



**SIXTH NATIONAL ASSEMBLY**

**PARLIAMENTARY**

**DEBATES**

**(HANSARD)**

**FIRST SESSION**

**FRIDAY 07 DECEMBER 2018**

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(Formed by Hon. Pravind Kumar Jugnauth)

Hon. Pravind Kumar Jugnauth	Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development
Hon. Ivan Leslie Collendavelloo, GCSK, SC	Deputy Prime Minister, Minister of Energy and Public Utilities
Hon. Sir Anerood Jugnauth, GCSK, KCMG, QC	Minister Mentor, Minister of Defence, Minister for Rodrigues
Hon. Mrs Fazila Jeewa-Daureeawoo	Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare
Hon. Seetanah Lutchmeenaraidoo, GCSK	Minister of Foreign Affairs, Regional Integration and International Trade
Hon. Yogida Sawmynaden	Minister of Technology, Communication and Innovation
Hon. Nandcoomar Bodha, GCSK	Minister of Public Infrastructure and Land Transport
Hon. Mrs Leela Devi Dookun-Luchoomun	Minister of Education and Human Resources, Tertiary Education and Scientific Research
Hon. Anil Kumarsingh Gayan, SC	Minister of Tourism
Dr. the Hon. Mohammad Anwar Husnoo	Minister of Health and Quality of Life
Hon. Prithvirajsing Roopun	Minister of Arts and Culture
Hon. Marie Joseph Noël Etienne Ghislain Sinatambou	Minister of Social Security, National Solidarity, and Environment and Sustainable Development
Hon. Mahen Kumar Seeruttun	Minister of Agro-Industry and Food Security
Hon. Ashit Kumar Gungah	Minister of Industry, Commerce and Consumer Protection
Hon. Maneesh Gobin	Attorney General, Minister of Justice, Human Rights and Institutional Reforms
Hon. Jean Christophe Stephan Toussaint	Minister of Youth and Sports
Hon. Soomilduth Bholah	Minister of Business, Enterprise and Cooperatives

Hon. Marie Roland Alain Wong Yen Cheong, MSK	Minister of Social Integration and Economic Empowerment
Hon. Premdut Koonjoo	Minister of Ocean Economy, Marine Resources, Fisheries and Shipping
Hon. Soodesh Satkam Callichurn	Minister of Labour, Industrial Relations, Employment and Training
Hon. Purmanund Jhugroo	Minister of Housing and Lands
Hon. Marie Cyril Eddy Boissézon	Minister of Civil Service and Administrative Reforms
Hon. Dharmendar Sesungkur	Minister of Financial Services and Good Governance

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**MAURITIUS**

**Sixth National Assembly**

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**FIRST SESSION**

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**Debate No. 35 of 2018**

**Sitting of Friday 07 December 2018**

The Assembly met in the Assembly House, Port Louis at 3.00 p.m.

**The National Anthem was played**

*(Madam Speaker in the Chair)*

## PAPERS LAID

**The Prime Minister:** Madam Speaker, the Papers have been laid on the Table.

### **A. Prime Minister's Office**

- (a) Virement Warrants Nos. 24-47, 49-52, 54-87, 89 and 90; and Retrospective Virement Nos 91-94. (In Original)
- (b) Virement (Contingencies) Warrant Nos. 12-18. (In Original)
- (c) Virement Certificate Return - Quarter 4 (April - June 2018) Vote/Sub-Head (Certificate Nos.): 1-1 (2), 1-4 (1), 1-5 (7-13), 1-6 (8-13), 1-7 (2-3), 1-9 (6,8), 1-12 (6-8), 1-15 (3-8), 2-1 (7, 9, 11, 12, 1), 2-2 (9-20), 2-4 (2-4, 5a, 5b, 5c, 2-6 (14-19), 2-8 (1-6), 2-9 (4-7), 2-10 (4-5), 3-1 (13-34), 4-6 (16-26), 6-1 (4-8), 7-1 (18), 8-1 (4-8), 8-2 (8-15), 9-1 (23-31), 10-1 (6-7), 11-1 (14, 16, 17, 20), 13-1 (4-6), 13-2 (12-22), 15-1 (6-12), 16-1 (6-9, 12-13) 16-3 (10-11), 18-1 (9-21), 18-1 (9-18), 20-1 (9-10), 21-2 (8), 22-1 (6-8), 23-1 (5-13), 24-1 (3-4), 25-1 (7, 2-4), 26-1 (1-9). (In Original)
- (d) Virement Warrant Return (Quarter 1) (July - September 2018) No. 1 of 2018-2019 (In Original)
- (e) Virement (Contingencies) Warrant (Quarter 1) (July - September 2018) Nos. 1 and 2 of 2018-2019. (In Original)
- (f) Virement Certificate Return (Quarter 1) (July - September 2018) Vote/Sub-Head (Certificate Nos.) 1-9 (1), 3-1 (1) and 18-1 (1-2, 1). (In Original)
- (g) Carry-Over Warrant No. 1 of 2018 (In Original)
- (h) The Annual Report of the Bank of Mauritius for the year ended 30 June 2018.
- (i) The Report of the Director of Audit on the Financial Statements of the Media Trust for the years ended 31 December 2011 and 2012. (In Original)

- (j) The Civil Aviation (Pravasi Bharatiya Divas 2019) (Exemption) Order 2018. (Government Notice No. 161 of 2018)
- (k) The National Pensions (Non-Citizens and Absent Persons) (Amendment) Regulations 2018. (Government Notice No. 162 of 2018)
- (l) The Companies (Payment of Fees to Registrar) (Amendment) Regulations 2018. (Government Notice No. 163 of 2018)

**B. Ministry of Agro-Industry and Food Security**

The Annual Report 2014 of the Small Farmers Welfare Fund.

**C. Ministry of Industry, Commerce and Consumer Protection**

The Rodrigues Consumer Protection (Control of Price of Taxable and Non-taxable Goods) (Amendment No. 32) Regulations 2018. (Government Notice No. 164 of 2018)

**D. Ministry of Financial Services and Good Governance**

The Financial Services (Consolidated Licensing and Fees) (Amendment No. 2) Rules 2018. (Government Notice No. 165 of 201)

**ORAL ANSWER TO QUESTION**

**COUNCIL FOR VOCATIONAL LEGAL EDUCATION –VOCATIONAL  
EXAMINATIONS**

**The Leader of the Opposition (Mr X. L. Duval)** (*by Private Notice*) asked the Attorney General, Minister of Justice, Human Rights and Institutional Reforms whether, in regard to the Vocational Examinations for prospective barristers conducted by the Council for Vocational Legal Education, he will state if he has taken note of the high failure rates thereof, and, if so, indicate if measures will be introduced to review the tuition and examination process thereof with a view to enhancing the professionalism, fairness and equity with which same are conducted.

**The Attorney General, Minister of Justice, Human Rights and Institutional Reforms (Mr M. Gobin):** Madam Speaker, allow me to quote the former Solicitor General of Mauritius, Mr Louis Edwin Venchard, who stated the following in the *préface aux Codes Annotés de l'Ile Maurice*. I quote –

*“Le droit mauricien est, de par la pluralité de ses origines, réputé pour la difficulté de son approche. Droit mixte par excellence, emprunté principalement de la France et de la Grande-Bretagne, il se caractérise par la dualité de ses concepts et de son langage. Cela s’explique par l’histoire.”*

Madam Speaker, Vocational Legal Education for Barristers started in Mauritius following the report of the Committee on the review of legal studies in Mauritius, chaired by Justice Rajsoomer Lallah, as he then was in 1983. That training was entrusted to the then Council of Legal Education. Until 2012, vocational courses and examinations were run by the Council of Legal Education.

In 2012, changes were brought to the manner in which Professional Legal Education was carried out. Sections 11, 11A, 11B, 12 and 12A were inserted in the Law Practitioners Act.

Following these amendments, the Council for Vocational Legal Education replaced the Council of Legal Education and was since then responsible for supervision only of the courses and examinations. Sections 12A and 12B of the Law Practitioners Act provide as follows –

“The Council shall –

- (a) be responsible for the granting of an authorisation to run a vocational course;
- (b) supervise vocational courses and organise, through the Vocational Examinations Board, oral or written examinations for prospective law practitioners”.

Section 11 of the Law Practitioners Act establishes the Council for Vocational Legal Examination, Professional Examinations are organised under the aegis of the Council through the Vocational Examinations Board which is provided for under Section 11B of the Act. Only accredited persons can run vocational courses in Mauritius for the purposes of professional examinations. This is provided for in Section 12A of the Law Practitioners Act. It is important to know that, at the moment, it is the University of Mauritius which is the sole body authorised to run vocational courses in Mauritius.

In the definition section of the Law Practitioners Act, “accredited person” is defined as follows –

“accredited person” means the University of Mauritius or a person who is the holder of an authorisation granted under section 12A(3)”.

The University of Mauritius, Madam Speaker, teaches the Law practitioners Vocational Course with a syllabus code LM521. I will table a copy of the said syllabus and I will also table the eligibility requirements to follow the course. The course is a full-time course which is approved by the Council for Vocational Legal Education and the Council also approves the syllabus. To be able to pass the examination, a candidate must score at least 60% of the aggregate marks in respect of the eight papers which are set. This amounts to a minimum of 480 marks out of a maximum of 800 marks.

I am tabling, Madam Speaker, the figures which I have obtained from the Council for Vocational and Legal Education in relation to all the three branches of legal profession, namely –

- (a) the attorneys;
- (b) barristers, and
- (c) notaries for the past five years.

These figures illustrate the pass rate and, indeed, the figures speak for themselves.

Madam Speaker, I have, indeed, taken note of the figures and I am, indeed, concerned by the high failure rates. Incidentally, Mauritius is not the only jurisdiction facing a similar situation. In Kenya, which has a similar set up to Mauritius with the Kenyan Council of Legal Education, it was noted that in 2017, for example, there was a 9% pass rate at the examinations and a Judge has even called for a review of the system over there in Kenya.

What is also striking, Madam Speaker, is how the Kenyan situation resembles the one in Mauritius. And what is also striking is the nature of the complaints made in Kenya and the nature of the complaints made here. Madam Speaker, when I assumed office as Attorney General in September last year - it seems a long time, but fairly recent - I started to examine this issue carefully. Records at my office show that since March of this year, a careful examination has been undertaken in-house with a view to bringing reforms.

I have personally had consultations in-house in my office, and with the current Chairman of the CVLE, Justice Caunhye, and by July of this year, I had already approached a very senior retired Member of the UK Judiciary to advise and assist in this matter.

The House will appreciate that in this field, we cannot proceed in an amateurish manner, and this is why I have sought the assistance of persons of the highest calibre to advise Government on the matter.

Government will, therefore, appoint a High Level of Committee of Experts to make recommendations. I can inform the House, at this stage, that I have already approached, as I have stated, a very senior member of the UK Judiciary, who is now retired, to review the Law Practitioners Act and make recommendations for a better regulatory framework for the practice of law in Mauritius, especially in relation to –

- (a) the organisation and conduct of vocational examinations;
- (b) the running of vocational courses, and
- (c) matters of professional discipline.

My office has sought and obtained financial clearance for the payment of the necessary fees to the Chairperson and the assessors. The fees will be met from the provision “fees for legal outsourcing” from the budget of my office.

On 04 December, a letter was issued by my office to the proposed Chairperson of the High Level Committee to convey to him that financial clearance has been sought and obtained in relation to the assignment. I am awaiting a reply from him.

In the meantime, and ahead of the High Level Committee, which Government proposes to set up to make recommendations, I am of the view that the following measures may be considered by the Council for Vocational Legal Education –

- (a) publication of Examiners Report on each paper, so that students who sit for an examination are informed of what is expected from them in respect of each question set;
- (b) the setting up of a review mechanism for advocacy which is now inexistent, so that there may be a request for review by students who are dissatisfied by their grade in advocacy examinations, and
- (c) publication of necessary manuals for each of the modules taught as is the case in other jurisdictions.

Madam Speaker, I am confident that there will be improvement in the way vocational legal education is run in Mauritius. This is a matter which I have been studying very carefully, and the calibre of the person I have approached for chairing the High Level Committee of Experts is an indication of how seriously this particular issue is being taken at the level of Government. I am waiting for response from the Chairperson following the letter

my Office has sent to him on 04 December in relation to the terms of his appointment before I can disclose any further details.

**Mr X. L. Duval:** Madam Speaker, my very last question on this matter was whether Government would commission a study on the whole subject. So, I can only welcome very sincerely this study that is being commissioned by a UK personality. May I ask the hon. Minister when he expects the study to begin in practice and secondly, will he set a deadline so that we are able to come quickly to some improvement in the situation?

**Mr Gobin:** I am expecting that the task will start early next year, and I expect to receive a report thereon by the end of the first semester so that we can bring the necessary legislative changes.

**Mr X. L. Duval:** May I ask the hon. Minister whether one of the terms of reference of the study will be to look into the very, very poor pass rates? This year, I think 6% of Barristers have passed; 94% of these very bright young people have failed, I think, through no fault of their own. Will one of the terms of reference be to ensure that a fair number of deserving students are able to pass, setting the right conditions for them to be able to do so?

**Mr Gobin:** Yes, indeed. Madam Speaker, what is happening now is disjointed. Whatever is happening at the University of Mauritius and whatever is happening at the Council for Vocational Legal Education (CVLE) seems to be happening in a disjointed manner. Prior to 2012, the Council was running the courses, setting the questions, and even marking the papers; there was a proper synergy. After the amendments in 2012, things have changed quite drastically. So, all this will be reviewed and recommendations will be made by the High Level Committee of Experts.

**Mr X. L. Duval:** Madam Speaker, in the meantime, some things can be done. We do not need to wait for the study. For instance, there are persistent complaints that lecturers, firstly, are not provided with the teaching skills; they are well intentioned people, but they are not teachers; often they come late or they actually don't turn up at all for the lecture, and often do not complete the syllabus. Now, can there be in the meantime better communication between the CVLE and the lecturers - because I understand there is no communication - to ensure that this sort of things do not occur for this year?

**Mr Gobin:** Yes, I will, of course, convey this through the representatives sitting on the CVLE. But I think the problem goes deeper than just lateness or failure to complete the syllabus. Universities tend to have an academic approach while the examinations for the CVLE are almost entirely, if not entirely, practically oriented.

**Mr X. L. Duval:** Indeed, that is why there should be communication with the lecturers and the CVLE to ensure that, at least, in the meantime, the lecturers know what is expected of them because there has been no communication at all. Can the hon. Minister perhaps use his good offices to ensure that?

**Mr Gobin:** I will certainly, Madam Speaker.

**Mr X. L. Duval:** Is the hon. Minister aware that, this year, the lectures were completed, I think, at the end of August, giving only ten days for revision for all the students taking these exams? Will the hon. Minister also ensure that this does not recur in the future, please?

**Mr Gobin:** I can only transmit to the Council through the representative of my Office.

**Mr X. L. Duval:** Apparently, there were no Examiners Report since 2013, five years ago, that is, a report saying to the students and to lecturers what was right and what was wrong with the answers given. Can the hon. Minister tell us why that has occurred?

**Mr Gobin:** Madam Speaker, I don't have that information as to such detail as to the Examiners Report. The House will appreciate that this is a matter that will be best dealt with by the Council in its independence. But I can, of course, convey the concern of the House through the representative to look into the question of whether examiners' reports were prepared and, if not, why not.

**Mr X. L. Duval:** Madam Speaker, I am going to ask the hon. Minister whether consideration will be given immediately to the hiring of overseas lecturers to come and beef up in the meantime the lectures given so that overseas lecturers from UK, Australia, Canada, whatever, can come and help at least in some of these topics, to help and upgrade the level of lectures given, immediately?

**Mr Gobin:** Madam Speaker, this falls under the jurisdiction of the Vocational Examinations Board and the Council for Vocational Legal Examination. It would, I think, not be proper for a Minister to interfere to that extent in the affairs of the Council.

**Mr X. L. Duval:** The hon. Minister appears to care for the situation, which I must explain, Madam Speaker. The situation - and this is why I am saying all this - is particularly detrimental to the poor students; rich students can go overseas, and they do go overseas, and pass the exams quite easily. It is the poor, poor students who suffer from this system and, therefore, this is why I repeat my question. Please, can the hon. Minister talk to the CVLE to ensure that this year - because we never know when the study will be implemented and done

- immediately, overseas lecturers are available to help the poorest of the poor students who cannot afford to go overseas?

**Mr Gobin:** Yes, Government is fully aware of the situation. There is the issue of the lecturers, of course; there is the issue of those who have the means to go abroad, but there is also, not to be ignored, the issue that Mauritian law is by its very nature complicated, as I stated in the opening paragraph, so that the difficulties encountered with the examinations here are not necessarily the same difficulties encountered when taking examinations in the UK or any other jurisdiction. We are a mixed legal jurisdiction; this makes it, in the words of Mr Venchard –

*« Le droit mauricien est, de par la pluralité de ses origines, réputé pour la difficulté de son approche. »*

This has to be put in the balance as well.

**Mr X. L. Duval:** Madam Speaker, I think it is more an institutional problem rather than a difficult problem concerning the law in Mauritius. This is why people are failing and they are getting 3%, 4%, 5% pass rate.

Madam Speaker, I would like to ask the hon. Minister why Attorneys are not allowed to study and pass the Vocational Exams overseas whereas the course is virtually identical to the courses for Barristers.

**Mr Gobin:** Yes, exactly, I totally agree. In fact, I am expecting that the High Level Committee of Experts will make recommendations on this specific issue as well. I know some Attorneys might not be happy about that, but we have to have a very broad outlook on this question.

**Mr X. L. Duval:** Madam Speaker, I looked at the number of Barristers who swore this time, whatever their name is, who were admitted to the Bar this year, or over the last five years. Less than 10% actually passed their exams in Mauritius, 90% passed the exams overseas. So, isn't that a case to show clearly that the situation is totally unfair to the poor students who take their exams in Mauritius and, therefore, this question of difficulty in law is not a real a question and we should really look into facilitating and helping the local students?

**Mr Gobin:** I am hoping that the report of the Committee of Experts will be comprehensive enough to address all those issues, of course. The issue of the manuals, the issue of the lecturers, this synergy between the courses and the examinations and also review mechanisms, as I stated earlier. Right now, if a student does not go through the advocacy there is no review mechanism; this has to be addressed as well.

**Mr X. L. Duval:** May I also ask the hon. Minister whether he has inquired into the fact as to why out of some 25 prospective notaries, not a single one of them passed the exams this year?

**Mr Gobin:** Madam Speaker, the Committee which Government will set up will look at all the three branches of the profession and not only barristers, but also attorneys as well as notaries.

**Mr X. L. Duval:** Madam Speaker, can I ask the hon. Minister to reassure this House and our country that there is no quota system applied and that people don't say: 'Look, we need so many attorneys, so many lawyers, barristers etc.?' Can he give the firm assurance that there is no quota system applied when actually looking at the passes for these exams?

**Mr Gobin:** When I was sitting for the exams myself, Madam Speaker, I was told that there was a quota system, but now, with hindsight and with experience, I can reassure the House that there is no quota system.

**Mr X. L. Duval:** Madam Speaker, my last question on this topic, which is important, but, obviously....

**Madam Speaker:** Hon. Leader of the Opposition, can I interrupt you, there are two other Members who wish to ask questions and we have got some few minutes left.

**Mr X. L. Duval:** Please, yes.

**Madam Speaker:** Hon. Ganoo!

**Mr Ganoo:** Can I ask the hon. Attorney General whether, in view of this unsatisfactory situation which has prevailed over the years now, why did not he draw the attention of the Council on the necessity of looking for another accredited institution, another provider, to dispense the courses, especially the problem is, as the hon. Leader of the Opposition said, these courses are advertised for 12 months but, in fact, they last for only eight months? This year, the courses stopped end of August.

**Mr Gobin:** Well, I can only convey this specific issue which is squarely within the jurisdiction of the Council.

**Madam Speaker:** Hon. Rutnah!

**Mr Rutnah:** Thank you, Madam Speaker. Madam Speaker, in relation to the High Level Committee which the hon. Attorney General is proposing to set up, has he deemed it necessary, other than contacting the senior member of the Judiciary of the United Kingdom, to contact reputable institution like the former Council of Legal Education, which is now the City University, for example, in the UK, and the BARBRI company in the United States,

these people who have got huge experience in conducting Bar exams to come and contribute to our system here?

**Mr Gobin:** Yes, my learned friend is right. In fact, the proposed Chairperson was himself responsible for the Bar Standards Board. So, he is wearing two hats. And now, he has retired and he has gladly accepted, so far as I know, to undertake this task. We are just awaiting a confirmation in writing.

**Madam Speaker:** Hon. Ramano !

**Mr Ramano:** Merci, Madame la présidente. Madame la présidente, les candidats qui échouent dans une seule matière sont très souvent obligés de reprendre toutes les matières. Est-ce que le ministre est d'accord de rendre le système plus juste et de permettre à ces candidats de prendre seulement la matière où ils ont échoué ?

**Mr Gobin:** Madam Speaker, I am informed that the Council may grant exemptions upon application. I think this answers the question of my friend.

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

**Mr X. L. Duval:** My last question concerns the cost. This is adding insult to injury. The very high cost of the course is Rs120,000 or so, which is probably far higher than any other fees that the University of Mauritius charges. So, as an immediate measure, could the hon. Minister, especially since the pass rate is so low, people have to take it three or four times, immediately reduce by a large amount the fees of Rs120,000 or so that are paid by students hoping to pass these exams? Can this be done, please?

**Mr Gobin:** The hon. Leader of the Opposition is right, but some funny things happened in 2012. Madam Speaker, all these funny things, I don't know how they happened in 2012, but I can reassure the House and the population that this Government will set things straight.

**Mr X. L. Duval:** Can I just get a clarification because often questions are avoided? Are we able to count on the hon. Minister to see to it with the University of Mauritius that the fees for the courses will be reduced substantially, especially given the very, very low pass rate at these exams?

**Mr Gobin:** Once again, Madam Speaker, these are issues to be dealt with not only the Council of Vocational Legal Education, but the Council of the University also. It is not a question where Government sets the fees, but I can certainly look into it.

**Mr X. L. Duval:** Madam Speaker, just a last one. We have time.

**Madam Speaker:** You have time.

**Mr X. L. Duval:** We have the Minister of Education here. He is not the Minister of Education, but we do have his colleague, they sit in Cabinet. This is a real issue, this is a genuine issue, nobody passing and they have to pay hundreds of thousands rupees, much more than any other fees for the University of Mauritius. Can we count on the hon. Minister to see to it with his colleague that they do whatever is necessary to have these fees reduced, please?

**Mr Gobin:** No, I cannot give this guarantee just on a question that the University will take a decision unilaterally. For this course, the University is acting as an accredited person. Accredited person means accredited by the Council for Vocational Legal Education. This has to be addressed, therefore, holistically.

**Madam Speaker:** Okay, no more question. Time is over.

### **MOTION**

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

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

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

*Question put and agreed to.*

### **ANNOUNCEMENT**

#### **HON. R. UTEEM – PRIVILEGE COMPLAINT – NOTICES –**

#### **HON. KALYAN TAROLAH**

**Madam Speaker:** Honourable Members, I will announce my decision on the notices given to me by the Honourable First Member for Port Louis South & Port Louis Central (Mr R. Uteem), on 03 and 04 December 2018, respectively, to raise a privilege complaint in relation to the conduct of the Honourable Third Member for Montagne Blanche and Grand River South East (Mr Kalyan Tarolah) on the night of 11 April when he allegedly sent indecent messages and photos within the precincts of the National Assembly while it was sitting.

I wish to draw the attention of the House to the following facts -

1. The alleged contempt or breach of privilege refers to the conduct of Honourable Kalyan Tarolah on the night of 11 April 2017 when he allegedly sent obscene and indecent messages and photos, whilst he was within the precincts of the Assembly which was sitting.
2. The alleged contempt or breach of privilege referred to above came within public knowledge when the complainant made a statement in this respect as far back as 02

October 2017 and which attracted wide media coverage and outrage, as pointed out by the Office of the Director of Public Prosecutions in its Communiqué dated 30 November 2018.

3. On 04 October 2017, the Parliamentary Gender Caucus issued a Press Communiqué whereby reference was made to the alleged conduct of the Honourable Third Member for Montagne Blanche and Grand River South East (Mr Kalyan Tarolah).
4. The Honourable First Member for Beau Bassin and Petite Rivière (Mr R. Bhagwan) gave notice of a motion standing in his name which was circulated on 05 December 2017 as follows –

“This Assembly deplores and condemns the unbecoming behaviour of the Honourable Third Member for Constituency No.10, Montagne Blanche and Grand River South East (Mr Kalyan Tarolah) in the House on 11 April 2017, to wit, the alleged sending of indecent photographs from a mobile phone whilst being in the precinct of the Assembly at a time when the Assembly was sitting, thereby offending the dignity of the House.”

The above-mentioned motion appeared on the Order Paper of Friday 15 December 2017. However, by reason of the fact that, when this item of the business of the House was reached, hon. Bhagwan was absent and no other hon. Member moved the said motion in his stead, the said motion lapsed.

5. The hon. First Member for Port Louis South and Port Louis Central (Mr Uteem) gave notice of two Parliamentary Questions in regard to the inquiries being carried out in relation to the complaints of Ms L. D. A. against the hon. Third Member for Montagne Blanche and Grand River South East, which appeared on the Notice of Questions requiring oral answers addressed to the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues, as follows –

- On 28 November 2017, I quote –  
 “Whether, in regard to the complaints of Ms L. D. A. against Honourable K. T., he will, for the benefit of the House, obtain from the Commissioner of Police, information as to if any (a) investigation has been undertaken in relation thereto and (b) person has been arrested in connection therewith?”

- On 27 November 2018, I quote –  
 “Whether, in regard to the inquiries initiated in the cases reported by Ms L. D. A. against Honourable K. T., he will, for the benefit of the House, obtain from the Commissioner of Police, information as to where matters stand?”

