



SEVENTH NATIONAL ASSEMBLY

PARLIAMENTARY

DEBATES

(HANSARD)

(UNREVISED)

FIRST SESSION

FRIDAY 15 DECEMBER 2023

CONTENTS

PAPERS LAID

MOTIONS

STATEMENT BY MINISTER

BILL (*Public*)

ADJOURNMENT

THE CABINET**(Formed by Hon. Pravind Kumar Jugnauth)**

Hon. Pravind Kumar Jugnauth	Prime Minister, Minister of Defence, Home Affairs and External Communications, Minister for Rodrigues, Outer Islands and Territorial Integrity
Hon. Louis Steven Obeegadoo	Deputy Prime Minister, Minister of Housing and Land Use Planning, Minister of Tourism
Hon. Mrs Leela Devi Dookun-Luchoomun, GCSK	Vice-Prime Minister, Minister of Education, Tertiary Education, Science and Technology
Dr. the Hon. Mohammad Anwar Husnoo	Vice-Prime Minister, Minister of Local Government and Disaster Risk Management
Hon. Alan Ganoo, GCSK	Minister of Land Transport and Light Rail
Dr. the Hon. Renganaden Padayachy	Minister of Finance, Economic Planning and Development
Hon. Georges Pierre Lesjongard	Minister of Energy and Public Utilities
Hon. Mrs Fazila Jeewa-Daareewoo, GCSK	Minister of Social Integration, Social Security and National Solidarity
Hon. Soomilduth Bholah	Minister of Industrial Development, SMEs and Cooperatives
Hon. Kavydass Ramano	Minister of Environment, Solid Waste Management and Climate Change

Hon. Mahen Kumar Seeruttun	Minister of Financial Services and Good Governance
Hon. Maneesh Gobin	Attorney General, Minister of Foreign Affairs, Regional Integration and International Trade
Hon. Jean Christophe Stephan Toussaint	Minister of Youth Empowerment, Sports and Recreation
Hon. Mahendranuth Sharma Hurreeram	Minister of National Infrastructure and Community Development
Hon. Darsanand Balgobin	Minister of Information Technology, Communication and Innovation
Hon. Soodesh Satkam Callichurn	Minister of Labour, Human Resource Development and Training
Dr. the Hon. Kailesh Kumar Singh Jagutpal	Minister of Health and Wellness
Hon. Sudheer Maudhoo	Minister of Blue Economy, Marine Resources, Fisheries and Shipping
Hon. Mrs Kalpana Devi Koonjoo-Shah	Minister of Gender Equality and Family Welfare
Hon. Avinash Teeluck	Minister of Arts and Cultural Heritage
Hon. Teeruthraj Hurdoyal	Minister of Agro-industry and Food Security
Dr. the Hon. Mrs Marie Christiane Dorine Chukowry	Minister of Commerce and Consumer Protection
Dr. the Hon. Anjiv Ramdhany	Minister of Public Service, Administrative and Institutional Reforms

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MAURITIUS

Seventh National Assembly

FIRST SESSION

Debate No. 35 of 2023

Sitting of Friday 15 December 2023

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

The National Anthem was played

(Mr Speaker in the Chair)

PAPERS LAID

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

A. Ministry of Energy and Public Utilities

- (a) The Annual Report and Report of the Director of Audit on the Financial Statements of the Central Electricity Board for the year ended 30 June 2022. (In Original)
- (b) The Annual Report and Report of the Director of Audit on the Financial Statements of the Utility Regulatory Authority for the year ended 30 June 2022. (In Original)
- (c) The Annual Reports and Reports of the Director of Audit on the Financial Statements of the Mauritius Renewable Energy Agency for the years ended: (In Original):
 - (i) 30 June 2021; and
 - (ii) 30 June 2022.

B. Ministry of Industrial Development, SMEs and Cooperatives

The Annual Report and Report of the Director of Audit on the Financial Statements of the Fashion and Design Institute for the year ended 30 June 2022.

C. Ministry of Financial Services and Good Governance

The Annual Report of the Ombudsperson for Financial Services for the financial year 01 July 2022 to 30 June 2023 .

D. Ministry of Information Technology, Communication and Innovation

The Annual Report and Report of the Director of Audit on the Financial Statements of the Mauritius Digital Promotion Agency (ex National Computer Board) for the financial year ended 30 June 2019. (In Original)

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

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

The Deputy Prime Minister seconded.

Question put and agreed to.

STATEMENT BY MINISTER**COP28 – OUTCOME**

The Minister of Environment, Solid Waste Management and Climate Change (Mr K. Ramano): Mr Speaker, Sir, with your permission, I wish to make the following statement.

Since the year 1992, Mauritius is a signatory to the United Nations Framework Convention on Climate Change and its Secretariat extends an invitation every year to my Ministry, in its capacity as National Focal Point, to participate in the Conference of Parties. Pursuant to an invitation made again this year, I led a delegation at the 28th session of the Conference of Parties, commonly known as COP28, held from 30 November to 12 December 2023 in Dubai, United Arab Emirates, comprising the Ambassador Extraordinary and Plenipotentiary of the Republic of Mauritius to the Kingdom of Saudi Arabia, United Arab Emirates and Bahrain, officers of my Ministry, the Ministry of Foreign Affairs, Regional Integration and International Trade, the Attorney General's Office and the Mauritius Meteorological Services.

This year, COP28 was kick started by the World Climate Action Summit on 01 December and 02 December 2023, which was attended by some 154 Heads of States and Government, including myself as Head of the Mauritian delegation.

Mr Speaker, Sir, COP28 comprised various formal and informal negotiations as well as High-Level Ministerial sessions to guide the technical sessions. Moreover, side events were organised in parallel to highlight the achievements on implementation of climate actions and to encourage the networking of participants.

COP28 galvanised global attention, particularly on three key issues, namely -

- (i) the operationalisation and funding of the Loss and Damage fund;
- (ii) the conclusion of the first Global Stocktake, and

- (iii) the formulation of the Global Goal of Adaptation framework, which aimed at setting targets and metrics for parties to formulate and implement climate adaptation actions and monitor progress thereof.

Those outcomes were expected to guide the pathway to effectively implement the Paris Agreement by keeping the 1.5°C temperature rise alive, inform and strengthen climate adaptation and resilience of ecosystems and people, enhance means of implementation and provide the funds for loss and damage.

As an end result, an outcome document, named as the UAE Consensus Document by the COP28 Presidency, was adopted on 13 December 2023 with key decisions of interest to Mauritius, namely –

- (i) operationalisation of the loss and damage fund and pledges made by some countries to the tune of some 750 million US dollars for the capitalisation of the fund.

The Board of the fund will be hosted at the World Bank, on an interim basis, for 4 years and is expected to hold its first meeting in January 2024 to start working on the modalities of the funding mechanism. Accordingly, the candidature of two firms and two alternate Small Island Developing States can be submitted to serve as member to the Board. In that respect, Mauritius has submitted its candidature and the final decision now rests on the Alliance of Small Island States;

- (ii) adoption of the Global Stocktake to course correct action in order to keep the 1.5°C alive in this critical decade. Recommendations to triple the use of renewable energy and double energy efficiency by 2030 were also made. The final agreement refers to a global “transition away from fossil fuels in energy systems, in a just, orderly and equitable manner, accelerating action in this critical decade, so as to achieve net zero by 2050 in keeping with the science” This is the first time the shift away from fossil fuels has been explicitly included in a final agreement at COP. There is no mention of phase out or phase down of same. The term ‘transitioning’ has instead been used as a consensus. Based on the principles of equity and common but differentiated responsibilities and capabilities, countries will need to enhance their ambitions to meet the 1.5°C target;
- (iii) adoption of the Global Goal on Adaptation Framework to provide for a set of global adaptation goal to build resilience to the impact of climate. Global

targets have been agreed upon and next year, workshops and meetings would be convened by the Secretariat of the UNFCCC to propose indicators to meet those targets and link same to means of implementation, and

- (iv) provision of some USD 83 m. to existing financial mechanism namely the Green Climate Fund and the Adaptation Fund to support developing and vulnerable countries in their climate actions.

Mr Speaker, Sir, on 01 December and 02 December 2023, I attended the High-Level events (on Adaptation, Means of Implementation and Mitigation respectively) under the Chair of the first Global Stocktake High-Level Committee. World leaders seized the opportunity to underline the critical role of the Global Stocktake in order to address gaps and thereby provide for enhanced delivery of climate action and sustainable development objectives.

On 02 December 2023, I intervened in the first Summit of Leaders of the G77 and China under the Chair of Cuba. I stated the concerns of Mauritius while emphasising that same were aligned with those of the Group. Moreover, while highlighting the specificities of the small and vulnerable Member States within the Group, I advocated that special consideration should be given to Small Island Developing States in all forum and reiterated the need for developed countries to deliver on their promises to provide the necessary financial, technical and technological support to enable all Parties to work towards the targets of the Paris Agreement.

On 09 December 2023, during the second part of the High level segment, I delivered my statement whereby the vulnerabilities and specificities of Mauritius as a Small Island Developing States, the status of implementation of our Nationally Determined Contributions and the high cost of climate actions were highlighted. Furthermore, I urged for the provision of enhanced means of implementation for Small Island Developing States and developing countries.

Furthermore, I acted as keynote speaker and panellist in different High-Level side events on sectoral themes namely health, circular economy, energy, trade, amongst others.

Mr Speaker, Sir, in the margins of COP28, the Mauritian delegation attended all the formal and informal sessions under the Conference of Parties to the UNFCCC with regard to key priority agenda items, namely the Global Stocktake; Global Goal on Adaptation framework; Just transition, Climate Finance and Article 6 of the Paris Agreement which deals with market and non-market instruments. Those main themes

included several sub-themes items. While for some, decisions were adopted at the COP28, others remained to be further negotiated at COP29 next year.

Pursuant to a call made by my Ministry, the Economic Development Board and Business Mauritius, some 45 representatives of at least 16 public and private sector organisations had the opportunity to participate as speakers or moderators in the side events organised in the Commonwealth, the *Organisation Internationale de La Francophonie* pavilions and by the Indian Ocean Commission. The objective of those events was to allow both the public and private sectors to share local best practices in terms of green financing, circular economy, adaptation, and mitigation, amongst others as well as promote networking with regional and international partners.

Mr Speaker, Sir, as a way forward, my Ministry would be organising a debriefing session with all relevant stakeholders under my chairmanship with a view to apprise its members of the key outcome of COP28.

