



REPUBLIC OF MAURITIUS

SIXTH NATIONAL ASSEMBLY**PARLIAMENTARY
DEBATES
(HANSARD)****FIRST SESSION****WEDNESDAY 14 DECEMBER 2016**

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(Formed by the Rt. Hon. Sir Anerood Jugnauth, GCSK, KCMG, QC)

Hon. Sir Anerood Jugnauth, GCSK, KCMG, QC	Prime Minister, Minister of Defence, Home Affairs, Minister for Rodrigues and National Development Unit
Hon. Charles Gaëtan Xavier-Luc Duval, GCSK	Deputy Prime Minister, Minister of Tourism and External Communications
Hon. Showkutally Soodhun, GCSK	Vice-Prime Minister, Minister of Housing and Lands
Hon. Ivan Leslie Collendavelloo, GCSK, SC	Vice-Prime Minister, Minister of Energy and Public Utilities
Hon. Pravind Kumar Jugnauth	Minister of Finance and Economic Development
Hon. Seetanah Lutchmeenaraaidoo, GCSK	Minister of Foreign Affairs, Regional Integration and International Trade
Hon. Yogida Sawmynaden	Minister of Youth and Sports
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 Health and Quality of Life
Dr. the Hon. Mohammad Anwar Husnoo	Minister of Local Government
Hon. Prithvirajsing Roopun	Minister of Social Integration and Economic Empowerment
Hon. Marie Joseph Noël Etienne Ghislain Sinatambou	Minister of Technology, Communication and Innovation
Hon. Ravi Yerrigadoo	Attorney General
Hon. Mahen Kumar Seeruttun	Minister of Agro-Industry and Food Security
Hon. Santaram Baboo	Minister of Arts and Culture
Hon. Ashit Kumar Gungah	Minister of Industry, Commerce and Consumer Protection
Hon. Mrs Marie-Aurore Marie-Joyce	Minister of Gender Equality, Child Development and

Perraud	Family Welfare
Hon. Sudarshan Bhadain, GCSK	Minister of Financial Services, Good Governance and Institutional Reforms
Hon. Soomilduth Bholah	Minister of Business, Enterprise and Cooperatives
Hon. Mrs Fazila Jeewa-Daureeawoo	Minister of Social Security, National Solidarity and Reform Institutions
Hon. Premdut Koonjoo	Minister of Ocean Economy, Marine Resources, Fisheries, Shipping and Outer Islands
Hon. Marie Roland Alain Wong Yen Cheong, MSK	Minister of Civil Service and Administrative Reforms, Minister of Environment, Sustainable Development and Disaster and Beach Management
Hon. Soodesh Satkam Callichurn	Minister of Labour, Industrial Relations, Employment and Training

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MAURITIUS

Sixth National Assembly

FIRST SESSION

Debate No. 37 of 2016

Sitting of 14 December 2016

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

The National Anthem was played

(Madam Speaker in the Chair)

ANNOUNCEMENT

NATIONAL ASSEMBLY - HON. GLEN ELMES, MP

- QUEENSLAND PARLIAMENT - VISIT

The Deputy Speaker: Hon. Members, I am pleased to announce the presence, in our midst, this morning, of hon. *Glen Elmes*, Member of the Queensland Parliament. The visit of hon. *Glen Elmes* has been organised by the National Assembly in collaboration with the Commonwealth Secretariat under the Technical Assistance Programmes of the Commonwealth Parliamentary Association.

Over the last two days, hon. *Glen Elmes* has shared his experience of live broadcasting of the proceedings of the House with hon. Members and members of the media. On behalf of hon. Members and, in my own name, I extend a warm welcome to hon. *Glen Elmes* and hope that this exchange programme has been fruitful for the hon. Members, members of the media and for hon. *Glen Elmes*.

PAPERS LAID

The Prime Minister: Mr Deputy Speaker, Sir, the Papers have been laid on the Table –

A. Prime Minister's Office –

Certificate of Urgency in respect of the following Bills (In Original) –

- (i) The Non-Citizens (Property Restriction) (Amendment) Bill (No. XXXI of 2016);
- (ii) The Construction Industry Development Board (Amendment) Bill (No. XXXII of 2016); and
- (iii) The Additional Remuneration (2017) Bill (No. XXXIII of 2016).

B. Ministry of Energy and Public Utilities –

The Annual Report 2013 of the Central Electricity Board.

C. Ministry of Finance and Economic Development –

- (a) The Statutory Bodies Pension Funds (Amendment) Regulations 2016. (Government Notice 248 of 2016).
- (b) The Annual Report 2015 of the Mauritius Revenue Authority.
- (c) The Annual Report of the Employees Welfare Fund for the year 2015.

D. Ministry of Health and Quality of Life –

The Report of the Director of Audit on the Financial Statements (In Original) and the Annual Report and Accounts of the Trust Fund for Specialised Medical Care for the year ended 31 December 2015.

E. **Ministry of Local Government –**

- (a) The City Council of Port Louis (Fees for Classified Trades) (Amendment) Regulations 2016. (Government Notice 250 of 2016).
- (b) The Municipal Council of Quatre Bornes (Markets) (Amendment) Regulations 2016. (Government Notice 251 of 2016).
- (c) The Municipal Council of Quatre Bornes (Fees for Classified Trade) Regulations 2016. (Government Notice 252 of 2016).
- (d) The District Council of Savanne (Fees for Classified Trades) Amendment Regulations 2016. (Government Notice 253 of 2016).
- (e) The Annual Reports and Audited Accounts of the Local Development Fund for the period ended 02 October 2015.

F. **Ministry of Financial Services, Good Governance and Institutional Reforms –**

- (a) The Financial Reporting (Amendment of Schedule) Regulations 2016. (Government Notice 249 of 2016).
- (b) The Financial Services (Consolidated Licensing and Fees) (Amendment No. 4) Rules 2016. (Government Notice 254 of 2016).

ORAL ANSWER TO QUESTION

**PROSECUTION COMMISSION BILL & CONSTITUTION (AMENDMENT) BILL -
INTRODUCTION**

The Leader of the Opposition (Mr P. Bérenger) (*by Private Notice*) asked the Rt. hon. Prime Minister, Minister of Defence, Home Affairs, Minister for Rodrigues and National Development Unit whether he will state if a Ministerial Committee has been set up to discuss proposed amendments to section 72 of the Constitution to provide for the creation of a Prosecution Commission and, if so, indicate –

- (a) the terms of reference and composition thereof;
- (b) if consideration will be given for all the documents circulated in relation to the said proposed amendments since 2000 to be rendered public, and
- (c) if it is proposed to introduce a Constitution Amendment Bill with the objective of amending section 72 of the Constitution to provide for the creation of the said Prosecution Commission before the end of the year and, if so, indicate how it will take into consideration the Judgment of the Lords of the Judicial Committee of

the Privy Council in the case of Jeewan Mohit v/s The Director of Public Prosecutions of Mauritius in 2006.

The Prime Minister: Mr Deputy Speaker, proposals for the review of section 72 of the Constitution have been on the agenda since 2003. This was following the decision of the then Director of Public Prosecutions (DPP) in the case of State versus Cehl Fakimeeah, whereby the DPP advised no further action.

Further, I wish to refer the House to a statement made by the Leader of the Opposition, who was then Prime Minister, following the judgment of the Intermediate Court relating to the case of rape where Mrs S. O. was the complainant. Let me quote what was reported in the Press regarding the statement of the then Prime Minister, now Leader of the Opposition, I quote -

«Le Premier ministre partage la colère et l'indignation de S. O. Il l'a dit hier lors de sa conférence de presse. Il compte rencontrer S. O. bientôt pour lui exprimer sa 'solidarité' et son 'encouragement.' Le PM pense 'comme bien d'autres que le DPP aurait dû envoyer le cas aux assises et non en Cour intermédiaire. Le Premier Ministre estime également que le magistrat aurait pu imposer une sentence 'consecutive' (8 ans + 5 ans), au lieu de la sentence 'concurrents' dans ce cas de 'gang rape' et de sodomie. Selon le Premier Ministre, l'affaire S. O. vient une fois de plus relancer le débat sur les pouvoirs absolus du DPP...»

Mr Deputy Speaker, the then Prime Minister, now Leader of the Opposition, was also reported to have said, I quote -

“Il y unanimité au gouvernement et à la présidence pour revoir les pouvoirs du DPP, Maurice étant le seul pays au monde où le DPP détient le pouvoir absolu.»

The hon. Leader of the Opposition, himself, has admitted that there was a need to review the powers of the DPP. Accordingly, in 2003, he, himself, as the then Prime Minister instructed the Attorney General's Office to prepare draft Bills with a view to making provisions for the accountability by the DPP in the discharge of his functions.

Thereafter, draft Bills, including Bills for amending the Constitution, were prepared by the Attorney General's Office for consideration by Government.

Subsequently, on 23 September 2004, the then Prime Minister chaired a meeting which considered the setting up of a Prosecution Authority consisting of the DPP and two deputies to form a collegiate authority. The current DPP, who was then acting Parliamentary Counsel, was part of the meeting.

Further, in reply to Parliamentary Question B/217 at the sitting of 20 April 2004, the Leader of the Opposition who was then Prime Minister informed the House that consideration is still being given to amending the constitutional provisions relating to the powers of the Director of Public Prosecutions in view of the fact that the DPP is the only institution that does not have to answer to anybody, including the Supreme Court, for any of its decisions or actions or lack thereof.

On 25 April 2006, the Judicial Committee of the Privy Council delivered judgment in the case of *Mohit v/s DPP* where the Privy Council stated, *inter alia*, I quote -

“Under the Constitution of Mauritius, the DPP is a public officer. He has powers conferred on him by the Constitution and enjoys no powers derived from the royal prerogative. Like any other public officer he must exercise his powers in accordance with the Constitution and other relevant laws, doing so independently of any other person or authority. Again, like any other public officer, he must exercise his powers lawfully, properly and rationally, and an exercise of power that does not meet those criteria is open to challenge and review in the courts. The grounds of potential challenge certainly include those listed in *Matalulu*, but need not necessarily be limited to those listed. But the establishment in the Constitution of the office of DPP and the assignment to him and him alone of the powers listed in section 72(3) of the Constitution; the wide range of factors relating to available evidence, the public interest and perhaps other matters which he may properly take into account; and, in some cases, the difficulty or undesirability of explaining his decisions: these factors necessarily mean that the threshold of a successful challenge is a high one. It is, however, one thing to conclude that the courts must be very sparing in their grant of relief to those seeking to challenge the DPP's decisions not to prosecute or to discontinue a prosecution, and quite another to hold that such decisions are immune

from any review at all, as a line of English authority relating to the DPP and other prosecuting authorities has shown.”

Mr Deputy Speaker, in regard to part (a) of the question, the composition of the Ministerial Committee which has been tasked to fine-tune two draft Bills vetted by the Attorney General’s Office is as follows -

- (a) the Deputy Prime Minister, Minister of Tourism and External Communications;
- (b) the Vice-Prime Minister, Minister of Energy and Public Utilities;
- (c) the Minister of Finance and Economic Development;
- (d) the Minister of Public Infrastructure and Land Transport;
- (e) the Minister of Health and Quality of Life;
- (f) the Minister of Social Integration and Economic Empowerment;
- (g) the Attorney General, and
- (h) the Minister of Financial Services, Good Governance and Institutional Reforms.

Mr Deputy Speaker, as to part (b) of the question, the hon. Leader of the Opposition is fully aware that the documents he is referring to are privileged documents and are not meant to be made public.

Mr Deputy Speaker, Sir, in regard to part (c) of the question, the grounds of potential challenge of a decision of the DPP are at pages 12 and 13 of the case of *Mohit v DPP* and are as follows -

“It may be accepted, however, that a purported exercise of power would be reviewable if it were made -

1. In excess of the DPP’s constitutional or statutory grants of power - such as an attempt to institute proceedings in a court established by a disciplinary law (see s 96(4)(a)).
2. When, contrary to the provisions of the Constitution, the DPP could be shown to have acted under the direction or control of another person or authority and to have failed to exercise his or her own independent

discretion - if the DPP were to act upon a political instruction the decision could be amenable to review.

3. In bad faith, for example, dishonesty. An example would arise if a prosecution were commenced or discontinued in consideration of the payment of a bribe.
4. In abuse of the process of the court in which it was instituted, although the proper forum for review of that action would ordinarily be the court involved.
5. Where the DPP has fettered his or her discretion by a rigid policy – e.g. one that precludes prosecution of a specific class of offences.

There may be other circumstances not precisely covered by the above in which judicial review of a prosecutorial discretion would be available. But contentions that the power has been exercised for improper purposes not amounting to bad faith, by reference to irrelevant considerations or without regard to relevant considerations or otherwise unreasonably, are unlikely to be vindicated because of the width of the considerations to which the DPP may properly have regard in instituting or discontinuing proceedings. Nor is it easy to conceive of situations in which such decisions would be reviewable for want of natural justice.”

The Court went on to question whether a mistaken view of the law by the DPP could ever found a successful challenge, save perhaps where it had prompted a decision not to prosecute.

Given the fact that in the case of Mohit, the Judicial Committee of the Privy Council stated that the threshold for reviewing of the decision of the DPP is a very high one and further given that it was stated that the DPP must, like any other public officer, exercise his powers lawfully, properly and rationally, it is considered that for the DPP’s decision to be successfully challenged, it must be irrational, perverse or otherwise erroneous in law or on facts.

I have to inform the House that the Bill dealing with the Prosecution Commission Bill and the Constitution (Amendment) Bill will be considered by Cabinet this Friday. In the circumstances it would not be proper to disclose the contents of the Bills before Cabinet’s approval. I can nevertheless reassure the House that the two Bills will not take away the rights conferred on persons to seek a review of any decision of the DPP as determined in the case of

Mohit. Instead, the Bills aim to provide even more accountability in regard to the decisions of the DPP.

In regard to part (c) of the question, the Leader of the Opposition who has been former Prime Minister fully understands the workings of the Government. The proposed Prosecution Commission Bill and Constitution (Amendment) Bill have to be approved by Cabinet before they are circulated in the National Assembly.

Mr Deputy Speaker, Sir, this is exactly what will happen. As soon as the Government agrees to these Bills, they will be circulated and the contents thereof will be made public.

However, I can assure the House that contrary to what was envisaged in 2003 by the hon. Leader of the Opposition who was then Prime Minister whereby the Attorney General would be giving instructions and guidelines to the DPP in his functions, my Government is respectful of institutions and has the firm intention of creating an independent Prosecution Commission. The Executive will not have any influence on the workings of the proposed Prosecution Commission, and hence on the DPP.

Mr Bérenger: Mr Deputy Speaker, Sir, the Rt. hon. Prime Minister has quoted what was reported in the Press before 2005. There have been manipulated leaks in the Press recently on documents prepared by Government before the end of 2005. Will not the Rt. hon. Prime Minister agree with me – although he said that it's privileged information – that all those documents referred to should be made public so that everybody knows in what context in 2003/2004 all this was discussed?

The Prime Minister: Well, I have already answered. We consider them privileged documents and they cannot be made public.

Mr Bérenger: Will the Rt. hon. Prime Minister agree with me that this is *chose du passé*? In those days, the unanimous opinion was that the DPP had to answer to nobody including the Judiciary, but in the meantime, in 2006, will he agree with me, there has been the Mohit case before the Privy Council in London which has ruled that all decisions of the DPP can be judicially reviewed and have been so and that, therefore, this whole debate now that it is clear that all decisions of the DPP can be judicially reviewed, that these proposals prior to the Mohit case are redundant?

The Prime Minister: Well, not all decisions that can be impugned. They have been qualified and it has also been stated that it is really very difficult, in very rare, exceptional cases, where this can be done.

Mr Bérenger: I am sure we are all aware of the famous *Khoyratty* case where the Privy Council in London gave more substance to what democracy is or should be in Mauritius. Now, are all the members of this Ministerial Committee perfectly conscious that whatever is done through this Ministerial Committee to amend section 72 of the Constitution will inevitably end up before the same Privy Council which gave this ruling in the *Khoyratty* case?

The Prime Minister: Well, if that happens, we will have to wait and see what will be the decision of the Privy Council.

Mr Bérenger: Being given that the present DPP has a case before the Supreme Court which is to rule in the near future, as near as possible, does not the Rt. hon. Prime Minister agree that, at least the Government should have the decency of waiting for our Supreme Court to pronounce on this case, that is, before we go ahead with any amendment to the Constitution relating to section 72 of the Constitution?

The Prime Minister: Well, this has nothing to do with what case the DPP has in Court and I must say we are not acting indecently.

Mr Bérenger: Can I know from the Rt. hon. Prime Minister whether it is not in panic that Government is going to act these days, whether it is not in panic that this Ministerial Committee is being set up and now that we have the Mohit case which has ruled, as I said, that all decisions of the DPP can be judicially reviewed, Government instead of setting up such a Ministerial Committee should, in fact, go before the Supreme Court here and eventually before the Privy Council to challenge any decision of the Director of Public Prosecutions that it feels needed to be challenged?

The Prime Minister: I do not agree with the hon. Leader of the Opposition. We are not in the habit of getting *paniquer*.

Mr Bérenger: We have read that supposedly some people in Government are not satisfied that the DPP did not ask the Police to do its work better. Now, can I ask the Rt. hon. Prime Minister whether he thinks this is decent - if the Police has not done its work, the Police

should be taken to task - now because the Police has not done its work, we are going to supposedly amend section 72 of the Constitution? If there is need to enquire into what the Police has done, we can do it including through a Committee of the House.

The Prime Minister: Well, I don't know what Police have done or have not done. We are dealing with a specific matter, irrelevant of what Police have done or have not done.

Mr Bérenger: Can I know from the Rt. hon. Prime Minister whether he will agree with me that, in fact, this Government has no mandate to review section 72 of the Constitution? It is neither in the Electoral Manifesto nor in the Government Programme. It is a fact. Is there any mention?

(Interruptions)

I know that some people are getting used to acting without a mandate. But will the Rt. hon. Prime Minister agree with me that the present Government has no mandate to try and amend section 72 of the Constitution?

The Prime Minister: I do not agree at all with the hon. Leader of the Opposition.

The Deputy Speaker: Hon. Ganoo!

Mr Ganoo: Can I ask the Rt. hon. Prime Minister, in case Government goes forward with the idea of amending the Constitution and setting up the Prosecution Commission, who will appoint the members of this Commission?

The Prime Minister: It will come to Parliament. The hon. Member will have all the information and he can even question.

The Deputy Speaker: Hon. Rutnah!

Mr Rutnah: Thank you, Mr Deputy Speaker, Sir. Is the Rt. hon. Prime Minister aware that the case of Khoyratty was reported in March 2006 and the case of Mohit was reported in April 2006 and today in relation to the Prosecution Commission, we are simply implementing the signal sent by the....

The Deputy Speaker: Put your question, hon. Rutnah!

Mr Rutnah:... highest Court of the land? Is it not right that today we are implementing the signal sent by the highest Court of Mauritius so as to amend this part of the Constitution in order to empower an independent Commission to review the decision....

The Deputy Speaker: Hon. Rutnah!

Mr Rutnah: ...of the DPP?

The Prime Minister: I certainly agree with the hon. Member.

The Deputy Speaker: Hon. Ramful!

Mr Ramful: Thank you, Mr Deputy Speaker, Sir. Well, in view of what has been said in the recent past by hon. Members of this Government with regard to the person of the DPP, and I am making reference here to one hon. Member of this Government treating the DPP as a 'constitutional monster'....

(Interruptions)

The Deputy Speaker: Hon. Ramful!

(Interruptions)

You know very well that you cannot debate on the conduct or the character of the DPP. I will not allow that question! Rephrase it!

(Interruptions)

Mr Ramful: I making reference here to the aborted attempt to arrest the DPP. Can we therefore deduce that this proposition of the Government to set up this Prosecution Commission is a vendetta against the DPP....

(Interruptions)

The Deputy Speaker: Hon. Ramful, please sit down for a second!

(Interruptions)

You have to rephrase your question! You cannot reflect on the character of the DPP!

Mr Ramful: Is this not going to be an interference by this Government in the workings and the decision of the DPP who is supposed to be independent?

The Prime Minister: It is only unsound mind like his who can think of that.

(*Interruptions*)

Mr Ramful: This is not acceptable. The Prime Minister cannot treat me ‘unsound mind’.

The Deputy Speaker: Rt. hon. Prime Minister, I will ask you to withdraw the word.

The Prime Minister: I do.

(*Interruptions*)

The Deputy Speaker: Hon. Mohamed!

Mr Mohamed: Could the Rt. hon. Prime Minister confirm that the first *ébauche* that is indeed before this Ministerial Committee chaired by the hon. Deputy Prime Minister has, in fact, for content that it is the Executive and the hon. Prime Minister who are going to be involved in the choosing of the Judges or the ex-Judges of the Supreme Court who will be part of that Commission, and this is precisely what is in the *ébauche* that is being discussed, that Executive would have the right to choose who would be in that Commission in order to control the DPP?

The Prime Minister: Well, when the Bill will come before Parliament, then we will know what are the contents.

The Deputy Speaker: Hon. Uteem!

Mr Uteem: Thank you, Mr Deputy Speaker, Sir. As the law stands, the DPP has constitutional protection, his decision can only be reviewed by Judges who also have constitutional protection of tenure. May I know from the Rt. hon. Prime Minister whether the members of that proposed Commission will also have a constitutional protection for the tenure to ensure no interference from the Government of the day?

The Prime Minister: I have said when the Bill will come before the House, the hon. Member will know.

The Deputy Speaker: Hon. Mrs Selvon!

Mrs Selvon: Merci, M. le président. L'honorable Premier ministre est-il au courant qu'une réforme des poursuites publiques a été faite en 2003 en Grande Bretagne donnant naissance à un *Crown Prosecution Service* qui pourrait inspirer la réforme proposée à Maurice?

The Prime Minister: Certainly, the hon. Member is right. It is so in UK.

The Deputy Speaker: Hon. Leader of the Opposition!

Mr Bérenger: Now, that the Rt. hon. Prime Minister is aware that it is our view and, I believe, that of the country, that now that we have the Mohit 2006 case which has ruled that all decisions of the DPP can be judicially reviewed, that what Government intends to do is totally unacceptable. We have Ministers who have said that the law is going to be amended before the end of the year and the Rt. hon. Prime Minister has not answered to that part of my question. Is it the intention of Government to rush through amendments to the Constitution before the end of the year in relation to this section 72 of the Constitution and the powers and the rights of the DPP?

The Prime Minister: We will do our best to have it as soon as possible.

The Deputy Speaker: Time is over!

MOTION

SUSPENSION OF S.O. 10(2)

The Prime Minister: Mr Deputy Speaker, Sir, 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.

(11.58 a.m.)

STATEMENTS BY MINISTER

MINISTERS - OVERSEAS MISSIONS

The Minister of Finance and Economic Development (Mr P. Jugnauth): Mr Deputy Speaker, Sir, I have two statements to make. First of all, last week, in response to my reply to PQ B/1121 regarding overseas missions undertaken by hon. Ministers for the period of 01 July to

30 November 2016, hon. Rajesh Bhagwan had asked whether hon. Ministers have used funds from parastatal bodies and Government-owned companies to finance their missions overseas.

I wish to inform the House that my Ministry has liaised with Supervising Officers of all Ministries and I am informed that Ministers have not used funds from the above-mentioned institutions falling under their responsibility to finance their missions abroad.

RODRIGUES - DBM DELEGATION – *PER DIEM*

The second statement, again last week, in response to my reply to PQ B/1122, relating to mission undertaken by delegation of DBM to Rodrigues, hon. Bhagwan queried whether the members of the delegation have been paid *per diem* in dollars.

I wish to inform the House that this is not the case. In fact, whenever DBM delegations have proceeded to Rodrigues on official mission, they have always been paid *per diem* in Mauritian rupees and never in dollars or any other foreign currencies.

PUBLIC BILLS

First Reading

On motion made and seconded the following Bills were read a first time –

- (a) *The Non-Citizens (Property Restriction) (Amendment) Bill (No. XXXI of 2016)*
- (b) *The Construction Industry Development Board (Amendment) Bill (No. XXXII of 2016)*
- (c) *The Additional Remuneration (2017) Bill (No. XXXIII of 2016)*

Second Reading

THE PREVENTION OF TERRORISM (AMENDMENT) BILL

(No. XXV of 2016)

&

THE CONSTITUTION (AMENDMENT) BILL

(No. XXVI of 2016)

Order read for resuming adjourned debate on the Prevention of Terrorism (Amendment) Bill (No. XXV of 2016) & the Constitution (Amendment) Bill (No. XXVI of 2016).

Question again proposed.

The Minister for Health and Quality of Life (Mr A. Gayan): Mr Deputy Speaker, Sir, let me, at the very outset, congratulate the Rt. hon. Prime Minister for bringing the Prevention of Terrorism (Amendment) Bill to the House. Let me also thank him for the concern he has for the security of our State.

In the course of the debate on this Bill last week, there were lots of orators, and I could sense that there were six areas of concern to some Members on the other side, starting with the hon. Leader of the Opposition, who said that the existing law is tough and does not need any more amendments. He also said that there has been no United Nations or any other international body that has requested that we proceed with an amendment, unlike the situation in 2002, when there was the United Nations Security Council Resolution 1373, which was mandatory and called on all States to pass legislation to that effect.

The third point that was made was that the amendment targets a specific community. The other point that was raised was with regard to the Police, since the Police, according to the Members of the Opposition, could not be relied upon to exercise the powers under the PoTA, as amended, because there was a risk of abuse; for example, when the Commissioner of Police will be making an application to the Judge in Chambers for an *ex parte* order.

There was also concern about the violation of civil liberties. Finally, I could sense that there was some concern also about the Counterterrorism Unit, where it was going to be located, whether in the Prime Minister's Office or somewhere else, and whether the powers given to the Counterterrorism Unit and the Committee were really necessary. I could also sense that there was no problem with regard to the amendment to the Constitution, but with regard to the amendment to PoTA, there were also specific comments made by hon. Members and I will be replying to some of them in the course of my address in this House.

Let me say, Mr Deputy Speaker, that terrorism is a problem which is faced by all countries in the world. There is no country *qui est à l'abri du terrorisme*. It is not whether a country is rich or poor. But terrorism is here to stay, and we must have very strong legislation to counteract the designs and the intentions of terrorists, because when it comes to the security of the State, when it comes to the security of the people, there is no Plan B. There is only one plan; Plan A, which is to secure at all times the people and all that pertains to the State.

There is no day that goes by, Mr Deputy Speaker, without news of a terrorist attack somewhere in the world. But it is significant to remember that the countries that are targeted most are not the countries in the West, but the countries in the Middle East, in Africa and Asia. The countries that have been targeted most, Mr Deputy Speaker, have been Iraq, Afghanistan, Pakistan, Syria, Somalia, India, Yemen. I am saying this, not because I want to reply, at this stage, to the criticism about targeting a specific community, but I am saying this because when it comes to the burden of terrorism, the developing countries bear the brunt of it. I will be giving some figures later on to show how developing countries, especially the Arab countries in the Middle East, are suffering so much because of terrorist activities.

Mr Deputy Speaker, Sir, when I was listening to the hon. Leader of the Opposition and to the other Members, they travelled back in time, to 9/11. 9/11 was a defining moment in the history of the world, because as from that date no one was safe, all means could be used to attack civilians anywhere in the world, and that was the first time when jet aircrafts were used to bring down the World Trade Centre in New York and also to attack the Pentagon and to attack another place in Pennsylvania. The mood in the world regarding terrorism changed. No one had realised that there were people sitting somewhere in the mountains or wherever, planning this kind of massacres! And the world had to respond, and we did respond by enacting PoTA in 2002.