Now, applying the procedure prescribed in Standing Order 74 of the Standing Orders and Rules of the National Assembly in dealing with offences provided for in the National Assembly (Privileges, Immunities and Powers) Act to the facts under consideration - that is - the issue of alleged contempt or breach of privilege by hon. Tarolah, the following conclusions are reached –

Considering that –

- the alleged conduct took place on 11 April 2017;
- the alleged conduct came within public knowledge on 02 October 2017;
- the Parliamentary Gender Caucus referred to the alleged conduct in a Press Communiqué on 04 October 2017, and
- the alleged conduct was the subject of 2 Parliamentary Questions on 28 November 2017 and on 27 November 2018 respectively and of one Motion in the House on 15 December 2017,

it can safely be said that the hon. First Member for Port Louis South and Port Louis Central (Mr Uteem) has had notice of the alleged conduct, which could amount to contempt or breach of privilege, as far back as October 2017.

Therefore, to all intents and purposes, it stands to reason that the hon. First Member for Port Louis South and Port Louis Central (Mr Uteem) cannot claim that he has had notice of the said conduct on 30 November 2018 following the issue of the Communiqué by the Office of the Director of Public Prosecutions, as averred by in the notices he gave.

In the light of the above, had the hon. First Member for Port Louis South and Port Louis Central (Mr Uteem) wished to raise a privilege complaint, he ought to have given the notice of the matter to my good self on a sitting day as soon as reasonably practicable – according to paragraph (1) of Standing Order 74 - that is - at a time contemporaneous to October 2017.

In the circumstances, I rule that the notices dated 03 and 04 December 2018 given by the hon. First Member for Port Louis South and Port Louis Central (Mr Uteem) cannot be entertained.

Hon. Members, moreover, with regard to the Communiqué issued by the Office of the Director of Public Prosecutions, dated 30 November 2018, in the case (PMP 3442/18 – OB 972/17 CCID – Breach of the ICTA), which seems to have raised much confusion in the minds of one and all, in view of the fact that it contains a request to the Commissioner of Police to bring same to my attention for, I quote –

“any action which I may deem fit”,

I wish to draw the attention of the House to the following –

From the content of the Communiqué itself, it is abundantly clear that the advice of the Office of the Director of Public Prosecutions, I quote –

“has been sought by the Commissioner of Police in a matter, which attracted wide media coverage and public outrage, involving hon. Kalyan Tarolah. He is alleged to have used his private mobile phone to send indecent and obscene messages through Whats App. Moreover, it is also alleged that at the time he sent some of those indecent and obscene messages, he was physically present in the National Assembly which was in session.”

Hon. Members, the following facts can be gathered –

- Following the inquiry carried out by the Commissioner of Police, the latter sought the advice of the Office of the DPP as to the course of action to be taken by the Police in Case OB 972/17 CCID with no suggestion of prosecution by the Police.
- The Office of the DPP advised the Office of the Commissioner of Police that for the reasons stated in the Communiqué - all the elements of an offence for breach of section 46(ga) of the ICTA not being present – to stay its inquiry into OB 972/17.
- However, the Office of the DPP further stated that it undertook (on its own volition) to review the evidence gathered by the Police with a view to deciding whether same discloses an offence under the National Assembly (Immunities, Privileges and Powers) Act.

- It is presumed that, the Office of the DPP considered it fit to do so, on the basis of the statement of Ms L. D. A. given on 02 October 2017 that hon. Tarolah sent her a number of messages and photos, while he was in the National Assembly; that same were retrieved from her mobile phone, and that the Official Report confirms that the Assembly sat on 01 April 2017, given that hon. Tarolah took part in the debate on the Land Drainage Authority Bill.
- Finally, the Office of the DPP concluded that, it is of the considered view that a *prima facie* case of contempt of the National Assembly has been disclosed by the Police Inquiry and has advised the Office of the Commissioner of Police to so inform my good self for any action that I may deem fit.

Hon. Members, may I refer anew to Standing Order 74 for the benefit of one and all to understand exactly what are the prerogatives of this august Assembly.

The laws of Mauritius provide as follows –

- Section 48 of the Constitution of the Republic of Mauritius, entitled ‘Regulation of procedure in the National Assembly’ provides that –  
 “Subject to this Constitution, the Assembly may regulate its own procedure, in particular, make rules for the orderly conduct of its own proceedings.”

There followed the establishment of the Standing Orders and Rules of the National Assembly which have made provision for Standing Order 74, entitled Contempt of the Assembly, whereby the procedure to be followed when dealing with offences are provided for in the National Assembly (Privileges, Immunities and Powers) Act prescribed, namely –

- paragraphs 1, 2 and 3 deal with the following issues –
  - (i) who is entitled to give notice of an alleged contempt or breach of privilege;
  - (ii) how this notice is given to the Speaker;
  - (iii) the time within which the notice has to be given, and
  - (iv) finally – who is entitled to rule on this notice, that is, the Speaker.
- Paragraph 4 provides clearly that it is for the Speaker to consider whether the circumstances reported thereto in the prescribed manner amounts or not to an offence under the National Assembly (Privileges, Immunities and Powers) Act.
- Paragraph 4 further provides for the ensuing procedure, that is, if, according to the Speaker, the circumstances reported amounts to an offence under the said

Act, the Speaker so informs the hon. Member who gave the said notice who thereafter tables a motion ‘seeking that the matter be referred to the Director of Public Prosecutions for appropriate action.’

Hence, it is the House which, by resolution, refers the matter to the DPP for appropriate action, upon the Speaker being satisfied that there is *prima facie* evidence of an offence having been committed under the National Assembly (Privileges, Immunities and Powers) Act, on a hon. Member giving notice thereof to the Speaker, subject to same being given as soon as reasonably practicable following him having notice of the offence having been committed.

In the present circumstances, I rule that the procedure to deal with the alleged commission of an offence by hon. Kalyan Tarolah under the National Assembly (Privileges, Immunities and Powers) Act as provided for in Standing Order 74 of the Standing Orders and Rules of the National Assembly have not been complied with so that the matter cannot be now referred to the DPP for appropriate action.

The contrary would be violation of our prescribed Standing Orders and Rules.

However, notwithstanding the fact that the existing legislation prevents the House from taking any action against the hon. Third Member for Montagne Blanche and Grand River South East (Mr Kalyan Tarolah), I wish to express my indignation about a photograph in circulation showing the said Member in deep slumber allegedly while in his seat in the Chamber and of a demeaning video clip of his good self, doing an indecent gesture – which have gone viral and have attracted wide public outrage.

These, together with the findings of the Office of the Director of Public Prosecutions regarding the indecent messages and photos which have allegedly in the course of the public enquiry been retrieved are materials enough to condemn the said behaviour of the hon. Third Member of Montagne Blanche and Grand River South East, albeit, outside the four corners of the provisions of the existing Rules and Regulations.

As Speaker, I consider such behaviour as being utterly demeaning, undignified and derogatory to the holder of an office which requires rigour, discipline and decency, to say the least.

To my mind, such behaviour ought never to have occurred and should never recur in the future.

Nonetheless, I wish to reiterate the observations I made in the case of hon. Hurreeram and hon. Mohamed and condemn the wrongful or misuse of mobile phone and other electronic devices that offence the dignity and decorum of the House and I am more than ever resolute in prescribing strict rules to regulate the use of the mobile phones and other electronic devices in the House and/or purporting to show parts of the precincts of the National Assembly, susceptible to offend against the decorum and dignity thereof.

I thank you for your attention.

**Mr Uteem:** Madam Speaker, on a point of order. Under Article 74(1), a person can give the privilege complaint as soon as it is reasonably practicable after the Member had notice of the alleged contempt.

Madam Speaker, on 30 of November 2018, this is what the Office of the DPP said and I quote –

“It may well be that there has until now been no privilege complaint motion by a Member given that there was an ongoing police enquiry.”

I am a Barrister by profession. Until the DPP tells me there is sufficient evidence, how can I know that there is a contempt that has been committed? It is only on the 30 of November that I came to know that there was an offence because it might well be that hon. Tarolah would say that he never sent it. He never did anything. So, it is on the 30<sup>th</sup>. I will not accept that because of an error of procedure, because it is my personal knowledge that is the matter, and I only came to know that there is a privilege complaint on 30 November. So, that is the first reasonable opportunity that I had on Tuesday, on the first sitting, I sent it. So, it was not in October, it was last week.

**Madam Speaker:** Hon. Member, let me tell you that there is no point of order because my ruling is final. However, let me tell you that if you are not happy with the ruling, you may come with a substantive motion for a review of the ruling in accordance with Standing Order 41(4). Thank you.

**Mr Ganoo:** May I raise a point of order to clarify the situation.

**Madam Speaker:** I have already ruled out, hon. Member.

*(Interruptions)*

Please, resume your seat! I have said that my ruling is final, but if you are not happy with my ruling, there is provision in the Standing Orders that allows you to come with a substantive

Motion for a review of the ruling and then you may come therewith, according to the procedure established in the Standing Orders, with that substantive Motion, and that is the end of the matter.

I propose to proceed with the business of the day. Hon. Prime Minister, you may proceed with the speech of the Second Reading.

## **PUBLIC BILL**

### *Second Reading*

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

### **(NO. XXII OF 2018)**

*Order for the Second Reading read.*

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

Madam Speaker, it is with a deep sense of pride and satisfaction that I rise today in this august Assembly to present this historic Bill which concerns the reform of a fundamental aspect of our democracy, that is, our electoral system.

This Bill marks an important landmark in our constitutional history of the country. It is a long awaited Bill of great constitutional significance, as it will not only help consolidate and advance constitutional democracy, republican values and ideals in Mauritius, but it will also preserve and promote inclusiveness and foster nationhood.

Madam Speaker, there is consensus, across the political spectrum and among the population at large, that the Constitution and the electoral system that were bestowed upon us by the founding fathers have served us well, and have been instrumental in maintaining social and political stability in our country. But we have come a long way since 1968, and as we celebrate, this year, the 50<sup>th</sup> Anniversary of our independence, it was about time for us, as a nation, to seriously and decisively engage in a process of self-examination and look at what has worked and what needs to be reviewed in our electoral system.

After careful reflection and examination, over several months, Government is ready in its resolve to fulfil its commitment taken in 2014 *vis-à-vis* the nation, by implementing certain important measures to reform and modernise our electoral system. Our aim is to consolidate and widen the contours of our democracy, provide for greater participation of

women in the political life of the country and promote nation building and consolidate national unity. This is precisely what this Bill purports to achieve and Government has a mandate from the people to bring about this reform.

Madam Speaker, as the House is aware, for many years now, electoral reform has appeared in the electoral manifestos of various political parties represented in this House. For the last 25 years or so, electoral reform has also constantly been on the political agenda of all Governments. As a matter of fact, since the release of the Sachs Report in 2002, several other reports on electoral reform by experts and knowledgeable persons have been commissioned and published, including -

- (i) the Select Committee Report in 2004;
- (ii) the Carcassone Report in 2011;
- (iii) the Sithanen Report in 2012;
- (iv) the Consultation Paper on electoral reform, in March 2014, and
- (v) the electoral reform proposals of the Mauritius Labour Party and the MMM, released in September 2014.

However, as the House is also aware, for one reason or another, none of these reports with its recommendations has been implemented.

Madam Speaker, on assuming office in 2014, this Government reiterated its pledge to reform our electoral system and announced reform measures in its 2015-2019 Programme as follows, and I quote –

- “(a) Our electoral system will be reformed to introduce a dose of proportional representation in the National Assembly and guarantee better women representation”;
- (b) “An anti-defection legislation will be introduced to make it more difficult for MNAs to cross the floor”;
- (c) “Financing of Political Parties Act will be enacted”.

Madam Speaker, I would like to emphasize the fact that both in our electoral manifesto of 2014 and in our Government Programme, we pledged to introduce a dose of proportional representation in our electoral system and not a full PR system.

Madam Speaker, in view of the ruling of the United Nations Human Rights Committee and the stand of the Government in the cases entered by *Rezistans Ek Alternativ* at the Supreme Court, there was also the need to do away with the mandatory declaration of community for nomination as a candidate for the National Assembly Elections.

Accordingly, a Ministerial Committee was set up in January 2016 with the following terms of reference –

To examine the various Reports on Electoral Reform and any such other Reports or documents as may be deemed necessary and –

- (i) make proposals for the electoral reform with a view to introducing a dose of Proportional Representation in the National Assembly and guarantee better women representation;
- (ii) make recommendations with regard to the mandatory declaration of community;
- (iii) propose anti-defection measures;
- (iv) make proposals for the powers of the Electoral Supervisory Commission to be widened;
- (v) propose a draft Financing of Political Parties Bill;
- (vi) propose amendments to the electoral system in Rodrigues so as to better meet the aspirations of the Rodriguans.

Madam Speaker, it is pertinent to remind that in October 2016, the Ministerial Committee submitted its recommendations on the amendments to the electoral system in Rodrigues. The Rodrigues Regional Assembly Act was subsequently amended in December 2016 to give effect to these recommendations. Concurrently, the Constitution was also amended to make provisions for ensuring adequate representation of each sex in the Rodrigues Regional Assembly.

Madam Speaker, the Ministerial Committee has also submitted its proposals on the Financing of Political Parties. Government's proposals on this aspect of electoral reform were released on Friday last as part of a consultation process and all political parties and the public at large have been invited to submit their views and suggestions thereon by 14 January 2019.

Madam Speaker, the Ministerial Committee has also addressed the other issues in its terms of reference, namely, the introduction of a dose of proportional representation, guaranteeing better women representation, mandatory declaration of community and anti-defection measures. The recommendations made by the Ministerial Committee on these issues were approved by Government and on 21 September 2018 the proposals were presented to the public. During the presentation, I highlighted the fact that the main objectives of the reform proposals are to -

- (i) introduce a dose of proportional representation to provide for fairness, inclusion and a more equitable representation of parties in the National Assembly while maintaining the First-Past-the-Post system so as to ensure stability in Government;
- (ii) do away with the mandatory declaration of community by candidates, and
- (iii) ensure an enhanced women representation in the National Assembly.

A consultation paper, giving more details about the Government reform proposals was also circulated to all leaders of political parties and independent members in the National Assembly. The document was also posted on the website of the Prime Minister's Office. At the same time, I indicated that Government wanted to give enough time for constructive debates on the proposals and for political parties and the public to submit their views and suggestions.

Madam Speaker, during my meeting with the Press on 21 September 2018, I stressed on the fact that Government has, in its 2015-2019 Programme, pledged to introduce a "dose" of Proportional Representation and that maintaining social and political stability is our top most priority.

Following my invitation for views and suggestions on the Government's proposals, we received counter-proposals from various stakeholders. However, all the counter-proposals which were received have either called into question the fundamental aspect of our reform proposals, that is, stability, or proposed a radical overhaul of our electoral system. As we do not intend to make any compromise on stability and we are also not in favour of drastic and disruptive changes, none of these counter-proposals has been retained.

Madam Speaker, as the House is aware, the current First-Past-the-Post system has been in operation in Mauritius since 1967. The country has gone through 11 elections under this system and, on several occasions there has been a change of Government through the

ballot box. It is a system that has, so far, yielded stable governments and served the country well by contributing to its political and social stability.

However, although the current system undeniably has certain strengths, it also suffers from certain imperfections, such as the disparity between votes polled and seats won by parties, the under-representation of women in the National Assembly and the categorisation of the Mauritian population into four different “communities” for the purposes of the Best Loser System.

Madam Speaker, there is widespread consensus both in the political class and in public opinion on the need to improve and modernise our electoral system and also to address the issue of mandatory declaration of community. This is what this Bill purports to do.

Madam Speaker, let me now briefly explain the salient features of the Bill and their underlying philosophy and rationale.

Madam Speaker, as the House is aware, with a view to ensuring adequate representation of each sex on a local authority, section 16(4)(aa) of the Constitution presently provides for a derogation from protection from discrimination in that a minimum number of candidates for election to local authorities have to be of a particular sex.

Clause 2 of the Bill seeks to amend section 16(4) (aa) of the Constitution so as to make similar provision for the National Assembly. I shall expatiate on this aspect of gender representation later on.

Clause 3 of the Bill is amending section 31(2) of the Constitution to provide that the National Assembly shall consist of up to a maximum of 85 Members. At present, section 31(2) provides that the National Assembly shall consist of 70 Members.

In the proposed model, the number of the First-Past-the-Post seats in the 21 Constituencies will be 63, in lieu of 62. In addition, 12 PR seats and six additional seats will be allocated, bringing the total number of seats to 81.

I would like to point out that it is only in extreme cases that the six additional seats may rise up to 10, bringing the total number of seats to 85 and I shall revert to this later on when I come to the mechanism for the allocation of additional seats.

Madam Speaker, I must also say that the number of MNAs we are proposing today, is the lowest, as compared to proposals made in all previous reports on electoral reform. The

Sachs model C recommended a Parliament of 100 MNAs, the Sithanen Report – 82 MNAs and the Labour and MMM Alliance was proposing a Parliament of 83 MNAs.

It must also be brought out that the number of MNAs has remained the same since the first general election held under the present Constitution in 1967, that is, a maximum of 70. Yet, the number of electors has nearly tripled since then. It has increased from 314,004 in 1967 to 923,316 in 2018. Furthermore, and I am sure all the hon. Members will agree with me, the electorate in Mauritius insists on the proximity, presence and availability of their elected representatives on the field to attend to their various demands and grievances.

Nevertheless, we consider that a higher number of MNAs than what we are proposing would not be justified given that the ratio of MNAs to population size for Mauritius is already among the highest in the world, as highlighted in the Carcassone Report.

Madam Speaker, I now come to the proposed amendment to section 35 of the Constitution. Section 35(1) of the Constitution lays down the circumstances in which the seat of a Member of the Assembly shall become vacant. Clause 4 of the Bill is amending section 35 (1) so as to provide for the seat of a Member who has been allocated a PR seat or an Additional Seat to become vacant where he ceases to be a Member of the Party to which he belonged and I shall revert to this later on when I come to the anti-defection provisions.

Madam Speaker, with the proposed increase in the number of Members in the National Assembly, there will also be a need to review the quorum for transactions of business in the National Assembly. Section 52(2) of the Constitution presently provides that the quorum for transacting business shall be 17. Clause 5 of the Bill is amending the quorum from 17 to 21, taking into account that the number of Members in the Assembly is being increased up to a maximum of 85.

Madam Speaker, the First Schedule of the Constitution presently provides for the election of 62 Members for the National Assembly and for the allocation of up to 8 best loser seats in order to ensure a fair and adequate representation of each community.

Clause 7 of the Bill is repealing the First Schedule to the Constitution and replacing it by the First Schedule to this Bill. Let me now come to the main Provisions of this new First Schedule.

Paragraph 1 of the First Schedule provides for the registration of political parties and party alliances, by the Electoral Supervisory Commission, for the purpose of general elections, within 14 days before Nomination Day. Any registered party or party alliance shall

be required to furnish to the Electoral Supervisory Commission the name of the Party Leader or the name of such other persons as may be prescribed for the purpose of the Schedule.

Paragraph 2(1) of the Schedule provides that there shall be 63 seats in the Assembly for Members representing constituencies and, accordingly, each constituency shall return three Members to the Assembly in such manner as may be prescribed. It is to be noted that Rodrigues will now return three Members, in lieu of two. This will also enable the inclusion of women on the basis of the same formula proposed for Mauritius. The proposed three-member constituency for Rodrigues is also justified by the fact that the number of electors has increased and that Rodrigues will not benefit from PR or additional seats.

Madam Speaker, with a view to fostering better gender representation in the National Assembly, paragraph 3 of the Schedule requires every party presenting more than two candidates at a general election to ensure that not more than two-thirds of the total number of candidates, sponsored by that party, is of the same sex. In case a party fails to comply with this provision, all the candidates of that party shall be considered not to belong to any party and their Nomination Papers shall have effect accordingly.

Madam Speaker, let me now dwell briefly on this paragraph which seeks to address the gross under-representation of women in our National Assembly. Madam Speaker, more than 16 years ago, the Sachs Commission observed that, and I quote –

“Mauritius can justly be proud of the admiration which its democratic life enjoys internationally. It cannot, however, hold up its head in terms of participation of women in political life (...) a situation in which half the population ends up with only one-twentieth share of representation manifests a grave democratic deficit which we believe, requires special attention in our report.”

Madam Speaker, regarding this aspect, we still cannot hold our heads high. The parliamentary representation of women in Mauritius is still very, very low. Mauritius ranks among the lowest not only in the SADC region, but in the whole world. For the last National Assembly Elections held in 2014, only eight women were returned as MNAs out of 69, giving a representation of only 11.59%. Women representation in Parliament has ranged from 0% in 1967 to 18.84% in 2010. Mauritius has not even been able to fulfil the commitment taken at the SADC Summit of 1997 in Malawi to achieve at least 30% women’s representation in Parliament by 2005.

All the subsequent reports on electoral reform have highlighted the need to address this chronic deficit in female political presence, and there is agreement across the political spectrum and beyond that we should do better. We have all been talking about that for a long time, and this Bill is providing to all of us the opportunity to address this issue in a decisive and effective manner and to promote the active participation of women in public life. It is time now for the political class to walk the talk.

Madam Speaker, I now come to paragraph 4 of the Schedule, which makes provisions for the procedures to be followed, and the information to be furnished, for the nominations of constituency candidates. It is to be noted that prospective candidates will no longer be required to declare their community on the Nomination Papers given that the prevailing Best Loser System is being subsumed in the proposed new formula.

Madam Speaker, as the House is aware, for the purpose of the Best Loser System, the First Schedule to the Constitution divides the population of Mauritius into four communities, namely a Hindu community, a Muslim community, a Sino-Mauritian community and every person who does not appear from his way of life to belong to one of those three communities is regarded as belonging to the “General Population”, which is itself regarded as the fourth Community.

Every candidate at any general election is required to declare on his Nomination Paper which community he or she belongs to. In the event that a prospective candidate fails to declare his community, his Nomination Paper is invalidated by the Returning Officer.

In 2007, the Political Party “Rezistans Ek Alternativ” challenged the mandatory requirement of community declaration before the United Nations Human Rights Committee (UNHRC), under the Optional Protocol to the International Covenant on Civil and Political Rights.

The Applicants alleged breaches of Articles 18, 25 and 26 of the Covenant and highlighted the vagueness of the criteria which determine which community they belong to.

The UNHRC concluded that the requirement of mandatory classification of a candidate did constitute a violation of Article 25 of the Covenant and also reminded that Mauritius was under an obligation to provide the complainants with an effective and enforceable remedy and avoid similar violations in the future.

With a view to complying with the findings of the UNHRC, the Constitution (Declaration of Community) (Temporary Provisions) Bill was passed in July 2014 as a

temporary and palliative measure, pending a promised full-fledged reform of our electoral system. Consequently, for the general elections of December 2014, it was not mandatory for a candidate to declare the community to which he belonged.

However, as you are all aware, for the next and subsequent general elections, prospective candidates would still have to declare their community, if no change were brought to the law.

The Political Party “Rezistans Ek Alternativ” has also entered two constitutional challenges before the Supreme Court. Their contention is that the requirement for mandatory declaration of community of a candidate in a general election is discriminatory and undemocratic and that they could not classify themselves in the absence of reasonably precise criteria in the First Schedule to the Constitution.

Furthermore, maintaining the Best Loser System, in its actual form, would require an updating of census figures for each of the four communities and for us, on this side of the House, this is out of question. Besides, many of our compatriots cannot, and do not wish to, classify themselves in any one of these communities. We consider that an ethnic census exercise would be detrimental to social harmony and nation building inasmuch as it is incompatible with our vision of a secular and modern nation. We believe that 50 years after independence, our country and our people deserve better.

Madam Speaker, the need to replace the Best Loser System by an acceptable mechanism has been debated at great length both inside and outside this House. I do not think there is any need to re-open the debate on this issue. Suffice it for me to say that there is a general feeling, since long, that the Best Loser System has outlived its usefulness, and consequently the case for change has been made by constitutional experts, the Judicial Committee of the Privy Council, the Supreme Court of Mauritius, the United Nations Human Rights Committee and by many other voices from the civil society and from other quarters. As a matter of fact, all the reports on Electoral Reform since the year 2000 have recommended either the abolition of the Best Loser System or for it to be subsumed in a new dispensation that will obviate the need for prospective candidates to declare their community, while maintaining diversity and inclusion in political representation. We firmly believe that our reform proposals will succeed in meeting and satisfying these requirements.

Madam Speaker, there have been some insinuations that by doing away with the BLS, one particular section of the population runs the risk of being under-represented.

Let me reassure the House that this insinuation is unfounded. I must say that the BLS is only one among several other features of our Constitution which guarantee a fair and adequate representation of all the different components of our rainbow nation in the National Assembly.

These are –

- (i) specially drawn constituencies;
- (ii) unequal population size of constituencies, and
- (iii) three-member constituencies.

Besides, experts agree that the contribution of BLS has a limited impact in securing an adequate parliamentary presence of the main segments of our population.

Madam Speaker, we have no doubt that our proposals will succeed in ensuring broad-based and inclusive representation, given that party leaders will have a decisive role in determining the PR list and its order of precedence and they will also designate candidates for allocation of additional seats.

Paragraph 5 of the Schedule precisely provides that, in addition to the 63 constituency seats, there shall be 12 PR seats and between 6 and 10 additional seats in the Assembly which shall be allocated after all the returns have been made of persons elected as Members to represent Constituencies.

Paragraph 6 requires every Party, wishing to be allocated PR seats, to submit to the Electoral Commissioner, not later than the prescribed time and in such form and manner as may be prescribed, a closed PR list which shall contain the relevant particulars of not more than 24 PR candidates, who belong to the party and whom the party sponsors. The PR list shall not contain the name of a person who is a constituency candidate or whose name appears on any other PR list, submitted by another Party. In order to ensure better gender representation, the PR list shall not comprise more than two-thirds of persons of the same sex and also indicate the order of precedence of each of the PR candidates appearing on the list such that not more than 2 consecutive candidates on the list shall be of the same sex.

If the PR list does not comply with these requirements, it shall be declared to be invalid by the Electoral Supervisory Commission.