In the line with the preparations for the participation of Mauritius at the Conference, a core team, comprising representatives of my Ministry, the Ministry of Finance, Economic Planning and Development, the Ministry of Foreign Affairs, Regional Integration and International Trade and the Attorney General's Office, was set up under the Chair of my Ministry to prepare for the negotiation aspects. Given the critical importance of climate change as a multilateral process towards addressing climate actions and climate justice and, its strong linkage to our development agenda, I am proposing to formalise this core team which would include members from relevant Ministries, Departments and other stakeholders thereon.

Mr Speaker, Sir, I thank you for your attention.

Mr Bérenger: Mr Speaker, Sir, can I request the Minister to circulate his Statement so that we do not have to wait for Hansard.

Mr Ramano: Ce sera fait avec plaisir, M. le président.

MOTION

ELECTORAL BOUNDARIES COMMISSION REPORT – CONSTITUENCIES' BOUNDARIES - REVIEW

The Prime Minister: Mr Speaker, Sir, I beg to move the motion standing in my name, on the Order Paper, namely –

“This Assembly, in conformity with section 39(4) of the Constitution of Mauritius, approves the Report of the Electoral Boundaries Commission on the review of the boundaries of the Constituencies released in 2020 and which was laid on the Table of the National Assembly on 03 November 2020.”

Mr Speaker, Sir, the Electoral Boundaries Commission, established under section 38 of the Constitution has the statutory mandate under section 39(2) of the Constitution, to review the boundaries of the Constituencies of the Republic of Mauritius every 10 years and to submit a Report to the National Assembly following the presentation of its last Report.

According to section 118(4) of the Constitution, the Commission shall not be subject to the direction or control of any other person or authority in the exercise of its functions.

Pursuant to section 39(3) of the Constitution, the Report of the Electoral Boundaries Commission shall make recommendations for any alterations to the boundaries of the Constituencies as appear to the Commission to be required so that the number of inhabitants of each Constituency is as nearly equal as is reasonably practicable to the population quota. Population quota means, and I quote –

“the number obtained by dividing the number of inhabitants of the Island of Mauritius according to the latest official census of the population of Mauritius by 20.”

Upon presentation of the motion, the Assembly, may by resolution, approve or reject the recommendations of the Electoral Boundaries Commission but may not vary them, and, if so approved, the recommendations shall have effect as from the next dissolution of Parliament.

The motion is not merely a procedural formality; it represents a crucial step in upholding the democratic values of our nation. The adoption of the recommendations of the Electoral Boundaries Commission in its 2020 Report is a matter of utmost importance for the future of our electoral processes. If electoral boundaries are not periodically adjusted, population inequities may occur across Constituencies.

Mr Speaker, Sir, the Report of the Electoral Boundaries Commission was submitted by the Commission to Mr Speaker on 16 October 2020 and subsequently same was tabled in the National Assembly on 03 November 2020.

The 2020 Report is the outcome of the work started by the Electoral Boundaries Commission since 2015 in the preparation of the review of the boundaries exercise. The

Commission, had, by way of press communiqués, dated 16 November 2016, 28 February 2017 and 04 October 2018, invited political parties and interested persons to submit their views and suggestions in relation thereto. 52 written representations were received. The Commission had also conducted public hearings which started in April 2018 and ended in April 2019, during which 35 persons deponed on their own behalf and/or on behalf of the organisations they represented. The Commission gave careful consideration to all representations made in writing as well as those given orally. Thereafter, the Commission effected in situ visits during the months of April and May in 2018 and in 2019, to examine the views and suggestions received through the written representations and from deponents. The purpose of the site visits was to explore and assess the feasibility and practicality of the recommendations it was proposing to make. In spite of the halt caused in work of the Commission due to the writs of elections being issued on 06 October 2019 for the holding of the National Assembly Elections on 07 November 2019 as well as the challenges posed by the COVID-19 pandemic, the Commission has delivered on its mandate.

Mr Speaker, Sir, in fact, since Mauritius became independent in 1968, the Electoral Boundaries Commission has diligently fulfilled its constitutional duty, producing five reports on the review of constituency boundaries, namely in 1976, 1986, 1999, 2009, and 2020. The recommendations in the 1986 and 1999 reports were approved by the National Assembly, whilst the 1976 recommendations were rejected. The previous Report of the Commission, which had been submitted in 2009 and handed over to the then hon. Speaker of the National Assembly on 30 October 2009, was tabled in the National Assembly on 10 November 2009. The National Assembly was dissolved on 31 March 2010 but no resolution was presented in the National Assembly by the then Government to approve or reject the recommendations of the Commission.

Thus, the current boundaries of the 20 Constituencies of Mauritius, as described in General Notice 552 of 2000, are the same as those recommended in the 1999 Report of the Commission, which was presented to the National Assembly on 17 December 1999, almost a quarter of a century ago. The present boundaries, have served us well, however, the passage of time has brought forth a series of challenges that necessitate our urgent attention.

In the 2020 exercise, the Commission kept as guiding principle that for any alteration to any boundary, the number of inhabitants of each Constituency is as nearly equal as is reasonably practicable to the population quota. The exercise for determining the population quota for the present Report was based on the figures obtained in the latest

population census carried out in 2011. The approach adopted by the Commission has looked into all Constituencies in a holistic manner as they are interconnected and any alteration to a Constituency Boundary is likely to have a ripple effect on neighbouring Constituencies.

Since the recommendations of the last report were approved, our nation has undergone significant demographic changes. The Commission has taken into consideration, amongst others, the evolving social dynamics and the significant growth of residential developments that have resulted in population movement.

In its Report, the Electoral Boundaries Commission, after having carefully analysed the above-mentioned factors, made several other pertinent observations also, namely the impact of climate change on a number of geographical features, such as feeder canals and rivers which used to provide certainty to the limits of some Constituencies.

The Commission has also taken into consideration the significant growth of residential and industrial developments that have resulted in population movement, as well as other infrastructural developments which have brought about further alterations to some existing geographical features requiring the boundaries to be better defined. In certain regions, boundaries comprising old railway tracks, feeder canals and estate road no longer exist and there are also instances where the existing boundaries are cutting across existing housing estates as well as future residential developments. Certain residential developments have straddled more than one Constituency, with the result that electors living in the same area, find themselves in different Constituencies when it comes to electing their representatives. The Commission has consequently revisited some boundaries to correct this anomalous situation whilst taking into account other relevant factors as set out in the Report.

The Commission has, wherever possible, endeavoured to review and describe boundaries so that they become clearly identifiable. Also, as the House is aware, a Motion was passed in the National Assembly on 12 June 2019 for the inclusion of the Chagos Archipelago in one of the Constituencies of Mauritius. This has also been taken on board by the Commission in its recommendations.

Mr Speaker, Sir, the proposal for changes and amendments to the Constituencies has been supported by reasons, as clearly explained in the Report. In conclusion, the Commission made it clear that it had conducted its review of boundaries within the ambit of its constitutional mandate.

Mr Speaker, Sir, it is apposite to note that the Office of the Electoral Commissioner is planning to conduct a house-to-house inquiry which will be carried out from January to February 2024 for the purposes of compiling the 2024 register of electors. This register will come into force on 16 August 2024.

In the event the recommendations of the Electoral Boundaries Commission are approved, the house-to-house inquiry and eventually the publication of the new register of electors would be based on the new Constituency boundaries as approved by the National Assembly.

Mr Speaker, Sir, on this note, I commend the motion to the House.

The Deputy Prime Minister seconded.

(3.26 p.m.)

Mr P. Bérenger (First Member for Stanley & Rose Hill): Mr Speaker, Sir, hon. Members, I have to thank the Electoral Boundaries Commission and its Chairman for its report which is before us. I also wish to thank the Electoral Commissioner who must have provided vital feed-in.

As the hon. Prime Minister just said, the most the important constitutional proviso, the Electoral Board has to abide by when reviewing every 10 years the Electoral Boundaries, is section 39 of the Constitution which provides that each of the 20 mainland constituencies shall have the same, as nearly as possible and reasonably practicable, number, the same population.

We are at present very far from that. Even after this report, we shall still be very far from that constitutional proviso, and it is no fault of the Electoral Boundaries Commission. But the present report of the Electoral Boundaries Commission moves us in that direction on that issue. The Electoral Boundaries Commission obviously cannot please everyone and its report cannot do that and does not do that, but it has done its best.

The motion is to approve the Electoral Boundaries Commission's Report before us. It does not need a three-quarter majority to be approved, which means that the Government does not need the Opposition's vote to get the report approved. But, on our side, we do not disapprove *in toto* the Report of the Electoral Boundaries Commission. But, what we deplore, however, is the fact that this Report of the Electoral Boundaries Commission is brought before the House three years after it was laid on the Table of the Assembly and on the eve of the next general elections. This does not adequately provide for Members to get fully acquainted with the regions that will be added to their individual constituencies.

Thank you.

Mr Speaker: Hon. Ramano!

(3.29 p.m.)

The Minister of Environment, Solid Waste Management and Climate Change (Mr K. Ramano): M. le président, merci de me donner la possibilité d'intervenir sur la présente motion de l'honorable Premier ministre.

Avant d'entrer dans les commentaires du présent rapport, comme l'a si bien souligné le Premier ministre, M. le président, c'est un rapport fait selon les provisions constitutionnelles, notamment la section 39(3) de la Constitution, et qui se lit comme suit –

“The report of the Electoral Boundaries Commission shall make recommendations for any alterations to the boundaries of the constituencies...”

Et, M. le président, il faut aussi se rendre à l'évidence de l'autre partie de la section 39(3) –

“Provided that the number of inhabitants of a constituency may be greater or less than the population quota in order to take account of means of communication, geographical features, density of population and the boundaries of administrative areas.”

J'aurai l'occasion tout à l'heure d'entrer un peu plus en profondeur sur cet aspect des choses.

Cette Commission dont les membres, il faut le rappeler, M. le président, sont nommés par la section 38 de la Constitution et la *security of tenure* qui est aussi protégée par la section 92 de notre Constitution.

Il est important de le rappeler, M. le président, que ces dispositions constitutionnelles, notamment l'*Electoral Boundaries Commission* et l'*Electoral Supervisory Commission* ont été à la base du socle démocratique de notre pays.

L'indépendance de ces deux institutions est source de fierté du pays tant au niveau national qu'international. L'intégrité de ses membres ne souffre d'aucune contestation.

Exception faite de la campagne malsaine dont l'*Electoral Supervisory Commission* et son Commissaire ont dû faire face depuis la cinglante défaite de l'opposition en novembre 2019.

Ce même Commissaire a été récompensé par le prestigieux Centre international d'Etudes Parlementaires lors du 19^e Symposium international des affaires électorales à Lisbonne, Portugal. Cette reconnaissance prestigieuse souligne les contributions de Monsieur Irfan Rahman dans le domaine des élections et de la démocratie.