I must also say *en passant* that, when I come to this House, I make sure that whatever I say is correct, has been verified. I listened to hon. Shakeel Mohamed who mentioned that I had, in the course of the debates in 2002, mentioned that we were at war with Iraq. The war in Iraq had not yet started in 2002. This is why you have...

(Interruptions)

No!

The Deputy Speaker: Hon. Shakeel Mohamed, don't reply...

Mr Gayan: The impression that was given...

(Interruptions)

...was that it was creating...

The Deputy Speaker: Hon. Mohamed!

Mr Gayan:... the mood and the environment that this was what was said.

The Deputy Speaker: Hon. Mohamed, allow him to talk! You had your chance!

Mr Gayan: This is totally misleading, and I hope he has the decency and the elegance to correct the impression that was created.

Mr Deputy Speaker, I will...

(Interruptions)

The Deputy Speaker: Hon. Mohamed!

Mr Gayan: Mr Deputy Speaker, Sir, both the hon. Leader of the Opposition and hon. Shakeel Mohamed were saying that nothing had happened since 2001 to justify the amendment that is before the House...

(Interruptions)

...that nothing had happened with regard to any UN body or anything, that there was no need for this amendment. Why is there any need for this amendment, unless there are things that have happened? Let me give some examples of things that have happened. I am reading from Business Mega and the heading is “Proposed Arms Trade – Minister’s relatives named in US Report. That was in 2012 –

“Two Russians, former associates of one of the biggest arms dealers in the world have planned to use Mauritius as a hub for arms trafficking.”

The NGO report cites relatives of a Minister as local partners. True or not true, this is something which is part of the media of the world. It is available as information. It gives any Government ground to be vigilant. You cannot afford not to be vigilant when you have things like this being broadcast in the media. In fact, we know, everybody in the House knows, everybody in the country knows about that American lady who made serious allegations about arms trafficking in the country. That lady is called Kathi Lynn Austin. She has made and continues to make serious allegations about arms trafficking in this country.

(Interruptions)

The Deputy Speaker: Hon. Mohamed!

(Interruptions)

Hon. Mohamed!

Mr Gayan: Mr Deputy Speaker...

(Interruptions)

The Deputy Speaker: Hon. Mohamed!

Mr Gayan: Why is the hon. Member getting upset?

(Interruptions)

The Deputy Speaker: Hon. Mohamed!

Mr Gayan: Why are you getting upset, hon. Shakeel Mohamed? When you were talking...

(Interruptions)

The Deputy Speaker: Hon. Mohamed, I have called you to order!

Mr Gayan: When he had the floor, I listened quietly. I hope he will listen quietly when I am addressing...

(Interruptions)

The Deputy Speaker: Hon. Mohamed, you have taken a point of order. Let me just refresh the memory of hon. Mohamed who has taken a point of order last week, on many occasions, against hon. Gayan for disrupting his speech.

(Interruptions)

Therefore, I will ask you to practise what you preach and to listen to hon. Gayan.

Mr Gayan: The other thing that has happened recently, Mr Deputy Speaker, Sir, is ISIS. Mauritian couple sentenced to jail: Mohammed Iqbal Golamaully and his wife, Nazimabee Golamaully, residing in Streatham, London, were sentenced to 25 months' and 22 months' imprisonment respectively by a Judge at the Old Bailey in London. Why was this couple convicted? The Mauritian couple was convicted because the couple was found guilty of transferring money to their nephew, Mr Zafir Golamaully, who joined the Islamic State in Syria. This former student of an elite college is originally from Vacoas in Mauritius and the matter is

about an amount of money sent to Syria. Now, this is serious because we have a Mauritian student from an elite college being sent by ISIS to fight somewhere else. The problem is not only when people are going to fight in Yemen, Iraq or wherever, the problem is when they come back. This is the most dangerous thing because we do not know what kind of training they got, we do not know what kind of brainwashing they underwent and we do not know what kind of intention they come back with. So, the problem is not only with the going, but it is when they come back. This is why we need to have the legislation, this amendment, to be able to have intelligence, to be able to have information about what is happening in the world.

Terrorism is something which is very dangerous because a terrorist needs to be successful once, whereas we, as a Government, or any Government for that matter, have to be successful all the time in foiling the attempts of the terrorists to perpetrate attacks or to kill people. This is the most important part. They always attack in places that create the greatest media buzz, whether it was Charlie Hebdo, the attack in Nice with this man taking a truck when people were celebrating the 14 July, the National Day of France, killing about 90 or plus people or when they went to the Bataclan nightclub where young innocent people were enjoying. I feel very much about the Bataclan because the first name that came out of the Bataclan massacre, Mr Deputy Speaker, Sir, was one Mr Valentin, a young lawyer of 26, brilliant, who had studied at the London School of Economics. I also studied at the LSE. Plucking somebody in the prime of life without any justification and gloating over what had happened, going on the media, on the Internet and celebrating their success in killing so many people! And you want a Government not to react and not to take firm action against preventing this kind of thing!

Mauritius is a tourism destination; one attack on a hotel in Mauritius kills our tourism industry. Last year in Tunisia there was an attack on a hotel on the beach. What was broadcast on world television was the blood on the white sand on the beach of that hotel. That had destroyed that hotel. It had destroyed the tourism industry in Tunisia and it takes a long time to come back again to build the tourism industry, if at all you succeed! If at all one manages to get over this kind of a problem!

So, we cannot afford to take any risk. Even in Mauritius recently there was somebody from Reunion who tried to do something and the aircraft had to be diverted to Nairobi and there was an audit from the airport in Paris to come and check whether our surveillance and inspection

system was okay. A little thing happened, there is a travel advisory and then Mauritius suffers. We are too vulnerable! And, I am saying this not only because I am directly concerned, I have been affected personally as a result of a terrorist attack. There were the attacks in Mumbai. There was a Mauritian who died. That Mauritian was married to my sister. So, for us in the family, and for Mauritius as a united family, it is something that concerns everyone. We should not say: '*l'enfer c'est les autres !*'. *L'enfer du terrorisme c'est nous, tout le monde ensemble*. This is why we must have this amendment.

We are talking of terrorism, killing people in the nightclubs and all this, but that is nothing. We have to be careful also about biological terrorism, chemical terrorism. Only last month, India was at the IAEA and they raised the alarm about nuclear terrorism because if those nuclear materials get into the hands of the terrorists, who knows what havoc and damage and destruction they can cause! So, it is an integrated system of intelligence gathering. No country alone can win the battle of terrorism - I am not saying that we ever will win the battle of terrorism because while we are making progress, while we are taking steps they also are making progress, they also are finding new ways of doing things. When we talk of terrorism, no country, as I said, is immune. In Saudi Arabia recently there was a rocket attack against the Houthis. This kind of thing happens on a daily basis. But, let me give some figures for us to understand the magnitude of the terrorism problem.

I am referring to an article from the Washington Post and it was giving the figures for terrorism in 2015 and 2016. These figures are eloquent because they illustrate the degree to which we, in the developing countries, pay a heavy price for terrorism. When there were 658 deaths in 46 attacks in the Europe and America, in the rest of the world, the number was 28,000. From 658 to 28,000! There were attacks in the Middle East, Africa and Asia; there were 2,063 attacks, indiscriminate killing, senseless killing, merciless, trying to get the maximum of attention for the media.

This is why, Mr Deputy Speaker, Sir, the Bill that is before the House speaks of things that we did not speak of in 2002 because we did not know then what we know now, and it is because we know today about what is happening that we need to have this kind of legal architecture to protect the country from terrorist attacks. Terrorist training, we all know, you go on the Internet, people speak about the use of the Internet by terrorists to recruit people. They

have very smart ways of doing it. If you go on the Internet lots of young girls in France want to be jihadi wives. So, they go via Turkey to ISIS. When they go there, of course, the reality is different from the marketing, but they become jihadi wives and some are coming back now to France and telling the horrors of what they went through.

So, we have to be careful. Recruitment is being done on the Internet and while we talk of broadcasting, Mr Deputy Speaker, Sir, the terrorists speak of narrowcasting. They target specific groups and they keep sending their messages. They infiltrate those groups and this narrowcasting mechanism is proving to be very effective in the recruitment drive of the terrorists. Not only in Yemen, not only in Syria but it is happening in Thailand and in Africa. Only today, if somebody listens to the BBC, in Nigeria, regarding Boko Haram, only last week two girls of seven years old became suicide bombers. Seven years old in Maiduguri in Nigeria! Boko Haram! And if people can make use of young kids of seven years old to commit this kind of atrocities, then they can go to any length to perpetrate any damage against anyone. Any person who is here who is a parent, just imagine your kid of seven years old going to be killed, knowing full well that he or she is going to be killed. So, we have to be careful. I wonder how this young girl of seven years old was recruited to do this kind of act. So, we have to have the intelligence. We must have mechanisms to track what is going on, on the web and it is very important to have information in real time.

This is why I believe that this amendment which speaks of terrorist training, terrorism hoaxes, recruiting persons intelligence groups and then the special power of enquiries, the control orders, etc., all these are required because it is better to be safe than to be sorry. It is very important that we have all these mechanisms and took to do what we need to do. We are talking of attacks, in Cairo last Sunday, Mr Deputy Speaker, Sir, in a church, 23 people died and most of them were women and children. How did they die? They were praying. This has happened also in mosques in Makkah and Madinah. Everywhere! They target those places where you go in peace. Who would imagine going to church and having this kind of experience! You will remember last year or this year there was a priest in France who was killed in his church. Now, a Mawlana also in Makkah was killed. In Turkey, again on Sunday, 40 people died in two explosions and among the dead, there were 30 Police officers. So, we have to be concerned about all these because we do not know when they strike. They did not give advance warning. They just strike with maximum effect and hoping to get the maximum casualties. This is what

terrorism is all about. This is why, Mr Deputy Speaker, Sir, we have to be very conscious of the need for strong legislation and measures that can really counteract the problems of terrorism.

Mr Deputy Speaker, Sir, I wish now to come to some of the points that were raised by the hon. Members. I have said that we do not need any orders from the UN or any other body to do what, as a sovereign nation, we need to do to protect our people. If we, as a Government, feel that we need these measures, it is because we attach the highest premium to the security of our State and the security of our people. It is not because in 2002, there was a UN Security Council Resolution that we need to wait for another Resolution. If we consider that things have changed, there has been an evolution in technology, there are new means that are being used by the terrorists to perpetrate their criminal acts, so we need to be able to do that because we need to combat terrorism and we need to control whoever has designs over causing damage and destruction.

Now, a lot was said also about the CCTV cameras at the University of Mauritius. Now, CCTV cameras exist everywhere. But what wasn't said, Mr Deputy Speaker, Sir, and what ought to have been said because hon. Shakeel Mohamed was in Government then, it was decided by the then Government in 2011 and this was what was said ...

(Interruptions)

The Deputy Speaker: Hon. Mohamed, it cannot be only you who is disrupting the debates. If you wish to make a point of explanation after the Minister has spoken, I will allow you. But don't disrupt the debates!

Mr Gayan: There was a statement made by the Vice-Chancellor, Mrs Mohee, who said that it was her predecessor - Mr Morgan - under the old Government who had decided to put the CCTV cameras. Not this Government! This has not been denied by anybody from the Labour Party. It is also significant, Mr Deputy Speaker, Sir, because a lot is being talked outside that this is a violation of our civil liberties. The former Prime Minister who was the Leader of the Opposition when we presented the Bill in 2002, said in his address that he was not going to vote for the PoTA because this was an assassination of democracy. But he has been in power for almost 10 years! What did he do? For almost 10 years he was in power and he allowed that assassinated democracy law to stay on the statute book! So, let us not play politics with security. Security is too serious to be politicised. A lot was said on this issue. Hon. Mrs Selvon also talked

a lot about CCTV cameras. Now, I hope, hon. Mrs Selvon, you know where the problem lies. Hon. Ramful and everybody talked about CCTV cameras watching, *police arbitraire, un police State* ...

(*Interruptions*)

... attack on civil liberties.

(*Interruptions*)

The Deputy Speaker: You can take a point of order.

Mr Gayan: And they allowed this law to stay in the books for so many years!

The hon. Leader of the Opposition was okay in his address. He did say a few things because he was there in 2002, he knows. We were all together then. I remember after the attacks on the World Trade Centre, the hon. Leader of the Opposition, who was the Deputy Prime Minister, organised a ceremony in Vaghjee Hall in memory and in support of the 3,000 people who had died in the World Trade Centre. They came from all communities and from all countries. It was totally senseless and that was a moment of high emotion for anybody who was present at that ceremony. I still remember it as though it was yesterday. This is the kind of emotion that terrorism can evoke in people because those died are not related to us, sometimes they are, but they are innocent. They did not ask for it. This is why we have to make sure that anything that has to be done to prevent this kind of attacks must be done.

A lot was also said by hon. Mahomed, for whom I have the highest regard...

(*Interruptions*)

But unfortunately when the hon. Member came on the issue of *marchands ambulants*, I am sorry, that was something that was totally uncalled for, unjustified, and the hon. Member wanted to score a political point with a certain targeted group. It didn't work. It should not work because that was not the case. No one is being targeted...

The Deputy Speaker: Hon. Gayan, you cannot impute motives on hon. Mahomed!

(*Interruptions*)

I will ask you to withdraw...

(*Interruptions*)

Mr Gayan: Alright! But he is keeping quiet.

(*Interruptions*)

One other point that was made by hon. Shakeel Mohamed was about the Commissioner of Police. I don't know why a lot was said about the Commissioner of Police which was personal. I disregard that. But the point that was made, if a Commissioner of Police goes to a Judge in Chambers and applies for an Order, then it has to be *inter partes*. I was thinking about that over the weekend. If, as the Commissioner of Police, I have information about a potential terrorist act, is likely to be committed, am I going to give notice to that person before the Judge in Chambers? *Inter partes!* You destroy the whole purpose of the investigation if you do that.

(*Interruptions*)

It is a Judge in Chambers. No one in this House can say that we don't have the highest regard for our Judiciary. No Judge in Chambers will issue an Order unless the Judge is satisfied on the application made before that Judge that the Order can be made. No Commissioner of Police will go to a Judge without having reasonable ground and reasonable suspicion about what application he is making, because if it is not the grounded, the Judge is going to throw it out. So, this argument about *inter partes*, I am sorry to say, is simply ridiculous.

(*Interruptions*)

Now, of course, there was a lot of politics being made about attacks on civil liberties and all this, but, Mr Deputy Speaker, facts are facts. We have had PoTA since 2002. Until today no one has been convicted under PoTA. People have been provisionally charged under PoTA, but when the Court found that there was no case; the cases were thrown out. In this law we are not creating a special jurisdiction to try terrorists. They are going to go to the open Courts and not to secret Courts and there will be an amendment where anybody who is arrested, will be taken to the Court as soon as possible, within the shortest possible delay. The Courts will be there. So, where is an attack on civil liberties? Sometimes we may want to be demagogical, but there must be some basis in whatever we say in Parliament. Simply coming to the House and saying anything just to please I don't know who, does not go down well in history when this debate will be read 20, 50, 100 years later. People will be shocked at the kind of things that were said. This is why I

make it a point to be to the point, first of all, and also to be totally clear about why we are bringing any piece of legislation. This is something which is absolutely necessary.

Mr Deputy Speaker, Sir, hon. Ramful raised a point about a particular clause, clause 6, not creating an offence. But again, I am sorry to say, you have to go to the parent legislation, to the main clause, the section which is proposed to be amended because that is the section that creates the offence. If you look at the law you will find it. Okay, I will show you. Clause 7 in the Bill amends section 6.

“7. Section 6 of the principal Act amended

Section 6 of the principal Act is amended by adding the following new subsection -

(3) A police officer – not below the rank of SP – may, without warrant, arrest a person who, in a public place –

- (a) wears an item of clothing; or
- (b) carries or displays an object,

in such a way or in such circumstances as to arouse reasonable suspicion that he belongs to a proscribed organisation.”

When we go to the substantive section 6 in the Act of 2002, it says –

“6. Support

(1) Any person who, in any manner, or form -

- (a) solicits support (...)

shall commit an offence.”

Subsection (2) says –

“For the purposes of subsection (1) (...)"

So, subsection (3) will come under this. So, it has to be read together. It is not an offence that does not exist. The offence is already in section 6 because it is for the purposes of subsection (1) which creates the offence. This is why, I think, we should be very clear about what we are saying. Then there is also section 32 which provides the penalty.

There was another point that was raised by hon. Ramful on the right to silence.

The Deputy Speaker: Hon. Minister, address the Chair!

(Interruptions)

Mr Gayan: I am just checking whether I do not mislead the House. The point that was being made was that the burden of proof was being shifted to the defence. Now, when I listened to him, I started wondering whether I had read my Constitution properly. So, I went back to my Constitution. Then, when I go to section 10 of the Constitution, which deals with the provisions to secure protection of the law, I come to subsection 11 and I quote –

“(11) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of –

(a) subsection (2)(a) (...)"

Subsection (2) (a) speaks of -

“(2) Every person who is charged with a criminal offence –

(a) shall be presumed to be innocent until he is proved or has pleaded guilty;”

Subject to this particular section which I have just read –

“to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts; (...)"

So, this is the Constitutional basis for the reversal of the burden of the proof because the person wearing that item of clothing or whatever, has to prove that particular fact: why were you wearing it? So, it is not something which is unconstitutional. I think we have to be very careful about what we say and how we say it. This is why even when there have been a lot of criticisms about this particular clause –

“(3) A police officer – not below the rank of SP – may, without warrant, arrest a person who, in a public place –

- (a) wears an item of clothing; or
- (b) carries or displays an object,

in such a way or in such circumstances as to arouse reasonable suspicion that he belongs to a proscribed organisation."

There are safeguards. There are a lot of safeguards. I think hon. Ramful should revisit what he said last time on this. Hon. Ganoo mentioned something about the retention of data and he did mention a judgment from the European Court of Justice. Let me very rapidly say that I have gone through that judgment mentioned by hon. Ganoo and I find that there is a distinction that has to be made between blanket data gathering powers and intelligence gathering with regard to particular individuals. It is the blanket gathering which has been found to be not in accordance with the Human Rights Convention, but when there is need to deal with any particular investigation or with serious crimes, it is possible for the authorities to proceed as we are trying to proceed.

Mr Deputy Speaker, Sir, I think I have taken more time than I should have, but let me say that all those who are not going to vote for this law will have to be accountable to history when the time to vote comes because, I think this Bill is in the interest of the State. We must vote for it.

Thank you very much.

(12.41 p.m.)

The Deputy Speaker: Hon. Vice-Prime Minister, Minister of Energy and Public Utilities!

The Vice-Prime Minister, Minister of Energy and Public Utilities (Mr I. Collendavelloo): Thank you, Mr Deputy Speaker, Sir. What we have noted is, first of all, the interveners on this side of the House, who are very well aware of the risks that are being posed and, therefore, support the Rt. hon. Prime Minister in his endeavour, not only to fight terrorism, but also to prevent terrorism eroding in our country.

In 2002, the then Government passed the Prevention of Terrorism Act. It was to meet the challenges of the times in the wake of a new type of terrorism. A lot has been said about it and I am not going to repeat what everybody has said. The main thrust of the serious Opposition has been that, well, perhaps this Act does not bring anything new and we have to think about it as to

why we are doing it and let us doubt about the efficiency of this Act because, precisely, we do not know whether anything is necessary in this Act. My colleague, the hon. Minister of Health and Quality of life, has dealt with all the points, including the – I don't know how to call them – clownesque arguments of some who were bent to make anything out of everything just for cheap political games. I am not going to bother...

(Interruptions)

Yes. I am not going to bother with them. I am sure the population will also know how to deal with this.

When we look at this Bill, there is a holistic approach to hit at these persons who from respectability suddenly turn into terrorism. This is a worldwide phenomenon, recruitment of young people within terrorist organisations and the propagation of terrorism under the garb of religion. This is an old phenomenon. From the time of the crusades up to now, religion has been used as a pretence or a pretext to pillage, rape, blunder, terrorise and bring havoc to society. In the 1950s, it was in the name of Jesus Christ, our Lord, that the Ku Klux Klan terrorised the blacks of South America. Timothy McVeigh, in the Alabama bombings, also invoked the name of God. So, they invoke the name of God, but that does not mean that - as hon. Mrs Selvon said – anyone walking with a cross will be arrested by the Police or that a Sikh Judge coming with his turban would, upon coming to Mauritius, be arrested. There is a limit to the ridiculous. We cannot just go about and say anything because you are genuine representatives of the people. This may arouse feelings in the population, in sections of the population, that some items of clothing associated with religion would be a reason for you to be arrested. Clause 6 - and I think everyone has said a lot about it.

We had the ideological terrorists, the extreme right during the Algerian war, the extreme left in the 1970s, the Baader-Meinhof, the Red Brigade and all that. We had also the terrorist fighting a cause and that is where we come to the grey areas. Was the PLO of the 70s a terrorist organisation or were they freedom fighters in the name of their people? The same goes for the ANC.

So, this is why in our law since 2002, we introduced the concept inspired from the United Nations, no doubt, of the proscribed organisations. Government would use its own intelligence in both senses of the word in order to list out organisations which would be proscribed. Now, there

is a new thing about this Bill. Well, there are several new things about this Bill and everything is new contrary to what the serious Opposition has said last time in the House.

I shall talk of the Counterterrorism Unit. I am talking of the new section 19 -

“The Counterterrorism Unit shall –

- (a) collect, collate and analyse terrorism-related intelligence;
- (b) disseminate to investigatory authorities such intelligence concerning any suspicious person or activity or terrorism-related offence;”

I will be dealing with this aspect which has not been well dealt, I believe, in this House - this is why I have asked to intervene today - and, that is, financing of terrorism. That is the crucial thing. With regard to financing in Mauritius, we have the Financial Intelligence Unit which is an independent unit, which deals with all these suspicious transactions which may lead the authorities to detect whether money is changing hands for unlawful purposes. Financial intelligence plays a critical role in helping to combat terrorist financing. This financial intelligence, through the FIU, is used to assist investigations in money laundering and in terrorist financing in the context of a wider variety of criminal investigations where the origins of the suspected criminal proceeds are linked to drug trafficking, fraud, tax evasion, corruption and other criminal offences. With these types of offences there are victims, there is violence, there is social harm, social havoc because - let us not forget and I shall come down to this a little bit later - the sources of financing of terrorist activities whether abroad or anywhere else or in Mauritius, must be closely monitored and identified. This is why what is going to happen with this new Bill is that the new Counter Terrorism Unit will be working closely with the FIU. It will collect, collate and analyse terrorism-related intelligence, of course, with the Police and other matters. The FIU will need to work hand in hand with the Unit to be able to link money laundering to terrorism.

Financing of terrorism is a big affair. They need money to pay the families of the martyrs. They need money to pay for the arms, the weaponry, the bombs, transport, safe houses and air tickets. All this is required. But, where do they get the money? That is what we have to ask ourselves! Of course, there are people like the Golamaully couple who have got parents who believe then they send a few pounds, a few rupees. They are not going to add much to the war in

Syria. But, they do their little bit. Business organisations, believers of the cause contribute and they also send in the money. They also have racketeering. That was being done during the Sri Lankan war in France. But, most of the money comes from where?

Trafficking in drugs! Trafficking in arms! That is where the money is. Let us be frank, have we seen the recent seizures of boats in Mauritius? How could these people have obtained so much money? Gone are the days of even Gro Derek. Remember Gro Derek was sending the Imam of the prison with a suitcase of money to Tanzania to drop! This is too late now because the authorities are on the alert. They have got intelligence, they can stop it. So, this has stopped.

Gone are the days when the Russian Mafia would get greedy or gullible lawyers to offer their respectable services of lawyers and board members to help their dirty business. This also is gone because everyone is under surveillance these days. Until a few years ago, to move funds, terrorists had to use the banks, bank transfers and, of course, the physical carrying on of gold etc. But now terrorists have gone one step further. I have done some reading on this matter and my speech is the fruit of that reading.

A legitimate company with respectable persons as independent directors, when you look at them they are the most respectable members of the society! But they themselves don't know what is happening. And it is essential to have the front of respectability! The business appears to be legitimate with good contracts with state enterprises normally in IT, in the media. But then you learn that this business has subsidiaries. In what sort of countries? Nigeria, Rwanda, Zambia, Madagascar, Djibouti, Reunion, the last two being for respectability again and, not only to gain respectability, but more importantly for the final call of entry of that black money in the circuit. And this is what we have seen just recently. But these subsidiaries are not enough! You have sub, sub, sub subsidiaries, a web of subsidiaries! What do they do?

Their trade is crypto currency so that you no longer need to have a suitcase of money. You have what is called a digital wallet. It is in your phone, it is in an app and the authorities would have to investigate the phone before they know that cryptocurrency is being used and this is therefore a digital asset designed to work as a medium of exchange using cryptography to secure the transactions and control the creation of additional units of the currency. I am quoting now –

“Cryptocurrencies are a subset of alternative currencies, or specifically of digital currencies.”

But we all know what we are talking about because it all started with bitcoins. This we know, in 2009 because it was said use digital money to buy your goods from eBay, Amazon etc. But it did not click on with the normal consumers. Would you go and purchase a bitcoin in order to buy your shoes from Amazon? You would just use your credit card which is easily traceable, but you don't mind because you are not doing illegitimate business.

Therefore what is our problem? It is that we have no legal status for cryptocurrencies. It is a legal desert where you have an oasis of digital wallets containing cryptocurrencies to finance illicit activities linked to terrorism and more especially to drug traffickers. Drug traffickers have changed. They are no longer the drug traffickers of the 80s. They are the most respectable members of our society. They are those who have social DNA, who are so important that nobody will dare to believe that they are indulging in such business.

Now, for traffickers the demand for these cryptocurrencies has increased. But, at the same time, as from 2016 - it is very recent, and in Mauritius we have probably one company doing this and without any problem - the concerns in the world are such that an unregulated person-to-person global economy that cryptocurrencies offer may become a threat to society. Concerns about that altcoins, that is, alternative to bitcoins because bitcoins had a measure of control.

Concerns abound about Altcoins, that is, alternative to Bitcoin, because Bitcoin had a measure of control. This new one, like this company I am quoting, has no control at all! They don't even know who their clients are because it goes person to person, to a terrorist somewhere or to a drug mafia.

This is why they have a subsidiary company in Madagascar. Madagascar has never produced heroin. How come it has suddenly become the biggest supplier of heroin to Mauritius? And Madagascar suddenly becomes so rich that they can pay for these drugs! So, there is something more to it than meets the eye. So, there we are. We have, in Mauritius, already reached that point. This is why that Counterterrorism Unit is going to do a fantastic job. They thrive on a lack of regulation. There you get decentralised exchange and use of currency, and the

people who use this should be tracked and should be jailed for life because they are the ones who are doing the harm; not the small dealer on the road!

When I said they worked outside the banking system, you recognise their societies because they have their name, and following this, you have BNK, so that when you read it on the Internet, you think you are dealing with a bank. That's how the criminals know that this particular enterprise, you can deal with them safely. That is the code. I am going to quote an author –

“Since charting taxable income is based upon what a recipient reports to the revenue service, it becomes extremely difficult to account for transactions made using existing cryptocurrencies, a mode of exchange that is complex (and in some cases impossible) to track.”

Without saying so expressly, the Act, through section 19, is going to be a powerful tool. They are going to track the fraudsters. Again, I am quoting from an author -

“Systems of anonymity will no longer be able to be used to launder money. Laundering services for cryptocurrency exist to service the bitcoin currency, in which multiple sourced bitcoins are blended to obscure the relationship between input and output addresses.”

Mr Deputy Speaker, Sir, I think that it was necessary that I put on record this new activity which is fuddling the traffics all around the world, and now it has reached Mauritius. I know that my colleague, the hon. Minister for Financial Services, is acutely aware of that danger.

Thank you, Mr Deputy Speaker, Sir.