Madam Speaker, let me now explain the mode of allocation of PR seats. Paragraph 7 sets out the manner in which the PR seats are to be allocated and which is as follows –

- (a) every PR seat shall be allocated by the parallel mode and the highest remainder formula;
- (b) for a Party to be eligible for PR seats, the constituency candidates of that Party must have polled at least 10% of the total votes polled by all the candidates, including candidates not belonging to any Party, in all the 20 Constituencies in Mauritius, other than in Rodrigues;
- (c) the PR seats shall be allocated by the Electoral Supervisory Commission which shall determine firstly, the qualifying Parties, secondly the number of PR seats that shall be allocated to each qualifying Party, and thirdly the names of the PR candidates of each qualifying Party entitled to be allocated PR seats in the order of precedence on that Party's PR list, and
- (d) in order to determine the number of PR seats that may be allocated to a qualifying Party, the Electoral Supervisory Commission shall –
  - (i) calculate the percentage of the votes polled by all its candidates in the 20 Constituencies in Mauritius out of the votes polled by all the candidates of all qualifying Parties in such constituencies, and
  - (ii) apply the said percentage of votes to the figure 12, the number being calculated to 3 places of decimals.

Where the number so calculated consists of a whole number with decimals, the whole number shall represent the initial number of PR seats to be allocated to the qualifying Party.

Where the total number of PR seats falls short of 12, the number of PR seats represented by the shortfall shall be allocated as follows, that is –

- (i) the Party with the highest remainder shall first be entitled to a PR seat, and
- (ii) the Party with the second highest remainder shall next be entitled to a PR seat, and so on, until the total number of PR seats reaches 12.

Madam Speaker, we have opted for the parallel mode of allocation of PR seats as it is very practical, easily understandable and guarantees political stability, especially in closely held contests.

On the other hand, the compensatory model of allocating PR seats, which aims at aligning the total number of seats of each party to its percentage of votes, will convert a slim

majority into a slimmer one. In fact, for practically all past general elections, if this mode had been applied, all the 12 PR seats would have gone to the losing party. This method, therefore, constitutes a threat to stability and governability, a situation that we want to avoid at all costs.

Madam Speaker, there are many countries which, like Mauritius, favour effectiveness and stability and have lived with disproportionality between seats and votes, provided the system delivers effective Government. We also value fairness, but not at the expense of stability, effectiveness and strong Government, which are the fundamental attributes of democracy and which, for us, are sacrosanct.

Madam Speaker, I now turn to the mode of allocation of additional seats. The aim of the allocation of additional seats to qualifying parties is twofold –

- (i) to restore mathematically the initial difference between the number of constituency seats obtained by the winning Party and the second Party; or between the winning Party and the other Parties grouped together, where the said difference has been increased or decreased after the allocation of PR seats, and
- (ii) to do away with the mandatory declaration of community for nomination as a candidate.

Madam Speaker, paragraph 8 of the Schedule defines the parties which will be eligible to be allocated additional seats, namely –

- (i) the Party which has obtained the highest number of constituency seats (that is the winning Party);
- (ii) the Party which has obtained the second highest number of Constituency seats; or which has polled the second highest percentage of votes island wide, in case the winning Party has obtained all the 60 seats, provided that the percentage is at least 10 %, and
- (iii) any Party which is ranked after the first two Parties and which has obtained at least one constituency seat and has polled at least 10 % of votes island wide.

Paragraph 8 also sets out the mechanism for the allocation of the additional seats to the qualifying Parties, which is as follows –

- (i) where the winning Party and the second Party, or other Parties grouped together, obtain an equal number of PR seats, three additional seats shall be

allocated to the winning party and three additional seats to the second Party, or the other Parties grouped together;

- (ii) where the winning Party obtains more PR seats than the second Party, or the other Parties grouped together, the Electoral Supervisory Commission shall –
  - (a) firstly, allocate to the second Party, or the other Parties grouped together, such number of additional seats that represent such increase, and
  - (b) secondly, allocate equally the remaining of the 6 additional seats to both the winning Party on the one hand and to the second party, or the other Parties grouped together, on the other hand.
- (iii) where the winning party obtains less PR seats than the second party, or the other parties grouped together, the Electoral Supervisory Commission shall -
  - (a) firstly, allocate to the winning party such number of additional seats that represents such decrease, and
  - (b) secondly, allocate equally the remaining of the six additional seats to both the winning party on the one hand and to the second party, or the other parties grouped together, on the other hand, and
- (iv) where there are more than two qualifying parties, each of the parties ranking after the first two parties is allocated one additional seat for every 10% of the votes polled island wide, before the remaining additional seats are allocated to the second party.

Madam Speaker, as I indicated earlier, the number of additional seats to be allocated may exceed six, but only, I must say, in very exceptional circumstances, where the initial difference between the number of constituency seats obtained by the winning party and the second party, or the other parties grouped together, in case there are more than two qualifying parties, is still not restored after the allocation of the six additional seats. For example, in a scenario where the winning party gets all the 60 seats with 89% of the total votes cast, whereas the second party does not get any seat with 11% of the votes cast. In such a case, the winning party would obtain 11 PR seats and the second party only one PR seat, as a consequence of which the overall majority of the winning party, which was already 60,

would be increased by 10 more seats. Hence, in order to restore the initial difference between the number of seats won by the winning party and the second party, 10 more additional seats would have to be allocated to the second party, instead of 6. But, in any case, the number of additional seats will not exceed 10. Therefore, in this scenario, it will be the losing party that benefit from the additional 4 seats.

Madam Speaker, I must also point out here that it is the Electoral Supervisory Commission which will determine the party or parties that will qualify for additional seats, and it is still the Electoral Supervisory Commission that will compute the number of seats to be allocated to the qualifying party or parties. Thereafter, the Party Leader of such party shall nominate the person to whom any additional seat shall be allocated from -

- (a) the unreturned constituency candidates of that party, and/or
- (b) the unreturned candidates of the party's PR list, irrespective of the order of precedence in that list.

Madam Speaker, there have been some criticisms in certain quarters on the power being vested in the party leader to nominate the persons to whom additional seats shall be allocated.

Madam Speaker, I would like to stress on the fact that it has always been the responsibility of leaders of parties or party alliances to choose their candidates for election under the First-Past-The-Post system. Moreover, the leaders will certainly have a decisive say in choosing the candidates on the party list for the allocation of PR seats and they will themselves determine the order of precedence of the candidates on the said list. Hence, there is no compelling reason why leaders of parties or party alliances should not be empowered to designate the candidates to whom an additional seat will be allocated. Besides, this mechanism will also give great flexibility to party leaders in their endeavours to ensure broad-based and inclusive representation.

Besides, I do also recall that the Labour-MMM Alliance electoral reform proposals of 2014 did provide for six PR seats, out of a total of 20 PR seats, to be allocated by party leaders.

Madam Speaker, let me now come to the filling of vacant PR and additional seats. Paragraph 9 of the Schedule makes provisions for the filling of vacant PR and additional seats. Such vacancies shall, in the case of a PR seat, be filled by allocating the seat to the first PR candidate available in the order of precedence on the PR list of the party to which

belonged the Member whose seat has become vacant. In the case of a vacant additional seat, the vacancy shall be filled in the manner prescribed in paragraph 8(6) of the Schedule, by the party leader of the party to which belonged the Member whose seat has become vacant.

Madam Speaker, I now come to the proposed Anti-Defection Provisions. Paragraph 10 makes the following provisions with regard to crossing-of-the-floor by Members of the National Assembly elected from the PR list or who have been allocated additional seats -

- (i) where such a Member leaves the Party to which he belonged at the time of his election, his seat shall become vacant;
- (ii) where such a Member claims that he and any other Members constitute a group of not less than five Members, his seat shall not become vacant on the ground of defection;
- (iii) the seat of such a Member shall not become vacant where the group to which he belongs contracts an alliance with another group and the decision is supported by not less than five Members, and
- (iv) in case of such an alliance, the seats of those who do not agree...

*(Interruptions)*

**Madam Speaker:** Excuse me! I think the hon. Member is interrupting the hon. Prime Minister on a Bill which is one of the most important Bills that is being presented in the House and it is not appropriate for anyone in this House to interrupt the hon. Prime Minister.

**The Prime Minister:** So, Madam Speaker, I was saying -

- (iv) in case of such an alliance, the seats of those who do not agree with that alliance, and opt to function as a separate group in the Assembly shall not become vacant, whatever may be their numerical strength.

Madam Speaker, in regard to the proposed anti-defection measures, I would like to remind that even the Sachs Commission considered that, and I quote –

“If and when PR is introduced, the right of an individual member to remain on in Parliament even after breaking away from his or her party, becomes tenuous in the extreme.”

The Sachs Commission therefore felt that there is justification for an anti-defection measure to avoid creating an imbalance through such defection. The Commission went on to state, and I quote –

“It is usual, therefore, for electoral law in countries using PR to provide that when a Member of Parliament ceases to be a Member of the party, he or she loses the right to stay on in Parliament.”

Moreover, to the extent that the proposed anti-defection provision in the Bill does preserve a Member’s seat where the Member crosses the floor together with not less than five other Members, and thus does not prevent ‘*political development*’ or merging of parties, but simply restrains a member from being “bought” so as to “constitute” or “reconstitute” majority, we have been advised by the Attorney-General’s Office that there is no compelling argument that the proposed anti-defection measures are unconstitutional.

Madam Speaker, in line with the provisions of section 41(3) of the Constitution, the Electoral Supervisory Commission and the Electoral Commissioner have been consulted and due consideration has been given to their comments and suggestions after consultation with the Attorney-General’s Office.

Madam Speaker, the debate in the Assembly today is about this Bill and I consider it to be wholly inappropriate to publish the comments made by the Electoral Supervisory Commission and the Electoral Commissioner, as has been suggested in some quarters. If the comments were disclosed, it would potentially lead hon. Members to focus on these comments, rather than on the Bill itself. The Commission has already been subject, Madam Speaker, I would say, of unjustified criticisms by certain politicians very recently and I am not prepared to encourage this by causing this Assembly to digress and focus on the ESC rather than on the Bill itself. Besides, Madam Speaker, as the House is aware, the ESC only provides comments and it is for Government to decide on policies especially with regard to Electoral Reform.

Madam Speaker, the Government has fulfilled its commitment and the Bill is now before the House. The process towards electoral reform has been long and arduous. I am sure you will all agree that there is no perfect electoral system and there is also no-one-size-fits all model available off the shelf. We have to design our own model after taking into account the historical, social, political and cultural factors, thus, a Mauritian model for Mauritius.

The formula that this Government is proposing in this Bill provides a satisfactory balance between the different attributes of a good electoral system and it fits our local context. It is relatively simple and easy in its application. It also addresses to a significant extent the major imperfections and deficiencies of the current system. It is a model that will continue to guarantee social and political stability and governability, which have been the bedrock of our prosperity and socio-economic development over the last 50 years. Our proposal will promote greater participation of women in the political life of the country and also foster national unity and our national identity. In brief, it is a model that is fit for the country and for the 21<sup>st</sup> century.

We are also de-institutionalizing communalism by doing away with the mandatory declaration of community. We are, however, keeping the underlying objectives of the Best Loser System which are being subsumed in the new dispensation in order to ensure inclusiveness. Of course, we do not expect that communalism will disappear immediately after the replacement of the BLS. For that, we need, amongst other things, to continue investing in the education of our people, enhancing the effectiveness and credibility of our institutions and consolidating democracy and the rule of law. But as for now, we are removing all references to community from our Constitution.

Madam Speaker, this Bill provides us with an opportunity to move out of the stalemate we have been stuck in for many years now. I hope there will be meaningful and purposeful debates and that hon. Members will look at national interest and at future generations and not at party or parochial interests or personal ego. Never have we been so close to an acceptable solution. In fact, this is the first time, since independence, that a Bill on electoral reform of this magnitude has been introduced in the National Assembly. I must say that it has not been an easy task. Those who have been involved previously in such an exercise know and understand what it takes. I would therefore like to thank all those who have contributed to this Bill, starting with the Minister Mentor and all the members of the Ministerial Committee on Electoral Reform, the Attorney-General, the Chairperson and Members of the Electoral Supervisory Commission, the Electoral Commissioner, the Solicitor-General and his officers of the legal drafting unit and Mr Dahoo, the Adviser in my Office.

Madam Speaker, before ending, I would like to quote Maurice Duvergé, a French Jurist, Sociologist and politician who made the following comments with regard to the choice of an electoral system, and I quote –

“The choice of an electoral system is indeed one of the most important decisions for any country and undeniably it is not a simple task. It is undeniable that some systems have advantages over others. Several factors have to be taken into account and it may be too difficult to balance all of them”.

I would also like to quote Walter Long, a British Minister, who stated the following on electoral reform, I quote –

“No Government undertakes reform bills if they can possibly help it. It is the most ungrateful and difficult task with which any Government can be confronted”.

Madam Speaker, Government has done its part. I now only hope that hon. Members on the other side of the House will fulfil their duty towards the country and the nation. This Bill will certainly make history. However, when the history books will be written, it will not be kind to those who, today, choose to play petty politics or hide behind lame arguments and excuses. I hope hon. Members will choose to be on the right and bright side of history.

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

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

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

*At 4.58 p.m., the sitting was suspended.*

*On resuming at 5.42 p.m. with Madam Speaker in the Chair.*

**Madam Speaker:** Hon. Adrien Duval!

**Mr A. Duval (First Member for Curepipe & Midlands):** Thank you, Madam Speaker. Madam Speaker, the context in which this Bill is being presented, is a particular one. It is clear that elections are looming behind the door and we can already see panic amongst all levels of Government starting to set in, especially, with regard to the MPs doubtful of being extended a ticket by their party on the next election and it can be felt at the very top of leadership.

The recent policies of Government make it clear that it is preparing swiftly to face the coming general elections. To name a few, the granting of radio licences awarded to political cronies close to the MSM, the atrocious ICTA amendments to suppress dissent and criticism on facebook and other social networks, the appointment of political agents at the Electoral

Commission, the Rs400 very recently, yesterday salary compensation being paid as an eye wash, the many Bills being presented to this House, scrambled to the House and presented in an indecent haste and, of course, the postponement of Village Elections.

These are clear signs to us, at least, that elections are behind the door and the present amendment, Madam Speaker, is no exception and any Constitutional Amendment is in itself to be handled with the utmost seriousness. As when we touch the heart of democracy, our electoral system requires a non-partisan approach, an unbiased approach, free in my opinion of Party lines. It requires patriotism and selflessness because we are called today to make changes to our Constitution that may not be reversed in a long time to come. Above all, it demands that one speaks the truth without fear, without favour. *Une politique de vérité. Il n'y a pas de place, Madame la présidente, pour l'hypocrisie. En tout cas, pas de ce côté de la Chambre.*

And at the risk of appearing to be blunt if needs be and, therefore, Madam Speaker, the Constitutional Amendment Bill is not a simple Bill and cannot be taken light heartedly. It requires a debate which goes into the depth of the issue of the electoral reform, of our electoral system and saying things as they are. This is what is required today and this is exactly what I am about to do. As an elected Member of Parliament, I have a duty towards not only my country but my constituents to speak the truth on behalf of people of this country, to speak their minds, their fears, their hopes and such a major constitutional amendment which touches the heart of democracy, which seeks to abolish the constitutional guarantee that has been set in place in our Constitution.

Since independence, the guarantee of representation of minorities in Parliament is, in fact, what this Bill is going to touch. Among the other objects of the Bill are amendments that are proposed, which are in my opinion for the most part completely absurd. They completely miss the point and they shall in no way bring an improvement whatsoever to the actual system.

To sum up, Madam Speaker, to me, it is an eye pride, insulting proposition and a total waste of money to come and although the Prime Minister is confident that he will be on the right side of history, I believe we should let history decide for itself who is going to be on the right side and on its wrong side. But I have to denounce the manner in which this Bill is being brought. The Prime Minister sought to give excuses for the fact that the commons of the Electoral Supervisory Commission are not being made public. But I denounce the opacity. I

think we should make them public. Why hide them? Why start off on the wrong foot? Why even consult the Electoral Supervisory Commission if it is not going to make its views, its recommendations public? Such a Bill, Madam Speaker, which goes at the heart of our electoral system, cannot be made in secrecy.

Madam Speaker, let me start with what we believe is the acceptable proposition. There are not many, perhaps to be honest. Firstly, the representation of one third of woman in Parliament, the guarantee that there would be at least one third of woman or of man for that matter in Parliament, we agree on that. Lastly, the Anti-crossing the floor Provision, it is not wholly, to believe it is half-baked, but nevertheless it can be acceptable. If this Bill is ever passed, if it goes to the vote, I hope that some on the other side understand that the irony in this is that this Bill will be passed. If it does, it will be passed with the help of two people, two *transfuges* elected directly from the Best Loser System. I will not name them. They know who they are, but it would be a motion of blame against themselves and I hope that they do realise that.

With regard to the propositions that we believe are wholly unacceptable, Madam Speaker. To me, there are three. I will not go into the nitty-gritty of every single amendment, there are so many people going to debate in this House and I will leave that to them. There are so many people who are going to debate in this House and I will leave that to them. But, to me, I will focus on the three fundamental issues that make us here, on this side, fundamentally against the proposition of this amendment.

The first, Madam Speaker, is the increase of MPs. We are going to increase MPs by an astonishing 21%, from 70 MPs today to 85 MPs. To me, it no doubt it is the most nonsensical aspect of this Bill, because when you look already at the representation of MPs in this House compared to the population of Mauritius, that is, 70 MPs for 1.3 million people, you will understand that it is one of the highest in the world.

You have one MP for every 80,000 inhabitants. This is what you have in Mauritius; one MP for every 80,000. If you compare it to a few countries around us, firstly, let us say, India, 545 MPs for 1.3 billion inhabitants, that would make one MP for every 2.3 million inhabitants in India. In Australia, 150 MPs for 24.6 million inhabitants, that is, one MP for every 160,000 population. Canada: 330 MPs for 37 million, one MP for every 110,000 inhabitants. And lastly, the UK which is the closest link to the Mauritian Parliament – our Parliament is modelled on the Westminster model - 650 MPs for 66 million inhabitants, one

MP for every 100,000 inhabitants. The figures, Madam Speaker, speak for themselves with regard what is the ratio, with regard to representation. If we take the highest of them all, that is, the UK, and you compare it to ours, you would understand that there, it is one MP for 100,000 inhabitants and here, it is one MP for 80,000 inhabitants. In some constituencies, you have 21,000 inhabitants that vote for three MPs. This is the current situation in Mauritius and with the proposition to increase the number of MPs by 15 to 85, it would further change the ratio to one MP for every 15,000 inhabitants.

If we had applied the same ratio that is applicable in the UK, you would have only 13 MPs in this House today. If we took the ratio of India, we would have half an MP today in this House. If we did the reverse, Madam Speaker - and this what people should understand - if we applied the Mauritian model to Westminster with 66 million inhabitants, they would move from 650 MPs to 4,350 MPs. The Swami Vivekananda International Convention Centre itself cannot hold such a vast number of MPs. Imagine what kind of modification would have to be in the House of Commons If we applied the ratio of India, Madam Speaker, you would have 88,000 MPs, the same as the population of Seychelles, twice the population of Monaco. Therefore, Madam Speaker, you will see for yourself nonsensical when you have already too many MPs to increase that number.

People also need to understand that with the increase of MPs, by 15 MPS, there is additional cost to the country that comes with it. What does it mean in practice, Madam Speaker, to increase the number of MPs by 15? It means 15 additional salaries monthly of, at least, Rs150,000. It means 15 additional duty-free certificates every three years. It means 15 additional people who would put pressure on the Prime Minister to get a Ministry or a post of PPS or somewhere, somehow advantages. This is what it means. It would lead to the creation of new Ministries, of new posts of PPS and other bogus appointments, just to justify and appease the appetite of the new MPs. It would mean 15 debate speeches additional. It would mean 15 MPs with more questions on the Order Paper, while the current number of MPs and the current time allocated for Prime Ministers Question Time or even for question to Minister is too little. I cannot remember in four years having ever depleted the question unless there has been a walkout.

So, we have to understand with the additional number of MPs, Parliament itself has to be amended, the way the time is allocated, Standing Orders, Adjournment Time, all these will have to be reviewed. Worse of all, Madam Speaker, and this is the absolute worse, 22 MPs that are unelected, 22 MPs who do not have a constituency, we are creating a new class of

people with this Bill, *et sans circonscription fixe*. This is what we are doing. What the hell are 22 MPs going to do without having to be accountable to any constituency, without having to represent the voice of any person in this country besides the voice of their leaders? What is this going to bring to democracy, to furtherance of democracy. What is it bringing? These MPs who are unelected and who are not accountable to any constituency, whose voice will they represent? What we are doing, Madam Speaker, is we are creating vassals of leaders, more yes man? But we have already enough yes man on the other side of the House, we do not need any more yes man, but this is what we are doing. We are creating 22 posts of MPs for no reason whatsoever to do with actually furthering democracy.

The Prime Minister has spoken of the Mauritian model where constituents like to be in contact with their MPs. Who the hell is going to be in contact with these 22 MPs? To which constituency are they going to actually answer to? Madam Speaker, with the actual model of Best Loser, the MPs who were appointed under the Best Loser System, at least, they are allocated a constituency, at least, they answer to that constituency, at least, they represent the people of that constituency in Parliament.

There is another issue, Madam Speaker. As you know, Standing Orders says you have to address the Member by the rank he was elected and by the constituency he represents. This is the proper way, according the Standing Orders. If I am to refer, let us say, to hon. Rutnah, I will say the Third Member for Constituency Piton and Rivière du Rempart. But, how are we going to address these new MPs? I am still working around it, and I have not found the answer.

We have to understand, Madam Speaker, that the taxpayers are going to dig in deep in their pocket to create 22 MPs that will in no way change their life, their livelihood in their area, in their constituency. What we are doing is that we are creating 22 posts of MPs who will answer only to the leaders.

You know, Madam Speaker, we need to understand, historically, what was the intention. Why is it we have three MPs per constituency in Mauritius? Why is it we have the Best Loser System? Why is it we have the first-past-the-post system? Madam Speaker, the three MPs per constituency is to offer a choice to the electorate in order to curb the adverse effect of communalism. This is the truth. By giving people the choice, then you reduce the likelihood of people voting solely on the consideration of ethnicity, of communalism, being biased towards an ethnic group. That was the reasoning why we should have three MPs.

Then, you give them the choice, then they do not have to vote solely on that. And the latter, Madam Speaker, is a mechanism which is enshrined in the First Schedule of our Constitution and which ensures a fair and adequate representation of people of Mauritius, of all communities in Parliament, and it guarantees in effect the representation of minorities; it guarantees representation of minorities in this House, and by a mechanism that cannot be departed from and has to be strictly adhered to by the Electoral Supervisory Commission after every election. But why do we need it, Madam Speaker? Why do we even have it in our Constitution?

And it brings me to the second issue. It brings me to the fact that our electoral system is discriminatory by nature, Madam Speaker. The source of all imbalance in our system lies in the way, first of all, that our boundaries are drawn. The principle of equity, Madam Speaker, as the Leader of the Opposition has put in his declaration, in his statement on 24 September 2018 at the Electoral Boundaries Commission, is a central premise of our electoral systems.

And in his statement, which I will table after if need be, he clearly explained the nature of our present system as a discriminatory one. Clearly! As the Leader of the Opposition explained, Madam Speaker, quoting from different renowned sources in England

—

“Equal voting power is a crucial element of parliamentary democracy and it must be combined with proper drawing of electoral boundaries to ensure that electors’ votes have equal weight.”

This, Madam Speaker, is the principle known as equal vote of equal value. But this principle, Madam Speaker, has long been disregarded by the Electoral Boundaries Commission. For a long time now, they have completely disregarded that principle. It has not done its job, Madam Speaker, and this is why the PMSD went to depone at the EBC. Because it did not do its job pursuant to our Constitution, Section 29, which mandates it, Madam Speaker, to draw boundaries of constituencies so as to achieve as far as possible an equal number of voters in each constituency. That is the main mission, the main mandate of the Electoral Boundaries Commission.

We have created through time, Madam Speaker - and this is the worse, the most important -, two classes of voters in this country. One class, for example, in some constituencies which requires some 62,000 electors to vote for three MPs, and another class

in other constituencies which requires a third of that, 21,000, to vote for the same number, three MPs. It is clear, therefore, Madam Speaker, that in our electoral system presently, there is no equal vote of equal strength. It is a fact. Moreover, Madam Speaker, in some constituencies, the boundaries themselves have been physically changed; drawn with a purpose in some areas to include, and in areas to exclude so as to fit an agenda.

Our system is unfair and it allows for inequality at the very base of our democratic system. And you will appreciate that in any democracy, Madam Speaker, Parliament is at the heart, and any imbalance which is caused into Parliament, when discrimination in the electoral process of Parliament itself is then reflected at all levels of society. And this is precisely what we are denouncing. And you know, Madam Speaker, there is another problem. Forget about the fact that he has not done his job properly. There is an additional problem.

In 2009, when the Electoral Boundaries Commission had reviewed the boundaries, it made some changes; positive changes to boundaries. It tried to realign the disparity, tried to readdress it, a little, to certain boundaries. But you know what the problem is, Madam Speaker? It is that this report was never brought to the House in 2009. And this is precisely the real flaw that we have today to denounce, that has to be corrected in our Constitution. This is the real flaw; the fact that Mauritius, that it is up to Government solely - and this is the important part -, to decide whether to bring such an important report, which is mandatory to be done every 10 years. It places a mandatory obligation in the Constitution on the Electoral Boundaries Commission. Yet, it is up to Government and Government alone to take it upon itself to bring it and lay it on the Table of the Assembly; then, it is accepted or rejected. It can choose to bring it to Parliament like it can choose to hide it in a drawer, and that is the real flaw. Because you will appreciate, Madam Speaker, that it makes no sense at all that our Constitution creates the Electoral Boundaries Commission, which is deemed to be independent and which is mandated to draw new boundaries at least every 10 years, but then the EBC must submit itself to the whims and caprices of the Prime Minister, who will himself decide whether or not to bring that report to the House. This is what happened in 2009. And it is obvious today, Madam Speaker, that we need a complete rethinking of our whole electoral system. We have to first of all inspire ourselves from the UK model. We have modelled our Parliament on the UK model, yet we have not taken on board all the safeguards that are in place there. Because in UK, Madam Speaker, it is mandatory for Government, as soon as that report is made, to bring it to Parliament. They cannot refuse to do it. They cannot choose to

do it or not. It is mandatory, Madam Speaker, to bring it to Parliament; it cannot hide from it; it cannot hide it.

