



REPUBLIC OF MAURITIUS

FIFTH NATIONAL ASSEMBLY

PARLIAMENTARY

DEBATES

(HANSARD)

THIRD SESSION

MONDAY 07 JULY 2014

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Dr. the Hon. Ahmed Rashid Beebeejaun, GCSK, FRCP	Deputy Prime Minister, Minister of Energy and Public Utilities
Hon. Anil Kumar Bachoo, GOSK	Vice-Prime Minister, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping
Dr. the Hon. Arvin Boolell, GOSK	Minister of Foreign Affairs, Regional Integration and International Trade
Dr. the Hon. Abu Twalib Kasenally, GOSK, FRCS	Minister of Housing and Lands
Hon. Mrs Sheilabai Bappoo, GOSK	Minister of Social Security, National Solidarity and Reform Institutions
Dr. the Hon. Vasant Kumar Bunwaree	Minister of Education and Human Resources
Hon. Satya Veyash Faugoo, GOSK	Minister of Agro-Industry and Food Security, Attorney- General
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PRINCIPAL OFFICERS AND OFFICIALS

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MAURITIUS

Fifth National Assembly

THIRD SESSION

Debate No. 02 of 2014

Sitting of 07 July 2014

The Assembly met in the Assembly House, Port Louis,

At 11.30 a.m.

The National Anthem was played

(Mr Speaker in the Chair)

ORAL ANSWER TO QUESTION**DECLARATION OF ASSETS ACT - AMENDMENT**

The Leader of the Opposition (Mr P. Bérenger) (*by Private Notice*) asked the Prime Minister, Minister of Defence, Home Affairs and External Communications, Minister of Finance and Economic Development, Minister for Rodrigues whether, in regard to the Declaration of Assets Act, he will state if the –

- (a) proposed amendment to provide for Members of the National Assembly to make declarations of assets and liabilities through the Clerk and Mr Speaker and for same to be made public, as referred to in the House on 31 May 2011, has been prepared, and
- (b) draft of a new Declaration of Assets Bill in replacement of the existing Act and the Report containing proposals aimed at reinforcing our anticorruption framework, submitted by the Parliamentary Committee for the monitoring of the Independent Commission against Corruption, will be circulated.

The Prime Minister: Mr Speaker, Sir, the House will recall that in the Government Programme of 2012-2015, Government has stated that building strong institutions is a central challenge of development, and it is a key to eliminating corruption.

In this context, Government also stated that it will introduce amendments to reinforce the existing legal framework, taking into consideration the observations of the Parliamentary Committee on ICAC.

As I explained in the House before (PQ B/320 on 21 May 2013), the Government stands committed to introduce amendments to the relevant legislation, in order to reinforce our existing anti-corruption framework. I indicated that in this regard, the Parliamentary Committee on ICAC had already made proposals for further legislative reforms, pursuant to section 61 of the Prevention of Corruption Act.

The Parliamentary Committee has, in fact, proposed numerous amendments to be brought to the Prevention of Corruption Act, which aim at further improving the operational effectiveness

of the ICAC. In the same breath, the Committee has also submitted a draft Declaration of Assets Bill to replace the existing one.

The ICAC, on its part, has proposed certain additional amendments to be brought to the Prevention of Corruption Act based on the recommendations of the United Nations Convention against Corruption.

Certain complex legal issues have been raised with regard to some of the provisions of these two Bills, and consultations are still ongoing between my Office and the Attorney General's Office, as I intend - as I mentioned I think a few times - Government intends to set up a Serious Fraud Agency.

Once the Serious Fraud Agency is set up, the new Declaration of Assets Bill will be finalised, and it will be introduced into the National Assembly together with the Prevention of Corruption (Amendment) Bill, as they complement each other and both are meant to reinforce our legal arsenal in the fight against fraud and corruption.

Mr Speaker, Sir, I would nevertheless like to point out that the declaration of assets raises certain complex questions, as I mentioned earlier.

This is the reason why the World Bank has, in a document published in 2009, cautioned that, when it comes to devising an asset declaration regime, there is no 'one size fits all' and that 'building and strengthening the administration of an asset declaration system may take considerable time. Many countries are struggling with whether and how to make asset declaration information accessible to the public; the central issue at stake being whether or not public access to this information violates the privacy of public officials, or poses a threat to their security'.

In other words -

- (i) Who should be obliged to declare their assets?
- (ii) What information should be declared? and
- (iii) Which information should be opened to the general public?

Mr Speaker, Sir, I would also like to emphasize the fact that we have, in the meantime, continued our relentless fight against corruption. In fact, a number of measures have been

initiated to reinforce a culture of integrity and probity in public institutions. In line with our commitment in the Government Programme of 2012-2015, Government has been extending its full support to the ICAC in the implementation of the Public Sector Anti-Corruption Framework, which aims at accelerating the dissemination and integration of a corruption prevention culture across the public service. I should say 47 public bodies have already set up their anti-corruption committees. Several other measures are being implemented in order to promote integrity in public bodies. These measures include -

- (i) Designation of senior public officers to act as integrity officers, so that they can contribute to the establishment of an enduring integrity culture and help prevent corruption – as at today, some 100 officers have been trained as integrity officers.
- (ii) Conduct of corruption prevention reviews in high-risk areas in order to examine systems and procedures in public bodies, with a view to eliminating corruption opportunities, is the second thing that they have done. As at date, the ICAC has conducted 74 such reviews in parastatal and public owned organisations covering such areas as recruitment, procurement, inspection, licensing, contract management and warehouse management.
- (iii) Establishment of a Public-Private Platform against Corruption as a consultative action forum against corruption, while fostering interaction between public and private sector for a corruption-free Mauritius.
- (iv) Development and implementation of best practice guides and codes of conduct to guide public officials towards desired conduct and best practices. Eleven such best practice guides on overtime management, managing conflict of interest, and contract management, among others, have been published.
- (v) I should also add, Mr Speaker, Sir, that the UK Serious Fraud Office has been approached for assistance in our fight against major economic crime, and they are doing so.

Let me seize this opportunity, Mr Speaker, Sir, to outline the main thrusts of my Government's policy to intensify its fight against fraud and corruption to root out these scourges from our society.

It is my firm conviction that the institutional framework for the investigation of corruption and money-laundering offences and financial crime in general needs to be buttressed, taking into account the increasingly sophisticated means being used by criminals and the international ramifications of financial crime.

I have already stated in the House that the Government proposes to introduce legislation to provide, as I just said, for the establishment of an agency that will be, *inter alia*, responsible for the investigation of serious and complex crime in Mauritius.

We are envisaging an agency that will consist of distinct Divisions which will each be headed by a Director, and all the Directors will report to the Director-General who will be the Chief Executive Officer of the agency.

The Independent Commission against Corruption will be one of the Divisions of the agency which will be supervised, in other words, by the DG and its Board.

In addition to being responsible for the investigation and prosecution of serious and complex crime, the agency will also be the Enforcement Authority under the Asset Recovery Act and a competent authority under the Mutual Assistance in Criminal and Related Matters Act.

The overhauling of the Law will also cater for measures such as illicit enrichment to address the issues of corruption and money laundering both in the public and private sectors.

The implementation of the Public Sector Anti-Corruption Framework will be accelerated in order to foster a culture of corruption prevention across the public service and also to build trust and confidence in public institutions.

Mr Speaker, Sir, declaration of assets should therefore be viewed as one of the mechanisms alongside the various corruption monitoring measures I have just highlighted. Together they aim at fostering a culture of integrity and ethical conduct in public life as well as in our society in general.

Mr Bérenger: Mr Speaker, Sir, I take it from what I have just heard that a policy decision has already been taken to set up a Serious Fraud Agency or Office, as has just been mentioned by the hon. Prime Minister. Therefore, what I understand is that a comprehensive

Serious Fraud Agency and Anti-Corruption Bill will replace the present Prevention of Corruption Bill that will, therefore, have these different Divisions, including a Serious Fraud Agency. Can I know whether it is the intention to also cover the Declaration of Assets Act aspect in that comprehensive Bill?

The Prime Minister: That is the intention, Mr Speaker, Sir. The hon. Leader of the Opposition, as I explained, has understood it; there will be different Divisions, but it will be under the umbrella of the Serious Fraud Agency or Office, whatever we will decide to call it. In fact, they have given me already the first proposals which we are going through with the State Law Office at the moment.

Mr Bérenger: Mr Speaker, Sir, I heard the hon. Prime Minister refer to the UK Serious Fraud Office on several occasions. Do I take it, therefore, that we are going to pick the best practices, the best provisions in the UK Serious Fraud Office Act as well as the Hong Kong legislation and wherever in the Commonwealth, especially we can come with the state-of-the-art Serious Fraud Agency and Anti-Corruption Act; a comprehensive one?

The Prime Minister: Exactly, Mr Speaker, Sir. When the Serious Fraud Office was set in the UK, they found out later on that there were some loopholes in the law which they have corrected. We want to make sure that we have one of the best laws possible here. We have also contacted, I should tell the hon. Leader of the Opposition, those who fight corruption in Hong Kong. In fact, we are in the process of approaching them to see whether we can get the best person to head the Serious Fraud Office as Director-General.

Mr Bérenger: I read recently that the hon. Prime Minister had said that he believes, *au commencement surtout*, that the Serious Fraud Office or Agency to be set up should be chaired by a qualified - of course - foreigner. Is that still the intention?

The Prime Minister: That is still the intention, Mr Speaker, Sir, because what we have found is there is a lack of cooperation, if I may use the word, between the different agencies. There are lot of delays, then it is too late to follow up, and all these things. That is why we've thought - and I have discussed with people from the Serious Fraud Office and other lawyers as well - that we need an umbrella organisation to make sure that these things are followed. So many times we see in the press somebody has been arrested, big headlines and everything and

then nothing comes out of it, because a lot of problems arise in-between. I do not want to go into the details. That is the reason we want to do it that way.

Mr Bérenger: Mr Speaker, Sir, as we know, the Constitution has it that we cannot create criminal offences *avec effet rétroactif*. This is the Constitution; this is the law of the land. Can I take it from the hon. Prime Minister that the new legislation that will come to set up the Serious Fraud Agency and strengthen our anti-corruption arsenal will have the power to investigate past or recent offences under the present legislation, especially cases of conflict of interest and *trafic d'influence*, that, indeed, that new Agency will have – because these are offences already existing – the power to look backwards over the recent years and enquire anew into any allegation of an offence having been committed?

The Prime Minister: In fact, that is what we are proposing, because some offences are actually being investigated and we do not want to stop the investigation. They will follow up, even on the recent past. We have done the same with the Asset Recovery Act. At the beginning, we had to bring an amendment, because it was not retrospective, but we found what the criminals were saying were... well, this was before the Act was followed. In fact, we were told that it should have been retroactive, but we decided when it came to Cabinet - maybe not - it might give the wrong signal. But we decided afterwards that it was a mistake, and we corrected it. This would be the same with the Serious Fraud Agency.

Mr Bérenger: Mr Speaker, Sir, one issue that was raised on the two occasions that we last discussed the issue of corruption in general was whether the new legislation will take care of assets being held through nominees or *prête-noms*. Is it still the intention, therefore, for this legislation to deal with this issue of wealth held by Members of Parliament or anybody else, but through *prête-noms* or nominees, when the issue arises?

The Prime Minister: Yes. That is definitely the case, Mr Speaker, Sir, because this is one of the problems which we have. It is so easy today to just use somebody else's name and then acquire assets and all these. This will definitely be in the law when we bring it.

Mr Bérenger: Another issue that has been raised is the issue of holding somebody holding assets disproportionate to known income. Elsewhere, it has been called *signe extérieur de richesse* shown by either Members of Parliament or anybody, including Civil Servants. Will that aspect be covered in the new legislation to come?

The Prime Minister: That will definitely be the case, Mr Speaker, Sir. We have nothing against people being rich, but they have to explain how they became rich.

Mr Ganoo: Has the hon. Prime Minister given thought to the possibility of giving constitutional protection to the Directors of the Serious Fraud Office to-be, so that they have a security of tenure and they can operate without fear or favour?

The Prime Minister: That would be a good idea. We did so for the Director-General of the Economic Crime Office, but we need to ensure that they have this protection. I believe that it should be the case.

Mr Uteem: The hon. Prime Minister has mentioned that he may be coming forward with new legislation. May I know from the hon. Prime Minister whether he intends to redefine the definition of ‘assets’? At the moment ‘assets’ is limited only to a certain type of assets - immoveable property, vehicles and shares...

(Interruptions)

...and boats? Will the hon. Prime Minister consider extending the definition of assets to cover all material assets?

The Prime Minister: I do not know the technical details of what the definition will include, but I suppose it will; certainly boats as well.

Mr Jugnauth: Taking the cue from what hon. Uteem has said, is it the intention of the proposed amendments to also cover overseas immovable and movable assets?

The Prime Minister: Certainly! It is not amendments; it is a new law that we are going to bring. It will cover everything, Mr Speaker, Sir.

Mr Baloomoody: Can I ask the hon. Prime Minister whether the new law, as he just said, will extend to those who have to declare their assets, especially those Board members, Chairmen of parastatal bodies, to extend the net of those who have to declare their assets?

The Prime Minister: I think it is essential if we want to fight corruption that we should cover all this, Mr Speaker, Sir.

Mr Roopun: On the same line, Mr Speaker, Sir, could the hon. Prime Minister state whether items of jewellery or wearing apparels and even watches...

(Interruptions)

.... over a certain threshold will be included? We know that certain items now may cost hundreds of thousands of rupees. I would like to know whether this is also envisaged.

The Prime Minister: I suppose so, Mr Speaker, Sir, because there are watches and watches, jewellery and jewellery. So, I suppose so, if it is expensive. I suppose what they will do is that they will put a limit.

Mr Bodha: Mr Speaker, Sir, in his answer in May 2011, the Prime Minister said that the ICAC will investigate in situations with regard to control of property, to an extent which is disproportionate to emoluments or other income. Now that the ICAC is in possession of the declaration of assets of Members of the National Assembly and other officers, has there been any scrutiny as to cases where we have, what we call, the unjust enrichment?

The Prime Minister: My belief is that there has been, Mr Speaker, Sir.

Mr Jugnauth: Will the hon. Prime Minister explain why when the Declaration of Assets Act was amended on 12 December 2011? For Members of the National Assembly, we have to deposit the declaration of assets to the Commission, whereas for, let us say, Members of the Rodrigues Regional Assembly, it has to be with the Clerk of the Rodrigues Regional Assembly, and for Municipal and District Councillors, it has to be with the Chief Executive. So, there is like a contradiction in terms of the rationale. May I know from the hon. Prime Minister why that is so?

The Prime Minister: In fact, I have answered that question. But, in fact, Mr Speaker, Sir, I should point out that, unlike what many people believe, when the Prevention of Corruption Act was established in 2002, the Declaration of Assets Act was then amended to provide for the filing of the Declaration of Assets Act for hon. Members of Parliament with ICAC. This is when it was changed. So, I am not sure why it was changed; maybe there was a good reason, or maybe for the reasons I have said here. But that is when the change was done.

Mr Guimbeau: Mr Speaker, Sir, I do not know if I heard well the Prime Minister, but I would just like to be reassured. When drafting the new Declaration of Assets Bill for Members of the National Assembly, will the hon. Prime Minister propose that assets owned outside Mauritius be also included in the new Bill?

(Interruptions)

Mr Speaker: It has been answered.

Mr Guimbeau: Assets owned outside Mauritius. Will it be in the new Bill?

Mr Speaker: This question has been answered by the hon. Prime Minister!

The Prime Minister: I have said this, but just to reconfirm it, yes, that will be the case.

Mr Bodha: As regards to transparency, Mr Speaker, Sir, may I ask the hon. Prime Minister who and when can we have access to the information in the declaration of assets?

The Prime Minister: At the moment.

Mr Bodha: Yes.

The Prime Minister: At the moment. As I said, Mr Speaker, Sir, the law was amended in 2002 when they were in Government, and that is when it was sent to ICAC instead of the Clerk of the National Assembly. So, we will have to wait for the new Bill to come, and we will put all this together; whether we should put it back to the Clerk of the National Assembly. There are some reasons - I am just speculating - that may have been made by hon. Members to have it changed from the Clerk to the ICAC. I suppose for some of the reasons I was saying or the World Bank themselves are saying because it can be a source of people trying to make a lot of fuss about it. Maybe that is the case! But, in any case, the Serious Fraud Office will be able to look at things in detail. But whether this should be back to the Clerk of the National Assembly, I am open for this.

Mr Li Kwong Wing: Mr Speaker, Sir, can the hon. Prime Minister inform the House whether, under the amendments and the new law that is being proposed, additional protection will be given to whistleblowers more than what is currently available under existing law?

The Prime Minister: This is a complex issue, Mr Speaker, Sir, because one of the problems we have is that if somebody does not like somebody, he just goes and sends an anonymous letter, and then the ICAC is bound to start investigating. Whether we should look at it; we need whistleblowers obviously. But to what extent? I would leave the technical people deal with this in due time.

Mr Uteem: In fact, it is when the Local Government Act was passed in 2011 that an MP was no longer required to deposit the declaration with the Speaker. The hon. Prime Minister has just mentioned that this Serious Fraud Agency will scrutinise the assets. The question that we want to ask is whether aside from the Serious Fraud Agency, the assets of Members of Parliament would be subject to public scrutiny, would be made public so that any member of the population can go and inspect those declaration of assets?

The Prime Minister: That is why I said that I will leave it to the technical people to decide. We will come to Parliament with it, I am not against it. But, this was changed in 2002, as I said. What was the reason, I am just speculating, I do not know. Maybe they were some of the reasons that I have given here. But, we will look at it very carefully. We will need to be able to scrutinise it; I totally agree with the hon. Member.

Mr Bérenger: I have listened carefully, Mr Speaker, Sir, and the hon. Prime Minister has given details of what has been done to date by his Government and the Independent Commission against Corruption in terms of the fight against corruption. But, can I ask a general question: will the hon. Prime Minister agree with me that today what the people in general are expecting is, in spite of the good work that may have been done, *un nouveau départ dans la lutte contre la corruption à l'Ile Maurice?*

The Prime Minister: Yes, I tend to agree with this, Mr Speaker, Sir. There is this perception that not enough is being done. I myself just said when you see that somebody has been arrested, there is a lot of press coverage and then at the end of the day, you do not see much happening. That is what we want to change and I think that we need a *nouveau départ* as the hon. Leader of the Opposition has just said.

Mr Speaker: There is a question from...

(Interruptions)

But then you will have the chance for another last question, hon. Leader of the Opposition! Yes, put the question!

Mrs Hanoomanjee: Mr Speaker, Sir, the hon. Prime Minister just said that the Serious Fraud Office will be able to cover past cases as well. Can he say whether it is envisaged, under the new legislation to cover cases which have been dealt with already - whether it is *traffic d'influence* or others - and whether the Serious Fraud Office will be able to cover cases where there have been Fact-Finding Committees and where the Fact-Finding Committees have already given their recommendations?

The Prime Minister: I think it would be unfair to have *une épée de Damoclès*, as we say, on somebody who has already been under investigation, but if there are new and compelling evidence, I suppose that they should be able to look into it.

Mr Speaker: Still a last question to the hon. Leader of the Opposition!

(Interruptions)

Well, let us move on!

MOTION

SUSPENSION OF S.O. 10(2)

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

The Deputy Prime Minister rose and seconded.

Question put and agreed to.

(11.59 a.m.)

PUBLIC BILL

Second Reading

**THE CONSTITUTION (DECLARATION OF COMMUNITY) (TEMPORARY
PROVISIONS) BILL
(NO. V OF 2014)**

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

Question again proposed.

Mr Speaker: Hon. Attorney General!

(Interruptions)

No noise! No comment!

(Interruptions)

Some silence, please! Yes, hon. Attorney General!

The Minister of Agro-Industry and Food Security, Attorney General (Mr S. Faugoo): Mr Speaker, Sir...

(Interruptions)

...the Constitution (Declaration of Community) (Temporary Provisions) Bill is a landmark piece of legislation and constitutes a crucial milestone towards constitutional evolution and major electoral reform in the Republic of Mauritius.

It is highly significant that, more than 46 years after Independence and 22 years after we became a Republic, and, if I may add, Mr Speaker, Sir, 32 years after the Constitution was amended to do away with communal classification in population censuses, this Bill is being introduced by none other than Dr. the hon. Prime Minister, who indeed needs to be commended for this singular achievement.

This is simply, Mr Speaker, Sir, a temporary provision, which will apply only for the next general elections pending the introduction of legislation which will provide for the subsuming of the Best Loser System in a new method of allocating additional seats.

We are not yet at a stage of debating on the Bill that will provide for full-fledged electoral reform. It would be, therefore, not appropriate for us to launch into a discussion of the merits and demerits of the Best Loser System, a system that was carefully designed by experts with the help of politicians, with a view to accommodating our complex multi-ethnic and multi-faith population in the heady pre-Independence days; a system that, in the words of Professor Stanley de Smith, former Constitutional Commissioner, could consecrate communalism.

Suffice it to say at this stage, Mr Speaker, Sir, that contrary to what hon. Duval stated on last Friday evening, the Best Loser System will not be abolished altogether, but will be subsumed in a new comprehensive electoral dispensation to ensure broad based socio-demographic parliamentary representation.

If I may be allowed to quote what hon. Duval had to say, Mr Speaker, Sir, and I quote –

“Mr Speaker, Sir, another problem with this Bill is the Explanatory Memorandum and I will be bringing a proposed amendment later. When you talk about subsuming, you need to be frank. What are we doing? We are not subsuming anything. We are abolishing one and replacing it by some type of proportional representation. That is what we are doing. I do not agree with the word ‘subsuming’, because to my mind we are not subsuming anything. You have taken one out, the Best Loser System. Otherwise, if you are subsuming, then you cannot speak again on the Best Loser System, (...)”.

Mr Speaker, Sir, I know from the tenor of the speech of hon. Duval that he is not in agreement, he has some problem with the term ‘subsuming’, but that is exactly what Government is minded to do, Mr Speaker, Sir. Government is replacing with some other system whereby subsuming the existing Best Loser System with a party list system for a much fairer, more responsive and representative Government. It is also in irony, I note, Mr Speaker, Sir, that even if the hon. Member does not agree with the term ‘subsuming’ in the proposed amendment that has been circulated, he has repeated the word ‘subsuming.’ He could have chosen...

(Interruptions)

If he is not agreeable to the word ‘subsuming’, he could have chosen not to include it. On the contrary, that appeared in the Explanatory Memorandum. The hon. Member could have chosen

to remove it from there when he was moving for amendment of the Explanatory Memorandum, but this is not the case, as we can see from the amendment which has been circulated, Mr Speaker, Sir.

Dr. the hon. Prime Minister made it clear as far back as his first mandate that he is committed to the reform of the electoral system to further consolidate democracy and ensure a more balanced parliamentary representation, and he has already comprehensively described the initiatives taken by this Government, culminating into the Consultation Paper that was issued in March of this year.

I still recall Mr Speaker, Sir, that, during his first mandate, he has set a round table to discuss on the way forward on electoral reform. I still recall, if I am not mistaken, hon. Speaker and hon. Leader of the Opposition were on the team; there was also late Dr. James Burty David and I was myself, as a new MP in that committee. Ever since then, it took us so many years to come with this amendment today. It took us so many years to come up with the Consultation Paper, and we are coming to this august Assembly soon with a full-fledged and full-blown Electoral Reform Bill, Mr Speaker, Sir.

Never before, Mr Speaker, Sir, have we come so close to major electoral reform: various options have been set out in the well-researched Consultation Paper, the views of one and all have been sought thereon, some of our citizens have sent views and proposals which have been examined by a special unit within the Prime Minister's Office, and I have myself been tasked with chairing a Committee responsible for the drafting of the relevant legislation, comprising hon. Ganoo, the Deputy Leader of the MMM, the Solicitor General who has a long-standing experience at the State Law Office and also as Solicitor General, his officers, the Parliamentary Counsel, as well as Sir Victor Glover, former Chief Justice, who has acted as Consultant for the past 15 years at the Attorney General's Office. Valuable technical input was provided by the Electoral Commissioner and his Adviser, Mr Dahoo, and also by Dr. Rama Sithanen, whose expertise in electoral matters is well acknowledged by one and all.

I wish to stress that, following informed deliberations at our meetings, there was complete unanimity within the Committee both as regards form and contents of the Bill that is before the House today.