The Deputy Speaker: I now break for lunch for one and a half hours.

At 1.09 p.m., the sitting was suspended.

On resuming at 2.45 p.m. with Madam Speaker in Chair.

Madam Speaker: Hon. Uteem!

Mr R. Uteem (First Member for Port Louis South & Port Louis Central): We, on this side of the House, do not support terrorism. We condemn, in the strongest possible terms, all acts of terrorism, irrespective of who commits them, where they are committed and why they are

committed. The stand of the MMM has always been the same. We are all in favour of actions against terror.

In the fight against terror, the MMM will always be supportive of any initiative to fight terrorism, but where we disagree with the Government, is that, we, on this side of the House, feel that we already have a sufficient armada of legislation. The Police have already sufficient powers to tackle the fight against terrorism.

Madam Speaker, we are against terrorism because terrorism comes with a price. We cannot condone people who kill innocents, innocent civilians, innocent women, innocent children. According to the 2016 Global Terrorism Index published by the respected Institute for Economics and Peace, the total number of deaths caused by terrorism in 2015 was 29,376. 21 out the 34 OECD countries, last year, experienced at least one terrorist attack. Like, hon. Rutnah, I was also a student in England back in the 90s when random bombing by the Irish Republican Army had become a routine. I know what it takes to live in a country where there is a constant risk of terrorist attack. I know what it feels to go to the tube station, not knowing whether this train will reach its destination or there would be a bomb on the train. Like others in this House, I have friends who had relatives who passed away in bombing attacks. I used to work in Singapore. I used to travel a lot to Bali. During the terrorist attack in Bali, I had friends, people I have known, waiters who were killed. So, we cannot support terrorism.

Terrorism has an economic price. According to the 2016 Global Terrorism Index, the Global Economic Impact of Terrorism amounted to 89.6 billion dollars in 2015. The nature of terrorist attack is such that, its aftermath effect is felt even years after the attack.

The hon. Minister of Health and Quality of Life mentioned the devastating effect which an act of terror can have on the tourism sector. We have witnessed it, Madam Speaker. I was in Tunisia earlier this year. Together with other Members of the Pan-African Parliament, we went to Sharm El Sheikh, Egypt. This is where there was a terrorist attack a few years ago. This place is beautiful. There are beautiful beaches and beautiful hotels, but they are empty. No tourists! Everybody keeps complaining that ever since there was a terrorist attack, the tourism sector has died out. Unfortunately, in Mauritius also, we are not immune to any terrorist attack and this is why I say and I maintain that, we, on this side of the House, are all in favour of the fight against terrorism.

Recognising that terrorism transcends national barriers and there was a need for concerted effort globally to fight terrorism, the United Nations General Assembly adopted the Global Counter-Terrorism Strategy on 08 September 2006. The Global Counter-Terrorism Strategy, Madam Speaker, rests on four Pillars -

- (1) Tackling conditions conducive to the spread of terrorism;
- (2) Preventing and combating terrorism;
- (3) Building countries' capacity to combat terrorism and to strengthen the role of the United Nations system in that regard, and
- (4) Ensuring respect for human rights for all and the rule of law while countering terrorism.

In April 2016, the Secretary-General of the United Nations in a Report on the implementation of the United Nations Global Counter-Terrorism Strategy stated the following –

“With respect to Pillar II of the Strategy- that is, preventing and combating terrorism - many Member States have understandably focused on using their scarce resources to augment and strengthen their security and criminal justice sectors to counter-terrorism. However, while States have strengthened law enforcement and security measures, prevention efforts have lacked similar attention and resources. Human rights concerns and obligations, so central to counter-terrorism efforts, have regrettably been a low priority for several Member States.”

This is what the Secretary-General of the United Nations is saying: “prevention efforts have lacked similar attention and resources. Human rights concerns have been low in priority!”

Madam Speaker, what effectively the Secretary-General was stating is that it is not sufficient to have strong laws if you want to combat terrorism. It is not sufficient to strengthen our criminal justice sector. We must also address the conditions that are conducive to the spread of terrorism. We need to identify the causes which lead to the support for terrorism.

To quote the Secretary-General of the United Nations -

“Effective action would entail fostering dialogue, understanding and social inclusion, equitable and just socio-economic development and promoting the positive role that women and young people can play in society”.

The Secretary-General also stressed the importance of human rights. He said –

“Upholding human rights and rule of law while countering-terrorism cannot be overstated.”

No, Madam Speaker! Unlike what has been suggested by hon. Members from the other side, amending this Prevention of Terrorism Act, amending the Constitution alone will not prevent terrorism in Mauritius. We already have tough antiterrorism legislation in Mauritius, as the Rt. hon. Prime Minister reminded us. In addition to the Prevention of Terrorism Act, we have the Prevention of Terrorism (Denial of Bail) Act 2002. We have the Convention of the Supression of the Financing of Terrorism Act. We have the Prevention of Terrorism International Obligation Act. We have the Prevention of Terrorism (Special Measures) Regulation 2003 and we even used to have a provision in our Constitution, Article 5 (3) (a), which allowed a Court to deny bail to any person arrested or charged with an offence of terrorism. It is this very section of the law, Madam Speaker, that has been struck off by the Privy Council in the case of Koyratty as being anti-Constitutional, as being against democratic State.

The hon. Vice-Prime Minister, hon. Collendavelloo, who, unfortunately is not here, went at long length to try to justify the present legislation on the ground that we need to combat the financing of terrorism. I wonder if the hon. Vice-Prime Minister is aware that, as far back as November 2003, we had enacted the Convention for the Suppression of the Financing of Terrorism Act, where we have given large powers to fight against financing of terrorism. We have adopted various international Conventions precisely to fight financing of terrorism. The hon. Prime Minister had enacted a Regulation back in 2003, the Prevention of Terrorism (Special Measures) Regulation. Again, this gives huge powers to bank to prevent people from transferring money, allows the banks to freeze accounts of people suspected of terrorism activities. Therefore, our position, Madam Speaker, is we already have the law to combat terrorism, we already have what is necessary to combat even the financing of terrorism.

Madam Speaker, the Minister for Good Governance would like us to believe that we need these new laws, and I quote –

“(...) to give international investors and also tourists, the assurance that in Mauritius all measures are being taken to provide a safe, secure and comfortable environment.”

With due respect, Madam Speaker, if we want to provide a safe, secure and comfortable environment, we don't need these laws. What we need is, probably, better Policemen, a more disciplined Police Force, a more effective Police Force with better resources, with better training. We don't need those new anti-terrorism laws.

Madam Speaker, when deciding whether to vote these two Bills, amending the Constitution and the Prevention of Terrorism Act, we need to strike a balance between two competing interests. On the one hand, we need to ensure that our country, our nation, our people are adequately protected against acts of terrorism, but also, on the other hand, we need to balance this with the need to protect and uphold our fundamental human rights, our freedom of opinion, our freedom of movement, we need to protect our population, our citizens from any potential arbitrary arrest.

Madam Speaker, a noble cause such as the fight against terrorism cannot and should not be an excuse to curtail civil liberties. It should not be an excuse to flout the rule of law and natural justice; it should not be an excuse to install a Police State.

Madam Speaker, these two Bills come at the worst possible time, at a time when public confidence in the Police Force has been seriously undermined.

A few months ago, Madam Speaker, in answer to a PQ that I asked, the Rt. hon. Prime Minister told us that between January 2015 to June 2016, there have been 976 cases of provisional charges, which have been set aside. 976 cases where people had been arrested, handcuffed, brought before a Tribunal, brought before a Magistrate Court only to find the charges struck off a few months later. Under these circumstances, Madam Speaker, how can we condone giving more powers to the Police when the Police are, according to most people of this country, already making an abuse of their existing powers?

The Prevention of Terrorism Act has been on our books for 14 years. There has been a dispute as to how many times it has been used. I have carried out my own search - I think that hon. Shakeel Mohamed is right – it has been used four times. The first two times, I have personal knowledge of them, it was in the case of the *Azan*. Mr Iqbal Ghani was arrested and detained under the PoTA. Why? Because on Monday 09 April 2007, he said if the Prime Minister does not amend the Constitution to allow the diffusion of *Azan* on loudspeaker, I quote –

“Bien sagrin di sang pou kouler devan parlement.”

Blood will flow before Parliament. These words “*di sang pou kouler devan parlement*” were enough to make him a terrorist. The Police arrested him and detained him several days on the ground that he was a terrorist under the Prevention of Terrorism Act. The Police also arrested late Imam Chooramun under a similar charge under the PoTA, but eventually, prosecuted him on a lesser offence of holding an illegal gathering under the Public Gathering Act. The hon. Attorney-General, who is not here, knows this case very well because both of us represented various accused parties in that case.

Next time, the Prevention of Terrorism Act was used, Madam Speaker, was earlier this year after an anonymous letter was sent to the Prime Minister’s Office threatening a terrorist attack. The Police suspected that this letter had been sent from a Cybercafé in Lakepoint. Following investigation, one Nitin Kelawon also known as Ish Sookun owner of the Cybercafé was arrested on 23 January 2016 and charged under section 5 (b) of the Prevention of Terrorism Act for having, and I quote –

“provided logistic equipment or facilities for a meeting or an activity which he knows is concerned with an act of terrorism.”

His partner, Mr Kishan Sooklall, who ran the cybercafé was also charged under PoTA. They remained in Police custody for 10 days. The Police objected to bail but the Magistrate granted bail and she is reported to have said: “Although it is not for this Court at this stage to assess the credibility of the enquiring officer or that of the applicant, the Court can easily rule that the nature of the evidence of the Police is weak.” This is what the Magistrate said when she granted bail to Ish Sookun. The evidence of the Police is weak, yet the Police had objected to bail, the Police had arrested these two youngsters, had put them 10 days behind bars and treated them as terrorists. Two months later, Madam Speaker, both cases were struck off.

Now, both individuals are suing the State and the Commissioner of Police for Rs50 m. each. Madam Speaker, Ish Sookun is none other than the star witness in the national ID card. He was the one who came and deponed that we could have hackers breaking into the database. He was a professional IT person working for a reputable media group. Yet, he was arrested and treated as a terrorist, on what the Magistrate held was weak evidence. His lawyer was none other than hon. Teeluckdharry. He knows very well how dangerous the Prevention of Terrorism Act

can be if misapplied. He even challenged the constitutionality of the Prevention of Terrorism (Denial of Bail) Act 2002. Yet today, unfortunately, when he has the opportunity to come and share his experience of how a victim who has wrongly been accused as being a terrorist feels, he chooses, as he is perfectly entitled to do, not to share his experience. Madam Speaker, after the track record of the Police misusing the Prevention of Terrorism Act, how can we expect the public to have confidence in the Police Force when applying the new powers that would be given to them under this Bill?

Madam Speaker, the law as it is, is tough already. A terrorist is subject to 35 years of imprisonment. A person who supports terrorism is subject to 20 years' imprisonment.

Madam Speaker, one of the most controversial amendments proposed by this Bill is the amendment to clause 6 of the Prevention of Terrorism Act where the Police will be given powers to arrest a person without warrant, I quote -

“(3) A police officer may, without warrant, arrest a person who, in a public place –

- (a) wears an item of clothing; or
- (b) carries or displays an object,

in such a way or in such circumstances as to arouse reasonable suspicion that he belongs to a proscribed organisation.”

So, the first thing we need to ask ourselves is what is a proscribed organisation? Because if someone is wearing an item of clothing or carrying an object which gives a reasonable suspicion that he belongs to a proscribed organisation, it becomes an offence which is arrestable by the Police without warrant.

According to the Prevention of Terrorism Act, we have two types of proscribed organisations. One under section 4 of the Act, one under section 10 of the Act. Under section 4 of the Act, it is a Judge in Chambers who declares an organisation, an entity as a proscribed organisation. So, the Commissioner of Police will come, swear an affidavit *ex parte* and ask the Judge in Chambers to declare an organisation as a terrorist group, as a proscribed organisation.

The proposed amendment does not change in essence this. Now, we can express concern, as hon. Shakeel Mohamed and hon. Ramful stated, that whether when faced with a well-drafted application/affidavit by a Commissioner of Police whether the Judge will be able to refuse to

recognise a proscribed organisation. We, on the MMM side, are comfortable that as long as we have a Judge in Chambers who is there, he will do his job in accordance with the powers granted to the Constitution. So, we don't have much of a qualm with section 4 - the declaration of a proscribed organisation by a Judge.

The second way of declaring an association a proscribed organisation is under section 10 subsection (4) of the Prevention of Terrorism Act.

“(4) The Minister may declare a group to be an international terrorist group if the group -

- (a) is subject to the control or influence of persons outside Mauritius, and the Minister reasonably suspects that it is concerned in the commission, preparation or instigation of acts of international terrorism; or
- (b) is listed as a group or entity involved in terrorist acts in any Resolution of the United Nations Security Council or in any instrument of the Council of the European Union; or
- (c) is considered as a group or entity involved in terrorist acts by such competent authority of such State as the Minister may approve.”

Madam Speaker, we have absolutely no problem with the Prime Minister declaring an organisation a proscribed organisation, a terrorist group if it is on the list of the United Nations Security Council, if it is on the list of the Council of the European Union. But, what happens when there is a group which is not on that list but is on the list of a friendly country, a friendly State considered that group to be a terrorist group? Should the Prime Minister then, because of the existing ties, friendship or we may be receiving aid from that State, declare that organisation a proscribed organisation? I must say that hon. Bhadain stated that there had been 18 proscribed organisations declared by the hon. Prime Minister. He even cited Government Notice No. 145 of 2016. I went through the various Government Notices, GN No. 145 of 2016 relates to the National Heritage Fund, that surely cannot be this, but I have not found anywhere in the Government Notices of this year or last year where proscribed organisations have been declared by the Rt. hon. Prime Minister. I don't have any reason to doubt that he is not misleading the House but I just would like to know where is the list of proscribed organisation published.

Madam Speaker, the danger lies in what the hon. Vice-Prime Minister and Minister of Energy and Public Utilities mentioned “the grey areas of terrorism.” We are giving power to the Prime Minister, without the intervention of a Judge, to declare an organisation which a friendly State has on the list of proscribed organisations knowing full well that by the stroke of a pen any Mauritian who supports that proscribed organisation will henceforth be a terrorist.

What would happen if this person/organisation was not a terrorist but a freedom fighter? What would happen, for example, Madam Speaker, if a competent authority in the United States or Israel were to have asked the hon. Prime Minister to treat Palestine Liberation Organisation as a terrorist organisation? Was Yasser Arafat, the Chairman of the Palestine Liberation Organisation, a terrorist? Did he cease to be a terrorist when he became President of the Palestinian National Authority and leader of the Fatah political party?

What about the African National Congress? Was Nelson Mandela a terrorist? He was called a terrorist by none other than late Margaret Thatcher and he was on the terrorist watchlist of the United States of America. What would the Rt. hon. Prime Minister do if, in those days, the United States or Britain had requested Mauritius to treat ANC as a terrorist group, as a proscribed organisation? Hon. Rutnay termed all terrorists as despicable. So would he also use the term ‘despicable’ to describe Nelson Mandela?

Madam Speaker, I say it again, we have absolutely no issue treating an organisation which is on the list of the United Nations Security Council as a proscribed organisation. But, once we depart from that list then we fall into the grey area as to who decides who is a terrorist, who decides who is a freedom fighter. What about State sponsored terrorism, Madam Speaker, those States who finance, who train groups to topple Governments which do not share their ideology and which do not share allegiance to them? History is full of examples of State sponsored terrorism in Africa, in the Middle East, in Asia. Up to today, several countries mutually accuse each other to be sponsoring terrorism yet we never find any of these States, any of these national intelligence agencies on the list of terrorist groups.

Madam Speaker, I referred earlier to the 2016 Global Terrorism Index. According to that index, four terrorist groups are responsible for 74 per cent of deaths from terrorism. They are the Islamic State of Iraq and the Levant (ISIS), Boko Haram, Taliban and Al-Qaeda. We, on this side of the House, strongly condemn all acts of terror perpetrated by those four organisations. There

is absolutely no justification whether it is in Islam or otherwise or in the name of humanity to justify the random killing effected by those four terrorist organisations.

Once we have stated that, Madam Speaker, let us ask the question: who trained those organisations, who armed them, who financed them? In July 2005, Robin Cook, the former leader of the House of Commons and Foreign Secretary, in an article published in The Guardian described Al-Qaeda as a product of Western intelligence, this is what he wrote and I quote -

“Bin Laden was, though, a product of a monumental miscalculation by western security agencies. Throughout the 80s he was armed by the CIA and funded by the Saudis to wage jihad against the Russian occupation of Afghanistan. Al-Qaida, literally "the database", was originally the computer file of the thousands of mujahideen who were recruited and trained with help from the CIA to defeat the Russians.”

Before the Taliban became the terrorist group that they are; they used to be called mujahideen; they used to fight Soviet Union in Afghanistan, but they were trained, armed and financed by several countries. These are historical facts! In those days, the mujahideen/the Taliban, was not a terrorist group. It is the same with ISIS. According to the Centre for Research on Globalisation, ISIS was initially trained, armed and financed by several countries to topple the Syrian Government of Bashar al-Assad.

So, Madam Speaker, I am taking great pain to explain proscribed organisation because, at the end of the day, we need to decide what is the proscribed organisation, who determines what is a proscribed organisation? Who sets the standards? Because once you declare a group a proscribed organisation, there are very severe consequences if you happen to support the cause of that organisation.

Madam Speaker, I listened carefully to all the people who intervened before me and I was happy to hear the hon. Minister of Finance and Economic Development. At the end of his intervention, he was hoping that, even after the promulgation of this Act, it will never, in fact, be used in Mauritius. I think this is the wish of all of us that we are spared from all terrorist attacks. However, Madam Speaker, after listening to the hon. Minister of Financial Services, Good Governance and Institutional Reforms, it was clear that the proposed amendments to the Prevention of Terrorism Act are not innocent. The Government is targeting Mauritians not

international terrorists and I will say why. I felt shivers down my spine when I heard the hon. Minister of Financial Services, Good Governance and Institutional Reforms state and I quote -

“There are flags of Daesh which have been displayed on houses in Pailles.”

So, I take it that, after this Bill is passed, those people who have their flags on their houses will be arrested, they will be denied access to a lawyer, they will be denied bail, they will be prosecuted, they will face up to 20 years imprisonment. Why? Because they are wearing a flag which causes the Police to have reasonable suspicion that they are linked to Daesh and that is where it gets dangerous. The Daesh flag - and it is the case in most terrorist groups unfortunately - contains religious writings. The Daesh flag, as hon. Mohamed explained, contains the word “La Illaha Illallah” there is no God, but Allah. It contains the seal of the Prophet “Allah Rasool Muhammad” Allah and the Prophet Muhammad. It is an emblem which is used by millions of Muslims who have absolutely no relationship with ISIS, no relationship with Daesh and no relationship with any proscribed organisation. And such statement made in this House automatically causes panic among those people who are afraid as to what type of clothes they are going to wear. We have to keep track what is the emblem used by terrorists because if terrorists use an emblem and we already have a dress like this, we have to be careful because we can be mistaken for being one of theirs.

I'll give another example, Madam Speaker. Back in the 1940s, we had the German Nazi Party. There is no doubt in my mind if in those days we had the United Nations Security Council, in those days the German Nazi Party would have been a proscribed organisation. I have no doubt that in Mauritius we would have deemed any member of the German Nazi Party to be a terrorist. But can we remember what was the emblem of the Nazi? The emblem of the Nazi was a Swastika, Madam Speaker. This is a religious symbol used by hundreds of our brothers and sisters in this country and outside Mauritius. So, we have to be very careful when we try to use an emblem which is used by terrorists and we try to make it an offence in Mauritius to just use this.

(Interruptions)

Madam Speaker: Order!

Mr Uteem: Madam Speaker, the reason why I am taking great pain to go through it is because we are all in favour of fighting terrorism. But when we fight terrorism, we have to strike a balance between fighting terrorism and not infringing and encroaching on personal liberties, on freedom of opinion and on freedom of movement.

Madam Speaker, the hon. Minister of Good Governance used the examples of Mr Yogen Sundrun and the Golamaully couple. But, Madam Speaker, under the existing legislation, if Mr Sundrun or the Golamaully couple were in Mauritius, we have provisions in the law as the law currently stands to arrest them. It is under section 6(1) of the Prevention of Terrorism Act which makes it an offence to support a proscribed organisation and makes it an offence to incite people to support terrorist organisations. So, we don't need tougher laws. It's already there. We could have already sued the Golamaully couple. We could have already sued Mr Sundrun under the existing provisions of our law.

Madam Speaker, I would like to say one word about the Counterterrorism Unit, the new section 18 of the Prevention of Terrorism Act. The Counterterrorism Unit will be under the Prime Minister's Office and will be headed by a Director. The law doesn't say how this Director will be appointed. He will be appointed by the Rt. hon. Prime Minister acting in his own deliberate judgment. The Rt. hon. Prime Minister will not have to consult the hon. Leader of the Opposition, he would not need to consult the President of the Republic, he would not need to consult the Commissioner of Police and we are talking about national security issues here. So, the Director, Madam Speaker, would be a political appointee.

This Counterterrorism Unit will be given the power to collect, collate and analyse terrorism-related intelligence. So, do we realise, Madam Speaker, the risk of giving such sensitive information in the hands of a politically appointed person and the potential of abuse that this represents, Madam Speaker? I'll give an example. What would happen if this Counterterrorism Unit comes to know, for example, that a Member of Parliament or a political party had dealings with a country or an organisation which allegedly funds a proscribed organisation? What would the Director do? Would he act impartially or would he be clouded by political motivations? With all the powers that it has to collect, to collate, would it use that information as a means to target its political opponents? There is a risk there, Madam Speaker. But what is more important, Madam Speaker, is we are talking about national security issues.

Hon. Rutnah argued that this Counterterrorism Unit should be under the Prime Minister's Office because according to the Constitution, the Rt. hon. Prime Minister is responsible for internal affairs. I don't agree, Madam Speaker. Section 71 of the Constitution is clear -

“The Prime Minister may give to the Commissioner of Police such general directions of policy with respect to the maintenance of public safety and public order as he may consider necessary.”

The Prime Minister just gives general policy directions, but the Police Force is under the command of the Commissioner of Police and rightly so because he is a constitutionally appointed person and we are talking about national security. We already have a Counterterrorism Unit. We already have a National State Security Unit (NSS). We already have this Counterterrorism Unit within the Police Force. Maybe we are not happy that they are doing a good job. Maybe we should train them and give them better resources, but we cannot take that unit away from the Police and put it under the aegis of a politician, of the Prime Minister's Office.

I don't agree that this Counterterrorism Unit, like the hon. Minister of Good Governance said, is the same as the FIU. No, I don't agree! The FIU collects data for money-laundering whereas the Counterterrorism Unit collects data on national security. And it is two completely different things. You can't, because you put the FIU under the aegis of the Minister, think you can take the Counterterrorism Unit and put it under the aegis of the Prime Minister's Office.

Madam Speaker, lastly, the law makes provision for a Commissioner of Police to apply to a Judge-in-Chambers for a Control Order. The Control Order would impose restrictions on the movement of a person on his ability to communicate or carry out specific activities. But, Madam Speaker, we already have the Bail Act. Under the Bail Act, section 7 already gives a Magistrate extensive powers to impose such conditions of general or specific nature as he thinks fit for the release on bail of a defendant or detainee requiring him to do or not to do any act. So, if we have a person who is a terrorist or he is suspected of having committed an offence, or he is suspected of belonging to a proscribed organisation, the Police can arrest this person and bring him before a Magistrate. The Magistrate, under the Bail Act, already has huge powers to restrain his movement, to tell him that: “you know, you have to report to a Police station every day, you will have to confine yourself to a District or an area, you can't get in touch with other people and you

can't use internet." All these powers are already there. So, why do we go for this proposed amendment? Why? What the Prevention of Terrorism Act, this amendment, is trying to do, is now give the power to a Judge-in-Chambers to impose restrictions on your civil liberties, on your freedom of movement even if you are not a terrorist, even if you have not been charged with a terrorist offence, even if you're not a suspected terrorist. Why? Because in the past, you may have committed an offence. In the past, you may have gone and trained with a proscribed organisation. In the case of the Golamaully - to use the example of the hon. Minister of Good Governance. If the Golamaully have already served their sentence and come to Mauritius to visit their siblings, their families, what this law will allow a Judge in Chambers to do is, to impose conditions on them; prevent them from moving. Madam Speaker, I am afraid this cannot be condoned in a democratic State. This defeats the whole purpose of the presumption of innocence. There is no offence committed and we are denying people the right to movement.

Already, Madam Speaker, if we look at section 15 of the Constitution, because the amendment to the Constitution that is being brought is precisely to make this control order constitutional. The Government realises that it is anti-constitutional to impose restriction on movement on people who have not been charged with any criminal offence. So, they want to amend the Constitution, they want to amend section 15. But our position, Madam Speaker, is that there is already sufficient provision in the Constitution. If we look at section 15 (3) (a) of the Constitution, it already makes provision for a law to impose restrictions on the movement of residence within Mauritius of any person in the interest of defence, in the interest of public safety. So, this is very wide. We already have the power. We don't need to amend this clause of the Constitution.

Under section 15 (3) (c) of the Constitution again, we are able to make a law which imposes restriction by order of the court, by a judge, on the movement or residence within Mauritius of any person either in consequence of his having been found guilty of a criminal offence or for the purpose of ensuring that he appears before court. So, again we already have the necessary protection. We already have the laws. As the Rt. hon. Prime Minister himself said, we already have tough laws.

So, Madam Speaker, we are conscious, on this side of the House, of the need to protect ourselves against any terrorist attack which is a global threat. We are conscious that Mauritius,

like any other country, is not immune from terrorist attack, but we believe that we have already sufficient tough laws to prevent, counter and combat terrorism. And we, on this side of the House, feel there is no need to further encroach on our civil liberties, on our fundamental human rights, on our freedom of movement.

Thank you.

Madam Speaker: Rt. hon. Prime Minister!

(3.23 p.m.)

The Prime Minister: Madam Speaker, allow me, at the very outset, to thank all the hon. Members who have participated in the debate on the two Bills.

The number of interventions and their quality has surely demonstrated that national security is and remains the concern of one and all.

It is, however, regrettable that some people including hon. Mohamed have attempted to make cheap politics over such an important issue as counter terrorism, by aiming to create the wrong perception that the amendments proposed could be targeting a given community.

I have listened carefully to all the points raised by the hon. Members on both sides of the House. It is clear that most of the concerns raised by the hon. Leader of the Opposition and other hon. Members of the Opposition have already been addressed by hon. Members from the Government side who have intervened on the two Bills.

Nevertheless, I wish to reiterate that 15 years after the tragic attacks of 9/11, the face of terrorism is evolving rapidly. The profile of perpetrators of terrorist acts and the nature of their attacks have been shifting. “Lone wolf” attacks are becoming more prevalent, often involving individuals previously unknown to security services, who are taking advantage of modern means of communication to coordinate transnational crimes and organise dreadful attacks without even meeting physically.

It is clear that nowadays, terrorism has crossed borders, changed forms and is killing atrociously. It has become a constant threat to the fundamental values of freedom, democracy and the rule of law.

Madam Speaker, true it is that the threat level to our country insofar as international terrorism is concerned, is considered as being low. Yet, as I stated earlier, terrorism has no frontiers and its random and unpredictable nature makes it a matter of concern to any country.

This is why we must remain vigilant and ensure that we have the necessary tools to combat any form of terrorist activity. We must also see to it that there is no gap in our laws to enable us to deal with all the aspects of evolving terrorism.

I am surprised that in the course of the debates, several Members including the Leader of the Opposition have raised the question as to who has directed and advised Government to bring the proposed amendments to the Prevention of Terrorism Act.