And then, it is for Parliament, in its wisdom, to decide or to reject, after debate, and anybody who decides to reject then takes the floor and gives his views and is then bound by it. This is how it should work. But, Madam Speaker, do not despair, we have already made a statement to the Electoral Boundaries Commission and we are taking it to Court; we are going to take it to the Supreme Court. And if need be, Madam Speaker, we will go and knock on the door of the Lord Justices in the Privy Council, because we are confident that whatever the Electoral Boundaries Commission has been doing in the past decades with regard of drawing of constituencies is not legal with regard to the provision of the Constitution. It has, therefore, violated it.

The third issue, Madam Speaker, is that the Best Loser System does not work as is intended in the spirit of our Constitution. A great anomaly, Madam Speaker, in our electoral system, it lies with the best loser system. The best loser system has been created in order to rectify the unfairness of our electoral system towards a large chunk of the population, which is created through a drawing of boundaries. Section 5 of the Constitution says, at the First Schedule, with regard to the best loser system, I quote -

**“5. Allocation of 8 additional seats**

- (1) In order to ensure a fair and adequate representation of each community, there shall be 8 seats in the Assembly, additional to the 62 seats for members representing constituencies, which shall so far as is possible be allocated to persons belonging to parties who have stood as candidates for election as members at the general election, but have been returned as members to represent constituencies.”

So, the key word, Madam Speaker, is to ensure fair and adequate representation of each community. This is the role of the best loser system.

The anomaly, Madam Speaker, does not lie with the intention of the best loser system to ensure a fair and adequate representation. Far from it! It provides a constitutional guarantee to minorities in this country that they would be represented, but the anomaly lies in the mechanism because how is it supposed to ensure fair and adequate representation of the people of Mauritius, of the respective communities when it cannot rely, Madam Speaker, on any recent demographic study. The most recent, can you imagine, dates back to 1972. Whilst

every 10 years we redraw boundaries, we do not do so for the demographic data. Madam Speaker, people tend to forget that there is already such empirical data available. There is the 2011 Population Census. It englobes all issues of ethnicity, of religions. It already exists; the last one dating 2011. Why then can't it be used? It follows suit, Madam Speaker, that for the best loser system to work as intended, it is a *sine qua non* condition that we have to rely on recent data otherwise it just creates even more imbalance in the system. We have to have most recent data.

Madam Speaker, the 2011 Census provides exactly that. You know, Madam Speaker, all these hypocrites who are against this, who are deliberately distorting the debate for their political sake, prophesising that this will create ethnic tension in Mauritius, they have already been proved wrong, because in 2011, the population took part in that exercise, and rightly so. It participated and contributed to the compiling of data, which can now be used. Then, there was no problem when one was stating his ethnicity or his religion. This has been done every 10 years since. Therefore, it proves them wrong, Madam Speaker, but the aim now is to use this for the advancement of democracy, for the advancement of our welfare system and for the advancement of our society as a whole. This is the whole point.

Let me ask them, Madam Speaker, - these people that I just referred to - why is it then, if we truly have meritocracy in this country, if truly this is the case, and since according to the 2011 Census, you have 33% of people falling in the general population and you have 17% of people falling into the Muslim category, therefore, 50%. I want the hon. Prime Minister to tell us why is it that in his Cabinet there is only 22% of Ministers falling in both communities. If really there is no discrimination, if really the system works, if really we do not have to have the best loser system now, explain it to us why is it that since 1973 the highest was 44% of these two communities sitting in Cabinet? This was highest. But ever since that, Madam Speaker, it is a complete downfall. So, tell us, hon. Prime Minister, since you dare to abolish the best loser system, the only constitutional guarantee that affords a fair and adequate representation to minorities in this country, why is it that these communities are underrepresented in his own Cabinet. Tell us why it is getting worse and worse since 1973! You know, Madam, Speaker, I can state my own opinion on this. It is the one of two things: either people falling in these communities are not smart enough, they are not competent enough or, the second, it is pure and simple discrimination. This is what it is.

Nevertheless, Madam Speaker, the electoral system does not return enough minorities. For that reason as well, the Cabinet does not appoint enough minorities. This is

also a truth. If the hon. Prime Minister wanted now to rectify that balance, he would not be able to do it. And, Madam Speaker, as everything in this country emanates from Cabinet, every policy, every decision, every regulation, every job created through Government, every nomination to institutions, and since Cabinet itself emanates from this House, from Parliament, then, Madam Speaker, it goes from thereon that it creates layers of discrimination at every level in the country of Mauritius. This is the hard truth. If you look at the disparity, you will see, and rightly so, we are doing it, offering a constitutional guarantee on the issue of gender representation. We agree to that, and rightly so, we are doing it. But yet, on the issue of ethnicity, on representation which is the basic of this multi-cultural society, and if today we are a vibrant and living democracy, it is because our founding fathers of the Constitution found it fit to ensure that there would be a fair and adequate representation of people of all origins. So, what is Government doing, Madam Speaker, it is getting rid of that. On the contrary, Madam Speaker, Government should have proposed in this Bill to enlarge and consolidate such a constitutional guarantee.

Madam Speaker, with due respect, this House is not supreme, you are not supreme, Government is not supreme, the Prime Minister is not supreme, the President is not supreme, but the Constitution is supreme. The best loser system, that is, that mechanism for fair and adequate representation of all ethnic groups should be cherished and extended. On the contrary, there should be more seats, Madam Speaker, to ensure a fairer representation. We should improve it so that it may work as intended on recent empirical data so as to ensure, as far as possible, a fairer system, thereby upholding, Madam Speaker, the spirit of our Constitution. Instead, what is the Government proposing, it goes completely contrary to the spirit of the Constitution, Madam Speaker. The proposal to replace the eight seats allocated by the best loser system under a mechanism which is enshrined in the Constitution, which cannot be departed from, it proposes to replace this with, on the one hand, the allocation of the 12 seats allocated subject to the proportional representation list, which would be submitted by Political Parties and, in parallel - whatever this means - 10 additional seats that would be decided, Madam Speaker, by none other than the leaders themselves. None other than them! And this is the most important aspect of this proposition, the most outrageous aspect, it is without any obligation whatsoever being imposed on the parties or their leaders to ensure that there is fair and adequate representations. It is wholly now subjective to the agenda, subjective to their whims and caprices and it is going to be done in complete opacity.

Madam Speaker, this proposition is anti-democratic in itself. It would mean that leaders should be substituting themselves to the electorate. This is what it means.

Madam Speaker, the Proportional Representation itself seeks to redress imbalance of the First-Past-The-Post system, that is, to have equal seats as to the equal percentage of vote that one party have gained during an election. But what this model does is not that at all. What it does this proposition is it ensures that if a party gets 10%, then it is guaranteed to have at least one seat in Parliament through any party. This is what it ensures.

But then when you look at the need to regulate that disparity to diminish it, take the *Lepep* Government, for example, Madam Speaker. We were elected in 2014 with 49% of the votes. Yet, we gained 75% of the seats. It has allowed this Government to illegally, without being mandated by the people, to change the Constitution. It has allowed for the Government which was never mandated to have such a majority, to even come and suggest such a Bill today to this House. And you know, Madam Speaker, if in England which has the same system as ours First-Past-The-Post, you must ask yourself the question: why is it in England there is never a 650-0 there? Never! But in Mauritius, we had, as far as I can recall, at least two 60-0 here. This is because there is a disparity, but what is being proposed here today, does not correct it. What it does, it gives additional seats to both parties – the winning party and the second best will both get. So, if the winning party already has too many seats compared to the number of votes that he got in the proportion, it does not reduce its proportion in the House. No, Madam Speaker! It increases its number of seats and that is all. The proportion, the disparity is maintained.

Madam Speaker, with regard to the proposition which I found again outrageous that the leader shall appoint the additional seats, that the leader will submit a list for PR (Proportional Representation) and ensure the additional seats either within that list or from any name he suggests. It does not, first of all, have any obligation again to respect this bit of the Constitution. But it does not take into account what is happening elsewhere, Madam Speaker. In Europe, Italy, Spain, France, Greece, UK and in the USA, there is the rise of far wing movements; far-right; far-left. In the UK, you have the UK IP; in the USA, you have the tea party; in Italy, now you have a Government that has been formed; in Spain, it is the same; in France, the leader of the *Front National* had passed *le deuxième tour*. So, what about Mauritius! If there is ever - who can say - such a rise in extremist parties, then what kind of representation would we end up with in this House? Who can guarantee that the leader shall not appoint out of the 12 PR and out of the 8 seats to be allocated of additional seats, who can

tell us, 10 actually, that they wouldn't fall prey again to what is happening outside and there is no guarantee, Madam Speaker. There is no checks and balances; there is no safeguard, there is nothing to prevent this, especially since the boundaries, the way it is drawn in this country, it would allow.

So, Madam Speaker, this is what I find revolting also in this legislation. And, Madam Speaker, instead of this nonsensical Bill, instead of this, the Government should, in fact, have been true to its word. The campaign that was made by *l'Alliance Lepep*, the manifesto on which we were elected, the promise, the word that we gave at page 43 under the heading "Democracy of our manifesto" that we would not touch the Best Loser System, where is that promise, Madam Speaker? Where is that word? Where is it?

The Prime Minister never misses an occasion to say that he is a man of his word but where is the word of *l'Alliance Lepep* with regard to the famous page 43 under the heading "Democracy" - *le Best Loser System sera maintenu*.

Madam Speaker, it follows that Government has absolutely no mandate to do what it is doing today. And after 50 years of independence where we have one of the most discriminatory system in the World with regard to our electoral system, where we have discrimination at all levels which is spreading into the country, where minorities, as I said, are badly represented, less than half in Cabinet.

Then, this proposition, 22 in fact, is a step backward and it completely misses the opportunity, Madam Speaker, to get a consensus in this House finally to do what the Prime Minister has said in his Second Reading, that is, that we should have a drastic change to our system. This is what is required after 50 years of independence. A drastic rethinking, Madam Speaker, a complete rethinking of the electoral system! Because it proves not to be working already! It has to start at the heart; it has to start with the Electoral Boundaries Commission in the way that boundaries are drawn and in the way the change, as I said, to our Constitution that it cannot be solely on Government to accept to bring it to Cabinet, to Parliament or not, that it should be mandatory.

But even that, Madam Speaker, even that may still lead to an imbalance which should need to be addressed. So, it has to be coupled, Madam Speaker, with an extended Best Loser System. We should take into account the most recent demographic data which should together with the redrawing of the boundaries be done at least every 10 years. This is what is required to do the system more fair; to have and ensure a more fair and adequate

representation and yet Government is doing completely the opposite, insult to injury, it is removing any constitutional guarantee from our Constitution.

Madam Speaker, discrimination is like a cancer and the root of it lies in the boundaries and it spreads from Parliament to Cabinet, to institutions, to the whole country and the real issue of this country - and I hope Government takes note - as a nation, in the widest possible terms, this is what is at stake in fact, it is that we have to address the issue that our electoral system is one of the most discriminatory in the world. And this Bill only makes matters worse, much worse in fact.

Madam Speaker, to conclude, this Bill is a complete insult in my opinion; it is a complete insult, the intention of Government here to take out what has been so hardly fought for, without giving anything back in return.

Madam Speaker, let me just call out to all Members of this House that they should be ashamed of themselves if they ever cast a vote on this Bill. They should be ashamed. And history will then put them on a strike side on this bad side. It's all up to you.

Thank you, Madam Speaker.

**Madam Speaker:** Rt. hon. Sir Anerood Jugnauth!

(6.30 p.m.)

**The Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues: (Sir Anerood Jugnauth):** Madam Speaker, I feel sorry for the hon. Member who is feeling insulted by this Bill. I would ask him to go and have a good wash.

Madam Speaker, I am pleased to stand up and speak on the Constitution (Amendment) Bill which aims at translating in our mother law the proposals this Government has made for electoral reforms. The hon. Member is saying that we have not been mandated. But these hon. Members on the other side have been blaming us for not fulfilling all the promises that we made, and this electoral reform forms part of the promises. And today, what is he saying? That election is behind the door and that is why we are coming with all this. He also has the guts to say that the hon. Prime Minister has agreed to a sum of Rs400 compensation. Well, this also, he says we are doing it because election is behind the door. But everybody knows that we are nearing the end of our term and, according to the Constitution, which the hon. Member is doing so much to defend, we are bound to have election at the end of the mandate. When we do not fulfil all promises, we are blamed; Government is doing nothing, look they

have promised this, they have promised that, and nothing has been done. And now, when we are trying to fulfil the promises, we are being blamed even for that, which shows that the Opposition will never be satisfied with anything that we do, and their whole mentality has been proving this.

I totally share the view of the Prime Minister who stated outright in his second reading speech that we are making history.

I will add that once again we are making history after we elevated our country to the status of a Republic in 1992 amid a calumnious campaign orchestrated by the Labour Party and those who are against us.

Madam Speaker, some people may have forgotten that the Labour Party of Dr. Navin Ramgoolam was against Mauritius becoming a Republic in 1992. I suppose their allies also must have been of the same view.

Dr. Ramgoolam made a very hostile speech in this House against me on 09 December 1991, alleging that, as Prime Minister, I was amending the Constitution to, I quote -

“give Mauritius a banana Republic.”

He accused the then MSM-MMM government of amending the Constitution “in a rush without a mandate from the electorate” and said that a referendum should be organised and the President should be elected through universal suffrage. But he came to power afterwards, he stayed there for quite a long time; he forgot about all this, he preferred to preserve and work in the “banana Republic”.

*(Interruptions)*

Yes, he gave me a mandate as President.

The Labour Party and its ally, the PMSD, chose to be on the dark side of history when they did not vote in favour of the Bill to make Mauritius a Republic within the Commonwealth. Hon. Xavier Duval was party to that.

But, Madam Speaker, if really the Labour Party and the PMSD were serious in saying we had brought a banana Republic, they had ample time to change that when they were in power together for so many years after 2005. They kept the Republic model we adopted intact. And we all know what happened in 2014 when a true banana Republic was proposed to the electorate. That also is history.

Today, once again, after opposing the accession of Mauritius to the status of Republic, the Labour Party and the PMSD stand together to oppose this Bill for electoral reform.

For the PMSD, it is stabbing our Motherland in her back three times in a row. The PMSD was against Independence. The PMSD opposed Mauritius becoming a Republic. The PMSD is opposing the electoral reform we are proposing, a reform that is in the best interest of multi-ethnic Mauritius.

The Leader of the Opposition and leader of the PMSD dares to speak about democracy. I can only laugh at that. I will keep on laughing. I leave it to the nation to make its own judgment.

Madam Speaker, we are making history because this Government has come with a Bill on electoral reforms, which no other government has done before although so many promises had been made election after election on such reforms, which we all agree are necessary to move ahead in our nation building process and consolidate our democracy further.

The hon. Prime Minister has pointed out that for the last 25 years or so, electoral reform has constantly been on the political agenda of all major political parties and Governments.

As he has mentioned, there have been so many reports, proposals, counter-proposals and extensive debates on the matter. Yet, the electoral reform agenda could not be advanced due to political differences, hidden agendas, lack of political wisdom and willpower and the disproportionate ambition of some leaders.

I do not wish to dwell on the merits and demerits of the electoral reform proposals made before 2014 because I am of the view that they were rejected in most of the cases because there were attempts to undermine the First-Past-the-Post system and implicitly the democratic verdict of the people at the polls.

The Opposition speaks strongly of democracy, great defenders of democracy, but at the same time, they forget why our Constitution has provided for election to be voted by the people and the result is to provide a Government for the country. Hon. Duval has been mentioning about European countries, UK, Germany and all the rest, but he forgets to mention that it is the same system of voting and the First-Past-the-Post result which allows these countries to form their Government. Are they going to tell us that these countries are undemocratic? But here, they want to neutralize the First-Past-the-Post verdict. We don't agree with that. We have always said we are agreeable to have some PR system introduced

because of the imbalance in the number of votes that are cast and the number of seats that are obtained by the different parties which do not correspond to the seats to the number of votes. We go to a certain extent to amend that. But then, we must not go to such extent as to neutralize the verdict of the voters, the result of the First-Past-the-Post. So far as I am concerned, I never agree with that and that would be both undemocratic. That would not be democracy.

I have consistently said over the years that the Constitution and the electoral system bestowed upon us in the pre-independence period have served us well by yielding stable Governments and continue to do so, although I admit that the First-Past-the-Post electoral system engenders disparity between votes polled and seats won at elections which I have just mentioned.

But for me the verdict of the people as to what party or alliance will govern the country is sacred. That is democracy. The people's will has to be respected at all costs and in all circumstances. We, on this side of the House also value fairness, but not at the expense of stability.

The Prime Minister has rightly highlighted that many countries like the UK, USA, Australia, India and others have, like Mauritius been favouring stability and have lived with disparity between seats and votes.

Some, like hon. Bérenger say I am obsessed by absolutely willing to preserve the majority coming out of the polls. I am not bothered by that sort of criticisms. In fact, they reinforce my belief that nobody and no system can tamper with or undermine the verdict and the wish of the people.

I ask the question to those who criticize me: Is it democratic to make a winner a lesser winner or a loser and a loser a lesser loser or a winner? Rodrigues has lived with that sort of quagmire after the past Regional Assembly Elections.

Can we afford to enter in those troubling waters for the general elections and put at stake stability and social harmony for the sake of absolute fairness? I do not think that is democratic although I agree we cannot ignore fairness totally.

That is why since the first day I was assigned the responsibility to chair the Ministerial Committee on Electoral Reforms, I made it clear that the sacrosanct verdict of the people ensuing from the First-Past-the-Post system should be preserved and kept intact after

the introduction of a dose of Proportional Representation that would cater for fairness. That was my brief and that view was endorsed by the Committee.

We worked on the proposals from that angle and with the objective not, in any way, to alter the initial difference between the number of constituency seats obtained by the winning party and the second party in case there are only two qualifying parties; or between the winning party and the other parties grouped together, in case there are more than two qualifying parties.

After all, our promise to the population and the mandate we got from the electorate was to introduce a dose of PR, not a full PR system.

We concurred that a minimum of 10% of votes would qualify for the allocation of Proportional Seats and that 12 such seats and between 6 and 10 additional best loser seats would reestablish the majority resulting from the First-Past-the-Post verdict.

I will not repeat the mechanisms and details mentioned by the Prime Minister with regard to the allocation of PR and additional seats. The Bill is very clear on that.

Madam Speaker, the proposals of the Ministerial Committee were tested on the results of the 11 general elections held between 1967 and 2014. The workings were conclusive in all the cases with the allocation of 12 PR seats and only 6 additional seats. However, we catered for extreme scenarios that would necessitate the allocation of more than 6 seats. Like for example, the winning party getting all the 60 seats with 89% of the votes cast and the losing party getting no seat at all and scoring 11% of the votes cast.

In that scenario only, there would be a need to allocate 10 additional seats. But in most realistic cases, only 6 additional seats would be allocated.

That will make a Parliament of 81 seats as compared to 70 as at now. I believe the increase is justifiable and reasonable taking account of the fact that we are attaining three objectives.

Firstly, as I said, restoring mathematically the majority ensuing from the First Past the Post verdict after the allocation of PR seats.

Secondly, guaranteeing enhanced women representation at the National Assembly.

And thirdly, doing away with the mandatory declaration of community at the time of registering as candidate for the National Assembly elections. With that, we would be addressing the concerns expressed by the United Nations Human Rights Committee and those

of Resistans Ek Alternativ which has also lodged a case before the Supreme Court challenging the requirement for mandatory declaration of community of a candidate in general election.

Besides attaining the three objectives I have just mentioned, Government's proposal of a Parliament of 81 MPs (63 FPTP + 12 PR + 6 additional seats) is the lowest, as compared to proposals made in previous reports on Electoral Reform. The proposed increase in the number of MPs is only 15.7%.

The hon. Member, who preceded me, also criticised this increase, but they have always been saying that we must have an electoral reform. As I just mentioned, all the previous persons, who have worked on this, have all given the result of increasing the number of representatives in Parliament. Therefore, I cannot see any system where there will be no increase. And then, Best Loser System, but the system we are applying, Best Loser System is not being abolished really. It is not, because we are making sure that the system we are applying will enable...

*(Interruptions)*

who will be a leader will now make sure that all sections of the population are represented in his party? We have always been doing that in practice.

*(Interruptions)*

What about 87?

*(Interruptions)*

**Madam Speaker:** Hon. Uteem! No crosstalking, please!

**Sir Anerood Jugnauth:** Madam Speaker, criticisms have been levelled against the power being vested in the leaders of political parties to nominate the persons to whom additional seats will be allocated. These criticisms are not justified.

It has always been the responsibility of leaders of parties or party alliances to choose their candidates for election under the First Past the Post system.

Moreover, leaders could be choosing the persons on the party lists for the allocation of PR seats and they would also determine the order of precedence on the said lists.

Hence, I do not see any problem if leaders of parties or party alliances are empowered to designate the persons to whom an additional seat would be allocated.

For me, there cannot be a better mechanism to subsume the Best Loser System within a new system and provide similar or better guarantees than what we are proposing.

I have no doubt that the proposed mechanism to allocate the additional seats would allow the leaders to ensure broad-based and fair representation of all the components of our rainbow nation in the National Assembly. Moreover, it would also cater for appropriate competencies to be brought in the National Assembly and in Government.

The choice of the leaders would be made from unreturned candidates of the First Past the Post system and from those persons on the party lists to whom PR seats would not have been allocated, irrespective of the order of precedence in those lists. In itself, this broad choice list would help the leaders to make sure that every single component of our population is represented in the National Assembly. What could be a better guarantee for inclusive representation than that?

It is to be noted that our Constitution already provides for party leaders to designate, in certain circumstances, MPs under the present Best Loser System.

I refer hon. Members to Paragraph 5(7) of the First Schedule of the Constitution.

Madam Speaker, it is worth highlighting that the Labour-MMM Alliance Reform Proposal of 2014 already provided for 6 PR seats (out of a total of 20 PR seats) to be chosen by leaders of parties. Therefore, I do not understand all the fuss being made about vesting leaders with the power to designate persons for the additional seats.

Madam Speaker, to clear some confusion that has been deliberately created by some people, I wish to add that it will be the Electoral Supervisory Commission that will compute the number of additional seats to be allocated to a qualifying party.

Madam Speaker, I condemn the PMSD and its leader for instigating yet again a communal divide when openly questioning about majority and minority and asking for a new census of the population. We are not prepared to follow the PMSD along those dangerous lines. Government will never agree to a new population census being conducted on the basis of communal appurtenance. We consider that a new census would be detrimental to social harmony and nation building. We are not prepared to fragment our society and bear its consequences.

Madam Speaker, it has been alleged in the Labour Party quarters that by doing away with the current Best Loser system, the 'General Population' will be immediately short of the

proposed six additional seats. This insinuation is wrong and deliberately misleading. The 'General Population' did not get six Best Loser seats in all the past 11 general elections, but only in three elections, namely in 1967, 1983 and 2005! In the other elections, 'General Population' obtained less than six Best Loser seats.

Moreover, it is false to state that with Government's proposal, the majority between the first-past-the-post winner and the first-past-the-post loser will become wider. This is also deliberately misleading, especially from the Labour Party, as the whole proposed mechanism is aimed at ensuring that at all times, the majority ensuing from the first-past-the-post results remains exactly the same after allocation of PR and additional seats. Under the proposed system, the losing party too is compensated by the allocation of additional seats, if it receives less PR seats than the winning party.

In 1982 and 1995, where the results were 60-0, the losing parties got only four Best Loser seats. Under the proposed system, the losing parties would have received nine seats (i.e. 3 PR seats + 6 additional seats). In 1991, where the results were 57-3, the losing parties got only four Best Loser seats. Under the proposed system, they would have received nine seats (i.e. 5 PR seats + 4 additional seats).

Madam Speaker, It has also been alleged that the provision to restore the mathematical difference in seats as it exists after the first-past-the-post elections, subsequent to the allocation of the 12 PR and the six additional seats, negates the very objective of the reform. This represents a serious misunderstanding of the prime objective of the reform. Government has maintained that its key concern is that the majority arising from the first-past-the-post system should remain the same after the allocation of PR and additional seats, so as to ensure political stability and governability. Any attempt to further reduce the disparity between the number of seats and the number of votes will directly affect the majority formed following first-past-the-post elections. The majority can be made dangerously slim when first-past-the-post results are tight. A slim majority becomes even slimmer, thereby creating a situation of permanent instability.

Madam Speaker, having reasserted the prime objective of the electoral reform the Prime Minister has brought in the House, I am satisfied that we addressed the issue of enhanced women representation in the National Assembly. I am confident that our proposal will promote greater participation of women in politics and give the opportunity to more women to shine in this House as they are doing in other areas of responsibility, both in the

public and private sectors. Some people say we should have made provision in our electoral legislation for one woman candidate in each constituency.

I believe the step we are making for ensuring one third of women in the total number of candidates on basis of Constituency and PR lists is bold enough to address at this juncture the deficit of female political presence in our political landscape. Madam Speaker, I am also satisfied that the Ministerial Committee also came up with anti-defection measures which Government has retained, the details of which are spelt out in the Bill before the House. On this front, I believe we have made proposals that are realistic and are inspired from the Indian model to some extent.

Madam Speaker, as far as Rodrigues is concerned, I am happy that we are proposing three constituency candidates, out of which, at least one needs to be a woman. This testifies once again that we care for Rodrigues as we do for Mauritius. And, as the Prime Minister mentioned, the proposed three-member constituency for Rodrigues is also justified by the increase in the number of electors. Madam Speaker, I make an appeal to hon. Members not to miss this opportunity to support the electoral reform this Government is proposing. No electoral reform can be perfect and satisfy everybody. But we have to start somewhere, as hon. Bérenger used to say to us in the 2000-2005 Government. If really we are serious and mean business, we cannot stop the wheel of progress. What we are proposing is simple in its application, but provides a good balance between stability and fairness.

Government considers stability as being the pillar of our socio-economic progress. Government is of the view that stability is sacred and, for this fundamental reason, it has made a choice in the electoral reform proposals to favour stability and governability instead of instability and chaos. Let us, therefore, not miss the train of this simple yet practical electoral reform and let us live up to what we preach in a responsible and selfless manner.

As I said, in my introductory remarks, the Bill before the House is already making history. But let us write a new golden page of our history by adopting the proposed reform and advancing our nation building process in another inspiring manner.

Thank you, Madam Speaker, for your kind attention.

(7.09 p.m.)

**Mr P. Bérenger (Third Member for Stanley & Rose Hill):** Madame la présidente, au moment où nous discutons d'une réforme de notre système électoral, il me semble salutaire de commencer par les leçons à tirer de l'histoire de notre système électoral.

