



**FIFTH NATIONAL ASSEMBLY**

**PARLIAMENTARY**

**DEBATES**

**(HANSARD)**

**SECOND SESSION**

**WEDNESDAY 18 DECEMBER 2013**

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**THE CABINET****(Formed by Dr. the Hon. Navinchandra Ramgoolam)**

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| Roopchand Seetaram                         |   |
| Hon. Mrs Maria Francesca Mireille Martin   | Minister of Gender Equality, Child Development and Family Welfare |
| Hon. Sutyadeo Moutia                       | Minister of Civil Service and Administrative Reforms              |

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|   |  |
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| <i>Mr Speaker</i>                       | Peeroo, Hon. Abdool Razack M.A., SC, GOSK    |
| <i>Deputy Speaker</i>                   | Peetumber, Hon. Maneswar                     |
| <i>Deputy Chairperson of Committees</i> | Deerpalsing, Hon. Ms Kumaree Rajeshree       |
| <i>Clerk of the National Assembly</i>   | Dowlutta, Mr R. Ranjit                       |
| <i>Deputy Clerk</i>                     | Lotun, Mrs B. Safeena                        |
| <i>Clerk Assistant</i>                  | Ramchurn, Ms Urmeelah Devi                   |
| <i>Clerk Assistant</i>                  | Gopall, Mr Navin (Temporary Transfer to RRA) |
| <i>Hansard Editor</i>                   | Jankee, Mrs Chitra                           |
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| <i>Sergeant-at-Arms</i>                 | Munroop, Mr Kishore                          |

**MAURITIUS**

**Fifth National Assembly**

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**SECOND SESSION**

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**Debate No. 40 of 2013**

**Sitting of 18 December 2013**

**The Assembly met in the Assembly House, Port Louis,**

**At 3.30 p.m.**

**The National Anthem was played**

*(Mr Speaker in the Chair)*



## PAPER LAID

**The Prime Minister:** Sir, the Paper has been laid on the Table –

**Ministry of Tertiary Education, Science, Research and Technology –**

The Annual Report 2011-2012 of the University of Mauritius (In Original).

## ANNOUNCEMENT

### **‘LE MAURICIEN’ NEWSPAPER 17.12.13 – IMPUGNED ARTICLE**

**Mr Speaker:** Hon. Members, I have a statement to make in relation to an article published in the newspaper “Le Mauricien” on 17 December 2013.

In the impugned article, it is alleged that the Third Member for Curepipe and Midlands (Mr Obeegadoo), has, I quote -

« (...) a dénoncé « *le parti pris du Speaker Razack Peeroo* » qui ne lui a pas accordé l’occasion de poser une question supplémentaire au PM. « Il n’y avait pas aujourd’hui de contrainte de temps, n’ayant pas de PNQ à l’agenda, et la question précédente avait pris très peu de temps(...)». Selon le député, « il y a eu une pratique instaurée par le Speaker lui-même », poursuivant : « *Combien de questions n’ont-elles pas donné lieu à de nombreuses interpellations supplémentaires, de surcroît sur des sujets de moindre importance. Il y a eu une levée de boucliers de la part de plusieurs membres de l’opposition : Ganoo, Jugnauth, Bodha (...)* »

I wish to draw the attention of the hon. Members to section 6, subsection (1), of paragraph (s) of the National Assembly (Privileges, Immunities and Powers) Act which reads as follows -

#### **“6. Contempt of the Assembly**

(1) Subject to subsection (2), each of the following acts, matters and things, constitutes the offence of contempt of the Assembly -

- (s) uttering or publishing any statement reflecting on the conduct or character of, or containing or amounting to an accusation of partiality in the discharge of his duty by the Speaker, Deputy Speaker or Chairperson of any committee;”

Notwithstanding the above section, it is also well established that the speeches and writings which cast reflection on the character and impartiality of the Speaker in the discharge of his duty constitute a breach of privilege and contempt of the House and that his action cannot be criticised incidentally in debate or in any form of proceeding, except by way of a substantive motion.

According to me, the point in law is beyond doubt and to anyone concerned with the parliamentary system, it is clear that the impugned article, not only reeks of malice both in its conception and in its contents as it deliberately accuses the Speaker of partiality, but it reflects on his character and actions as Speaker, which amounts to gross breach of privilege of the Speaker and of the House.

As for the newspaper which has published the impugned article, I wish to reiterate that the freedom of the press, a fundamental right in our country, is subject to reasonable restrictions and does not comprise of deliberate tendentious and motivated attacks on the great institution of this Republic.

The freedom of the press does not contemplate making reckless allegations devoid of truth and lacking good faith.

In this context, I refer to the sequence of events in regard to the said Parliamentary Question, whereby several hon. Members were given all latitude to put Supplementary Questions. As can be ascertained from the Hansard, the Third Member for Curepipe and Midlands (Mr Obeegadoo) rose, well after the First Member for Savanne and Black River (Mr Ganoo) had put the next question appearing on the Notice Paper and the hon. Prime Minister had already started answering, to ask permission to put yet another Supplementary Question. To all intents and purposes, I could not come back on a Parliamentary Question for which time had been already been foreclosed.