May I remind the House that Mauritius is a sovereign State and as per section 45(1) of our Constitution, Parliament has the power to make laws for the peace, order and good government of Mauritius.

As the hon. Leader of the Opposition has rightly pointed out, when the Act was introduced in 2002, it was part of our commitment to meet mandatory obligations under UN Security Resolution 1373.

The amendments which are before the House today will enable us to further fulfil our commitments at the international level in the area of counter terrorism.

In this connection, allow me, Madam Speaker, to refer to the “Plan of Action to Prevent Violent Extremism” which was presented by the UN Secretary-General in January this year, and adopted by the UN General Assembly in July 2016 at the 10th review of the UN Global Counter Terrorism Strategy.

This “Plan of Action to Prevent Violent Extremism” focuses on preventive measures for addressing violent extremism by reinvigorating those measures already covered in the UN Global Counter Terrorism Strategy so as to ensure a more comprehensive implementation of the Strategy in view of lessons learned over the past decade and challenges that may lie ahead.

The Plan of Action further urges countries to unite against violent extremism in all its forms and manifestations and for that purpose, it recognises the need and I quote -

“to refocus our priorities, strengthen our application of justice, and rebuild the social compact between the governing and governed.”

Countries are also called upon in that Plan of Action to ensure that their legal systems provide for the prosecution of travel for terrorism or related training and address the financing or facilitation of such activities and prevent entry or transit through their territories, including through the usage of internationally accepted databases, of any individual with respect to whom there is credible information that provides reasonable grounds for believing that this travel is undertaken for the purpose of participating in a terrorist act.

It is thus clear, Madam Speaker, that the proposed amendments to the Prevention of Terrorism Act are totally in line with the UN Global Counter Terrorism Strategy.

Madam Speaker, much has been said about the installation of CCTV cameras at the University of Mauritius. Although I cannot relate this project to the Bills which are being debated today, I wish to point out that according to the Police, this project which dates back to February of this year, was initiated following discussions held between the Vice Chancellor of the University and the Police concerning the need to enhance security in the University compound, especially taking into account that several events are regularly organised at the university in the presence of important nationals as well as international personalities. I am further given to understand that a notice has been placed in the areas covered by the cameras to keep the public informed of the existence of the cameras.

I do understand that this project could have been perceived by the university students and the academic community as a violation to their privacy. In fact, this issue has been subject of controversies in several countries where CCTV cameras have been installed in higher educational institutions. In many cases, Codes of Practice on the operation of the CCTV cameras on university premises have been agreed upon among all stakeholders. The University of Mauritius may consider the adoption of such Codes of Practice to reassure on the project.

Madam Speaker, concern has also been raised regarding the amendment proposed to the Prevention of Terrorism Act allowing a Police Officer not below the rank of Superintendent of Police or an Officer duly authorised by a Superintendent of Police to arrest without warrant a person who, in a public place, wears an item of clothing or carries or displays an object, in such a way or in such circumstances as to arouse reasonable suspicion that he belongs to a proscribed organisation. On this issue, I have to point out, referring to what hon. Ramful said during his

intervention, that the offence, in fact, relates to belonging to a proscribed organisation as per section 4(3) of the Prevention of Terrorism Act 2002.

I also need to stress that, contrary to what hon. Mohamed stated, such a provision exists under section 13 of the UK Terrorism Act 2000. On the other hand, the legislation in France, mentioned by hon. Mohamed, relates to the wearing of item of clothes or symbols relating to any specific religion.

Madam Speaker, we should be very careful not to mix issues in order not to create an erroneous perception that the proposed amendments are meant to target persons belonging to a given community.

I have to stress once more that the proposed amendments relate to the wearing of items of clothing or display of objects in respect of a proscribed organisation.

The list of proscribed organisations in Mauritius is known, as it was gazetted in February this year, following Regulations made under section 10(4) of the Prevention of Terrorism Act. This is published in General Notice No. 145 of 2016.

Madam Speaker, regarding the setting up of the Counterterrorism Unit in my Office, I wish to reiterate that the objective is to provide for an adequate structure to deal with terrorism-related issues in a proactive manner. This implies the creation of a specialised unit, which would be staffed adequately, and which would be legally entitled to interact and share intelligence, amongst others, with foreign counterparts.

I must add here, Madam Speaker, that under clause 9, a new section 21 is being introduced to provide for the setting up of a Counterterrorism Committee to be responsible for all policy issues pertaining to counterterrorism. The Committee will be chaired by the Secretary to the Cabinet and Head of the Civil Service and will comprise of the following –

- (a) the Secretary for Home Affairs;
- (b) the Commissioner of Police;
- (c) the National Security Adviser;
- (d) the Solicitor General or his representative;
- (e) the Director General of the National Security Service, and

(f) the Director of the Counterterrorism Unit.

These are not political appointees, Madam Speaker.

Having a dedicated Counterterrorism Unit rather than officers dealing with counterterrorism on an *ad hoc* basis, we will ensure that when our officers interact with their foreign counterparts, they can do it with colleagues with whom they have been interacting for years. It is for this reason that the Counterterrorism Unit is being set up in my Office.

I have taken note, Madam Speaker, of the concern raised by some Members regarding the Director of this Unit, especially the mode of appointment to that post. I have to highlight that the Director would be a public official who will be appointed through existing procedures. The scheme of service for that post, in fact, exists since 2009 following approval by the relevant Service Commission.

Madam Speaker, allow me to once more reassure the House and the population in general that the two Bills are meant to further strengthen our counterterrorism framework with a view to preserving and protecting our national security, taking into consideration the threat environment at the international and regional levels.

We have, in drafting the proposed amendments, ensured their conformity with our Constitution, so as to maintain the right balance between national security and preservation of individual rights and liberties, by providing adequate safeguards and oversight mechanisms.

I am conscious of the fact that the amendments proposed are giving important powers to the Police. In this respect, I shall personally ensure that our Police Officers get the adequate training, to enable them to understand what is expected from them, so that they can act in a professional and responsible manner in the enforcement of the legislation.

Madam Speaker, the two Bills demonstrate my Government's determination to proactively and effectively address the constantly evolving threats to our national security.

The nation has given us a mandate to act in the best interest of Mauritius. We are, therefore, assuming our responsibilities with all the courage and determination such an endeavour requires in the present challenging circumstances.

Thank you, Madam Speaker.

Question put and agreed to.

Bills read a second time and committed.

COMMITTEE STAGE

(Madam Speaker in the Chair)

THE PREVENTION OF TERRORISM (AMENDMENT) BILL

(No. XXV of 2016)

&

THE CONSTITUTION (AMENDMENT) BILL

(NO. XXVI OF 2016)

Clauses 1 to 6 ordered to stand part of the Bill.

Clause 7 (Section 6 of principal Act amended)

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

The Prime Minister: Madam Chairperson, I move for the following amendments –

“In clause 7 –

- (a) in the proposed new subclause (3), by inserting, after the words “police officer”, the words “, not below the rank of Superintendent of Police, or duly authorised by a Superintendent of Police,”;
- (b) by adding the following new subclause –

(4) Where a person is arrested under subsection (3), he shall be brought without undue delay before a Court.”

Amendments agreed to.

Clause 7, as amended, ordered to stand part of the Bill.

Clauses 8 to 11 ordered to stand part of the Bill.

Clause 12 (Section 25 of principal Act amended)

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

Mr Ganoo: Madam Chairperson, I have circulated an amendment to this clause, which reads as follows –

“In Clause 12, in the proposed new subsection (1) of section 25 of the principal Act by –

- (a) deleting the word “Minister” and replacing it by the word “Commissioner”, and
- (b) adding after the words “under this Act” the words “apply to a Judge in Chambers for an order authorising a police officer not below the rank of Superintendent of Police”.”

This clause, as we know, relates to the question of the inclusiveness of communications data and privacy risk. As I mentioned in my speech, it raises the question of the security of retained data and the question of privacy risk and equipment interference.

The gist of my proposed amendment, Madam Speaker, is that the powers given are too wide and may lead to potential abuse. There is no mention in this clause that the Minister must have “any reasonable suspicion”. There is no mention in that Clause that this should be done under judicial authority and that the Minister should apply to a Judge in Chambers for an order authorising him to give directions to the communication service providers. As we know, Madam Speaker, today our private lives are captured in communication technology to a far greater extent than before. This is why I have humbly proposed this amendment that the word ‘Minister’ should be replaced by ‘the Commissioner’, and the Commissioner, before giving any directives, should apply to a Judge in Chambers for an order authorising a Police officer not below the rank of Superintendent, as is mentioned in other clauses of this Bill; it is in these circumstances that directions, as may be necessary, can be given to the communication service providers.

The Prime Minister: Madam Chairperson, we don’t agree to this...

The Chairperson: Hon. Prime Minister, the hon. Leader of the Opposition wants to have the floor.

The Prime Minister: I am sorry.

Mr Bérenger: On the point raised by hon. Ganoo, just to make it clear that we have taken the stand that we feel that the amendments before the House are not justified, that the law is sufficiently tough. Therefore, we are not going to take a stand on the amendment to the

amendments as proposed by hon. Ganoo. I am not saying we are for or against, but since we are against the amendments themselves we do not take a stand on the amendment to the amendments.

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

The Prime Minister: Madam Chairperson, we do not agree to this amendment. Section 25 of the Act provides for directions to be given by the Minister to communication service providers to prevent and detect offences. By the very nature of terrorism, directions to prevent or detect offences have to be given expeditiously. The Counterterrorism Unit will be under the Prime Minister's Office so that the Prime Minister is better placed to act promptly. Requiring the Commissioner of Police to give directions after obtaining a Judge's order will not allow directions to be given expeditiously and may result in serious harm.

Question put and amendment defeated.

Clause 12, ordered to stand part of the Bill.

Clauses 13 to 16 ordered to stand part of the Bill.

The title and enacting clause were agreed to.

The Bill, as amended, was agreed to.

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

THE CONSTITUTION (AMENDMENT) BILL

(NO. XXVI OF 2016)

The Constitution (Amendment) Bill (No. XXVI of 2016) was considered and agreed to.

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

Third Reading

THE PREVENTION OF TERRORISM (AMENDMENT) BILL

(NO. XXV OF 2016)

On motion made and seconded, the Prevention of Terrorism (Amendment) Bill (No. XXV of 2016) was read a third time.

The Prime Minister: Madam Speaker, I move for a division.

Madam Speaker: Clerk, please proceed with the division.

(Division Bells were rung)

On question put, the House divided.

AYES

1. Hon. K. Teeluckdharry
2. Hon. K. Tarolah
3. Hon. Dr. M. R. Sorefan
4. Hon. Ms M. Sewocksingh
5. Hon. D. Sesungkur
6. Hon. S. Rughoobur
7. Hon. K. Ramano
8. Hon. G. Oree
9. Hon. Mrs M. C. J. Monty
10. Hon. G. P. Lesjongard
11. Hon. J. C. G. Lepoigneur
12. Hon. J. B. Leopold
13. Hon. Dr. Z. Joomaye
14. Hon. A. B. Jahangeer
15. Hon. M. Gobin
16. Hon. S. Fowdar
17. Hon. J. R. Dayal
18. Hon. P. K. Armance

19. Hon. J. N. A. Aliphon
20. Hon. J. F. François
21. Hon. J. H. T. Henry
22. Hon. M. S. Abbas-Mamode
23. Hon. T. Benydin
24. Hon. M. C. E. Boissézon
25. Hon. J. C. S. Toussaint
26. Hon. Mrs D. Boygah
27. Hon. R. Rampertab
28. Hon. Mrs R. Jadoo-Jaunbocus
29. Hon. S. Ramkaun
30. Hon. S. Rutnah
31. Hon. M. S. Hureeram
32. Hon. P. Jhugroo
33. Hon. A. C. Duval
34. Hon. S. S. Callichurn
35. Hon. M. R. A. Wong Yen Cheong
36. Hon. P. Koonjoo
37. Hon. Mrs F. Jeewa-Daureeawoo
38. Hon. S. Bholah
39. Hon. S. Bhadain
40. Hon. Mrs M.A. A. J. Perraud
41. Hon. A. Gungah
42. Hon. S. Baboo

43. Hon. M. K. Seeruttun
44. Hon. M. J. N. E. Sinatambou
45. Hon. P. Roopun
46. Dr. the Hon. M. A. Husnoo
47. Hon. A. Gayan
48. Hon. Mrs L. D. Dookun-Luchoomun
49. Hon. N. Bodha
50. Hon. Y. Sawmynaden
51. Hon. S. Lutchmeenaraidoo
52. Hon. P. K. Jugnauth
53. Hon. I. L. Collendavelloo
54. Hon. S. Soodhun
55. Hon. C. G. X. L. Duval
56. The Rt. Hon. Prime Minister

NOES

1. Hon. R. Uteem
2. Hon. D. Ramful
3. Hon. J. P. F. Quirin
4. Hon. S. A. Y. A. R. Mohamed
5. Hon. M. O. C. Mahomed
6. Hon. E. S. Jhuboo
7. Hon. R. Bhagwan
8. Hon. P. R. Bérenger

ABSTENTIONS

1. Hon. Mrs M. D.Selvon
2. Hon. A. Ganoo

ABSENT

1. Hon. J. C. Barbier
2. Hon. V. Baloomoody
3. Hon. S. M. A. Ameer Meea

Madam Speaker: Hon. Members, the results of the division are as follows -

AYES : 56

NOES : 8

ABSTENTIONS : 2

ABSENT : 3

Hon. Members, I have to inform the House that the Prevention of Terrorism (Amendment) Bill (No. XXV of 2016) has, on final voting, obtained 56 votes, that is, has been supported by a three-quarter majority as required by section 5 (3A)(b) of the Constitution. I declare that the Bill has been read the third time and passed.

The Prevention of Terrorism (Amendment) Bill (No. XXV of 2016) was read a third time and passed.

THE CONSTITUTION (AMENDMENT) BILL

(NO. XXVI OF 2016)

On motion made and seconded, the Constitution (Amendment) Bill (No. XXVI of 2016) was read a third time.

The Prime Minister: Madam Speaker, I move for a division.

(Division Bells were rung)

AYES

1. Hon. K. Teeluckdharry

2. Hon. K. Tarolah
3. Dr. the Hon. M. R. Sorefan
4. Hon. Ms M. Sewocksingh
5. Hon. D. Sesungkur
6. Hon. Mrs D. Selvon
7. Hon. S. Rughoopur
8. Hon. K. Ramano
9. Hon. G. Oree
10. Hon. M. C. J. Monty
11. Hon. G. P. Lesjongard
12. Hon. J. C. G. Lepoigneur
13. Hon. J. B. Leopold
14. Dr. the Hon. Z. H. I. Joomaye
15. Hon. A. B. Jahangeer
16. Hon. M. Gobin
17. Hon. A. Ganoo
18. Hon. S. Fowdar
19. Hon. J. R. Dayal
20. Hon. P. K. Armance
21. Hon. J. N. A. Aliphon
22. Hon. J. F. François
23. Hon. J. H.T. Henry
24. Hon. M. S. Abbas-Mamode
25. Hon. T. Benydin

26. Hon. M. C. E. Boissézon
27. Hon. J. C. S. Toussaint
28. Hon. Mrs D. Boygah
29. Hon. R. Rampertab
30. Hon. Mrs R. Jadoo-Jaunbocus
31. Hon. S. Ramkaun
32. Hon. S. Rutnah
33. Hon. M. S. Hureeram
34. Hon. P. Jhugroo
35. Hon. A. C. Duval
36. Hon. S. S. Callichurn
37. Hon. M. R. A. Wong Yen Cheong
38. Hon. P. Koonjoo
39. Hon. Mrs F. Jeewa-Daureeawoo
40. Hon. S. Bholah
41. Hon. S. Bhadain
42. Hon. Mrs M. A. A. J. Perraud
43. Hon. A. Gungah
44. Hon S. Baboo
45. Hon. M. K. Seeruttun
46. Hon. M. J. N. E. Sinatambou
47. Hon. P. Roopun
48. Dr. the Hon. M. A. Husnoo
49. Hon. A. Gayan

- 50. Hon. Mrs L. D. Dookun-Luchoomun
- 51. Hon. N. Bodha
- 52. Hon. Y. Sawmynaden
- 53. Hon. S. Lutchmeenaraidoo
- 54. Hon. P. K. Jugnauth
- 55. Hon. I. L. Collendavelloo
- 56. Hon. S. Soodhun
- 57. Hon. C. G. X. L. Duval
- 58. The Rt. Hon. Prime Minister

NOES

- 1. Hon. M. R. C. Uteem
- 2. Hon. D. Ramful
- 3. Hon. J. P. F. Quirin
- 4. Hon. S. A. Y. A. R. Mohamed
- 5. Hon. M. O. C. Mahomed
- 6. Hon. E. S. Jhuboo
- 7. Hon. R. Bhagwan
- 8. Hon. P. R. Bérenger

ABSENT

- 1. Hon. J. C. Barbier
- 2. Hon. V. Baloomoody
- 3. Hon. S. M. A. Ameer Meea

ABSTENTION: Nil

Madam Speaker: Hon. Members, the results of the division are as follows –

AYES : 58

NOES : 8

ABSTENTION : Nil

ABSENT : 3

Madam Speaker: Hon. Members, I have to inform the House that the Constitution (Amendment) Bill (no. XXVI of 2016) has, on final voting, obtained 58 votes, that is, has been supported by a three-quarter majority as required by Section 47(2)(c) of the Constitution.

The Bill was read a third time and passed.

Second Reading

THE RODRIGUES REGIONAL ASSEMBLY (AMENDMENT) BILL (No. XXIX of 2016)

THE CONSTITUTION (AMENDMENT No. 2) BILL (No. XXX of 2016)

Order for Second Reading read.

The Prime Minister: Madam Speaker, with your permission, I move that the Rodrigues Regional Assembly (Amendment) Bill (No. XXIX of 2016) and the Constitution (Amendment No. 2) Bill (No. XXX of 2016) be read a second time.

The main object of the Rodrigues Regional Assembly (Amendment) Bill is to reform the electoral system in Rodrigues so as to make provision for a number of candidates for election to the Rodrigues Regional Assembly to be of a particular sex and a more equitable representation of parties in the Regional Assembly.

Madam Speaker, as already stated in my replies to the Private Notice Questions on 19 July and 30 November 2016, respectively, at the time the Rodrigues Regional Assembly Act was passed in this Assembly in 2001, a new electoral system was introduced for electing Members of the Regional Assembly.

It was meant to address the disproportionality that was observed between the percentage of votes and the percentage of seats obtained by a Party in the First Past the Post System.

This measure was also meant to ensure that the Party which wins the Regional Elections would have a comfortable majority that would enable it to govern in all serenity and have the necessary leeway to implement its Programme through the Executive Council.

Madam Speaker, since the introduction of this new electoral system, regional elections have been held in Rodrigues in 2002, 2006 and 2012, respectively.

From my own analysis of the results obtained in each case, I have observed that this hybrid formula, which consists of a combination of the First-Past-the-Post (FPTP) and the Proportional Representation (PR) systems, has not given full satisfaction as it has systematically been causing prejudice to one of the parties, more often the winning party.

Madam Speaker, let me give you some figures to illustrate my point. In 2002, the Organisation du Peuple Rodriguais (OPR) won 8 seats and the Mouvement Republicain (MR) 4 seats from the First-Past-the-Post (FPTP) system.

However, after the allocation of the PR seats, the total number of seats obtained by the two parties was 10 and 8, respectively, thereby shrinking the original difference of seats between the OPR and the MR from 4 to 2.

The same discrepancy was again observed in the Regional Election in 2012, wherein, the OPR obtained 8 seats, the MR 4 seats and the Front Patriotique Rodriguais (FPR), a new party, obtained no seat under the First-Past-the-Post system.

However, after the allocation of additional seats under the PR system, the total number of seats obtained by the OPR was 11, the MR 8 and the FPR 2 seats.

The winning party was again penalised as the original difference of seats between it and the Losing Parties was drastically reduced from 4 to 1 only, after the allocation of the additional seats under the PR System.

With the current electoral system in the Island, everyone has witnessed what has recently happened at the Rodrigues Regional Assembly, with the unfortunate demise of one of the Members of the OPR. The party, which originally had a clear majority of 4 seats, has now no majority at all, and had to depend on the casting vote of the Chairperson of the Regional Assembly to pass important Motions.

Madam Speaker, it is evident, from the above analysis, that the present mixed system in Rodrigues has some serious flaws which need to be corrected before the next Regional Elections as there is a high risk that we may end with the same scenario, thereby putting whichever Party wins the elections, in a very uncomfortable situation.

We cannot continue to have a system which, on the one hand, addresses the issue of fair representation of votes obtained by Parties in Rodrigues and, on the other hand, puts at stake the stability of the Regional Assembly and the Executive Council.

Such a situation, if maintained, will continue to represent a serious obstacle to the taking of timely decisions by the policy makers, thereby hampering the progress and development of Rodrigues.

Madam Speaker, if those who were in power before December 2014 did not care to redress the situation, I have dared to take the challenge. I am taking my responsibility, not only in my capacity as Prime Minister of the Republic of Mauritius, but also as Minister having the responsibility for Rodrigues matters.

I cannot close my eyes on this burning issue which is directly and indirectly affecting the serenity and welfare of our brothers and sisters living in Rodrigues.

I am also not prepared to allow the forthcoming Regional Elections in Rodrigues to be run under the existing system, as some have suggested.

The inhabitants of Rodrigues know, and I have told them so, during my several visits there, that I have at heart the stability and the development of the island and my Government will do its utmost to improve their standard of living. We have already started the implementation of various developmental projects in collaboration with the Regional Assembly. It is my duty to ensure that we have a stable Regional Assembly for the works to continue.

This is why I had requested the Deputy Prime Minister, Minister of Tourism and External Communications, who is also the Chairperson of the Ministerial Committee on Electoral Reforms, to give priority of consideration to the reform of the electoral system in Rodrigues.

Let me point out that I had in-depth discussions with the Ministerial Committee, which I understand had wide consultations with the stakeholders concerned in Rodrigues. My Office has also liaised with the Attorney General's Office, the Electoral Commissioner and the Electoral Supervisory Commission, as well as several stakeholders in Rodrigues on the matter.

I am now proposing, through this Bill, amendments to the Rodrigues Regional Assembly Act with a view to ensuring, among others, that -

- (i) More than two-third of a party's candidate shall not be of the same sex, and

- (ii) the winning party has an overall minimum majority of seats which will allow it to govern in all confidence.

Madam Speaker, the Bill, therefore, amends the relevant clauses of the Rodrigues Regional Assembly Act, pertaining to the Regional Election, so as to, *inter alia* -

- maintain the election of the 12 local region members (2 for each of the 6 regions) elected under the first past the post system;
- provide for the designation of 5 Island Region members instead of 6 under the current PR system;
- allocate additional seats, as may be necessary, to the Party having obtained 7 or more of the 12 local region seats, and which party finally finds itself with a total of less than 10 of the 17 seats, to ensure that the party disposes of an overall majority of 3 seats in the Regional Assembly, and
- ensure that not more than two thirds of the total number of candidates presented by each registered Party in the 6 local regions are of the same sex.

The Bill also provides that the Party List pertaining to the allocation of seats under the PR System -

- contains not more than 12 persons;
- does not include the name of any person who is standing as candidate for election in any local region;
- does not comprise more than two thirds of persons of the same sex;
- indicates the order of precedence of the candidates appearing on the list, and
- ensures that not more than two consecutive candidates are of the same sex.

Madam Speaker, I am also informed that with a view to making provision for a minimum number of candidates for election to the Rodrigues Regional Assembly to be of a particular sex, there is need to bring an amendment to the Constitution, as well.

Accordingly, the Constitution (Amendment No. 2) Bill amends section 16 of the Constitution, so as to introduce the abovementioned provision.

Madam Speaker, I am confident that the above amendments will ensure the required political stability which is so much required in Rodrigues and which is a *sine qua non* for the socio-economic development and prosperity of the island.

With these words, I commend the Rodrigues Regional Assembly (Amendment) Bill and the Constitution (Amendment No. 2) Bill, to the House.

Thank you, Madam Speaker.

Madam Speaker: Hon. Leader of the Opposition.

(4.14 p.m.)

The Leader of the Opposition (Mr P. Bérenger): Madam Speaker, as far as the MMM is concerned, we have always stood by our Rodriguan sisters and brothers and we are proud of that.

In the 2000-2005 Government, the MMM, more than anybody else, obtained that real autonomy being, not only enshrined in the Rodrigues Regional Assembly, but be put in the Constitution. The maximum autonomy of Rodrigues is in the Constitution and not only in the law. We are very proud of that and I am very proud also that in the 2000-2005 Government, as soon as I had that opportunity, increased massively the budget of the Rodrigues Regional Assembly. This is on record, this is historical fact and we are very proud of that.

That is why I feel I am entitled to say that what has taken place and resulted in the amendments before the House today, *c'est triste ce qui s'est passé*. It could have gone otherwise. I feel that with that background of genuine autonomy, real autonomy, maximum autonomy, we could have done better. We, I mean, Mauritius with our Rodriguan sisters and brothers. I find *triste ce qui s'est passé*, Madam Speaker.

As provided for in the Constitution, before we amend the Rodrigues Regional Assembly Act - and it is provided in the Constitution and that also, we were very right because that is real autonomy - to change that law, we must vote to the Regional Assembly first and get their concurrence. It is sad that the Motion of Concurrence voted, was voted in confusion, in conflict. The Opposition chose to boycott the sessions with three Members of the Opposition in the Rodrigues Regional Assembly suspended. I am not saying rightly or wrongly, I am stating facts that the vote of concurrence was debated and voted in conflict and in confusion. As far as the

OPR is concerned, the OPR and us, in the 2000-2005 Government, we saw to it that Rodrigues obtained, as I said, maximum autonomy, genuine, real autonomy.

Recently, the OPR felt that it had to request for an end to this *dose de proportionnelle* which existed and which still exists in the Rodrigues electoral system. The Rt. hon. Prime Minister went along with that. Therefore, OPR and the Rt. hon. Prime Minister were in favour of doing away with that *dose de proportionnelle*. Finally, no one got total satisfaction. The Opposition boycotted, the Motion of Concurrence was voted and the OPR did not obtain the abolition of the *dose de proportionnelle*.

What we had proposed is to keep for this forthcoming Rodrigues Regional Assembly election, instead of rushing through on the eve of the elections, to go under the existing system and then *à tête reposée*, after the elections to put all our heads together and come with the genuine reform of the Rodrigues electoral system. In a way, this is what I heard hon. Leopold from Rodrigues, through a supplementary question which he put when I put my Private Notice Question on 30 November. He suggested further amendments taking inspiration, as we did in the past, from Trinidad and Tobago. I am in full agreement and this is exactly what we proposed. We proposed: let us not rush, we have gone through regional elections in Rodrigues on three occasions, what we proposed was we go with the existing system, then *à tête reposée*, as hon. Leopold said, we take inspiration as in 2000-2005 from Trinidad and Tobago and elsewhere and we come *à tête reposée* with an improved electoral system in a consensus in Rodrigues.

Finally, the *dose de proportionnelle* is being kept, whereas section 11 before provided that the winning party must have a majority of 50 plus 1. Now, therefore, we are amending to say that the winning party will have a majority of at least 3 seats. *Bon, ce n'est pas la fin du monde!* Some commentators have said that it is very *bancal*, that it is going to give unexpected results. I consider that it is not dramatic moving from one - a guaranteed majority of one to a guaranteed majority of three. But, let us be frank about it even if we put three instead of one the law does not prevent people from changing party as in the past or from dying. Unfortunately, this has happened recently. Therefore...

(Interruptions)

Yes! Yes...