The Committee, Mr Speaker, Sir, first met on 15 May, and has since then held not less than seven formal meetings, with many technical meetings in-between, supplemented by in-depth research and simulation exercises. We also have several meetings with the hon. Prime Minister to discuss policy issues and seek instructions thereof. Several drafts have been produced and exchanged, and the draft Bill on electoral reform is in the process of being finalised. In view of the complexity of carrying out electoral reform and the related protracted process, as evidenced in other countries, I need hardly emphasise that it is most unreasonable to expect us, in Mauritius, to reach consensus and finalise such a highly technical Bill within two weeks, let alone two days. The Committee has had the daunting task of examining the electoral reform process that has been undertaken in other countries while taking into consideration the particular context and specificities of each jurisdiction. These jurisdictions, which number around 20, include both countries that have shifted from a first-past-the-post system to a mixed first-past-the-post and Proportional Representation system and those that ensure parliamentary inclusion in a multi-faith and multi-ethnic society. In addition, the Committee has done its level best to minimise any unintended consequences of the reform.

After the initial meetings, as drafting progressed, the Committee produced two draft Bills. The first one that would provide for electoral reform proper, including the new method of allocating additional seats, would only be introduced after the next general election for the reason highlighted by the hon. Prime Minister. Such a fundamental change to our electoral system requires an unambiguous endorsement and a clear mandate from the people of Mauritius.

Mr Speaker, Sir, the second Bill which we drafted is the one before this House today. As the House is aware, we have the ruling of the Human Rights Committee of the United Nations that stated the State party is under an obligation to provide the authors with an effective remedy. We also has the case entered by *Rezistans ek Alternativ* before the Supreme Court, arguing that mandatory requirement of declaring one's community when standing as a candidate for a general election is in breach of the basic democratic right.

In light of this, as a responsible Government, we are bringing this Bill which makes a special provision with respect to the possibility of a candidate, at the National Assembly Elections, not to declare his or her community.

Mr Speaker, Sir, it was only last week I had a meeting with Sir Anthony Hooper, who is a Bencher of Inner Temple and also former Lord Justice of Appeal in the UK. In fact, he was invited by the Law Reform Commission to give a lecture to the Judiciary and the Bar as well on Criminal Case Management. During my meeting, he asked me a question on why are we bringing the amendment we are bringing today. So, I told him that there was a provision in our Constitution which requires a candidate to declare his community. In unclear terms, Mr Speaker, Sir, his reaction was instant and he said: 'This can't be right'. So, by any stretch of imagination, we cannot, today in 2014, expect, in a democratic State like ours, where the right of each and every citizen is enshrined in the Constitution, the highest law of the land, ask someone to disclose his community. This is not on, Mr Speaker, Sir.

Mr Speaker, Sir, specifying the community implies communalism. This amendment is long overdue, as the evils of communalism were recognised for several decades. The House may wish to be appraised of the pertinent observation on evils of communalism made by Mr James Johnson, an MP in the House of Commons, as far back as in October 1952, after his visit to Mauritius, which was still a colony. Allow me to quote him, Mr Speaker, Sir. This is what he had to say -

“They have perhaps one of the most obvious examples of a plural society. They have French, they have coloured, they have both Hindus and Mohammedans, and they also have Chinese. There is, therefore, the need of a party system to cut across these communal difficulties which have existed for so long. Not until there is a party system and responsible Government, will these people of the island, who up to now have been debilitated both physically and politically, get out of the hold of the reactionary elements which in the past have dominated and at the moment still dominate the industrial life of the island.”

So, it took us so many years. We are lucky we live in a democracy where our party system has evolved considerably compared to what it used to be when Lord Johnson was speaking in the House of Commons. This was said some 60 years back, Mr Speaker, Sir, yet no concrete action was taken or has so far been taken. Today, we are acting on an injustice manner, if I may call it this way. It is a historic moment when we are doing away with the mandatory requirement of a candidate to indicate his community. This is the gist of the provision of this Bill

which is before this august Assembly today. This is a major step towards this necessity of all Mauritians to eradicate at source the evil of communalism, Mr Speaker, Sir.

Having briefly set the context for this Bill, I now propose to focus on its salient provisions.

One of the most objectionable aspects of the Best Loser System is undoubtedly the mandatory requirement for every candidate at a general election to declare his community, that is, to declare that he belongs to the Hindu community, the Muslim community, the Sino-Mauritian community or the General Population. However, a “quick-fix” solution of simply making the community declaration optional rather than mandatory, by replacing the words “shall declare” in paragraph 3(1) of the First Schedule to the Constitution by the words “may declare”, simply would not work.

In fact, had we merely replaced the words “shall declare” by “may declare”, as envisaged at some stage, it is my considered view and that of a number of experts in the matter that we have consulted at the level of the Committee, whom I have also consulted, that the result would have been an unmitigated constitutional disaster and lead to a legal quagmire!

Indeed, Mr Speaker, Sir, as rightly observed by the Full Bench of the Supreme Court, comprising the then Chief Justice Pillay, the current Chief Justice Keshoe Parsad Matadeen and Justice Paul Lam Shang Leen in the case of Electoral Supervisory Commission v The Hon. Attorney-General [2005] SCJ 252. I quote –

“The declaration of community made by a prospective candidate at a general election is, as we have seen, at the heart of the Best Loser System enshrined in the First Schedule since the allocation of the eight additional seats is to ensure “a fair and adequate representation” of each of the four communities.

Although an independent unreturned candidate has no claim to any one of the additional eight seats under the First Schedule, yet if he is elected, the declaration as to his community plays an important role in the determination of the eight additional seats. Indeed in order to determine as to which community a seat is to be allocated in turn, it is essential to ascertain the number of persons of that community who have been returned as successful candidates, irrespective of the party to which those persons belong as that number will be a component of the denominator by which the total number of persons comprising that community as per the 1972 census will be divided in order to ascertain

the representation of that community in respect of each exercise for the purpose of allocating the additional seats. In the absence of the declaration of the community of a successful candidate, irrespective of whether he belongs to a party or not, the whole exercise will be stultified, thereby rendering nugatory the allocation of the eight additional seats.”

Mr Speaker, Sir, I hope hon. Members will appreciate the force and effect of the words “stultified” and “nugatory” used advisedly by the Full Bench of the Supreme Court.

Mr Speaker, Sir, Their Lordships were absolutely right. It, therefore, became imperative to design a system for the allocation of additional seats at the next general election pending more fundamental changes which, as already highlighted, cannot be brought before the next general election.

Mr Speaker, Sir, a second option that was considered consisted of providing the Electoral Commissioner to assign, on the basis of, *inter alia*, publicly available data, a deemed community to a returned member who has not made a declaration as to his community. This option was rejected, as it was felt that it would not be in order to assign a community to a candidate who has, by choice and conviction, not declared his community. There was also some uncertainty about its legal basis.

Dr. Sithanen then came up with the ingenious solution that is set out in the Bill before this House. I wish to emphasise that this suggestion was endorsed by all the members of the Committee as well as Government. I also wish to make clear that the mechanism presented in the Bill before this House, Mr Speaker, Sir, is not the ideal solution but, at least, has the merit of being objective and based on data that is certain and publicly available, as opposed to being based on subjective assessment which no doubt all Members of this House would find distasteful. May I also emphasise again that it is meant to apply only and only to the next general election, and that also if a returned member has not declared his community. That is the exceptional circumstance under which this particular provision is going to be applied, which is quite unlikely also. The Committee, I must confess, Mr Speaker, Sir, could not find a better alternative. We have, as I said, worked on so many proposals, but we chose to keep this one because this one is objective. One can check from public figures, it can be counterchecked, and this is why we retain this formula.

Mr Speaker, Sir, let me reassure the hon. Members of this Assembly, and through you, the population of Mauritius, that neither the public nor any hon. Member of this House should have any apprehension and fear that have been distilled by statements made by some hon. Members last Friday. It was stated that, unlike the well-known and understood Best Loser formula, we have been left in the dark as to the mechanism for the allocation of additional seats at the next general election. I quote from the speech of hon. Jugnauth to give one such example, Mr Speaker, Sir. During his speech, Mr Speaker, Sir, he had this to say -

“When one reads this part of the Bill at its face value and interprets this clause under its ordinary dictionary meaning that is under the literal rule of statutory interpretation, (...)”

Mr Speaker, Sir, he went on to say -

“Let me take that example, and let us consider the stand where, let us say, in aggregate, ten candidates belonging to a particular community decide not to declare their community, and they are elected at the next general election. Because it is people who will vote, people who will decide, and they will not, therefore, according to that section - if I read it literally - be counted as elected members of that particular community by the Electoral Supervisory Commission, although they do actually belong to that particular community. This will result in an under representation of that particular community, according to the average number of elected members of that community since the 1976 General Elections which the Electoral Supervisory Commission will make an average of. Then, what will happen? Well, the normal logical thing is that the Electoral Supervisory Commission will have the obligation to allocate additional seats to candidates who have declared themselves under that particular community, but who have not been elected, in order to correct this under-representation. We will find ourselves, Mr Speaker, Sir, in a situation where actually there will be, in fact, an excess number of Parliamentarians of that particular community in the National Assembly, and the whole exercise of designating additional seats will thus be falsified. It will result in utter injustice, and we imagine what sort of communal rift we can witness in our country.”

This is plainly, not true, Mr Speaker, Sir, as I shall proceed to explain.

In that regard, may I urge hon. Members to read the provisions of the Bill carefully. With all due respect, I must say that hon. Jugnauth has not understood the salient provisions of the Bill. As clearly stated in clause (4)(2) (c) of the Bill and paragraph 4 of the Explanatory Memorandum, the existing formula for allocation of additional seats under paragraph 5 of the First Schedule to the Constitution remains applicable, in its totality, if all returned candidates have declared their community. So, there is no doubt. The process, as it is stipulated by the Constitution in Schedule One, paragraph 5, will go on. It is only in the exceptional circumstances that one returned member or more than one has not declared his community that Clause 4(2) (b) of the Bill comes into play.

Mr Speaker, Sir, in fact, clause (4)(2) (b) is precisely designed to avoid the situation alluded by their Lordships in the case of Electoral Supervisory Commission against the hon. Attorney General, which I have quoted above. What hon. Jugnauth has alluded to is simply not applicable and not in issue here, in view of the alternative provided for under Clause (4)(2) (b) of the Bill, once one single member who has not declared his community is returned, Mr Speaker, Sir.

If we have a look at the Bill, it's a simple Bill, I must say, Mr Speaker, Sir. All be it that the implications are very important. It is a major shift, asking a candidate, giving a candidate the right not to declare his community; I think it is a big step, Mr Speaker, Sir. So, it is a simple Bill, in simple words, simple terms. When we have a look at section 4(2) (b), if I may be allowed to read it, Mr Speaker, Sir, it goes as follows -

“Where a candidate has not declared his community and is returned as member, the Electoral Supervisory Commission shall, for the sole purposes of determining the appropriate community and allocating additional seats, proceed on the basis of the average number of returned members belonging to each community at all general elections held since 1976.”

What it is exactly saying. Under paragraph (c) we say that if ‘all candidates who are elected and they have declared their community there is no problem’. The law as it is will be applied under Schedule One, paragraph 5, but in case there is one single member who is returned and who has chosen, as per the amendment we are bringing today, not to declare his community,

this is where the problem starts, and this is where we don't want to upset the nomination of additional seats, Mr Speaker, Sir. So, all we are saying by the enactment of this particular legislation, of this particular clause in the Bill is that everything will remain the same except that the results of the forthcoming election will be replaced by the formula, that is, the average of the nine previous elections. This is the gist of this provision, Mr Speaker, Sir.

Mr Speaker, Sir, we are all Mauritians, and all of us follow passionately elections and their results; probably more than even football during World Cup, Mr Speaker, Sir. Since 1967, there have been ten general elections held under the current system of first-past-the-post with the Best Loser System formula. It is very clear to any reasonable observer that a distinct pattern has emerged in the allocation of the first four additional seats and also in the subsequent four additional seats as to its socio-demographic mix. The pattern is objective, it is rule based, highly transparent and underpinned by publicly available statistics on the return of all additional seats for elections between 1967 and the last one, that is, in 2010.

Mr Speaker, Sir, representation of each of the four communities in Parliament has been well known, well understood, and well accepted by the public after each election since 1967.

If, for example, ten elected members obviously and indisputably known and viewed by the public at large as belonging to a particular given community have not declared their community, that community, from a statistical point of view and applying the Best Loser formula, may be allocated additional seats, as it would be deemed to be under represented.

But, the public at large, and other communities in particular, could justifiably feel aggrieved by such an allocation of additional seats. They would view that alleged under represented community as, in fact, over represented. This could lead to undue unease in the country. No responsible citizen or politician for that matter, Mr Speaker, Sir, would want that to happen. It is precisely to avoid this undesirable situation that we have provided in clause 4(2) (b) of the Bill that we will not, in such cases, use the actual community representation generated by the next election. We shall instead use the average community representation of returned members of the preceding nine elections, which would be more in line with the public's view and understanding of community representation in Parliament, and allocate additional seats on that basis. This is the most objective manner of preserving and ensuring a realistic and balanced

community representation mechanism that we could come forward with, Mr Speaker, Sir. No one has suggested or come forward with a better means of meeting the public's expectations about community representation after the next general election, which we hope will be only election where this exceptional formula may possibly have to be used.

Mr Speaker, Sir, we have retained this distinct and objective pattern of the socio-demographic mix of returned candidates to allocate the first four additional seats and, as the case may be, the second set of four additional seats only in exceptional case of one or more returned members having not declared their community. Let me remind the House that the Electoral Supervisory Commission needs two statistics to allocate the additional seats. Clause 4(2) (b) provides one such statistic, that is, the formula we are proposing, the average of communities returned for the nine previous elections, the number of returned members from each of the four communities specified in the Constitution, and the second statistic, that is, the relevant population census, is already available. Of course, Mr Speaker, Sir, this assumes there will be unreturned candidates who have declared their community, to whom additional seats may be allocated.

This, I must say, has been well understood by hon. Duval. If I may be allowed again, once more, to quote hon. Duval, Mr Speaker, Sir. This is what hon. Duval had to say Mr Speaker, Sir -

“In my view, there are two ways that this amendment can be used by the Electoral Commission, and two ways only. And now, if the hon. Prime Minister wants to correct me, I will gladly give way and let him correct me. But there are two ways that it can be applied. Firstly, having calculated the model Parliament...”

I am sure that when the hon. Member is saying ‘model Parliament’, he is referring to the formula, to the average.

“... having calculated, in fact, that there are 36 of this, nine of that, 16 of the other, I know it by heart now, one of the last four communities, you have had this, and this is the model Parliament. Now, what some hon. Members - prominent Members - including hon. Yousuf Mohamed, I think, have assumed...”

The hon. Member is right to say ‘have assumed’.

“...that this model Parliament will be compared with the actual elected Parliament and any shortfall would be compensated by the Best Loser system. That is very dangerous.”

He goes on to say -

“I hope sincerely that this is not going to happen like that, because the law does not say how it should be done. But I hope sincerely; that would be a crazy way of doing it, because you could easily manipulate ten members of any community who do not give their communal belonging at the time of standing obviously...”

I agree. I tend to agree with the hon. Member, Mr Speaker, Sir. It would be crazy, and this is why we are not proposing that. It is the second option. He goes on to say -

“What I understand is going to be done, Mr Speaker, Sir, is that the model Parliament that I just mentioned, 36, 16, 9 and 1, would be used in conjunction with the 1972 census. You have the 1972 census, which gives you the actual number of each of these four communities and, of course, there is a calculation that is made, an arithmetic calculation, nothing fancy, nothing difficult; an arithmetic calculation that you make to find out which community, according to the 1972 census, is underrepresented, and that is where the first best loser goes. Again, do the same calculation, and that is where second best loser goes.”

This is quite right, Mr Speaker, Sir, and he went on to say –

“Pending the constitutional problem, I would not have a problem with voting the second hypothesis, as far as the second application of the mechanism is concerned, but I would certainly, never in my mind, I would need to be crazy to vote. If the first hypothesis would work, then, in that case, Mr Collendavelloo, Mr Yousuf Mohamed, etc. would be right, and I would support them.”

But the hon. Member doesn't have to go and support them, because that is not the case. So, the assumption is wrong.

(Interruptions)

The assumption is wrong altogether, because this is exactly...

(Interruptions)

I hope, Mr Speaker, Sir, that I have put to rest any doubt, any misgiving or apprehension that could have arisen from various interventions both in this House and outside. It is clear; clause 4 (2) (b), Mr Speaker, Sir.

Mr Speaker, Sir, let me reassure the House there is no hidden agenda, there is no devil in the detail, there is no intention to mislead, and nothing pregnant with ambiguities, as was suggested by some hon. Members on Friday evening. Any reasonable person can work out what will be the outcome in that particular circumstance, as all the relevant facts and figures are in the public domain. It is also, I am of the humble view, Mr Speaker, Sir, very unfair to suggest and create the impression that the Electoral Supervisory Commission is working in *catimini* sort of, is working in secret on the facts and figures. This is a simple calculation, Mr Speaker, Sir. You don't need to be a Chartered Accountant like my good friend, hon. Duval! Anybody who knows basic addition, subtraction and multiplication will be able to do it. We all can do it. The journalists can do it; the members of the public can do it, Mr Speaker, Sir. It is simple.

The Bill also in effect places the burden on every candidate, I must say, to decide whether he wishes to be considered eligible for an additional seat. By not declaring his community, Mr Speaker, Sir, the candidate is deemed to have opted not to be considered for the allocation of additional seats. I must confess, Mr Speaker, Sir, that I am altogether not comfortable with this provision. This is an inevitable, unintended consequence that cannot be cured in the circumstances. We have no choice. If one has not declared his community, he cannot be counted at the end of the day. This is a choice that the person will be making, as the law is. It is a difficult match, Mr Speaker, Sir.

Mr Speaker, Sir, the hon. Prime Minister has already pointed out that this Government has for long been committed to meaningful electoral reform. It would be amiss on my part, however, not to acknowledge the role of civil society, and in particular groups such as *Lalit* and *Rezistans ek Alternativ* in catalysing the process of electoral reform in true democratic fashion. Since 2005, *Rezistans ek Alternativ* has, with steadfast commitment and public support, initiated complaints before the Supreme Court, leading in one case to the Judicial Committee of the Privy Council, as well as before the UN Human Rights Committee.

We have consistently, however, taken the view that electoral reform should be brought about by Parliament in line with the principle of separation of powers, in accordance with the

Constitution, and with the necessary mandate, and not through the courts, Mr Speaker, Sir. Indeed, the Judicial Committee of the Privy Council itself in the case of Marie and Ors v Electoral Commissioner [2011] UKPC, at page 45, had the following to say, I quote -

“It has been plain to the Board from the argument that the question whether the best loser system should be retained has given rise to much political and perhaps legal debate over the years. It is perhaps obvious that it would be much better for these issues to be decided as a result of political debate and, if necessary, constitutional reform than through the courts.”

Mauritius has, since Independence, been highly regarded in the international community as a country with a proven track record on the maintenance of the rule of law. This, Mr Speaker, Sir, can only be achieved through, *inter alia*, upholding the separation of powers of the Legislative, the Executive and the Judiciary.

As far back as in 1974, the Supreme Court, comprising Chief Justice Sir Maurice Latour-Adrien and Senior Puisne Judge Garrioch, had the following to say in *Lincoln and Ors v Governor General and Ors* [1974] MR 112. It is a long quotation, but I would like to say the last part of it, where it says -

“This may not be the ideal course and is naturally fraught with danger, but the court cannot help it unless in its turn it were prepared to elevate itself above the law and assume powers which it does not possess.”

This is a striking example of the principle of separation of powers which is alive in our system of democracy in Mauritius, Mr Speaker, Sir.

As we have maintained before the Supreme Court and the Judicial Committee of the Privy Council, it is for Parliament and not for the Judiciary to make any provision for electoral reform, a matter which necessitates an amendment to the law and which to be based on sound policy decisions.

Mr Speaker Sir, it is time for Mauritius to become a truly progressive democracy. The task is to understand and organise democracy in a way that values Mauritians for being Mauritians at the foremost. This will entail the creation of a new social order where it is not ethnicity that dictates our electoral system. Mauritius is unique as a country with such a vast multi-cultural population and requires experimentation to innovate and change in order to

achieve a truly free, fair and democratic society. The present Bill is not only a temporary measure to ensure the smooth running of the next general election pending the subsuming of the Best Loser System in a different method of allocating additional seats, but it is also a major step in the direction of electoral reform.

It is for us today, Members of this august Assembly, to assume our responsibilities as legislators on a matter of great importance to the citizens of this country, Mr Speaker, Sir.

Let me conclude, Mr Speaker, Sir, by saying that when hon. Jugnauth was taking the floor, in conclusion on Friday last, he stated that he was proud to announce to the House that he will not declare his community as a candidate in the forthcoming election. How proud we should be, on this side of the House, of the fact that it is the hon. Prime Minister who is giving him that chance not to declare his community, Mr Speaker, Sir!

I thank you.

Mr Speaker: I think it is a proper time to suspend the sitting for one and a half hours.

At 12.42 p.m. the sitting was suspended.

On resuming at 2.19 p.m. with Mr Speaker in the Chair.

Mr E. Guimbeau (First Member for Curepipe & Midlands): M. le président, je voudrais d'abord féliciter tous ceux qui ont contribué pendant les dernières années à cette prise de conscience pour le *nation building* : l'honorable Navinchandra Ramgoolam pour le respect de son engagement politique afin d'apporter et présenter au Parlement en tant que Premier ministre *the Constitution (Declaration of Community) (Temporary Provisions) Bill*, amendement constitutionnel provisoire afin de donner aux candidats qui ne veulent pas déclarer leur appartenance ethnique le droit de se porter candidats aux élections générales ; l'honorable Paul Bérenger qui milita pour un changement de la Constitution en 1982 afin que le recensement de la population effectué tous les dix ans ne tienne plus compte de l'appartenance communale des Mauriciens ; M. Ashok Subron et son équipe de *Rezistans ek Alternativ*, le Bloc 104 et les citoyens indépendants pour la lutte menée auprès des instances juridiques locales et internationales, les membres du comité Faugoo pour le travail accompli ; la Commission Electorale ; l'honorable Xavier-Luc Duval, et l'honorable Pravind Jugnauth pour leur contribution aux débats.

Il est bon de rappeler, M. le président, que l’Ile Maurice se retrouve aujourd’hui dans une situation délicate face aux Nations unies, où il a été décrété que nous en sommes en pleine violation des droits humains du fait de notre obligation de nous classer sur des bases communales afin d’être éligibles pour se porter candidats aux élections générales. Cela ne peut que ternir notre image sur la scène internationale, d’où la raison de notre présence ici dans cette auguste Assemblée, afin de remédier à cette situation et être conforme aux conventions signées avec les Nations unies. Il y a aussi l’échéance imminente du *Constitutional case* en Cour Suprême.

Nous comprenons donc pourquoi une mesure urgente et palliative est nécessaire à ce stade. Quand bien même si cet amendement n’apporte pas une révolution, elle permet une certaine évolution dans la bonne direction. Grâce à cet amendement, les enfants de notre patrie pourront se porter candidats aux élections générales de l’Ile Maurice en tant que Mauriciens. Donc, ceci constitue un pas déterminant vers la consolidation de notre nation mauricienne, et nous ne pouvons qu’être satisfaits et heureux d’en faire partie intégrante.

M. le président, je voudrais apporter maintenant quelques remarques sur le libellé de ce *Bill*. La clause 3 stipule, et je cite -

“This Act shall only apply to the first general election after the commencement of this Act.”

Ceci confirme donc le caractère temporaire de ce *Bill*. Mon regret, M. le président, c’est qu’aujourd’hui, alors qu’il y a une quasi unanimité au sein de la population et de l’hémicycle afin qu’une nouvelle réforme électorale voit le jour, nous nous retrouvons à débattre sur un amendement temporaire, avec l’espoir que demain la vraie réforme verra le jour. Je dis bien l’espoir, M. le président ! Nous connaissons tous le dicton ‘*A day is a long time in politics*’. De quoi sera fait demain, nul ne peut le prédire. Aujourd’hui, tout est réuni afin qu’une vraie réforme voit le jour. Il faut battre le fer pendant qu’il est chaud, M. le président.

Le *body chemistry* est comme le temps ; aujourd’hui, il peut faire beau, demain ce sera peut-être la tempête !