Needless to say that, as Speaker of the House, I am vested with many powers to assist me in my duty to ensure the orderly conduct of the business of the House. However, I am sure hon. Members must be aware that, since my assumption to this high office, I have been regularly meeting the Whips of both sides of the House and hon. Members to seek their cooperation and valuable suggestions to discharge the said duty.

As to the actions to be taken, I reserve any stand that I may take, in the light of the above.

Thank you.

(3.46 p.m.)

**PRIVATE MEMBERS' MOTION**

**CONSTITUTION - SECULAR NATURE OF THE STATE**

*Order read for resuming adjourned debate on the following motion of the hon. Third Member for Belle Rose and Quatre Bornes (Ms K.R. Deerpalsing) -*

*“This House is of the opinion that the Constitution be amended to provide for the secular nature of the State to be enshrined therein.”*

*Question again proposed.*

**The Minister of Foreign Affairs, Regional Integration and International Trade (Dr. A. Boolell):** Thank you very much. Mr Speaker, Sir, let me, right from the outset, state in no uncertain terms that secularism is not a licence to reckless behaviour and only those who think otherwise can choose to bring disrepute upon themselves. We are debating a motion which I consider to be of prime relevance to a multi-racial, multi-ethnic and multi-cultural society and a motion which hinges on freedom; the enjoyment of freedom of thought, religion, freedom if one chooses to change one's religion or belief, freedom in public or private to manifest and propagate one's religion or belief in worship, teaching practice or observance. But, to understand the meaning of secularism, we need to go to the root of the word which is derived from Latin, meaning age, this age as opposed to eternal religious words.

Mr Speaker, Sir, let me also reconnect with where I left when debate was adjourned. And I used the word 'variables' to understand the intrinsic meaning of secularism, we need to have at least a basic understanding of secularism as secularism prevails in many countries which have as their fundamentals, democracy and in countries which are to a large extent one autocrat and where religion can at times override fundamentals based on democratic values which we take for granted.

Let me, therefore, define secularism and I refer to a landmark decision given in 1992 by the US Supreme Court which ruled that prayer giving at a public school graduation ceremony was a violation of the first amendment to the US Constitution. And in giving his opinion it's good that we refer to people who have the acumen, thoroughly experienced in the field, who have studied in depth relevance and meaning of secularism and how the mixing of Government and religion can, according to them, be a threat to free Government.

Let me read what Justice Harry Blackmun decoded and it concerns allegedly shared two centuries earlier by the founding fathers of the US Constitution and I read -

“The mixing of government and religion can be a threat to free government. When the government puts its imprimatur on a particular religion, it conveys a message of exclusion to all those who do not adhere to the favoured beliefs. A government cannot be premised on the belief that all persons are created equal when it asserts that God prefers some.”

I think this is very relevant and fundamental that a Government cannot be premised on the belief that all persons are created equal when it asserts that God prefers some and when the Government arrogates to itself a role in religious affairs, its abundance, its obligation as a guarantor of democracy. This is why it is good to walk down memory lane and recall that we have a Constitution drafted by expert like Mr D. L. Smith which, over time, has been tested and proven to be sacrosanct and therefore, it is not in the interest of anybody notwithstanding that the law can be an ass, to tamper with the sacrosanctity of the Constitution. Therefore, Mr Speaker, Sir, in Mauritius we have stated, right at the outset, that secularism is implied, but at the same time there should be a wall of separation and a demarcation line should not be blurred. But notwithstanding that we need to pay heed and I lay emphasis on the word ‘heed’ because if we believe in unity of purpose, the right to difference and to differences is almost *sine qua non*. So, we have to understand and this is the principle on which our secular State rests. There are issues which, over the years, with constant breakthrough in science, create better awareness, issues which were obscure or irrelevant and relevant then, but irrelevant nowadays are slowly being subsumed. I will deliberately not highlight specific cases. I recall when I interacted with the working group of the universal periodic review of the United Nations, fundamental questions were put to us on the relevance and importance of what our friends consider to be fundamental human rights, as to whether the demarcation line between the State and religion is clear, whether the right of a specific community is not being catered for or if they are catered for, whether this could undermine the very foundation of our multiracial society. This brings me, therefore, to this wall of separation and it is good to read ‘Composed of 60 of the most debated words in the English language’ and it is good that we lay emphasis on the word ‘establish’ and the free exercise clauses on the first part of the First amendment – I go back to the US Constitution – which was adopted together with the rest of the Bill of Rights in 1771 and it is good again to refer to timelines in early 1700 when Europe was ravaged by war of religion, 1789 to 1790 when *laïcité* or secularism was established in France and, of course, in 1971 which brings me back to the first amendment which required separation of religion and State and which culminates in what President Thomas Jefferson stated making reference again to the wall of separation and then, in 1992, to the US Supreme Court on school prayers and then in

1990s the Yugoslav wars in Balkans fuelled by religious and ethnic tensions. So, let me come back to the text which states –

*“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof”*

By forbidding Congress from declaring an official religion and by guaranteeing freedom of religious expression, the founding fathers laid the foundation of the wall of separation that divides the proper spheres of faith and politics. Those precise interpretations are hotly contested on any reading of the provisions of religion and the State from interfering with one another and to promote and assure the fullest possible scope of religious liberty and tolerance after all.