(Interruptions)

But this has happened, in fact. This is why I said in the recent past. But the problem is that people have changed party on the way. And, Madam Speaker, I think it is worth - therefore I don't have a big quarrel. We had it in the law that a guarantee of one, the winning party has a majority of one and now we bring it to three. I don't have a major quarrel with that, but as I said, we could have gone along with the existing section 11.

Madam Speaker, I think we should look a bit at Italy these days. Italy is going through a major crisis because they have tried to play along with the electoral system to guarantee a majority to the winning party, that is, the party that does not necessarily have a majority, but which comes first. Unfortunately, for Italy it has not worked and it is today a complete mess! So, it is a very complex issue. As I said, we have no big quarrel with bringing up the figure. We are keeping the *dose de proportionnelle*. This makes us very happy. We don't want and we can't decide for the Rodriguans. But, I think it is a good thing that we are not doing away with the *dose de proportionnelle*. We are trying to stabilise the system by having a guaranteed majority of three instead of one. We can go along with that, but *à condition qu'après les élections, à tête reposée*, with Italy also in mind, we review the whole situation at the same time as we are supposed to be reviewing the whole situation in terms of electoral system for Mauritius also.

As far as amending the Constitution, in that case, we go along because we are amending the Constitution to allow for positive discrimination in favour of women candidates. I need not remind the House that in 2011 we did that, by 'we' I mean the House, the National Assembly did that in the case of the *Municipalité*. We amended the law in 2011 to provide that there must be a minimum number of female candidates and therefore, we have no problem in the case of Rodrigues as in the case of the Municipalities to go along with that.

I would end, Madam Speaker, with a *bonne chance à nos soeurs et frères de Rodrigues, bonne chance*. I have already made an appeal outside the House which I want to renew to the Opposition in Rodrigues - not to boycott the forthcoming elections. The Government has a majority and, as I said, we have no big quarrel with bringing that figure of one to three - but I hope it is a transitional provision and then after the forthcoming elections, *à tête reposée*, including the reference by hon. Leopold, we take once more inspiration from where it can be

taken from and we move forward. I hope the Opposition will take part in the elections. I appeal again to them and *bonne chance à nos soeurs et frères de Rodrigues*.

Thank you, Madam Speaker.

Madam Speaker: Hon. Deputy Prime Minister!

(4.25 p.m.)

The Deputy Prime Minister: Madam Speaker, let me thank firstly the Rt. hon. Prime Minister for bringing the two Bills before the House today to put into effect the electoral reforms in Rodrigues and I think I should thank also the hon. Leader of the Opposition who I believe will be supporting the two Bills.

Madam Speaker, electoral reform is never easy as it is always a subject of controversy. We should not look so much for unanimity or consensus, but I think we should do what is right. I must say, Madam Speaker, that I feel that the Electoral Reform Committee which has looked into this and which I chaired sat for 11 times since it was set up. Out of the 11 times, five were devoted to Rodrigues. So, a substantial chunk of our work was looking at Rodrigues and I do believe that we have done an excellent work in that respect and I would like to thank my colleagues for that.

We should, obviously, set this into the context of chronic instability in Rodrigues which has ended up - ever since 2002 there has been instability. For the last Assembly there was one majority for the winning party, one person unfortunately died and there was no majority, so they had to carry on like that. In fact, as you know, instability can be very bad and can paralyse the development of Rodrigues.

Why there has not been consensus or unanimity, Madam Speaker, is because for some Opposition parties, it serves their purpose to have instability. Some Opposition parties, in Rodrigues - I won't mention the name of a particular one - I am quite sure that it wanted the situation to continue and for possible paralysis in the Assembly. But here, I would like to thank the *Mouvement Republicain*, the main Opposition party, Madam Speaker. Although they did not find any agreement with the concurrence motion, nevertheless, Madam Speaker, they participated in the whole process. They attended the meeting we had with them and they made the proposals for change. So, I would like to thank them today although many of the proposals

were a bit late in the day - not our fault, I will explain in a moment - especially those that dealt with the changing of the voting system. It is an accepted practice that you do not change the voting system a few months before an election, before you can actually explain to the population the new voting system, i.e. for either the split vote or the single vote.

So, Madam Speaker, the main cause of instability in Rodrigues has been a very small number of elected members that they have. They have 18 *per se* and it can go up under certain circumstances to 23. But that is a very small amount. If they have had 200 then obviously a difference of 10 per cent between the winning party and the losing parties would be 20 people. That is a workable majority. But when you are talking about two people, you are talking about elected members of 18 or 20 people, you are talking about small majorities and you are in the hands of these one or two people who mean so much for the regional Government of the day. So, that has been the reason for the chronic instability and that is what we have tried to address in this Bill, Madam Speaker.

But I must say that it has not been rushed. In fact, this whole reform procedure has taken a long time as far back as 2014 - all Mauritius Governments. In 2014, the Regional Assembly commissioned ex-Chief Justice Glover to prepare a report and eventually write a Bill. It is for more than two years ago. So, it was at that time that the gentleman went to work and prepared the draft Bill. If my information is correct, we only received the draft Bill at the State Law Office in July 2016. It was from that time - July 2016 to now - that we have had to work on the electoral reform knowing that we have the elections coming very soon.

On that point, I cannot agree with the hon. Leader of the Opposition that we should wait after these elections which will happen within the next few months because that would mean condemning Rodrigues to another five years of probable instability. I don't think the Rodriguans themselves would like that. I must say on this point, Madam Speaker, that we did meet or, at least, all the *Forces Vives* that wanted to meet us when the Vice-Prime Minister, hon. Collendavelloo, the hon. Attorney General and myself went. I must say that the great majority of them supported our efforts to put more stability in the Government. So, I do not understand why some people think that there was a lot of opposition. There was a *manifestation* outside of our hotel and there were four people and one car ...

(Interruptions)

On the first page of *l'Express*, I think, ‘*Rodrigues en colère, Rodrigues en feu*’. It was four people. One group of people refused to meet us at the *Forces Vives*. So, let us get everything back into perspective, Madam Speaker. I think since that time everything has gone quiet.

Madam Speaker, we had till July of this year. We worked on it. The first thing we did, we looked at the Glover Report. That Glover Report, we found it unacceptable, Madam Speaker. I think everyone will agree that what we are proposing today is a far better alternative to what ex-Chief Justice Glover had done, although he had a lot of consultations. I think that the draft Bill was supported by the OPR. So, our Bill isn't as if we are being dictated by the OPR. Not at all! The first gambit was the Glover Report. What did the Glover Report do, quite rightly, as the hon. Leader of the Opposition agreed? Abolish the PR system altogether. It's gone! No more! There is only one set of votes for the first- past-the-post, and depending on the number of elected members you had on the first-past-the-post, you were granted additional members. There was no consideration at all for the percentage of votes that you obtained in the election. Not at all! So, the PR system merely disappeared. Worse than that, Madam Speaker, if, *par malheur* probably, one of the parties got all the 18 first-past-the-post seats and the Opposition got zero, what would the Glover system do? It would give one additional elected member to the winning party. Instead of 18/0, you would end up with 19/0. That really did not make any sense. I do not know how they came to that. So, obviously, we threw that out.

There is also one other thing. The Glover Report increased the number of elected members in Rodrigues up to 22. If we look at the actual representation, it is 22 members in Rodrigues for about 30,000 people. It is 70 members maximum for 950,000 in the Republic of Mauritius. If you do the calculation, the Rodriguans would be really overrepresented. Ten times overrepresented or more represented than Mauritius! One elected member for 1,300, and in Mauritius, it's one for 13,000. So, in fact, we are talking about a big discrepancy, and we did not agree with the increase in the number of elected members in Rodrigues.

Another discrepancy of the Glover Report, Madam Speaker, just to show that we did our work, was that it only dealt with the winning and the losing party. It didn't deal at all with the fact that there may be a third party who may be the lesser Opposition, but, nevertheless, they are also entitled to fair representation.

So, Madam Speaker, the only thing that we retained from the Glover Report was a gender friendly quota that they were suggesting. That, Madam Speaker, was the main proposal of the Glover Report. We have got, I think, a better system now. We have retained the gender focus of ex-Chief Justice Glover. We have retained the 12 elected members, as exist now, first-past-the-post; we did not increase them. We have retained the original PR system, as it is, but we have reduced the number of PR members from six to five because six is a number that divides by two and you can have 3-3, and then you are back to square one. So, we have taken five, Madam Speaker, which will always give you a majority even if you cannot divide it by two. So, that is what we have done.

Madam Speaker, we thought that we do need to increase stability, and the one guaranteed majority, as the law provides for, is not sufficient. You are, in fact, in the hands of one member who may decide one way or the other, and we all know how it can get difficult, it can get a lot of negotiation, a lot of even backstabbing, etc.

(Interruptions)

Bargaining! Exactly!

We have increased it to three. So, now you have to have all three members, convinced, who would cross the floor for the regional Government of the day. We think that is better stability. The OPR wanted four, but we stuck to three, Madam Speaker. Also, Madam Speaker, we are maintaining the 10% threshold for a party to be eligible for PR. The OPR and the MR parties wanted this threshold to be increased to 15%. We saw that it was better, in the name of democracy and to give a chance to the smaller parties, to maintain the threshold at 10%, Madam Speaker.

We would have liked to introduce an anti-defection clause. That was in the first draft because of the crossing the floor issue. It would have been also a good way of introducing that even in Mauritius afterwards. Nevertheless, we were told that there could be a constitutional issue to do with democracy and against clause one of the Constitution, which is Mauritius Democratic State, etc. So, we removed that for the moment, but we haven't given it up entirely. We would like to look at it again more closely and come up with perhaps a better proposal in the future.

Madam Speaker, two or three things. Firstly, the criticism has been that we did not consult. I have answered that, Madam Speaker. Mr Glover, himself, had wide consultations. The Rt. hon. Prime Minister went to Rodrigues. The Chief Commissioner came to Mauritius on many occasions to discuss all these. I, myself, met the Chief Commissioner. I met the two MPs from Rodrigues and a three-man delegation, as I mentioned, went to Rodrigues and met, in fact, the people there during one whole day.

The second criticism was that all this, in fact, was being imposed by Mauritius. It was a foregone conclusion and whatever we were discussing with our friends from Rodrigues was just a sham. In fact, it is true that before going to Rodrigues, we had to have the approval of Cabinet for our proposals. They were still proposals, but we could not take proposals to Rodrigues without having our friends in the Cabinet approve these proposals. We took the proposals to Rodrigues, and just to show our good faith, one recommendation made during our meetings in Rodrigues was retained by us. Unfortunately, the RRA did not concur with that particular recommendation and it fell through. Just to show that nothing was being imposed on Rodrigues.

We went to Rodrigues with proposals, not conclusions. We listened to them and we even accepted one of their recommendations, but it did not finally go through, Madam Speaker. So, we had wide consultations. In fact, consultations have been going on since 2014, as I mentioned. Nothing was being imposed, and without concurrence from the RRA, the National Assembly here would not have gone forward with any amendment. The Constitution does provide for two-third majority to override or to force upon the RRA some laws which they have not themselves concurred with. There was a typing error in one of the newspapers, but at no time was Government going to use that provision in our Constitution.

Madam Speaker, the last thing I wanted to answer was that some people thought that we were just rubberstamping what the OPR were suggesting, and that is, in fact, not the case.

So, we have come at the end, I hope, of a long process. No doubt, Madam Speaker, that the Electoral Reform Committee will continue its work. No doubt that there are other things that can be changed. Our main concern was to ensure that the elections to be held in the next few months provide stability in Rodrigues, provide a gender friendly formula, and together with the other changes that have been made, that was the main concern. Once we have that in Rodrigues, we can continue and work on many other issues that concern Rodrigues. I am sure the PMO also

has received a number of suggestions that do not concern the Electoral Reform Committee itself, but the operation of the Regional Assembly in Rodrigues. The proposal of my friend, hon. Leopold itself did not concern the Electoral Reform Committee because it dealt with a mixed Committee acting as *liaison* between this Assembly, if my memory serves me well, and the Regional Assembly. It does not concern the election. It can be done at any time and, hopefully, if it is considered properly, it will be done.

Therefore, Madam Speaker, I thank you for your attention and I do hope that these Bills, which have been carefully sought out, get approved by Parliament today. Thank you.

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

At 4.45 p.m. the sitting was suspended.

On resuming at 5.22 p.m. with Madam Speaker in the Chair.

Madam Speaker: Hon. Leopold!

Mr J. Leopold (Second Member for Rodrigues): Thank you, Madam Speaker. Madam Speaker, let me express right at the very beginning of my speech, my sincere gratitude to the following persons without whom Rodrigues would have not had the status of autonomy. I am saying here, the Rt. hon. Prime Minister, Sir Anerood Jugnauth, and the actual Leader of the Opposition, hon. Paul Raymond Bérenger, who have helped tremendously in giving Rodrigues its autonomy while they were in the 2000 coalition MSM/MMM, and our actual Chief Commissioner, Mr Louis Serge Clair, who, at the very beginning of his political career, had made it clear to the Rodriguan people that it is us, the Rodriguan people, who should be responsible for the future of our socio-economic, political, cultural progress of our island.

Madam Speaker, before I go further, I just want to reassure the House for that coming regional election, the Party which said that it is going to boycott the elections has just done a Press conference, stating that he is going to sit for elections in Region No. 5. In fact, one of its Members is here in the House.

(Interruptions)

This is an indication that they are going in the elections but, anyway, they are going to lose the elections! The OPR Party will win the elections in the six regions.

(Interruptions)

Yes, a landslide! But we leave the five seats for them!

It was on Tuesday 20 November 2001 that the Rodrigues Regional Assembly Act was voted in the National Assembly of the Republic of Mauritius. The first election to set the Rodrigues Regional Assembly was held on 29 September 2002 and the first Rodrigues Regional Government was formed soon after.

The whole idea of autonomy was borne on the same day, the same time and the same year with the creation of the OPR Party in 1976. From the very start of the creation of the OPR Party in 1976, the OPR Party did understand that it is natural that the men and women of Rodrigues are those who are better placed to look after its own destiny and its own development. Rodrigues being different from the main island Mauritius with its specificities which are better understood by Rodriguan people themselves. The needs for the people of Rodrigues to show its identity and its personality are no doubt signs of maturity by ensuring its capacity to be responsible, responsible for the development of Rodrigues, responsible to take decisions for the betterment and well-being of its people in the social, economic, political and religious development of Rodriguans and, of course, we will do that and achieve that with the collaboration of those who want to help us.

Madam Speaker, in 1984, the OPR Party presented to the Bhuckory Commission a document under the title '*Projet pour une Assemblée régionale à Rodrigues*'. In 1987, in the general election, we came with a manifesto under the title '*L'autonomie pour Rodrigues c'est le changement*'. In the 1995 general election, we came again with a manifesto and the title was '*L'autonomie Interne une nécessité pour Rodrigues*'. On 21 August 1996, we presented a document under the same title, that is, '*L'autonomie interne une nécessité pour Rodrigues*' to the Sooben Commission.

Those propositions that the OPR Party had done were ideal for Rodrigues and its people. It is a dream for those who, during several years, since 1976, campaigned, fought so that Rodrigues gets an Assembly with a president, a true decentralised Government with a Chief Commissioner, who can sit in Ministerial Cabinet when it is necessary and required. That is what we were asking at that time. It was a long march, but we, finally, gained the status of autonomy after 25 long years of campaign, sensitisation and explanation.

One would say, Madam Speaker, that once powers have been decentralised locally, that is, to Rodrigues, we will say: 'Okay, we stop here'. No, it was just the beginning! It is the beginning of self-administration with demanded hard work, discipline, the will to succeed, to always do better and go further.

OPR Party believes that the way forward is in the concept of participatory democracy which will lead to more responsibilities to everyone, to a change in mindset, has a good way of life, be visionary, developing our entrepreneurial culture, improving our services, improvement in education, proper land management so as to create the perfect economic dynamics and show solidarity towards others and all that are being done in respect of nature bearing in mind the coming generation.

Now, Madam Speaker, let us put the autonomy of Rodrigues into context! Why do we need to have decentralised power within a democracy. Before I go further, I have to say that decentralised power is implemented through an Act passed by legislature. Years ago, people, who were not even residents of Rodrigues, were called to decide and prioritise projects, which did not necessarily reflect the real needs of the people of Rodrigues. There was a perception that policies made in Port Louis do not necessarily suit the interests of Rodriguans. Therefore, Rodrigues has always wanted autonomy because we believe that we can manage our own affairs better than a distant national Government.

Autonomy, that is, devolution of power from Central Government to Rodrigues, has been very beneficial to Rodrigues and it is palpable and even the main island Mauritius has taken a lot of examples from us and I am not going to mention that. Am I going to mention that, Commissioner Pyneeandee?

(Interruptions)

There is no need.

Madam Speaker: No. Let me just draw your attention that you cannot have any conversation with anybody else other than Members of this august Assembly!

Mr Leopold: The reasons are now with a decentralised Government, there is better accountability; decisions are taken in the best interests of the local people. Now, the people of Rodrigues feel that they have a Government which is closer to them and their needs are better

understood and met by the Rodrigues Regional Assembly and the Rodrigues Regional Government.

Madam Speaker, devolution itself is not for political elite. The people of Rodrigues strongly support devolution because they feel that their needs are being met and their voice is being heard. Devolution needs to be based on visions and principles. The Rodrigues Regional Assembly Act is a law, a dynamic law, a law which has been crafted through the process of planning and thinking. But, it happens that there may be less well-thought out proposals and those almost sincerely need to be changed. We believe that the Rodriguan people will be best served by a clear, well-founded law that allows coherent political decisions to be made in a democratic manner which is effective and efficient working in the best interest of the people of Rodrigues.

Decentralised power to Rodrigues should benefit the whole island of Rodrigues and the Republic of Mauritius as well. Tonight, we are debating on a fundamental principle of the above mission statement which I have just stated, that is, a clear well-founded law that allows coherent political decisions to be made. I am talking about stability as a principle. With the electoral system of the RRA, is the way we calculate proportional votes predictable, simple, clear to understand by the citizens. No, it is not, Madam!

Madam Speaker, how would you explain things which have just been explained by the Rt. hon. Prime Minister when in 2002, out of 6 local regions, we won 4 and we have 8 candidates who were elected and the Opposition have 4 and when it comes to proportional calculation, we lost that majority and we ended up with 2 on proportional and the Opposition got 4, the Opposition got 8 elected candidates and we ended up with 10. Do you think that is fair? That is not fair!

Same happened in 2012. We won 4 regions out of 6 and when it came to the proportional calculation, we were to rule with only one majority. And to add insult to injury, Madam Speaker, during the course of this mandate, we sadly lost a very respected and respectful Member after a long illness. So, where is predictability in that? As I have said earlier, by principles on the mission statement, that is, coherence, well, I have just mentioned. So, in that case, where is stability and the minimum dose of predictability? What would happen if our deceased colleague did pass away, for example, 10 months before his mandate coming to term? We would have to

go in a by-election. So, the system must allow the governing party to rule in stability, even after losing one of its Members in such an abrupt situation. But, the actual electoral system of the Rodrigues Regional Assembly does not allow that, thus causing instability in governing.

Let us imagine these two case scenarios. If he had passed away, as I have said, more than 10 months before the end of his mandate we will need to do a by-election and what if after that by-election we lose that position? Remember, we won the election to govern for five years! The second case scenario is after the death of that Member. The fact that we were governing with a majority of one and then we have lost that, in this case it no longer exists and if someone becomes mad and crosses the floor, what will happen?

(Interruptions)

Therefore, that is why we want to change the law to bring more stability and equity and that is why we are here tonight. Madam Speaker, Mr Sithanen has always said that the proportional system must be in such a way that it does not destabilise the majority and that it should reflect the result of the first-past-the-post. So, that is why we did ask for the help of the former Chief Justice Glover to formulate a system which is fairer, stable and which responds to the wish of the Rodriguan electorate. After that, a Ministerial Committee was set up which came with some very useful propositions which were in turn sent to the RRA to concur and you might have been made aware that we did concur but it was subject to the proposal that the clause for leaders to be on both first-past-the-post and party list be deleted.

Why didn't we agree with that, Madam Speaker? With the so-called double candidacy, we have to note here that the OPR Party represents more than 60 per cent of the electorate in Rodrigues and during popular consultations with the people of Rodrigues prior to the regional election in 2012, we did not discuss the matter of double candidacy with them. So, it is not proper just to impose that on the people of Rodrigues. However, we did discuss that we need to bring more stability in the electoral system.

Now, Madam Speaker, we are here in this august Assembly tonight with an amended version of the Rodrigues Regional Assembly (Amendment) Bill on the electoral system which, in our opinion and that of the large majority of people of Rodrigues, will bring more stability and give more comfort to govern. The winning party will know in advance now that it will govern with a majority of, at least, three members which is fair. On top of that, we will go in an election

where a fair dose of gender balance is secured, that is, at least, one third of members with either sex will be on an alternate order on the list of candidates.

Madam Speaker, what we are doing here will not be the last. There will be more amendments. This is a normal exercise and concept of democracy to decentralise Government. This is what devolution is all about. Devolution is to improve the quality of governance by the decentralised Government and this is based on popular demands. It is about distribution of powers between the national and regional Governments thus, enhance the quality of governance at both levels. I believe, Madam Speaker, that the people of Rodrigues will be best served with this piece of law when it is voted.

Before ending, Madam Speaker, I have a special thought for the Chagossian people who were forcefully put to exile and I hope that they continue to struggle to get their land back and I dream that one day when they get their land back they can have a decentralised Government as well.

On this note, Madam, I thank you for your attention.

Madam Speaker: Hon. Pravind Jugnauth!

(5.35 p.m.)

The Minister of Finance and Economic Development (Mr P. Jugnauth): Madam Speaker, the main object of this Bill is to reform the electoral system in Rodrigues by providing mainly for three things - (i) a minimum number of candidates for election to the Rodrigues Regional Assembly to be of a particular sex; (ii) a more equitable representation of parties, and (iii) greater stability in the Rodrigues Regional Assembly. This reform follows the work of the Ministerial Committee that was chaired by the hon. Deputy Prime Minister and is but part of other reforms to the electoral system of Mauritius on which this Committee is, in fact, currently working. I shall address the House on certain aspects of the Bill only as when I listened very carefully to the intervention of the hon. Deputy Prime Minister he has talked, in fact, on greater details already.

But part (i) concerns a minimum number of candidates for election to the Rodrigues Regional Assembly to be of a particular sex. Madam Speaker, chapter 2 of our Constitution provides for the protection of fundamental rights and freedoms of the individual including

protection from discrimination. Section 16 of the Constitution provides that no law shall contain any provision that is discriminatory either of itself or in its effect. It prohibits discrimination on a number of grounds including discrimination on the ground of sex. But subsection (4) therein nonetheless provides for some permissible exceptions and one of them being that a law may provide for a minimum number of candidates for election to local authorities to be of a particular sex with a view to ensuring adequate representation of each sex on a local authority and the present Bill falls within that exception.

Madam Speaker, this Government has had, ever since coming into power, gender equality and women empowerment at heart. Today, we stand, in fact, as an example not only in Africa but I would say in the world at large by having simultaneously for the first time ever in our history a woman as the Head of the State and a woman as Speaker of the august Assembly.

(Interruptions)

Therefore, Madam Speaker, it cannot be denied that, in the past decade or so, although having made huge strides in terms of development and modernisation, our brothers from Rodrigues have been very proactive, - I must say also - very *avant-gardistes* when it comes to political decision-making.

As Members of this House are no doubt aware, the decision that we have taken here on the ban of plastic and plastic products was first introduced and inspired from similar measures that have been implemented in Rodrigues. But sadly, however, as much as our brothers from Rodrigues are involved in politics the same cannot be said to be the case for our Rodriguan sisters. They are not adequately represented at the highest level when it comes to active participation in the elections and the political decision-making processes. Therefore, the present Bill seeks, in fact, to cure this lacuna in an attempt to make the electoral system in Rodrigues much more inclusive.

Clause 6 of the Bill provides that a registered party presenting more than two candidates at an ordinary election will have to ensure that not more than two thirds of the total number of candidates of that party in the six local regions is of the same sex. Also, where a registered party forms part of an alliance, it will be sufficient if the alliance as a whole complies with this criterion.

Madam Speaker, at a time when the United Nations Organisations have set the achievement of gender equality and women's empowerment as one of the sustainable development goals, we would, in fact, be failing in our duties as Parliamentarians were we not to take measures destined to guarantee better women representation in the electoral system. It is with this in mind that the present Bill is being laid before this august Assembly. The law reform will not, however, in itself reassure a better representation of women. There must be a change in the mindset of political parties and this must also accompany this reform process. This requires a political party that they deliberately fill women candidates and especially in regions where they have strong popular support rather than where such candidates are almost certain, in fact, not to get elected because we know the realities.

Madam Speaker, I wish, here, to quote the former Head of UN woman, Michelle Bachelet who said and I quote –

“For me, a better democracy is a democracy where women do not only have the right to vote and to elect but to be elected.”

Let me now come to part two, more equitable representation of parties in the Rodrigues Regional Assembly. Madam Speaker, *in lieu* of the current six names on a party list, that list will now comprise of 12 names as provided for in clause 7. This will ensure that throughout the five-year term, there are always enough reserve candidates to fill vacant island region seats. The crucial issue of the equitable representation of parties in the Rodrigues Regional Assembly requires a very careful, balancing exercise between, on the one hand, the expression of the will of the majority of the voters and on the other hand, also ensuring fairness in representation, thus avoiding a situation where the winner takes all. That is the ever difficult exercise of avoiding the inequalities which are inherent in the first-past-the-post system where the winner takes all and at the same time that of avoiding the inequalities which a purely PR system can generate, and this with the ultimate objective of ensuring fairness in the representation inside the Rodrigues Regional Assembly while at the same time ensuring stability in Government at the Rodrigues Regional Assembly level.

I will come to the issue of stability at a later stage, but one must realise that it is not only a very complex, but a nearly impossible task to be able to achieve while taking into consideration what I have just said. That is also why there is no electoral system which is ideal. All of them

will have some imperfections, but it will be a matter for us to adjust to the particular local situation and to see to it what is best for the constituency, for the island or for the country.

Now, I must say that at some stage - and this has been rightly dealt with by the hon. Deputy Prime Minister - there were some suggestions that were even made during the workings of the Ministerial Committee for the complete abolition of the PR system altogether. It did not come from the Ministerial Committee, I want to make it clear. But the hon. Deputy Prime Minister has mentioned about the study that was carried out and the recommendation that was made because of the instability which the Rodrigues Regional Assembly has witnessed over the past years. I must say again - and, I think, it is important for me to say so that there is no doubt - that the Ministerial Committee was not in favour of such a drastic measure in view of what I have already said earlier on the issue of ensuring fairness in representation in the Rodrigues Regional Assembly.

The difficulty we faced, Madam Speaker, is that of trying to compensate the inequalities of the first-past-the-post system without affecting the will of the majority of electors as expressed in the ballots. This Bill, therefore, comes with the amendment with a view to having 12 names in lieu of the current six names, but that is not all.

I will now come to the issue of ensuring stability. Madam Speaker, the Rodrigues Regional Assembly is still, in fact, at a very young age, yet it has also had to witness growing instability instead of the much desired stability which any organisation of such importance deserves. Therefore, we have had to address this question of this chronic instability. I must say, here, that ensuring stability in the Rodrigues Regional Assembly has been the paramount consideration of Government during the workings of the Ministerial Committee. Now, it can be argued. What has been the cause of this instability? I would say that it is not the system per se because there is a system, it is for the people to vote, at the end of the day you have the results and in any system you can have results whereby they are so close that it creates by itself an instability. I think what is important is there is an instability when you have a system coupled with the fact that we have had - and it is not only in Rodrigues, we look at the case of Mauritius where we have had a tradition - I would call it a tradition - of at the times people just crossing the floor for one reason or the other and that, as a whole, has created this instability.