Cela fait plaisir aujourd'hui d'entendre l'honorable Bérenger remercier le Commissaire électoral pour sa contribution dans la publication de ce rapport de l'*Electoral Boundaries Commission* après avoir lui-même réclamé la démission de ce même Commissaire électoral.

(Interruptions)

M. le président, je déplore aussi les attaques systématiques de certains membres de l'opposition vis-à-vis de ces Commissions, de ces institutions indépendantes, protégées par la Constitution. Il y a par exemple *l'Express* du 1^{er} Novembre 2018 où dans un congrès du PMSD, l'honorable Duval s'en prend aux « fatras » de l'*Electoral Boundaries Commission*.

M. le président, dans ce même congrès, il va un peu plus loin –

« Les membres méritent jusqu'à la prison pour avoir violé la Constitution... »

Selon lui,

« La composition de l'*Electoral Boundaries Commission* doit changer car ceux qui y siègent ont failli à leur tâche. »

Et il va plus loin pour régler ses comptes avec ses adversaires politiques de l'époque –

« Les deux plus grands hypocrites sur cette question de redécoupage électoral sont Rama Sithanen et Paul Bérenger. »

(Interruptions)

C'est l'honorable Xavier Duval, M. le président.

M. le président, dans une île Maurice démocratique, il n'y a pas de place à la démagogie ; il n'y a plus de place à ce manque d'éthique de certains dirigeants de l'opposition.

Gageons que ce fut une période sombre de l'histoire démocratique de ce pays. Car il faut bien le rappeler, il n'y a rien de plus dangereux pour la démocratie d'un pays que lorsque l'on sape la confiance de la population dans les institutions.

M. le président, la présente motion est précise. Nous avons affaire à une proposition de découpage électoral en vertu de la section 39(2) de la Constitution –

“The Electoral Boundaries Commission shall review the boundaries of the constituencies at such times as will enable them to present a report to the Assembly 10 years, as near as may be, after 12 August 1966 and, thereafter, 10 years after presentation of their last report.”

Quatre rapports ont été soumis depuis l’indépendance du pays, notamment en 1976, 1986, 1999 et 2009. À titre de rappel, les recommandations de 1986 et de 1999 furent approuvées par le Parlement alors que celles de 1976 furent rejetées.

M. le président, le dernier rapport, avant celui-là, fut soumis au Speaker de l’Assemblée le 30 octobre 2009 et déposé au Parlement le 10 novembre 2009 mais, il est bon de retenir et que l’histoire puisse retenir cela M. le président, qu’aucune motion ne fut introduite pour son acceptation ou son rejet par le Premier ministre d’alors, le Dr. Navin Ramgoolam. J’aurai l’occasion d’y revenir, M. le président.

Ce rapport est soit accepté *in toto* ou rejeté *in toto*. Aucun amendement n’est permis à une quelconque circonscription. Autre garant de la constitution M. le président, ce n’est pas une majorité de vote dans le parlement qui détermine un quelconque amendement à des circonscriptions. La primauté de l’*Electoral Boundaries Commission* est soulignée à la Section 39 (4) de la Constitution. Donc, c’est une commission indépendante qui détermine les amendements à être apportés à des circonscriptions. Une fois approuvé *in toto*, les recommandations du rapport prend effet à partir de la prochaine dissolution du Parlement, c’est à dire, pour les prochaines élections générales.

M. le président, que ce soit du côté de l’opposition ou du côté du gouvernement, je suis sûr que chaque membre a des opinions, a ses propres observations et analyses quant à un quelconque découpage mais il convient de le rappeler dans une démocratie, il ne nous appartient pas en tant que parlementaire de procéder à des amendements mais c’est l’apanage d’une institution indépendante notamment l’*Electoral Boundaries Commission*. *In fine*, le Parlement approuve ou rejette l’ensemble du rapport.

M. le président, je souhaite ici m’appesantir sur les critères qui ont guidé l’*Electoral Boundaries Commission* dans son travail, la base de travail et les considérations de l’*Electoral Boundaries Commission* en procédant au découpage électoral. Comme cela a été dit, on divise la population selon le *census* de 2011 par 20 et on s’assure que les circonscriptions visées sont plus ou moins pratiquement égales au *population quota*.

On prend alors en considération *les means of communications, geographical features, density of population et les boundaries of administrative areas*. Il convient de

souligner que les rédacteurs de la constitution ont expressément voulu que ces éléments sus mentionnés soient pris en considération et le *population quota* soit aussi près que possible du chiffre calculé et qui est dans le cas présent 59,832 électeurs. Que cela soit claire ; le *population quota* n'est pas le seul critère qui détermine la décision de la commission. Avec ces critères objectifs, appliqués par une commission indépendante établie par la constitution, il n'y a pas de place pour les intérêts partisans d'un parti politique ou d'un leader politique. Voilà où se situe notre désaccord avec certains membres de l'opposition, notamment l'honorable leader de l'opposition, qui, je suis assez malheureux de voir qu'il ne figure pas sur la liste des orateurs aujourd'hui. Donc, la Commission n'a pas à satisfaire les intérêts d'un parti, M. le président. Il est là pour protéger le socle démocratique du pays.

Ainsi, M. le président, avant le découpage électoral de 1986, une partie de la région de Sodnac dans ma circonscription No.18 était dans la circonscription de La Caverne/Phoenix alors que l'ensemble de la région de Sodnac s'identifie avec la ville de Quatre Bornes. Il en est de même pour la région de La Source à Quatre- Bornes que l'honorable Paul Raymond Bérenger connaît très bien, qui votait dans la circonscription No. 19 – Stanley/Rose Hill avant les élections générales de 1987 alors que cette région fait partie intégrante de la ville de Quatre Bornes. Donc, c'était tout à fait normal que la région de La Source soit annexée à la circonscription No.18 de Belle Rose-Quatre Bornes. Donc, le découpage électoral de 1986 a corrigé ces anomalies, M. le président.

La question n'est pas de savoir quel est le parti politique, quel est le leader qui a laissé le plus de plume ou de moustache mais le fait demeure que ce fut une décision d'une commission indépendante établie par la constitution avec des critères objectifs. M. le président, le leader de l'opposition, leader du PMSD déplore le fait que malgré le découpage, la différence du nombre d'électeurs subsiste toujours entre certaines circonscriptions. C'est un fait M. le président,

M. le président, mais quand même, il ne faut pas non plus avoir la mémoire sélective. Le découpage électoral effectué en 1986 suivant la motion de SAJ s'est produit après 20 ans, c'est-à-dire, après le découpage de 1966. La motion d'aujourd'hui est présentée par le Premier ministre, l'honorable, Pravind Kumar Jugnauth alors que le dernier découpage, approuvé par le gouvernement, fut en 1999.

Les grosses différences sont inévitables mais il est au crédit de la commission qu'avant la présente réforme, il faut bien le souligner, la plus grande circonscription fut le No. 5 avec 65,115 électeurs et la plus petite fut le No. 3 avec 21,943 électeurs, soit dans un ratio de 3 :1. Avec la présente réforme, la plus grande circonscription devient Quatre

Bornes avec 56,267 électeurs et la plus petite, le No. 2, avec 29,962 électeurs. Le ratio diminue pour venir à 2 :1.

Que s'est-il passé en 2009 M. le président ? Le rapport, comme je l'ai dit, est soumis au Speaker le 30 octobre 2009, déposé au Parlement le 10 novembre 2009. Anne, ma soeur Anne, ne vois-tu rien venir ? L'honorable Paul Raymond Bérenger, leader de l'opposition dans une *PNQ* en novembre 2009, adressée au PM d'alors, demanda –

(a) *“When a motion will be introduced in the Assembly and in case it is approved, indicate if measures will be taken to ensure that no electors be disenfranchised”.*

(b) *“If a motion will be introduced in the Assembly for the inclusion of the islands of Chagos Archipelagos, Tromelin and St Brandon in such one of the constituencies as may be determined by the Electoral Boundaries Commission and as recommended in the report”.*

Une question importante à plus d'un titre mais qui donnait quand même une porte de sortie au Premier ministre, d'alors, le Dr. Navin Ramgoolam. Avec la compilation de la liste des électeurs après le 16 août 2009, il y avait un risque de '*disenfranchisement of electors*' en cas d'élection avant août 2010. A la différence de 1976, M. le président, l'*Electoral Boundaries Commission* avait prévu cela et recommandait expressément *« the taking of appropriate legislative measures to prevent the risk of disenfranchisement »*, mais il n'y a pas eu de provision législative à cela M. le président.

Donc, M. le président, dans ce même débat, l'honorable Paul Raymond Bérenger, malgré les tractations politiques en cours, ne pouvait cacher son agacement –

“The last report was presented in March 1999. Therefore, we are already late and I won't go into the reasons. I am sure the hon. Prime Minister is aware that in 1976, the then Prime Minister presented a motion 11 days after the report was tabled. In 1986 the then Prime Minister, Sir Anerood Jugnauth, presented a motion after 3 days and the Dr. Navin Ramgoolam, in 1999 presented a motion 9 months. Today, it is the eleventh day and the Prime Minister can no longer do the same job as his father”.

C'était en 2009, M. le président. Autre occasion ratée c'était d'inclure les Chagos Archipelago incluant Diego Garcia dans une des circonscriptions du pays. Permettez-moi aussi de mentionner le PQ de l'honorable Aadil Ameer Meea, le 30 novembre 2010, après les élections générales –

“He will state when a motion in relation thereto will be presented...”

Et là, il n'y a plus de prétexte, M. le président pour ne pas venir de l'avant avec une motion. Comme c'était après les élections générales, il n'y a pas eu de '*disenfranchisement*' et comme vous le savez bien, les élections générales avaient eu lieu le 5 mai avant, mais le *Dr. Navin Ramgoolam*, renard comme il est, trouva une autre parade –

“It is now proposed that all legal and other implications be considered in the wider exercise of constitutional reforms, including the reform of the electoral system”.

Il mélange l'*Electoral Boundaries Commission Report* avec le system électoral, deux aspects complètement différents. C'était fait expressément. Le renard qu'il est, ouvre la voie savamment la porte à du *koze koze*.