Madame la présidente, si nous excluons l'Assemblée coloniale de 1790, l'Assemblée coloniale de la révolution française qui arrive à l'Ile de France à ce moment-là, et nous aurons raison d'exclure cet épisode puisque cette Assemblée coloniale était pour les blancs seulement, si nous excluons donc cet épisode de l'Assemblée coloniale, il faut se rappeler que les premières élections à l'Ile Maurice se tinrent en 1886 et, Madame la présidente, depuis ces premières élections de 1886, ce petit pays a connu 26 élections générales. *I believe it is no mean feat.* 26 élections générales depuis ces premières élections de 1886. Mais en 1886, c'est seulement quelques milliers de barons sucriers et de gros propriétaires qui votaient et qui élisaient 10 députés : 2 à Port Louis et 1 député dans 8 circonscriptions à travers le pays. De 1886 à 1948, 11 élections furent tenues sur cette base, et nous arrivons en 1948, ce qu'on peut appeler les premières élections générales digne de ce nom à l'Ile Maurice.

Et à ce moment-là, nous nous retrouvons avec 19 élus : 4 à Port Louis, 6 à Plaines Wilhems et Rivière Noire, 3 au Nord, 3 à l'Est et 3 au Sud. Je disais que c'était les premières élections générales dignes de ce nom, puisque le nombre d'électeurs passa de 11,000 - j'arrondis les chiffres - à 71,000, et il suffisait de pouvoir écrire *simple sentences* dans n'importe quel langage parlé à l'époque à Maurice, Français, Anglais, Bhojpuri, Hindi, Creole pour avoir le droit de vote.

Premières élections générales dignes de ce nom et c'est là où commence toute cette histoire de *Best Loser*, 5 candidats de la communauté musulmane, y compris Abdool Razack Mohamed et pas un seul candidat musulman élu. Tollé ! Normal ! Tollé, traumatisme même, *meeting* public ! C'est un tournant qui explique pourquoi *le Best Loser System* est encore avec nous jusqu'aujourd'hui. Il ne faut jamais oublier ce tournant de 1948. En 1948, pas de candidats de la communauté chinoise ! Après ces élections, avec le tollé que cela souleva dans la communauté musulmane, le gouverneur nomma un musulman, Abdool Raman Osman, et Donald Ah-Chuen.

Les élections de 1953 se tinrent sur la même base. Et à l'occasion des élections de 1953, il y eut deux candidats musulmans : Abdool Razack Mohamed et Issop Badat du Parti Travailliste. Abdool Razack Mohamed fut le seul élu par cinq voix d'avance, et cela, c'est dans les élections qui ont suivi les élections traumatisantes de 1948. Et nous en arrivons, *Madam Speaker*, au *turning point* de 1958/1959. Je parle de *turning point* parce qu'avec la Commission électorale de Sir Trustram Eve en 1958, c'est le travail de cette Commission qui est à la base des circonscriptions qui existent jusqu'aujourd'hui. Il faut bien se rappeler ça et

et bien comprendre cela aussi, *Madam Speaker*, un rapport de la Commission Trustram Eve qui débouche sur les élections de 1959, et ce rapport est à la base de la délimitation des circonscriptions qui est en force jusqu'aujourd'hui. En effet, Sir Malcolm Trustram Eve décide dans son rapport qu'il y aura 3 *main communities*: *General population, Hindu and Muslim*. Lui, il décide que les Tamouls et les Telegus - ce qu'il dit dans son rapport - sont dans la communauté Hindou en général et quant aux autres, par exemple, les sino-mauriciens ou les Tamouls baptisés, ils auront à compter sur les nominations à être faites par le gouverneur général. C'est un tournant parce que la Commission Trustram Eve divise le pays en 40 circonscriptions et, supposément en divisant le pays en 40 circonscriptions, supposément cela garantira que les trois principales, *the three main communities* seront adéquatement représentées. *If I had time - and it is worth a PhD thesis* - d'aller revoir les livres, tous les documents d'histoire au Réduit, à Londres – ici, je suis au Prime Minister's Office. Allez voir sur la base de quoi, Sir Trustram Eve, qui sort des brumes de Londres, arrive ici, et décide de 40 circonscriptions, afin que supposément les trois principales communautés soient adéquatement représentées. Sur la base de quel conseil, quel mauricien, quel processus on est arrivé à cette conclusion, parce que je vais expliquer que ces 40 circonscriptions de Sir Trustram Eve sont encore avec nous jusqu'aujourd'hui. Ce serait très intéressant de savoir comment ce processus s'est fait et qui a pris part à ce processus. En tous les cas, tournant 40 circonscriptions, 3 *main communities*! Les élections qui suivirent en 1959 et puis les élections de 1963 furent tenues sur la base de cette même division en 40 circonscriptions, *Madam Speaker*. *And then we reached in 1966 the next turning point*, le rapport Banwell. Le rapport Banwell dit carrément –

“I am not an Electoral Commission like Trustram Eve (...).”

Il déclare qu'il n'a pas le staff, il n'a pas le temps, il ne va pas faire le même travail, il n'est pas un *Electoral Commission* ; il va s'appuyer sur le rapport Trustram Eve. Et qu'est-ce qu'il fait ? C'est pour ça que je vous dis que jusqu'aujourd'hui ce rapport Trustram Eve, et ce que Banwell en a fait, est avec nous jusqu'aujourd'hui parce qu'ayant dit qu'il n'a pas les moyens, qu'il n'est pas une Commission électorale, qu'il ne peut pas refaire le travail de Trustram Eve, qu'est-ce qu'il fait, il prend les 40 - lui et sa Commission - circonscriptions de Trustram Eve, colle une circonscription avec la circonscription avoisinante, ce qui fait 20, et trois députés par circonscription au lieu de un. Et c'est à partir de ça que nous arrivons jusqu'aujourd'hui. Il faut bien comprendre ça pour comprendre, à part ce qui s'est passé dans l'intervalle, mais ce déséquilibre remonte au rapport Trustram Eve et à ce *pairing* des

circonscriptions que le rapport Banwell préconise. Et le rapport Banwell, à part de préconiser ce *pairing* des 40 circonscriptions pour en faire 20, chacune devant élire trois députés. A part cela, le rapport Banwell propose aussi 5 *Best Losers* qu'on appelle le *Constant corrective* mais qui sont en fait 5 *Best Losers*. Laissez-moi citer un passage du rapport Banwell -

*“We should like to emphasise that the feeling of these corrective seats should take place after the Poll. The calculations require would be made at the close of polling by the Electoral Commissioner. The question of which communities elected members represent and which communities Best Losers belong to should, we think, be determined at that time by the Electoral Commission.”*

Et il ajoute –

*“We think it would be undesirable to require candidates to declare their communities at the time of nomination.”*

C'est vrai qu'en disant cela, Banwell plaçait de lourde responsabilité - trop lourde d'après moi. Donc, d'après Banwell, il y a 5 *Best Losers* basés sur les communautés, mais les candidats ne déclarent pas leur communauté ; ils placent cette responsabilité sur le dos de l'*Electoral Commissioner* et l'*Electoral Commission*, en se basant sur leur expérience de ce que c'est que l'île Maurice, à eux de voir quelle communauté sous-représentée. Lourde responsabilité, trop lourde ! Mais c'est ce qu'ils disent, ils disent de ne pas demander aux candidats à quelle communauté ils appartiennent et laisser à la Commission électorale et au Commissaire électorale de travailler. Trop lourd ! Et ça aurait fait possiblement beaucoup de tort à la Commission électorale au fil des élections. Mais de toutes les façons, tollé à nouveau ! Le parti Travailliste, le CAM et l'IFB rejettent les recommandations de Banwell, pas toutes mais la plupart, gardent ce regroupement des 40 circonscriptions de Sir Trustram Eve, 20 circonscriptions multiplié par trois, gardent cela, se débarrassent d'un autre, *corrective*, et finalement le rapport Banwell n'est pas adopté. Stone House est envoyé par Londres. Stone House vient ici et il est important de se rappeler qu'il y a unanimité des partis politiques en faveur de ce que nous avons jusqu'aujourd'hui. L'histoire a retenu ça et je pense que par respect pour l'histoire, il nous faut nous rappeler de ça. Il y a eu unanimité de tous les partis politiques. C'est une chose assez grave dans l'histoire de n'importe quel pays je pense, le parti Travailliste, le CAM, L'IFB et le Parti Mauricien, tout le monde tombe d'accord sur les résultats du passage de la présence chez nous de Stone House et on a ce qu'on a jusqu'aujourd'hui, les 8 *best loser*, etc, etc jusqu'aujourd'hui.

Stone House s'en va ; il retourne dans son pays et nous avons les élections de 1967. Je pense qu'il est aussi important de se rappeler qu'à partir de 1967, nous avons eu 11 élections sur la base du système que nous essayons de changer aujourd'hui une fois encore. Je pense que c'est de notre devoir de se rappeler de certaines choses, comme le fait que c'est le rapport Sir Trustram Eve qui a débouché sur ce que nous avons jusqu'aujourd'hui en termes de délimitation des circonscriptions. Il faut se rappeler qu'il y a eu unanimité de tous les partis après le rapport Banwell et il est bon aussi de se rappeler qu'il y a eu 11 élections, qui se sont déroulées sur la base de ce qui est sorti du passage de Stone House chez nous.

Et il faut se rappeler aussi qu'en 1982, premier 60-0, je n'oublierai pas de sitôt premier 60-0. Donc pas de *best losers* ; au contraire, nous étions ici, moi j'étais le ministre des Finances ; Sir Anerood était Premier ministre, 5000 jeunes dehors, manifestant 'aboli *best loser*' et je les comprenais parfaitement. J'ai eu à quitter moi, ministre des finances, le Parlement pour attirer ces 5000 jeunes devant le quartier général du MMM. Je me suis fait insulter copieusement, pas difficile à comprendre parce que je leur avais expliqué que nous n'avions pas un mandat, que nous étions d'accord avec eux, ce n'était pas dans le programme électoral – et je suis fier de ça - que nous n'avions pas un mandat et que donc nous n'abolirions pas le *Best Loser*, mais je dois dire que je suis fier aussi qu'on a fait un grand pas. On n'a pas aboli le *Best Loser* parce qu'on n'avait pas de mandat, mais on a décidé de ne plus faire de recensement à base communale sur la base des quatre communautés que notre constitution post-Stone House, dans les quatre communautés : hindoue, musulmane, sino-mauricienne, et *so-called general population*, et c'est pourquoi jusqu'aujourd'hui c'est sur les chiffres de 1972 qu'on se base pour faire fonctionner le *Best Loser System*. Il y a des leçons à retirer de tout cela, parce qu'une ignorance de cette histoire, de ces *turning points* dont j'ai parlé, permettent à certains de s'égarer et permettre à d'autres d'égarer les gens, de forcer les choses, de façon dangereuse parfois.

Ayant donc fait ce *short trip down memory lane*, *Madam Speaker*, je viens à ce que nous discutons aujourd'hui. Le MMM, depuis des années et des années, non seulement est en faveur d'une vraie réforme électorale mais se bat pour une réforme électorale et a fait tentative après tentative de réussir une bonne réforme électorale. Le MMM n'a jamais proposé un *full Proportional Representation system* comme existe en Afrique du Sud, comme existe à Israël, où un parti a 5% des votes, il y a 55% des sièges, un *full Proportional Representation*, nous n'avons jamais proposé cela. Nous avons toujours proposé une dose de proportionnelle et en faisant cela, nous n'inventons rien. Depuis des années et des années,

nous proposons une réforme électorale mais nous n'inventons rien, parce que - tout à l'heure j'entendais Sir Anerood citer des pays européens où dans tous ces pays-là, il n'y a pas de *First-Past-The-Post*. Dans tous ces pays-là, il y a soit des systèmes de représentations proportionnelles, soit des situations mixtes de *First-Past-The-Post* et le *Proportional Representation*. Mais dans toute la liste que Sir Anerood avait mentionné, y compris l'Italie, il n'y a pas the *First-Past-The-Post* à la britannique dans tous ces pays-là. C'est un fait.

Donc, nous n'avons rien inventé, mais seulement la dose de proportionnelle a varié de par le monde et dans le temps. Ça a commencé par deux tiers, un tiers. Dans beaucoup de pays comme, par exemple, en Allemagne, deux tiers élus *First-Past-The-Post*, un tiers élu à la proportionnelle. Dans d'autres, c'était 50-50, et c'est encore 50-50, 50% élus comme maintenant en Allemagne, 50% élus par les circonscriptions et 50% à la proportionnelle.

Seulement, je dirais très fort que l'île Maurice est le seul pays au monde, autant que je sache, et qu'on me contredise, j'aimerais bien, moi, si j'ai tort, apprendre, mais je suis sûr d'avoir raison, que nous sommes le seul pays où après avoir introduit une dose de proportionnelle pour corriger les déséquilibres du *First-Past-The-Post*, voilà qu'on invente, juste l'île Maurice mais on est toujours nombril du monde, nous. Le seul pays qui invente maintenant un autre machin pour corriger ce que la représentation proportionnelle a corrigé. Enfin d'où ça vient? Le seul pays au monde, *worst than back to square one*, le seul pays au monde, dans tous les pays au monde, on discute beaucoup de la dose de proportionnelle plus ou moins et il faut le faire mais c'est le seul pays au monde où on introduit supposément une dose de proportionnelle trop basse - je viendrai là-dessus tout à l'heure - on introduit une dose de proportionnelle pour corriger le *First-Past-The-Post*, après on a introduit un autre machin pour corriger ce que la représentation proportionnelle a corrigé, le seul pays au monde. Il n'y a pas d'autres pays au monde et s'il y en a un, qu'on me le dise. Donc, on ne peut pas réinventer le monde, réinventer la charrue, réinventer la roue, tout réinventer et ça nous n'acceptons pas.

Si on fait une réforme électorale, c'est pour corriger les mauvais côtés du *Full First-Past-The-Post*. On ne peut pas défaire immédiatement à travers un machin qu'on invente, défaire ce qu'on vient de faire avec la représentation proportionnelle.

D'ailleurs, Madame la présidente, j'ai entendu - je crois que c'est le Premier ministre ou l'ex-Premier ministre, en tout cas j'ai entendu un porte-parole du gouvernement venir dire pas question de rendre public les commentaires de l'*Electoral Supervisory Commission*.

Why ? Parce que je suis sûr, moi, personne ne m'en a parlé, par respect pour la Commission électorale, je n'essaierai même pas de savoir mais je suis sûr qu'ils ont passé des commentaires sur ce que je viens de dire là. Cette folie de corriger le *First-Past-The-Post* pour ensuite corriger ce qui corrige le *First-Pass-The-Post* avec la représentation proportionnelle. Je serais très intéressé à savoir ce que la commission électorale a eu à dire sur cette monstruosité, franchement, et je serais très intéressé aussi à savoir si la commission électorale a dit quelque chose sur la méthode utilisée pour la représentation proportionnelle, c'est-à-dire, le *parallel mode and highest remainder formula* à la section 7 du projet de loi qui est devant nous. Il n'y a pas de définition dans la loi, mais le texte de loi qui est devant nous dit qu'on va utiliser le *parallel mode and highest remainder formula* pour désigner les députés élus à travers la représentation proportionnelle. Donc, moi je demande par respect pour la population, par respect pour la commission électorale de rendre public les commentaires, les suggestions que la commission électorale a fait après avoir examiné ce projet de loi.

Madam Speaker, I will make a second point – a strong point which I made was that it is only in Mauritius that we have invented *ce machin qui est supposer corriger ce que la représentation proportionnelle a corrigé* pour get us back to square one, *le mathematical rapport de force* First-Past-The-Post. I wish also to say – well, I know I will not convince Sir Anerood Jugnauth, okay, but I wish to say as forcefully as I can that there is no electoral system including the First-Past-The-Post, there is no electoral system that can guarantee a so-called *majorité stable*. There is no electoral system that can guarantee. Well, let us just look *au berceau du* First-Past-The-Post, *c'est la Grande Bretagne*.

Où ils en sont aujourd'hui, ils ont un *First-Past-The-Post*, le berceau du *First-Past-The-Post system*. Mais dépendent des divisions politiques à un moment, dépendant des résultats des élections à un moment, même avec un *First-Past-the-Post* total comme il y a en Grande Bretagne, aujourd'hui il n'y a pas de stabilité politique, et à Maurice aussi c'est déjà arrivé. En 1976, *First-Past-The-Post* qui existe à l'île Maurice, on s'est retrouvé avec 38 MMM, 28 Travailliste et huit Parti Mauricien.

I wish the population of Mauritius to hear me when I say that there is no electoral system that can guarantee a so-called stable majority. Majorities come and go, majorities come out of election results at a given point in time, and also I wish to challenge Sir Anerood on this Rodrigues myth. I know, I heard him say that I am choosing of being obsessed.

C'est une obsession que cette histoire de Rodrigues. D'abord, ce que feu le juge Ahnee a fait pour Rodrigues, ce n'est pas du tout ce que nous proposons pour ici. Il a fait une vraie représentation proportionnelle, deux tiers, un tiers et dans un petit pays.

*If at a given point in time in Rodrigues*, une majorité est devenue une minorité, un gouvernement a changé de parti, ce n'est pas à cause du système électoral, c'est parce que deux, trois députés de Rodrigues ont quitté leur parti pour se joindre à l'opposition, et l'opposition est devenue majoritaire, pas à cause du système électoral, à cause de division interne, c'est un mythe, c'est une obsession mythique. Pour reprendre le mot que Sir Anerood m'a accusé. Oui, c'est une obsession. *Forget about that !* Je vois que le problème c'est qu'il va trop souvent à Rodrigues. C'est faux ! Nous sommes fiers de ce que nous avons fait pour nos frères et sœurs Rodriguais et nous saluons le travail extraordinaire qu'ils font.

*So, let us stop with that! There was a problem.* Rodrigues, il y a peu de députés élus, il y a tant de circonscriptions, donc il a suffi que deux députés changent de camp. *Two elected Members* changent de camp pour que la majorité change. Mais c'est un problème spécifique à Rodrigues qui faut régler dans le dialogue avec nos sœurs et nos frères Rodriguais. Mais ne pas prendre ça comme prétexte pour venir à chaque occasion raconter la même histoire, et moi j'ai une copie d'un *Cabinet Communiqué* récent qui parle de ça. Mais c'est du délire! L'expression utilisée *is too good, I must try to find it rapidly, Madam Speaker*. C'est tellement délirant franchement, mais je crois que je n'ai pas retrouvé probablement. Tellement il y a des papiers. Enfin *I won't look for it*.

Après un conseil des ministres, le gouvernement tire un communiqué pour expliquer, et encore une fois tout le tralala à Rodrigues. Ce mythe autour de Rodrigues, que voilà ce qui se passe à Rodrigues, il ne faut pas faire la même chose ici.

*Let us do away with that, let us leave that behind us! A serious problem is the Best Loser.* *Madam Speaker*, j'ai retracé dans l'histoire notre *Best Loser*. Moi je considère qu'il y a là un vrai problème parce que d'une part les Nations Unies ont dit qu'on ne peut pas continuer soit réforme électoral, soit nouveau recensement sur la base de quatre communautés. Notre Constitution parle de quatre communautés : *Hindu, Muslim, Sino-Mauricien, so-called General Population*. Nous avons donc ce *ruling* de l'*United Nations Human Rights Committee*. Soit réforme électoral soit nouveau recensement sur la base de ces quatre communautés pour les besoins du *Best Loser System*.

J'ai entendu certaines choses tout à l'heure qui font peur franchement. Il faut faire la différence entre le *census* pour les besoins du *Best Loser* et la *population census* de tous les dix ans. Tous les dix ans, il y a une *population census* et le dernier date de 2011. Il y a plein d'information sur religion, beaucoup d'informations sur la base de ce *population census* là, *that's one thing* et on peut améliorer ce *population census* là. On peut certainement l'améliorer, on peut mieux utiliser ce *population census*, mais ça n'a rien à voir avec un *census* pour les besoins du *Best Loser*. Et là nous sommes, nous au MMM tout à fait d'accord que ce serait un recul dramatique qu'aujourd'hui venir faire un *population census* pour les besoins du *Best Losers* en demandant à chaque Mauricien et Mauricienne, *what is your community : Hindu, Muslim, General Population or Sino-Mauricien ?*

Ce serait non seulement un recul dramatique mais en plus cette division de la population en quatre communautés est complètement dépassée et contestée. Dans la communauté hindoue, il y a telle composante de la communauté, pour les besoins du *Best Loser*, on doit être à part.

Dans la population générale pareillement, il y a telle ou telle composante de la population générale qui vient dire, non on ne veut pas. Si soi-disant on va faire un *census* pour les besoins du *best loser* sur la base de ces quatre communautés-là, c'est complètement dépassé et si on ne fait pas le *census* en question sur la base de ces quatre communautés-là, mais on va diviser la population Mauricienne en combien de communautés pour les besoins du *Best Loser*? Où ça va finir? Il y a une différence entre reconnaître l'identité de telle ou telle communauté. Oui ! Mais pour les besoins du *Best Loser*, c'est là où je parlais de Pandora's Box. Si on fait un *census* sur la base de ces quatre communautés-là, c'est dépassé complètement. Et s'il y a plus, si on fait un *census*, mais où on va s'arrêter? Et c'est très dangereux ! C'est quelque chose qui me préoccupe beaucoup, mais par contre c'est vrai que le *Best Loser*, j'ai pris soin de retracer dans l'histoire d'où ça vient et c'est encore vivant, ça remonte à 1948 mais c'est encore vivant, *in some sections of the population*. Et moi, je me suis toujours efforcé en tant que dirigeant politique de faire attention à ceux qui ont peur, de faire attention à ceux qui sont angoissés, rassurer les gens est un devoir de n'importe qui veut mériter le titre de politicien digne de ce nom. Et j'ai retracé donc d'où ça vient ce besoin du *Best Loser*. Cela remonte à loin mais c'est encore avec nous, c'est encore vivant. Je n'ai aucun doute, quant à moi, que ce qui est proposé pour soi-disant remplacer le *Best Loser* ne rassure personne. Et c'est normale parce que le but est pour faire la différence parce que j'ai entendu et le Premier ministre et l'ancien Premier ministre venir dire « Mais le Parti

Travailliste et le MMM avaient proposé la même chose ». Non ! Nous avons proposé, vous vous proposez ce nouveau machin et les *leaders* des parties désignent, choisissent parmi les candidats battus soit comme candidat dans les circonscriptions soit comme candidat à l'élection à la proportionnelle. Mais vous vous proposez donc de 6 à 10, que les *leaders* choisissent parmi les candidats battus soit dans les circonscriptions - mais c'est noir sur blanc dans la loi - soit sur la liste de proportionnelle.

Nous ne sommes pas d'accord. Nous, ce que nous avons proposé, c'est 20 proportionnelle cassée en 14 et 16, 14 *straight* proportionnelle. *No problem !* 14 élus à la proportionnelle classique, 6 élus à la proportionnelle. Mais avec une deuxième liste, une liste pour la proportionnelle, une liste remise par les parties politiques à la commission électorale qui est rendue publique avant les élections. Et c'est à partir de cette première liste que ceux qui sont élus à la proportionnelle sortent, et cette liste là est une liste en ordre prioritaire. Personne ne choisit rien. C'est une liste en ordre prioritaire soumise à la commission électorale et si un parti a droit à 6, c'est les premiers 6 sur cette liste rendue publique auprès de la commission électorale. Nous avons proposé une deuxième liste de 6. Elle aussi déposée à la commission électorale, rendue publique avant les élections mais pas en ordre prioritaire où les *leaders* pourraient choisir sur cette deuxième liste au cas où telle ou telle communauté n'est pas représentée ou est sous-représentée. Ce n'est pas idéal. Nous n'avons jamais dit, - *I worked this out* - je n'ai jamais dit que c'est idéal. Mais l'alternative, je le répète, ce qui est proposé là pour soi-disant remplacer le *Best Loser*, ne rassure personne et ne remplace pas le *Best Loser*. C'est tellement évident. Parce que le but de ce 6 à 10 n'est pas de corriger la sous-représentation de certaines communautés. Non ! Vous-même vous le dites, le but c'est de corriger ce que la représentation proportionnelle a corrigé. Donc cela ne rassure pas du tout !

*(Interruptions)*

*Well, if you do not want to believe me, listen!*

Cela ne rassure pas! Cela ne joue pas du tout!

*(Interruptions)*

*Listen to the country, I meant!* Les gens parfois ont tort mais il faut même prendre cela aussi en considération. Et là, définitivement, ce que vous proposez pour soi-disant remplacer le *Best Loser* ne remplace pas le *Best Loser*, ne rassure pas et c'est pourquoi nous ne sommes pas d'accord avec cela. C'est pourquoi *we are in a tough situation with this issue of Best*

*Loser and* j'ai oublié l'expression que nous avons utilisée et que le Premier ministre et l'ancien Premier ministre avaient utilisée, *subsuming* le Best Loser. Finalement, cela ne rassure pas et cela ne remplace pas le *Best Loser*.

*So, we have a real problem there.* Jusqu'à preuve du contraire, je pense moi que ce que j'avais proposé, on pouvait même aller plus loin. Une deuxième liste rendue publique, déposée à la commission électorale à partir de laquelle les *leaders* choisiraient. Mais on peut même aussi, si on veut, mettre dans la loi le critère principal que les *leaders* doivent utiliser, c'est corriger toutes non-représentations ou toutes sous-représentations *of any component of the population*. On pouvait même mettre cela dans la loi. Donc, franchement, *what is being proposed will not serve its purpose*, ne va pas assurer et *we have a real problem, Madam Speaker*.

Je dis une chose, je trouve dommage que ce qu'on appelle la réforme électorale, c'est cette proposition de 63+12+6 à 10. Je répète, mon opinion, qu'on aurait dû avoir séparé cela de deux autres choses. C'est cela qu'on appelle la réforme électorale. Mais une loi garantissant un tiers de femme aurait dû être présentée séparément et une loi contre le transfugisme aurait dû être présentée séparément. *Because, now, as things have been presented*, si vous n'avez pas  $\frac{3}{4}$  - et je viendrai là-dessus tout à l'heure - cela veut dire que la loi sur une représentation d'au moins un tiers des femmes et la loi anti-transfuge, cela aussi ça tombe. *But it is unfair because I am sure there are a lot people who are in full agreement with* ce morceau de la loi qui préconise minimum un tiers, et la loi anti-transfuge. Donc, d'après moi, il n'est pas trop tard mais c'est dommage qu'on ait *lump all 3 together* alors que cela aurait dû être déconnecté si je peux dire.