Therefore, Madam Speaker, to minimise the continuing risk of recurrence of this current situation of instability in the Rodrigues Regional Assembly, involving recourse to the vote of the Chairperson to ensure a majority vote for any measure before the Assembly, the Bill aims at ensuring that the party having won the majority of local region seats, but then has no majority following the allocation of the island region seats, retains a majority of at least three members. And clause 8 of the Bill is accordingly amending section 11 of the Rodrigues Regional Assembly Act to provide for this. This, I am sure, will indeed bring greater stability within the RRA by the avoidance of the majority of only one as we have witnessed in recent years. Now, the hon. Leader of the Opposition has mentioned that we can have a situation where we can have, let's say, more than two or three members deciding to cross the floor. This can happen. So be it, if it does happen. But, at least, we would have catered for situations when, let's say, you have more likely one member crossing the floor and not disturbing the result of the election. Of course, as I said earlier, there is no perfect system. We will never be able to provide for all kinds of situations, but, at least, what we can do is try to look from the past, draw lessons from the past and try to minimise the risks for the future.

Madam Speaker, let me seize this opportunity also to make a few remarks with regard to what has been said also because I have read a number of publications, articles and what has been said outside the House. I will just address one argument that, in fact, this Bill will bring greater instability to the Rodrigues Regional Assembly as opposed to bringing more stability. Madam Speaker, I cannot disagree more. Those persons who see greater instability ahead, I must say, are merely playing around with percentages and numbers on a theoretical plane as opposed to working out the practicals of the society in Rodrigues.

This Bill has received a lot of considerations, I must say, of respected and experienced persons who have served our country well, and I pause here also to commend the invaluable support throughout the years from people from the Electoral Supervisory Commission, the State Law Office to which we have had a very good contribution.

Therefore, Madam Speaker, before concluding, I wish to highlight the extent to which this Government has gone to ensure that the wishes of the Rodrigues Regional Assembly are expressed in the Bill. We have sent the Bill twice to the Rodrigues Regional Assembly, as has been mentioned earlier in greater detail, for its concurrence. We had, and still have, in fact, here

in this House, the required majority to impose any change that Cabinet, that Government would have decided upon. But although we have this required majority, we have chosen not to do so. We are a responsible Government and we believe in the principles of fairness and equality. To my mind, Mauritius has, in fact, as I believe, a Federal State that is composed of the islands of Mauritius. At a time when we unite one people over the issue of territorial integrity and the Chagos, we could not have done otherwise than wait for the concurrence of the Rodrigues Regional Assembly before coming to this House. As one people, we value the views and opinions of our brothers and sisters in the island of Rodrigues. That is why we have sent this Bill twice, in fact, to the Rodrigues Regional Assembly, and that is why we have waited also for the concurrence of the Rodrigues Regional Assembly prior to coming in this House instead of just imposing the changes on the Rodrigues Regional Assembly by having the Bill unilaterally voted upon by two-thirds' majority in this House as is permitted by section 75(a) of our Constitution.

Therefore, I will wish the Rodrigues Regional Assembly all the very best in this new system where fairness will work alongside equitable and adequate representation for women to produce a stable Regional Assembly. I say long live the Rodrigues Regional Assembly within the Republic of Mauritius.

Thank you.

Madam Speaker: Hon. Boissézon!

(5.54 p.m.)

Mr E. Boissézon (Third Member for La Caverne & Phoneix): Thank you, Madam Speaker. At the outset, I shall congratulate the Rt. hon. Prime Minister for the introduction of the Bill. Today, we are called to confirm the decision of the Rodrigues Regional Assembly to amend the Rodrigues Regional Assembly Act to provide a more equitable representation of parties in the Regional Assembly. We are called to confirm the motion of concurrence voted by the Rodrigues Regional Assembly on 30 November 2016.

In fact, Madam Speaker, we must ask ourselves which issues led the Rodrigues electoral parties to question the efficacy of the system to ensure stability and governability and whether the proposed amendment will meet their aspiration. They argued that the electoral systems produce results which do not reflect the wish of the electorate and more unfair in terms of vote

ratio. The current voting system is a mixed one with the first-past-the-post and the Proportional Representation.

International election history abounds of cases showing the limits of the first-past-the-post. In September, we were in Seychelles where a difference of less than 300 votes between two parties was turned out to be a difference of five seats in the National Assembly, the results which led to the resignation of ex-President Michel.

In Mauritius, how many times have we experienced the unfairness regarding the votes and return seats ratio. The theory of the winner winning all the votes is being put into question today. In fact, the formula of mixed vehicles for the election is a good one as the proportional representation contributes to the fairness of the results as it corrects the anomaly of the FPTP system regarding the representation of the electorates' wish. But is the 66% and 33% a good combination for repartition of such a small number of seats in such a small electoral plateau? Since the introduction of the new system, three elections were held in Rodrigues: 2002, 2006 and 2012. Since the inception of the present electoral system in Rodrigues, though the majority has not changed hands between the results of the first-past-the-post and the calculation of the PR, it is an undeniable fact that due to some misunderstandings, there has been a *désenchantement* upon the proclamation of the results. The situation is such that the Bishop of Rodrigues, Mgr Alain Harel has written in an open letter published in the Press whereby he urges for a reform of the electoral system of the Regional Assembly, and I quote –

« Dans la majorité des cas de figure, le système actuel donne une majorité si faible, en termes de sièges à la majorité désignée par le vote populaire, que le gouvernement élu (peu importe le parti) est structurellement fragile. Cela s'est vérifié durant les 14 ans d'existence de l'Assemblée Régionale de Rodrigues. Une réforme est donc importante pour le bon fonctionnement de l'autonomie de Rodrigues. »

Do the proposed amendments bring the necessary changes that will ensure stability, fairness, a good majority and a strong opposition, inclusiveness to ensure representation of the aspiration of the population, gender representation, transparency and accountability? The question will be: is the system being proposed be able to ensure that the party which obtains the majority at the end of the FPTP exercise maintains a majority, even though, it records less than the majority of the votes at island region votes? The next question will be: May such a system ensure stability,

produce a majority which will help the Government to operate with serenity without temptation of floor crossing, blackmailing, pressure and the consent of the population that each vote has its representability in the Regional Assembly as the population expects that the party which casts a clear majority of votes after the FPTP elections retains a clear majority in the Assembly, ensure the that the proportion of the allocation of seats between the modes of allocation are adequate? As I have said earlier the ratio 2:1, 2 for FPTP and 1 for the RP, is it adequate for the number of seats available? In fact, in Seychelles, the ratio FPTP to PR is 25:8.

Madam Speaker, much has been said, so I will go directly to the Bill. The objects clearly spell out that the proposed reform will provide a minimum number of candidates of the same sex and an equitable representation of parties in the Regional Assembly and an overall majority of three seats to the party which has won more than 50% of the seats of the 12 local region seats.

Clause 4 of the Bill will amend the present Act to reduce the number of island seats from six to five. I questioned the number of PR seats in the past. There were proposals to increase the number of local region seats to 18 to review the weight of the proportional representation on the final result, and the Deputy Prime Minister has said that the equation number of Members of the Regional Assembly to the population was not fair. I prefer the reduction of the island region seats, which offers two advantages. It reduces the percentage of FPTP to PR from 67% to 33%, from 70% to 29 plus. The choice of an odd number will help to decide for a majority in case of equality of number of seats returned by contenders of the FPTP. The odd number may offer the 50% plus one seat in the Assembly, which is not the case today.

Clauses 6 and 7 are important steps in the endeavour to reach an objective of parity of candidates of different sex for the election. The hon. Minister of Finance and Economic Development has spoken lengthily on the subject. So, I will say that I agree that the undulated principle of different genders adopted for the submission of party list for the island region election ensures parity of candidates of different parties.

I suggest that all parties will ensure that the first name appearing on each list should be the name of a lady. Such a move would show the real commitment of the party towards the real inclusion of ladies in politics. In the meantime, though not within the scope of this Bill, I make a suggestion for the gender parity of Commissioners, and I welcome this.

Clause 8 repeals section 11. This amendment is being questioned in certain quarters. I quote –

“This Bill provides that a party with only 7 first-past-the-post seat, probably 35% of the wards, be gifted an additional 6 seats to secure an overall majority of 3 Members in the Assembly. It widens the margin of victory from 2 seats under FPTP to 3 Members after the allocation of the 6 artificial seats.”

Read like this, *vu de cet angle, cela peut faire tiquer*. What that means first?

The writer speculates that the winner of the FPTP exercise will not win a majority of votes at the island region election and the calculation of the PR seats allotment, as prescribed by section 11 (3), will be at the advantage of other parties which will win the whole 5 PR seats, as the case has been in 2012, leading the score to 10: 5 FPTP seats and 5 PR seats. Thus, upon application of the amendment proposed, the winner of the FPTP process will be allotted six additional seats. But, as the hon. Leader of the Opposition has said, three seats, one seat, provided democracy is seen, we have to go for democracy.

An electoral system is never perfect. Much has been said and written about the best way to construct electoral systems, but no system has proved to be perfect tool compatible in all circumstances. In fact, the United Nations, on several occasions, expressed itself on the electoral issues. If democracy has common characteristics, it does not exist one unique model and it is not the *apanage* of any country, organisation or expert. Thus, everyone must respect the sovereignty and rights of any population on how it wants to elect its representatives and how to be governed.

I would like to make reference to the 2013 election of Tobago House Assembly because as you are aware, Madam Speaker, the Tobago House Assembly was used as an example for the introduction of the Rodrigues Act. Reference is being made regarding the election of 2013, during which the Tobago Organisation of the People did not return any candidate. The Chief Secretary of the Assembly, the Leader, asked the Prime Minister of Tobago, Mrs Kamla Persad-Bissessar, to introduce a Bill to allow the President of the Republic to choose two independent Councillors at his or her discretion to serve as Opposition in the Tobago House of Assembly - because there are 12 candidates there - in the event of a 12-0 election result.

It is not easy the conception of an electoral system, as it is a complex task which requires attributes such as equity, fairness, gender, minimum representation, accountability and stability. It is not easy to have all the above attributes in any human conceived electoral system to make humanity happy. So, certain trade-offs have to be made to ensure that the drawbacks encountered in the past are not renewed; at the same time, the answer to the interrogation, which is the art of the debate. Which is more important? A strong Government or the inclusion of the minority?

Clause 8 gives importance to both. A Government being issued from the first-past-the-post system and a strong opposition, and above all, perception that most of the votes are not countless.

I shall end by thanking the members of the Electoral Reform Committee who proposed the amendments to be brought to the present Act, the Opposition, the various participants to the debates relative to the proposition, and the compromises made to embark in a reform endeavour, which will be a landmark move in the strengthening of the Rodrigues autonomy while still enhancing the strong ties with Mauritius.

Bonne chance Rodrigues, et à quand le débat sur le Chagos Regional Assembly.

Merci.

Madam Speaker: Hon. Mrs Selvon!

(6.09 p.m.)

Mrs D. Selvon (Second Member for GRNW & Port Louis West): Madame la présidente, je vous remercie de m'accorder la parole. D'emblée, je dois dire que je vais voter en faveur de ce projet de loi, parce qu'il a été ramené à sa juste mesure.

Il faut se rappeler que, sous la Constitution, Maurice n'a pas le droit légal et constitutionnel de constituer un parlement sans une opposition parlementaire. En 1982, la Cour Suprême a statué clairement qu'il était impossible de constituer le Parlement à la suite d'un 60-0 s'il n'y avait pas une opposition. C'est pareil dans la loi que nous allons amender. Ainsi dans le *Rodrigues Regional Assembly Act 2001*, l'article 16 prévoit la nomination d'un *Minority Leader* ou Chef de l'opposition. Ce qui veut dire que, quoi qu'il arrive, Rodrigues doit suivre la même voie indiquée par la Cour Suprême en appliquant l'article 16, qui dit ceci, et je cite –

“Immediately after administering the oaths of office to the Chief Commissioner and Deputy Chief Commissioner, the President, acting in his own deliberate judgment shall appoint as Minority Leader the Member who, in his opinion, commands the support of the largest number of Members who do not support the Chief Commissioner.”

Les amendements devant nous ne touchent aucunement cette exigence vitale constituent un pilier fondamental de démocratie Rodriguaise. Chaque électeur a donc la responsabilité de voter avec sagesse de manière qu'une majorité et une opposition soient toutes les deux constituées afin que l'île soit à la fois gouvernable et que l'opposition soit le chien de garde contre les abus et les dérives possibles. Le principe fondamental de l'autonomie qui est accordé à Rodrigues par la loi qu'on nous demande d'amender et qu'on ne peut pas imposer d'en haut des réformes à un peuple sans lui donner l'occasion de se prononcer sur cette réforme. Le peuple Rodriguais est divisé en termes d'opinion politique et il nous faut respecter cela. Un autre principe c'est qu'il faut savoir concilier à la fois la représentativité maximale et la viabilité des mathématiques post-électorales qui pourraient rendre ingouvernable un pays ou un territoire. Je crois que ces objectifs vont être atteints avec le projet de loi dans sa forme actuelle.

Souhaitons qu'après les prochaines élections, les Rodriguais auront l'occasion de débattre plus en profondeur sur la question de savoir si d'autres réformes seront nécessaires et nous faire connaître ensuite l'opinion de la population et de tous les partis de l'île.

Je me réfère maintenant à l'*Explanatory Memorandum* du Premier ministre et à l'article 8 du projet de loi qui amende l'article 11 du *Rodrigues Regional Assembly Act*. Je n'ai aucun problème avec les mathématiques proposées par le Chef du gouvernement. Elles consistent tout simplement en un réajustement dans la répartition des sièges en trois catégories d'élus, soit, premièrement les *first-past-the-post (FPTP)*, deuxièmement, ceux du système proportionnel et, troisièmement, ceux qui seront nommés pour assurer une majorité de trois sièges au parti qui aura obtenu sept sièges ou plus dans la première catégorie.

Le deuxième amendement le plus important est proposé dans une tentative d'augmenter la représentativité féminine dans l'Assemblée régionale. Il s'agit de l'article 6 du projet de loi qui amende l'article 8 du *Rodrigues Regional Assembly Act*. Le principe de plus en plus agréé universellement et que l'objectif ultime devrait être une parité totale ou presque des représentations masculines et féminines. L'objectif est louable mais personne ne sait si

l'électorat va suivre et produire une telle représentation idéale. Sans compter que Maurice elle-même ne donne pas le bon exemple en la matière avec seulement sept femmes parlementaires. L'occasion nous est donnée pour commencer à corriger à Rodrigues cette anomalie contraire à un système démocratique avec l'espoir d'une Assemblée nationale plus représentative. Je donne raison au Chef du gouvernement pour cette touche de féminisme qu'il a mis dans son projet de loi.

Comme le Leader de L'opposition, le Premier ministre est connu lui aussi pour son soutien à la juste cause féministe.

Pour terminer je ferai moi aussi un appel tout comme le *Leader* de l'opposition aux parties de l'Opposition à Rodrigues de se concilier avec ces changements parce qu'ils introduisent deux mesures positives et raisonnables pour améliorer la composition de l'Assemblée Régionale. Je fais surtout appel à leur sens de responsabilité. On doit maintenant attendre la réaction du peuple aux prochaines élections.

Je vous remercie, Madame la présidente, et je remercie tous les membres de la Chambre pour leur attention.

(6.16 p.m.)

The Minister of Social Security, National Solidarity and Reform Institutions (Mrs F. Jeewa-Daureeawoo): Madam Speaker, allow me right from the outset to thank the Rt. hon. Prime Minister for bringing these two important pieces of legislation in the Assembly today. In fact, both pieces of legislation constitute a landmark by allowing the island of Rodrigues to take a decision regarding its political, social and economic development.

Madam Speaker, Chapter 6(a) was added to our Constitution in December 2001 and came into effect in January 2002. Chapter 6(a) of the Constitution established the Rodrigues Regional Assembly. The Rodrigues Regional Assembly Act 2001, that is, the Act, was enacted to make Council. The amendments being proposed in the Rodrigues Regional Assembly (Amendment) Bill 2016 are not only designed to drive the Assembly towards greater stability, but also to enable Rodrigues to be at par with Mauritius when it comes to gender representation.

Madam Speaker, in many new and established democracies it has become clear over the years that universal suffrage does not in itself lead to the establishment of representative

legislatures. Many sections of the population continue to be excluded for one reason or the other and this includes women. While the debate about the empowerment of women in decision-making often focuses on issues of justice, equity and human rights, an adequate representative of women and the inclusion of their perspective and experience in legislatures will inevitably lead to solutions that are more viable and satisfy a broader range of society. That is why women should play a more important role in political life. I think we all stand to benefit.

This Bill intends to reform the electoral system in Rodrigues in two significant aspects. First, it lays the foundation for a more equitable representation of parties in the Rodrigues Regional Assembly. In addition to this, it also provides that additional seats where needed will be allocated to ensure an overall majority of three seats to the party which has won seven or more local region seats.

Madam Speaker, this new formula paves the way to more stability in the Assembly as in whatever circumstances will command a majority in the Assembly. The odd number of seats is favourable to generating a working majority. Under the former formula, the likelihood of ending up with a knife edge majority was significant. If my memory serves me right, this was the case in 2012 when the winning party was reduced to a weak majority of just one seat. Such a situation rendered the administration of the Rodrigues Regional Assembly not only difficult but also subject to a lot of pressures from party Members and the opposition. The administration of the said institution was substantially undermined, especially after the unfortunate demise of one of its Members, as rightly pointed out by the Rt. hon. Prime Minister.

The amendments being proposed today advocate a more balanced and structured approach aimed at creating a more stable and cohesive Government and more particularly at preventing the reoccurrence of similar scenarios as the one that occurred in 2012. Moreover, these amendments will safeguard the will of the electorate in all circumstances by ensuring that the party to whom the people have cast their vote at elections continue to hold sway in the original Assembly, the wishes of the electorate will always prevail. In fact, the very essence of any democratic Parliament is that it should be representative of the popular will as expressed in the choices made by the electorate.

The Rodrigues Regional Assembly should be governed by the same principle and this amendment upholds the democratic principles underlying the functioning of this particular

institution. Henceforth, the island will no longer be constantly confronted with the risk of being politically fragile nor will the good administration of the Rodrigues Regional Assembly be challenged in any manner.

The second praise where the aspect of the electoral reform contemplated by this Bill is the promotion, as I've said, of adequate gender representation. It is being proposed that each registered party presenting more than two candidates at an ordinary election must ensure that no more than two thirds of the total number of candidates of that party in the six local regions be of the same sex. According to the Digest of Statistics on Rodrigues 2015, we have an estimated resident population of 24,058 in the island of Rodrigues as at 31 December 2015. This is made up of 20,682 males and 21,676 females. It was high time that the law provides for a gender neutral formula as part of its electoral procedures. In an era where the world is thriving to increase gender equality, this amendment to the Act should be welcomed by each and every one of us. Rodrigues is indeed following a healthy lead.

Moreover, it is worth highlighting that in 2011, a similar amendment was brought to section 16 of the Constitution to the effect that a minimum number of candidates for election to local authorities should be of a particular sex. This constitutional amendment was followed by an amendment to the Local Government Act, as has been said by orators before me, whereby provision was made for adequate representation of each sex in a local authority. The amendment pertaining to adequate gender representation to the Rodrigues Regional Assembly Act is a replica of the amendments brought to the Local Government Act back then. I'm sure that Members of this House will agree with me that this constitute indeed a major leap towards gender parity both in Mauritius and in Rodrigues.

Madam Speaker, allow me now to say a few words about the amendment to the Constitution. Our Constitution is the bedrock of political and social stability. However, it requires constant improvements to reflect the social realities. Our Government is setting the example as a nation which is braced for constitutional amendment at any time whenever the need for such changes is felt. The impetus lies in the motivational goal of the Government to promote social cohesion. It is a fact that over time we have been striving to achieve gender neutrality in all fields of societies. The right to vote and the right to stand as candidate in an election are two most cherished rights enjoyed by our citizen. In an attempt to ensure adequate representation of

each sex in the Rodrigues Regional Assembly, the present Government is coming forward with an amendment to section 16 of the Constitution and relevant amendments to the Rodrigues Regional Assembly Act 2011.

Section 16 of our Constitution guarantees us protection from discrimination. It provides essentially that no law can make provision that is discriminatory either in itself or in its effect. Discriminatory means affording different treatments to different persons attributable wholly or mainly to the respective description by sex among others. In 2011, we witnessed an amendment to section 16 of the Constitution whereby provision was made for the possibility of having a minimum number of candidates for election to Local Authorities to be of a particular sex. The Constitution (Amendment No. 2) Bill (No. XXX of 2016) provides for a similar, but equally significant amendment to section 16 of the Constitution by allowing for a minimum number of candidates for election to the Rodrigues Regional Assembly to be of a particular sex. This amendment will undoubtedly lead to more adequate female presentations in the Rodrigues Regional Assembly.

Therefore, Madam Speaker, as I have said earlier these two pieces of legislations constitute a landmark. We are happy to have brought these two important pieces of legislation in the Assembly today. In fact, these two important pieces of legislation will pave the way to more stability in the Rodrigues Regional Assembly. I wish the Rodrigues Regional Assembly well.

Thank you.

Madam Speaker: Hon. Jhuboo!

(6.26 p.m.)

Mr E. Jhuboo (Third Member for Savanne & Black River): Madam Speaker, I would like to thank you for giving me the opportunity to intervene on the Rodrigues Regional Assembly (Amendment) Bill (No. XXIX of 2016).

What is being proposed, what is being introduced today, Madam Speaker is to keep the first-past-the-post system with 12 members for six Constituencies. To keep the proportional representation, but to adjust the number of island-wide seats from 6 to 5. To allocate premium seats to guarantee an overall majority of, at least, three seats to the winner of the first-past-the-post system irrespective of its vote share and to make provision for, at least, one third of the total

number of candidates of either gender to be on the list *pour une meilleure représentation feminine*.

The initial anti-defection provision has been put aside in consideration of constitutional issues mais force est de constater que l'instabilité chronique est principalement due aux faibles nombre d'élus qui souvent mettent en péril la stabilité du gouvernement du jour. Cette loi, l'*anti-defection law* aurait permis à ceux qui ne sont plus en ligne avec la direction pour le *leadership* de leur parti respectif de –

- (i) dans un premier cas, s'ils sont élus au *first-past-the-post* de démissionner et d'affronter une partielle, et
- (ii) dans le deuxième cas, s'ils sont élus dans la proportionnelle d'être remplacé par celui qui le succède en termes de vote.

Malheureusement, cette loi n'a pas pu passer le test de la constitutionnalité et a dû être retirée, mais je pense que le comité devrait ne pas s'arrêter en si bon chemin et continuer à explorer cette avenue.

Madam Speaker, we all agreed that there is no perfect, there is no ideal electoral system. There is no such system that can satisfy each and every one. We are, from this side of the House, for the electoral reform. But what is crucial, what is fundamental is that the system is equitable, the system is fair, the system is inclusive and that it provides stability, governability, but, more importantly, at the end of the election results, it should clearly reflect the will and the wish of the people. What is being proposed today for Rodrigues, for the provision of three premium seats for the party who has ensured seven or more local region seats is unheard of. It does not exist anywhere in the world where there is a mix between PR and first-past-the-post mode.

Le système actuel fait provision pour 71% des votes sous le *first-past-the-post* et 29% pour la représentation proportionnelle. Cette dernière, la *PR*, vient corriger les anomalies du *first-past-the-post* en allouant des sièges en fonction du pourcentage de vote. Aujourd'hui on alloue trois sièges en créant une majorité artificielle.

Maintenant, quelles provisions ont été faites dans le cas où aucun parti ne remporte au moins sept sièges. Aucun! La provision de donner, d'allouer trois sièges additionnels ne s'applique si seulement le parti a obtenu au moins sept des douze sièges.

Donc, si on prend un cas concret, les élections régionales de 2006. Au *first-past-the-post*, le Mouvement Rodriguais obtient 55. 8%. L'OPR, lui, obtient 43.1%. Donc le Mouvement Rodriguais fait élire 6 députés, l'OPR 6 élus; moins de 7 élus chacun. Sous la formule actuelle de six élus sous la proportionnelle, le MR, ayant obtenu le plus fort pourcentage à la proportionnelle, est octroyé 4 sièges ; l'OPR, quant à lui, 2 sièges. Résultats des courses en 2006, *first-past-the-post* et proportionnelle; 10 élus au MR, 8 élus à l'OPR ; donc, une majorité de 2.

Si on applique la formule proposée qui est celle de ramener 6 élus à 5, quels auraient été les résultats? À la proportionnelle, le MR aurait obtenu 3 sièges ; l'OPR, 2 sièges - donc, 5. Le résultat final aurait été le MR, 9 ; l'OPR, 8. Au lieu de venir corriger une anomalie, au lieu d'être garante d'une majorité confortable, pour le vainqueur c'est le contraire. Elle réduit l'écart de un. Donc, encore plus d'instabilité !

Deuxième point fondamental, Madame la présidente, est la représentativité des femmes à l'Assemblée Régionale. L'équation est simple; inclure des femmes sur les listes est une chose mais s'assurer qu'elles soient élues en est une autre. C'est ça le point fondamental. Si dans des circonscriptions acquises à l'OPR, le MR décide de placer des dames, et vice versa, les chances qu'elles soient élues sont très faibles. C'est une façon de pallier à la sous représentativité des femmes et d'inclure une femme par région au *first-past-the-post* dans les six districts.

L'autre façon de corriger cette anomalie est sur la représentation proportionnelle. On met les femmes sur les listes à la proportionnelle mais si elles sont placées au bas de la liste, donc pas en première position - *well, it defeats the purpose* - elles ne seront pas repêchées à la proportionnelle. Une façon de palier à cela est d'accueillir en séquence hommes et femmes sur les listes afin de garantir une accessibilité à la Chambre la gêne féminine.

Je voudrais conclure, Madame la présidente. Beaucoup de choses ont été dites sur les relations qu'entretiennent Maurice et Rodrigues. Rodrigues est la fille aînée de la République de Maurice et elle mérite une grande considération. Cet amendement pourrait modifier la donne en transformant un perdant en un gagnant. Prescrire un traitement censé guérir la maladie a parfois des conséquences plus graves que la maladie elle-même. Cependant je le redis, nous sommes pour ses amendements. Le gouvernement et nos sœurs et nos frères Rodriguais sont venus avec cette proposition et bien essayons ! Je vous souhaite bonne chance pour cette nouvelle formule électorale et surtout pour les prochaines élections régionales.

Merci.

Madam Speaker: Hon. François!

(6.33 p.m.)

Mr J. F. François (First Member for Rodrigues) : Madam Speaker, after having listened carefully to all hon. Members who preceded me, allow me to congratulate them for their invaluable contributions to this historic debate on the two Bills introduced by the Rt. hon. Prime Minister to whom I am thankful as well.

Madam Speaker, today is a great day for Rodrigues. The people of Rodrigues, in a time of progressive politics, in a time of positive thinking and attitudes, in a time of real affirmation of our common ambitions and choices and what values us, people of Rodrigues in the Republic of Mauritius, we are making an important choice for a new electoral system, an institutional decision for our democracy after 14 years of maximum autonomy to reshape the electoral results of Rodrigues starting from next Regional Assembly election, bearing in mind that there is no perfect system.

Madam Speaker, I have read Article 30 of the report of the Constitutional Commissioner, Professor S. A de Smith in November 1964 where it was proposed and I quote –

“A Member from Rodrigues to be elected by the Local Authority and he would be entitled to speak in debate, but should be precluded from voting except on legislation specifically to Rodrigues”

That was in 1964. Today, that is not the case. Rodrigues has obtained its status of maximum autonomy, rightly pointed out by the hon. Leader of Opposition. That is huge progress for our democracy in our Republic. The current electoral system, from the great job done by late Judge Ahnee and late Antoinette Prudence, needs to be improved for fairer democratic parliamentary representation and fairer votes.