Mr Speaker, Sir, in a speech delivered by President Clinton in 1995 commenting surely and accurately that in the highly secular age, the United States is clearly the most conventionally religious country in the entire world, at least, the entire industrialised world. The apparent paradox quickly evaporates if secularism is distinguished from related concept such as atheism and humanism with which it is sometimes confused and, in the meantime, the then President Clinton has in mind secularism is not hostile or opposed to religion at all rather prefers to a particular understanding of the proper place of religion in the Constitution and operation of the State which brings me back again to Mauritius. Our dear beloved country which, of course, has been cited and constantly being cited as a world where there is harmonious blending among all communities, where there is tolerance in the furtherance of national unity.

I have stated that there is a threshold that we don't go beyond because we may disrupt the social fabric of our society. That is why I say at the beginning of my intervention, six months ago, whether we are preaching from the pulpit or whether we are discoursing on a subject which may become controversial, we need to have a culture of restraint. I think this is very, very important. It is not because I live in a congregated area composed mainly of people of the same ethnic belonging that I have to forego my basic principle rights and sometimes emotions can override the rational thinking. That is why it is good to learn from past experiences. Past experiences always reveal the truth. Europe: let's look at some European countries. I stated earlier and I talked of *laïcité* in France, *liberté*, *égalité*, *fraternité*, but then one had to tread cautiously, it is not because it is enshrined in the Constitution that one has the freedom to put at risk the fabric of a society, more or so when there is economic or financial crisis. It is good to recall what President Nicolas Sarkozy stated.

In an open letter to teachers written in 2007, the new French President, Nicolas Sarkozy, asked rhetorically: ‘Faced with the risk of a confrontation between religions which would open the door to a

clash of civilizations, what better defence do we have than a few great universal values and secularism?" Sarkozy's image of Europe, armed with liberal Western values as a bastion against the encroachment of religious zealotry, is typical of a certain patriarchal superiority that looks in supercilious alarm and to East and West. One way it sees the threatening fundamentalism of Asia, the other the blind fervour of American religiosity, but the picture is seriously distorted. Europe, today, has a troubled soul. One has to understand and live with the harsh realities. What are those harsh realities? Demographic! We had to understand that people move, freedom to move at large and at last, that Turkey has become a member of the Customs Union of European Union. And it is very revealing! Some will shudder with fear. Some will start worrying about the encroachment of a country which has a huge community of Muslims; about the alleged invasive process. Therefore, policies which are defined to consolidate democratic values are undermined at the sake of forsaking what they truly believe, because emotions run pitch high and, therefore, Europe today has a troubled soul. Let me read –

"The indications of Europe trouble secular identity now and in the past are everywhere to be seen. Rouse over Muslim heads scarf and other symbols of religious affiliation; protest against discriminatory, blaspheme laws; balanced treatment for creationism and evolutionary theory in schools".

The list goes on and on. On a grander scale, the European Union, a global presence that so often belies its name, has been searching its soul. We know what happened in Kosovo, in Serbia. We know what has been the outcome of the war in Kosovo, and what has been the role of the United Nations when the country, for some time, has been under – I would not use the word 'siege' – the rule, if I may use the word, of the United Nations, precisely to allow time to become a healing factor, to heal the scars of division, of ethnic cleansing. This is very relevant and important.

*(Interruptions)*

My only friend sitting on the Opposition bench! He is a good friend; we share so many things in common. Am I right, Sir? When the chips are down, hon. Fakkeemeeah is always there! Am I right? I thank him and congratulate him for having the courage to sit where he has been elected to sit, and to live up to the expectations of his electorate. I am sure that he will convey the strong signal; the signal of unity, and the relevance of national unity and harmonious blending in our great little country.

Let us come to Europe; cradle of civilization, cradle of democracy, but yet how feeble, how fragile, and how untrue to their policies that they preach. We have to be genuine, and we have to live up to our commitment. That's why the other day I said we don't make promises, but we make commitments, and we honour our commitments. And these are the hallmarks of a great leader; the criterion call, as we

say, to ensure that we don't have a troubled soul. Only those who have troubled soul choose to stay away from their responsibilities.

Let me come back to the grander scale. The European Union, a global presence, that so often belies the name, has been searching its soul and perhaps reinventing it in its effort to countenance the eastward expansion of the EU, in particular the integration of Turkey, a country that straddles East and West, a country which is geopolitically well located. That's why concluded a Free Trade Agreement with Turkey, a powerhouse between the Balkans and Europe, where greater democratic freedom has been accompanied by an increasingly public demonstration of its Muslim culture and French.