J'en arrive aux propositions elles-mêmes et à notre opinion et à la façon que nous allons voter. Donc, j'ai écouté attentivement, il y a eu toutes sortes de rumeurs que le gouvernement va amender ces propositions. *From what I have heard from the mouth of the Prime Minister and the Rt. hon. Minister Mentor, specially, it is clear that there will be no amendment and that Government is sticking to its proposal of 62 plus 12 à la proportionnelle, plus 6 à 10, plus les leaders choisissant les 6 à 10 amongst defeated candidates à la proportionnelle ou dans les circonscriptions. We are against that. We are not going to vote. We said that before and we repeat, we are against that. We are not going to vote. I believe that what we proposed with the Labour Party remains, in my mind, the best thing. It is not ideal, but the best thing* pour une bonne réforme électorale, un pas en avant et en même temps remplacer et rassurer au maximum ceux qui sont encore tracassés par la fin du *Best Loser*

sous sa forme actuelle. Nos trois points de désaccords fondamentaux c'est premièrement : 12 c'est beaucoup trop bas, 12 à la proportionnelle ; deuxièmement, *we are dead against this* 6 à 10 pour corriger la représentation proportionnelle. *We are dead against that*. Nous sommes sur deux longueurs d'ondes opposées complètement là-dessus et troisièmement, comme j'ai dit, nous pensons qu'il n'y a pas d'autres moyens que laisser le choix pour remplacer le *Best Loser* aux *leaders* mais à partir d'une liste. Nous ne sommes pas d'accord avec ce qui est proposé. *These are the three points*. Je suis triste de constater que, comme en 2000 - 2005, *the MMM and the MSM are going to* laissez-passer une occasion de plus d'effectuer une bonne réforme électorale. C'est une répétition - sauf qu'on n'est pas au gouvernement - de l'échec de 2000-2005 et *whatever we say, I find that very, very sad*.

J'ai écouté attentivement le discours et du Premier ministre et du *Rt. hon. Minister Mentor*. *Therefore, no amendment to what is proposed and we won't vote what is proposed*. *Because, as I said, 12* c'est beaucoup trop bas. *It is not a dose of proportionnelle* raisonnable. *Ce machin de 6 à 10, it is unacceptable et l'idée de laisser les leaders choisir faute de mieux, mais à partir de quoi*. *Nous, nous proposons une deuxième liste rendue avant les élections*. *Donc, we will not vote*. Will the Government get *trois quarts*? I do not think so. By the look of things, *je ne crois pas*. *Donc, c'est pourquoi je pense que nous allons avoir encore une occasion ratée d'une bonne réforme électorale*.

I will end, Madam Speaker, by looking into the future. What I would very much wish to see the next Government do. I disagree completely with what the *Parti mauricien* says, but I listened, and there is a huge misunderstanding on the work of the Electoral Boundaries Commission. There is a huge misunderstanding. The Electoral Boundaries Commission *est obligé de travailler en respectant la Constitution*. *Ce qui est dans la Constitution, c'est 20 circonscriptions de trois députés*. 20, the Electoral Boundaries Commission cannot change! They have to work within the boundary, *si je peux le dire*. The Electoral Boundaries Commission has to work within that boundary, unless the Constitution is amended which is not the case. Of course, the Electoral Boundaries Commission cannot amend the Constitution.

Of course, in between *tous les dix ans, il y a eu des rapports, certains bons, certains pas bons, et ensuite, il y a eu aussi le refus au Parlement*. *On ne peut pas tous mettre sur le dos l'Electoral Boundaries Commission*. *Il y a eu un cas où le Parlement refuser a refusé*. *Il y a eu un cas où le Premier ministre a choisi de ne pas porter le rapport devant le Parlement et de le mettre dans un tiroir*. So, it is unfair to blame everything on the Electoral Boundaries

Commission. Certainly, there are reports which have been stronger. *Maintenant il s'agit de rattraper le temps perdu ou passé, et ce ne sera pas facile dans l'île Maurice que nous connaissons.*

Therefore, what I would wish to see the next Government do is to set up a Select Committee chaired by somebody from *le gouvernement du jour*, but also for *l'Opposition* to review our electoral system completely. *Après 50 ans d'Indépendance, après 51 ans avec notre système électoral actuel*, I would wish to see, after the next elections, the next Government setting up a full-fledged Select Committee to review our electoral set up completely. Most probably, such a Select Committee would review this decision of Mauritius *en 20 circonscriptions de trois députés chacun. Ce n'est pas tombé du ciel ça, c'est dépassé.* Maybe, there will be other proposals, but any rate, any Select Committee that does that kind of work, to put it into practice would need three-quarter majority in Parliament. Therefore, there is a safeguard. We do not have to panic. In the future, we set up a Select Committee, we review our electoral system completely, but we would require a three-quarter majority, *heureusement*, to implement whatever report such a Select Committee would produce.

Madam Speaker, thank you. I am a bit sad, honestly, very, very sad because it is another missed opportunity to *realiser une vraie réforme électorale, mais ainsi va la vie. Nous, au MMM, nous continuerons à faire ce que nous faisons depuis des années, nous battre et lutter pour une vraie réforme électorale digne de ce nom.*

Thank you, Madam Speaker.

**Madam Speaker:** I suspend the sitting for one hour.

*At 7.54 p.m., the sitting was suspended.*

*On resuming at 9.03 p.m. with Madam Speaker in the Chair.*

**Madam Speaker:** Hon. Collendavelloo!

**The Deputy Prime Minister:** Thank you, Madam Speaker. Well, I must admit that it is with some trepidation that I take the floor tonight on such a subject. This is a debate that has been on our minds for years and years and years passed. My career as a politician within the MMM has been dominated by the discussions on electoral reform, and listening to the hon. Leader of the MMM tonight, listening to the hon. Prime Minister and to the Rt. hon. Minister Mentor, of course, brings us back to our basics.

Let us see how we have evolved in time because after hearing hon. Bérenger, I just rushed to get what was the stand of the MMM and how it has evolved over time, and to show that it is always possible to evolve and that we are never going to stay dogmatic on matters as important as this. The first initial stand of the MMM for a long time had been that after an election, the Electoral Supervisory Commission would allocate to each party having polled 10% or more - it has always been 10% -, one additional seat for each 5% of the votes polled by that Party.

That was in the very old days; we did not have the benefit of the research which we have today. The additional seats were to be allocated to the most successful unreturned candidates, that is, to the Best Losers, not on a communal basis, but to the Best Losers. Then, if there were no unreturned candidate of that Party, which indicates that even at that time, we had contemplated 60-0 or perhaps 60-0 had occurred in 1982 before - my mind is a bit hazy on this - the seat would be allocated to such person - not a candidate - out a hat, out of the blue, as may be designated by the Leader of the Party with no available candidate.

That was the basic thinking. But what was the root of that thinking? The root of that thinking is that the system was unfair and that something had to be done about it. And that is how we finally came to 2002, when the government at that time appointed the Sachs Commission; the MSM/MMM Government. It was for many reasons. The 1982 elections had shown us something; that by the 1980s, Mauritians were no longer thinking along communal lines. In the 1950s, 60s up to a certain time in the 70s, perhaps 76 - yes, 76 -, politics was divided along communal lines. This is why all that question arose at that time.

Hon. Bérenger mentioned 1948, but it was all the time in this way. In 1967, you had to join the CAM if you were Muslim and you wanted independence for the country. In 1982, the PMSD looked for a certificate that it represented the general population - that was the last - but that was the mind as it is. This is why I feel a bit sorry at having heard, perhaps the youngest Member of Parliament today, speaking like this, when I compared, perhaps, the two oldest Members of Parliament having that sort of language today, tonight, in Parliament, I hope that this idea is not shared by the youth of today because or else I despair for my country. But I know, and we all know that this is not the thinking of the country and I am sure he himself doesn't think like this. Demagogy explains a lot of things - if you want to be interesting. Because I really don't think that our young friend from the PMSD, who spoke earlier, really in his heart of hearts, deep inside him thinks like that. He may have a little bit of that reading, but not too much.

The system is a system. I will just give one example, apart from the 60-0. We remember that, in 1983, candidate Dr. Kasenally could not secure a seat although he had won 47 % of the votes, he had lost. He was not the Best Loser. Who was the Best Loser in his place, Mr Ramoly who had won 16% of the votes! I will give you just that example. What community, what communal? Same community! And you tell me this is the system that you want to keep! Dr. Kasenally with 47% versus Mr Ramoly. I am not diminishing Mr Ramoly, but he was worth 16% and he got into Parliament in 1983. I can go on and on, there are about half a dozen examples like this. So, we need to change this system. In 2002, the Sachs Commission held its work. We all went before Sachs and he gave his report and he made a recommendation. The recommendation was that you would keep our first-past-the-post system, but that you would vote also for your Party on an additional Party list - I am making it short. And then, you would count whichever Party was more represented or less represented, there would be a computation and the Electoral Commission would select the PR people. The Best Loser System would remain as per Sachs. A Select Committee was appointed to see how it should be implemented. It was more of a Technical Committee than a Political Committee, but it turned out to become a Political Committee because through the middle of the workings, a rift appeared between the two partners out of the alliance, the MSM and the MMM. One favoured the parallel mode, but a strict parallel mode. We shall come later to see what we are proposing today. The other one, the MMM, and I was the Chairman of that Committee, we wanted to stick to the compensatory mode, that is, the Sachs method, if only for the reason that our mandate was to implement Sachs and not otherwise, and we remained a deadlock. There was a time when some of us, within the MMM, we said, let us have some discussions with our partner to see where we could reach some measure of consensus, if we could reach a consensus. At that time it was 2004, the Leader of the MMM had become the Prime Minister and it was felt that it was safer not to go into this. And then, we reached 2005. After 2005, then, it became farcical. We had round tables and each time a proposal came, it was put aside for another proposal and we lost about 10 years in that sort of rigmarole. In 2014, I think I better not make comments on this. I am sure of those who will do it after me, but I do not think it is the time to create passion over a debate which should retain all its seriousness. Whatever we say, at least, 2014 had the merit of acknowledging two things. First of all, that the system had to be revamp and that the forced adoption of a community in your nomination paper could not continue because we have to satisfy our obligations under the International Covenant on Civil and Political Rights as per the United Nations Human Rights Committee under this covenant. It is good to talk of that covenant.

Article 25 tells us that every citizen of the State Party, and we are a State Party to that covenant, so, I will have the right and the opportunity and without unreasonable restrictions to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot guaranteeing the free expression of the will of the electors - that is, Article 25 (20)(b). As we read it, it does not seem to have a direct correlation to the declaration of a community, but Resistance and Alternative, in 2005, when they went to deposit their nomination paper they refused to declare their community. Their nomination paper was held invalid. The Supreme Court, a Judge in Chambers held that they could be candidates, but they would not qualify for Best Losers. They were candidates, they did not declare their community, they were not elected and they were not returned as Best Losers. But then, after the elections, the Electoral Supervisory Commission decided to go to the Supreme Court, the full bench of the Supreme Court with the Chief Justice presiding to ask explanations in the light of the provisions of the First Schedule of the Constitution: what are we going to do, people start not declaring their community? How are we going to proceed?

The Supreme Court listened to arguments and the Supreme Court reversed the judgement of the Judge in Chambers and said: 'No, you are bound to declare your community.' And they went to the Human Rights Committee. Because paragraph 3(1) of the First Schedule of our Constitution tells us every candidate must declare which community he belongs to.

A lot is said about the views which were handed down by the Human Rights Committee. Let us see what the Committee says, word for word, that was in 2013 –

“The Committee therefore finds, taking into account the State party’s failure – that is Mauritius failure - to provide an adequate justification in this regard and without expressing a view as to the appropriate form of the State parties or any other electoral system, the view therefore is 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”

which I just quoted.

This is what it said and this is all that it say. It didn't say more, it didn't say less, and there we just got to know and I must say I am 200% in agreement and I am sure I speak for my colleagues here with what the hon. Leader of the MMM has said tonight. If there are people who think today that we can go back, then these are people who want to put the country on fire. Perhaps they don't realise, but that is what it is. So, there is no question and that is the decision of having a population census with electoral system! Population census is statistical exercise to help in planning the economy, in looking at so many other things. Of course, you must know the religion for many purposes, but why the community for electoral purposes. So, we can't do that and the Human Rights Committee, whether we like it or not, we need to follow its prescription. And as the Human Rights Committee said, we need to reconsider whether a communal based electoral system is still necessary 50 years after independence, and that is what the debate is all about, one of the points of the debate.

The next question is: 'what do we do about the system?' It seems that there is nothing much which separates us. The principles are agreed. At least the MMM, the ML, the MSM, principles are agreed. Let us see what we have here! Paragraph 5 of what would be the new First Schedule –

“There shall be, in addition to the 63 constituency seats (...).”

There will be 12 PR seats first of all and, secondly, either six, seven, eight, nine or ten additional seats.

All right! We all agree that there would be a dose of Proportional Representation. In other words, we agree to the PR seats. The question is: 'how do we count this?' We have heard, especially the Rt. hon. Minister Mentor, I have been on the Inter-Ministerial Committee. I know he keeps on going about Rodrigues. I have had discussions with him. It is clear we need to go one step towards satisfying, pacifying the issue on stability if we want electoral reform. But at least it is one step in the direction, I am also, I have my preferred views which are personal to be, but I am elected and I am in the exercise of the mandate. I exercise it as I feel I should and consensus is one of the matters which guide me and one step in the direction is having at least this. Then we will see. Perhaps after this step has been done, over time, we will be able to progress towards better, greater accent on fairness representation than now. Today, in the balance stability has been the prime consideration. It is the fear that a slim majority becomes a slim minority. That is the only fear that there is, because a large majority will never become a minority. But it is in the close races when you

calculate the 1976 Elections, then we see that in the result there could have been chaos, but you do not know how people would have voted in a PR system as well. But it is only this, a slim majority may become a slim minority and Government is united on this, whatever the personal feelings we need to respect that fear; that stability takes over.

And then the additional seats, so, the difference is that we need to reassure the two communities that the leaders will make sure that when they select the additional seats, they will be able to ensure appropriate representation. The leaders of political parties at that stage in Mauritius, I hear saying about 1987, come on! And we were not talking of MPs; we were talking of Government, of Ministers, which can still happen under whatever system. There is no system of minority representations in Government. I heard percentages from the youngest Member of this Parliament. Percentages in Government! You mean to tell me that there are people who go about computing percentages of Ministers? That is extraordinary! I never thought people could do this, that there were minds that could work this way. The carousel turns the other way. That is extraordinary! But we are talking of representation in Parliament, not in Government. In Parliament, the leaders will have to ensure - because that is also possible, as has happened in local elections in certain towns - if after the return of the Constituency results we see that 3 or 4 women have not been elected, the leader takes his responsibility or whatever. But the leader is not acting in a castle of his own, in an ivory tower. He has got his partners and he has got his party. He will have a process of consultation. I am sure, knowing Mauritius how it is, the leaders of the two parties will take a phone and make sure that they try and get at least a modicum of arrangement, because Mauritius is Mauritius.

The elections, we know what sort of relations leaders can have in times of crisis. Don't we remember when – I digress a little bit - there was the Kaya incident, how, in spite of what the Prime Minister was doing, finally the leaders got together. In times of crisis, they went on television and they calmed the population. So, I have faith in my country. Or else, what do we do? This is why I appeal to the MMM. We turn the clock back. We go back to where we are now. What a heavy responsibility to take, just to say 'no' in the manner that I heard today. When I hear 'no' on that side, frankly speaking, it does not disturb me the least. I would rather we lost the vote, because the PMSD has voted against us, because I would not like to have that sort of support. But to the MMM, I appeal to you. There is nothing that separates us. No! Think well! We are not very far away, just make the sacrifice of a little bit of good thinking in favour of the better interest of the country.

Now, it was said that the parallel mode and the highest remainder formula was not defined. Yes, in the strict sense of the word, it is not defined. But when we read from subsection 3, what we read is exactly the manner in which the parallel mode will be put into effect by the Electoral Supervisory Commission. I will just go briefly on one or two. I have seen scathing attacks on party list. That our people who get into Parliament through a party list, how are we going to call them in the House? We won't be able to call the first Member for such constituency. Really, that is the level to which our Parliament has gone? The Prime Minister of New Zealand is elected on a party list. Angela Merkel is elected on a party list. All through the world, there are these sorts of systems.

But in Mauritius, our problem is to make sure that we do not sacrifice that idea of stability. Well, the PR seats are taken from the PR list, there is no problem. The issue arises, as we have seen, from the additional seats. The subparagraph 6 tells us –

“(6) After the computation by the Electoral Supervisory Commission of the number of additional seats to be allocated to each qualifying party, (...)”

The Commission tells the leader of the party that he is entitled to so many seats and he shall nominate that person. But that person is taken from a list, first of all, the losers, the unreturned constituency candidates of his party. Yes, there may be a debate of how can losers become winners. But in our Constitution, we are used to that. So many of us, on both sides, are losers, but we call them the best among the losers. Not really, they are not the best among the losers, as I have indicated earlier. They are the best because of a certain magical formula. And then, the unreturned candidates on that Party's PR list, those in the PR list that remain, who have not been elected, so, there is a wide spectrum from whom the leader will choose.

We are discussing about the number. Hon. Bérenger said 6 for them or 8, I don't know. I won't go into this. Is this why you vote 'no' to such an important Bill? Because there is a difference of numbers! But the list is published and the unreturned candidates, we know them. The PR list is published in advance, people know what to expect and the leader will make sure that not only all communities, but sections of the population. I do not want to go into examples because it serves no useful purpose. Therefore, this permits a step forward towards better representation and fairness. But what is more, there are those two aspects. I understand why the hon. Leader of the MMM feels uncomfortable on these two issues. Because voting against this Bill means that we are taking a back step towards the number of women who are present in Parliament. We are losing a great chance before the women of this

country because we do not agree about a number or about one or two matters. We are going to say, once again in 2020, we will have this proportion of women. When we see in all countries what has happened, we shall be the only country left where there are so little women.

Can we afford this? Can the MMM afford this or all political parties in Mauritius? The party that in 1980s together with Sir Anerood Jugnauth, who finally said women have the right to have a bank account without the permission of their husband. Sir Seewoosagur Ramgoolam also, to be fair! We are going to be retrograde and *transfuge*. Who has suffered more from *transfuge*, but the MMM? We have that opportunity now.

(Interruptions)

Yes!

(Interruptions)

Whatever it is, let us not ...

(Interruptions)

No, I was elected!

This is where after an election, the PR candidate has been on a list, is in Parliament because of his appurtenance to a party alliance. If he is elected, all right he takes his responsibility in front of his electorate, he shifts the other way. But even under our system, it is not clear. Why is he/she in Parliament? Because of an appurtenance to a party and to an alliance. He just moves as he wishes.

Now, it is going to be clear. He cannot do this. Again, if only for these two issues - I would appeal to my friends to think about it – *ne pas se chicaner sur les détails que j'ai mentionnés*.

Concerning the number of MPs, in Seychelles for 60,000 voters, you have 33 Members of Parliament. The hon. Member talks of India, 500 people for 1.2 billion, okay! What he forgets, the State Parliament! There are 29 States plus 7 union territories! Each of them has about 100 MPs. I know a little knowledge is a dangerous thing, but, at least, look to your elders! Ask them, as we used to do when we were young! It is only words of advice, not friendly, perhaps paternal advice which I dare to give here. It is not brotherly; I cannot say he is my brother.

*(Interruptions)*

No need to go into all this, but it is the same for Australia. There are about 6 States there. Each one of them has got, I do not know, 60 or 75 MPs plus the Federal Parliament. Was not it the Labour/PMSD alliance which was advocating a second Chamber? What are we talking about? Are we going to, when we talk of democracy, come up with that sort of argument?

I shall conclude with...

*(Interruptions)*

Yes, because there are lots of persons going to talk after me.

Sachs had, what is called, Model A, which is not too far from the parallel system which is being proposed tonight. He discarded it. He did not agree. Let us be clear. Sachs did not agree with the parallel mode which we are proposing. All right! But even Sachs had to say that this PR model A has the merit of opening the debate on proportionality being easy to implement and guaranteeing continuation of the stability offered by the present system. Of course, there were other arguments against which he mentioned in his report. That is the debate which is left between MMM and Government. Yes, with all its failings, but it has the merit, as Sachs has said, of guaranteeing stability. Yes, I agree 76/ 82! But then, 76/ 82 also remains stable and we have got to agree with that. But at what risk, this is all history and a debate.

Madam Speaker, therefore, to conclude, if there is one reason for which I thank the hon. Prime Minister - certainly after a career as politician, I have had the opportunity of talking of a subject, which although I am not an expert, I must concede, but has always facilitated me. I got this opportunity tonight. But we must thank him for having come forward with a measure of consensus between the partners. In the beginning, it was not very easy, but Sir Anerood Jugnauth made certain steps on this and the overriding consideration was the United Nations Human Rights Committee which we need to heed while we are considering.

Thirdly, let me end by telling my friends of the MMM, derailing the process of electoral reform is a very heavy responsibility to take. I hate these words towards history, but a heavy responsibility to take towards whoever you want to choose, not accepting unless there are very good reasons. At least, the PMSD has the merit of having these archaic reasons which they invoked. At least, they have that. But when you are so near each other in a debate,

surely there is room for agreeing - if it is the numbers - in order to make that Bill progress and make the country progress on the democratic front.

Thank you, Madam Speaker, for your attention.

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

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

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

(9.49 p.m.)

**Mr S. Mohamed (First Member for Port Louis Maritime & Port Louis East):** Mr Deputy Speaker, Sir, I have listened with a lot of interest to all speakers who addressed this Assembly on this very important piece of legislation. But my good friend and brother, hon. Ameer Meea, with his always ever young sense of humour, gifted me with a line, a few minutes, before we went walk off for diner. And I am sure he will not mind if I share it, because I believe it is good even though we are in a very important debate, let us start off with an interesting line that he shared with me and I will share it with all of you.

He said: 'Now that hon. Bérenger has made his speech, now things are very clear, I think it is about time to invite the Prime Minister to sum up because clearly, in spite of the ...

*(Interruptions)*

I will not sum up now, but maybe I will start practising it for the next Government before summing up anyway. By practice, I mean that we will be in Government next time. So, I do not know why the Prime Minister is taking offence, but this is only me sharing a little banter and one should be able to take that, that's all. Now...

*(Interruptions)*

And, Mr Deputy Speaker, Sir, I do not know why the hon. Chief Whip is referring, in a sitting position, to toilets, whether he was referring to hon. Tarolah I do not know, but maybe we should get to the issue. The issue is interesting. Even though, I must say, I found the debate very interesting in listening to hon. Adrien Duval, hon. Paul Bérenger and it was interesting to listen to both of them. Because, yes, one represents the experience of hon. Bérenger who has explained to us the history behind the issue of the Best Loser System, how did it happen, how did it crop up. It is very important, I agree with him, for us to know the background, because if we do not know the background we can pass comment and our

comment will be wrongly founded and history is very important. For that, I think we should all be thankful to him.

Whereas, hon. Adrien Duval, having listened to him, where I disagree with the hon. Deputy Prime Minister and I humbly say so. I know he may have had good intentions by trying to give advice to the young politician that hon. Adrien Duval is, but then again, we should listen to hon. Adrien Duval. In his speech what I note is the dynamism of youth. I note that when you are much younger, you do not sugar-coat the pill and you say things as they are. Whatever he said was honest, whatever he said was real and I am of the view that he expressed exactly the views of reality, the views of the people whom he represents and meets. Maybe, it is not as we, experienced politicians, put it diplomatically or politically correct or not diplomatic enough.

But, this is the difference between the experienced people who are very important as is the views of the hon. Deputy Prime Minister, because he also has had important positions in this whole sphere of electoral reform, we know his experience there. But, it is also refreshing to hear the views of the youth and how honest he can be and not, as I said, sugar-coating any pill. Now, where I do not believe it is very fair for the hon. Deputy Prime Minister to say what he said. He said: 'I prefer we lose the vote today than win it with the support of this sort of party.' Now, I understand that maybe the hon. Deputy Prime Minister may not have the same views as the PMSD on this particular issue or on many other issues, but it is not a reason, in my humble view, to be so dismissive and arrogant about the position he has as Deputy Prime Minister as opposed to the position expressed by the only member of the PMSD up to now.

I think, as hon. Béranger put it rightly so that you may not agree with someone, someone else maybe wrong but you have to listen and this is what I believe hon. Béranger said and I think he was totally right.

So, let me say, today, that I have listened to Rt. hon. Minister Mentor and there is also a lot of things that he said, but I have taken note of something that really took me aback. He said today: 'We value fairness, but not at the expense of stability'. What exactly does that mean, Mr Deputy Speaker, Sir? The country at large must try to understand what exactly does that mean when the Rt. hon. Minister Mentor, former Prime Minister, says: 'We value fairness'. What he says here is that he understands the importance of being fair and, for him, he puts in the whole Government his open arms as this Minister Mentor with experience that

he certainly has. I am not saying his good experience, but let me say his experience. Experience enough to be having the title of Minister Mentor, but says that fairness is something they value, but not at the expense of stability. So, for him, fairness is not that important, but stability is more important than anything else. In other words, if there is to be unfairness, so be it, as long as there is stability for his Government. This is what it means. Sometimes we say the truth comes out of the mouth of children, but sometimes the truth comes out of the mouth of Rt. hon. Minister Mentor; sometimes, not all the time.

What he says today is just amazingly typical of him because he also does not sugar-coat the pill. Maybe he has kept the youth or maybe he cannot hold his tongue as certain others. I am no pun intended with the tongue part, but what I am trying to get at here, is how he has simply put forward the position of Government, that for them, stability is more important than anything else, even fairness. So, who benefits from stability? Clearly, if there is unfairness, it is not the people that would benefit from their definition of stability. Obviously, they mean that their own continued presence in Government is more important than anything else to dominate, to remain in power, to hold on to power is more important than anything else.