History will recall, Madam Speaker, on the 20 November 2001, how in this august Assembly, each and every hon. Member voted unanimously for the Rodrigues Regional Assembly Act presented by Rt. hon. Sir Anerood Jugnauth as Prime Minister together with hon. Paul Bérenger, then Deputy Prime Minister. Hon. Joe Lesjongard as Minister for Rodrigues, hon. Dr. Ramgoolam as Leader of the Opposition and from Rodrigues, hon. Serge Clair, hon. Alex

Nancy who represented OPR Party, and hon. Von-Mally and hon. Christian Leopold represented MR Party from Rodrigues.

Today, what a different scenario insofar as Rodrigues' representatives are concerned! Following the massive unprecedented defeat of MR party and other alliances during the last national election, only OPR Party is participating in this important debate in the face of history.

Madam Speaker, I will speak freely my mind in support to this Constitution (Amendment No. 2) Bill (No. XXX of 2016) and the Rodrigues Regional Assembly (Amendment) Bill (No. XXIX of 2016). Rodrigues, being itself unique and original, is making great progress as it is in good hands, with concrete results for the population and no one can deny this very positive determination towards our future.

Madam Speaker, before going further, allow me to be grateful to everyone who has contributed to this present electoral reform for Rodrigues despite all circumstances with critics and challenges that cropped up, which, in fact, illustrate clearly that our democracy is working. It was expected that there would be contentions in connection to any new electoral system and methods of securing representation in the Regional Assembly as is the case.

Madam Speaker, the Ministerial Committee on Electoral Reform for Rodrigues chaired by the Deputy Prime Minister, Minister of Tourism and External Communications, I am sure, must have realised that their assignment was a very challenging responsibility to ensure that what is being proposed would be accepted and would reflect the wish of the population of Rodrigues.

Madam Speaker, we have to understand that election laws and procedures often must undergo periodic changes based on lessons learned during past elections, sufficiently canvassed from both sides of the House. It is certainly beyond debate that Rodrigues is in an urgent need of an electoral reform. Why an electoral reform for Rodrigues? I believe it is simply to reform the present electoral rules to more closely meet the goals of more equitable representation of parties, political stability, governability, sustainability and gender equality through a minimum number of candidates to be of a particular sex. The present reform is also a promise and a commitment of the Rt. hon. Prime Minister to the people of Rodrigues.

The Chief Commissioner, Louis Serge Clair, my Leader, Leader of the OPR party also has the moral obligation to honour his electoral promises as clearly defined in his Electoral

Manifesto for the Third RRA elections of 05 February 2012, entitled: “*OPR Le Grand Retour - Espoir et Libération Pour Consolider et Réussir L'autonomie*”. Allow me to refer to page 10 of this manifesto, article 23, which reads as follows: “*Ensemble nous voulons proposer des amendements au RRA Act afin de le rendre plus efficace*”.

Madam speaker, we simply want an electoral system that echoes the best intentions for Rodrigues and we have to make a choice, a choice and decision for an electoral system that any political party - not only OPR party - and the population at large can be involved in for its successful electoral system development or reform process. Certainly, I agree that there is no ideal electoral system that fits every situation.

Madam speaker, I note that much of the media debate on the Rodrigues electoral reform has focused on issues of process and legitimacy rather than on the actual substance of reform and the design of an electoral system best suited to Rodrigues needs and values. Here, I have to acknowledge the shared valuable analysis of Dr. Sithanen, our national electoral scholar.

Further, many argued that the electoral reform is based on a partisan interest to satisfy OPR and Serge Clair. Not at all, Madam Speaker, as Rodrigues, from all corners, wants a new system that provides stability, even those who are currently making political gymnastic. The amendment today is not for the OPR party but for any governing party in Rodrigues after the election.

Madam Speaker, I agree that electoral reform in any democracy requires broad dialogue and public consultation, but it will always be difficult to have an electoral reform agenda that reflects cross-party consensus as well as broader societal perspectives.

Madam speaker, now, let me remind partly the chronology of the reform consultations' process. Consultations with regard to electoral reform started as far back as in 2012 during the former Prime Ministerial visit of Dr. Ramgoolam from 02 to 04 November 2012 in Rodrigues.

As rightly pointed out by the Rt. hon. Prime Minister in his reply to the PNQ of the Leader of the Opposition on Tuesday 30 November 2016, there were wide consultations held with different stakeholders. More precisely, consultations were held on 08 and 09 May 2014 with the Chief Commissioner and his colleagues of the Executive Council, working sessions with Departmental Heads because they are the ones who have worked with the Administration of the Rodrigues Regional Assembly, the representatives of the MR party, namely, the Minority Leader and his team on Friday 09 May 2015 at 10.45, and the FPR party leader and his team on the same

day at 11.00/11.30, the Chairperson of the Rodrigues Regional Assembly and representatives of four trade unions and the *Front pour l'Avancement de l'Autonomie de Rodrigues*.

This implies that there is no imposition or unilateral decision as qualified by some with regard to the proposed RRA amendment Bill.

Madam Speaker, I also like the concluding remark and posture of my learned friend, Jean Claude Bibi, who stated to a Union in Rodrigues, and I quote –

“Electoral Reform is a political issue that concerns all political parties and all citizens. We all know that there is no perfect electoral system. It will be up to political parties to ultimately make their choices; I am far from qualified to advise Rodriguans. I am the one who have a lot to learn from them(...)”

This is humility in action.

Madam Speaker, as rightly pointed out by the Rt. hon. Prime Minister and the hon. Deputy Prime Minister, I reiterate that it was the OPR regional Government who requested this reform or initial amendments to the RRA Act.

Then, there was the Sir Victor Glover Draft Proposals Report with a few interesting and challenging amendments proposed which, certainly, have some implications on the true spirit of autonomy. I have to clarify that there was proposal for three candidates per region, 6 x 3, that is, 18 and if there is 18-0, the additional seats will go to the Opposition party. So, there was always going to be either 18, 19-2, 19-3, 19-4, but never 19-0 or 18-0.

However, if one scrutinise the Press since 2012 onwards, all political parties in Rodrigues agreed on the necessity to amend the RRA Act to review the electoral system.

Allow me to cite the former Minister Von-Mally, Leader of MR, on 25 March 2011 on *Lexpress.mu*, who stated, and I quote –

« *Je pense qu'avant les élections régionales, il faudrait amender la loi pour qu'il y ait plus de stabilité au niveau de l'Assemblée Régionale.* »

Further, in *Week-End*, dated 10 July 2016, he maintained that -

« *Au sein du MR, nous sommes en faveur de ces changements pour enlever la représentation proportionnelle du passage électoral. Nous avons pratiqué ce système et*

même si la PR reflète le vote de l'électorat en nombre de sièges, elle n'ouvre pas la voie à une majorité confortable et permet le chantage. Nou pe guete l'avenir Rodrigues pou enn pli gran stabilité - and it is above party politics. »

Unfortunately, the actual Minority Leader of the Rodrigues Regional Assembly contradicted his own Leader in “Le Défi Media” on 11 July 2016, where he said -

« La proportionnelle est une preuve de démocratie. On peut certes la revoir, l'aménager, mais pas l'abolir. »

Madame la présidente, c’était juste pour vous démontrer la légitimité de cette réforme et que le parti de l’Opposition Rodriguaise, le MR, n’est pas crédible dans sa prise de position. Lors de la séance du 16 novembre 2016 à l’Assemblée régionale de Rodrigues, le MR a continué de démontrer que la position du *Minority Leader* est diamétralement opposée de celle de son *leader, the former Minister*. Alors, comment ce parti à ‘2 têtes’, je dirai, pourra inspirer la confiance dans la population de Rodrigues.

Madame la présidente, maintenant permettez-moi d’exprimer sur la question de l’autonomie de Rodrigues?

Cette autonomie qui est un vrai projet de société pour Rodrigues, un trait d’union de notre vision et valeur au sein de la république. Cette autonomie qui est devenue la colonne vertébrale de Rodrigues aujourd’hui dans sa quête de développement est en pleine confiance. Mais, est-ce que cette autonomie est comprise par tout le monde? Est-ce que c’est clair dans la tête de tous les citoyens de la République, y compris tous nos parlementaires ici présents dans cette Chambre? Qu’est-ce que nous voulons léguer à la prochaine génération? Tant de questions, Madame la présidente.

But, what is important today, is that we are amending to bring consensus amongst us all here, in this National Assembly and especially to the acceptance of the people of Rodrigues, to whom I am answerable, and surely not all of them and I do respect that. That is democracy.

Madam Speaker, allow me to reiterate the status autonomy as one of the most valuable assets of Rodrigues, within the Republic of Mauritius, which amongst others -

- a. means to recognize and value Rodrigues identity, specificity, its people, our culture, our history, our political and geographical separation together with all the variables associated with, that is its spirit, this autonomy;
- b. it means that – as also raised by my colleague, hon. Leopold, Rodrigues is self-governing and we are the own masters in all decisions of importance in all matters that concern and affect our lives and future. This is an issue that at times leads to conflictual and misunderstanding of interpretation of responsibilities;
- c. this autonomy means unity and solidarity of the people of Rodrigues. This is where, I treasure the inspiring words of my leader Serge Clair towards the people of Rodrigues, every time he pronounces this phrase and I quote –

« Construisons ensemble la grande famille Rodriguaise dans cet esprit de solidarité, de fidélité et de fierté pour une île Rodrigues plus prospère que jamais et cela est un choix fondamental pour l'avenir de Rodrigues. »

Madame la présidente, est-ce que l'actuelle réforme électorale représente un idéal conforme à la nation rodriguaise ou au peuple de Rodrigues? Les réponses sont multiples et il faut dire la vérité et « *caré-caré* » en assumant des choix pour l'avenir. Il est bon de souligner que Rodrigues est en marche vers une Grande Destinée comme une île autonome. C'est notre ambition plus forte que tout, et c'est par amour pour notre île Rodrigues autonome.

Rodrigues deviendra un exemple incontournable pour la région Océan Indien et je dirai même pour le monde entier et c'est en marche. Prenons l'exemple de notre souci primordial pour l'environnement dans notre quête pour une île Rodrigues écologique par nos prises de décisions. Je salue le courage de notre champion, le Commissaire Payendee, très proactive et avant-gardiste *as rightly pointed out by hon. Pravind Jugnauth.*

Madam Speaker, this is what exactly the Rt. hon. Sir Anerood Jugnauth wanted Rodrigues to achieve as he stated in his speech on 20 November 2001 and I quote –

“What is being proposed is only a beginning. What happens next will depend on our Rodriguan brothers and sisters themselves, on the way they manage their affairs and on the extent of their success. We earnestly want it to be a showcase for the region, if not the world.”

Those were the words of Sir Anerood Jugnauth and I can say, Madam Speaker, to the House and to the Rt. hon. Prime Minister that we, from OPR Party, are proudly honouring same.

I also value what the hon. Leader of Opposition, then Deputy Prime Minister, heartened – I say heartened - about his commitment, confidence and maturity in the people of Rodrigues. I sincerely appreciate the phrase “*Nous étions engagés à donner le maximum d'autonomie à Rodrigues*”. I have also to cite what hon. Dr. Ramgoolam said on that day and I quote –

“What is important at the end of the day, (...)"

He was the Leader of the Opposition then,

“(...) is that Rodriguans get a degree of autonomy, that they have both a stable Government, a degree of fairness and a system that is equitable.”

There was unanimity for the autonomy of Rodrigues in the House on 20 November 2001.

Madam Speaker, surely, Rodrigues Autonomy has made progress during these 14 years. Now, coming back to the electoral reform, being given that Sir Victor Glover's proposals were not retained, let me cite part of the initial proposals for the Rodrigues Regional Assembly (Amendment) Bill, which relates to –

- (a) the method of election of six members to be the island region members;
- (b) gender equality in representation in the RRA;
- (c) crossing the floor or anti-defection, powers of the RRA;

amongst others. Sir Victor Glover, in his own words, reported that the hardest nut to crack was the Proportional Representation.

Madam Speaker, as the Rodrigues Regional Assembly remains the supreme institution to take responsibility on behalf of the people of Rodrigues and what was proposed for concurrence with regard to the Rodrigues Regional Assembly (Amendment) Bill by the RRA pursuant to section 75E of the Constitution was in order. Very important section: section 75E of the Constitution, this is what protects the Regional Assembly.

Madam Speaker, the purpose of Regional Assembly, I have to say, is to debate matters affecting Rodrigues. It is the place where the people's representatives of Rodrigues can speak and deliberate. Very important! And I will say, those who chose to be somewhere else, that is not

our concern because we, from the OPR Party, want responsible politicians, we want responsible people to lead Rodrigues and to work for Rodrigues. However, any Bill in front of the Regional Assembly will either be defeated or voted for on the floor of the House, but not on Facebook by Unions or in the streets with ‘pancarte’ and verbal abuse. Not one *pancarte*, a few *pancartes* in the streets!

Madam Speaker, seriously, I do respect their freedom of speech and expression by those who took the street with banners to express their views on the proposed amendments. I have to say that I appreciate the courage of the only Independent respected Member, Mr Christian Agathe, for his non-partisan stand during the debates for concurrence. He said and I quote - I listened well as I was there –

« Je vais parler objectivement pour défendre Rodrigues et non avec une idée partisane. »

I congratulate him for this stand.

Madam Speaker, the respected Member also proposed a few amendments during the Committee Stage at the Regional Assembly for consideration to be given by Cabinet to amend the Regional Assembly (Amendment) Bill. During the question put by the Chairperson in the total absence of MR and FPR parties on 30 November, they preferred to boycott purposely and refused to come even though they were not suspended. I note that one of the proposals of the respected Member was even agreed to by the OPR Government.

Madam Speaker, an important political philosophy of OPR is its functional neutrality as a binding principle in the interest of Rodrigues. I have read hon. Showkutally Soodhun somewhere at the time when there was new sitting arrangement for OPR representatives at National Assembly in 2006 following OPR defeat at regional election, he agreed fully with that principle, when he mentioned and I quote –

« Je trouve «très bien» que l'OPR garde sa neutralité : Serge Clair est un homme de principe et il a prouvé qu'il n'est pas prêt à les abandonner pour gagner quelque chose en retour. »

(Interruptions)

That was very well said.

(Interruptions)

No, I don't want to make any comparison, but you know, people of Rodrigues, we talk with our heart.

Yes, Madam Speaker, I reiterate that when OPR party is in power in Rodrigues, OPR always works with the Government of the day at National Assembly in the interest of Rodrigues. Madam Speaker, the Opposition side in Rodrigues and a Union in particular - I have to clear a few things - are questioning us about what is the “deal” between OPR and Central Government with regard to the present Electoral Reform. Allow me to refer to what a Member from the Opposition side said. He questioned -

«*Quel deal vous avez fait avec le gouvernement de Maurice? Je ne sais pas. C'est très suspicieux. Quel deal?* »

Madam Speaker, I am sure the Rt. hon. Prime Minister, the Ministerial Committee as well as the Chief Commissioner, Serge Clair, will agree with me that there is no deal and there will be no deal. It's simply a question of principle and respect and ensuring proper functioning of institutions in the interest of the people of Rodrigues and Rodrigues autonomy.

Madame la présidente, les partis de l'opposition rodriguaise, le MR et le FPR, je dois le dire ici, veulent faire de l'Assemblée régionale de Rodrigues et son autonomie ‘un bazar à leur propre sauce’. Ils veulent toujours de l'instabilité. Je me souviens encore quand ce politicien qui aujourd’hui manifeste contre la réforme électorale avait dit violemment au sein de l'Assemblée régionale, «*fou la loi dan coin ! Ki pou fou are la loi ?* » I don't know if this is unparliamentary
...

Madam Speaker: Yes, this is unparliamentary. Please mind your language!

Mr François: Thank you, Madam Speaker. I'm saying that with my heart. This comes straight from my heart, Madam Speaker, as a Rodriguan.

Madam Speaker: Yes, I know, you are getting very passionate about it.

Mr François: Sure!

Madam Speaker: Yet, you should mind your language!

Mr François: Thank you, Madam Speaker.

Aussi, ce même politicien a traversé le « *Mace* » pour aller menacer Serge Clair, mon Leader, lui traitant de « je suis venu te dire en face que tu es un fou. »

Madame la présidente, ce n'est pas étonnant de voir ce qui s'est passé avec ce même politicien le mardi 16 novembre à l'Assemblée régionale de Rodrigues. De plus, la scène a été filmée par un autre membre de l'opposition. J'ai vu de mes propres yeux ! Incroyable !

Madame la présidente, mes chers honorables collègues, soyez rassurés que l'OPR, surtout sous le leadership de Serge Clair, nous n'avons pas mené le combat pour l'autonomie de Rodrigues pendant plus de 25 ans pour ces mauvaises images qui salissent Rodrigues. C'est pour cela que l'OPR parle toujours de refaire l'image de Rodrigues et le besoin d'une rupture.

Now, Madam Speaker, let me come to the provision of the Bill. Section 16, subsection (4) of the Constitution is amended, by inserting, after paragraph (aa), the following new paragraph –

This is important.

“(ab) for a minimum number of candidates for election to the Rodrigues Regional Assembly (...)”

Today, Madam Speaker, this is a great day. This is history for Rodrigues.

“(...) to be of a particular sex, with a view to ensuring adequate representation of each sex in the Rodrigues Regional Assembly;”

Madam Speaker, it is a fact that our electoral system is dominated by male, and since Independence, in 1968, our Parliaments have had minimal representation of women. In amending section 16, we are ensuring that the Rodrigues Regional Assembly is entrenched in the Constitution for gender democratic measure. This amendment is creating opportunities for both genders to have access to representative positions in local politics through the mandatory quotas. It ensures the presence of both genders in election results and encourages integration for more women in politics in Rodrigues.

I seize this opportunity, Madam Speaker, to congratulate you also for your devotion for the setting up of a Parliamentary Gender Caucus at the level of the National Assembly, which shall promote this constitutional mandate as well. This constitutional amendment - I think it is important and hon. Mrs Perraud mentioned it once - fulfils the Beijing Declaration and Platform

for Action, to empower women for their full participation on the basis of equality in the decision-making process and access to power.

Madam Speaker, from statistics worldwide, women's average share of Parliamentary membership nearly doubled between 1995 and 2015, from 11.3% - this is international trend - in 1995 to 22.1% in 2015. It is a fact that jurisdictions with electoral systems based on PR elect more women than those with a first-past- the-post system. Most of the countries with 30% or more women in their National Parliaments use PR-based systems. This is a fact. If I look at the Rodrigues Regional Assembly, in 2012 - I won't go through all the years of elections - the number of women in election for the first-past-the-post from OPR was 2/12, that is, 17% and MR was 5/12, that is, 52%. After the result, women in the RRA are 3/18 for OPR, that is, 17% and 2/18, that is, 11%, for MR. The overall representation in the Regional Assembly is 5/18, that is, 28%. But what shocked me, Madam Speaker, despite this fundamental effort to increase gender, some people, especially a politician from Rodrigues said –

« Est-ce qu'il nous faut une loi pour avoir plus de femmes, plus de participation féminine dans la politique à Rodrigues ? On n'a pas besoin d'une loi pour venir dire combien de femmes il faut y avoir. »

This is being said by a politician from Rodrigues. Madam Speaker, bizarrement, son leader, dans une conférence de presse mardi dernier, est venu dire publiquement à Rodrigues qu'il est d'accord avec le « gender proposal » du présent amendement. Quelle contradiction !

Je dois dire, Madame la présidente, heureusement que nous, au niveau de l'OPR, we have a reliable school of political thoughts and transformation under the able leadership of Serge Clair. I have in mind here the honoured leadership of the Deputy Chief Commissioner, Mrs Gaspard Pierre-Louis, the Commissioner for Arts and Culture, Mrs Edouard, the backbencher Marie Dieu Steliania Perrine, and all the women in Rodrigues behind them in the party. I congratulate them for their endeavour for the betterment of Rodrigues and the whole Republic.

Madam speaker, rest assured that Rodrigues, especially OPR party, will not fail in meeting its gender quota and empowerment of women to join politics. However, predicting how many of women candidates stand a good chance of being elected is extremely tricky and depends on a party's political strategy to win elections. However, I am sure there will be some surprise, as always.

Madam speaker, I also want to pay tribute to the late hon. Zita Jean Louis, the first and only Rodriguan woman in the political history of Rodrigues who have served the National Assembly in 1987 under the banner of OPR party.

To conclude on this gender chapter, Madam Speaker...

(Interruptions)

This is Rodrigues' time!

To conclude on this gender chapter, Madam Speaker, inserting the Gender Quota, in the constitution of Mauritius anchored a great democratic *avancée* for our Republic and the autonomy of Rodrigues.

Madam Speaker, let me put on record as well the appreciated attitudes of Government not to impose the Bills, but to wait for the concurrence by RRA. I am thankful also to the Central Government to have acceded to the non-concurrence of the Regional Assembly on this issue of double candidacy.

Madam Speaker, I have to say that, unfortunately, in the coming regional election there will be no anti-defection measures. The hon. Leader of Opposition was right to relate how damaging it has been the “*transfugisme episode*” to the electoral system of Rodrigues during his PNQ of 19 July 2016. But what bothers me are those politicians who canvassed that “*nou pe pran pouvoi dan 2 semaines, dan 1 semaine, dan 3 mois!*”

(Interruptions)

This is important! Fortunately, hon. Serge Clair is still in power in Rodrigues.

(Interruptions)

Madam Speaker: Order!

Mr François: They wanted to rely on the possibility of a ‘Remake of 2006’...

(Interruptions)

Madam Speaker: Order, please!

Mr François: ...to buy one elected Member to form a new Government. *Enn nouveau gouvernement transfuge!* It looks like *transfugisme* is part of their political culture. This is one of the reasons why we say we need to amend this RRA Act.

Madam Speaker, at times, I reflect back on what would have been the political scenario if late Commissioner Ismael Valimamode had passed away early this year, thus necessitated a by-election. I think this also was raised by hon. Leopold. If MR would have won, the Opposition would have obtained 11 seats and OPR 10 seats! You realise this very unjust and unfair scenario, being given that OPR party had 4 majority seats from the first-past-the-post and, after Proportional Representation votes to seats, have only 1 majority! Is it normal that such system when applied, ‘kapav vinn renverse enn gouvernement majoritaire et légitime’?

Madam Speaker, the additional majority seats, the 3 as provided in the Bill, surely are needed and are pertinent for stability and governability. I think we have to ponder on the question of sudden death by any regional Member. This is a very important point: the sudden death of any regional Member.

Madam Speaker, some argued that what happened to Serge Clair in 2002, which I would say, was his choice and the political strategy of the OPR party. Whether it was a right one that is another debate! But, today, with a system that maintains the threshold of 10% vote of a party, I must say I am for, that this could have been raised to 12.5% to avoid a fragmented Assembly with many small parties and that will also ensure that there is no overdose of PR despite provision of the majority of 3 seats.

Madam Speaker, I have another chapter, but I think I won’t go through it.

(Interruptions)

It is with regard to what those political unions in the Rodrigues are saying, but I have to quote something. I reaffirm strongly that there was no unilateral decision with regard to consultations. Even those unions are making a lot of noise because they, themselves, on 08 May 2014, made proposal where they said -

“For Rodrigues Regional Assembly Amendments to have more power and democracy - Section 6 (2) should be amended to – listen to this! - provide for each citizen, including

Government employees, to take part in active politics, and that it be declared illegal for any company or employer to prevent its employees from taking part in politics.”

Madam speaker, I raise this point because it is clear intention that the unions, especially one union, want to do active politics and at the same time being a public officer. This is why they are mingled with two pro-independence parties who sat on the same table with them, lobbying for a no-vote to the proposed RRA amendments. However, to their great disappointment, the OPR Government on 16 November did not vote ‘yes’, and this is simply OPR since 1976.

The non-concurrence to the amendments followed by a Resolution of the OPR regional Government is still disturbing them. I congratulate my colleague from Rodrigues Regional Assembly (RRA) for their courage and determination in the interest of Rodrigues and Government as well for their understanding.

Further, Madam Speaker, I have to put this on record. Shocking! They said, I quote –

“Si Gouvernman OPR al de lavan avek sa deal la, l’organisation syndicale pou nepli enan aukaine respe, pou nepli rekonet l’assemblée rezional sou gouvernance actuel.”

Madam Speaker, is this a menace by public officers? Do they think they are playing in a poker game?

Madam speaker, I seize this opportunity to remind public officers that our Republic is governed under a democratic system characterised by the rule of law, free and fair elections, the doctrine of separation of powers as guaranteed by our Constitution. The Constitution clearly sets out the separation of powers amongst Legislative, Executive and Judiciary. In the same breath, the recent Code of Ethics for public officers, updated by the Minister of Civil Service Affairs and Administrative Reforms, hon. Wong Yen Cheong, provides for their:

“Obligations to the Government of the Day and Relationship with Ministers (in the case of Rodrigues, the Commissioners), Good Practices during a Pre-Election Period, Political impartiality, Responsibility towards the Public, amongst others.”

Madam Speaker, I reassure the House, that it is not this contradictory Union which will determine the destiny of the people of Rodrigues on a political front. And, as I said earlier, I am speaking freely my mind today, Madam Speaker. *Je n’accepterai jamais la logique de bouc-émissaire ou le diabolisme des clivages de ces syndicats dans leurs stratégies de rabaisser les*

politiciens et la politique locale à Rodrigues.

Madame la présidente, il faut bien comprendre que les Rodriguais, pacifiques comme ils sont, n'accepteraient jamais d'être dictés de n'importe quoi. Il y a des limites à la démocratie que, nous, au niveau de l'OPR, nous ne pouvons cautionner.

To conclude, Madam Speaker, I fully support the Constitution (Amendment No. 2) Bill (No. XXX of 2016) and the Rodrigues Regional Assembly (Amendment) Bill (No. XXIX of 2016) for a better future and governance for Rodrigues. I seize this opportunity to propose the Electoral Commissioner to consider future electronic voting and upgrading our electoral list with photos of each elector.

I acknowledge the Electoral Commissioner's innovation to have introduced National ID card system, which is preventing massive election fraud...

Madam Speaker: Hon. François, I have given you much leeway....

Mr François: Yes, I am concluding.

Madam Speaker: Please, restrict yourself to this Bill!

Mr François: Yes, I am concluding, Madam Speaker.

(Interruptions)

Madam Speaker, let me extend my heartfelt appreciation to the Rt. hon. Prime Minister, the hon. Leader of the Opposition, the Ministerial Committee chaired by the Deputy Prime Minister, hon. Xavier Duval, the Chief Commissioner of Rodrigues, Louis Serge Clair, the Deputy Chief Commissioner, Mrs Pierre-Louis and the Executive Council of Rodrigues Regional Assembly, all Members of this august Assembly, the Chairperson of Rodrigues Regional Assembly and Members there, the Island Chief Executive, the former Judge, Sir Victor Glover and all non-politically biased NGOs from Rodrigues for their contribution to this very amendment of the Constitution and RRA Act.

Madam Speaker, I end and I will say Rodrigues to reach the promise land and I will quote Joshua 1:5 from the Bible –

“No one will be able to stand against you all the days of your life. As I was with Moses, so I will be with you; I will never leave you nor forsake you. Be strong and courageous,

because you will lead these people to inherit the land I swore to their ancestors to give them.”

Madam Speaker, this is my contribution and I thank you for your kind attention.

Madam Speaker: Hon. Bhagwan!

(7.21 p.m.)

Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière): Thank you, Madam Speaker. After this very long and passionate speech from my good friend, hon. François, I won’t be very long. I shall be very brief.