I am sure we all subscribe to these great values. This is why some people want to undermine the process that has started in some Arab countries, *les révoltes arabes géopolitiques et enjeux*, because it is not in the interest of some people to allow democracy to flourish, to accept the right to differences, that the rights of minorities have to be protected, that before the law we all stand equal and in magnanimity. But, unfortunately, there are those who want to undermine the process, because democracy does not serve their interests. That's why they will use proxy to undermine the whole process. When we subscribe to conventions to protect minorities, we have to be faithful to our government. One should not unravel the thread of this tapestry, because I consider it to be a masterpiece. That's why we need to tread cautiously, and I hope that our European friends are learning from past mistakes. There are lessons to be learnt in the process of reconciliation, in the making of a nation. You don't trample upon the rights of individuals.

In another revealing episode in the year 2000, the EU came to blows over the preamble to the Constitutional Treaty. In its original draft, the preamble made mention of both God and Europe's Christian values, but the final compromise wording referred to inspiration from the cultural, religious and humanist inheritance of Europe. So, Europe has started to learn the lessons; and lessons learnt to ensure that there is reconciliation with the process of demography.

So, there is no such thing as a pure race. There is no such thing as a homogeneous nation. We are all heterogeneous and, the moment we fail to understand the relevance and importance of living in a multicultural, multi-ethnic society, again it is the fabric of the society which is undermined. Instead of being strong proponent of policies which will enable us to constantly make the leap, we are having setbacks, Mr Speaker, Sir. It is like retreating, because we fail to understand that we are all human beings. What is the relevance of being human beings if we are not humane? That is why, the saddest indication of the equivocal nature of European secularism is the fact that in the last decade of the twentieth century a vicious war, motivated as much by religious differences as ethnic ones, could rage in the Balkans, in the very heart of Europe.

We have to ask basic questions. To whose advantage the outcome of this war has been? When there is an ideological warfare, why is it that we fail to understand that the right of coexistence should not be undermined? We have seen the demise of the Soviet Union and, rightly so. But, that should not preclude the making of a Commonwealth Independent States. In the real and very sense of the word, there should be no over-domineering of one power against the other. We know what is happening in Kiev, people are staging protest day in, day out because they cannot reconcile the political differences. One difference leads to the other with the consequences that society suffers huge setbacks and, of course, it is the future of a country which is at stake.

Mr Speaker, Sir, let us highlight the specificities of certain countries in respect of secularism. I have mentioned France, with the exception of secular France where a revolution, secularism (or laicity) paid for the blood of its citizens. To this day, no European country has been entirely or consistently secular, which brings me to United Kingdom. The United Kingdom has an established Church as do the Lutheran Countries of Scandinavia while other nations such as Poland, Ireland and Italy remain essentially Catholic. Where strict secularism has prevailed for a time, as for instance, in the Soviet Union and Eastern Europe, the results have generally been intolerance and profoundly illiberal governments. I mentioned what is going on in Kiev. Based on a mixture of fantasy and bad history, the story of European secularism, paradoxically an inspiration for more successful and impressive version of North America is often unsatisfactory tale with no happy ending in view.

The United Kingdom, again the cradle of democracy, where tolerance is allegedly ingrained into the DNA of its population and, to a large extent, it is true. I do not know of many countries which are as tolerant as UK in spite of the fact that the British have many shortcomings. But, it is a fact that they have been amongst the first to encourage influx of foreigners at the time when they needed the foreigners to build a modern UK. Ireland did not hesitate to open up to people from different countries, irrespective of ethnic or religious belonging, at a time when the economy in Ireland was booming. But, of course, there is a recoiling process when there is a downturn in the economy and the first to suffer the brunt are people not of the same belonging. We have seen what has happened in Greece. There has been the politics of ostracism with the consequence that there has been blatant violation of human rights. These are facts of life and that is why we have to put our best endeavour to ensure that we live up to expectation of our people and that we should act without fear or prejudice to denounce those who want to undermine the fabric of our society, whether they are speaking from the pulpit or discoursing from any venue. This is why, inasmuch as there is the value of tolerance, but the value of tolerance should not be a licence to utter things that are not relevant also. It is not because there is no frontier that we can use the internet to blaspheme; to say the right thing, yes, but not to blaspheme.

Let me, therefore, come back to our Constitution. It is good also to recall what these great gentlemen who drafted our Constitution said. Sometimes when you have to draft a Constitution, irrespective of what your feelings are, which is reflective of the needs of the people, because when you look from the outside and you try to give an interpretation to justify your own feelings or your own thinking, however rational that thinking is, it becomes irrelevant when you take stock of the nitty-gritty. It is good to recall what Professor De Smith in his book 'The New Commonwealth and its Constitutions' said -

"The idea that minority communities should be guaranteed special representation as such in the legislature is seldom acceptable in Africa and Asia today. Communalism stands for divided loyalties; it inhibits the development of a national consciousness; it is identified with religious fanaticism or tribal separatism or economic and social privilege. In the United Kingdom, Jews, Roman Catholics and West Indians may suffer unofficial discrimination in various ways, but it is not thought necessary or desirable to give them distinct representation in the House of Commons. Why, then, should it be thought necessary to single out communal groups in new states for this form of preferential treatment? The outside (...) communal representation insofar as it entails the reservation of seats, etc. for communal members elected only by members of their own communities, has a poor record."