Fairness, *on va reléguer cela*, because as long as we remain in power, who cares about the rest? This is the same hon. Deputy Prime Minister today together with the Rt. hon. Minister Mentor, who were so forthcoming with advice, and I listened. I may not agree, but I listened. I wonder whether he recalls one of the very first speeches that a Member, seniormost Member of his political party made in this august Assembly, was hon. Gayan, when he pointed at me - sitting in front as the *chef de file* of the Labour Party, as the parliamentary Leader of the *Labour Party* - and said that he finds it totally *bizarre*, and that really struck him, how come the parliamentary Leader of the Labour Party today is a non-Hindu but a Muslim? How come? And he said that, it is recorded in Hansard.

So, today, the same Leader of the Mouvement Libérateur says that you, hon. Duval, have to learn from elders. Are we to learn from elders who are bothered because the Parliamentary Head of the Labour Party is not of the majority population, the Hindu? It bothered him that I was a Muslim; it bothered him that I was the Head of the Labour Party in Parliament. This is what offends our Constitution and I would not, therefore, turn around and say that I will learn from this man's good example. But I wonder how can this Party turn around today in any paternalistic position and start giving lessons to the PMSD when they themselves are bothered with my presence here.

I am not giving lessons to anyone; those are facts. But then again, is it coincidence? We are talking about religion here; we are talking about the abolishing of the Best Loser System; we are talking about electoral reform; we are talking about not referring anymore to one's community in the Constitution. Why? Because we all want to have this beautiful Mauritius and, in a few minutes, Mr Deputy Speaker, Sir, I will talk about my ideal Mauritius, my perfect Mauritius. I will talk about in a few minutes. But the reason we are here is because - there is certainty in there - none of us want to have a Constitution that divides our country. All of us want to have a Constitution that creates a nation of Mauritians. This is what we want; this is what we dream for; this is all what we fight for. But then, there are exceptions, and there are also some people who, I will not use the word 'hypocrite', I do apologise I have just used it, but there are people who forget exactly what is also relevant in the same debate.

Hon. Rutnah, wasn't he sitting down at this political gathering where a Police Officer stood up and went to make a speech? And he was filmed sitting down there under this tent, listening to the speech where this Police Officer stood up and said that we cannot accept a Muslim as Commissioner of Police in this country because if we have a Muslim as Commissioner of Police, this will be dangerous for the country, because he will end up importing drugs. Did I see hon. Rutnah stand up and say, "No, I object to being present in the midst of such speeches." No! Did I see hon. Rutnah say, "Well, I take strong objection. I know the law. I will go and report you to the Police; I will make a Press conference about that. I will say no." Did I see him say that? No! And hon. Rutnah now will sit down and look perplexed. He will pretend he does not know what I am talking about. But then again, I will tell him, I have the video. I will tell him something else. I hope it doesn't annoy him that I just share the video, because it's the truth and nothing else but the truth.

So, is it a coincidence that he belongs to the same Party as that of the hon. Deputy Prime Minister, Mouvement Libérateur? *Le Mouvement Libérateur de Gayan!* And as the hon. Deputy Prime Minister likes saying it so well, and I admire his stance, oratory skills when he says that: *caré caré!* He loves saying that, isn't it? *Caré caré.* Now, I would like to tell him: *ki sana ti p met dan circle lerla?* Because funnily enough, hon. Gayan is of Mouvement Libérateur, hon. Rutnah is of Mouvement Libérateur, and hon. Rutnah, today, talks about - and the hon. Deputy Prime Minister says "Oh well, we are going to open the door to the possibility of more women coming to the National Assembly. This is how progressive we are!" Did he not treat a journalist as *femelle lisien*? Did he not say that? So, this very same Party that talks about being progressive...

(Interruptions)

Oh, very good, thank you! At least the hon. Member does not even understand how dishonourable that was. So, what's interesting, Mr Deputy Speaker, Sir, is that we just had someone who confessed to have called a journalist...

(Interruptions)

Hush, I am not giving way! Hush! I did not insult a woman. Hush, alright! So, tell me something. This person, the hon. Member belonging to the same Party as the hon. Deputy Prime Minister, who is going to liberate womankind, who is going to be progressive and help women come here because the views of women are important! They have to participate actively in the working of democracy. And what does he say? *Femelle lisien*.

(Interruptions)

So, the easiest way out, Mr Deputy Speaker, Sir, in order to defend the truth that I am putting forward. How can we expect the Government side to defend hon. Rutnah? How can we expect Government side to defend the wrong words uttered by hon. Gayan? How? It's very simple! Let's deflect the debate onto what someone else said; let's deflect the debate. Instead of simply coming to say, "Oh yes, I was wrong, I should not have criticised a journalist called Touria Prayag and treat her as *femelle lisien*. I should not, I should have apologised", no, he sits here and says, "Yes, I did", and proud of it! So, if this is their version of what it is to be progressive with regard to women, well, my God, we really have a serious problem ahead. But they still don't see it!

Now, let me say something else. The Rt. hon. Minister Mentor - because I will have to take some time to rebut what has been said because it is important that the population knows the truth. Because my feeling today is the following: that the population, the majority of the population out there, I have said it before and I say it again, have lost so much faith in politicians that they are not really concerned or aware of what exactly are the implications of this Constitution (Amendment Bill) today. That is the truth. Because I have spoken to people from all walks of life, from all over Mauritius, asking them what are their views with regard to this particular Bill. When I explained to them what is in the Bill, without giving them my views, they were surprised that this Bill was coming to Parliament today. They were not even aware; they don't even understand why it's coming to Parliament. They don't even understand, and that's the second thing they say: why is it that we are not given more time to understand it? Why is it that Government did not explain it to us? And that is where things

are worrisome, but then, the Rt. hon. Minister Mentor started out by saying that he has never, ever, they have never done anything in a way as to not choose any particular community or to discriminate against any other community in choosing people to form part of Government.

This is what he said. The gist of what he said is particularly that. And when someone, from a sitting position, including myself, talked about 1987 -hon. Uteem, if am not mistaken, and I followed just behind him by saying that he always leads the way, that's nice - all of a sudden, the Rt. hon. Minister Mentor stopped talking. Because then, let us remind him: wasn't it he, as Prime Minister, who did not have a single Muslim as Minister in his Cabinet? Il faut que les Mauriciens puissent s'en souvenir, parce que la jeune génération n'est pas au courant, M. le président. Ils ne sont pas au courant qu'on avait un Premier ministre ; le Premier ministre était Sir Anerood Jugnauth ; Sir Anerood Jugnauth était à la tête du pays, et à partir de 1987, il n'y avait même pas, et c'était voulu, c'était un choix stratégique, c'était une décision qu'il avait prise lui-même, personnelle à lui, comme chef de gouvernement ; il n'avait même pas un musulman dans le cabinet ministériel. Pourquoi ? C'était une décision qu'il avait pris lui-même comme chef de gouvernement. Il n'y avait même pas un musulman dans le Cabinet ministériel. Pourquoi, simplement parce que la communauté musulmane n'avait pas soutenu le MSM dans les élections. La bonne chose c'est que rien n'a changé. La réalité ça n'a pas changé, c'est pour ça que l'honorable Jahangeer en ce moment-ci n'est pas trop confortable. Mais ayant dit cela, j'aimerais moi lui faire rappeler quelque chose d'autre. Je me souviens - quand j'étais encore jeune - d'un autre politicien qui s'appelait Kader Bhayat...

*(Interruptions)*

Oui, tout à fait.

Once again, look at the argument: 'Oh, you were with the MSM, therefore, everything is good'. It's amazing. I mean, I am one who does not even hesitate to criticise my own Party. That is what I am like. Whether some like it or don't like it, I am like that, but then, again, there are some who cannot even have the courage of criticising their own Party because their seat is more important than anything else, they have to stick to it.

Which was the Party that did not present a single woman as candidate in 2014? Maybe, it is interesting to ask about that. '*Triangle triyanger!*' Maybe they are better apt to use that term '*triangle triyanger*, it makes more sense nowadays with regard to their practice, and I will say it was the Mouvement Libérateur. So, they are today going to tell us what

exactly we should do because they know better! Wasn't it the Rt. hon. Minister Mentor who met the former President of the Republic in 2012? Let us not forget that there was a meeting *au sommet* between the President of the Republic, His Excellency the hon. Anerood Jugnauth and the former President, hon. Uteem, where the reform electoral and other issues were being discussed at the meeting. And when it finished, the former President Uteem said that he spoke to hon. Anerood Jugnauth, the Minister Mentor and what was decided there, where they were on the same length, they agreed that the Best Loser System should never be abolished. Wasn't it the Rt. hon. Mentor himself who said that he would never abolish the Best Loser System, wasn't it hon. Dr. Husnoo who campaigned on that particular issue? I remember, we were together there ...

*(Interruptions)*

I cannot hear you, hon. Dr. Husnoo.

*(Interruptions)*

Good! Yes, I was there. And I remember hon. Dr. Husnoo who was there fighting a way to ensure that the Best Loser System, as it is, should not be changed an iota. This was his position, and not only did he go for such a position, that no one should even change an iota of the Constitution, no one should even change at all the Constitution, the Best Loser System should remain as is and he campaigned on it, going from house to house in the last General Elections, promising people, as in the Electoral Manifesto, and hon. Salim Abbas Mamode was present with him, convincing people to vote for them, because with them the Best Loser System would never change. So, he got elected on a lie. What is shameful is that when I look at the list of orators - I hope there is an amendment by the Chief Whip of that list - I don't see hon. Dr. Husnoo on it. He has chosen to run and hide, and not even address the House on this issue. This is what I call lack of courage!

*(Interruptions)*

Lack of courage!

*(Interruptions)*

**The Deputy Speaker:** Silence, please!

*(Interruptions)*

Silence!

**Mr Mohamed:** But then, again, Mr Deputy Speaker...

*(Interruptions)*

**The Deputy Speaker:** Continue with your speech!

**Mr Mohamed:** Mr Deputy Speaker, Sir....

*(Interruptions)*

Mr Deputy Speaker, Sir, here is someone, and they talk...

*(Interruptions)*

**The Deputy Speaker:** Silence!

*(Interruptions)*

**Mr Mohamed:** Well, I should say to hon. Dr. Husnood, talk to them...

**The Deputy Speaker:** Hon. Members, I am on my feet! Can we have silence in the House, please!

*(Interruptions)*

Hon. Dr. Husnood!

*(Interruptions)*

Can we have silence to resume the debate! Hon. Mohamed, please, resume the debate!

**Mr Mohamed:** As I was saying, whenever you see the Government acting in such a way, this means bull's-eye....

**The Deputy Speaker:** Get back to your speech, hon. Mohamed!

**Mr Mohamed:** My speech, it means bull's-eye...

*(Interruptions)*

Oh, my God! Hon. Rutniah says '*nu pas communal nou*', but he does not want a Muslim to be Commissioner of Police! Anyway, it does not matter; they have got their own definition of things.

And hon. Dr. Husnood - let's get back to this hon. Minister....

*(Interruptions)*

Of course!

*(Interruptions)*

So, then, let's get back to him. Now that hon. Dr. Husnood has decided...

*(Interruptions)*

L'honorable Ministre Husnood qui a fait campagne en 2014, allant de maison en maison ensemble avec l'honorable Abbas Mamode, - qui est là pour confirmer - qui a dit à tout le monde dans la circonscription No. 3 que, pour lui, le système de *Best loser* ne doit jamais changer et de lui faire confiance, parce que son gouvernement futur, qui est l'Alliance Lepep, a comme dans le manifeste électoral des mots très précis. Page 43, je cite –

« Une réforme électorale sera adoptée en tenant compte des impératifs de stabilité pour gouverner. (...) Le système de *Best Loser* sera maintenu. »

C'était là, *Mr Deputy Speaker, Sir*, les paroles dans le manifeste électoral, mais c'était aussi là, les promesses de l'honorable Dr. Husnood. Voilà, le système de *Best Loser* sera maintenu ! Et maintenant, au lieu de venir s'expliquer à la population, à la Chambre pour que l'histoire puisse au moins témoigner, de venir expliquer sa position, comment se fait-il qu'à un certain moment de l'histoire il a dit ça, et aujourd'hui quand on cherche dans la liste des orateurs pour savoir s'il a le courage de ses opinions, on ne le voit même pas.

*(Interruptions)*

**The Deputy Speaker:** Hon. Jhugroo, please!

*(Interruptions)*

Please !

**Mr Mohamed:** Et aujourd'hui, pour venir...

*(Interruptions)*

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

**Mr Mohamed:** Pour venir se défendre....

*(Interruptions)*

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

**Mr Mohamed:** Que l'honorable Dr. Husnood n'oublie pas qu'il a une responsabilité...

*(Interruptions)*

Mr Deputy Speaker, Sir, you are allow things to go on, isn't it?

**The Deputy Speaker:** On both sides...

*(Interruptions)*

**Mr Mohamed:** What? Are you also having hearing problems? They were discussing. They are interrupting me.

**The Deputy Speaker:** Hon. Members, we are debating on such an important piece of legislation. You are being watched by the population. Please, behave yourselves!

**Mr Mohamed:** At the time when this particular piece of legislation will be called for a vote, there will be a call for Division of votes. I hope that hon. Dr. Husnoo will be present and he will not go to the toilet, neither will he go and say he is not in Mauritius, and then, we will ensure, and I hope, and I pray that he will not in any way go against what he said in the elections, and he will not go against the promise in the *manifeste electoral*. What is most important is the following. Whenever this proposal was made to Cabinet, because *avant qu'une loi ne vienne, ici, à l'Assemblée nationale, ça passe par le Cabinet ministériel*.

Et le Cabinet ministériel doit être d'accord, approuver une loi pour que cela vienne ici. Ce n'est pas simplement une lettre à la poste. Il doit y avoir un débat. Et ce que moi j'ai appris, c'est que si on n'est pas d'accord avec un projet de loi, on démissionne. Si on n'a pas démissionné, c'est qu'on est d'accord. Cela s'appelle *Collective Responsibility*. Et il faut pouvoir assumer ces décisions, il faut pouvoir assumer, cela s'appelle la responsabilité collective, *Ministerial Responsibility*, quand dans un cabinet ministériel, on prend une décision de rester dans le cabinet, de ne pas démissionner, c'est qu'on est en accord avec ce qui est proposé dans la loi. Cela veut dire que la signature, l'approbation, le consentement de l'honorable Husnoo est déjà sur ce document même s'il décide de ne rien dire et de se cacher et de ne pas montrer son courage. L'histoire retiendra cela.

*(Interruptions)*

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

*(Interruptions)*

Hon. Dr. Husnoo!

**Mr Mohamed:** And what is interesting is...

*(Interruptions)*

**The Deputy Speaker:** Hon. Dr. Husnood, please!

**Mr Mohamed:** I do not know why he is getting - I know hon. Dr. Husnood as a very calm hon. Member.

*(Interruptions)*

The truth really hurts. That is why he is losing his job totally. The truth really hurts. So, hon. Dr. Husnood keeps on talking and he is trying to defend himself but what the leader has not realised is that he is sinking and he sunk.

*(Interruptions)*

Mr Deputy Speaker, Sir, *la vérité fait mal!*

*(Interruptions)*

**The Deputy Speaker:** Hon. Dr. Husnood, please! Please, hon. Dr. Husnood!

*(Interruptions)*

No crosstalking!

*(Interruptions)*

Hon. Dr. Husnood, I have called you!

*(Interruptions)*

Hon. Mohamed, please resume your speech now!

*(Interruptions)*

**Mr Mohamed:** Mr Deputy Speaker, Sir, maybe you could invite hon. Dr. Husnood to take a break.

**The Deputy Speaker:** Please resume your speech!

**Mr Mohamed:** Or have a Kit Kat for that matter, but, anyway! And on top of it, is that a coincidence or what, he is also part of the *Mouvement Libérateur*. And that is the common denominator. But then again, maybe there is exception to him, because, right now, it is known to one and all that what he is doing, they are talking the law against *transfuges*, alright, I mean I have never heard of anyone whilst being a Member of Government, has already shifted parties and stays in Government. But, anyway, I mean let's leave alone hon. Dr. Sorefan. Is he on the list? You see, this is courage. Anyway, is hon. Jahangeer on it? No, but anyway!

Now, let us look at important issues. You see why this particular piece of legislation is about most importance and I am going to talk about my reality right now. The reality today, as it is, Mr Deputy Speaker, Sir, is as follows – it is that we have gained independence for the past 50 years now, and as a country, I presume that we are a mature democracy and a mature democracy must learn from all that has happened in the past 50 years and it must be mature enough to be able to analyse the electoral system in place, identify the wrongs, understand the history as hon. Bérenger has made us understand, and react accordingly for us to ensure the future generations that we are going to give them a better 50 years. This is precisely summing up our responsibility as Members of Parliament.

Now, the fact is today, in Mauritius, people are concerned about certain things. People are concerned about finding a job. It is very important for people. As the hon. Minister of Labour will agree with me, today people are really concerned about finding a job, holding on to a job and as he himself has said, nowadays, people, and when I was there as well, and even before my time, people were more concerned about finding a job in Government, be it the parastatal, be it the Ministry, becoming a civil servant and the stability it gave them. This is one of the issues we all have to face, but the fear of people from my constituency, let me talk about people from Roche Bois, when I was Minister of Labour, they always came up to me and said why is it that we do not get jobs in the Mauritius Port Authority or the Cargo Handling Corporation. Why is it that people from Roche Bois cannot find jobs in the Port area. When I was Minister of Labour, they told me that the problem is that they have people from other places, other rural areas, coming from other constituencies, but priority was never given to the fact that people were living next to fuel dumps, next to the Port, next to dangerous gas storage, why is it that they were not finding jobs there? I remember they told me that. It is the same thing nowadays, but today what is real in Roche Bois - I am going to talk about the reality of my constituency - is that, and I am not saying only because this Government is in power. I am going to be honest enough and say that it also started from before I was there. From even before hon. Dr. Husnoo became Member of Parliament of that constituency, even before 2005, even after 2005, even when I was there in 2010. They feel that there is serious discrimination against the people of Roche Bois because of ethnic reasons. They have said that to me. They come to me and say: “Is it because we are people of a certain community, of a certain ethnic background, that we live in Roche Bois?” Either you call a spade a spade. “Is it because we are Creoles that we are not getting the facilities that other communities are getting?” This is the feeling. I am not saying it is true, but it is

important for us at least to listen to what they feel. It is not what we feel that is important, it is what the population feels. Today, the population feels that there is a problem with regard to discrimination. At least the perception thereof and that is why I think it is important for us to refer to important publications. For example, when I look at the newspaper following the Committee on the Elimination of Racial Discrimination examining the report of Mauritius, the hon. Attorney General was there. And today I am reading the report of Geneva, 15 August 2018, in that report, I will quote –

“In the ensuing discussion, Committee Experts regretted that civil society had not participated in the drafting of the State party’s report, and that the vestiges of a hierarchy based on origin, skin colour, caste or race continued to exist. They further inquired about the measures to modify the Equal Opportunities Act to include language as one of the grounds for discrimination; the independence of the Equal Opportunities Commission; and the number of complaints of discrimination received, disciplinary measures adopted, and the compensation granted to victims of discrimination.”

And there, in this particular document, there is Ms. Mohamed, I am not related to her. Ms. Mohamed said as a country, when she was putting questions to country rapporteur, I quote –

“Ms. Mohamed observed that the 1968 classification of different ethnic groups in Mauritius was no longer accurate.”

This is coming from the Committee on the Elimination of Racial Discrimination, questioning the representative of Mauritius. And she asks –

“What steps had been taken to update that classification on the basis of self-identification? What special measures had been taken to speed up the enjoyment of human rights by vulnerable groups (such as the Creoles)?”

It is not an honour for Mauritius to go to any international forum, and when you have an expert who is a country rapporteur, putting a question to the hon. Attorney General and saying clearly, in no uncertain terms, that for those experts there is discrimination and specifically against a group referred to by those experts, by those countries rapporteurs at the United Nations and they are referred to as the Creoles. I quote –

“The Creoles remain significantly underprivileged in the exercise of their economic, social and cultural rights.”

What steps had the Government undertaken to improve the living conditions of the Creoles, including those on the Rodrigues Island? It says here –

“When it came to minority groups, the Committee regretted the existence of a hierarchy based on origin, skin colour, caste or race.”

That is serious. What the United Nations tell us, that they as experts, they disconnected with no interest to serve, with nothing to gain, independent totally, trained in order to observe and make comments in order for us to implement changes that can help the country, they say that for them the Committee regretted the existence of a hierarchy based on origin, skin colour, caste or race. Those very issues referred to in our Constitution –

“Thou shall not discriminate based on cast, creed, religion, skin colour, race.”

The Constitution says that. In 1968, we had independence. 50 years later, the Committee of Experts of the United Nations tell us that there is discrimination. I am not saying that the discrimination started only in 2015. No! It has been there for the past 50 years!

*(Interruptions)*

Yes, we were also in power. At least, I have the courage to admit it.

This is what the experts tell us. So, what do we do about it? Do we simply defend our own turf? We are going to say: ‘Well, you know what, this is not true. Most probably, this is related to hon. Mohamed. That is why you see that.’ Most probably she is an agent of the Labour Party. I do not know! Maybe she is a spy sent there to annoy Government. But, no! The problem, Mr Deputy Speaker, Sir, is that we are also bent in trying to defend our own turf that we refuse for fear of losing political points of admitting the truth.

There was another newspaper that came up with some interesting figures. That newspaper was ‘*Le Defi*’. This has gone very quiet because it is very taboo. I asked myself, Mr Deputy Speaker, Sir, should I talk about it or not, because, yes, it is a very sensitive issue. Are we to pretend that everything is rosy and are we going simply to throw everything under the carpet or are we going to have the courage enough to speak the truth? That is the question. We cannot hope that there is going to be a Mauritian nation if we simply pretend that we already are. We are at the time of sports events when we have to fly the flag of Mauritius high up the mast; we are at the time when we are going to go to fight for Chagos, even though we are in the Opposition, even though we have political differences with the Government of the day, but we all are routing for Mauritius, expecting high and low that we

win back the Chagos Archipelago. I may have political differences with the Rt. hon. Minister Mentor, but I will not put him political questions about the delegation when he went there because, for me, what is important is Mauritius, the National Sovereignty that it cannot be dismembered, no matter what. So, what I am saying here is, we cannot just put Party Politics ahead of us, but we have to be truthful to us. If we cannot be truthful to us, how can we be truthful to others?

This article written by Ronie Antoine on 28 October 2018 following this report from the United Nations, what does it tell us? It gives us a description of exactly what is the situation in various Ministries. It is said here, those graphs were all published in *Le Defi* newspaper. I read that. What does it tell us? That in certain Ministries, for example, in the Ministry of Foreign Affairs, at least, the data that was available for them, the staff who had done a survey, you had at least an average of 90% of people of origin of *d'Asie du Sud* who were in employment in certain Ministries. An average of 90% in all Ministries! But when it came to people of African origin, the reality drops down to about 5% to 6%, in some it is zero, in some it is 3%. If this is not worrisome - I am guessing that this Government is responsible. I am not at all blaming the Government. I am saying that it is a true situation nowadays. What do we do as responsible parliamentarians about it? So, why do I talk about this is because when I look at people in various Ministries, when I look at people in various parastatals, when I look at public institutions, when I look at the Police Force, people of African origin is 11% and 88% people of Indian origin! This is not a complete situation. What I am trying to get at here is today the reality is that people through the workings of various Governments, be it under the leadership of Sir Anerood Jugnauth, under the leadership of Sir Seewoosagur Ramgoolam, under the leadership of Dr. Navin Ramgoolam, under the Prime ministership of Paul Bérenger, they have all, at some point in time, invested in this country. Like it or not! And for them, they wanted people to go and study, have a better life, grow and let the country benefit. But what do we do for our young Mauritians who cannot find a job simply because of their race? And that is the truth! Today, when you go to my Constituency, people feel that they will not get a job in the Police Force because they are either Creole or Muslim. That is the truth! I am not saying it is real, but it is the perception today. I am not saying it is only this Government, but I have also the perception when I was in Government and it was also the perception prior to me coming to Government.

*(Interruptions)*

**The Deputy Speaker:** Please! Hon. Mohamed, I have allowed you to develop your arguments. I want to understand how those arguments are related to the Bill we are discussing today.

**Mr Mohamed:** How does it relate? It is very simple. When one looks at the history, it is important to understand how this fear came about. As hon. Bérenger has explained, once upon a time the Muslim community did not manage to elect one single member. Everyone went up in arms, political meetings as he rightly described and this was the beginning of everything. Allow me to talk about a very important speech which was made back in the 1950s. I am going to talk about that to explain to you, Mr Deputy Speaker, Sir, how exactly this is related to everything. Back in 1965, the Sessional Papers No. 6 of 1965, Mauritius Constitutional Conference, September 1965. Before I get to that, I would like to talk about my ideal world, my ideal for Mauritius. My ideal for Mauritius is that we have a political system where we do not differentiate between any communities. That is ideal for Mauritius. Is this achievable?

Mr Deputy Speaker, Sir, we must ensure that not only there is equality in treatment, the ideal world is that you are chosen as a candidate not based on your communal appurtenance, the ideal world is that you are chosen as a candidate based on your merit and your ability. The ideal world is that we belong to a country where we will not have a Prime Minister only of a certain community and the exception being when there is a political deal for hon. Bérenger. That is the ideal Mauritius, where people are chosen not on their religious appurtenance to become Ministers, not on their religious appurtenance or communal appurtenance or caste because those are the people who will be Prime Minister, but based on your ability to represent the country.

That is an ideal world. Ideal world is that you become a Civil Servant not on a system whereby you are giving favouritism because of your communal appurtenance but because of your ability. This is my ideal world. So, in order to live in this ideal world, eliminating the system, as the hon. Prime Minister has presented, is interesting. But, at the same time, let me say - I have always said as well. I have said it when hon. Dr. Husnood went to Plaine Verte where he was staunchly defending the Best Loser System. I was there. I was a Minister of Government and I had put forward my position.

My position was that the position had been developed by hon. Sithanaden was something that looked totally advantageous and I was totally for it. I analysed everything and

I was of the view that the position put forward by hon. Sithanen was such that it seemed that there was going to be some *garde-fous* in order to reassure the Members of the minority community. Whether we like it or not, it is not only in Mauritius that we have minority communities, but in order to have this perfect Mauritius we have to have respect for all communities. No Mauritian likes to discriminate against one another.