(Interruptions)

Nous aurions dû profiter du beau temps, M. le président. Le temps des émotions! Nous souhaitons ardemment qu'après l'échéance de 2015 ou peut-être 2014, comme on dit '*God knows*', la voie vers une réforme en profondeur dans notre système électoral s'ouvrira. Il faudrait de nouveau réunir toutes les conditions nécessaires et les bonnes volontés de part et d'autre de la Chambre afin d'amener dans les années qui suivent un nouvel amendement de la Constitution, sinon on sera obligé de retourner à la case départ. Notre espoir est que cette mesure est un pas supplémentaire vers la marge d'une Ile Maurice où chacun se sent Mauricien.

Aussi la clause 4, section (2) (a) dit, et je cite, M. le président -

"Where a candidate at that election has not declared his community, he shall be deemed to have opted not to be considered for the purpose of the allocation of additional seats and no additional seat shall be allocated to him."

Cela donne naissance à une injustice, M. le président. En effet, cette mesure présente un caractère subjectif et discriminatoire voire même allant à l'encontre du principe de l'égalité des chances et de la méritocratie, dans le sens où celui qui ne déclarera pas sa communauté ne pourra être repêché par le système des *additional seats*. Cela risque donc de développer un système provisoire injuste et paradoxal envers ceux qui souhaiteront se porter candidats aux élections générales comme Mauriciens. Par cette clause, un candidat qui a déclaré son appartenance ethnique, même s'il a reçu moins de voix qu'un candidat qui n'a pas déclaré son appartenance ethnique, peut se voir nommer à travers les *additional seats* et entrer au Parlement.

Je voudrais citer maintenant une partie de la clause 4 (2) (b) du présent *Bill* -

"(...) the Electoral Supervisory Commission shall, for the sole purposes of determining the appropriate community and allocating additional seats, proceed on the basis of the average number of returned members belonging to each community at all general elections held since 1976."

Vu qu'une dose de subjectivité a été introduite, les données changent. Afin de contrecarrer ce changement, un calcul basé sur une moyenne de députés correctifs appartenant à chaque communauté durant les dernières années sera fait.

M. le président, comment accepter qu'on puisse en 2014 faire des calculs scientifiquement communaux sur les 38 dernières années pour une Ile Maurice ayant obtenu son indépendance 46 ans de cela ?

Au niveau du Mouvement mauricien social démocrate (MMSD), nous aurions souhaité que le *Bill* comprenne aussi l'abolition du *Best Loser System*. Le fait est de pouvoir se porter candidat aux prochaines élections générales sans être obligé de déclarer son appartenance ethnique est un pas important et doit aller de pair avec l'abolition de l'allocation des *additional seats* qui, elle, reste basée sur l'appartenance ethnique. Ceci est important pour l'avancement de notre unité nationale.

M. le président, comment peut-on d'un côté abolir l'obligation de la déclaration d'appartenance ethnique lors de la candidature pour une élection générale et de l'autre côté calculer des *additional seats* sur l'appartenance ethnique ? Soit on est Mauricien, soit on ne l'est pas, M. le président. Nous disons tous haut et fort que nous sommes Mauriciens ; c'est à nous de le prouver !

Le MMSD a proposé la solution suivante, qui est sans ambiguïté, directe, et fondée sur la méritocratie dans ses recommandations sur le livre blanc soumis au bureau du Premier ministre, c'est-à-dire, l'élection de 62 membres du Parlement par le système de *first-past-the-post*, et l'allocation de huit membres correctifs par le *Electoral Supervisory Commission* basée sur le nombre de voix, indépendamment de son appartenance ethnique en cas de 60-0. Aucune nécessité de déclaration ethnique dans tout le processus électoral ; nous sommes tous Mauriciens !

A ce jour, M. le président, nous pouvons voir sur les actes de naissance de chaque Mauricien, les armoiries de notre pays. Nous sommes tous titulaires de la carte d'identité mauricienne. Nous voyageons avec nos passeports mauriciens. Mais, par contre, au moment des élections, ces mêmes Mauriciens qui désirent se porter candidats et être éligibles pour des *seats* additionnels se retrouvent dans l'obligation de décliner leur appartenance à un groupe ethnique, plus précisément Hindou, Musulman, Sino-mauricien ou Population Générale. Cela vient de nouveau remettre en question tout le bien-fondé de notre identité en tant que Mauriciens, et encourage les divisions communales dans notre pays. Ceci n'est pas acceptable, M. le président !

D'autant plus que nous avons tous maintenant un mode de vie bien Mauricien. Nous pouvons être d'origines différentes, mais nous sommes tous Mauriciens, et avons, au fil du temps, partagé nos traditions, nos cultures, et basé sur cet accord multiculturel, développé une culture propre à notre île. Nous vivons sur une petite île, et nous devons tous travailler ensemble, main dans la main, afin que notre pays prospère socialement et économiquement.

Au niveau du MMSD, nous souhaitons tourner la page, regarder l'avenir, et nous nous battons pour l'abolition de toute connotation communale dans notre Constitution.

M. le président, nous croyons fermement dans la méritocratie. De quelle communauté est issu un député ou un ministre n'est pas important, car nous sommes tous mauriciens. Il est le devoir de tout élu de représenter ce même peuple dans son intégralité. Il doit représenter notre île Maurice de façon digne et respectable, mettant de côté tout critère d'appartenance ethnique, religieuse, communale ou *castéiste*; élu par le peuple pour le peuple doit rester notre principale objectif. Dans ce sens, chaque député et ministre a le devoir de travailler pour le bien-être de tout un chacun sans aucune distinction.

Ceci dit, M. le président, ne plus déclarer sa communauté lors d'une élection ne remet nullement en question nos différentes origines. Au contraire, nous devons tout faire pour conserver nos cultures ancestrales et nos religions qui font la richesse du patrimoine culturel mauricien, et les transmettre aux futures générations. Cet amendement ne concerne que la prochaine élection générale ; donc, nous avons d'autres défis tels que le financement des partis politiques, le redécoupage électoral et la représentation féminine à relever.

La réforme électorale dans son ensemble est une nécessité. Le MMSD a élaboré des points à inclure, dont la création d'un sénat et la mise en place d'un conseil constitutionnel. Nous espérons que nos propositions seront prises en considération. Nos recommandations sont basées sur le fait que nous sommes tous mauriciens, et nous souhaitons un système où règnent la méritocratie, la transparence et le respect mutuel. Le MMSD a aussi prôné dans ses recommandations que les lois concernant la réforme électorale soient rédigées, circulées, expliquées et acceptées par un référendum, afin que tout un chacun puisse y participer, M. le président. Ceci donnera un plus grand consensus autour de la réforme, et ralliera tous les

Mauriciens autour d'une même cause. Nous croyons beaucoup dans cette démocratie participative. Ensemble, vivons notre hymne nationale qui dit si bien -

“As one people as one nation (...).”

Ne soyons pas que des politiciens qui pensent aux prochaines élections, mais devenons des hommes d'Etat qui pensent aux prochaines générations, M. le président. Vive notre nation mauricienne!

Merci, M. le président.

(2.33 p.m.)

Mr C. Fakeemeeah (Third Member for Port Louis & Port Louis East): Praises be to Almighty to whom I am grateful. En ce mois béni de Ramadhan, je suis appelé à faire mon devoir de parlementaire pour prendre la parole sur ce texte de loi, puisse la bénédiction du Tout-Puissant s'étendre sur cette auguste Assemblée.

I thank you, Mr Speaker, Sir, for giving me the opportunity to address the House on this sensible and technical issue of this present Bill. Mr Speaker, Sir, I am very pleased to take part in this debate in my capacity as Leader of the FSM, and I say it well '*Front Solidarité Mauricien*'. I would like all present here to address me as such. I remind the House that I have been elected to be Member of this House under the banner of the FSM (*Front Solidarité Mauricien*) and not as any other name. Looking across the House, one can see many prominent Members of the Government who were previously senior members of other political parties. Mr Speaker, Sir, with due respect, I will not allow myself to remind them of their past, but instead I will respectfully call them honourable Members of the Government, as I consider it unreasonable and unfair to remind them of their past.

Venons maintenant...

Mr Speaker: Hon. Member, I have to interrupt you. What has your comment to do with the contents of the Bill? Speak on the Bill!

Mr Fakeemeeah: Mr Speaker, Sir, those concerned, they know about it.

(Interruptions)

Ask the hon. Prime Minister, he will tell you.

(Interruptions)

Venons maintenant au mini-amendement as it was called initially. Je suis convaincu, M. le président, que ce projet de loi a été fait, premièrement, pour satisfaire les exigences du UNHRC. Le comité...

(Interruptions)

United Nations!

The proposed amendment as it was initially called *mini-amendement* is, in fact, a mini one for such a country as Mauritius with big issues. *Pour moi, c'est une farce* because it treats with contempt the population of Mauritius, and it is just a face saving device towards the UN on the international scene.

Je suis peiné, M. le président, de voir qu'on s'est permis de parler de nos obligations envers les Nation unies, et l'honorable Premier ministre a même fait mention: si nous ne nous inclinons pas, nous n'aurons plus de financement. Quelle absurdité ! Et moi, au nom de Dieu, j'élève ma voix pour dire que c'est faux. UNHRC n'a jamais imposé à notre île Maurice démocratique de telles exigences, comme l'a indiqué le Premier ministre. *This is just an excuse to justify the kozé kozé.*

(Interruptions)

C'est cette même organisation internationale, l'ONU, qui agit à géométriques variables, M. le président, quand des bombes explosent sur les enfants innocents de la Palestine et, elle, l'ONU n'est même pas capable d'imposer son dicta vis-à-vis d'Israël qui, à ce jour, a défié, pas des exigences, non, 32 résolutions des Nations unies.

(Interruptions)

If we will not vote the Bill, we will not have finance. Est-ce qu'Israël a été sanctionné financièrement ? Non, au contraire, c'est le pays qui reçoit le plus de financements. Faut-il, M.

le président, parler du silence de l'ONU sur notre Chagos, le silence de l'ONU sur l'envahissement de *Crimea* par la Russie, et le génocide du peuple Tamoul au Sri Lanka?

What about the amendment of the UN, making India a permanent member to which we, the FSM, we agreed...

Mr Speaker: Hon. Member, I have been lenient in allowing you to make your point, but you have to come to the Bill.

Mr Fakeemeeah: I am tackling the Bill, Mr Speaker, Sir, on a philosophical way within it and surrounding it.

(Interruptions)

L'organisation des Nations unies est mal placée pour nous faire la leçon et nous imposer des exigences. Alors, pourquoi donc s'incliner devant ces exigences au détriment des minorités composant la nation mauricienne?

As far as I have gathered as information concerning the observations of the Committee of the UNHRC, there has never been any exigency on the Mauritian State. May I quote, Mr Speaker, Sir, in the report – I have it here with me – of the Human Rights Committee, Communication No. 1744/2007, clause No. 15.5. I quote –

(Interruptions)

Now, we are in line with what you wanted from me.

(Interruptions)

Mr Speaker: No comments!

Mr Fakeemeeah: I quote -

“However, the Committee notes that community affiliation has not been the subject of a census since 1972. The Committee therefore finds, taking into account the State Party's failure to provide an adequate justification in this regard and without expressing a view as to the appropriate form the State Party's or any other electoral system, that the continued

maintenance of the requirement of mandatory classification of a candidate for general elections without the corresponding updated figures of the community affiliation of the population in general would appear to be arbitrary and therefore violates article 25 (b) of the Covenant”.

Mr Speaker, Sir, in their observation, the Committee of the UNHRC is providing *Rezistans ek Alternativ* with an effective remedy, urging Government to update the census of 1972. So, why this *fla-fla* concerning some individuals who have not been able to gather some 100 people on 01 May? Did they deserve such an *éloge*? In their observation, Mr Speaker, Sir, the Committee of the UNHRC is providing *Rezistans ek Alternativ* with an effective remedy, urging ...

(Interruptions)

I have to repeat it so that we internalise it - to update the census of 1972 with regard to community affiliation, or to reconsider whether the community-based electoral system is still necessary. Now, Mr Speaker, Sir, we know what happened afterwards. We have been following it strictly. The hon. Prime Minister and his good friend, the hon. Leader of the Opposition, immediately refused to carry out a new census, on the excuse that it is *rétrograde et communal*. I have to welcome my good friend, hon. Duval, on this side of the House, the true Opposition. He pointed out that 99.9% of the Mauritian population have accepted voluntarily to insert their religion in the recent 2011 and 2012 census. *Est-ce que l'honorable Premier ministre et l'honorable Leader de l'opposition sont contre leur propre peuple?*

Yes! There is no shame in it. No one can deny it. Most democratic countries, including the US, the UK, regularly carry out census on different basis. I hope that the hon. Prime Minister and his good friend, the hon. Leader of the Opposition, do not claim to know better than the leaders of those countries. Let me refer the House to the New Zealand census of 2013, where practically all major religions like Jews, Sikhs, Muslims, Hindus and even *Rezistans ek Alternativ*, of no religion, were mentioned statically. But in our democratic system, we cannot do anything. They are free. They have their right to say whatever they want, and they should be respected. They should also appreciate our right to say whatever we want, and they have to listen to it. This is what we are saying today in this august Assembly.

Both the hon. Prime Minister and the hon. Leader of the Opposition *sont coupables d'avoir* carefully planned and orchestrated *un vrai complot visant à abolir le BLS*.

(Interruptions)

I have to speak my mind!

(Interruptions)

Mr Speaker: No, hon. Member. This allegation is not allowed, you have to withdraw it. *Il n'y a pas de complot ici.*

Mr Fakeemeeah: Ok, I withdraw. They only wanted to eliminate the only democratic constitutional safeguard of the minorities, and this touches me so much, Mr Speaker, Sir.

Secondly and more importantly, the public perception is that the hon. Leader of the Opposition dreams to become a full-term, five years Prime Minister to which...

(Interruptions)

Mr Speaker: Please! I want some order in this House. I am on my feet now. This House is debating a very important Bill on electoral reform. Everybody would agree that it is a historic occasion. I would appeal to the hon. Member to confine his comments and observation on the contents of the Bill, and avoid getting involved into party politics or any sort of petty politics.

Mr Fakeemeeah: This is the reality prevailing, Mr Speaker, Sir. The present amendment does not cure for the balance of communities in Parliament. This is why *la communauté majoritaire* is responding negatively to the wish of the...

(Interruptions)

The present amendment does not cure for the balance of communities in Parliament. It is all silent as to how the minority's rights, which constitutionally is 50% of the population, are safeguarded. We know that the statistics of 2012 has resulted in a clear chart that those who are concerned with the Best Loser System has reached 50% of the population and is no longer 44% as it was in the 1972 census.

Mr Speaker, Sir, this is the reality of our Mauritius today. Now, it has become urgent and necessary that the Electoral Supervisory Commission and the State do a new countdown to determine the best losers, as this is our constitutional right. We, in the FSM, firmly believe that the 50% mentioned is the naked and bitter truth which is not being disclosed to the population. *Nous, au FSM, nous sommes convaincus que cette pure vérité, ceux concernés par le BLS représentent déjà 50% de la population. Quelle est cette raison obscure qui nous empêche de divulguer cette information dans cette auguste Assembly, at least, dans l'intérêt national? Est-ce que ce n'est pas là, M. le président, de la malhonnêteté intellectuelle, la duperie pour ce peuple innocent ?*

We cannot, and indeed it will be unlawful and unconstitutional to continue to refer to the 1972 census, as it no longer reflects reality. Let me, Mr Speaker, Sir, say a few words about the BLS. The BLS was to protect minorities. It was not ideal, as we know, but it provided peace and stability proven for 46 years. I remind the House that the State Party, in its argument before the UNHRC, stated, and this is what the ruling party of our country said there. I quote -

“The BLS was originally devised with a view to providing a balanced communal or ethnic representation in Parliament”.

Arguable for sure, what is being proposed in this present Bill will not provide a balanced communal or ethnic representation.

M. le président, je dois faire ressortir ici que l'argument présenté par l'État devant l'instance du Comité des droits de l'homme des Nations unies *speaks for itself, that is, the argument clearly* dénonce ceux qui présument que le *Best Loser System* est communal et rétrograde. Ces gens-là commettent ici une erreur très grave, et dirigent la nation vers une crise infernale et une déstabilisation dans le pays. *With this amendment, are we sure ...*

(Interruptions)

Mr Speaker: No. You have to debate in a very civilised manner. When you say the hon. Members '*ces gens-là*' ... You must show respect to hon. Members.

Mr Fakeemeeah: *Thank you, Mr Speaker, Sir. These hon. Members* dirigent la nation vers une crise infernale et une déstabilisation dans le pays. With this argument, Mr Speaker, Sir,

are we sure that we are mature enough to dispose of the BLS completely? I will allow the answer to come from the most genuine person's mouth, his Excellency Sir Victor Glover, chosen by our hon. Prime Minister to chair the dream team entrusted to present this Bill. This is what he said, if I am not mistaken, "*et j'aurais voulu que deux experts constitutionnels vet ce fameux Bill avant sa presentation*".

We have the following question to which we are seeking honest answers. We, in the FSM, we have the following question to which we are seeking honest answers: *est-ce que le poste de Premier ministre est réservé seulement à une communauté ou une caste, ou est-il ouvert à toutes les composantes de la nation?*

(Interruptions)

Mr Speaker: I have said, hon. Member, don't get into this petty argument. Try to be serious about this debate. I do not want to repeat myself. This is a very important Bill that the House is debating. Let us be serious.

Mr Fakeemeeah: I would like to know, Mr Speaker, Sir, where is there not seriousness in what I am saying.

(Interruptions)

Mr Speaker: Hon. Member, are you challenging me?

Mr Fakeemeeah: No. I am not challenging.

Mr Speaker: Therefore, continue, and don't question me!

Mr Fakeemeeah: Thank you. Y a-t-il une représentation proportionnelle qui fait la balance du pouvoir, représentant toutes les composantes de la nation mauricienne en ce qu'il s'agit des dix postes constitutionnels, les *top posts*? Est-ce que les *lobbies* socioculturels n'influencent plus le Premier ministre et les autres ministres, ou sont-ils retirés de la scène pour de bon? Y a-t-il une juste représentation proportionnelle au sein du service civil? Verrons-nous le jour où un commissionnaire de police émanerait des 50...

(Interruptions)

...le *BLS*.

(Interruptions)

Mr Speaker: I want some order.

(Interruptions)

Please refrain from this line of argument. I have to repeat myself: confine yourself to the contents of the Bill. You were speaking on the good loser system; that is correct. But you are getting involved into those kinds of petty arguments. It does no honour to you. It does not do any honour to you.

Mr Fakeemeeah: Est-ce que ceux qui ont contribué à alimenter pendant ces longues années cette perversion politique et sociale peuvent aujourd'hui venir présenter ce *Bill*, et clamer qu'ils veulent éliminer le communalisme avec ce *Bill* et consolider l'unité nationale? Ces honorables membres peuvent venir nous dire cela?

(Interruptions)

We can cheat and deceive the whole population, Mr Speaker, Sir; we can cheat and deceive the whole world, but we won't be able to deceive God, as he knows the content of our hearts and the reason behind *l'empressement de cette démarche que vous nous proposez*, as we heard the hon. Prime Minister say repeatedly: we have no time. Why should we leave aside our electorate, our people who made enormous sacrifice and fought to elect us to this Assembly? I join once again my friend, hon. Xavier-Luc Duval, in his profound appeal for full transparency from the Government to give time to the Mauritian nation to contemplate what we are proposing.

(Interruptions)

Mr Speaker: I say no more interruption!

Mr Fakeemeeah: We should not tamper with a system that has worked so well for 46 years and now rush to make changes for personal interest. I remember what happened in 2010, Mr Speaker, Sir, and it is in line with reform. It is in line with the Bill. The reform we are asked to vote upon today was part of a wider report called Electoral Reform. Am I right? Yes!

(Interruptions)

During the preparation of this *fameux* Electoral Reform, we have heard the ‘*causer causer*’ between the hon. Leader of the Opposition and hon. Prime Minister. We also heard from the mouth of the hon. Leader of the Opposition - and we have heard it on several occasions - about a forthcoming alliance.

(Interruptions)

Mr Speaker: Well, I don’t know whether I have still to repeat myself. On how many occasions am I going to repeat myself, hon. Member? Proceed with the Bill! You are speaking of good loser. Address the Chair because the Chair is not on your left!

(Interruptions)

Yes, proceed!

Mr Fakeemeeah: Thank you. Before this Bill is being presented to this House, we have heard about the forthcoming alliance between the MMM and the Labour Party.

Mr Speaker: Why do you repeat yourself? When repeating this, you are defying the Chair! Please, proceed!

Mr Fakeemeeah: This is a dream that the Leader of the Opposition has been selling at his own expense, Mr Speaker, Sir.

Mr Speaker: Again!

Mr Fakeemeeah: Since Parliament was last convened, should I not remind and recall the concern, Mr Speaker, Sir, of the nightmare he endured in 2010 when he was looking for an alliance with the Labour Party and had already prepared...

(Interruptions)

He had already prepared his *robe de mariage*, as hon. Duval said.

(Interruptions)

Mr Speaker: Hon. Member! Have you understood what I said earlier? Speak on the Bill! Don't bother yourself with alliances. We are here to listen to your arguments with regard to the Bill. I want to hear your arguments on the Bill.

Mr Fakeemeeah: Yes, Mr Speaker, Sir, I am only framing the idea...

(Interruptions)

Mr Speaker: Silence!

Mr Fakeemeeah: I am only framing, preparing the idea to come directly to the point. Mr Speaker, Sir. We know what happened afterwards. The groom took another bride and he was left on the pavement outside the wedding hall, not even with a bite of the wedding cake.

(Interruptions)

Mr Speaker, Sir, *est-ce que maintenant aussi on va revivre cette même saga après ce Bill?* Are we going to witness same saga? But this time it won't be a nightmare, it will be a political suicide. I pray...

Mr Speaker: No! I can't follow you!

(Interruptions)

Silence! Normally, I am lenient when hon. Members speak. I try to accommodate them as much as I can, but you are going rather too far, and I may think of sending you very far.

(Interruptions)

Mr Fakeemeeah: M. le président, deuxièmement, notre Constitution a été faite dans une conjoncture bien particulière. Peut-être beaucoup d'entre nous avons oublié, mais devant ce projet de loi, le rappel s'impose, le rappel sera bénéficiaire. On devait satisfaire deux conditions pour pouvoir arracher notre indépendance du pouvoir colonial britannique. Premièrement, l'excision de Diego Garcia, et deuxièmement, l'introduction du *BLS* pour garantir une représentation équitable de toutes les composantes de la population au sein du Parlement. Ici, je rends hommage à Sir Abdool Razack Mohamed pour sa clairvoyance. On ne peut pas parler du *BLS* sans qu'on parle du père du *BLS*, cet éminent tribun tant regretté par toutes les minorités ;

ce grand visionnaire qui a eu la prévoyance de la marginalisation de toutes les minorités et l'accaparement du pouvoir par quelque communauté. Il a lutté - je me rappelle encore de ce geste inhumain du MMM, avec l'approbation de l'ancien Président Cassam Uteem, pour organiser les funérailles de Sir Abdool Razack...

(Interruptions)

Mr Speaker: Silence! Please, I am on my feet. Let me sort out this problem.

(Interruptions)

Hon. Member, listen, I have given you several warnings. But I repeat again, try to be relevant, otherwise I'll have to take drastic action!

(Interruptions)

Don't argue with me! You have listened to my guidance! Speak on the Bill! Try to be relevant and I'll allow you to speak. But if you go along the line of petty politics, I will not allow that. Have some respect for the House, please!

Mr Fakeemeeah: *Thank you, Mr Speaker, Sir. Sir Abdool, M. le président, luttait avec ferveur pour le Best Loser System pour garantir les droits des minorités ; pas seulement pour les musulmans, mais pour toutes les minorités. Sir Abdool, M. le président - vous le connaissiez mieux que moi, vous le connaissiez très bien - agissait sous le guidance du très vénéré, Son Excellence le Maulana Abdul Aleem Siddiqui. Et voilà, qu'aujourd'hui, en catimini, on essaie d'abolir le BLS, et éliminer la seule garantie constitutionnelle des droits des minorités, en clamant que le BLS est anti-démocratique et communal.*

Let no one claim that BLS encourages communalism. Communalism has been increasing and rampant in this country, Mr Speaker, Sir, in all sectors: job recruitment, promotion, housing, health, development, anywhere and everywhere. Will the hon. Prime Minister and the hon. Leader of the Opposition explain how abolishing BLS will eliminate communalism in all sectors aforesaid? Please, tell us how! We want to know! On the contrary, it is the BLS which is barring the way to further abuse in this country.