And I can go on and on. That's why I say, as an academic, thoroughly bred in what one would consider the democratic values, it is easier to discourse and preach sometimes in the dark. That's why I say you need to be physically present to make an assessment of the situation in a specific country before you can come up with a report, a white paper or a blueprint on social harmony and cohesion which brings back to what I said. The purpose of unity is the right to differences and if you want to secure a nation, you need to look at the minute details because the devils are always in the details, and you cannot simply violently disrupt a system for the sake of your own interest. You need to look at the interest of others, because reconciling the interest of others creates the upsurge that leads to what is relevant to a nation which is on the march.

So, that's why I say we need to tread cautiously. Being confined to the perimetry of an academic tower and facing the harsh realities are two worlds apart. It's how you reconcile the two worlds to achieve the unity of purpose which is very relevant. So, that's why I say we all have to tread cautiously and we need to err on the principle of caution sometimes against the inner feelings which can be very biting inside, which trouble our soul and certainly put our conscience not only in a turmoil, but at loggerhead with our soul. So, it literally tears us apart and it calls upon one to make an in-depth study,

but then the gentleman who drafted the Constitution did it with the support of a gentleman who today is hailed as the father of the nation. Imagine if there was somebody else instead of a refined gentleman like Sir Seewoosagur Ramgoolam, what would have happened? This is very important. A Constitution is not drafted to suit the interest of one person, but it is drafted to respond to the needs of a nation; a nation which is constantly on the march. This is why people, Mr Speaker, Sir, look up to the Prime Minister and I don't say it to please the Prime Minister. I may be at loggerheads with the Prime Minister on issues, but when there is the criterion call, you turn towards a gentleman who can rally the people together. You cannot turn your gaze to those who want to undermine unity and to sow the seed of division.

*(Interruptions)*

My friend - and rightly so - is highlighting some of the strong words uttered by irresponsible persons. How can the State reconcile with religion if you have people who are hell bent to destroy the very fabric of this society by having recourse to zealots, Mr Speaker, Sir, and this is what we don't need in this country. That's why they have chosen to stay away and abstain from their responsibility, Mr Speaker, Sir. So, this is a very important Bill. It is at the very heart of our society.

**Mr Speaker:** It's a motion.

**Dr. A. Boolell:** Motion.

*(Interruptions)*

You know, there is so much emotion that I fail to state very clearly that's it's a motion moved by a moving friend. So, Mr Speaker, Sir, that's why we need to tread and tread cautiously. It's easy from the back of a lorry to make blunders, but this is a country where there is rule of law, where there is decency, and we cannot - as citizens of a dignified nation - shy away from our responsibility, Mr Speaker, Sir. That's why in section 11 (5) of the Constitution which provides that -

“Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section - section 11 - to the extent that the law in question makes provision -

- (a) in the interests of defence, public safety, public order, public morality or public health; or
- (b) For the purpose of protecting the rights and freedoms of other persons, including the right to observe and practise any religion or belief without the unsolicited intervention of persons professing any other religion or belief,

except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society.”

That is the beauty of democracy, but not a fake democracy; of democracy deeply rooted in our way of life, democracy that has to be fully understood by every Mauritian irrespective from where they are discoursing. That’s why whether I am a priest of any belonging; I cannot, as a responsible person, simply play on the emotions of my congregation. We have seen what has happened elsewhere, but, as a priest, if I have to vie for the truth to undermine discrimination and to mitigate difficult circumstances of people and to seek justice and truth, I have to rise on the occasion. That’s why this Government came up with the Truth and Justice Commission; vying for the truth, making sure that we turn the table on those who for far too long had discriminated about those who have soiled and toiled with sweat and tears. There is room for everybody irrespective of colour, skin, creed or religion. This is a country that belongs to the nation of Mauritius. But let us move in a secularly manner by widening the circle of opportunities for one and all! This is what democracy is all about.

That’s why in this secular endeavour we have given free education, we have allowed our people to take the rung of the social and economic ladder, we have made it possible for all Mauritians and we are blazing the trail to create a rainbow nation and we owe it to the father of the nation. We owe it to all those stalwarts whether on the day of independence, the stalwarts sat in the Mosque or in the Arya Samaj or in the Church or in the Buddhist temple. That’s why on the day of independence when we had to hoist the flag at noon, the first criterion call of the Father of the nation was to call on the Arya Samaj.