M. le président, l'honorable Reza Uteem, fraîchement élu député, fait la leçon à Dr. Navin Ramgoolam, aujourd'hui son nouveau leader. Pourquoi ne pas appliquer le rapport Sach sur la réforme électorale qui préconise l'amendement de la section 39 de la *Constitution to make the recommendation of the Electoral Boundaries Commission binding and not subject to a vote in Parliament ?*

M. le président, il doit être claire pour tout le monde, y compris pour le leader de l'opposition que les questions relevant d'un quelconque *Best Loser System*, des questions relevant d'éventuels recensements communales si chers au leader de l'opposition, leader de PMSD, l'honorable Xavier Duval, toutes questions relevant de la réforme électorale, de la représentation proportionnelle, du nombre de représentant par circonscription, *renaming of constituencies, merging of constituencies*, augmentation du nombre de circonscriptions ; cela ne relèvent pas du mandate de l'*Electoral Boundaries Commission*, M. le président, mais bien d'une réforme du système électoral à être soumis à des propositions et des amendements par le Parlement.

M. le président, permettez-moi de dire quelques mots sur la circonscription No. 18, Belle Rose Quatre Bornes. La ville de Quatre Bornes fut créée par un *Ordinance* passé en 1895, mais qui est entré en vigueur en 1896. Selon une carte préparée par Descubes en 1880, le nom de Quatre Bornes fut donné et délimita les propriétés de Palma, Bassin, Trianon et Beau Séjour. À cette époque, la ville était composée d'environ 7,279 habitants.

La limite de la ville fut comme suit –

- au nord, le balisage entre Beau Séjour et Beau Bassin Rose-Hill ;
- à l'ouest, le balisage entre Beau Séjour et La Louise jusqu'à Palma et Vacoas Roads ;

- au sud, le balisage entre La Louise et Trianon jusqu'à Palma Road jusqu'à sa jonction avec la route principale près de St Jean church, et
- à l'est, Plaines wilhems river down to the Northern limit.

En 1895, l'*Ordinance Act 32* Quatre Bornes accéda au statut de ville. En 1968, quand Maurice devient indépendant, le *Town Council* devint une municipalité. En 1941, le Conseil prit la décision de construire Cité Beau Séjour et Cité Père Laval. En 1960, le Morcellement St Jean vit le jour. En 1967, les régions de Bassin et Palma furent annexées pour faire partie de la ville par *Proclamation No. 2 Government Notices 1967*. Depuis 1967, M. le président, les régions de Bassin et Palma furent annexées à la ville de Quatre Bornes. La région de Sodnac fut développée dans les années 80.

Comme je l'ai mentionné, en 1987, la région de La Source fut annexée à la circonscription de Belle Rose/Quatre Bornes. Les développements majeurs s'en suivirent avec le développement de plusieurs régions de Quatre Bornes, M. le président, les régions de Trianon, Ebène, la Cybercité, St Jean, Palma, Pierrefonds et le balisage de Bassin. La NHDC de Palma et la NHDC de Bassin aussi furent construits respectivement en 1998 et en 2020.

La ville de Quatre Bornes a connu une mutation profonde prenant de la Cybercité Ebène, Trianon jusqu'à Palma Bassin. Cette mutation profonde a bel et bien été considérée l'Electoral Boundaries Commission. Avant de considérer le découpage d'une circonscription en particulier, la même commission a aussi considéré le *ripple effect* d'un tel amendement sur les *adjoining constituencies*.

Ainsi, M. le président, avec les amendements proposés, les *adjoining constituencies*, notamment la circonscription No. 15 passe de 57,256 à 57,192 électeurs. Stanley/Rose-Hill de 38,433 à 40,102 et Savanne/Black River de 63,500 à 47,541 et le No. 8, Quartier Militaire/Moka de 45,268 à 45,104.

Autre considération importante, Palma, Bassin et Résidence Kennedy tombent sous l'administration de la ville de Quatre Bornes. M. le président, je connais bien cette région pour avoir été moi-même conseiller et aussi maire de ce *ward* en particulier, c'est pour vous dire que la spécificité de cette région de Palma- Bassin trouve sa place à part entière dans la circonscription No. 18, avec l'amendement proposé, M. le président.

Autre amendement qui concerne la circonscription No. 18, c'est la région qualifiée de *part of St Patrick* Blondeau, Stevenson et autres, qui est distraite de la circonscription No. 18 pour tomber dans la circonscription No. 19. Les habitants de cette région partagent déjà les facilités offertes par la ville de Beau Bassin-Rose-Hill.

M. le président, il convient de rendre hommage à *l'Electoral Boundaries Commission* et ces membres, le Bureau des statistiques et tous ceux qui ont contribué à la rédaction du présent rapport. En tant que parlementaires, il nous appartient de garantir l'indépendance de *l'Electoral Boundaries Commission* et de *l'Electoral Supervisory Commission* et de saluer leur contribution dans la préservation de la démocratie.

Sur ce, je vous remercie, M. le président.

(4.50 p.m.)

Mr Osman Mahomed (First Member for Port Louis South & Port Louis Central): Thank you, Mr Speaker, Sir, for giving me the opportunity to speak on this motion. L'honorable Ramano a saisi l'opportunité pour critiquer ses adversaires politiques à la circonscription No. 18, et bien sûr, son ancien leader, l'honorable Paul Raymond Bérenger.

Mr Speaker, Sir, at the moment, I am beginning my speech on this Friday 15 December 2023. Most of my hon. colleagues from the Labour Party are on their way to the SSR Botanical Garden as in a few moments, there will be a *dépôt de gerbe* at 4:30 p.m. on the *Samadhi* of Sir Seewosagur Ramgoolam, father of the nation, as today marks 38 years ago exactly since he passed away. We are debating about this motion that seeks for the approval of the report of the Electoral Boundaries Commission on the review boundaries of the constituencies on a memorable day therefore, being given that Sir Seewosagur Ramgoolam has been the leader of the Mauritius Labour Party for decades; a party which has fought high and low for the right of votes for all Mauritians without discrimination.

Mr Speaker, Sir, the report of the Electoral Boundaries Commission was laid out on the table of the National Assembly on 03 November 2020, more than three years ago. Three years ago, that is a very long time, you will surely concur, as compared to the nine months that the hon. Ramano has just mentioned. The last time this came into Parliament was in 1999. We, on this side of the House, have been waiting for this motion for a long time so that we do not have any uncertainty about how we go about organising the next general elections. But we never expected it to be brought to Parliament in an election year. To prevent this from happening, Opposition MPs have been asking questions every year without fail from 2020 to 2023 on when, if ever, the motion will be brought to Parliament for debates. The first PQ from hon. Lobine was on 07 July 2020, then on 06 April 2021 by hon. Uteem, followed by hon. Ramful on 05 April 2022. Same question was put again on 12 April 2022 and on 26 April 2022. Then, hon. Uteem again on 27 June 2023.

I should mention that no MPs from the Government's side have ever asked for any question on this matter during this mandate. They remained silent about it as if they did not want a revision of boundaries. Despite our questions, did the hon. Prime Minister bring the motion to Parliament? The answer is no. Although he had a lot of opportunities to do so over the last three years! But now that the alliance of the Opposition has been solidly formed and that even, *le service des renseignements* is ringing the alarm bell for the MSM, the Prime Minister has decided, on the eve of the New Year festive season, to bring the present motion as a desperate move to try and improve the MSM's faltering chances of winning the next general election. Now, you might want to ask me why I do say that the MSM is using this revision to its advantage.

I am not saying that the Electoral Boundaries Commission has produced a report that favours the MSM.

The Prime Minister: *Sa mem to pe dir la !*

Mr Osman Mahomed: I have too much respect for that. I have too much respect for institutions to say something like that. But my question is: is it that after three years, when the MSM people have realised that the report recommends major changes in at least five constituencies where Opposition MPs were elected at the last general elections of 2019, Constituencies No. 1, 2, 3, 5, and 18, that has made them decide to implement the recommendations of the expired three years old report, which they hope will make it safer for the MSM?

Mr Speaker, Sir, as I mentioned earlier, major changes are to take place in the constituencies of Port Louis. Let me now zoom in on what is happening in Port Louis, more specifically on Constituencies No. 1, 2 and 3, just like the hon. Ramano has done for Constituency No. 18 at length.

At the outset, I accept that Constituency No. 2 has to accommodate for more voters in line with the principle, as laid down in the Constitution, that the number of inhabitants in each constituency should be as clearly equal as is reasonably practicable to the population quota. In the present revision, it is being proposed to add 9,985 new voters, that is, nearly 10,000 voters from Constituency No. 1, from the regions of Pailles Guibies, Sorèze, Bonnefin, Plaine Lauzun and La Butte, to make it a total of 29,962, that is, nearly 30,000, from the present 24,228 voters. To be frank, Mr Speaker, Sir, I have no problem with that. As a matter of fact, even if the figure were to increase to 35,000, I am okay with it, in the spirit of the provision of the Constitution. And I would definitely welcome my new constituents, if ever this motion goes through, and to serve them as a dedicated MP,

the 10,000 or so inhabitants from the region Pailles Guibies, Sorèze, Bonnefin, Plaine Lauzun and La Butte areas; of course, if this motion goes through.

As a matter of fact, those who were in the House on 24 July 2018, would surely recall that at the material time, there were five MPs in Constituency No. 1, and how against all odds - I had even asked questions to the Prime Minister, who was then in charge of the NDU, on the poor road conditions in Guibies Pailles that took the life of a young boy, late Mr Goulamgoss, because his motorbike went into a pothole which was covered with water on a rainy day, and the hon. Prime Minister to reply that needful will be done, and it was done. The hon. Fabrice David, who was not yet an MP in 2018 but who was already keenly following the affairs of Constituency No. 1, just like his late father, Mr James Burty David has done for nearly three mandates, will surely recall about this question. What I am not at ease with is why remove 4,4...

Mr Speaker: I will stop you there.

Mr Osman Mahomed: Yes.

Mr Speaker: This is the outcome; this is the work of the Commission.

Mr Osman Mahomed: Which I am not...

Mr Speaker: Do not ask question on that, please!

Mr Osman Mahomed: Okay, I will rephrase it.

Mr Speaker: Withdraw that part!

Mr Osman Mahomed: At the same time, it is being proposed to remove 4,457 voters from the regions of Vallée Pitot and Plaine Verte, from Citadelle, along Inkerman, Boulevard Victoria, Magon, Magon *desann* - there is Magon *monte* and Magon *desann* - and Desforges Street from the second smallest constituency of Mauritius, with already a small number of voters, and to send them to Constituency No. 3, and to replace them with more than double of voters from Constituency No. 1, which I said earlier I would gladly welcome those people from the regions Pailles Guibies, Sorèze, Bonnefin, Plaine Lauzun and La Butte as new constituents if ever the motion goes through. After this movement, the hon. David rang me yesterday to tell me that there will remain 2,000 of voters out of 9,500 of voters currently from one particular segment of the population in his constituency, Constituency No. 1.