(Interruptions)

Les îlois sont toujours en train de souffrir. Ils sont les éternels sacrifices de l'indépendance de notre pays. Est-ce qu'on nous propose aujourd'hui une meilleure solution à la place du *BLS*? La réponse est non ! Le système du *Best Loser* actuel a fonctionné pendant 46 ans. Aujourd'hui, personne ne sait le mécanisme qui sera utilisé, comme l'ont fait ressortir l'honorable Pravind Jugnauth et l'honorable Xavier Duval !

(Interruptions)

L'histoire retiendra, M. le président, que ni l'honorable Pravind Jugnauth, ni l'honorable Xavier Duval, ni moi-même, Cehl Fakeemeeah, comme trois *leaders* élus démocratiquement dans la maison du peuple, n'ont été sollicités ni par l'honorable Premier ministre, ni par l'honorable *Leader* de l'opposition, ni par la *dream team* pour apporter notre contribution à la rédaction de ce texte de loi qu'on veut nous faire voter aujourd'hui. L'intelligence n'est pas la chasse gardée et le monopole de certains. Si nous étions avec eux, beaucoup de ces confusions et anomalies n'auraient pas existées dans le document aujourd'hui qui est devant la Chambre. A ce moment-là uniquement, il y aurait eu le consensus que nous voulons tous, et l'honorable Premier ministre aurait eu la majorité qu'il souhaite pour cet amendement. *Zot pas appelle nous, et après zot oulé nous voter ?*

(Interruptions)

Historically speaking, Mr Speaker, Sir, our Mauritian society has been constructed and structured in such a way that you cannot bring piecemeal solution. This is what is being done. You cannot bring piecemeal solution to remedy the situation. This is what I want the hon. Members to understand. It can have the reverse effect, and it can be more dangerous for our country. We have been living in peace for 46 years! The hon. Prime Minister knows better than me. He came to realise, and voiced out the complexity of the Mauritian society during the preparation of the *fameuse réforme*. We have also inherited from the British way of solving problems through lobbying and its side-effects. Now, may I ask the Assembly – this is our reality; I have to ask, and this is the democratic place where I should ask it: can we minimise the role of the Catholic Church in our country? Can we minimise the role of Jumma Mosque in our country? Can we minimise the role of Sanatan Dharma Temple in our country?

(Interruptions)

Mr Speaker: Carry on, but don't go on along those lines!

Mr Fakeemeah: *Alright.* M. le président, est-ce que les symboles forts tels que Grand Bassin, Père Laval et Eidgah sont pour le décor ?

(Interruptions)

Mr Speaker: Qu'est-ce que tout cela a à faire avec le projet loi ?

(Interruptions)

Mr Fakeemeeah: M. le président, croyez-vous que tout cela c'est seulement pour le décor?

(Interruptions)

The blame cannot be on politicians only or the Constitution, though we all here in this House surf on the communal route during an electoral campaign because of the existing electoral boundaries and our electoral system. We are forced to do it; to surf on the communal route. Mr Speaker, Sir, all of us in this House heard the hon. Prime Minister stating during his speech that the matter could be referred to the Privy Council. Why should we fear then? But, let me make it clear in this House - you are a lawyer and you know it very well - that under separation of powers...

(Interruptions)

...the Judiciary, the Privy Council cannot interfere with the legislative of a sovereign country. So, why should we mislead the population? Mr Speaker, Sir, there is no blame to be Mauritian, but still we can be proud to be a Hindu like Ramgoolam, and to be a Creole like hon. Mrs Aurore Perraud. *Vous êtes fière!* And to be a Tamil like my good friend, hon. Deven Nagalingum, to be a Sino-Mauritian like my friend, hon. Yeung Sik Yuen.

(Interruptions)

Mr Speaker: I want some order now!

(Interruptions)

Mr Fakeemeeah: I have not finished with my phrase; to be a Muslim and a Mauritian like myself, hon. Dr. Beebeejaun, hon. Dr. Kasenally. So, what's wrong? Should we be lined up and get fired because of our pride to our origin? Certainly not! What is at stake is the right of minorities in this Bill.

(Interruptions)

It is a pity that the *MMM a trahi la lutte des minorités sur l'autel d'un accord politique.*

Mr Speaker: No!

(Interruptions)

I want some order!

(Interruptions)

Hon. Member, do you see where your speech is leading this House? I have guided you on several occasions. Now, I am going to give you the last warning. You confine yourself to the Bill.

(Interruptions)

Now I want some silence!

(Interruptions)

Let the hon. Member proceed!

Mr Fakeemeeah: Après l'ajournement, M. le président, vendredi soir, je me suis rendu à Roche Bois à la demande de mes mandants. Et vous n'allez pas imaginer, M. le président, leur colère. Ce sont ces gens-là qui nous votent, qui nous envoient ici dans cette auguste Assemblée. Ils m'ont dit en ces termes –

“Eh bhai Cehl, pena créole lor front bench?”

Mr Speaker: No!

You should withdraw those words!

(Interruptions)

This is intolerable!

(Interruptions)

Mr Speaker: Silence, please!

(Interruptions)

You see, you are pushing me to having no alternative than to ask you to withdraw.

Mr Fakeemeeah: I withdraw.

(Interruptions)

Mr Speaker: Remember, address the Chair!

(Interruptions)

Mr Fakeemeeah: Choisir ce mois béni du Ramadan, pendant que le musulman a l'obligation de se concentrer dans la prière pour prier pour eux et pour le pays, M. le président...

(Interruptions)

M. le président, les droits des minorités constituent un cadre juridique pour veiller à ce qu'un groupe spécifique qui est dans une position vulnérable, défavorisée ou marginalisée dans la société est en mesure de parvenir à l'égalité et est protégé contre la persécution. Les normes ultérieures des droits de l'homme qui codifient les droits des minorités incluent les conventions suivantes –

- *International Covenant on Civil and Political Rights - Article 27;*
- *The United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;*
- *two Councils of Europe Treaties; The Framework Convention for the Protection of National Minorities (1995) and the European Charter for Regional or Minority language, and the Copenhagen Document of 1990.*

Afin de protéger les droits des minorités, M. le président, de nombreux pays ont des lois spécifiques ou des Commissions ou des établissements, des médiateurs comme, par exemple, *The Hungarian Parliamentary Commissioner for National and Ethnic Minorities Right*.

The law provides clearly that we are infringing on Article 1 of our Constitution and it clearly invites a Referendum by the people, for the people. Let us hear what our people have to say about it and a challenge before a court of law will clearly give rise to a judgment condemning this law as being unconstitutional.

I wish to quote what President John Kennedy said, Mr Speaker, Sir –

"Let us not seek the Republican answer or the Democratic answer, but the right answer."

This is in line with what Ali Jinnah, the Founder of Pakistan, said –

"With faith, discipline and selfless devotion to duty there is nothing worthwhile that you cannot achieve."

And more appropriately our present circumstance, that is, the present Bill. I will also quote Mahatma Gandhi on minorities –

"Even if you are a minority of one, the truth is the truth."

Let us not play with the lives of half of the population, with their rights, their constitutional freedom and guarantees by a mini-shameful amendment. The Government is playing a shameful game, Mr Speaker, Sir, with the complicity, in fraught with the MMM, and the world is watching us today as we are example of good living together. But now this is a farce, as we are deceived. So, I have no alternative but to raise my hand to Almighty God and pray from day one when I come out from here: 'Help us God. Help us God; help our country.'

Enfin, je camperai sur mes positions, je voterai contre ce mini-amendement conçu par deux personnes pour des gains – Dieu sait ! – personnels ou généraux ...

(Interruptions)

... sans avoir écouté la population, sans avoir écouté la voix de la minorité !

(Interruptions)

Mr Speaker: Order, please! You are, I think, concluding your speech.

Mr Fakeemeeah: I am concluding, yes.

Mr Speaker: Conclude!

Mr Fakeemeeah: Sans avoir écouté la population et la voix des minorités ! *I was not party to this Bill.* Il est trop facile *to vote under protest*, comme le feront certains de nos honorables amis ici présents. *You will only be the voice of your master. You will only be the echo and the voice of your master. But, as far as I am concerned, Mr Speaker, Sir...*

Mr Speaker: Who is 'you', hon. Member?

Mr Fakeemeeah: The hon. Members who are going to vote under protest. But, as far as I am concerned, Mr Speaker, Sir, I enjoy complete freedom to speak my mind and I will act accordingly. I will act according to the saying of President Kennedy, who said –

"Let us not seek the Republican answer or the Democratic answer, but the right answer."

So, let us seek neither the MMM answer, the MMM way, nor the Labour way, but the right way, and the right way is that I will face the injustice being perpetrated on the minorities. I will look to it eyes to eyes and I will say 'no' to it.

Thank you.

(Interruptions)

Mr Speaker: Now, order! Order!

(Interruptions)

Let us listen to hon. Ms Perraud.

(3.16 p.m.)

Mrs A. Perraud (Fourth Member for Port Louis North & Montagne Longue): M. le président, je souhaiterais, avant même de commencer, vous dire que, en tant que la plus jeune parlementaire dans cette auguste Assemblée, les jeunes veulent des politiciens qui sont sincères, vrais, une façon de faire la politique qui est propre. Ceci dit, avant même de commencer, je souhaite vous annoncer, M. le président, que, moi, Aurore Perraud, députée, ici, je vais faire mon discours, mais je ne compte pas faire mon discours dans la dentelle. Je serais vraie, je n'insulterai personne, je n'offenserai personne, mais je ne dirai rien que la vérité.

J'ai entendu vos remarques concernant l'honorable Fakeemeeah. Donc, j'aimerais déjà vous dire que je vais décrire la situation telle qu'elle prévaut dans notre chère île Maurice, et je souhaiterais avoir votre avis dessus.

(Interruptions)

Mr Speaker: There is a Bill before this House. You are here to speak on the Bill. As long as you speak on the Bill, there will be no problem. If you go outside the purview of the Bill, its contents, then it will be irrelevant. I hope you will be relevant.

(Interruptions)

Now let us have some order, and we will listen to hon. Ms Perraud.

Mrs Perraud: Alors, c'est dommage que j'ai entendu des remarques comme 'tar', 'mo ti croire mo dan bazar'. L'éducation n'est pas faite pour tout le monde.

(Interruptions)

Mr Speaker: I don't want any comment.

Mrs Perraud: Avec l'introduction de *The Constitution (Declaration of Community) (Temporary Provisions) Bill*, nombreux sont les Mauriciens qui pensent, avec raison, que nous faisons un pas vers la construction d'une nation. Oui, en effet, c'est un pas. Mais il nous reste encore un long chemin à parcourir avant que cette nation arc-en-ciel, cette nation multiraciale, multi-religieuse, cette nation ancrée sur un système de communauté et de caste cède la place au vrai mauricianisme tant désiré par tout un chacun, y compris le PMSD.

Oui, M. le président, le PMSD œuvre pour une île Maurice où chaque personne sur cette île se sentirait d'abord et avant tout Mauricien, que tous les Mauriciens aient le même traitement, que l'égalité des chances ne soient pas qu'un concept, mais qu'elle se traduise dans la réalité mauricienne.

M. le président, le désir profond du PMSD, c'est l'unité, l'égalité, le mauricianisme, d'où notre slogan : 'L'île Maurice avant tout'.

Le projet de loi, que nous sommes appelés à débattre et à voter dans cet hémicycle, est un mini-amendement, un petit amendement qui vise à apporter un grand changement dans la liberté, le droit fondamental de tout citoyen Mauricien de déclarer ou pas sa communauté.

Comme je l'ai dit, M. le président, le PMSD est d'accord, nous disons oui à l'essence même de ce projet de loi, l'essentiel reste que la liberté de l'individu prime, le mauricianisme prévaut. Mais, M. le président, comme l'a démontré le *leader* du PMSD, l'honorable Xavier-Luc Duval, vendredi dernier, et avec raison, beaucoup de questions restent posées. Le flou persiste. La confusion est grande.

M. le président, à cette longue liste de questions sans réponses évoquée lors de la dernière session parlementaire, viennent s'ajouter les suivantes : est-ce une fois ce mini-amendement voté, nous irons réellement vers le déclin, vers l'élimination du communalisme à Maurice ? Est-ce une fois voté, ce projet de loi nous mènera-t-il vers un sentiment grandissant de mauricianisme, de patriotisme à Maurice ? Est-ce que ce pas, qu'il soit petit pour certains, grand pour d'autres, ou encore historique, va provoquer ce changement, ce vrai changement dans la mentalité des Mauriciens, et va engendrer une société basée sur plus de justice, plus d'égalité et plus de méritocratie ? Est-ce que seul ce projet de loi, sans qu'il y ait d'autres engagements politiques de notre part, peut venir prétendre construire cette nation mauricienne ? M. le président, toutes ces questions valent la peine d'être posées.

J'ai écouté attentivement tous les orateurs qui m'ont précédée. Certains se réjouissent, réclament la paternité de cette brillante idée, se disent satisfaits, contents que c'est un progrès. Oui, c'est un pas vers la bonne direction pour la construction de la nation mauricienne. Je ne le nie pas. Le PMSD ne le nie pas. M. le président, de beaux discours, certes ! Mais, malheureusement, je m'attendais à ce qu'on vienne nous donner l'assurance que dans cet élan patriotique, dans cette ambiance généralisée de se dire et de se sentir Mauricien, qu'à travers les discours des uns et des autres, que les politiciens qui sont appelés à voter ce mini-amendement nous disent, nous démontrent à quel point la volonté y est, la sincérité est infaillible concernant l'élimination des pratiques communales qui entravent la construction d'une nation mauricienne et qui font obstacle au vrai mauricianisme. Je n'ai rien entendu, M. le président ! Aucun signe qui pourrait traduire les belles paroles dans la réalité !

M. le président, qui, quel politicien, quel parti politique ? Puisque ce sont les politiciens qui sont appelés à légiférer. Ce sont les politiciens qui sont en train de montrer la joie devant ce pas historique. Quel politicien qui aura la volonté politique, la sincérité, l'audace, la fibre

patriotique pour faire campagne lors des prochaines élections sans prendre en considération les lobbies sectaires, communaux, ethniques, *castéistes* et religieux ?

M. le président, nous prétendons écrire une page de l'histoire de notre pays. On est en train de s'enorgueillir pour ce projet de loi apporté au Parlement alors que demain ce sont les mêmes partis politiques qui vont choisir les candidats se basant sur leur communauté, leur caste et leur religion pour être candidats dans telle ou telle circonscription ! C'est une vérité indéniable!

M. le président, petit pas, grand pas, ou pas historique, mais demain nous serons tous gouvernés par des considérations qui sont basées sur les communautés. Comme on dit : « Chassez le naturel, il revient au galop. » M. le président, la population en parle. Avec le départ du PMSD du gouvernement, le départ de l'honorable Xavier-Luc Duval, dans cette mouvance de créer un climat où le mauricianisme peut s'épanouir et qui coïncide avec l'introduction de ce mini-amendement au Parlement, beaucoup de nos compatriotes se posent la question quant au choix et la décision de faire l'honorable Arvind Boolell accéder au rang du numéro 3 du gouvernement. Pas qu'il n'aime pas l'honorable Arvind Boolell, non !

Mr Speaker: Non. *Refrain from this argument!*

(Interruptions)

Mrs Perraud : Tous les Mauriciens apprécient, y compris nous le PMSD, et y compris moi, l'honorable Aurore Perraud.

(Interruptions)

Laissez-moi terminer, et vous allez comprendre le but de mon argumentaire. Pas qu'il n'aime pas l'honorable Arvind Boolell. Nous connaissons tous la grande popularité de l'honorable Arvind Boolell...

Mr Speaker: Not on this line of argument. Come back to the Bill!

(Interruptions)

Mrs Perraud : Le but de ce projet de loi c'est justement, M. le président, de créer cette fibre patriotique chez tous les Mauriciens. Qu'il y ait plus de mauricianisme. Mais je pense que nous les politiciens dans ce que nous faisons, dans les décisions que nous prenons, nous devons donner l'exemple. Dans tout ce que nous faisons, dans tout ce que nous disons, nous devons refléter que nous sommes sincères quand nous sommes en train de légiférer dans un sens. Donc, c'était ça ce que je voulais dire.

Alors, ma question était : le fait que cette situation se présente devant nous, pour moi, personnellement, je dis que c'est une occasion de montrer qu'on ne s'est pas basé sur des considérations ethniques et communautaires pour prendre cette décision. C'était ça ce que je voulais dire. C'était une belle leçon au même moment que le *Bill* est apporté au Parlement, et c'est accompagné d'une décision qui reflète justement que nous allons dans ce sens. C'était ça ce que je voulais dire.

(Interruptions)

Ça je vais le dire ! M. le président,...

Mr Speaker: Mais vous n'allez pas répéter !

Mrs Perraud: Non, non, c'est très important pour moi de dire ça.

M. le président, le projet de loi que nous sommes appelés à voter aujourd'hui, nous espérons que ça va changer notre façon de vivre à Maurice. Mais, comme je l'ai dit ailleurs, et c'est important pour moi de le répéter ici, j'espère de tout cœur en tant que Mauricienne que pour avoir un travail ce ne sera pas le '*noubanisme*' qui va prévaloir !

Mr Speaker: Non!

Mrs Perraud: I will...

Mr Speaker: J'ai dit non!

(Interruptions)

Non! Il me semble que vous êtes sous une influence quelconque !

(Interruptions)

Ne persistez pas dans cette voie, s'il vous plaît !

Mrs Perraud: Alors, M. le président, après l'adoption de ce mini-amendement, je voudrais demander...

(Interruptions)

Mais c'est le Premier ministre qui a dit que le communalisme a augmenté à Maurice. Alors, *what next? What is the next step? Is it back to square one?* Alors M. le président, sommes-nous sincères? Oui, nous sommes sincères. C'est ce que je suis tentée de crier. Mais, non, M. le président, la réponse on ne le sait pas encore, mais on le saura bien assez vite puisque les élections sont derrière la porte. On n'entre pas dans l'histoire ou dans la poubelle de l'histoire dépendant qu'on vote pour ou contre ce projet de loi aujourd'hui.

On entrera par la grande porte de l'histoire quand on aura la force, le courage et la volonté d'éliminer les pratiques communales, de refuser de prendre des décisions motivées par des intérêts communaux, sectaires et *castéistes*. Alors, là, ce sera incontestablement quelque chose d'historique.

M. le président, si demain rien ne change dans la façon de penser, de faire les élections à Maurice, donc aujourd'hui nous sommes en train de perdre notre précieux temps. Nous sommes en train de manquer de respect à l'intelligence des Mauriciens - *et koman nou dir en kreol, nou pe pran bann mauriciens pou mouton, pou bouffon.*

Nous avons assisté, M. le président, avec quelle arrogance les 'grands partis' ont parlé des 'petits partis'. Je les mets entre guillemets, les deux grands partis et petits partis, parce que c'est relatif, et tout dépend des critères utilisés pour savoir quel parti est un grand parti ou quel parti est un petit parti. Quelle ironie, M. le président ! Alors qu'on parle des petits partis avec dédain, avec mépris, sur un ton moqueur, c'est un petit parti qui vient donner une belle leçon, une gifle magistrale aux grands partis. C'est un petit parti qui a eu le courage, la volonté et la persévérance pour mener cette lutte juridique pour qu'un candidat puisse avoir le choix de dire son appartenance communautaire ou pas. Oui, M. le président, tout le crédit revient au mouvement *Rezistans ek Alternativ*, à qui nous devons des félicitations aujourd'hui. Après 46

ans d'indépendance, c'est le peuple qui est en train de dicter le changement qu'il veut voir dans la République de Maurice. Après l'avènement d'un *ti parti*, nous assistons à l'influence, à la force de la masse silencieuse sur les décisions du gouvernement. Le bruit de cette masse silencieuse est tellement puissant qu'il raisonne et affecte les décisions prises par le pouvoir. Le peuple a son mot à dire sur les alliances et les mésalliances. C'est juste pour vous dire, M. le président, qu'il n'y a pas de *ti parti* ou grands parti ; qu'il y a seulement des valeurs et des convictions que l'Etat doit respecter et faire valoir pour le peuple avant tout.

Le PMSD fait la politique par conviction. Nous avons une ligne de conduite. Le PMSD ne fait pas la politique par intérêt personnel, partisane, par émotion comme certains partis politiques, qui un jour c'est *on* un jour c'est *off*.

Mr Speaker: Non. Ne faites pas de la publicité des partis dans cette Chambre, s'il vous plaît!

Mrs Perraud: M. le président, cette attitude frivole, puérile, pas sérieuse fait la honte de la classe politique à Maurice. M. le président, le peuple réclame plus de respect, de dignité, de patriotisme de la part de certains politiciens qui se disent des politiciens de carrière, et ceux-là même qui viennent traiter le PMSD d'archaïque, de dépassé, de communal. Comment est-ce que le MMM peut prétendre venir nous donner des leçons alors qu'il a perdu toute crédibilité aux yeux de ses propres partisans ?

(Interruptions)

Aux yeux du peuple mauricien. Moi, je suis...

(Interruptions)

Mr Speaker: On a point of order! Yes, hon. Leader of the Opposition!

Mr Bérenger: Mr Speaker, Sir, what have that got to do with our debate? You ruled ten times, and the hon. Member keeps on, and you allow her.

Mr Speaker: Hon. Member, I told you from the beginning that you have to speak on the Bill.

Mrs Perraud: Dans quelle démocratie a-t-on vu un *Leader* de l'opposition qui usurpe la place du *Speaker*, qui agit et parle comme s'il est ...

(Interruptions)

Mr Speaker: Silence! Hon. Mrs Perraud ...

(Interruptions)

You have asked for my guidance. I explained to you that we have a Bill before this House and advise you to speak on the Bill. Analyse the Bill. Analyse its contents and make your observation and comments. Try to be relevant! Don't get involved into petty politics.

(Interruptions)

Silence!

Mrs Perraud: Alors, M. le président, avant de terminer mon discours, je souhaiterais ...

(Interruptions)

Mr Speaker: Let us have some silence! *L'honorable membre termine, s'il vous plait!*

Mrs Perraud: Avant de terminer mon discours, je souhaiterais lire une citation qui vient du livre de la biographie de Sir Gaëtan Duval, « l'incarné du Voyage ». J'ai choisi Alain Gordon-Gentil, j'aurais pu prendre quelqu'un d'autre, Lindsay Noë, par exemple, mais justement pour qu'on ne dise pas que je suis *biased*, j'aimerais bien lire cette citation à la Chambre –

« Il est de bon ton aujourd'hui de s'attacher aux frasques de l'homme en faisant l'impasse sur ses réalisations, dont certaines ont marqué et marque encore la vie des citoyens mauriciens sans qu'ils le réalisent.»

Il va plus loin, et il dit ceci du PMSD et de Sir Gaëtan Duval –

« Dans une même foulée, il - Sir Gaëtan Duval - crée la zone franche, le tourisme, et engage le pays sur la voie de l'industrialisation. »

Alors, ceci pour vous dire que le PMSD contribue aujourd'hui, apporte sa grande contribution sur ce *Bill*. Il a fallu qu'il y ait la vraie opposition ici pour...

(Interruptions)

Mr Speaker: Silence I have said! La Chambre n'est pas un lieu pour faire de la publicité des partis.

Mrs Perraud: Je termine pour dire la contribution du PMSD. C'est grâce au PMSD que nous avons pu entendre les explications - au PMSD et au MSM bien sûr - de l'*Attorney General*, parce que vous savez tous que le discours de l'*Attorney General* n'était pas à l'agenda aujourd'hui.

Merci beaucoup. Malheureusement, il y avait tant de choses que je voulais dire que je n'ai pas pu dire.

Mr Speaker: Yes, let us hear hon. François, please!

(3.38 p.m.)

Mr J. F. François (Third Member for Rodrigues): Thank you, Mr Speaker, Sir.

Mr Speaker, Sir, on this very monumental moment, I stand on behalf of the people of Rodrigues to make a short contribution with my freedom of conscience to debate on this historic constitutional amendment, The Constitution (Declaration of Community) (Temporary Provisions) Bill.

We live in a democratic country where we have regular, free, fair and open elections, with one coming soon. I sincerely hope that our nation ought never to take this for granted.

Mr Speaker, Sir, we shall make no mistake, this amendment Bill is important. It is not just a temporary provision, but also a confident stride forward. We are in the process of consolidating the accessibility of any citizen to general election nomination, without any obligation to declare his community. It is equality of opportunity for all citizens. The Republic is moving forward in an equal future as we are born equal, either as Mauritian, Rodriguan,

Agalean or Chagossian in the Republic of Mauritius. Today, we are together removing part of a communal discrimination, as per paragraph 3 of the First Schedule of the Constitution.