Those who went to the underprivileged, to those who were then probably not too literate to impress upon them the power of casting a vote which reminds me of Mandela, which reminds me, Mr Speaker, Sir, of the serpentine queue voting on the day to enable a nation to achieve freedom; freedom at large, freedom at last. So, that is why I say to all those freedom fighters who have helped us to build a nation, to consolidate national unity that this Constitution is sacrosanct and the secularity or the secularism is implied. It is visible. It is tangible. It is palpable to a nation, Mr Speaker, Sir, but it is good to remind ourselves what section 41 (1) of the Constitution provides which brings me back to law, peace, order and good Government. The secular State and I would refer to this one particular case; the case of *Bhewa and Alladeen v Government of Mauritius and DPP [1990 SCJ 126]*. The then Chief Justice Glover and Senior Puisne Judge Lallah analysed the duality of religion and the State in a secular system. The Senior Puisne Judge Lallah, at that time, stated the following and I quote -

‘The secular state is not anti-religious but recognises freedom of religion in the sphere that belongs to it. As between the state and religion each has its own sphere,

the former that of law-making for the public good and the latter that of religious teaching, observance and practice. To the extent that it is sought to give to religious principles and commandments the force and character of law, religion steps out of its own sphere and encroaches on that of lawmaking in the sense that it is made to coerce the state into enacting religious principles and commandments into law. That would indeed be constitutionally possible where not only one particular religion is the state religion but also the holy book of that religion is the supreme law.'

I will come back and quote again the last sentence -

'That would indeed be constitutionally possible where not only one particular religion is the state religion but also the holy book of that religion is the supreme law.'

Justice Lallah referred to Article 44 of the Constitution of India which provides that the State of India shall endeavour to secure for the citizens a uniform civil code throughout the territory of India. He concluded that the co-existence of personal religious laws with the secular provisions of Article 44 was mainly attributable to India's heavy heritage of having numerous religious groups before it attained independence and became a sovereign State with a written Constitution and he further concluded as follows and I quote -

'There have been some harsh comments from the Supreme Court of India on the lack of political will on the part of the state to give life to article 44. The position in our country is different. We have never had in our history, whether during French or British administration, any personal laws in spite of the fact that the major religions of the world have been present here for generations except for the attempt in 1981 to introduce Muslim Personal Law, a uniform Civil Code has always been in force.'

Mr Speaker, Sir, these are very relevant to Mauritius and very relevant, of course, to India. India is a great democracy; the most populous democracy, Mr Speaker, Sir which cannot forsake its historical dimension. It is precisely of this historical dimension that it makes provisions in its Constitution for religious laws to reflect the composition of its population and this is India and sometimes, you know, Mauritius is cited as 'that great little country' and I refer to Indira Gandhi precisely because they are common threads: the threads of tolerance, the threads of mutual understanding, of understanding that we all have commonality of interests before the law and before religious bodies. So, we should not create the impression, Mr Speaker, Sir, that we want to banish all religious symbolism in order to become truly secular. Of course, this is not what my good friend, hon. Ms Deerpalsing, has in mind. What she has in

mind is to ensure that there is a secular State, that we live in a secular State which will create the firewall to keep at bay those who can undermine the very fabric of our society. When you look at the Motion which the hon. Member has moved. It says -

“The House is of opinion that the Constitution be amended to provide for the secular nature of the State to be enshrined with.”

And we have no difference. What we are saying is that it is implied, but the hon. Member wants to make assurance double sure. That is why to make assurance double sure you need people who can lead the nation, who can help to forge a nation and forge ahead to enable us to make the leap to become a great little country. That is why I make a plea to our friends outside the perimeter of this House to understand the relevance and meaning of nation building and not to allow under any circumstance the perception - I am not talking of reality of power – of power to fall within the cusp of people who don’t understand the meaning of nation building. That is why to us the Constitution is very relevant to the fabric of our society. I am wary, Mr Speaker, Sir, that is why you know I ask the question: what is critical is that the State evolves in a manner which reflects the changing makeup of its citizen. The changing makeup of its citizen - but I am deeply worried of the trend which seeks to highjack arguments for greater secularism, that is, make equal access to the State by all in order to seek however to marginalise religious people and the presence and voice in the public sphere.

As I have stated we cannot be indifferent even if there is a lonesome voice because that lonesome voice maybe the voice of reason. That is why you cannot simply stay away because you have the crowd, because you have the full support and say that now that I have rallied the nation with me, I have the full support of the majority of the people that you can forsake the interest of a small minority; beware they may be the voice of reason. That is why we need to widen the circle and go for inclusiveness and that is what inclusiveness is all about: paying heed, dialogue, bring everybody to the table of negotiation or dialogue even if you have to forego at times some of your commitments or some of the ideals or values which you cherish.

After all, negotiation is all about compromise and flexibility. If you don’t compromise and you are not flexible, but if you choose to wear blinkers and be rigid, rigidity will lead to nowhere and it is bound to snap and we know the consequences if you don’t have outreach and you don’t reach out.

Mr Speaker, Sir, that’s why the question of religious subsidies also comes into that. As I have stated, notwithstanding that there is transparency and accountability, the item which is subject to a vote in Parliament, the question of religious subsidy which was introduced in this very House 60 years ago. Late Sookdeo Bissoondoyal tabled a motion in the then legislative Assembly to ask for subsidies to be granted

to all religions practised in Mauritius. That does not mean that religions are subservient to the State or the State is subservient to religions. Those who dare to entertain this notion have to look elsewhere, because the State rules, but the State obeys, but the State commands, but the State takes on board views from one and all, Mr Speaker, Sir, because we believe in consensus unless, of course, there are some who want to undermine the process of democracy to profit only a few or a minority group.