Mr Speaker: No, no, even that, I would not tolerate! This is the outcome of a Commission working under the Constitution. The outcome has been published and the

motion has been brought by the Prime Minister. You may agree in toto or you may disagree.

Mr Osman Mahomed: Okay, fair enough. Fair enough.

Mr Speaker: We are not here to question any bit, any part of this report. Please!

Mr Osman Mahomed: ...disagree, it is obvious.

In fact, Mr Speaker, Sir, that particular issue of aspects, Dr. Rama Sithanen, whom hon. Ramano mentioned earlier, submitted a comprehensive, well-researched paper to the Commission, and it is titled 'Self-Explanatory', and I quote –

“Proposals to the Electoral Boundaries Commission on the delimitation of electoral boundaries: an informed balance between voter equity and effective representation in plural Mauritius.”

And he explained at length what 'plural Mauritius' means. He has submitted this paper, just like I did; I submitted a written submission to the Commission when consultations were open up again in September 2018, and my submission is acknowledged in the report actually. *En bonne et due forme*. This very peculiar moment of voters from Constituency No. 2 to Constituency No. 3 and then from Constituency No. 2 to Constituency No. 1 is one of the issues.

In fact, Mr Speaker, Sir, the Prime Minister, during his speech on the Second Reading of the Local Government (Amendment) Bill on 23 May 2023, used a very unique term - I should set this way - *à l'égard du Parti travailliste*: “*gerrymandering calculé*”. He used that in his speech. Now, I believe that this is what is happening here.

Mr Speaker: No, this is...

(Interruptions)

Even then; even then. Listen, hon. Member, this is a report prepared by the Electoral Boundaries Commission.

Mr Osman Mahomed: I have my right to give my opinion on the report.

Mr Speaker: So, you cannot impute motives. You cannot insinuate. You cannot impute motives. Okay?

Mr Osman Mahomed: But how come the Prime Minister could use that term towards other parties in Parliament?

Mr Speaker: No, you do not have to question me. I am not here to answer question!

Mr Osman Mahomed: Okay.

So, you know, Mr Speaker, Sir, as a matter of fact, hon. Ramano and the Prime Minister have mentioned about 2009. Well, last Sunday, I happened to meet the former Deputy Prime Minister, Dr. Rashid Beebeejaun. The issues that happened in 2009 was that the report came in in an election year. So, because 31,000 or so voters would have been involved, in its wisdom, the Labour Party did not go ahead as it was too much too late; 31,000 of voters being moved. But for this report, I have done some rough calculation; we are talking about 90,000 voters that are being moved, even worse in terms of number.

And this is not all because this problem will potentially be compounded with the reforms that could entail holding both municipal elections and general elections together, an idea that the hon. Prime Minister had mooted in this august Assembly during the speech he made on 23 May 2023 to justify the postponement of the municipal elections for the nth time. You did propose that there could be the possibility of reforms and two elections would be held together. But, today, I am quite surprised that the hon. Prime Minister, in his introductory remarks, did not touch about reforms at all, which is major, if we are going to apply this recommendation of this report.

The Prime Minister: It's different!

Mr Osman Mahomed: No, they are not totally different; they are not totally different! Changes for both municipal and electoral boundaries will put tremendous pressure on our election officials and thus risk giving rise to further irregularities in addition to the several ones already reported in connection with the last election; an example being the thousands of Mauritians who could not vote for several reasons. These types of problems have still persisted throughout the last three years since 2020. And it is good to remind ourselves that the Electoral Commissioner's Office had, this year itself, in 2023, to correct some 130,000 names.

Mr Speaker: No, no, hon. Member you are going too far! We are debating on a motion concerning Electoral Boundaries Commission.

Mr Osman Mahomed: Names which were ...

Mr Speaker: It is a report...

Mr Osman Mahomed: But this is ...

Mr Speaker: ...and everything that is published in the report, you can refer to that and if you want to vote against, this is your preference. But you cannot go with Electoral Supervisory Commission, you cannot go in all these things.

Mr Osman Mahomed: Mr Speaker, Sir, I am raising the issues for the sake of the population.

Mr Speaker: No, I have already ruled! I am not going to listen to you! Either you accept or you ...

Mr Osman Mahomed: Those names were wrongly spelt or wrongly written.

Now, Mr Speaker, Sir, the 3-year old report recommends changes in constituencies, like I said earlier, for some 90,000 voters and that figure is three years old. But today, no one knows exactly how many voters will be affected until the Electoral Commissioner's Office will proceed with the registration of electors, like the Prime Minister has just explained, between 19 January 2024 to 18 February 2024 following which a new register will become applicable only in August 2024.

It means that it is only in August/September 2024 that thousands of Mauritians will know where they will vote finally. But what about if the general elections were for some reasons held before September 2024? Now, this is a valid question because when it comes to election day – because we know anything can happen, at any time you can have elections. You will remember that the last elections were held *en plein periode d'examens de SC et HSC* and several polling stations had to be changed. In my own constituency, this had created havoc.

(Interruptions)

No, this is a cheap statement!

(Interruptions)

Mr Speaker: Order!

An hon. Member: *C'est arrivé!*

Mr Osman Mahomed: Because of the change of polling station, many people could not vote and were frustrated because of that.

(Interruptions)

Now if the elections are held before, who will do the *kasé ranzé*? Who will do the *kasé ranzé*? Will it be the Electoral Commissioner's Office that will do this exercise of matching the last list of electors that was compiled in January 2023 with the new electoral boundaries as recommended in the report of 2020? With this madness there is mayhem. I say, they await mayhem.

In his submission to the Electoral Boundaries Commission on Constituency Delimitation, the same paper I had mentioned earlier following a very detailed research in 2019, Dr. Rama Sithanen who had therein proposed two pathways to address the issue and the Commission had adopted one of them. It is this one, Dr. Sithanen wrote the following and I quote –

“(iv) I propose two main factors to redraw electoral boundaries in our country. Like deeply democratic Canada, I recommend a balance between voter parity and effective representation in a plural society as Mauritius. Using this approach, I suggest a pathway to reduce the difference among constituency size while broadly recognising the countervailing factors of diversity of representation and inclusive parliamentary presence in a multi-ethnic, multi-religious and multi-cultural society. This balance should hold until we have a full-fledged electoral reform. That reshuffles the card in a comprehensive and fair manner which only Parliament can accomplish. However, the Commission can lead their way and make strong recommendations to that effect.”

Now, I say it again, the hon. Prime Minister has not talked about reforms again at all today, out of respect for the people of this country, such major reforms, if ever the Prime Minister is going to tell us later, should only be implemented early in a mandate and therefore let us wait for the next Parliament to take a decision. At this late hour, I call on the hon. Prime Minister in the name of democracy to do the right thing and not call for adoption of the changes in electoral boundaries after this parliamentary debate. It is too much, too late, we are already in an election year. Thank you.

Mr Speaker: Hon. Mrs Dookun-Luchoomun!

(4.09 p.m.)

The Vice-Prime Minister, Minister of Education, Tertiary Education, Science and Technology (Mrs L. D. Dookun-Luchoomun) : M. le président, permettez-moi avant même de commencer mon intervention de répondre à l’honorable membre. Je dois dire qu’il me laisse vraiment perplexe parce que pour quelqu’un qui vient de dire que son leader avait amené le rapport neuf mois après la présentation et il trouvait ça terrible que nous autres, de ce côté de la Chambre, que le Premier ministre et l’*Electoral Boundaries Commission* aient emmené ça au Parlement en 2020 et que nous arrivons maintenant avec la résolution.

M. le président, nous venons avec la résolution en 2009 malgré les neuf mois, la rapidité avec laquelle le rapport s’est retrouvé au Parlement, il n’y a jamais eu de

résolution. Il n'y a jamais eu de débat ; on est resté sur notre faim et lui-même d'ailleurs, parce qu'il dit qu'il a attendu pendant longtemps qu'on apporte la réforme.

M. le président, deuxièmement, j'ai remarqué dans l'intervention de l'honorable membre la tendance de venir dire que telle partie de ma circonscription a été bougée ou telle partie a été intégrée à une autre circonscription parce qu'il y avait, allons dire, des motifs assez tracassant. Mais je dois dire aussi que s'il avait fait attention et s'il avait vu un peu ce que son propre parti a dit à propos de cette proposition de changer les *boundaries*, il serait assez étonné de voir que l'honorable Dr. Arvin Boolell avait clairement dit que ce rapport a satisfait la plupart des gens et qu'on a pu amener des changements fondamentaux sans déranger la dimension démographique du pays et la dimension ethnique qui consolide davantage l'unité de notre pays. M. le président, je reprends les paroles mêmes des membres du parti dont l'honorable membre forme partie.

Ce que je voulais dire c'est qu'ici nous sommes en train de débattre sur un rapport qui a été fait par une équipe totalement indépendante avec un *Chairperson* et les membres très respectés dans leur profession et je pense, comme vous l'avez bien souligné, qu'il nous faut bien faire la démarcation entre la politique et la discussion, les débats que nous sommes en train d'avoir sur ce rapport.

Allow me, Mr Speaker, Sir, at the very outset, to remind the House of the relevance of the review of the electoral boundaries, a review of the boundaries that shape our representation in the legislative body. The Electoral Boundaries Commission, as mentioned earlier by other interveners before me, has a statutory mandate under section 39(2) of the Constitution and it is high time that we have it because, as mentioned by hon. Ramano, there were reports that were submitted in 1976, 1986, 1999 and 2009. And if the 1976 report was rejected, the 2009 report was submitted to the National Assembly but no resolution was subsequently made for either its approval or its rejection.

So, Mr Speaker, Sir, we have to consider that this a work that has been done by a team which is independent and the Commission, as mentioned explicitly in the report, has been working according to the guiding principles that have been provided by section 39 of our Constitution. I won't go over it again but the guiding principles as mentioned earlier by others had been to make sure that each constituency has a number of electors, that are as closely as possible and as practicable to the population quota.

The population quota, as we have mentioned, is around 59 000 electors. So, it is important that we bear this in mind that there has been a number of changes, changes in demographic trends; changes in migration of people from one area to the other; development and as mentioned earlier by the hon. Prime Minister, there have been certain

changes brought about by climatic change, that is, the loss of rivers and rivulets and we have also seen, for example, that railway tracks are no longer existing. So, there was a need to review all that. We have noted also that there have been a number of developments that have changed the whole geographical landscape.

So, Mr Speaker, Sir, we have to bear in mind that it was high time to do away with the disparity that has been noticed as far back as in 1962. And hon. Bérenger mentioned that we are in the right direction but we have not reached what he thought should have been done. But obviously, *les changements seront graduels et on ne pourra pas venir avec des disruptions* that will obviously create lots of apprehension. As we have seen right now, the report has been done so well, so systematically and yet we find that there are people showing their concerns and apprehension.