Mr Speaker, Sir, as pronounced from both sides of the House, as well as by the public in general, changes to our Constitution as well as to our electoral system are converging points for us all towards national unity. The hon. Prime Minister, the hon. Leader of the Opposition, and all those who preceded me have explained the reasons of the timely introduction of this Bill in this House.

Mr Speaker, Sir, I take this opportunity to also acknowledge those citizens from various pressure groups, *Rezistans ek Alternativ*, *Blok 104*, and others, following their legal cases, and the Attorney General, hon. Faugoo Committee set up under the aegis of the hon. Prime Minister, in consultation with the hon. Leader of the Opposition, and also the contribution of the media. They have shown commitments in whatever actions towards this constitutional amendment. I am hopeful that they will honour more decisively what is coming next.

Mr Speaker, Sir, our constitutional and political system is evolving to meet the changing needs of our society towards maturity, through good governance, for the betterment of the nation, with credit to our educated citizens.

Mr Speaker, Sir, debating on this Bill today, I will not scrutinise its technicalities, but I will rather debate on its philosophy or principle, the initiative and engagement behind its presentation and its future implications. The Bill is a fine-tuning Bill, and will make a big change to our electoral system while influencing future general elections. It is the start of a long road of reinforced democracy, through a deep-rooted societal and political shift, with the required courage to get there. In that connection, I also interpret it as expressing the opportunity for Mauritius to claim a common identity of a nation, not a divided identity, and moving towards a common destiny.

This common identity is entrenched, amongst others, through three great natural law rights, that is, all people in this country are born equal, they are gifted with certain unchallengeable rights, and amongst these is their freedom. Our concern today is the freedom of a candidate during a general election to declare or not the community to which he or she belongs. Mr Speaker, Sir, the temporary provisions of the Bill in other words clearly define that this Bill

is not complete in the present form, as it applies to solely the next general election. These are also proving that no doubt our Constitution is defective, with approximate information, as rightly pointed out by the hon. Prime Minister, thus provoking the debate for a full constitutional and electoral reform. The debate is on already, Mr Speaker, Sir, and the question is: for how long?

Mr Speaker, Sir, this constitutional amendment will enlighten us on what Mauritius requires as a nation, through stability and unity. Let us go back to the roots of a nation. We are living in a Mauritian society tensely divided, and the division is real. As I mentioned earlier, any person born in the Republic of Mauritius is Mauritian, Rodriguan or Agalean or Chagossian, whether he is yellow, black, blue, brown, white, Creole, Hindu, Muslim or Sino-Mauritian.

Mr Speaker, Sir, allow me, now, to refer to the general election in 2010, where in Rodrigues, the OPR party, under the leadership of Serge Clair, aligned two candidates, namely Soopramanien Sooprayen who, during nomination, declared himself as belonging to the Hindu community and myself as belonging to the General Population community. Mr Speaker, Sir, honestly speaking, at the material time of nomination for the party and us, it was just a question of completing the requirements of the Electoral Supervisory Commission for nomination. Nothing less or more! Unfortunately, OPR lost cunningly that general election, and I was nominated as MP under the Best Loser System, and not Mr Soopramanien Sooprayen, who is today the Chairperson of the Regional Assembly. The lesson here is the choice of the candidacy of Mr Soopramanien Sooprayen, a citizen of Mauritius by birth, residing in Rodrigues for nearly half a century. I have to point out here that the choice was not based on his Hindu community, but it was based on the quality, heartfelt and devoted actions of a person to serve the people of Rodrigues, as a true patriot. That is a landmark example from Rodrigues and OPR party, despite frivolous communal criticisms by some locally.

(Interruptions)

In 2012, the same principle was applied during the regional election for the choice of Ismael Valimamode of Muslim ethnicity. He is today the Commissioner of the Regional Assembly.

Mr Speaker, Sir, for the OPR party, the beauty of our non-divisive political principle is that community references have never and will never be a point of concern for Rodrigues or for any candidate's choice during any election, as we value the Rodriguan model above all.

Rodrigues society is based on Rodriguan model. There is no such thing as Creole, Muslim, Hindu or Sino-Rodriguan. We are all simply Rodriguans, and we are very proud of this. That is why each and every Rodriguan always values the specificity and identity of Rodrigues within the Republic of Mauritius. There is no gap or biased view between what we believe for Rodrigues and what we are as Rodriguans.

M. le président, je dirai même que Rodrigues donne l'exemple à l'île Maurice. Rodrigues est naturellement Rodrigues, et restera Rodrigues naturellement pour toujours avec une identité.

Mr Speaker, Sir, coming back more specifically to the Bill, the amendment relates to replace the word 'shall' by 'may' in paragraph 3 of the First Schedule of the Constitution. I believe that this bears the same principle to what the United States has also achieved simply through its 14th amendment to the Constitution that solved the problem of ethnicity in one simple sentence while extending citizen rights to all Americans (Black, White, Spanish, Caucasian and Indian), provided that all persons born or naturalised in the United States and subject to the jurisdiction are citizens of the United States and of the States wherein they reside.

Mr Speaker, Sir, this Bill shall be viewed and symbolised as the torch of a new democratic Mauritius till the country achieves a full constitutional and electoral reform, which will be the flame itself. It is fundamental for the future morale of our democracy and the way forward. Many have voiced out about the modern and progressive Mauritius. What are the true ingredients of this destiny, and how do we get there? Part of the answers is in what we are debating today, and more importantly in the ultimate awaiting constitutional and electoral reform.

Mr Speaker, Sir, Mauritius requires transformative vision that must drive our social involvement and political engagement. With this transitional situation, we all have in mind that our society requires a deeper change; changes that strengthen confidence and trust, that lay down strong foundation for a new Mauritian society without any communal connotation. In addition, I call that this can also be achieved through Parliamentary collective responsibility, where each Parliamentarian shall faithfully engage, in the sense of purpose, for a nation-building, knowing well the existence of the communal ills in our society.

Mr Speaker, Sir, there is no and there can be no lasting democracy in a divisive society.

Later on, during voting time, Mr Speaker, Sir, it is not simply a question of voting for or against, it is not a question of supporting or not this milestone decision of our Republic. However, it is a commitment for a new right and step to bury communalism. It is also a sign of encouragement for the new generation, especially the young voters out there, while galvanising them to look confidently and differently at our political system as we are getting rid of institutionalised communalism and including the Best Loser System.

It is a fact that the allocation of additional seats under the Best Loser system remains the main institutional amplifier of communal or religious division, as reported in *l'Express* on 22 October 2007. *Lalit* in 2005 wrote, I quote -

“Schedule I of the Constitution, through a mere appendix, has for 40 years (...).”

That is in 2005.

“(...) contributed to perpetuating communal politics by sanctifying them in the highest elected body in the land, the National Assembly. Whenever the people unite and succeed in going beyond communal ideology, then they find the Best Loser System still there, lying in wait for them, entrenched in the Constitution.”

That's true, Mr Speaker, Sir. And according to Richard C. Lambert, the word 'community' is used in India for the unequal social units. It may be said that communalism is the negative aspect of the community, that is, when the people of a particular community care only for their own narrowly concerned interests through the means of their religious faiths, old customs and conservative practices, disregarding the interest of the whole society, then it may be termed as communalism. I won't make any further comment, but it's good for the thought.

This raises question here for us all, Mr Speaker, Sir. It is imperative that in Mauritius we come to terms once for all with the reality that politics and community can no more be linked to communalism. I am afraid I have to say it; at times, it's shameful for a country like ours, striving as a mature nation.

Mr Speaker, Sir, during the time of voting later, I reiterate it will be decisive for a new parliamentary collective responsibility while, at the same time, answering the question of what we are securing completely for our country, the Republic of Mauritius.

Mr Speaker, Sir, I do hope that this Bill creates also a sense of new mindful society that will harness our democracy, the relations between our sisters and brothers of this Republic through the righteous politics operations. We must also not forget that people out there know exactly what they want and where they are going, and we shall not fail in responding correctly in this regard. *A Rodrigues, on dit que respecter le Rodriguais c'est d'abord lui dire la vérité.*

Mr Speaker, Sir, in 2010 general elections, it was quite a big surprise to witness for the first time in Rodrigues the invalidity, on nomination day, of Rodriguan candidates who refused strongly to declare their community and, according to law, their nomination was declared invalid by the Returning Officer.

Having said so, Mr Speaker, Sir, in the light of this transitional Constitution (Amendment) Bill, we have just witnessed the fiery reactions from both sides of the House, and I have to say this to the House: it is time to dissociate community and politics, it is time to refrain from using words such as majority, minority groups in our Republic, despite our diversity. Again, following the example of the Rodriguan model, it's time that no citizen uses any ethnic declaration on any official paper, it is time to say no to communal representation. It's time for us all, as responsible Parliamentarians, to set the right path for a new political shift as a nation, together as brothers and sisters of this Republic. This should not be in mere words, but in actions, concrete actions. It's time to think beyond the craving political jigsaw of behaviour, but to think in terms of a new collective Mauritius. This, Mr Speaker, Sir, I believe can surely begin to materialise through this Bill and what will follow afterwards through major reform, and the sooner the better.

Mr Speaker, Sir, this is the ideal opportunity for us to stride into the future and not stepping forward with eyes closed for the truths of the past and present as regards the power to discriminate against any citizens. I will not recall the many references and court cases related to the declaration of community during past nominations, and what have been the many consequences and electoral results while abiding or not to the paragraph 3 of the First Schedule of the Constitution since 46 years.

Mr Speaker, Sir, however, in this Bill, there are matters which are subject to questioning, that have raised controversy during the debate, that I also would like to be further enlightened;

whether the various scenarios have been fully worked out and hypothetically tested in relation to paragraph 4 (2) (b) of the Bill, which states with regard to the average number of returned members belonging to each community at all general elections since 1976. The hon. Attorney General has justified the mechanism, which might look simple and straightforward. But will it work perfectly without any unfairness? I question, and it will not surprise us, as was the case for the last regional election in Rodrigues as a result of an overdose, legal proportional representation. We have seen.

Mr Speaker, Sir, while concluding, the key provisions of the Bill will make next election more exciting, as declaration of community will not be compulsory for nomination. Thus, it allows for more people to get access and engage in our political processes. With consensus among us all here as responsible Parliamentarians in order to get rid of a problem of communalism in Mauritius, there is need to prove our maturity for collective effort and collective responsibility. This is my call and my dream. My dream, this dream must be a clear signal for a new model of Mauritius and as a legacy to the next generation, especially young voters.

Mr Speaker, Sir, a fundamental reflection for our future is that - this Bill is very important - a constitutional reform must precede electoral reform. There is need to ponder about this. In the meantime, the spirit of this Bill should bind us all with the right consensus towards the coming electoral reform. It is my big call towards the coming electoral reform; it is my big call again of what next in building a true united Mauritian nation model, as is the case for rodriguanism in Rodrigues, without any sort of communalism.

Mr Speaker, Sir, to conclude, I do obviously support this Constitution (Declaration of Community) (Temporary Provisions) Bill, and commend the hon. Prime Minister for his commitment pending the subsuming of the Best Loser system in a different method of allocating additional seats.

Mr Speaker, Sir, I am done, and I thank you for your attention.

(Interruptions)

Mr Speaker: Yes, hon. Henry!

(3.58 p.m.)

Mr T. Henry (Third Member for Mahebourg & Plaine Magnien): M. le président, c'est avec une grande fierté que je prends la parole aujourd'hui dans le cadre des débats sur ce *Bill*. C'est une excellente chose pour notre pays, car nous parlons tous de la même chose, c'est-à-dire, le mauricianisme. C'est le vœu de tous les Mauriciens, y compris celui du PMSD, qui d'ailleurs s'évertue à être la voix des sans voix. Toute personne sensée est favorable à donner le choix au candidat de décliner ou de ne pas décliner sa communauté. Néanmoins, cet amendement à la Constitution a un effet collatéral sur le fonctionnement du *BLS*, le *Best Loser System*, qui est lui toujours en vigueur jusqu'à preuve du contraire. Donc, avant de modifier la Constitution, il est primordial que l'avis du peuple soit demandé à travers un referendum, comme mentionné dans le programme gouvernemental 2012-2015.

Nous avons vu le chamboulement qui a eu lieu autour des orateurs, de façon à ce que l'*Attorney General* puisse venir donner des explications sur ce *Bill* qui impacte directement sur l'avenir des Mauriciens, qui sème la confusion dans toute la population. Ce qui confirme les craintes exprimées par l'honorable Xavier-Luc Duval et l'honorable Pravind Jugnauth dans leur discours, car nous déplorons la façon dont l'amendement a été préparé et présenté devant cette auguste Chambre, en catimini, dans le dos de la population, avec une dose de *koze kozé* pour brouiller les pistes.

M. le président, ils ont mis trois mois pour le préparer. Nous n'avons eu qu'une semaine pour nous pencher dessus. Pire, M. le président, l'île Maurice entière est confuse, surtout les jeunes qui se sentent mis à l'écart, exclus du débat ! Il suffit d'aller sur les réseaux sociaux, écouter les radios privées, pour le constater, M. le président. Nous sommes convaincus qu'il n'est pas nécessaire de décliner son appartenance ethnique lorsqu'on se présente à une élection, mais tout amendement à la Constitution doit faire l'objet d'une consultation de la population, surtout quand il y a des effets secondaires. C'est dans cette logique que nous proposons à notre tour un amendement à ce projet, afin de préserver la démocratie. Bien sûr, nous ne proposons pas juste un referendum sur le *Best Loser System*, mais aussi sur le financement des partis politiques, ainsi que la loi anti-transfuge. Il y en a qui se reconnaîtront dans cette Chambre. Et cela permettra à chaque Mauricien de s'exprimer librement sur cette question fondamentale et cruciale pour l'avenir de notre pays, et pour le bien-être des générations futures. Les jeunes, M.

le président, veulent s'engager, participer à l'édification d'une île Maurice nouvelle, mais ils refusent que l'on prenne des décisions à leur place, dans leur dos, comme on veut nous l'imposer actuellement.

M. le président, nous voulons tous d'une île Maurice où il fait bon vivre, où la démocratie prime. Les temps ont changé. Ce qui s'est passé en 1982 est du passé, et ce qui se passe en 2014 est complètement différent. La donne a changé. L'honorable *Leader* de l'opposition a changé ; lui-même il a changé. Nous ne comprenons pas le tête-à-queue de l'honorable *Leader* de l'opposition ; nous ne comprenons pas plus ce croc-en-jambe à l'opposition.

Mr Speaker: Sorry, what did you say?

Mr Henry: Croc-en-jambe! Mais, M. le président, en évoquant 1982...

(Interruptions)

...il oublie de dire le mépris avec lequel on a traité feu Sir Gaëtan Duval, *Leader* de l'Opposition d'alors, et surtout les manifestants d'alors qui avaient pour mission d'empêcher Sir Gaëtan Duval d'accéder au Parlement. Il a dû aller en cour et se battre pour récupérer la place qui lui était due.

(Interruptions)

Ça ou qui pé dire ! Cet épisode, nous ne voulons pas qu'il se reproduise ! Tout comme nous ne voulons pas des fausses promesses qui ont été faites à l'époque, c'est-à-dire, nationalisation des hôtels, impôt généralisé sur la fortune...

(Interruptions)

les *capital gains*...

(Interruptions)

nationalisation de 20,000 arpents.

(Interruptions)

Mr Speaker: Hon. Member...

(Interruptions)

Cool down! Cool down, and try to be relevant!

Mr Henry: M. le président, je veux seulement répondre à ce que l'honorable *Leader* de l'opposition a parlé dans son discours ; ce qui s'est passé en 1982. C'est tout! Je répète mot pour mot.

Mr Speaker: I am simply asking you to cool down!

(Interruptions)

Mr Henry: Donc, on en a assez des fausses promesses dites alors. Donc, les 20,000 arpents, planification de l'économie à la soviétique ? Non !

(Interruptions)

Tout cela c'est du passé, M. le président. Nous demandons à rendre à la population son droit fondamental...

(Interruptions)

...à s'exprimer sur les changements à la Constitution.

(Interruptions)

Mr Speaker: Silence!

Mr Henry: Et surtout, M. le président, nous au PMSD, nous disons et nous allons toujours le dire : non à la pensée unique !

Merci, M. le président.

(Interruptions)

Mr Speaker: Silence!

(4.05 p.m.)

The Minister of Fisheries (Mr J. Von-Mally): Mr Speaker, Sir, I believe the hon. Prime Minister has been right to come to this House with this Bill. In fact, the hon. Prime Minister, the Government, we have no choice, Mr Speaker, Sir, because *Rezistans ek Alternativ* has used a loophole in our electoral system, in our Constitution. They have been to court. They have been to the United Nations Human Rights Commission, which has given its ruling; the Privy Council has given its ruling. So, we have no choice than to give the choice to those standing as candidates who do not want to declare their community, either to declare it or not to do it. Therefore, it is a question of we have no choice.

Mr Speaker, Sir, when I listened to the hon. Prime Minister presenting the Bill, it is as if, among many evils, he had to choose the lesser of all these. There is no perfect system. Everyone is trying to propose something to say that one's system is more perfect, but I don't think anybody in this House can say that he is 100% right. All that we can do is to try to mitigate the effect of the existing system. Some have called the amendment 'a giant step in the right direction'. I believe we can say that it is a good step in the direction to have the least problem. This is what we are doing today. This is the first step. We are forced to do it. We like our country. We don't want to have the problem that we had during the last election. At least, now, we can give the choice to people who want to declare their community to do so. Those who do not want to declare their community, they can also do so.

Mr Speaker, Sir, the Committee that has drafted this amendment said that if some members do not declare their community, there may be problem if they are returned. There may be problem to choose the returned members while choosing the Best Losers. They have said that we are going to use the average of the last nine elections, from 1976 to now. There may be some problems. May I suggest, Mr Speaker, Sir, if there are candidates who do not declare their community, if they have ever participated in previous elections, maybe we can use their declaration from previous elections. This can be used as a last resort. Some of them who have sat for elections before; maybe, we can use that as a last resort to calculate and choose the best losers. This is just an idea.

(Interruptions)

We are here among friends. We are all trying to give ideas. We are debating. I think when we are debating here it is the right place to do it.

M. le président, on a parlé de premier pas dans la bonne direction. On a parlé d'éliminer le monstre du communalisme, le racisme, etc. On a aussi dit que c'est un premier pas dans la bonne direction. Maintenant, on va aller vers la réforme électorale pour consolider le mauricianisme. C'est une idée très noble, M. le président, quand on sait qu'à Maurice il y a différentes sociétés, différentes cultures.

Moi, je viens de Rodrigues comme l'honorable Léopold, l'honorable François. M. le président, à Rodrigues nous avons une culture différente de Maurice. Ces cultures différentes qu'il y a à Maurice, ces différentes communautés, au lieu de les regarder comme des problèmes, moi, je pense que - comme quelqu'un l'a si bien dit - c'est comme des fleurs dans un beau jardin. Maurice c'est un beau jardin, et ses différentes cultures sont des fleurs. A Rodrigues, nous avons une belle culture ; c'est une très belle fleur dans ce jardin qui est la République de Maurice. Je peux dire qu'à Rodrigues nous avons une grande société, une grande culture dans une petite île.

Si vous me permettez, M. le président, j'aimerais vous parler de ce que j'ai remarqué en venant à Maurice pour la première fois. Regarder la société mauricienne du point de vue Rodriguais, parce que nous sommes fiers de dire : « nous sommes politiquement Mauriciens, mais culturellement Rodriguais. » Du point de vue Rodriguais, je peux vous dire qu'en venant à Maurice à 11 ans, quitter la famille, prendre le bateau pour venir à Maurice, aller au Collège Royal de Port Louis ; j'étais le seul Rodriguais de la classe. Mon ami, l'honorable Ashit Ganga, était au collège avec moi, dans la même classe.

A Rodrigues, on a l'habitude - jusqu'à maintenant - quand on regarde un Mauricien, on ne s'ennuie pas pour savoir de quelle communauté il est issu. Pour nous, un Mauricien est un Mauricien, un Seychellois est un Seychellois, un Réunionnais est un Réunionnais. Il a fallu que je vienne à Maurice pour faire la différence entre un Tamoul et un Musulman. Je ne connaissais pas les castes, pas plus que les classes. Jusqu'à maintenant, je m'y perds. Je n'arrive pas à comprendre tout cela. Quand, en fait, M. le président, il n'y a qu'une seule race. C'est la race humaine ! On peut avoir différentes cultures, mais quand on se gratte la peau, ce qui coule en dessous, c'est le sang rouge. Personne n'a le sang vert ou n'importe quelle autre couleur. Nous

ne sommes qu'une seule race. Essayer de consolider la culture mauricienne c'est une très bonne chose.

(Interruptions)

Comme l'a si bien dit le *Leader* de l'Opposition, nous avons un seul cœur. C'est vrai !

(Interruptions)

Mr Speaker: Ce ne sera pas la guerre des emblèmes!

(Interruptions)

Mr Von-Mally: Essayons de consolider la culture mauricienne. Si cet amendement est un premier pas, *so be it*. Je crois que nous tous, ici, dans la Chambre, et tous les Mauriciens, on doit essayer de donner la chance à cet amendement, et pourquoi pas à la réforme, en essayant de faire de sorte que chaque communauté, chaque culture arrive à s'épanouir librement, arrive à se retrouver. C'est cela la République de Maurice ; la République de Maurice au pluriel.

Je me rappelle quand je suis arrivé à Maurice et que j'étais à l'école, on parlait de '*enn sel le pep, enn sel nation*'. C'est vrai ! Il faut consolider cela. *It is the right time*.

(Interruptions)

Oui, on était à l'école, et à l'époque c'était '*enn sel le pep, enn sel nation*'. C'est une occasion pour nous de consolider ce '*enn sel le pep, enn sel nation*'.

(Interruptions)

Li enn sel destin maintenant ? Et nous avons tous un seul destin !

M. le président, ce projet de loi qui est présenté aujourd'hui à l'Assemblée, on dit que c'est un premier pas, mais la consolidation de la nation mauricienne passe par la consolidation des différentes cultures, des différentes communautés.

A Rodrigues, on a parlé de la réforme, de la nécessité d'avoir trois députés pour Rodrigues. J'espère que cela va être pris en considération. On est en train de discuter le fait d'avoir...

(Interruptions)

Une dame ? Pourquoi pas deux ? Deux dames et un homme, ce serait bien aussi. Ce qui est intéressant au Parlement, c'est qu'avec les membres de Rodrigues des deux côtés de la Chambre, cela a donné lieu - comme le *Leader* de l'Opposition l'a dit si souvent - à l'avènement du *Rodriguan Question Time*, et ce ne serait pas bien d'éliminer cela. Moi, je pense que ce serait bien d'avoir des membres de ce côté de la Chambre et de l'autre côté aussi. Je ne parle pas juste pour les honorables Léopold, François et moi, parce que demain quand nous ne serons plus là, pour les futures générations ce serait bien que cela reste ainsi.

(Interruptions)

Mr François: *Mwa mo pou la mwa !*

Mr Von-Mally: Je parle pour les 50 ans à venir. Dans 50 ans, je ne sais pas s'il sera là. Je ne parle pas pour cinq ans. Dans cinq ans, je ne sais pas si l'honorable membre sera là. Je parle pour 50 ans ou plus, pour les générations à venir. *We should not be short-sighted*. On doit avoir une vision beaucoup plus élargie, M. le président. Donc, pour Rodrigues, c'est ce qu'on a proposé. D'après ce que j'ai compris, je crois que cela va aller dans cette direction.

Pour revenir à l'amendement qui est devant nous, M. le président, si le système de *Best Loser* a fait son temps, si les pères de notre Constitution ont trouvé bon d'appliquer le système de *Best Loser*, on ne peut pas dire qu'ils avaient tort, parce que si on voit qu'il faut *do away with that*, je crois que nous, qui vivons à notre époque, ne pouvons pas juger une autre époque. C'est une erreur de penser que le *Best Loser System* n'était pas bien à l'époque où on l'a mis en place. Il ne faut pas oublier aussi que pendant 46 ans cela a été utilisé pour garder la stabilité à Maurice. Cela a joué son rôle. Aujourd'hui, on est obligé d'apporter des amendements, mais c'est bien que tout le monde essaie de donner ses idées, de proposer quelque chose pour qu'on ait un meilleur système, et cela est difficile. On remarque que plus on va de l'avant, plus c'est complexe. Donc, M. le président, pendant qu'on y est, on parle du mauricianisme, on parle de la consolidation du mauricianisme.