It is a great day for Rodrigues and it is a great day for our Parliament. I am very happy to be here this late evening to intervene on the Rodrigues Regional Assembly (Amendment) Bill and the Constitution (Amendment No. 2) Bill, which I am sure, from what we see, there would be unanimity in the House in voting these two Bills.

Madam Speaker, I say ‘happy’ because I was here when the first Bill was voted following the general election of 2000 and the 2000-2005 Government brought the amendment to the Constitution on the Rodrigues Regional Assembly Act and today, we are coming in the House through the Bill presented by the Rt. hon. Prime Minister to go further in this direction.

Madam Speaker, we are discussing this Bill and we have our midst a strong delegation from Rodrigues. We are very appreciative. They have been here since this morning. We congratulate them. And also, we can’t, when we are discussing this Bill, not have a special thought for our late friend Commissioner, Mr Ismael Vallymamode, who has worked a lot for Rodrigues during his tenure of office and also during his tenure as civil servant in the Ministry of Health. So, we owe him a respect and it is good that it is on record that we congratulate him. The Republic of Mauritius and also Rodrigues place on record his contribution for the good work he has done for Rodrigues and for Mauritius.

Madam Speaker, as stated by the Leader of the Opposition, on this side of the House, on the MMM side, we are for the amendments proposed by the Rt. hon. Prime Minister. The MMM, prior to 1982 and after the 1982 general election and up to now, we have always been supportive to the cause of our brothers and sisters in Rodrigues in all ways. We have supported Rodrigues

when we have been in the Opposition and we have supported Rodrigues when we have been in Government.

We have been to Rodrigues to meet our friends in Rodrigues, to discuss their problems and be also their *porte-parole* in our National Assembly whenever there was no Member for Rodrigues to raise issues concerning Rodrigues. I, myself, although I have been to Rodrigues on many occasions, but I have made it a point to ask Parliamentary Questions here, in our National Assembly, concerning the day-to-day life, the day-to-day problems of Rodrigues and also liaising with our friends, the MPs of Rodrigues, the local and the national Members.

Madam Speaker, when we brought the first legislation concerning the setting up of the Rodrigues Regional Assembly Bill, what the Government then had denied is to give maximum autonomy to Rodrigues. It was not only in words. We brought the legislation to the National Assembly, the then Prime Minister, the Leader of the Opposition was then the Deputy Prime Minister, he was in the forefront of our showcase. We, not only brought the Bill to the National Assembly, but we also made it a must in Government - many of my friends here will remember, we were in Government - to give them the means to the Regional Assembly to perform in their work.

The Leader of the Opposition was then the Minister of Finance, when presenting his budget, he stressed on the issue of empowering our brothers in Rodrigues when presenting his budget. Rodrigues – I'll just quote -

“(...) on our economic agenda takes into account the need to empower our fellow citizens in Rodrigues to take their destiny in their own hands.”

Which they have done! They have done perfectly well. Rodrigues has progressed. If Rodrigues has progressed, Madam Speaker, it was through the means the Central Government then gave to Rodrigues.

Madam Speaker, for the first time, paragraph 334 of the then Budget Speech says -

“Mr Speaker, Sir, total provisions for Rodrigues alone will exceed Rs1 billion for the first time in the history of Rodrigues.”

This is where the thing started. The then Government gave the means to our brothers who were managing the affairs of Rodrigues and everything started from there, the development of

Rodrigues accelerated, the Regional Assembly started working and we have seen over the years the fantastic work which has been done in Rodrigues.

What they have achieved in Rodrigues, the Regional Assembly, even here, Madam Speaker, we have to take lessons from Rodrigues in terms of environment, especially in terms of *change d'appartenance*, with its own specificity, *non seulement appartenance à Rodrigues, mais appartenance à la république de l'île Maurice*. I would like to congratulate the Rodriguan people and also the Members of the Rodrigues Regional Assembly for the excellent work they have done over the years, in all sectors, in the Tourism sector and in infrastructure. Yesterday, I saw on TV a very nice building which was being set up at Anse-aux-Anglais. Congratulations! Very nice building! Even here we don't have such type of building which, I think, the Minister of Public Infrastructure should go there and take some inspiration.

(Interruptions)

You have been! I don't think so!

Madam Speaker, we have brought the institutional reform, we have given autonomy to Rodrigues, we have started working and there have been problems in Rodrigues which we all know. This is why Government is bringing this Bill after having listened to everybody. I think it is a good step on the eve of this very important election. We pray that this election goes on smoothly. It will come early next year, I am sure.

What I also think, Madam Speaker, we all expect that there would be political stability. This is what we pray for; it will come out after the election. The question of gender balance also, we congratulate those women who are working as Commissioners, they are doing an excellent job. We are sure – like in our Local Government system here, we have one woman in each ward – that the number of women will be increased and will join the excellent team, which has been working over the years.

We pray also that one day there might be a woman Chief Commissioner in Rodrigues. Why not? This I am sure will come. A Speaker or a President of the Rodrigues Regional Assembly!

Madam Speaker, in Mauritius we still have people who don't understand this autonomy. Even people in Government *pas bien compran ce sens d'autonomie*. If you ask me, there are too many Ministers going to Rodrigues. This is my personal opinion. There are too many Ministers!

Rodrigues has its own autonomy. We are a Parliament, we vote Budgets. They have a local Assembly. *Nous n'avons pas besoin de cette mainmise.* I still remember when I was Minister of Environment and we were preparing the first 2002 amendment to the Environment Protection Act, we made it a must to discuss the proposed amendment with our friends in Rodrigues *pour qu'il y ait cet esprit de régionalisation et d'autonomie.* That had been the case, *préparer cet amendement dans l'esprit de la régionalisation.* I hope that, during the coming months, the Government/the Prime Minister will see to it that there is less interference but within the parameters of our legislation. There should be less interference, less *mainmise.* *Il faut qu'il y ait des visites à Rodrigues mais pas autant. Il ne faut pas se déplacer à Rodrigues pour un oui ou un non parce qu'on veut se suppléer aux responsables du Rodrigues Regional Assembly.*

Madam Speaker, as I have said I won't be long. We wish good luck to our friends, brothers and sisters of Rodrigues. We pray that this election goes on smoothly, that there is good participation. What we want is the well-being of our brothers and sisters in Rodrigues and we hope that Rodrigues will not only try to solve their water problem which is the main one in Rodrigues but also be a sort of *grenier* for *l'Ile Maurice* and a big source for our tourism diversification.

Thank you, Madam Speaker.

Madam Speaker: Rt. hon. Prime Minister!

(7.33 p.m.)

The Prime Minister: Madam Speaker, I wish to thank all the hon. Members who have participated in the debates on these two Bills. It is comforting to note that we all here, whether on this side of the House or on the other side, have at heart the interest of our brothers and sisters in Rodrigues.

Madam Speaker, I want to take this opportunity to clarify a few issues regarding the process which had been raised in this House and outside. First, several persons have voiced out particularly from the Opposition parties here and in Rodrigues that not enough consultations have been held prior to bringing this Bill to the House. This is not correct. Madam Speaker, I would never have introduced such a Bill in the National Assembly without having consulted our

brothers and sisters in Rodrigues. I have too much respect for them to omit such an important part of the process.

What is true is that consultations have been ongoing at every stage during the drafting of the Bill. This is why it has taken so much time. Sir Victor Glover, to whom the responsibility of preparing the first draft of the Amendment Bill was entrusted, has had wide consultations with the various stakeholders in Rodrigues as far back as May 2014 prior to submitting his proposals.

Thereafter, the Ministerial Committee on Electoral Reforms chaired by the Deputy Prime Minister, Minister of Tourism and External Communications examined the draft Bill and came up with new proposals. The Chairperson and a few other Members of the Committee had proceeded to Rodrigues during the course of this year and had further consultations on the revised Bill with the different stakeholders there including *les Forces Vives*.

On my side, I had discussions on the matter with Members of the Rodrigues Regional Assembly and the Executive Council. The Electoral Supervisory Commission was also consulted by my Office although it was not mandatory for me to do so. Moreover, we must not forget that this Bill has received the approval of the Regional Assembly. However, I understand that, at least, one political party in Rodrigues has not met with the Ministerial team despite the invitation extended to its representatives.

In addition, during the presentation of the two motions of concurrence in the Regional Assembly, the Opposition parties have been making walk-ins and walk-outs, but this is not new and it forms part of the democratic system. What is of essence today is that the Bill has been passed and approved by the Regional Assembly. In any way, it would be utopic to expect a 100 per cent consensus on these matters. So, it is clear that it is not correct to say that wide consultations have not been held.

Madam Speaker, another issue raised is the timing regarding the introduction of this Bill. Some have argued that it was not appropriate to introduce the Bill before the holding of the regional elections. I do not agree with this. We have at hand a problem that needs to be addressed before the elections and not after. The present system, if remained unchanged, will again resent the high risk of creating yet another situation of a majority being turned into minority. I do not say that the proposed system is perfect but it will, at least, have the merit of giving a clear majority to the winning party to allow it to govern and implement its policies.

Madam Speaker, I wish to inform the House that, during the course of discussions I had with the various stakeholders, it was also proposed to make amendments to other clauses of the main Act but I have requested that we limit ourselves to the electoral reform only as we were dealing with electoral reform. Moreover, after consultation with the Electoral Supervisory Commission, it has been decided not to consider the proposal of including anti-defection measures and a clause on the possibility of the double candidature of the leader of a registered party.

As regards matters pertaining to administrative procedures the proposal to amend the law should not be the first option. There is need in the first instance to find the administrative solutions to administrative problems prior to considering legislative amendments.

Finally, I must say that I am satisfied that there is unanimity in this House regarding the possibility of having more women to stand as candidates for the regional elections. I think there was a question put by one Member asking what will happen if the First-Past-The-Post result is 6-6. I think it was hon. Jhuboo. Well, in that case, the PR seats will be allocated according to percentage of votes obtained. I am confident that we are taking the right and positive steps towards having a more stable Regional Assembly which will, in the long term, benefit our brothers and sisters in Rodrigues.

Thank you, Madam Speaker.

Question put and agreed to.

Bills read a second time and committed.

COMMITTEE STAGE

(Madam Speaker in the Chair)

The following Bills were considered and agreed to -

The Rodrigues Regional Assembly (Amendment) Bill (No. XXIX of 2016).

The Constitution (Amendment No. 2) Bill (No. XXX of 2016).

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

Third Reading

On motion made and seconded, the Rodrigues Regional Assembly (Amendment) Bill (No. XXIX of 2016) was read the third time and passed.

On motion made and seconded, the Constitution (Amendment No. 2) Bill (No. XXX of 2016) was read a third time.

The Prime Minister: Madam Speaker, I move for a division.

(Division Bells were rung)

AYES

1. Hon. R. C. Uteem
2. Hon. K. Teeluckdharry
3. Hon. K. Tarolah
4. Dr. the Hon. R. Sorefan
5. Hon. Ms M. Sewocksingh
6. Hon. D. Sesungkur
7. Hon. Mrs D. Selvon
8. Hon. S. Rughoobur
9. Hon. D. Ramful
10. Hon. K. Ramano
11. Hon. J. P. F. Quirin
12. Hon. G. Oree
13. Hon. Mrs M.C. J. Monty
14. Hon. S. Mohamed
15. Hon. G. P. Lesjongard
16. Hon. J. C. G. Lepoigneur
17. Hon. J. B. Leopold

18. Dr. the Hon. Z. H. I. Joomaye
19. Hon. E. S. Jhuboo
20. Hon. A. B. Jahangeer
21. Hon. M. Gobin
22. Hon. A. Ganoo
23. Hon. S. Fowdar
24. Hon. J. R. Dayal
25. Hon. P. K. Armance
26. Hon. J. N. A. Aliphon
27. Hon. J. F. François
28. Hon. J. H.T. Henry
29. Hon. M. S. Abbas-Mamode
30. Hon. T. Benydin
31. Hon. M. C. E. Boissézon
32. Hon. J. C. S. Toussaint
33. Hon. Mrs D. Boygah
34. Hon. R. Rampertab
35. Hon. Mrs R. Jadoo-Jaunbocus
36. Hon. S. Ramkaun
37. Hon. S. Rutnah
38. Hon. M. S. Hureeram
39. Hon. R. Bhagwan
40. Hon. P. Jhugroo
41. Hon. A. C. Duval

42. Hon. P. R. Bérenger
43. Hon. S. Callichurn
44. Hon. M. R. A. Wong Yen Cheong
45. Hon. P. Koonjoo
46. Hon. Mrs F. Jeewa-Daureeawoo
47. Hon. S. Bholah
48. Hon. S. Bhadain
49. Hon. Mrs M. A. M. J. Perraud
50. Hon. A. K. Gungah
51. Hon. S. Baboo
52. Hon. M. K. Seeruttun
53. Hon. M. J. N. E. Sinatambou
54. Hon. P. Roopun
55. Dr. the Hon. M. A. Husnoo
56. Hon. A. Gayan
57. Hon. Mrs L. D. Dookun-Luchoomun
58. Hon. N. Bodha
59. Hon. Y. Sawmynaden
60. Hon. S. Lutchmeenaraidoo
61. Hon. P. K. Jugnauth
62. Hon. I. L. Collendavelloo
63. Hon. S. Soodhun
64. Hon. C. G. X. L. Duval
65. The Rt. Hon. Prime Minister

ABSENT

1. Hon. M.O. C. Mahomed
2. Hon. J. C. Barbier
3. Hon. V.C. Baloomoody
4. Hon. S. M. A. Ameer Meea

ABSTENTION: Nil

Madam Speaker: Hon. Members, the results of the division are as follows -

AYES : 65

NOES : Nil

ABSTENTION : Nil

ABSENT : 4

Hon. Members, I have to inform the House that the Constitution (Amendment No.2) Bill (No. XXX of 2016) has, on final voting, obtained 65 votes, that is, has been supported by a three-quarter majority as required by Section 47 (2) (c) of the Constitution.

The Bill was read a third time and passed.

(7.50 p.m.)

ADJOURNMENT

The Prime Minister: Madam Speaker, I beg to move that this Assembly do now adjourn to Thursday 15 December 2016 at 11.30 a.m.

The Deputy Prime Minister rose and seconded.

Question put and agreed to.

Madam Speaker: The House stands adjourned.

MATTERS RAISED

Madam Speaker: Hon. Members, I have got a long list of those who wish to raise matters on Adjournment. I request hon. Members to be very brief since we have only thirty minutes. Hon. Bhagwan!

PETIT VERGER – MORCELLEMENT GHURBURRUN – POLICE PATROL

Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière): Madam Speaker, my plea is addressed to the Rt. hon. Prime Minister. I am intervening on behalf of the inhabitants of *Morcellement* Ghurburrun situated at Petit Verger Road, between Petite Rivière and Pointe aux Sables. I have raised the issue here on two occasions concerning *une prolifération de vols*, thefts. I have spoken to the responsible officer of the Pointe aux Sables Police Station some time back and we were being promised that there would be Police patrol and there would be action on behalf of the Central CID. But, unfortunately, there has been a proliferation of thefts and with the coming of the end-of-year celebrations the people of the region are very concerned and they have asked me to request the Commissioner of Police through the Rt. hon. Prime Minister to, at least, increase patrol and Police watch through the Central CID. So, I rely on the Rt. hon. Prime Minister if he can direct the Commissioner of Police to do the needful.

The Prime Minister: Madam Speaker, I will take the matter with the Commissioner of Police.

STATE LAND - EIDGAH - LEASE AGREEMENTS

Mr R. Uteem (First Member for Port Louis South & Port Louis Central): Thank you, Madam Speaker. I would like to follow up a matter which I raised at Adjournment time on 15 November. It concerns the Ministry of Housing and Lands and it relates to the inhabitants of Eidgah on the State land who are still waiting for their lease agreements. They need these lease agreements in order to be eligible for the allowance for concrete roof slabs and for construction materials.

When I raised the matter on 15 November, the hon. Vice-Prime Minister and Minister of Housing and Lands stated and I quote –

“(...) I can say that next Wednesday, we are going to issue the lease.”

Next Wednesday, being the 23 November. We are now almost a month later and there is also, Madam Speaker, seven families who live in the Eidgah area who have not even received their Letter of Intent, so they also want to know when their situation would be regularised.

The Vice-Prime Minister, Minister of Housing and Lands (Mr S. Soodhun): Madam Speaker, last Wednesday, effectively we have issued the slab grant to the inhabitants of Vallée Pitot in general. For the seven families, I am going to look into it.

Madam Speaker: Hon. Quirin!

COROMANDEL – ROAD ACCIDENT

Mr F. Quirin (Fourth Member for Beau Bassin & Petite Rivière): Merci, Madame la présidente. Ce soir ma requête s'adresse au ministre des infrastructures publiques, l'honorable Bodha, et je pense qu'il est probablement au courant du violent accident qui a eu lieu lundi après-midi sur la route Royale à Coromandel et qui a fait deux morts. Donc, un motocycliste qui descendait vers Port Louis a heurté de plein fouet un passant qui traversait la route, un habitant de Belle Etoile, M. R. J., un retraité. Mais malheureusement aucun des deux n'a survécu.

Les habitants de Belle Etoile ont l'habitude de traverser la route sortant de leur région pour aller au supermarché de Winners. Ils le font à longueur de journée. Avec le nombre de véhicules qui empruntent cette route, matin et soir, dans les deux sens, il serait, à mon avis, souhaitable qu'un passage pour piétons soit installé à cet endroit précis où a eu lieu l'accident de façon à permettre aux habitants de Belle Etoile de traverser la route en toute quiétude. Je compte sur l'honorable ministre pour faire le nécessaire.

The Minister of Public Infrastructure and Land Transport (Mr N. Bodha): Madame la présidente, je prends bonne note des suggestions de mon collègue. On m'a appris, qu'au fait, il y a un passage clouté pas loin.

(Interruptions)

Un peu plus bas!

De toute façon, la meilleure chose est de faire une étude avec la TRMSU et je vais probablement inviter l'honorable Quirin à venir avec nous pour trouver la meilleure solution. Merci.

Madam Speaker: Hon. Rughoobur!

NEF – SCHOOL MATERIALS - ELIGIBILITY

Mr S. Rughoobur (Second Member for Grand'Baie & Poudre d'Or): Thank you, Madam Speaker. My request is addressed to the hon. Minister of Social Integration and Economic Empowerment concerning the distribution of school materials. Madam Speaker, I have received complaints from some families – I mean almost 54 families – in my Constituency residing in Ste Claire, Goodlands, Roche Terre and Grand Gaube who, I understand, were eligible for such school materials earlier, but under the new criteria the proxy means test introduced along with the SRM list, they are no longer eligible.

I am tabling the list containing the names and contact numbers along with some photographs of the precarious conditions under which these people are living.

I make a humble appeal to the hon. Minister to investigate into each case exceptionally for this year.

Madam Speaker: Hon. Rughoobur, do you have names on this list?

Mr Rughoobur: Yes.

Madam Speaker: If there are names on the list, I would request you not to table it.

Mr Rughoobur: Thank you, Madam Speaker. I am going to hand over the list privately. If the hon. Minister could exceptionally, for this year, look into it and try to see how he can bring support to these families.

The Minister of Social Integration and Economic Empowerment (Mr P. Roopun): Madam Speaker, following the last exercise for registration, special desks have been set up at the level of the NEF to, in fact, look into those issues and to explain to the beneficiaries what are the criteria under which the selection and the registration have been made. In any event, I may also inform the hon. Member that a request has been made since last week with the Ministry of Finance to see whether exceptionally this year we are going to make a derogation to the policy

adopted so far. But until now we have to see if it is sustainable and most probably I will come with a statement in due course.

Madam Speaker: Hon. Lepoigneur!

(1) EDGAR ADOLPHE STREET, MARE GRAVIER – PARKING

(2) COROMANDEL – FATAL ROAD ACCIDENT

Mr G. Lepoigneur (Fifth Member for Beau Bassin & Petite Rivière): Merci, Madame la présidente, ma requête concerne le ministre des infrastructures publiques, l'honorable Bodha. Les habitants de la rue Edgar Adolphe, Mare Gravier m'ont fait parvenir une lettre depuis le mois de novembre. Depuis l'ouverture du supermarché Intermart de Chebel, les autorités ont mis une double ligne jaune tout le long de la rue Edgar Adolphe devant les portes des habitants. Ils ont envoyé une lettre de doléances parce qu'ils ne peuvent plus se garer devant leurs portes. Je vais déposer la lettre sur la Table de l'Assemblée. Je crois qu'une copie a été envoyée au ministère et au ministre.

Je rejoins l'honorable Quirin concernant l'accident qui s'est produit pendant le weekend où M. R.J. a trouvé la mort ainsi que le motocycliste. Deux mortalités le même jour. Effectivement il y a le feu de signalisation plus bas à Chebel et à Coromandel et il n'y a rien vis-à-vis de Winners. C'est très dangereux et il y a beaucoup de personnes qui traversent la rue pour aller chez Winners. Je pense que peut-être un *flyover* pourrait soulager les habitants de l'autre côté de la rue.

The Minister of Public Infrastructure and Land Transport (Mr N. Bodha) : Madame la présidente, je prends bonne note des deux doléances et je vais faire diligence une fois que j'ai la lettre.

MEDICAL COUNCIL – PRE-REGISTERED DOCTORS - EXAMINATIONS

Mr E. Jhuboo (Third Member for Savanne & Black River): Thank you, Madam Speaker. The issue is addressed to the hon. Minister of Health and Quality of Life. *Cela concerne les examens du Medical Council et les aspirants médecins.*

Now, 325 étudiants ont pris part aux examens, 245 ont été reçus. Seulement 200 seront pris pour leur internat. Donc, ma première requête au ministre concerne ces 45 étudiants qui ont passé leurs examens mais qui ne seront pas retenus pour l'internat. Qu'est-ce qui va leur arriver?

Qu'est-ce qui peut être proposé afin de les rassurer? Ils ont une crainte par rapport à la transparence de l'exercice de recrutement.

The Minister of Health and Quality of Life (Mr A. Gayan): Madame la présidente, il y a un nombre limité de places dans les hôpitaux pour ceux qui ont réussi aux examens. On va diviser le nombre de 245 en deux *batches* et on va les prendre dans la mesure du possible le plus tôt possible.

Madam Speaker: Hon. Ganoo!

STUDENTS – SRM REGISTER - SCHOOL MATERIALS

Mr A. Ganoo (First Member for Savanne & Black River): Madam Speaker, I want to raise an issue concerning the Ministry of Social Integration and Economic Empowerment. It relates to nearly the same issue which has just been raised by hon. Rughoobur. It concerns the distribution of school materials for students whose parents have been registered on the SRM.

The hon. Minister in a PQ last time or PNQ said that Rs30 m. have been budgeted for the purchase of school materials for this year. I just want to ask the hon. Minister whether, this year, the Ministry has decided not to distribute the school materials as such to the parents, but has taken instead the decision to hand over a cash grant to the parents. Can he kindly confirm this?

If this so, I wish to query the Minister whether this is wise or safer. Is it better for the Ministry to give a cash grant to the parents or shouldn't the Ministry have gone with the same tradition of arranging that the school materials be distributed physically to the parents? Can the Minister also inform us whether only parents registered on the SRM will be benefiting from this distribution of school materials or other beneficiaries of other basic pension or social aid who might not be on the SRM?

The Minister of Social Integration and Economic Empowerment (Mr P. Roopun): Madam Speaker, may I confirm that, for this year, Government will be giving a cash allowance of Rs1,500 for students of the pre-primary and primary schools and Rs2,000 for secondary school students.

In fact, Madam Speaker, we don't want to be too paternalist, and what we want to develop is an element of trust with the parents and try to empower them. Since 2014, the House should know that we are dealing with this issue in a very discreet and sober manner so that not to

stigmatise those poor students essentially. As hon. Uteem asked in a question, we try to be very discreet in those distributions. At the same time, we don't want to undermine the self-esteem of the students, especially those teenagers. Giving a cash grant is more flexible, and we trust the parents are going to judiciously use the money and determine by themselves what are the items that need to be purchased.

May I inform the hon. Member that, last year, we did this exercise in Rodrigues and it went on very well. Of course, we will try to see and monitor the situation. We will try to see whether, in fact, the grant we are giving will meet its purpose. But, for us, it is a very thrifty and cost-effective means through which we can give this support to the parents.

Insofar as those who are eligible are concerned, in fact, Government policy is to give those who are on the SRM Register, but I am trying to see with the Ministry of Finance if we can, exceptionally this year, give all the students who were on the previous social register, that is, the 13,000 families. But this will be confirmed in due course and I will come with a statement in the House regarding same.

Madam Speaker: Hon. Ramful!

LE BOUCHON - FISHERMEN - COMPENSATION

Mr D. Ramful (Third Member for Mahebourg & Plaine Magnien): Madam Speaker, I have an issue concerning the Minister of Ocean Economy, Marine Resources, Fisheries, Shipping and Outer Islands. It concerns the compensation that are payable to the fishermen who have been affected by the Benita shipwreck. They all come from the village of Le Bouchon and the vicinity, and they are from my constituency.

In fact, from a PQ that was answered by the Minister, it would appear that Government has claimed from the insurer a sum of Rs34,219,654. Apparently, up till now, a total sum of Rs12,543,000 has been recovered, and only Rs236,000 approximately have been paid to those fishermen - there are about 12 fishermen - and this amounts to approximately Rs19,000 only for one fisherman. They have been in unemployment since about six months now and this sum is a very meager sum, and they are very dissatisfied and disappointed with the compensation that is being offered to them.

May I request the hon. Minister to kindly see to it if he can review his decision?

Thank you.

The Minister of Ocean Economy, Marine Resources, Fisheries, Shipping and Outer Islands (Mr P. Koonjoo): Madam Speaker, I met the fishermen of le Bouchon twice and I told them that the money will be credited by the Accountant General and they were asked to give their account number so that we can process. But the sum that the hon. Member has talked about is not correct. It is exactly about Rs200,000 to be divided among 11 fishermen who have got their card. It is not about Rs4 m.; it is not accurate. Anyway, I will try to look into it.

Thank you.

Madam Speaker: Hon. Ramano!

COTE D'OR, HIGHLANDS - MORCELLEMENT AUREA

Mr K. Ramano (Third Member for Belle Rose & Quatre Bornes): Madame la présidente, je souhaite adresser le point suivant au ministre de l'Agro-industrie. Cela concerne un morcellement de plus de 400 lots, communément appelé Morcellement Aurea par le *SIT*, dans la région de Côte d'Or, Highlands. Ce morcellement résidentiel a été dument approuvé. Les réservations ont commencé en 2012, avec des termes de paiement terminant fin 2013 à la signature du contrat de vente.

Madame la présidente, bien qu'il y ait eu un engagement formel du *SIT* pour régulariser les contrats, les travaux d'infrastructure ont duré plus de trois ans, et les contrats ont été finalisés seulement en 2016, avec pour conséquence, après la signature des contrats, tous les acheteurs ont reçu un *claim* du *Valuation Office*, en raison du fait que le coût du terrain a apprécié pendant les trois ans écoulés. Et trois ans de perdus en raison du retard du *SIT* pour entreprendre les travaux d'infrastructure, les acheteurs se retrouvent aujourd'hui avec des *claims* de plusieurs milliers de roupies du *Valuation Office*.

Ma requête va au ministre pour reprendre la question avec le *Valuation Office*, car il est inacceptable que les acheteurs soient pénalisés en raison d'une faute du *SIT*.

The Minister of Agro-Industry and Food Security (Mr M. Seeruttun): Madame la présidente, je prends note de cette proposition. Cela relève du ministère des Finances, mais je vais prendre la question avec le ministère concerné et voir dans quelle mesure on peut considérer cette proposition.

At 8.12 p.m. the Assembly was, on its rising, adjourned to Thursday 15 December at 11.30 a.m.