Mr Speaker, Sir, over the years the residential development that has been brought has shown that we have certain residential areas that are shared by up to three Constituencies and there was a need to redress this situation.

Mr Speaker, Sir, some of the Members have mentioned it earlier, residential developments have been found to straddle more than one Constituency. Inhabitants within the same locality were to vote in different Constituencies. Hon. Ramano clearly stated how unfair it was because people from Bassin, Cité Kennedy and Palma although they were contributing to the Municipal Council and at the same time benefitting from the advantages provided by the Council were found in a different Constituency. So, Mr Speaker, Sir, it had become imperative to review the electoral boundaries as the status quo was no longer acceptable if we are guided by the spirit of equity and fairness.

Mr Speaker, Sir, this report has been worked out in a very scientific manner. It has taken on board current and future developments, inland migration trends and as stated earlier, has considered written representations up to 52 and conducted 21 public hearings wherein 35 persons have deponed. Not only that, the members of the Commission had gone to carry out site visits. They have met and interacted with inhabitants and the concerns and aspirations of the inhabitants were considered. Mr Speaker, Sir, as mentioned by others, the report, in fact, has brought alterations to only few Constituencies and some of them have had very negligible changes.

Mr Speaker, Sir, I will focus on the main ideas that have guided the members of the Commission. Firstly, as I mentioned earlier, the work was based on a meticulous analysis, on informed judgment and a commitment to serve for the greater good. The recommendation represents a sincere effort to foster a more inclusive and representative electoral landscape. The objective also was to bring the ratio of the largest Constituency to

the smallest one from 3:1: 2:1. Residential areas which were previously shared by two Constituencies will now be in a single one. For example, areas like Le Hochet and Terre Rouge will now be together in the same Constituency and people living close to one another and having strong links and sharing common facilities will now be able to cast their votes in the same Constituency. So, regions falling within the same Municipal boundaries also would be fostered together. This is, as mentioned earlier, the case for Résidence Kennedy, Palma and Bassin which are now being integrated in Constituency number 18.

Mr Speaker, Sir, I will not go on the figures. Everything is given very explicitly and clearly in the report but I will just draw the attention of the House on the fact that a Motion was passed in the National Assembly on 12 July 2019 for the inclusion of the Chagos Archipelago in one of the Constituencies of Mauritius and the Commission has proposed to integrate the Chagos Archipelago in Constituency No. 1. This indeed is a landmark recommendation and the decision was taken based on the fact that most of the Chagossian community live mainly in the region of Pointe aux Sables and the office of the Chagos Refugees Group is also found in that same Constituency.

Mr Speaker, Sir, I wish to commend the team of the Electoral Boundaries Commission for the tremendous work and effort they have had to put in and to produce this report as a rebalancing of the ratio of the smallest Constituency to that of the largest one is no mean feat and being given that addressing the challenges of representation had to be coupled with minimising disruptions as far as possible.

Mr Speaker, Sir, I hope that hon. Members on both sides of the House in spite of their personal advantage or perceived disadvantage, I hope that they will approve the Electoral Boundaries Commission's Report and because mainly it is imperative for us to prioritise the greater interest of our democratic principles over any individual or partisan consideration.

Mr Speaker, Sir, we must remember that this particular report comes from a totally independent body, from the Electoral Boundaries Commission and, Mr Speaker, Sir, *ce rapport a été travaillé par des gens respectés comme je l'ai dit plus tôt et il n'y a aucun doute, M. le président, que les recommandations ont été faites d'une manière scientifique* and unbiased.

Mr Speaker, Sir, this resolution is a timely one. Elections are not to be held before the end of 2024, and that too is the prerogative of the Prime Minister to decide about the timing. This report has been tabled in 2020. Everyone knows what is given in the report. We have time and as the Prime Minister mentioned, there are actions that will be taken by

the authorities concerned. So, I really fail to understand the qualms and apprehensions of hon. Members of the Opposition as the report is explicit and has clearly explained the rationale behind each and every recommendation and the guiding principles were clearly enunciated.

Mr Speaker, Sir, I for one and we on this side of the House fully and unreservedly subscribe to the Electoral Boundaries Commission's 2020 Report.

Thank you for your attention.

Mr Speaker: MP Bodha!

(4.22 p.m.)

Mr N. Bodha (Second Member for Vacoas & Floréal): Thank you, Mr Speaker, Sir, I am very honoured to have a word on this Motion of the Prime Minister as regards the approval of the report of the Electoral Boundaries Commission on the review of the boundaries which was released in 2020. The question has been why he has taken three years. We hope that it was not for political reasons.

The other thing is, and I would like to say, Mr Speaker, Sir, that over 50 years since the first boundaries were designed, a lot has changed dramatically in a number of Constituencies. For example, if we take Constituency No. 5 in 1967 and how it is today, there have been fundamental changes. Other Constituencies where there have been fundamental changes also are Constituency No. 14, Constituency No. 18 and Constituency No. 5, No. 2 and No. 3 as well. Well, the ideal would be to have 59,832 voters in each Constituency but we know the disparity which we inherited in the first boundary conception and there have been many efforts over the years.

Je pense moi que nous sommes dans une évolution positive pour aller dans une direction où dans chaque circonscription on aurait un nombre égal d'électeurs, mais l'île Maurice est extrêmement complexe, M. le président. La première configuration prévoyait grosso modo 10 circonscriptions urbaines et 10 circonscriptions rurales et il y avait quelques circonscriptions où la ruralité et l'urbain étaient à cheval. Par exemple, dans la circonscription no. 4, la circonscription no. 18, la circonscription no. 17 où il y avait un arrière-pays rural et il y avait aussi la ville.

Au fil du temps, nous avons vu les évolutions. Il y a eu aussi le fait que le rapport de 2009 n'a pas été présenté à l'Assemblée à l'époque, ce qui fait que ce n'est que 20 ans plus tard que nous sommes en train de nous retrouver avec une nouvelle configuration.

Une proposition que je fais – après la déposition de ce rapport qui a été présenté au Speaker, est-ce que nous ne devons pas avoir un délai pour que le Premier ministre ou le leader of the House puisse présenter ce rapport à la Chambre pour qu’il y ait un débat ? Aujourd’hui, c’est entièrement la discrétion du Premier ministre de le faire et aussi la discrétion quand le faire. Je salue l’effort du Premier ministre pour que le Chagos soit inclut dans une circonscription. Je pense que c’est hautement symbolique. C’est une très bonne chose. Cela envoie un très grand signal concernant notre souveraineté et il y a quelque chose d’autre que je voudrais soulever, il y a de plus en plus la diaspora mauricienne qui souhaite participer aux élections à Maurice. C’est clair que la diaspora ne peut pas participer aux élections à Maurice dans les circonscriptions telles que c’est mais, on pourrait éventuellement penser à des circonscriptions internationales – hémisphère nord, hémisphère sud pour un ou deux représentants qui ne changerai pas forcément la compulsion de la Chambre. Ces deux propositions je l’ai fait par rapport de ce qui concerne le temps pour que le Premier ministre puisse déposer le rapport à la Chambre et amener un vote.

Nous devons être clairs sur un point. Dans beaucoup de circonscriptions et notamment dans les élections de 2019, les résultats ont été extrêmement serrés. Donc, le découpage des circonscriptions peut avoir une incidence extrêmement cruciale pour qu’une majorité puisse se dégager lors des élections. Il y a eu par exemple des résultats où il y a eu des différences de 25 votes, 50 votes, 100 votes et le découpage donc des circonscriptions peut avoir une grande incidence et peut être même cruciale pour qu’une majorité puisse se dégager. C’est pour cela que nous devons nous poser la question. Est-ce que le travail qui a été fait a été fait par une institution indépendante que nous respectons?

Mr Speaker: No...

Mr Bodha: Moi je pense que...

Mr Speaker: No, there is no question.

Mr Bodha: No, no...

Mr Speaker: No, no, listen to me. What is happening? You are the Speaker there, I am the Speaker here. So, this report has been done by a Commission under the Constitution of Mauritius. You have no right to question anything about. You can refer to the terms, to the observations. You can refer to that. Do not question this report!

Mr Bodha: Allow me, Mr Speaker, Sir, I was questioning the report but at the same time, I was giving the answer.

Mr Speaker: No, no, you don't...

Mr Bodha: My answer was, this very creation...

Mr Speaker: No, don't do that kind of speech. Be direct. Don't question the validity of this report! You may refer to observations. Make your own observation, okay?

Mr Bodha: Not question at all the validity of the report!

Mr Speaker: Carry on!

Mr Bodha: On the contrary, I think I commend the Electoral Boundaries Commission because it is an extremely complex exercise. We know this because we know how Mauritius is and we know the constraints. I totally agree on this and I think that the Commission has done it. In the given circumstances, if we consider the fact where we come from and where we have reached, I think that the Commission has done a good job. It has done it in a holistic manner but what I am saying is that a lot remains to be done if we want to have an ideal découpage des circonscriptions.

M. le président, il y avait eu un découpage des arrondissements des villes dans les années 2010-2012 et il y avait eu un tollé et énormément de critiques à l'époque. Moi-même, au sein du MSM, on avait présenté, à l'époque un rapport et c'est la première fois que le mot de *'jerry-mandering'* avait été utilisé par le Premier ministre dans la Chambre et dans le rapport. Ce que je voudrais dire que ce rapport est une avancée dans les circonstances données et quand j'ai expliqué justement, je veux savoir combien c'est complexe l'île Maurice, parce qu'au fait, chaque circonscription est un écosystème électoral particulier et spécifique et agencé les 20 circonscriptions, c'est un exercice extrêmement complexe. C'est pour cela que je dis que la commission a fait un bon travail.

La question maintenant, c'est qu'à partir de maintenant puisqu'il y a un changement fondamentale au niveau des écoles de vote dans beaucoup de circonscriptions, nous savons que comment nous sommes attachés à aller voter dans un endroit, comment nous sommes attachés à savoir concernant comment y aller. Est-ce qu'on va aller à pied ? Quels sont les moyens de locomotion? Moi, je crois qu'avec le vote, parce que la majorité a une majorité. Donc, c'est clair que le rapport sera voté. Il y a un exercice extrêmement soutenu qu'on devrait mettre en place pour que chaque personne, surtout dans les circonscriptions où il y a des changements fondamentaux, chaque personne puisse savoir à l'avance où il va voter et comment il va voter pour qu'on n'ait pas les problèmes qu'on a eus. Par exemple, beaucoup de gens ne savaient pas où aller voter et ils ne savaient pas s'ils allaient consulter la liste qu'il fallait ou pas.