Si vous me permettez, M. le président, je dirais allons encore plus loin, parce qu'il y a des réflexions qui restent, il y a une certaine mentalité qui doit changer aussi. Le mauricianisme, c'est bien ! La consolidation de la nation mauricienne, c'est très bien ! Mais, bien souvent on entend parler de la République de l'île Maurice. Pourquoi rapetisser notre pays ? Il faut parler de la République de Maurice, la République archipel de Maurice, le grand État-océan qu'est

Maurice ! Quand on parle de la République de l'île Maurice, on exclut Rodrigues, Agaléga et les autres îles ! Je crois pendant qu'on est en train de parler de la consolidation du mauricianisme, essayons de changer aussi de ce côté-là. Essayons de parler du développement de notre pays en termes du grand État-océan, l'économie bleue, développement de toutes les îles qui forment la République de Maurice.

(Interruptions)

Les Chagos, Agaléga, St. Brandon, Tromelin et toutes ces îles qui forment partie, ces 2,3 millions de kilomètres carrés qui forment le territoire mauricien. Donc, la tâche est énorme, M. le président, il y a beaucoup à faire ; personne ne peut dire qu'il détient cent pour cent la vérité, mais on doit commencer quelque part, et on doit débattre. Mais qu'on débattre d'une façon sérieuse, civilisée, en respectant les uns et les autres.

Pour terminer, je citerai un grand écrivain africain, Kwame Nkrumah. *He has said -*

"We want to move neither East nor West, we want to move forward."

With this amendment, I think we are moving forward, and we are bound to move forward!

Thank you, Mr Speaker, Sir.

Mr Speaker: It is a proper time to suspend the sitting for half an hour!

At 4.21 p.m. the sitting was suspended.

On resuming at 5.11 p.m. with Mr Speaker in the Chair.

Mr N. Bodha (First Member for Vacoas & Floreal): M. le président, c'est toujours un grand honneur et un grand privilège de prendre part aux débats à l'Assemblée nationale dans le cadre d'un amendement de la Constitution.

Je vais commencer par deux remarques: premièrement, une citation de François Mitterrand, et deuxièmement, une remarque du Dr. Rama Sithanen aujourd'hui qui est publiée dans le Defi Media. Au fait, c'est une citation de François Mitterrand que j'ai trouvée dans le dernier ouvrage consacré au *Leader* de l'Opposition, l'honorable Paul Bérenger, qui s'appelle

‘un Cri de cœur’, qui est écrit par Kris Valaydon. Kris Valaydon cite François Mitterrand quand il parle de l’Opposition. Voilà ce qu’il dit –

« Il n’y a pas de l’opposition qu’inconditionnel dès lors qu’il s’agit de substituer un système de gouvernement à un autre. Retoucher, aménager les pouvoirs absolus, c’est déjà composer avec le gouvernement. »

Le MSM, nous, on ne veut composer avec le gouvernement, M. le président.

(Interruptions)

C’était en 2008!

Nous ne voulons pas composer avec le gouvernement justement quand il s’agit de pouvoirs absolus et quand il s’agit d’un gouvernement qui a tenu en otage le pays et l’Assemblée nationale pendant longtemps, alors que le pays traverse une crise économique, politique et sociale. Cela est la position du MSM, et à la fin de mon discours, M. le président, je vais expliquer ce que j’appelle *the sincerity of purpose of the MSM when it came ...*

(Interruptions)

Mr Speaker: No interruption!

Mr Bodha: ... the sincerity of purpose of the MSM when it came to interpreting this Bill. In fact, Mr Speaker, Sir, we requested an official meeting with the Electoral Commission, and the Chairperson of the Electoral Commission wrote back saying that we were going to have a meeting with the Commissioner, and that he will attend to our request and provide us with such information as he detains, which was done. I am going to comment on that information and the mathematical conclusion of that information when we had this working session at the Electoral Commission.

Ma deuxième remarque, M. le président,...

Mr Speaker: I have to interrupt you. You have to bear in mind that whatever you will say here on the Electoral Supervisory Commissioner or any member of the Electoral Supervisory Commission, and not being here, they will not be able to reply.

Mr Bodha: Mr Speaker, Sir, if you allow me ...

Mr Speaker: So, I am just reminding you that I will not allow any adverse comment or allegation against the Electoral Supervisory Commission or any of its members.

Mr Bodha: You can rely on me, Mr Speaker, Sir, to give the exact rendering of the facts which were mentioned in that meeting.

Ma deuxième remarque, M. le président, concerne une déclaration de Rama Sithanen, aujourd'hui, où il demande à tous les candidats de décliner leur appartenance ethnique exceptionnellement à la prochaine élection. So, the guru of the dream team, who has drafted this famous amendment, Mr Speaker, Sir, and this famous clause 4(2) (b), which is today subject to debate, where a candidate has not declared his community and is returned as member, we are going to have to determine the appropriate community, and proceed on the basis of the average number of returned members belonging to each community since 1976.

Mr Speaker, Sir, when the hon. Prime Minister was moving the Bill at the Second Reading, he did not explain the mechanism which was to replace the First Schedule in that particular case; a First Schedule which has been in operation for 46 years, giving excellent results – *c'est un monstre qu'on a maîtrisé*.

Mr Speaker, Sir, it is only today that the hon. Attorney General, while refuting the interpretations of hon. Pravind Jugnauth and hon. Xavier Duval, explained the mechanism which is going to be used and which he is going to explain later how we interpret the mechanism. So, the guru of the dream team, who helped to draft this paragraph, is now saying that we should do everything for this paragraph not to be implemented because he knows, Mr Speaker, Sir, that we will have a lot of problems in implementing that paragraph. That is the reason, Mr Speaker, Sir. The hon. Attorney General said: in exceptional cases where a member is elected but has not declared his community, it is only in those exceptional cases that this will apply. But, it is not in exceptional cases. I am sure, Mr Speaker, Sir, that, at the next general election, you will have more than one, two or three Members of the National Assembly who will be elected and who will not have declared their community. *C'est ce qui va rendre cette clause difficilement applicable*. Mr Speaker, Sir, I will explain later how.

So, when we read Dr. Rama Sithanen, we have to go through the whole page in l'Express in the morning to be able to understand the mathematics of it. When we read Dr. Rama Sithnen, I am asking myself what is the purpose of coming to the National Assembly to remove the obligation of declaration and, at the same time, telling us to declare on the nomination day. *Cela explique exactement la façon donc fonctionne ce gouvernement, M. le président.*

Mr Speaker, Sir, we were expected to displace mountains today. What are we doing? We are standing on a molehill and shouting that we have made History. What History have we made, Mr Speaker, Sir? It is true that it is an extraordinary step that we should be able to go to the election and, when we wish, not declare our community. Mr Speaker, Sir, let us remember the commitments of the hon. Prime Minister ; the commitments of the hon. Prime Minister *pour faire de la réforme la priorité des priorités. Mais, M. le président, est-ce que nous ne devrions pas dire à la nation ? Qu'on vienne avec le projet de loi sur la réforme électorale, carrément ! Qu'on ventile le projet de loi, qu'on fasse les débats, qu'on vote le projet de loi et qu'on aille aux élections, parce que le pays est en train de vivre dans une situation économique, politique et sociale critique, M. le président.*

Why is this Bill coming now? Why now? Is it because on the 10th we have a court case at the Supreme Court, or is it coming now because of a political calendar which could not be implemented with regard to a political alliance, Mr Speaker, Sir? Which imperative is it? Are we making History or are we politicking?

You know, Mr Speaker, Sir, we have an urgency with regard to the United Nations Human Rights Committee. In its ruling in July 2012, Mr Speaker, Sir, what does it say? First of all, that the mandatory obligation of declaring one's community cannot be continued if the figures of the census of 1972 are not updated. That is the first thing. It is a violation of Article 25 (b). The second thing that the ruling says is that there should be an effective remedy on this issue of *Rezistans ek Alternativ*. Is this Bill an effective remedy? Mr Speaker, Sir, I am asking the question: is this Bill an effective remedy when the guru of the dream team has said that this can be done and now he is saying: "no, I am recommending you to decline your community?" So, the whole exercise that we are doing, Mr Speaker, Sir, they don't believe in it. It is politics, it is futile. Is that an effective remedy to the issue? The answer is no, Mr Speaker, Sir. What does the United Nations Human Rights Committee declare? That there should be no further violation

of this right, that is, for the next election, and that action has to be taken within six months from July 2012, Mr Speaker, Sir. Six months, it was 180 days. What has the hon. Prime Minister done? Do you know how long he has taken? He has taken 600 days, that is, 20 months. The hon. Prime Minister who has made of this electoral reform *la priorité des priorités* has taken 600 days to come with this clause, and the one who has drafted the clause today is saying that this clause cannot be implemented. I would not recommend you to put us on slippery ground, better decline ...

(Interruptions)

Mr Speaker: No, you have to be careful. You are quoting Dr. Rama Sithanen, you said earlier that he recommended. Now, you are saying that Dr. Rama Sithanen has said that the clause cannot be implemented.

Mr Bodha: What I am saying Mr Speaker, Sir, is that, on the one hand, we are voting for us to make a huge historical leap to be able to stand as a candidate without declining our community. On the other hand, one of the fathers of the clause is saying: “I am recommending you not to do so.” What is the conclusion, Mr Speaker, Sir?

(Interruptions)

But he is part of the dream team! The hon. Prime Minister, Mr Speaker, Sir, has taken 600 days to come with this Bill. What was being done during the 600 days? Was it politicking? What was done within the 600 days? That is my question. We all know the story, Mr Speaker, Sir, why it took 600 days. We all know how the electoral reform has become, over the months, the corner stone of political manoeuvring, of institutional power sharing, Mr Speaker, Sir, and this has led to an adjournment of the House. We remember this in May. This has led to a *sine die* prorogation of Parliament, because after today we don't know what is going to happen. This is what has happened, Mr Speaker, Sir, with this reform. In fact, this has led to a hold-up of parliamentary democracy and a caricature of our Westminster system, where the Prime Minister is there to govern...

(Interruptions)

Mr Speaker: No interruption! Proceed!

Mr Bodha: A caricature of our Westminster system, where the Prime Minister is there to govern, and the Leader of the Opposition to oppose the Government. And yet, Mr Speaker, Sir, do you know what is happening in this country? This Government has a very slim majority; very slim majority unless you have a new majority.

(Interruptions)

Mr Speaker: Order please!

Mr Bodha: This Government has a slim majority in the House and no majority outside.

(Interruptions)

Mr Speaker: Address the Chair! Order!

Mr Bodha: Mr Speaker, Sir, this Government has a slim majority in a context where there is a major economic, social and political crisis out there, as hon. Dr. A. Boolell, who is yet to become the hon. Vice-Prime Minister, would have said. He is yet to become the hon. Vice-Prime Minister.

(Interruptions)

Mr Speaker, Sir, people out there, and we, ourselves, have been asking why only two parties and only two institutional leaders are the only ones to discuss and prepare the Bill. Why? We have had this Bill for a week, and we have had tremendous insight, Mr Speaker, Sir. We can ask the question: what has been the fate of the 183 proposals? Where are they, after 600 days, Mr Speaker, Sir? As a matter of urgency today, we have a Bill, an amendment where the full-fledged reform is still in the waiting since the round table of 1996 which was referred to by the Attorney General. The debates are on. The country is on hold, but we know, Mr Speaker, Sir, that the genuine feeling of our people is to have change.

Mr Speaker, Sir, let us see what the hon. Prime Minister says in the Second Reading. He did not talk at all about the mechanism, how it is going to be done. He says -

“It’s a Bill of historical significance.”

He says -

“It’s a new dawn in our political history and electoral landscape”.

He even says what is the objective of the Bill, Mr Speaker, Sir -

“(…) to remove even the shadow of communalism from the highest law of our land”.

This Bill is supposed to do so. They are very inspiring words, indeed. They are the tall orders of the fathers of our Constitution, of those who love this country, who want its advancement and its progress based on lofty principles, but we know, Mr Speaker, Sir, when it comes to acts and convictions that is another matter. That’s why it has taken 600 days; because of politicking. It’s words, words and words, Mr Speaker, Sir. We are told, by voting this Bill, it will be the beginning of the end of communalism. This is what the hon. Prime Minister said. It’s the beginning of institutional communalism, Mr Speaker, Sir. But, we all know, Mr Speaker, Sir, how our political system operates, how it has been perversely manipulated for the sole benefit of winning elections and the exercise of power. We all know this, and, Mr Speaker, Sir, we have in our Constitution four appropriate communities. But may I ask a question: how many appropriate communities are there when it comes to choosing candidates and Ministers? We all know this. Are we going to wipe all this with the back of our hand just by voting a Bill? Mr Speaker, Sir, how many appropriate communities are there when it comes to choosing candidates and Ministers?

Mr Speaker, Sir, have we not seen for many that the Prime Minister must come from one specific appropriate class? Have not we heard of power belonging to one appropriate electorate, that it should not be given away? Have not we heard ‘*na pa laisse pouvoir sappe dans ou la main*’? Mr Speaker, Sir, but what was not said in 2003? What was not said in 2003? Now, we are talking about the appropriate community. What was said in 2003 was that the Prime Minister should come from one appropriate electorate; and 2005, Mr Speaker, Sir. So, it is very nice to have lofty words, but when it comes to politicking, I say that our system has been perversely manipulated to win elections and to give power, Mr Speaker, Sir. What was not said in 2003; that the Prime Minister should come from an appropriate electorate, ‘*na pa laisse pouvoir sappe dans ou la main*’! What have not we heard - the MSM - Mr Speaker, Sir!

(Interruptions)

What did not we bear!

(Interruptions)

Mr Speaker: Order, please! Order!

Mr Bodha: Mr Speaker, Sir,...

(Interruptions)

Mr Speaker: Order now!

(Interruptions)

Hon. Member! Order! Yes, you may proceed, but speak on the Bill.

(Interruptions)

Mr Bodha: Mr Speaker, Sir, I will say it...

(Interruptions)

Mr Speaker: I have said no interruption! I am not going to repeat again!

Mr Bodha: Mr Speaker, Sir, I will say it loud and clear in this House. The only remedy to communalism is meritocracy. The only remedy to communalism in a country like Mauritius is meritocracy...

(Interruptions)

And if you are willing to play that game...

(Interruptions)

If you are willing to play that game, then we can make a better Mauritius.

(Interruptions)

Mr Speaker: Okay, I have said no more interruption! Proceed!

Mr Bodha: Mr Speaker, Sir, the Bill will bring one fundamental change - I will come to that - and we said, all of us, that it is one step forward; and the first step, as pointed out, came in 1982 when the census on communal basis was abolished. This was referred to by the Prime Minister, by the Leader of the Opposition, by the Attorney General, Mr Speaker, Sir. But, in 1982, the Prime Minister then was Sir Anerood Jugnauth and the Bill - this is History - was introduced in the House by the Acting Prime Minister Harish Boodhoo.

Mr Speaker, Sir, together with the Bill, there was a letter from the Electoral Commission which was annexed to the Bill, and I am going to read two excerpts of that letter. The first one was -

“The Commission is of the unanimous opinion that it would help considerably to eliminate communalism in not requiring a person in the next general population census to be carried out next year to state the community to which he belongs and the Commission gives its full support to that suggestion.”

The letter was annexed to the Bill of 1982, and there was also another excerpt of the letter - it is in the Hansard. The Commission says -

“It would seem more appropriate in the circumstances either to allocate the additional eight seats on a party basis or to do away with the allocation of additional seats altogether, that is, the BLS”.

And the Commission then proposed: “why don’t these additional seats be allocated on a party basis?” This is exactly what the hon. Leader of the Opposition has said, and he said that he is very proud that he came with this idea - which is here -, that we can keep the list on alphabetical order and the parties will be allocated a number of seats, and the leaders of the parties will choose. We go along with this, and I am asking the Attorney General: why was this not proposed as a solution? Why don’t they do it here?

(Interruptions)

This time you said the same. You took 600 days to come to this.

(Interruptions)

Mr Speaker: Address the Chair!

Mr Bodha: Now, let me come to the Bill, Mr Speaker, Sir. In the Explanatory Memorandum, we have read the intention of Government to subsume the BLS in a different method of allocating additional seats. There was an amendment which was proposed by hon. Duval, and I think that the amendment has been worked in the proper procedural form so that it can be debated at Committee Stage. This sentence indicates what, Mr Speaker, Sir? It indicates a political roadmap, and it says that the first step is the transitional amendment; the second step is the subsuming. Now, Government is saying that it is a subsuming. The hon. Prime Minister has not said much about this except that the draft Bill is almost ready and will be ventilated soon. However, he never said when the Bill is going to be ventilated, when there are going to be debates in the country, and he mentioned that this electoral reform will not be applied to the next general election. It will be applied in the next mandate, Mr Speaker, Sir. But, the hon. Leader of the Opposition, whom I am sure is well informed, gave some abundant details of the draft Bill on electoral reform. The more so, on the mechanism to replace the Best Loser System, that is, to allocate additional seats in order that there is an adequate representation of all communities in our Parliament. He referred to a party list. This was already mentioned in 1982 where leaders, who, in fact, choose candidates, choose Ministers and other constitutional posts, they would be requested to nominate the additional seats, and that is why I put again my question that could have been an effective remedy to the ruling of the United Nations.

First, you don't declare your community. Second, there is a list on alphabetical order and the leaders of the parties who have been allocated those seats, in their wisdom or cynicism, would decide who will represent the party, Mr Speaker, Sir. But, I think that the wisdom will prevail, because it is a matter of representation in our National Assembly, Mr Speaker, Sir.

Let me go further. In our Constitution, in fact, the First Schedule provides for such a situation in paragraph 6, sub section 7, where a party has no available candidate, the leader of that party can designate another candidate of the appropriate community from another party.

So, the Constitution already provides for the solution which was advocated by the hon. Leader of the Opposition. What I am asking is: why is it that hon. Ganoo, the hon. Attorney

General did not refer to this as an effective remedy? Because it would have been an effective remedy, Mr Speaker, Sir. We would have agreed with that.

Mr Speaker, Sir, *ce qui me dérange aussi dans ce projet de loi c'est le spectre du recensement de 1972 qui plane sur ce projet de loi, because ce sont les chiffres de ce recensement qui seront utilisés finalement pour les prochaines élections générales.* M. le président, we know that the hon. Prime Minister did not say much about the mechanism that is going to be used, and it was only after a heated debate we started interpreting the mechanism in our own way. We referred to discussions we had at the Commission and the calculations of hon. Xavier Duval. It was only then, and today the hon. Attorney General has refuted and has explained how the system is going to work, Mr Speaker, Sir.

I would like here, Mr Speaker, Sir, to highlight the sincerity of purpose of the MSM and hon. Pravind Jugnauth in the interpretation of a mechanism which was not explained in the Bill, and which is a major flaw. In fact, it is in the papers that we learnt this morning how this is going to work. In fact, the speech of the hon. Attorney General resembled - there was a lot of cut and paste from that article in *'l'Express'*.

(Interruptions)

Mr Speaker: May I know how many minutes more you will take? I have to break. We will resume at ten past six. Will it be alright? After you, two other Members who are fasting will take the floor. Thank you very much. We will resume at ten past six.

At 5.42 p.m. the sitting was suspended.

On resuming at 6.14 p.m. with Mr Speaker in the Chair.

Mr Bodha: Mr Speaker, Sir, I said that we, in fact, wanted to be enlightened by the Commission, and I think it is my duty to explain this sense of purpose of what we did.

I had written to the Chairperson of the Electoral Supervisory Commission and he replied to me that we can have a working session. In fact, we had two with his officers, and some documents were handed to us. Now I will go on the mathematics of it, Mr Speaker, Sir. The new reference as regards to the average of elected Members per community at all general elections since 1976. This mathematics has been done and, Mr Speaker, Sir, this is going to be the new

reference, because the ruling of the United Nations Human Rights Committee was that we should not use the 1972 census. So, it has been done and there are, I would say, community A, community B, community C and community D, and the average is: 37, 8, 1 and 16. So, that is the base which is going to be used. In fact, hon. Duval did the calculation on his own, Mr Speaker, Sir.

Now the question is: how do we relate this average with the actual results of the next election? In fact, the Bill does not provide for this. The actual results of the new general election of 2014 or 2015 will not be used. They will not be used!

The mathematics which is going to be used is, in fact, a theoretical average. What have we done with this? We have taken the census and the figures of 1972 and we have divided them by the average. It is a mathematical calculation, Mr Speaker, Sir. So, the question was: how does this average being used for the additional seats? The answer was - we have been given the reply - that the figures for each community in 1972 will be divided by this average for each community, and this gives an average of voters represented by each MP in each of the four communities: A, B, C and D. I asked a further question about the results of the next general election. It is clear that the results of the next general election will not be used at all, Mr Speaker, Sir.

Furthermore, when we divide this - and I asked about the allocation of the additional seats - it came to the inevitable mathematical conclusion that two communities would not be entitled to any additional seat. It is a mathematical conclusion that two communities would not be entitled to any additional seat. This is the truth. This is what we want to highlight, Mr Speaker, Sir: first, that the results of the next general election will not be used, and second, that the mathematical conclusion is that not all the four appropriate communities of the Constitution will benefit from the new system.

The whole exercise is wrong, be it for section 4(2) (b) and section 4(2) (c), because in each case we are using the figures of 1972, and it is not an effective remedy to what has been requested by the United Nations. The United Nations Human Rights Committee has also asked that there should be no further violation of that right. The question is: isn't this a further violation of the rights? So, when it comes to section 4(2) (b) -

“Where a candidate has not declared his community and is returned as member, the Electoral Supervisory Commission shall, for the sole purposes of determining the

appropriate community and allocating additional seats proceed on the basis of the average number of returned members belonging to each community at all general elections held since 1976.”

This is okay. This figure can be used, because it is an average of results. But, when you use this as a denominator and the figures of 1972 as a numerator, then mathematically it does not answer; then, the mathematical conclusion is that of the communities A, B, C and D, there are two communities which will not be able to benefit from this new system.

This is what we have tried to highlight, Mr Speaker, Sir. But, now when it comes to section 4(2) (c) which says -

“Where all candidates who are returned as members have declared their community, the allocation of additional seats shall be effected under paragraph 5 of the First Schedule to the Constitution.”

But this is the paragraph which the Human Rights Committee has said that we should not do! We are coming back to square one, where everybody is going to declare his community, and we are going to use the same system! So, this is in violation!

(Interruptions)

We are coming back again to square one. The only big difference is that the candidates can decide...

(Interruptions)

Yes, the fundamental difference. Yes! I will come to the nomination day. But what Dr. Sithanen is saying is that we should, in fact, *dans un geste pour expliquer et faciliter – il parle de pacte social - la chose, il recommande qu'on déclare sa communauté...*

(Interruptions)

But, Mr Speaker, Sir, either we are Mauritian, either we want to move towards *mauricianisme, ou on veut rester au statu quo!* Either we want to make this inevitable, this historical leap into a better Mauritius, or we stick to this!

Now, Mr Speaker, Sir...

(Interruptions)

Exactement !

Mr Speaker, Sir, I have also gone through the mathematics of it. In fact, if we apply the First Schedule to the results of the general election of 2000, we have one result where three appropriate communities benefit from the system, and we have another result if we apply the new formula with the same figures, Mr Speaker, Sir. The hon. Attorney General has said that the system is not ideal; Dr. Rama Sithanen has said that the formula is not ideal, and now he is recommending that we should declare.

Now, Mr Speaker, Sir, what is going to happen on nomination day? Let us say we are going to vote the Bill, there is a majority, we amend the Constitution. But what is going to happen at nomination day either in 2014 or 2015? Nothing! Nothing! Because on some sides of the House, it has been said that we are going to declare the community to which we belong. On this side of the House, hon. Pravind Jugnauth has said that we are not going to have a party line. He has said that he is not going to declare. I have also officially said that I am not going to declare, and my other colleagues will decide whether they are going to declare or not. But what is going to happen on nomination day? What have we moved? *C'est pour ça que je dis...*

(Interruptions)

Yes?

(Interruptions)

That is why I am saying, Mr Speaker, Sir, that...

(Interruptions)

...we are supposed to *faire bouger les montagnes...*

(Interruptions)

...and that is why I said that we are standing on a molehill, and we are declaring that we have made History, Mr Speaker, Sir.

Now, we know the MSM will vote for one reason, Mr Speaker, Sir. It is unacceptable for a Mauritian not to be able to declare himself as a candidate...

