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STATEMENT TO ELECTORAL COMMISSION REFERENDUM ON RESIDENCY REQUIREMENT FOR VOTER REGISTRATION

We have taken note of the request by President Danny Faure for a referendum on the above issue. I submit the position of LDS on this for your consideration.

We believe the request to the Electoral Commission at this stage is inappropriate and should not proceed.

Article 164 of the Constitution states that where a referendum is required *“An Act may provide for all matters necessary for the purpose of ensuring an effective and fair referendum”*. We place great emphasis on the need for the exercise to be ‘effective and fair’. This can only be achieved with a specific Act that will clearly lay out the issue and how the vote will be interpreted. It will not be justifiable for the President to rely on Article 54 of the Elections Act. Attorney-General Frank Ally has pointed out publicly the ambiguity on whether this section provides sufficient basis for a referendum on the present issue.

One critical point is the threshold for approval of the issue put before the voters. The President has stated that this should be 60%. This is entirely arbitrary. Article 91 of the Constitution gives that number for a referendum on certain particular provisions of the Constitution but it is clear that this does not apply to Article 114 in which the subject of residency is referred to.

The wording of the referendum needs to be judiciously and securely phrased if it is to be accepted as ‘effective and fair’. Furthermore, there is the question of whether this is to be approved by a certain majority of persons voting in the referendum or of all registered voters.

These matters cannot be specified except through an Act, as Article 164 stipulates. It is our view that the Electoral Commission cannot proceed on this without the Act.

As the President himself has noted, the issue of registration of overseas residents has already been proposed by the Electoral Commission. But, before the question is put to referendum, there are a number of points to be clarified. One of these, a point of great public concern, is the number of foreign nationals overseas who have been given Seychellois nationality without even setting foot in Seychelles. It is clear that Seychellois residents in general feel that giving them citizenship was illegal and immoral and will therefore not accept that their status is normalised through inclusion on the Voters Register even if they should come forward to register.

LDS believes that many Seychellois residing overseas deserve to have their right to vote recognised. These include people who were forced to leave the country as result of the 1977 coup d’etat. There are also people with very close ties to Seychelles, with family or property, who may not have been able to register in the past. On the other hand, there are many who have no connection with Seychelles. Seychellois voters today would like to know if a distinction can be made in terms of who should be entitled to be registered.

It would be unfair and not effective for Seychellois voters to be called to a referendum without these issues having been clarified. In other words, the Electoral Commission should be able to make a clear proposal before putting the question to voters.

Our concern is that without attention to the matters we have raised above, a referendum will be a meaningless exercise. It will not allow Seychellois to vote with clarity and without an Act for the purpose, the outcome will not be justifiable under the Constitution. It would therefore be a great waste of resources when the Electoral Commission has many other urgent needs to attend to.

I emphasise that the right of Seychellois citizens to participate in national affairs is enshrined in the Constitution and a denial of this right to those who deserve it, by a hasty and unsound referendum, would be a great injustice. It is therefore of paramount importance for the Electoral Commission to ensure that the issue of registration of voters is managed with full attention to legality and natural justice, and once again, to be 'effective and fair'.

Roger Mancienne
Party Leader

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