Alors, pour moi, c'est une avancée. La Commission a fait un travail, je ne vais pas entrer dans les dispositions de la Constitution parce que tout a été dit. Je ne vais non plus rentré dans le mandat de la Commission. C'est connu. Ce que je souhaiterai dire c'est qu'il y a des changements fondamentaux et que nous allons évoluer dans une certaine direction. Le prochain exercice est en 2030. Là-aussi, je me pose une question. Est-ce qu'on devrait avoir un exercice de découpage de circonscription chaque 10 ans? Etant donné la mouvance dans laquelle le pays est en train de s'évoluer avec le développement, avec l'urbanisation, avec l'aménagement des territoires, avec tout ce qu'on est en train de faire au niveau des logements, des développements, est-ce qu'on doit attendre encore 10 ans pour avoir un autre redécoupage électoral? Donc, je pose des questions fondamentales, c'est-à-dire, quand déposer le rapport? Est-ce qu'on ne peut pas dire qu'il y a un délai pour le faire? Le Premier ministre peut avoir une certaine discrétion mais non pas la discrétion totale. Est-ce que demain nous devons attendre l'île Maurice de 2030 pour avoir un nouveau découpage?

Moi je crois que non. Je pense qu'avec tout ce qui est en train de passer dans ce pays, on devrait en avoir un peut-être dans les 5 ans. Ça aussi, il faudra considérer. Je pense aussi que la diaspora souhaite avoir un député et qu'il peut avoir une circonscription internationale. Il faudra penser à tout cela. Et, moi je me dis donc, que nous allons évoluer dans une bonne direction mais il y a beaucoup à faire pour que nous puissions avoir la démocratie dynamique que nous souhaitons. M. le président, Merci.

Mr Speaker : Hon. Collendavelloo.

(04.33p.m)

Mr I. Collendavelloo (Third Member for Stanley and Rose Hill): Thank you, Mr Speaker, Sir.

I will start where the hon. Minister of Education left out with Constitution Section 39 and I will explain why I am saying it in a second.

The Constitution tells us "the Assembly may, by resolution, approve or reject the recommendation of the Electoral Boundaries Commission but may not vary them."

The hon. Minister of Education was called upon to stress that aspect of the task that we have today. Either we approve or we disapprove. We cannot pick and choose and say "I agree with that part, I don't agree with that part". This is why I totally disagree with the line adopted by the hon. First Member for Constituency No. 2. This line is dangerous. Perhaps, he did not realise it but what he said, his approach is dangerous to our democracy. This exercise is an extremely important part of our democracy.

If the Electoral Boundaries Commission, while drafting or drawing up the map of our Constitution does gerrymandering, then the Assembly will reject the report outright. But each one may agree or not agree with certain parts of the report. We cannot say 'I approve the report, but I do not like that bit about what has happened to my Constituency,' whether it is La Butte that has walked in or walked out of such and such constituency.

Why is that an important part of our democracy? Because the Constitution has set out the parameters and the Electoral Boundaries Commission does its job. Perhaps, they are wrong on certain aspects, perhaps they are right in all aspects, but that is their report. It is a report which is prepared with the technical support of the Electoral Commissioner and that is the crux of our Constitution.

The Constitution has this provision in order precisely to stop what hon. Mahomed – I am sure he did not intend to do it – has tried to do, that is, to manipulate boundaries. We are not here in this House to manipulate boundaries; we are here to approve or not approve the report of the Boundaries Commission. I felt I had to say this.

The next step is what has happened to my Constituency; there is Au Bout du Morne, Ebène, it used to be a sugar cane field. Today, it is full of residential buildings. It is in Constituency No. 8 and it forms part of the District Council of Moka. Now, that is a geographical nonsense! Today, everybody knows that this is part of Rose-Hill. The same part goes for that part which hon. Ramano referred to, Blondeau Street near Boundary Road. All postmen leave letters there; it is addressed to people living there in Rose-Hill. Ask somebody who lives in la route Blondeau or la Rue Stevenson, where he or she lives, he will not tell you he lives in Quatre Bornes; he is a Rosehillien. I think it is a good move to have extracted this from No. 18 to put in No. 19.

This being said, Mr Speaker, Sir, I will vote in favour of the report to approve all its contents. Thank you.

(4.38 p.m.)

Mr Ganoo: Mr Speaker, Sir, I move for the adjournment of the debate.

The Deputy Prime Minister seconded.

Question put and agreed to.

Debate adjourned accordingly.

Mr Speaker: Debate!

Hon. Dr. Ramdhany! Start your speech!

PUBLIC BILL*Second Reading***THE FINANCIAL CRIMES COMMISSION BILL****(NO. XX OF 2023)**

Order read for resuming adjourned debate on the Financial Crimes Commission Bill (No. XX of 2023).

Question again proposed.

(4.39 p.m.)

The Minister of Public Service, Administrative and Institutional Reforms (Dr. A. Ramdhany): Thank you, Mr Speaker, Sir, for giving me the opportunity to participate in this very important Bill. Mr Speaker, Sir, today, I stand on this momentous moment in this august Assembly to debate and provide my insights on the Financial Crimes Commission Bill brought by the hon. Prime Minister.

Indeed, the Bill comes at an opportune moment which heralds a new era which will pave the way for a comprehensive and robust framework in stepping out a wide range of financial crimes which pervade across all sectors of our economy and society. As we embrace the digital revolution, disruptive technologies such as Block chain, crypto currency, Artificial Intelligence and many other will draw the contours of a completely different landscape.

As a result, it is inevitable that inherent and heightened risks of all sorts of financial crimes, including drug traffickers orchestrating and committing intricate online transactions, money laundering and acts of corruption carried out in a non-conventional manner such as using crypto currency.

It is also expected that financial crime never seen before will emerge to cause a lot of harm and challenge our ability to uphold trust, adhere to international conventions and to ensure that our country remains a credible financial hub. Despite the festive cheers, the call for action, bold and swift, is now as the risk that the situation spins out of control in future is real. This Bill aims at consolidating the fight against financial crimes, including corruption, money laundering and fraud. It envisages the repeal and replacement of several acts, integrating the function of various existing bodies into a single commission.

The commission of solving the responsibility of the Independent Corruption Against Corruption, the Asset Recovery Investigation Division of the Financial Intelligence Unit and the Integrity Reporting Service Agency, represents a bold step

towards a more integrated approach in combating financial crime. The reintroduction of the Operations Review Committee is presented as a positive move towards enhancing accountability and oversight. I would, therefore, like to commend the Prime Minister for his audacity and courage, guided by the idea he has always cherished. He has remained at the forefront in his relentless fight against corruption, drug trafficking, fraud and other scourges affecting our country.

The fight against financial crimes under his able leadership remains a collective resolve against cynicism and in rejecting a culture of greedy consumerism in a world where inequality is growing and trust is fading.

M. le président, néanmoins, on note ces temps-ci une agitation palpable et surtout excessive de la part de l'opposition parlementaire et extra-parlementaire, aussi bien que des avocats qui les soutiennent. Cette agitation cache une intention inavouée de lancer des critiques absolument farfelues et excessives dans le but de créer un climat de doute et de frayeur parmi la population. Cependant, les citoyens ne sont pas dupes et savent faire la différence entre un gouvernement qui œuvre pour leur bien-être et des démagogues qui cherchent à les manipuler.

Mr Speaker, Sir, I can understand their restlessness following the blow they received on the recent announcement of the quantum of the salary compensation for 2024, which by far exceed the aspirations of our working population and the unprecedented raise of the minimum wage threshold. Mr Speaker, Sir, it is sad to note that this Opposition has stooped to such a level of unprecedented proportion. As a matter of fact, it is still fresh and vivid in the collective memory of every citizen of the murky business of the leader of the Labour Party, now aspiring Prime Minister. Coffers were found in his possession overflowing with large amount of banknotes and bundles of freshly packed dollars after the general election of 2014.

By any stretch of the imagination, could someone ever imagine that such a situation would ever happen in our country? Yet, it happened! How will hon. Dr. Gungapersad explain to the *dada dadis* of Constituency No. 6 what his leader did? He was talking about freedom of speech. In his press conference, he said about Ramayana.

You know, in a religious ceremony, his Leader mixed the characters of Mahābhārat and Ramayan. How will he explain that his Leader is not able to recognise Ram or Lakshman and he is talking about Ravan? His Leader is the biggest Ravan in this country, Mr Speaker, Sir.

(Interruptions)

Looking back...

(Interruptions)

Ms Anquetil: Sorry, excusez-moi!

Mr Osman Mahomed: Inacceptable!

Dr. Ramdhany: Looking back at such an unbelievable situation during the dark moments of the Opposition reign...

(Interruptions)

...we cannot forget the then Economic Crime Office...

Ms Anquetil: Traiter les gens de Ravan? Mais, quand même ! Franchement!

(Interruptions)

Dr. Ramdhany: ...which was once lead by a notorious Labour supporter, served as a blatant political instrument to harm opponents. We still vividly recall how a prominent leader of the MMM Party narrowly escaped an arrest by the ECO. Now, both Parties are allies and making unfounded accusations about the independence of the Financial Crimes Commission. This stark hypocrisy is truly shameful. *Quel spectacle désolant!*

Mr Speaker, Sir, I now come to a lawyer, close to the Labour Party and presently in the limelight with all sorts of business arguments against the Financial Crimes Commission. Let me remind this gentleman who, as Chairperson of Air Mauritius, some years ago, led the company into a crippling debt spiral through reckless fuel hedging strategies. The consequences: a staggering Rs9 billions of public funds squandered and down the drain. This very lawyer along with the former Director of the Economic Crime Office and who was later a prominent member of the ICAC Board were caught redheaded when a leaked phone tab exposed their conspiracy to frame adversaries. Had the Financial Crimes Commission been operational during these dark times, those two individuals would most likely be facing prosecution and be behind bars.

I will therefore advise that you see yourself in a mirror before spewing your bitterness in and outside this august Assembly and casting aspersion on the motivation of the Government in bringing forward such a key institution to fight financial crimes, as rightly pointed out by the hon. Prime Minister where he emphasised the importance of legal compliance and expressed his confidence stating that he does not fear the law due to his strict adherence to legal parameters. While our people had been toiling day and night to build a better future, those looters were busy feathering their nest from ill-gotten gains

and where greed had advanced to such a state of limitless rapacity. It is to be noted that financial crime represents significant threat to economies, sustainable development and also insidious impact on social and political environment of the State and calls for the common responsibility of all institutions and private sector to work together.