Critics of secularism will say that neutrality is an impossibility. Public institutions work according to a set of values whether they acknowledge them or not. So, when they claim to be neutral with regard to religious or other belief, that is a myth at best and a lie at worst. What is really happening is that religious values are being explicitly excluded from the public square whereas secular ones are allowed to sway.

What actually happens when we seek neutrality and demand that everyone talks a common, neutral language of the civic sphere is that religious voices are effectively silence. Although, in theory everyone enters the public square on an equal footing, the fact is that its discourse is an implicitly naturalistic, atheist one, which means that the agnostic or atheist can talk as they normally do, whether the religious have to hold back, rephrase and avoid expressing many of the things that matter to them.

It is equally vital to see to it that neutrality does not mean, in effect, always imposing one set of values on everyone. In Mauritius, very often, you have people who will shout from the rooftops that religious or socio-cultural bodies have too much influence on the affairs of the State and they are the very same people who want to impose views, norms from specific cultures than civilizations, as if their psyche is still instilled with an inferiority complex. Inasmuch as we believe in erecting the firewall, but we have to narrow the gaps and we have to fill the gaps. That's why the process of inclusiveness is of vital importance.

We live in a secular society which allows for plurality of ways of living as long as those do not compromise the common good, because we stand for the common good of the people and these may include religious practices, traditions, such as those surrounding mediation in disputes. I would even argue that it can allow some exemptions from the law, just as long as the rationale for those exemptions are justified by public reason which I have been saying all along.

The neutrality of a secular society is, therefore, a very limited and specific sort, and that is precisely its strength. Be it about the nature and limits of this impartiality, it is essential if we are to make the case that political secularism is not just a vehicle whenever more social secularization is called for.

Mr Speaker, Sir, we must also not forget that throughout history, religion has given strength to human beings. I am not talking of belonging to sect; because religion has given us the strength we deserve

to fight for dignity and hope for the future, which brings me to Mahatma Gandhi who used his faith in the Bhagwad Gita to show to Indians the world at large, the strength of non-violence without cowardice. And this is the beauty of it. We preach non-violence, but we stand up for the cause we believe and we draw the strength and inspiration from our religious belief. That's why Mahatma Gandhi stated -

"I open my doors and windows to all cultures and religions, but I will never be swept away by anyone of them, inasmuch as I have taken on board the values and the very essence of these religions which become the quintessential of my life."

Mr Speaker, Sir, he used his strength to sustain himself and to tell Indians this is the path they have to follow to regain self-respect and through self-respect, to achieve political independence. That's why 12 March became our day of independence, Mr Speaker, Sir. Mahatma Gandhi was called a saint among politicians and a politician among the saints, long before the Christian missionaries were behind the fight for freedom and equality leading to the abolition of slavery.

Religion and the State are separate which means the State and all persons holding public office must treat all religions equally. The State and all the persons holding office must not dictate any religious belief. That State and all persons holding public office must not prefer or advance any particular religion, religious denomination, religious belief, religious practice over another or over any other non-religious belief.

A secular State also claims to treat all its citizens equally regardless of religion, and claims to avoid preferential treatment for a citizen from a particular faith over other faiths. A secular State does not have a State religion or equivalent although the absence of a State religion does not necessarily mean that a State religion is fully secular.

Mr Speaker, Sir, I have already mentioned about France, though a secular State, but there are many Christian holidays that are official holidays for public administration and teachers in Catholic schools are salaried by the public.

But let me now come to an important matter. That's why the other day I said we have to be careful and tread cautiously. True that there is an item which we vote for to allocate religious subsidies, but we have to make sure that people don't use the corporate law and charity law to prohibit them from using those funds to organise religious worship in separate places or use the corporate law and charity law to raise money to fund the religious activities in one particular country, simply to give an unfair advantage to one community at the expense of the other.

That is why we have to make sure that money coming in is money which is justified, clean and neat. I think that this is very important and we must not allow this money to be used for conversion. If I

want to be converted it is because I feel that it is the conversion of soul, fair enough! But, if I am being titillated to convert to one particular religion, one has to tread cautiously and the State has a moral and legal obligation to interfere. I think we have to make that very clear.

To that effect we have to ensure that there is oversight in respect of charities which are being established in the name of secularism and we have to ensure that the donations are being used for specific purposes and not for the purpose of conversion, of using the money to convert people coming from one community. I think this is very important. I will again say that religious and atheist organisations, in some countries apply for equivalent funding from the Government and they receive subsidies either based on assessed social results where there is indirect religious State funding. Sometimes that assessment is simply the number of beneficiaries of those organisations.

This resembles the charitable trusts in the United States. We know what is happening. Some of the charitable trusts set up in the United States are disbursing money and sending missionaries in Africa to convert people. This has not only a religious connotation, but a strong political connotation! We have seen how money has been used for subversive acts, Mr Speaker, Sir. That is why we have to be cautious. We need to have a third eye and we need to have a system which is very transparent. Government oversight is not an act of invading privacy. It is an act based on the fundamental principles of accountability and transparency. This, to me is very important because we have seen how direct funding of religions - whether from State or charitable organisations - has created uneasiness in many communities, Mr Speaker, Sir.