Mauritians like to treat people equally. Mauritians do not like *dominaire*. Mauritians like that people are treated the same way like they like to be treated. It is Mauritius. But the thing is when I have taken position in the Press as well, I have said recently in the Press that I am for an ideal Mauritius where we do not have a Best Loser System. But at the same time, I said you have to have systems put in place to reassure the minority communities. How? By ensuring that they do not feel left out, by ensuring that there is no discrimination, by ensuring that they are entitled to promotions on their ability, on merit, by ensuring that they get jobs in the public sector and the private sector based on their merit not because you belong to a certain community or you do not belong to a certain community or cast.

This is what we have to do. But has this Government proposed anything that will reassure the minority communities? The answer is: no they haven't. Let me also not go into much detail about history, but I think it is important to talk about the Mauritius Constitutional Conference of September 1965. A lot has been said about Best Loser System. A lot has been said by the hon. Deputy Prime Minister, criticising the Best Loser System as though it is the devil incarnate, criticising the Best Loser System as though the Best Loser System has not helped the country.

Let us look for a minute, Mr Deputy Speaker, Sir, at other countries in Africa and in Asia. My position is that we should recognise that Mauritius has not imploded into racial problems. Why has it not imploded? Because every single member of all communities of Mauritius feel that they have a place in the decision making process of this country. Why is it that they feel reassured? I think in my humble view, that at the time the Best Loser System was important to ensure that we have progressed for 50 years *sans anicroche*. We have progressed, but there has been no political or civil strike, but there has been discrimination. There has been discrimination and there continues to be discrimination. If the government refuses to see that, my fear is that it will one day explode. I feel it that people feel that they have no place in this country. A lot are emigrating. I say it again for them not to feel bad, even when I was in power, people are emigrating, people are running away because they feel that they have a better life abroad.

So, to get back to this situation, a lot has been said by the hon. Deputy Prime Minister, criticising the CAM as though the CAM thought about being communal and did not think about Mauritianism, as though the CAM did not believe in nation-building. I think I should set the records straight because I happened to be the grandson of hon. Sir Abdool Razack Mohamed as he was then and he was the one who was the staunchest defender of the Best Loser System. But he was not alone and today I am going to pay homage to all those who were with him to bring this forward, because I believe it was an ingredient to keep all Mauritian communities together to go towards a Nation.

Here, let us look at what he said at that Mauritius Constitutional Conference, September 1965. I quote –

“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.”

Let us underline that part. He said that any progress should ensure that there shall not be any oppression of any community in Mauritius 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 nor be forced to depend upon the charity of others.”

And what did he mean by charity of others? He meant that precisely we have to ensure that all *composantes de la nation mauricienne* can be elected and have a role to play within the public life and the decision making process of this country.

And then, I have come across other important issues. I would like to talk about the Muslim Constitutional Reform Committee. Here, today, as I said, I would like to pay homage to people like Talyab Tegally, Mahmood Diljore, Abdool Raouf Joomaye, Sheikh Yusuf Ramjaan, Ajum Dahal, and his younger brother Hussein Dahal. Because they were ones who initiated the Muslim Constitutional Reform Committee and they were the ones who fought and put up documents in order to be able to go and depone before the Electoral Boundaries Commission. They are the ones, following a motion of Abdool Raouf Joomaye, invited Abdool Razack Mohamed to come and join them and it was then that making his case before the Electoral Commission, Sir Abdool Razack Mohamed said –

“Mauritianism or party system can only spring up from the initial communal satisfaction over the various groups.”

In other words, it was important to ensure in those days that every single community felt that they belonged and were not cast aside and that is why he wanted to have this Best Loser System. But then again, I read from this book on his life and times of Sir Abdool Razack Mohamed written by Moomtaz Emrith. I refer to this book and, here, I learn a lot of things since I never lived during those times. Here, it is said that feelers were sent to this Committee, the Muslim Constitutional Reform Committee, asking them to go for the Best Loser System. They leaked. I read here: surreptitiously leaked to them information about the Best Loser System under which the Governor would be empowered to nominate to the legislature candidates of an under represented Community. This is how, finally, the right to the Electoral Boundaries - and in that letter they make representations pertaining to almost what we have today about the Best Loser System.

In those days, it was important to understand why exactly I would ask for it. Because, precisely, he did not want to be at the beck and call of any person and owe anyone anything. But it was important for them to be able to be treated on an equal footing. I am humble of the view, had it not been for the Best Loser System, this country would have gone down into problems, open problems and it would have ended up imploding, we would not have had a stable Government for the past 50 years, that is reality.

Now, it is not only in Mauritius, Mr Deputy Speaker Sir, that we have participation of minorities in public life. Article 1 of the United Nations Declaration on the Rights of Minorities makes reference to minorities as a group numerically inferior to the rest of the population or a State. We, as a responsible nation, cannot simply say we will move forward and not ensure that all *composants de la nation mauricienne* are protected and are on board. The hon. Deputy Prime Minister talked about Article 25 of the ICCPR. The hon. Deputy Prime Minister explains why he thought this was of utmost importance. I would like to, here, refer to what the Article 25 says: 'Everyone has the right to take part in the Government of his country directly', and that is important, no one before me has talked about that. 'Everyone has the right to take part in the Government of his country directly or through freely chosen representatives'.

Who chooses the representatives according to this particular Convention that we have ratified? It is according to this particular Convention that was referred to by *Le Committee des Experts* in the Resistans Ek Alternativ's application.

So, my question is, who, what do they mean here by saying ‘through freely chosen representatives’? I think, here, it is important for us to refer to section 1 of our Constitution. Section 1 of our Constitution says –

“Mauritius shall be a sovereign democratic state”

And that is important.

“Mauritius shall be a sovereign democratic state”

And here, I shall also refer immediately to the case, the Privy Council Judgment of the State versus Khoratty of 2006. In that particular judgment, at paragraph 12 entitled ‘Analysis’, here, reference is made to, I read –

“The Board proposes to analyse the question in a number of steps.

The idea of a democracy involves a number of different concepts.”

And here, I think, it is important for us to understand what is this sovereign democratic State? What do they mean by the frame of our Constitution? What is meant by democracy? What is this democratic State? The Law Lords of the Privy Council say -

“The idea of a democracy involves a number of different concepts. The first is that the people must decide who should govern them.”

It is the people who must decide who should govern them. In this particular instance, this is what is said by the Privy Council. It is given a definition of what exactly is democratic State. I think it is important here to analyse the Bill in light of the comments made by hon. Deputy Prime Minister and the hon. Prime Minister. They all say, on the side of Government, judgments of the Supreme Court, that the Committee of Experts, talking about the International Covenant on Civil and Political Rights, the Human Rights Committee and the Privy Council have criticised the Best Loser System.

Let me make it very clear. It is not true to say that the Privy Council has criticised the Best Loser System, never did. It is not true to say that the Human Rights Committee criticised the Best Loser System, never did. What the Human Rights Committee simply said, and I read here at paragraph 15.3 –

“It also notes that the First Schedule refers to the 1972 official census regarding the number of members in the four communities.”

At paragraph 15.5, I read –

“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 of 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.”

And at paragraph 17 –

“In accordance with article 2, paragraph 3 (a), of the Covenant. the State party is under an obligation(...)”

And here, it states what is the obligation of Mauritius -

“(...)to provide the authors with an effective remedy, including compensation in the form of reimbursement of any legal expenses incurred in the litigation of the case, to update the 1972 census(...)”

Had it been something wrong to do, would the Committee of Experts said ‘update the census’? Would the Committee of Experts have said update the census of 1972 with regard to community affiliation? And it goes on –

“(...) and to reconsider whether the community-based electoral system is still necessary.”

But here again, when now you look at section 1 of the Constitution, it is the people in the case of Khoyratty that decide who are the ones they are going to get to elect and one should also read the relevant Article 25, it is clear here that it is for the people, for the electorate to decide who is to be elected. But here, are we not, Mr Deputy Speaker, Sir, going back in time when the hon. Prime Minister is presenting to us a Bill that says that it is now, not any institution in charge of elections? No. It is going to be now for the Prime Minister to decide, not the electorate. It will be for the Prime Minister to decide who will be those people, who will - how do they call it? Additional seats. The hon. Minister Mentor says: ‘Best Loser System is not being abolished’. If it is not being abolished where is the name? I was just changing the name perhaps, but for the Best Loser System, it was, *c’était l’électorat qui décidait qui était celui qui allait les représenter à l’Assemblée nationale, le mécanisme fonctionnait d’une telle façon que c’était l’électeur qui décidait de par le vote*, depending on

the percentage that someone who is going to end up getting, who was going to be this Best Loser? Who was going to represent their interest in the National Assembly? That was and it is today, the law. This is what the Constitution says, the First Schedule that they are trying to repeal, the First Schedule that is in our Constitution. This moves away from the time when the Governor was going to nominate Members and we end up with *suffrage universel*. This is what is meant by democracy, *suffrage universel*, where people decide, this is what is underpinned by the word 'democracy'. This is what we are, a democracy. Democracy does not mean that the Leader will decide who is going to be a representative in Parliament. How can we say that the Best Loser System is being maintained but fine-tuned in order to satisfy the judgment of the Human Rights Committee when, in fact, it is being totally abolished. Had it been abolished in order to be replaced by something that was sufficient as a safeguard, I would say fair enough, but there is no safeguard whatsoever for it to comply with Article 25 of the Convention.

What is being proposed by Government when you look, in fact, at the way seats are allocated for the additional seats? When you look at Section 8 of the First Schedule that is being proposed, it is in itself a violation of Article 25. Where and how can we come to fathom, to understand? I don't understand! Their defence, Mr Deputy Speaker, Sir, will be: but hon. Mohamed, this was proposed by hon. Sithaneni in March 2014!

Was it proposed in the alliance between the MMM and the Labour Party that, at some stage, it would be chosen on a list as to who the Best Losers will be? Was it already decided that the leaders would have the right to choose? It was a proposal made back in 2014; it was a proposal of an alliance negotiation, for an alliance. But, did this Government or any Government ever bring the proposals of March 2014 to the House? No! Did they bring it to the House prior to elections of 2014? No! Did they go for an amendment to the Constitution when there was majority? Did they go for any change to the Constitution in spite of having a majority? The MMM and Labour Party alliance did not abuse that majority because they had no mandate to do it, and that is the difference. Because when you look at this particular Government - recently I questioned the hon. Prime Minister about he did not come for referendum. I was not the one who referred to referendum. Very often, he says, "Well, you were in power, you did not do it." That's not the issue. You are in power in now; you are the one in your political manifesto, in your electoral manifesto, in your Government Programme that talked about the importance of having a referendum. You are Prime Minister. Do it! If this is not a national issue that merits a referendum, what else does? The Prime Minister says,

“But we have had consultations”. When has the Prime Minister called for a round table? When has the hon. Prime Minister called for a table for us to discuss, just as was done talking about the moves with regard to Diego and going to the United Nations? Did he call? He should have called the Leader of the MMM; he should have called the Leader of the Opposition; he should have called the Leader of the Labour Party; he should have called those of MP; he should have called everyone!

*(Interruptions)*

And that’s the problem. You see, people should be able to think of Mauritius, more important than party politics. And when it comes to electoral reform, it is essential that we be able to put aside our differences. We should be able to think for the good of the country and put aside our ego, and I say this to all leaders. They are the ones who have in their hands the future of this country. They should be able to behave differently, and the Prime Minister has the position where he could have called for that meeting, and if anyone had refused to come, they would have had to answer before history, but he did not call for that meeting, and that is a sad situation.

Therefore - I come back to that - it is not a justification to come and say, “Well, because the Labour Party and the MMM proposed it, this means it’s correct.” The hon. Prime Minister and the Rt. hon. Minister Mentor say, “Well, it is leaders who choose candidates.” Yes, leaders choose candidates, but leaders do not choose who is elected. This is the difference. What the hon. Prime Minister is proposing, Mr Deputy Speaker, Sir, is that we are going to do away with the will of the people, but we are now going to start a situation which is different. We are going to say it is the will of the leader that is important. Can you imagine! It is the leader who will decide and, according to the Rt. hon. Minister Mentor, this is coming supposedly to replace the Best Loser System. The hon. Prime Minister or the next Prime Minister will come to decide: Oh well, let us see who is the minority or not who deserves to be there, nominated as additional Member. Or what happens then - because we remember, as I said, the Rt. hon. Minister Mentor not having had a single Muslim in his Cabinet - if we have someone *de la trempe d’Anerood Jugnauth des années 80? Qu’est-ce qu’on fait ?*

Qu’est qu’on fait s’il vient et dit : bon, je ne vais pas nommer qui que ce soit qui se trouve en haut de la liste, qui est quatrième, cinquième ou sixième, parce que je les aime pas, parce qu’ils ne partagent pas mon opinion, parce qu’ils sont des rebelles, parce que ce ne sont pas des *yes-man*, parce que ce sont des gens qui n’ont pas peur d’avoir leur propre

opinion, alors je ne veux pas. Je ne veux que des *yes-man*, je ne veux que des gens qui n'ont pas d'opinion, qui vont sauter quand je dis de sauter, qui vont s'asseoir quand je dis de s'asseoir. C'est ça que je veux, et je vais nommer ces gens-là, voilà, les moins que rien ! Qu'est-ce qui se passe alors ? Qu'est-ce qui se passerait ?

Is this, Mr Deputy Speaker, Sir, what we do? When we pass laws, we do not want to pass laws only because we take into account what hon. Pravind Jugnauth is going to do; we don't pass laws only with regard to what the leader of the Labour Party will do or hon. Béranger, hon. Duval. We pass laws for people whom we do not know will end up becoming Prime Minister one day, maybe when we will no longer be here. We will maybe no longer be walking the earth; we will maybe be dead. But what happens in those days for our children and grandchildren, when you have certain mad man who comes and says, "I will do what I want because it just pleases me." This piece of legislation does not provide any safeguard. As I said here, I am not saying this applies to hon. Pravind Jugnauth, the Prime Minister. But what happens if you have someone who is a mad man? What do you do? Does this legislation provide for safeguards against a mad man who wants to take Mauritius to destruction? The Government of the day must show responsibility in passing legislation that takes into account such situations. And what really hurts, in fact, is something else.

The hon. Prime Minister is creating two types of Members of Parliament. One, their seat cannot be declared vacant because they are elected first-past-the- post. Then we are going to have another type, the one who is an additional Member or a PR Member. Those two, the Prime Minister can simply go and see the Speaker and tell the Speaker: "By the way, they no longer form part of my Party. Their seat must be declared vacant." So, we are going to end up with a situation where we have two types of Members of Parliament. I read there clause 4 of this Bill -

"Section 35 of the Constitution is amended, in subsection (1), by inserting, after paragraph (e), the following new paragraph (...)"

And Section 35 of the Constitution is about declaring a seat vacant. I read Article 35 of the Constitution -

"The seat in the Assembly of a member shall become vacant (...)"

And with the new section –

“in the case of a member who was allocated a PR seat or an additional seat, where he ceases to be a member of the party to which he belonged or, in the case of a party alliance, had been identified as belonging to the party alliance, at the time (...)”

So, how can he cease to become a Member? And it says here -

“he so informs the Speaker”

Simply. The leader of the party decides: I am firing you. You are no longer a yes-man; you are no longer following whatever I want to say. You are someone

who simply is too rebellious, you are someone who has ideas that do not go along my mind. I am not happy with it. I am firing you and that's it, because I control the Politburo, I decide what I want to do. And finally, he simply has to come and inform the Speaker, and the Speaker, under Section 35 (e)(a) proposed by the Prime Minister, his seat is declared vacant. So, we end up with two types of Parliamentarians. Is this what the framers of our Constitution wanted? Is this what the people of Mauritius want? *Avoir deux types de députés ? Un, on peut déclarer qu'il n'est plus député, simplement parce que le chef de parti qui est Premier ministre ne s'entend pas avec quelqu'un, il ne l'aime plus, il n'aime pas la façon de s'habiller, il n'aime pas sa façon dont il s'exprime ou il a trop d'idées qui vont à l'encontre de ses idées personnelles.* And that's it! He declares the seat vacant. If this is not tyranny, what is this? Where is the democracy when you have the leader that nominates? Where is the interpretation in Khoyratty given by the Law Lords of who chooses their Government? And here, the Prime Minister will nominate and the Prime Minister can decide to vacate. This is not democracy.

Mr Deputy Speaker, Sir, we talk about women. We talk about women and I ask myself the question, because when I look at the proposal of the Labour Party back, entitled '*Modernising the electoral system*' - I read that proposal. It talks about the Best Loser System and this is a serious document. It is not a 4-page document like the one circulated by Police Officers, dropping papers at our homes. It was a proper document elaborating everything that had been proposed before. And then finally, it shows the seriousness with which we took this issue of Electoral Reform. As opposed to this actual Government, which not only did not call for consultations, but what is clearly very sad is that they sent us *4 pages of A4* and expected us to say, well, this is 4 years. I mean, if it was 5 years later, they would have sent us an extra page. So, it was 4 pages only after 4 years. And in this particular document, we also talked

about gender fairness; we also talked about 30%. But then, again, allow me to reflect. Today, in this House, we have very few women who are present. Very, very few!

*(Interruptions)*

Oh, my God! That man, he knows nothing else *à part Parti Travailleiste!* He is obsessed! His Party did not even have one woman as candidate and he talks too much! Anyway! But then, again, my issue is as follows. We proposed 30%, they proposed 30%, but one has to be very honest. Can you imagine, we are a majority of men in this august Assembly; the majority of Mauritius are women, and today, we are ascribing ourselves the right, we are giving this to us, as though we are doing a favour to womankind. We are giving us this right to say: “OK, let’s go for 30%”. Why 30%? Is it because it is the norm when you look at other jurisdictions? But if really we are to believe in what is written in our Constitution, that there shall be no discrimination between men and women, that there shall be no difference, that there shall be equality of treatment, if we really believe in it, even if we propose 30% - I ask myself sometimes and I said that to my good friends on the side of the Labour Party, and also of other Parties - I said why is it that we do not go for 50%? Is it too much? Who gave us the right to say it is too much? Is not it an insult to womankind? Is not it an insult to our mothers and to our sisters to believe that us, men, can sit in Parliament today and decide that we are going to vote that it is only 30%?

*(Interruptions)*

And why don’t we go for a minimum of 50%?

*(Interruptions)*

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

*(Interruptions)*

**Mr Mohamed:** Once again! My God! That is the problem, Mr Deputy Speaker, Sir, you see...

*(Interruptions)*

I am saying...

*(Interruptions)*

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

**Mr Mohamed:** I am saying that we are the ones who suggested 30% as well. They are the ones suggesting 30% as well. I am not saying that they are wrong or they are right, but I am only sharing my views. And I thought we were still in a democracy or was I wrong? I thought that they believed in democracy or was I wrong? Is it that we are longer entitled to have our own opinion? Is it that debates are such against their nature that they cannot listen to views that are expressed and just at least agree or simply agree to disagree? Or is it that we have to be insulted, that we have to be threatened, that we have to be criticised, that we have to be told all sorts of names simply because we express our views? Is that what democracy is under this Government? I am simply expressing my views. I may be wrong but, in my humble view, in a country where you have more than 50% women, in a country where clearly women do better than men at school, in a country where clearly women are more disciplined and more professional than men, that is undeniable. I do not find a single woman in this country who can say that I am wrong. In a country like this, if we do not have the courage to take the leap and say: “Let us go for a minimum 50%,”, we have a serious problem. Because I believe that it would be really sad for us to be able to just say “Well, let us start with 30% and then latter on we will see”. Why later on? Why not now? 50 years later is not good enough?

As I said, when I started out, this legislation has been proposed, it is itself in contravention of Section 1 of our Constitution. It is not democratic, it violates the principles that people fought for to move away from the days when candidates were being nominated by the Governor. It is wrong and it moves away from the concept of *suffrage universel*, it moves away from the time when people were being chosen by the electorate and it goes back many, many years, 50 years or more, where now it is the leader of a Party that will decide.

As I have said, if I only could be convinced that this system was better, I would and my ingredients are the following –

- I wish that we could have a system where none of us mention our community;
- I wish we could have a system whereby we think as one people, as one Nation, not only in words, but we act it, otherwise it would be hypocrisy;
- I think it is important for all components of our multi-cultural society and multi ethnic society to have a place in the decision making process of this country, not simply to have the right to be a candidate, but to have a place at the table where decisions are made, and

- I think that people should have the right to obtain jobs and promotions based on merit and not on communal appurtenance.

But if the Government had proposed something of that nature I would have voted yes. But they have proposed something that goes far away from that what is an ideal that I have. They have not proposed any safeguards whatsoever and I will conclude on that. I said in the Press recently, I wish you could have safeguards - And sometimes people ask me what type of safeguards - to consolidate our institutions. Is the PSC and LGSC, as institutions, is it not time for us to see what we can do to change *la donne* when it comes to the way people are recruited in our civil service? Is it not time for us to see how members are nominated on those committees? Because it is related to the safeguards and the peace of mind that people of all communities would like to have, that for all communities, all casts, there should be no difference amongst us. We should all feel that we have a place under the sun and surely not under that of the MSM, because it is really dwindling away; it is not shining anymore.

I wish only that, at least, had the hon. Prime Minister called for meetings, and I say that again, and I underline that, it is clear that the hon. Prime Minister has a lot of differences with the Labour Party Leader. It is clear animosity, antagonism almost between the Deputy Prime Minister and the Leader of the Labour Party. He talks about the leader of the Labour Party as though he has got blood at the end of his teeth. It takes great men to be able to put that aside and to be able to think for the country first. Maybe it is not time because we have not reached this maturity which I presume that we had. Because I think it is important for us to think that there are solutions. Because what they have proposed is, in fact, a blow to democracy and a violation of all Conventions protecting minority rights and a violation of Article 25 of the Convention referred to in the ruling of the *Comité des Experts*.

I thank you, Mr Deputy Speaker, Sir. Once again, if anyone has felt offended by my words, I meant no offence, but then again if those who feel offended in spite of that, so be it, it is not my problem.

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

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

**Mr Seeruttun rose and seconded.**

*Question put and agreed to.*

*Debate adjourned accordingly.*

## ADJOURNMENT

**The Prime Minister:** Mr Deputy Speaker, Sir, I beg to move that this Assembly do now adjourn to Saturday 08 December 2018 at 10.30 a.m.

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

*Question put and agreed to.*

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

Hon. Uteem!

## MATTERS RAISED

(11.21 p.m.)

### BOULEVARD VICTORIA - DRAINS

**Mr R. Uteem (First Member for Port Louis South & Port Louis Central):** Thank you, Mr Deputy Speaker, Sir. I would like to raise a matter which concerns the hon. Minister of Public Infrastructure and Land Transport. It is something that I have spoken to him about previously, but, unfortunately, nothing has been done to date.

It relates to Boulevard Victoria, which is a classified road, which means that it does not fall under the responsibility of the Municipal Council of Port Louis, but under his Ministry. Unfortunately, on both sides of the road, through constructions, the drains are very often blocked because we have concrete slabs and over time the concrete slabs now have been damaged as well. First of all, what we need is to remove the slabs, clean everything, redo the drains and redo the cover because, right now, the slabs are uneven. I know people who have tumbled and fallen on these as well.

So, I would be very grateful as this road is used by everybody, there is a Police Station, but there is also temples and mosques along those roads, if the hon. Minister could see with the relevant authorities that appropriate drains be done on both sides of Boulevard Victoria.

Thank you.

**The Minister of Public Infrastructure and Land Transport (Mr N. Bodha):** Mr Deputy Speaker, Sir, I will certainly look into the matter.

**The Deputy Speaker:** Hon. Ameer Meea!

**DR. HASSEN SAKIR STREET - SEWAGE PIT - OVERFLOW**

**Mr A. Ameer Meea (Second Member for Port Louis Maritime & Port Louis East):** Mr Deputy Speaker, Sir, tonight I will raise an issue concerning a sewage problem. I will recall the House that I have already raised this issue on an adjournment matter some time back.

It relates to an overflow of a sewage pit which is situated on Dr. Hassen Sakir Street, namely Pagoda Street. The problem is with this overflow, it goes down the drain on the road which is next to a mosque which is the Sawkat-E-Islaam Mosque and which is also on the road of the corner of Paul & Virginie Street. I would say that several people did call the hotline. I, myself, have called the hotline several times, but to no avail and you can imagine that it is causing so much discomfort to the people living in the region and also people going to the prayers five times. They have requested me to relay the matter to the hon. Minister concerned and I would urge him to look into the matter as soon as possible.

Thank you, Mr Deputy Speaker, Sir.

**The Deputy Prime Minister:** Just before I respond, could I just know what is the hotline on which you phoned?

*(Interruptions)*

Let me have it!

*(Interruptions)*

Which one? Yes, you need notice of the question. I will tell you why later.

The overflow at Dr. Hassen Sakir Street, we know the problem. The only thing that we can do is to act timely intervention. It is an unfortunate problem. We all agree on that. As soon as we are aware of it, we do send our jetting units. The fact is that until recently, our jetting units had broken down and there had been some problems. To cure the defect is more complex. According to the engineers who have told me about it, it is more complex and all that for reasons to what has happened in that neighbourhood and the way that urbanisation has taken place.

**The Deputy Speaker:** Hon. Abbas Mamode!

**CALEBASSES - TRAINING & EMPLOYMENT OF DISABLED PERSONS BOARD**

**Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East):** Thank you, Mr Deputy Speaker, Sir.

My issue concerns the Minister of Social Security, National Solidarity, and Environment and Sustainable Development and it concerns the Training Centre at Calebasses. The disabled, who were under training there, seem to have stopped all courses and some, who have completed their courses, are still awaiting for their certificates. Although the Training and Employment of Disabled Persons Board does have a Chairperson, they do not have any centres operating in Mauritius right now. Can the hon. Minister urgently look into the matter?

**The Minister of Social Security, National Solidarity, and Environment and Sustainable Development (Mr E. Sinatambou):** Actually, Mr Deputy Speaker, Sir, there are two centres. However, the Ministry of Public Infrastructure and Land Transport has actually assessed the two centres and found that they had to be closed out. What we have now done, we have launched new tenders in order to rent two new centres. So, the matter is being attended to already.

*At 11.26 p.m., the Assembly was, on its rising, adjourned to Saturday 08 December 2018 at 10.30 a.m.*