(Interruptions)

Yes!

(Interruptions)

Yes! We go with this!

(Interruptions)

Yes! We go with this!

(Interruptions)

Now...

(Interruptions)

Yes, we go with this! And we...

(Interruptions)

We go with this...

(Interruptions)

We go with this, Mr Speaker, Sir,...

(Interruptions)

But the question is: when we have cleared the hurdle of a candidate having the obligation...

(Interruptions)

... to declare his belonging to one of the appropriate communities, but when he does declare so, can we deny him the right to an additional seat as best loser on an issue of mathematical probability? This is what is being done, Mr Speaker, Sir!

Mr Speaker, Sir, what we would like to say on this side of the House is that for section 4(2) (b), we would request the Prime Minister to request the dream team and the SLO to amend this section, so that we do not have the problem that we have mentioned, Mr Speaker, Sir. I for one - and I think on this side of the House - would go for the proposal of the hon. Leader of the Opposition that we have a list in alphabetical order, and the Commission will decide on the number of seats allocated to each party, and the leaders of the parties, in their wisdom, would decide who is going to represent the House. I think, bearing in mind that we are a rainbow nation, that there should be an adequate representation for each community, Mr Speaker, Sir.

Mr Speaker, Sir, if we do this, then we would have stepped in the footsteps of our constitutional fathers. Only then! Today, we are just lagging behind, Mr Speaker, Sir, and it is high time that we do this. We have the reform and we have election, because the country wants change and a better future.

I have done, Mr Speaker, Sir.

Mr Speaker: Yes, hon. Uteem!

(6.26 p.m.)

Mr R. Uteem (Second Member for Port Louis South & Port Louis Central): Mr Speaker, Sir, on 14 December 1982, Members of this august Assembly unanimously voted an amendment to the Constitution which would no longer require any citizen of this country to declare his community in any population census. That amendment, in those days, was hailed as a big step towards nation building. Intervening on the Bill, the then Minister of Finance and now Leader of the Opposition, hon. Paul Bérenger, stated the following -

*“This Bill is but one aspect of the *mouvement d’ensemble pour faire reculer le communalisme, et nous l’avons dit, nous l’avons toujours dit, ce mouvement d’ensemble doit se faire à une vitesse que je décrirai comme étant naturelle.*”*

So, this pace of change should come naturally. But little did he know that it would take us more than 30 years before a Bill comes before this House to take the next natural step in this *mouvement d'ensemble pour faire reculer le communalisme à Maurice*.

Mr Speaker, Sir, this Bill is nothing less than a landmark. Anyone who knows the history of the MMM party, anyone who knows our struggle against communalism, our contribution towards nation building, anyone who knows our ideal for one people one nation, "*ene sel lepep, ene sel nation*", knows that the MMM could not but congratulate the bringing of this Bill, so that henceforth no Mauritian citizen will have to declare his community in order to stand as candidate for election.

History will have it that when it came to enhancing democracy, when it came to enhancing nation building, the MMM and the Labour Party put aside their differences and worked together to find a common amendment. And there is nothing sinister about this. Nothing sinister, as some hon. Members of this Assembly are trying to make people and the population believe! It is inevitable, because without the MMM, there is no three-quarter majority possible. So, without the contribution of the MMM party, the Government cannot expect any amendment to the Constitution to be passed. So, what more logical then than to ask hon. Alan Ganoo to be part of the Committee, so that it could benefit, through hon. Ganoo, from the input of the MMM? Nothing sinister, Mr Speaker, Sir!

But what is important, and I agree with the hon. Prime Minister, is that this amendment may be a short one, but it is not a mini-amendment. We should not underplay the importance of this amendment. It is a landmark. It is going to enhance our political fundamental right in not one way, but in two ways.

First of all, henceforth, any citizen will be able to stand as candidate for election without having to declare his community. But, secondly and equally important, any Mauritian would, henceforth, be able to vote for a candidate who has chosen not to declare his community; so, a double advancement in nation building, and a double advancement in democracy.

Mr Speaker, Sir, as the law in the First Schedule of the Constitution currently stands, any person who wants to stand as candidate in a general election has to declare his community. If he does not do so, the consequence of the National Assembly Elections Regulation is that the

Returning Officer has no alternative than to reject his nomination paper. This has resulted in some very awkward situations. Before *Rezistans ek Alternativ*, you had parties such as *Lalit* and *Nouveau Lizour* who were against the Best Loser System, who combated the element of communalism in the First Schedule, and who caused their candidates to draw lots to determine what community to record in the nomination paper, making a complete mockery of the First Schedule! Not before long they were taken to task before the Supreme Court in the case of *Carrimkhan v Lew Chin & ors*, which was referred to extensively by the hon. Prime Minister in his speech. I am not going to repeat what he said but suffices to quote again what Justice Seetulsingh said in this case –

“It is very difficult for a judge to determine the correctness of a candidate’s declaration relating to his community by looking at his way of life, the more so that some 33 years after the Constitution was drafted one cannot escape the fact that a common way of Mauritian life has gradually and steadily developed in Mauritius, which cuts across communal barriers”.

So, he compared the duty of the Judge to determine someone’s way of life as akin to that of Big Brother in Orwell’s novel “1984”, a kind of super Detective Colombo who has to go and inquire. Really, it is a very difficult task to determine one’s community if he chooses not to declare his community. Let us take the example – and I not having anything personal about it – of hon. Michael Sik Yuen who was returned as a best loser to this House. He looks Sino-Mauritian. His name sounds Sino-Mauritian. He is invited in all festivals organised by Sino-Mauritians. Yet he chose to put his community as General Population. Now, how is a Judge expected to rule, if the person, himself, feels that he is a member of the General Population? It is his right.

So, Mr Seetulsingh came to a compromise. He stated that if a candidate chooses not to put himself in any of the first three categories, that is, Hindu community, Muslim community or Sino-Mauritian community, automatically he would be classified as General Population.

Five years later, another political party, *Rezistans ek Alternativ*, followed the footsteps of *Lalit*, but this time they refused to draw lots; they refused to even put down their community. Naturally, the Returning Officer had to reject their nomination paper. So, they went to the Judge,

and they argued that it was their constitutional right as a citizen to stand as candidate irrespective of whether they declared their community or not. Fair enough, the Constitution provided that they had to declare their community, but if they fail to do so, the sanction imposed by the Regulation, which is to disqualify them as candidates, was too drastic and unjustified under the Constitution. That argument appealed to Mr Justice Balancy, who stated and I quote –

“The sanctity of nullity of nomination for non-declaration of community is tantamount to an unjustified curtaining of the citizen constitutional right to stand as candidate for election as a Member of Parliament.”

And Mr Justice Balancy ordered the Returning Officer to allow these candidates to stand as candidates even if they do not declare their community.

Now, that put the Electoral Supervisory Commission in a very difficult situation, because if one of them were elected, how are we going to apply the Best Loser System in the First Schedule? So, the Electoral Supervisory Commission then went to Court to ask for guidance as to how the First Schedule is going to operate in these circumstances. The full bench of the Supreme Court overruled Mr Justice Balancy. They overruled him on the ground of separation of powers. It is in the Constitution that you have to declare your community. It is for Parliament to change it, not for the Court. However critical they might have been of the Best Loser System, it was not for them, the Judiciary, to interfere. They adopted a very interesting dictum which is paraphrasing a very common one, which is, and I quote –

“Where Parliament fears to tread, it is not for the Court to rush in.”

It very humbly, succinctly summarises the role of Parliament, the legislator, and the Judiciary.

But *Rezistans ek Alternativ* did not give up. At the next general election in 2010, again they asked their candidates not to declare their community. Again, the Returning Officer, on the basis of the full bench decision, rejected their nomination papers, and did not allow them to stand as candidates. Again, the members of *Rezistans ek Alternativ* went before the Court. This time they argued slightly differently. They stated that during the interval between the judgment of the full bench of the Supreme Court in 2006 and 2010, both the Supreme Court and the Privy Council, in the case of *Police v Khoyratty*, had had an opportunity to review the meaning of

section 1 of the Constitution, namely that Mauritius shall be a sovereign democratic State known as Mauritius. So, they argued that, in the light of this new interpretation given by the Privy Council in the case of *Khoyratty*, the requirement to declare one's community is anti-constitutional. Mrs Justice Rehana Gulbul had this to state –

“The inescapable conclusion is that the right to candidature in our democratic State, which is a right under the First Section of our Constitution and the importance of which has been highlighted by the Privy Council, should have precedence over the right to the allocation of the Best Loser seats, which is a protection afforded to minorities in the First Schedule. A right which seemingly has been enacted as an afterthought to secure fair and adequate representation of minorities in the Legislative Assembly cannot take precedence over the deeply entrenched provision of section 1, which, perforce, include the right to stand as a candidate and which right is fundamental in a democratic state.”

Very, very well put by Mrs Justice Rehana Gulbul. The right to stand as candidate is a fundamental right which overrides the right to appoint the Best Loser System. But, unfortunately, Mrs Gulbul felt bound by the precedent of the full bench to follow the decision of the Supreme Court and, therefore, she was bound - despite not agreeing with it - to follow it, and rejected the candidacy of the members of *Rezistans ek Alternativ*.

Rezistans ek Alternativ went further. They still did not give up. In fact, they felt encouraged by this determination by Mrs Justice Gulbul. They went all the way to the United Nation Human Rights Committee.

I am not going to dwell extensively in that case which has been very well covered by the hon. Prime Minister. Suffices to say that the Committee held that “the continued maintenance of the requirement of mandatory classification of a candidate for general election without the corresponding updated figures of the community affiliation of the population in general would appear to be arbitrary and violates Article 25 (2) of the International Covenant on Civil and Political Rights.”

As the hon. Leader of the Opposition rightly pointed out, faced with this determination, we had only two choices left. Either we allow the citizen to stand as candidate without stating

his community, hence this amendment, or we had to do another population census, update the population census of 1972, which would be a huge backward step from what this august Assembly unanimously, in December 1982, took when they decided that we would no longer require people to declare their community in population census.

This is the genesis. It came through logically. Not in so many days, as hon. Bodha has just mentioned. It is a longstanding struggle. It has started with the MMM, it has gone on with *Lalit*, with *Rezistans ek Alternativ*, and today we have the consensus necessary in this House to bring this landmark amendment to our Constitution.

Mr Speaker, Sir, today, we are resolving politically the decision. We are not hiding behind the courts anymore. It is a decision which Parliament had to take, and we are shouldering our responsibility today.

Mr Speaker, Sir, the declaration of community is intricately linked to the Best Loser System. This Bill is not abolishing the Best Loser System. The Best Loser System will apply in the next general election, all be it, with some modifications if ever there is a candidate who is returned as elected Member, who has not declared his community. But, otherwise, for the next general election, we will still have the same Best Loser System.

The Explanatory Memorandum to this Bill provides that the Best Loser System will be subsumed in a different method of allocating additional seats. The Best Loser System, if and when it is proposed to be subsumed, will be the subject of another Bill, and no doubt it will be fully debated before this House before any vote is taken. The hon. Prime Minister has mentioned that the Best Loser System is already on borrowed time, and he could not have been more right, Mr Speaker, Sir. The Law Lords of the Privy Council have already expressed their views that there may be strong grounds, and I quote them -

“There may be strong grounds for advancing that the Best Loser System is wrong in principle and should be abolished”.

The Law Lords suggested, and I quote –

“It is perhaps obvious that it would be much better for those issues to be decided as a result of political debate, and if necessary, constitutional reforms, than through courts”.

Again, same line of thought as Mr Justice Seetulsingh: It is for politicians to decide, it is for Parliament to resolve this, not the Court. But then, the Law Lords of the Privy Council cast these words of warning -

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

Reading between the lines, we already know what the Judicial Committee of the Privy Council thinks about the Best Loser System and the likely outcome of any appeal to the Judicial Committee of the Privy Council might be, if ever this comes to that point.

We must resolve politically any issue relating to the Best Loser System. We must bring electoral reform. And it is for us politicians, it is for us Members of the National Assembly to bring electoral reform, and not wait for us to be dictated by the Supreme Court or by the Privy Council.

We understand, and the hon. Prime Minister said it, that there is a Draft Bill on electoral reform. It is almost ready, and it is unfortunate that such a Bill has not yet been circulated because if he had circulated this Bill, at least, all the Members of this House would have taken cognizance of what this new electoral system that will subsume the Best Loser System will look like, so that we could make constructive comments on that proposed electoral system.

But let me reassure hon. Members of this House - including the hon. Member who is no longer here - and the population at large that the MMM will never agree nor vote any electoral reform if it is not to enhance democracy while assuring a fair representation of all the components of our rainbow nation.

(Interruptions)

I am glad to hear from hon. Ms Deerpalsing that this would be also the line adopted by the Labour Party.

In fact, Mr Speaker, Sir, it has always been the concern of all those involved in devising our successive electoral systems to ensure that such electoral system would reflect the principles enunciated in the agreement reached on 01 March 1957 between the Mauritian delegations,

Ministers and Officials of the Colonial Office and the then Governor, Sir Robert Scott, in London, which came to be known as the London Agreement. There were three agreed principles by the Colonial Government, by representatives of Mauritian political parties and by the then Governor-General.

The first principle is that “the electoral system should be on the basis of universal adult suffrage.” This, today, is an acquired right. It is entrenched in our Constitution, but not so long ago, in fact more than a few years ago, before the 1948 election, voting rights were reserved to only wealthy landowners and wealthy merchants. There may be a debate later on in this House as to whether we need to extend the right to vote to Mauritians who are not residents in Mauritius. There may be a debate in this House as to whether we should lower the voting age, which is now 18, to 16. When the time will come, this august House will have to decide. But the first fundamental principle will remain that the electoral system should be on the basis of universal adult suffrage.

The second fundamental principle enunciated in London Agreement is that “any system of voting should provide an adequate opportunity for all the main sections of opinion in Mauritius to elect their representatives to the Legislative Council in numbers broadly corresponding to their own weight in the community.”

This has been a very important principle over the years for all communities, including the Muslim community. The reason for it is rightly summarised in the report on the Mauritius Electoral Boundaries Commission chaired by Sir Malcolm Trustram Eve in 1958, and I quote -

“The geographical spread throughout Mauritius of the Muslims necessarily makes it less easy for them than for the other two main sections to secure by their own votes alone representation proportionate to their strength in the total electorate”.

As far back as 1958, Sir Malcolm Trustram Eve already pinpointed the difficulty of certain sections of opinion of this country, because of the electoral system, to have their representative elected. In 1948, as the hon. Leader of the Opposition rightly pointed out, no Muslims were elected at the general elections. In 1953, there was only one elected, that is, Sir Abdool Razack Mohamed. And then, again, he defeated, by the narrowest of margin, Mr Alex

Bhujoharry by five votes, and Mr Alex Bhujoharry who was from the same party as Sir Abdool Razack Mohamed asked for a recount.

So that just goes to show in 1948, in 1953, the mental state of the Muslim community. They were not able to elect their own members, and when they had one member elected, even then his co-candidate challenged his election. So, it was no wonder, it was no surprise that, since that date, the Muslim community has been asking for a separate ballot, for a separate voting list, for a separate reserved number of seats for themselves. But, to accede to that request would have run counter to the third principle of the London Agreement, which reads as follows -

“The system of voting should be such as to facilitate the development of voting on grounds of political principle and party rather than on race or religion.”

A very important fundamental principle of any electoral system that this country will have; it will have to encourage voting along political lines, along party line, along ideological line, not along the lines of race or religion. And it is for that reason that Malcolm Trustram Eve rejected the claim, the request by the Muslim community to have separate voting lists, separate reserved seats, and instead Malcolm Trustram Eve Commission recommended a Parliament consisting of representatives of 40 single-member constituencies. Then, the power was given to the Governor-General to appoint up to 12 additional members, and Malcolm Trustram Eve argued or rather urged the Governor to exercise his power of appointment to the Legislative Council in such a way that each of the three main sections of the population are so far as is possible represented in the Legislative Council, in number broadly corresponding to their proportion of the population as a whole.

So, even then, he knew that even after the 40 single-constituency seats, there may be an under representation of certain communities, and so he urged the Governor-General to exercise his power to nominate under represented communities.

The recommendations of Malcolm Trustram Eve were incorporated through a constitutional amendment in 1958. We had the 1959 election and a 1963 election, where in both elections Muslim candidates were elected; but not only Muslim candidates, even Sino-Mauritians were elected. In 1959, Eddy Chankye was elected; in 1963, and that is more interesting, Sir Moi Lin Ah-Chuen was elected in a constituency - he was elected as an independent - which has, as a

majority of voters, the Muslim community. He repeated that fate in 1967. But, as far back as 1963, a Sino-Mauritian, Sir Moi Lin Ah-Chuen, was elected in a constituency in Port Louis dominated by Muslim voters.

After the Trustram Eve Commission, we had the Lancaster Agreement, we had the Banwell Report, which the hon. Leader of the Opposition talked about. The Banwell Report is the first time where the term ‘Best Loser’ was used. The definition of best loser, I quote, was -

“One whose party and community were, as a result of the poll, least well represented in relation to his party’s share of the total vote cast in Mauritius and in Rodrigues and his community’s share of the total population.”

He proposed, therefore, five constant correctives to ensure the representation of underrepresented parties and communities. But then he also had proposed a variable corrective which would enable parties that had received more than 25% of votes to get additional seats to make their total equal, at least to 25% of the seats in Parliament. This element, this variable corrective which introduced an element of proportional representation was severely condemned in most - not all - political quarters, and following the unrest, Mr John Stonehouse, Parliamentary Under-Secretary of State for the Colonies, came up with the Best Loser System, as we have it today.

Mr Speaker, Sir, it is worth highlighting the opening words of paragraph 5 of the First Schedule of the Constitution which deals with allocation of the eight additional seats for best losers, which reads as follows -

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

So, again, even right now, in our Constitution, we see the same concern as we had back in the London Agreement in 1957. The electoral system should ensure a fair and adequate representation of all communities, and Mauritius, Mr Speaker, Sir, is not unique in that respect.

In his report on “Electoral system and the protection and participation of minorities”, Andrew Reynolds makes an in-depth analysis as to how various countries around the world have tried to ensure effective representation of minorities in Parliament. Several countries, including India, Pakistan and New Zealand, have reserved communal seats, reserved seats for minorities,

for specific groups of people. Others like Bosnia, Kosovo, Rwanda have power sharing arrangements between different ethnic groups. According to the author of the report, and I quote

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“In every successful case of peaceful and democratic conflict avoidance in the world, minority communities and their rights have been included and protected in the legislative process.”

Mr Speaker, Sir, any electoral reform, should it be brought in this House, will have to reassure all the components of our rainbow nation. The Best Loser System has served us well. It has ensured a fair and adequate representation of all components of the rainbow nation. But I would say it has gone beyond that, it has gone beyond that initial function. Were it not for the Best Loser System, Mr Speaker, Sir, we would not have had an Opposition in 1982, we would not have had an Opposition in 1995. And in 1982, History will bear witness again, the MMM/PSM had an overall majority, had all the seats; they could have abolished the Best Loser System. They knew that the Supreme Court had just given a ruling in the case of Roussety, which overruled the ruling of the Electoral Supervisory Commission, and appointed four best losers, on top of which was Sir Gaëtan Duval. Yet, the MMM/PSM, because they did not have the mandate from the electorate, did not abolish the Best Loser System.

The Best Loser System has also served another purpose, Mr Speaker, Sir. It has enabled leaders such as Sir Abdool Razack Mohamed to return to this House, leaders such as hon. Paul Bérenger to be returned to this House, leaders such as Sir Gaëtan Duval who was returned on not less than three occasions as best loser, a fate only matched by hon. Von-Mally, Leader of the *Mouvement Rodriguais*, who himself was returned three times as best loser in this august Assembly.

Listening to hon. Members who addressed this floor before me, Mr Speaker, Sir, it troubles me that some people will have it that the Best Loser System was devised to and served only one or two communities in this country. This is totally false. Even the Muslim community - I heard a very passionate speech by hon. Cehl Fakeemeeah - is not the one who benefitted most from the Best Loser System. There were no Muslims returned as best loser in 1982. There was only one Muslim returned as best loser in 1995 and 1967. In fact, the greatest number of best

losers has been allotted to members of the General Population; up to 70%. Even the Hindu community benefitted from the Best Loser System. In 1967, the first time the Best Loser System was ever applied, there was a candidate of PMSD, Mr Narainen, who was returned as best loser in this House. He was a Tamil, a Hindu Mauritian.

Following the amendment to the Constitution in 1991, in 2002 we had two members of the Hindu community, hon. Yerrigadoo and hon. Motee Ramdass who were returned as candidates through the Best Loser System. And nothing tells us that in the next general election, we won't have more Hindus returned as best loser or more Muslims or more General Population. In fact, the only community who has never benefitted from the Best Loser System is the Sino-Mauritian. No one; never! No Sino-Mauritian has ever been appointed as Best Loser.

(Interruptions)

Well, using their declaration as Sino-Mauritian! We are not going to go into details about hon. Yeung Sik Yuen. But, in 2010, if we had only seven best losers, it is precisely because the eighth best loser should have gone to a member of the Sino-Mauritian community from the opposition party. Our learned friend, hon. Keechong Li Kwong Wing, our Sino-Mauritian candidate, having been elected, we didn't have any Sino-Mauritian from the MMM to be appointed as best loser. That is why we had only seven members. Even Sino-Mauritians can, and if necessary, will benefit from the Best Loser System.

Mr Speaker, Sir, the Best Loser System was never meant to be a perpetual system. In fact, the Banwell Commission clearly stated, and I quote -

“We hope, however, it will, in time, prove possible for all parties in Mauritius to agree on the ultimate disappearance of such political arrangement for communities.”

Back in 1965 or 1966, the Banwell Report had already predicted that there will come a time where there will be the ultimate disappearance of political arrangement for communities. We, on this side of the House - and I am sure the Labour Party also, and I hope the other Members of the Opposition - feel that this time has come now; the time is right for a new electoral reform, a new electoral system. The hon. Leader of the Opposition has already stated our preference in the MMM; that, in addition to the number of elected members through the first-past-the-post, we

have up to 20 members elected on a party list, using the Proportional Representation System, and another eight members chosen by leaders of political parties, to ensure that no community is under represented, to ensure the subsuming of the Best Loser System, to ensure that all communities, all members of the rainbow nation are adequately and fairly represented in this House.

Mr Speaker, Sir, if the London Agreement could give power to the Governor to appoint up to 12 members, and I quote -

“To ensure representation of those who have no chance of obtaining representation through election.”

If the Trustram Eve Commission could recommend that the Governor should exercise his power of appointment in such a way that each of the three main sections of the population, so far as possible, be represented in the Legislative Council in numbers broadly corresponding to their proportion of the population; if the London Agreement can give that power to the Governor, if Trustram Eve can give that power to the Governor, so why can't we give the power to leaders of political parties registered with the Electoral Supervisory Commission to allocate additional seats, to ensure a fair representation of all the components of our rainbow nation in the National Assembly?

Mr Speaker, Sir, hon. Xavier-Luc Duval - unfortunately, he is not here to listen to what we are saying - has circulated an amendment about the requirement to have a referendum. We already have provisions in our Constitution calling for a referendum whenever we have to amend two sections of the Constitution; whenever we want to amend section 1 of the Constitution, that is, 'Mauritius shall be a sovereign democratic State', and whenever we want to amend section 57 (2), which provides that 'Parliament shall stand dissolved five years after the first sitting after the general election.' It is not without a sense of pride that it was the MMM that entrenched that second requirement that Parliament cannot be adjourned perpetually. It will stand dissolved at latest five years after the first sitting. For these two sections, we already have the requirement to have a referendum. But there is no requirement for a referendum to amend the First Schedule.

The hon. Leader of the Opposition was kind enough. In his speech, he asked the hon. Members of the PMSD to go and read what Sir Gaëtan Duval said during the constitutional

amendment of 1982. But, listening today to the hon. Members of the PMSD, I see that either they have not read that statement, or they have chosen to ignore what Sir Gaëtan Duval said. For the purpose of the record, I will state again what Sir Gaëtan Duval said in 1982; Sir Gaëtan Duval, the then Leader of the Opposition, who again, Mr Speaker, Sir, owed his seat to the National Assembly for being a best loser. That is what he said in that debate in 1982 -

« Je demande au gouvernement qu'il n'ait pas de scrupule, aucun scrupule à venir abolir le Best Loser System. C'est un système qui n'a pas été voulu par moi, M. le président. Notre parti réclamait la représentation proportionnelle. »

Sir Gaëtan Duval saying that ! He was against the Best Loser System. He was in favour of a system of Proportional Representation. He went further and said, and I quote -

« Si nous sommes tous d'accord, pourquoi le référendum? C'est une perte d'argent et une perte de temps. Remplaçons, donc, carrément le Best Loser System par une sorte de représentation proportionnelle. »

So much for those who declare themselves to be more 'duvaliste' than Sir Gaëtan Duval!