As I have stated, secularism in India means equal treatment of all religions by the State. The Constitution in India, unlike the Western concept of secularism the separate of religion and State, the concept in India accepts religious laws as binding on the State.

Mr Speaker, Sir, I have travelled a long way and I have highlighted the merits of...

*(Interruptions)*

... we keep travelling till we kiss the Blarney Stone. We travelled a long way to understand the relevance and importance of secularism, the importance of living in a society where secularism is implied and it does not have to be written in our Constitution. But, what it does, Mr Speaker, Sir? It gives us the freedom to act at large and the freedom to have the will to express ourselves freely and in the very sense of the word.

Mr Speaker, Sir, inasmuch as I concur with the arguments put forward by hon. Ms Deepalsing, we need to be true to ourselves. We live in a country where there is mutual understanding and respect, where there is convergence of thought on issues which are relevant to enable us to achieve harmonious blending and to uphold values which we all cherish. We cherish because we believe in nation building and our Constitution which is sacrosanct, Mr Speaker, Sir. It was a Constitution drafted with the support of one person who could see far beyond our frontiers, Sir Seewoosagur Ramgoolam. And when Prof. De Smith passed away and wherever he is - I am sure that he is in heaven and looking down towards us - he could probably be saying: "I have done it the way Mauritius wanted it to be and I did it with the support of the Father of the Nation. That is why I have scattered my ashes over this country!"

Thank you very much.

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

**Ms Anquetil rose and seconded.**

*Question put and agreed to.*

*Debate adjourned accordingly.*

#### **END OF YEAR MESSAGE**

**The Prime Minister:** Mr Speaker, Sir, as tradition beckons, before I move for the adjournment of the House, I would like to say a few words as Leader of the House. The first sitting of the National Assembly was held on 26 March 2013 and, as at today, we have had 40 sittings including 2 sittings reserved for Private Members' Motions. We also had a special session to pay tribute to the former President of the Republic of South Africa, Mr Nelson Mandela, on Friday 13 December 2013. 30 Bills have been introduced this year, out of which 26 have been adopted. 3 Bills introduced in 2012 were passed in 2013, making it a total of 29 Bills adopted. Government replied to 821 Parliamentary Questions requiring Oral Answers as well as Parliamentary Questions requiring Written Answers. Furthermore, Mr Speaker, Sir, Government has replied to 27 Private Notice Questions from the hon. Leaders of the Opposition. Mr Speaker, Sir, we have spent long hours answering many detailed questions during the Committee of Supply of the Budget.

We would like, Mr Speaker, Sir, to express our deep appreciation to you for your acute sense of fairness and impartiality in presiding over the deliberations of the House and your spontaneous guidance whenever the need arose. We also wish to thank the Deputy Speaker for his invaluable contribution in presiding over the deliberations whenever he was called upon to do so. I would like also to express to

hon. Members my appreciation for their participation in the debates. I extend my thanks to the Clerk of the National Assembly, the Deputy Clerk, the Clerk Assistant and all the members of the staff of the National Assembly, including the staff of the Library for the services they have provided to the House and to all the Civil Servants who have assisted in the work of Parliament as well as the Police Officers who have always carried out their duties diligently.

Mr Speaker, Sir, may I kindly request you, in my own personal name and in that of all the Members of the House, to present the season's greetings to the President of the Republic and Mrs Purryag as well as to the Vice-President Mrs Monique Ohsan Bellepeau. I would also like, Mr Speaker, Sir, to convey to you our best wishes and to Mrs Justice Peeroo and your family for a Merry Christmas and a Happy New Year. My best wishes also go to the hon. Leader of the Opposition and his family as well as the other hon. Members of the House and their families.

Thank you, Mr Speaker, Sir.

**Mr Speaker:** Hon. Members, I wish to associate myself with the season's greetings as expressed to the President of the Republic and to Mrs Purryag and to the Vice-President of the Republic. I will, with pleasure, convey the message to them. In my own name and on behalf of the staff of the National Assembly, I thank Dr. the hon. Prime Minister for his kind words and good wishes. I am pleased to extend my best wishes for a Merry Christmas and a Happy New Year to Dr. the hon. Prime Minister and Mrs Ramgoolam, to hon. Ministers, to the hon. Leader of the Opposition and to all hon. Members and their families. I also wish to thank hon. Members for their kind cooperation and understanding throughout the year. Once again, my best wishes for a Merry Christmas and a Happy New Year.

Thank you very much.

#### **ADJOURNMENT**

**The Prime Minister:** Mr Speaker, Sir, I beg to move that this Assembly do now adjourn to Tuesday 25 March 2014 at 11.30 a.m.

**Dr. A. Boolell rose and seconded.**

*Question put and agreed to.*

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

*At 5.01 p.m. the Assembly was, on its rising, adjourned to Tuesday 25 March 2014 at 11.30 a.m.*

