.

Let me reassure the hon. Member that we also read what is happening, we are informed about news internationally. We have also tried to find out if there is any issue with regard to the company and so far, I say, so far, there has been nothing which warrants or which justifies that we go to such an extent that the hon. Member is asking us to do. So, let us monitor and see what evidence there is eventually, and what evidence there is elsewhere does not mean to say that it is happening here in this country.

*At 9.56 p.m., the Assembly was, on its rising, adjourned to Wednesday 12 December 2018 at 11.30 a.m.*