(Interruptions)

Sir Gaëtan Duval was against the Best Loser System. He was in favour of Proportional Representation, and he was against holding a referendum which would be a waste of money and a waste of time.

But, Mr Speaker, Sir, after listening to certain hon. Members today, not only will it be a waste of money and a waste of time, it would be a very dangerous thing to do if tomorrow we were to hold a referendum on abolition of Best Loser System. We have already heard some of the communal arguments that some politicians are going to hold to keep the Best Loser System, and such arguments cannot be in favour of nation building. It will create even more communalism, even more divide between the components of the rainbow nation, and it is for that reason that we, in the MMM, don't feel that the referendum is warranted at all.

Mr Speaker, Sir, I will end on this. Various hon. Members have expressed concern about the operation of section 4(2) (b) of the Bill, which deals with the allocation of the eight

additional seats under the Best Loser System if a candidate who does not declare his community is elected. In fact, the full bench of the Supreme Court in 2005 held that, in the absence of the declaration of the community of a successful candidate, the whole exercise will be, and I quote -

“Stultified, thereby rendering nugatory the allocation of the eight additional seats.”

In other words, the full bench was saying that if someone does not declare his community, it will be extremely difficult for the allocation of the eight seats to be done.

I have to admit that I, also, am not totally satisfied, like all those who intervened, with the wording of section 4(2) (b). But I am comforted in my view that it is couched in sufficiently wide language to allow certain flexibility to the Electoral Supervisory Commission. I have to admit that the wording may result in some unintended or some undesired consequences if one or more Members is/are returned if they have not declared their community. Even Dr. Rama Sithanen, this morning, in an article in *‘l’Express’* conceded that it was not an ideal solution, and that the formula is not without problems. But, it is one thing, Mr Speaker, Sir, to express one’s genuine concern, it is quite another to try to impute motives on the Electoral Supervisory Commission, or to try to frighten the population by saying that such and such community will not benefit, only this and that community will benefit.

Mr Speaker, Sir, following what was said in this House by hon. Jugnauth, we want it to be on record that the MMM has full confidence in the competence and impartiality of the Electoral Supervisory Commission, of the Electoral Supervisory Commissioner and of their staff.

(Interruptions)

Mr Speaker, Sir, any constitutional amendment is a matter of utmost importance and should not be considered lightly. A three-quarter majority will be required for this Bill to go through. When the time will come to vote, we will vote so that any person can stand as candidate for the general election without having to declare his community. We will vote to enhance democracy; we will vote to enhance nation-building and to take a further step in favour of our ideal of one people one nation, *‘ene sel lepep, ene sel nation’*.

Thank you, Mr Speaker, Sir.

(7.12 p.m.)

The Minister of Labour, Industrial Relations and Employment (Mr S. Mohamed):

Mr Speaker, Sir, to have an opportunity to participate in such a debate that talks about the Constitution, that talks about declaration of community, to talk about a Bill that has a direct relation with the Best Loser System, that is being part of the sole debate - and I have heard it spoken time and time again -, to be able to participate in this debate is, indeed, an honour.

Each and every time, Mr Speaker, Sir, that History has demanded it, that events have dictated it, where we need a political party to come up in order to influence the course of history, where we need a political party to show up and be present when the time is important for it to be present and to participate, not only participate, but be at the helm of the country when one has to implement important constitutional decisions for the good of one and all, it has been the Labour Party, and this is something which I would like to place on record.

At one point in time, the Labour Party was all present, together with the IFB, together with the CAM, prior to Independence, with the *Ralliement mauricien*, with the *Parti mauricien*, with all those who participated in constitutional talks to frame the Constitution. But, who were those who were at the helm and those who were in charge of the whole process, and to ensure that they put their weight where it had to be placed, to dictate where it would go and what shape our country's Constitution would take? Once again, it was the Labour Party with Sir Seewoosagur Ramgoolam at the head, and Sir Abdool Razack Mohamed and the Bissoondoyal. So, now, as grandson of late Sir Abdool Razack Mohamed, it is a humbling effect, in fact, to be able to hear in this august Assembly so many people, so many hon. Members speak so highly of Sir Abdool Razack Mohamed and his work. He has been qualified by some as being *le père*, the father of the Best Loser System.

If one goes down memory lane - and one has had to do it obviously because this debate has taught me something through the research I have carried out through the books I have read, through the papers I have seen; it has enabled me to know more of my country, it has enabled me to go down memory lane. I do not master history as the hon. Leader of the Opposition does, but the little that I do know I am thankful to the hon. Prime Minister for giving me the opportunity to express myself in this august Assembly and to be able to contribute, once again, to Mauritius embarking upon a new phase of its history.

I have had the opportunity of going through some of the debates that were held in this august Assembly in 1966 on the Banwell issue. It is there that I discover a facet of Sir Seewoosagur Ramgoolam when he spoke in Hansard; I read it. It was interesting reading, indeed. It makes me discover a man that has a deep sense of commitment to the country that he is about to lead as Prime Minister. It makes me discover a man, Sir Seewoosagur Ramgoolam, who was only concerned with one thing, to ensure that, after Independence, Mauritius would grow as a nation. What was his concern, Mr Speaker, Sir? The Father of the Nation was to ensure that Mauritius would not break down into little more sources of communities, left, right and centre, but it would grow as a nation. Nation-building was a very important issue for him and he was very firm and vocal in his belief.

Allow me to share, therefore, Mr Speaker, Sir, a few of his words that he uttered in Parliament. He was very much against what was written in the Banwell Report, and he did not hesitate to express his views in this august Assembly. He said, I quote –

“We would have thought that the very nature of our multi-racial society should have influenced them to give a larger number of seats so that a wider representation of all the various interests would have found a place in the new Assembly.”

Therefore, as we see here, he was already aware and very much concerned that all the interests should have a place in this new Assembly. When he talked about them forgetting what was already agreed upon at the London Conference, he goes on to say –

“As if they must inject some opiate into our blood, (...)”

Just look at the violence in the words and how firm he was.

“(...) as if we had not been sent sufficiently to sleep for many years that it has taken us almost a century to assert our political freedom in this country”.

Strong words! A vision of a man who did not turn away and shy away from his mission. He went on to say, Mr Speaker, Sir, I quote –

“Now, by doing away with guarantees provided for the Muslim and Sino-Mauritian minorities, which were the cornerstone of the London Agreement and the findings of the Boundary Commission, I submit - he says - that peace and harmony in Mauritius have

been jeopardized. Communal feelings will harden and degenerate into a scramble for seats in constituencies wherever minorities are in larger numbers.”

So, here, he shows that he believes that in order for us to have a democracy that will have a chance to survive, in order for us to have a democracy in a new independent country, it was important for all communities to be represented in the august Assembly, because it is through this inclusive form of representativeness that he thought - and I totally agree with him - that all communities should be on board, because if any one community found itself out and not represented, it would be the downfall of Mauritius, and the nation that he fought so hard to build would not really succeed and would not continue, as it has, for 46 years.

This debate has also given me an opportunity to get to know late Sir Abdool Razack Mohamed even more. I was very young, only nine years old, almost ten when he passed away. This debate has given me an opportunity to read and learn. But having listened to everyone of you, you have helped me learn about my grandfather even more, and I thank you for that. I have come across what he said in Parliament on 19 November 1963, and I quote -

“Sir, during his speech, my friend, the hon. Member for Beau Bassin (Mr Koenig) spoke about my asking for safeguards. Yes, Sir, (...).”

He says -

“(...) I was one of the representatives of the Muslim community to the London Conference, and I confirm I asked for the safeguards, and I am still for safeguards, not only for the Muslim community, but for all minority communities, as I did once, if my friend the hon. Member for Beau Bassin will remember. I can refresh his memory (...).”

And he went on, Mr Speaker, Sir, to refresh the memory of the hon. Member for Beau Bassin by reminding him of what he said *à la Conférence constitutionnelle* that was held at Lancaster Home, *Grande Bretagne*, in September 1965. Speaking as a delegate to this Conference, he says

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“I consider it my bounden duty to declare and declare it very clearly that the Muslims of Mauritius have always cooperated with others for the good of the country, and they are ready to cooperate in the future. We are not against any political and constitutional

progress of our country provided such progress does not mean the oppression of any community in Mauritius, and because of this and other reasons, I also want to make it clear that we will have to see that our political and other rights are safeguarded and that we be left neither to the mercy of nor to be forced or depend upon the charity of others.”

This is what he said. So, in each of those words that he spoke, in each of the footsteps that I have taken to discover the great man that this illustrious grandfather of mine was, I have discovered that at no time he was out there to defend only one community. He was out there to defend the minorities of Mauritius. He was out there to defend every single man, woman, child and citizen of this country when he was himself not born in Mauritius, but was only a Mauritian by adoption!

This shows loyalty not only to the cause but to the country that adopted him with open arms. This has given me an inkling as to what a champion he was, together, hand in hand with the Father of the Nation, Sir Seewoosagur Ramgoolam, how they worked miracles! Let us look at it that way. The hon. Leader of the Opposition has so much experience, far more experience than I have clearly. I can only dream of one day of having such an illustrious career as he has had. I can only dream! We have had our differences, but the fact is, I can still - I say it again - only dream that I would have such a long career as his.

As far as the Best Loser System is concerned, without it - and there I agree with hon. Uteem - there is no guarantee that this country would have known stability that it has lived through. Without the Best Loser System, there is nothing that could have guaranteed that this whole nation would have come together in moments when it had to, and to stand up and look at our flag and be proud to be Mauritians, because there have been instances; every single day, when people from Mauritius wake up in the morning and go to work, when the children of this country go to school, when people go to hospital, when we come to work, when the Civil Service which is doing an amazing job, when the Electoral Commission and its staff doing an amazing job, each one of us is proud to be Mauritian. The Best Loser System is indeed a unique system. So unique that you do not even find it in other commonwealth jurisdictions!

In other jurisdictions that have known independence, be it from France or England or other colonial powers. It is indeed an example to be proud that Mauritius has known economic

success along the years with different Prime Ministers heading governments, because all our leaderships have experienced the need for the Best Loser System. Not to divide the country, no! But to ensure that every single component of Mauritius, this rainbow nation that we so proudly talk of is not only 'rainbow nation', as words only good for a tourism brochure. But, in actual fact, it means what it says: a rainbow nation where we are proud to ensure that everyone has a voice in the august Assembly.

It is because of this that we have not had to experience what many other countries have experienced: civil strike, civil war, and bloodshed. This country has not known that, and we are proud to say that this country will never know that. Why is it that this country has never known that?

I take this opportunity, Mr Speaker, Sir, today to place on record something which seems to have been forgotten. Whatever Sir Seewoosagur Ramgoolam may have decided, whatever Sir Abdool Razack Mohamed may have decided, whatever the hon. Leader of the Opposition may do with his wide experience, they all have done it for the good of this country. All of us have only one thing in mind: the good of the country. All of us undoubtedly love our country. We are all patriots. We would not have been in this august Assembly if we had not wanted to defend the interest of our country. Maybe we defended differently, but we all love our country.

What I want to get at here is it is important for us - and I would like to place that on record - to thank the people of Mauritius, not only the political leadership, but the people of Mauritius, because without the people of Mauritius nothing that the leadership decides can be implemented. Without the people of Mauritius, there would be no stability, even if the leadership wants stability. Without the people and the electorate, there can be no economic progress, whatever the leadership may decide. So, it is because of the people that we, politicians, at the helm of power, have managed to make this country successful because the people have followed and given us their confidence and their trust! Today, we are here, again, all of us. What are we asking the people? We are asking them to trust us again!

Our forefathers, Mr Speaker, Sir, have come up with the system that is today being changed, whether we like it or not. Call it subsuming or call it by any other name, it is changing. So, if it is going to be changed, they have given us stability for 46 years. This country, the people

out there, all communities have benefitted from the Best Loser System. 46 years of peace! 46 years of stability! It has served us very well, and I am of the view that we have achieved political maturity and it is time to change. It is time to evolve. It is time to progress. It is time to move forward.

Let alone the cases of the Privy Council which are there hanging on our heads like the sword of Damocles, hanging over our heads by the slenderest of threads! Let alone the experts of the United Nations, because that also people may believe that we are not obliged to embark upon, complying with what they say, but we have international obligations; we do. But let alone those two, we still, as a nation, I am of the view, have reached a point where we have political maturity, and we should move forward. But it is not sufficient simply to move forward, because as hon. Uteem rightly said it and the hon. Leader of the Opposition as well, in 1948, what started in spite of the new Constitution, with 11,844 voters on the electoral roll before the new Constitution of 1948, in spite of this, the Muslims were dejected. The Muslims, who represented 16% or so percent of the country, were frustrated. The Muslims participated in that election, but not one single Muslim was returned.

In 1953, Sir Abdool Razack Mohamed now belongs to *Ralliement mauricien*, same party that later on becomes *Parti mauricien*, that later on becomes the PMSD. He is and was one of the founding members of *Ralliement mauricien*, founding members of *Parti mauricien*, and the time came when he was elected by one vote. Behind him was Mr Bhujoharry, and Mr Koenig asked that there be a recount. Imagine what was going through his mind when this recount was sought for. Imagine what was going through his mind when he said to himself that, for the first time, a Muslim is going to be elected: 'I can equate with national elections'; in those days. But no, Mr Koenig asked a recount, and after the recount, *l'écart* is more, and Sir Abdool Razack Mohamed is elected.

But imagine then what happened in 1956. In 1956, there is something that happened which is, in fact, really going to change the History. A cartoon! A cartoon is going to change the History of Mauritius. A cartoon that is drawn by Krishna in Mauritius Times on September 14 1956. The Municipal Elections of 1956, where once again Sir Abdool Razack Mohamed and all the other Muslims candidates, no one is elected, but all those other candidates of *Ralliement mauricien* were elected. Then, what is in this cartoon is the drawing of a goat at the bottom of a

well; a goat with a little beard and a cap that represents Sir Abdool Razack Mohamed. I always thought of him more of a bull than a goat. They showed him as this goat, and on his back trying to get out the well was the fox that represented Mr Koenig. So what exactly was Krishna saying to the Muslim electorate? What exactly was Krishna saying to Sir Abdool Mohamed?

Each and every time you are being used. Each and every time people are using you to get themselves out of the political abyss, but they are forgetting you, and there is no loyalty for your help. This is what we see in the words of Krishna. This is what was spoken to him. So, finally, History is changed, and now you have the CAM which is born.

But, as I explained, each and every time that we talk of CAM and about the Best Loser System, it reminds me of 1982 once again, in that debate where the hon. Leader of Opposition was, if memory serves me correctly, Sir Gaëtan Duval, and Mr Rama Poonoosamy was then Minister as well in that Government. He said in that speech that he presented to this august Assembly that there was, in fact, a state of affairs in Mauritius where people no longer talk about the CAM because - what he said - he dismissed the CAM as being a party that no one talked about. It was no longer important. It was dead and buried. But let's look at it that way. We are in 2014, and we are still talking about CAM and the Best Loser System.

Mr Speaker, Sir, I am all for our country, our Constitution to progress, and I believe that whatever is being presented in this Bill - and I would like to underline that as well - true it is that it is going to apply to the election before us, be it 2014 or 2015, as said by previous orators. But the question that has been asked to me by people around Mauritius is: what happens after the next election? What happens? What will be the system then that will be used for elections if there is no three-quarter majority when this other issue of reform is discussed and is taken to Parliament, and they do not obtain the three-quarter majority? There is this fear in the mind of people. My answer to that - I have spoken to the hon. Attorney General, and I think he has underlined that - is that there is no need to fear, because in the actual fact we would be reverting to the old system if there is no three-quarter majority, and the old system will be there for the time that it would be there for, until and unless it is changed by a three-quarter majority vote. There will be no vacuum as a matter of fact.

Mr Speaker, Sir, I have also heard recently hon. Bodha who was talking, and basically he was saying - and he is very open arms about the fact that the hon. Leader of the Opposition was not opposing - that the role of the hon. Leader of the Opposition should be to oppose, and nothing else but oppose. This is not my view, and out there, this is not the view of the people of Mauritius. The view of the people of Mauritius is as follows: when there are issues of national importance, when there are issues of such vital importance to the future of the country, and like this particular issue concerns the very core of our soul, it concerns the Constitution. If people of good faith do not sit down together, put their minds together in order to work for that cause, then I believe, humbly so, that I do not share the limited view of hon. Bodha as far as the purpose of an Opposition and Government is. We should be able to put our political differences aside whenever we deal with issues of such nature. Issues of this nature, we should never come up with politics. Never! Never! Look at me! Just like hon. Bérenger, himself, said: "*Je ne me reconnais pas*", I, myself, *je ne me reconnais pas*.

(Interruptions)

But then, again, sometimes one has to do it. I feel very close to hon. Bérenger nowadays.

(Interruptions)

You know how close I feel to him!

(Interruptions)

It came to my mind: I feel so close to him, Mr Speaker, Sir, after 46 years - and I said jokingly because I prefer saying it jokingly before, because I don't want anyone to take anything wrongly -; 46 years of independence, and I never thought, after nine years in this august Assembly, that I would feel so close and so intimate with hon. Bérenger.

(Interruptions)

After all he has told us what exactly he thinks of when he is in his shower, and talking about constitutional issues - even while having a shower...

(Interruptions)

So, I thank him for letting us have an *entrevue* of what he does in his shower. But this is very important, and I believe that such issue - I don't need the shower part -, I believe that the constitutional part is very important to be able to bridge the gap, because there can be no gap that exists and should continue to exist between men of good faith. Politics should be put aside. Now, the cheap political advantage that anyone tries to take in order to instil fear in the heart of people at the eve of such a historical event is something which I condemn.

When hon. Pravind Jugnauth talks about such a community will not be represented, or only other communities already chosen to be represented through the mathematical formula, the issue which he fails to talk about, in fact, Mr Speaker, Sir, is the following. As long as there is no underrepresentation of any community, there is no issue. And forgive me, this is not doing politics. I am only trying to clear the mind of people, I am trying to collaborate and contribute to the whole debate. It is precisely because of such instinctive reactions, such as that of hon. Jugnauth, that I believe that it is about time that we come up with a law as soon as possible, in order to be able to remove such base thoughts from the debate. This is what has to be done. If I, the grandson of Sir Abdool Razack Mohamed, say so, it's because I honestly believe that we should embark upon modernity.

But there is something else which I would like to really say. Out there, even though there are different views expressed all around the country, some believe we should keep it, some believe we should not keep it. That is not a reason for us to embark upon recrimination. No, this is not a reason why we should embark upon telling one another off. I believe it is time for us to put aside our differences. We may not agree, but let us respectfully agree to disagree because all of us have, on this great day, to put our nation first.

I humbly say to the hon. Leader of the Opposition, when he says that it is now time for the manifesto, I disagree. It is not time for the manifesto, it is not time for anyone of us to get re-elected, it is not time for any one party to participate in general elections. It is time for this country to be elected. It is time for the nation to come out victor. It is time for us to go out there to reassure the parents - and I will take an example - of certain children. They are thinking: 'You want to get rid eventually of the Best Loser System and you want to start amending this law. Excellent! But what guarantees and what safeguards do you give my children? Will there be any situation where my child will be discriminated against? Will he not get a job? Will he not get a

promotion?' There is a fear out there, among the Muslim community. And let me put it out there and say it.

There is a fear among the Muslim community that if we touch the Best Loser System, eventually there will be something else that will be touched. It is the right to go to Friday prayers. This is only a perception, unfounded, very much unfounded, because as long as this party is in power, the Labour Party, with a Prime Minister like Dr. Navinchandra Ramgoolam, no way will any minority be in any way affected. This is my pledge, and this is the pledge of this Government. It has always been the vision and the pledge of this Government, the Labour Party. In the recent past, in an MSM Government, there has been a situation where there have been Muslims in Parliament, but there have been no Muslims in Cabinet. So, those are issues that still exist in the memories of people. Far from politicking, I am just saying that those are real issues that still sore for certain minorities.

What I am trying to say here is the Best Loser System is not a monster. I compare it to a mother who has managed to open its arms and take all communities in, and hold the country together as one nation. Now, it is time for this mother that has been the Best Loser System, that has nurtured us during stability, it is now time for us to fly with our own wings. It is time! For that, I believe we are ready to do it.

Whatever people may say, we have, as I have said, to consolidate our institutions. I would like to see - and I will go outright and say it, because it is a time where it is very important for History on such an auspicious day - the strengthening of our institutions as part and parcel of any reform, because I would like this psychological comfort that people have with the Best Loser System, because it has never been the number of people in Parliament of any group that really ensures that all fundamental rights are protected. It is the quality of the person that is in Parliament that matters, not the quantity.

We have to consolidate institutions. This consolidating of institutions, for instance, ensuring - an example I will give - that the Equal Opportunities Commission can look into issues concerning nominations in Government and the Civil Service, that the Equal Opportunities Commission or any institution can be created in order to give rapid and fast remedy to people who feel in any way aggrieved. If we do not give them solutions and if it takes time, as it is now,

and takes time to go before tribunals or courts for judicial review etcetera, people lose faith in the system. This is what we are about to do: give faith to them. And in order to give faith to the people, we need to ensure that our institutions are revamped, our institutions that were created by the Constitution are consolidated.

I would like also to see to it - for example in Boards - that people are nominated on meritocracy and not by any other way. This is how it should be. When I listened to hon. Bodha, he says that the solution to communalism is meritocracy. I say it. It is the first time I've heard him say something like that. We don't just say it, we put it into practice, and this is basically the commitment of this Prime Minister: to put into practice what I call meritocracy. He has started doing it by having an Equal Opportunities Commission. I humbly ask that the powers of that Committee be strengthened.

Mr Speaker, Sir, as far as the various opinions - as I have said earlier - going on here, it is not a cause for us to have any fighting. I listened to the youths of this country, and what they are seeing today, as I explained earlier on, is an opportunity for what? For 46 years more stability. If we manage to give 23 years, half what our forefathers have managed to give us, we would have succeeded. We have a huge responsibility on our shoulders; we have to manage to do even better than our forefathers, and give stability to this country. This is the huge herculean task that this Government has embarked upon.

Mr Speaker, Sir, I invite, and I like hearing different views. In actual fact, the hon. Prime Minister has always - even when I was a backbencher I remember it - encouraged people to have different views; he always encourages backbenchers to question his own Ministers. This is what I have learnt from him. I like hearing various views from out there. I like people expressing their views. That is not a reason for division, but it is, in fact, a means to encourage our democracy.

Once again, Sir, I thank the hon. Prime Minister for having given me the opportunity to participate in this debate. Once again, when called upon to be part of History, the Labour Party has been present. And once again, not in words, as hon. Members have said it, but in action, this has been done in this Bill. I have heard many words spoken, but I have noted one thing. There is consensus in actual fact that we should evolve. For once, let us put our differences aside, let us try to concentrate on the consensus, let us try to concentrate on what joins us and not on what

divides us. We owe it to the people, we owe it to the country, we owe it to the future that we should be able to be bigger than ego sometimes.

Let me conclude by referring to one of the most famous Indo-Pakistan poets who was, in fact, one of the favourite poets of Sir Abdool Razack Mohamed. I say that, and I right away look at Mr Speaker, Sir. Since you knew him personally and so well, you already know, most probably, what I am going to say.

Allow me, with your permission, Mr Speaker, Sir, to quote, and I will translate it in English, what this famous poet, Muhammad Iqbal said -

“Muddai laakh burah chahey to kya hota hai,

Muddai laakh burah chahey to kya hota hai,

Wohi hota hain jo manzoor-e-Khuda hota hai.”

“What happens when millions of people wish you ill? Only that happens what Almighty God wants to happen.”

Thank you very much.

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

Mr Bérenger rose and seconded.

Question put and agreed to.

Debate adjourned accordingly.

ADJOURNMENT

The Prime Minister: Mr Speaker, Sir, I beg to move that this Assembly do now adjourn to Friday 11 July 2014 at 3.30 p.m.

The Deputy Prime Minister rose and seconded.

Question put and agreed to.

Mr Speaker: The House stands adjourned.

At 7.52 p.m. the Assembly was, on its rising, adjourned to Friday 11 July 2014 at 3.30 p.m.