As such, Government's resolve to adopt measures to combat financial crime is getting more and more sophisticated with the support of technology. As a responsible Government, we ensure that our financial sector operates within a strong legal regime and we expect it to ensure compliance with the Financial Crime Regulations.

Mr Speaker, Sir, as Minister of the Public Service, Administrative and Institutional Reforms, I am particularly pleased to note that major institutions reforms are being brought through Bill in the area of financial crime where key institutions which are operating separately and *in silos* will now be subsumed under the Financial Crimes Commission for more synergy and improved efficiency. Such a strategy sends a strong signal not only to local stakeholders but also to the international community. Trust, certainty, clarity, predictability are indeed key ingredients to attract foreign direct investments, to improve ease of doing business and spur economic growth.

Mr Speaker, Sir, my intervention will primarily focus on the benefit of the Bill in line with our transformation journey in the public service. Indeed, good governance and institutional arrangements are one of ten implementation pillars of the public sector business transformation strategy. It is in this context that my Ministry is engaged closely with the Independent Commission against Corruption to implement the Public Sector Anticorruption Framework. Among several initiatives undertaken under the Framework, more than 200 corruption risk assessments have been conducted in a risk-prone area such as procurement and recruitment across the public sector.

However, despite our best endeavours, the public sector still remains the fertile ground for not only corruption but for other financial crimes such as fraud, money laundering which are undertaken by a handful group of *brebis galeuses*. The Government is committed to hunt them and get rid of them. While corruption was dealt with by POCA, the law itself had its own limitations. I will come to it later. Let me talk of Part III of the Bill which deals with fraud offenses and which remain a key instrument to ensure that the highest principle of good governance, accountability is upheld. Fraud which remains another pernicious force in public service, has always been dealt in a rather ineffective manner, given the existing statutory provision and integrates process in inflicting administrative sanctions following detection of same.

As a matter of fact, the yearly report of the National Audit Office often points to blatant situations of fraudulent practices. Despite our best endeavours, fraudulent practices unfortunately recur. Indeed, petty frauds in the public service had more than often not been dealt with within the realm of administration with sanctions, if ever taken, follow lengthy and tedious processes which are limited to provisions provided by the Public Service Regulation which dates as far back as 1967. Whenever criminal proceedings are instituted against Public Officers for fraudulent practices, those are dealt under the out-dated criminal code which dates back from our colonial past. Clearly, a strong signal had to be sent in respect to fraud and the more so that electronic frauds have become widespread being given that the internet has become a preferred platform for online transactions.

Therefore, the Financial Crimes Commission Bill is filling a gapping void by introducing a comprehensive section which clearly defines fraud as a serious criminal offense and provides tough penalties accordingly. By having such legal instrument, the Public Service can now deal with cases of fraud within a well-defined framework with efficiency and in a timely manner. It will also send a strong signal and act as a deterrent to those involved in fraudulent practices.

I now turn to section 7 of the Bill which deals with protection of and assistance to informers and witness. Witnesses and informers have always been an effective tool to uncover serious corrupt and fraudulent practices. In Mauritius, there have been several debates on the model which is needed for effective whistleblowing by honest citizens without any risk for retribution. Even recently, Transparency Mauritius argued for a dedicated legal framework to incentivise and safeguard informers or whistleblowers who report individuals engaging in actionable practices.

Aside from this section under the POCA which caters for whistleblowing, this has been limited to exclusive cases of corruption. However, financial crime can take various diverse forms and attempt unsuspected forms not only regarding corrupt practices but also on frauds and other reprehensive acts. With the Financial Crimes Commission Bill, the status and guarantee that witnesses and informers are entitled to, has been to another level in line with international best practices.

Mr Speaker, Sir, Government procurement representing billions of rupees spent annually is the single largest market for good services and works. This significant financial power naturally attracts the opportunities for corruption and fraud.

Addressing these risks requires a robust and comprehensive response to deter and eliminate illegal and unethical conduct by public officials and potential bidders.

Aside from many other types of corrupt practices forming part of the Financial Crimes Commission Bill and not specified under POCA, section 27 and section 28 make specific provision for offences related to procurement. I commend this specific provision of the Bill that provides for more clarity and effectiveness for such types of offences that constitute a significant fraction of alleged cases of corruption cases which are dealt by with ICAC.

Mr Speaker, Sir, will now turn to section 149 of the Financial Crimes Commission Bill which is not only a novel, but an ingenious and effective manner to effectively wage the war against financial crime. In fact, the penalties imposed under the current legislation such as the Prevention of Corruption Act have now been within the legal realm. Imposition of fines and in terms of imprisonment, in case of public officers have been charged and found guilty, penalties are outside the purview of the administrative sanctions.

Once a public officer has been convicted, the Ministry and the Department have to initiate separate procedures to inflict administrative sanctions, which is in most cases carried in line with the Public Service Commission regulations. Such measure has to follow long, tedious procedures which may take months to reach to a conclusion. Even then, the public officer can make an appeal to the Public Bodies Appeal Tribunal. Therefore, in most cases, public officers that ought to have been retired are laid off once he or she has been found guilty and convicted by a court of law still receives his or her salary and until an administrative decision is taken on the matter. Indeed, several PQs have been asked on regular basis on the subject matter.

As from now, besides legal sanctions, the court can now inflict civil and administrative sanctions, thus relieving the burden on Ministries and Departments as well as the Public Service Commission to resort to administrative sanctions in case of public officers have been found guilty and convicted by the court of law for offences covered under the Financial Crimes Commission Bill.

Mr Speaker, Sir, lastly, I would like to comment on falsehoods being deliberately spread *ad nauseam* by the Opposition. I believe that there is a red line that has been crossed on trying to *berne la population* when mention is made to the fact that the Financial Crimes Commission will usurp and take over the role of the DPP. I am really disgusted by such a cheap and desperate argument coming from the Opposition. Nothing is farther from the truth. Firstly, they argue that the Financial Crimes Commission will be empowered to institute criminal proceedings and that such power is solely exercised by the DPP.

To that, I will refer the Opposition to the respected Serious Fraud Office (SFO) of the UK that serves as an example of an institutional model, which is required for our country in the crusade against financial crime. Indeed, the SFO in the UK has clear mandate to institute criminal proceedings for obvious reasons of efficiency, expediency and more importantly, given the nature and complexity of such crimes.

Moreover, the various sections under Part IX of the Bill cannot and should not be viewed in isolation. Why is it the case? The Financial Crimes Commission can institute criminal proceedings, section 142 (1)(b) and (c) allow for the DPP to take over, continue or discontinue such criminal proceedings. To add, section 142(1)(d) provide for any party aggrieved by the decision of the DPP to challenge same by the Court of Judicial Review at the Supreme Court. Clearly, sufficiently checks and balances are required in a democratic society and have been well taken care in the Bill.

Mr Speaker, Sir, we all have a moral duty to pass on a legacy to the next generation of the society which is free from reprehensive, unethical, illegal, immoral, and repugnant practices. Unfortunately, these practices darken our reputation and undermine our resolve. As a responsible Government under the able leadership of the Prime Minister, history will retain our contribution and enduring spirit in building a strong, moral edifice and lay foundation for a just and equitable country free from illicit practices, including financial crime.

I thank you for your attention.

Mr Armance: Mr Speaker, Sir, I have a point of order.

Mr Speaker: Hon. Members, I suspend the Sitting for 30 minutes.

At 5.01 p.m., the Sitting was suspended.

On resuming at 5.38 p.m. with Mr Speaker in the Chair.

Mr Speaker: Please be seated! Hon. Bodha!

Mr N. Bodha (Second Member for Vacoas & Floréal): Merci, M. le président.

Je suis très honoré de participer à ce débat qui concerne la mise en place d'une institution qui sera au sommet de toutes les institutions qui sont déjà en place pour la lutte contre la fraude et la corruption, le blanchiment d'argent et d'autres délits criminels. Mais je vais le dire d'emblée, M. le président, pour moi, je suis fondamentalement contre ce projet de loi de par sa philosophie, son contenu, les procédures et les moyens que ce projet de loi met à la disposition de la Commission que nous voulons créer.

Pour moi, c'est une loi qu'il faudra abroger dans les 100 premiers jours de tout nouveau gouvernement.

An hon. Member: Ah bon!

Mr Bodha: Oui!

Pour moi, c'est une loi qu'il faudra abroger dans les 100 premiers jours de tout nouveau gouvernement parce que le mal qui ronge tout combat contre la corruption s'appelle ingérence politique, M. le président. Et c'est dommage que nous n'ayons pas une Chambre haute, un Sénat, parce que c'est ce genre de projet de loi qui exige qu'il y ait un deuxième examen avec beaucoup plus de minutie pour qu'un projet de loi de cette envergure qui a des répercussions et des conséquences constitutionnelles énormes puissent être accepté, adopté et mis en pratique. Je regrette ça ; je ne suis pas forcément contre une deuxième Chambre à Maurice mais c'est le genre de législation qui mérite qu'on ait une deuxième Chambre.

Deuxième chose, c'est aussi le genre de législation qui aurait nécessité la mise en place d'un *Select Committee* des deux côtés de la Chambre pour étudier la loi, les différentes dispositions de cette loi et pour pouvoir étudier en détail toutes les implications parce que les implications sont énormes ; c'est un projet de loi de 151 pages avec plus de 150 provisions. Et il y a des provisions qui sont d'une extrême importance concernant les droits fondamentaux du citoyen lambda.

M. le président, j'avais écrit au Premier ministre, il y a quelques temps déjà, où j'avais souhaité qu'il y ait un débat national et qu'on ne passe pas au *second reading* tout de suite mais qu'il y ait un débat national dans le pays au niveau des forces vives, au niveau de la presse, au niveau des formations politiques de l'opposition et surtout au niveau de la société civile parce que je crois que s'il y a quelque chose qui ait un consensus à Maurice, c'est que tout le monde souhaite une vraie, une authentique croisade contre la fraude et la corruption. Je crois qu'il y a un besoin, il y a une nécessité, il y a une exigence pour qu'il y ait une lutte réelle contre la fraude et la corruption dans notre pays. Je crois que l'autre jour j'ai entendu le Premier ministre dire : '*mwanvi met prop*'. Ben qu'est-ce qui est sale ? Qu'est-ce qui a été sali ? Lui-même il a dit que la mafia est au sein des institutions.

Alors, nous tous nous crions haut et fort qu'il faut un pays propre. Il faut un pays propre, libre de la fraude et de la corruption, libre de la drogue, libre de la narco économie. Je crois que c'est le cri de cœur de la population mauricienne. Ce peuple le souhaite. Mais

pour qu'il y ait un vrai combat contre la fraude et la corruption, contre le blanchiment d'argent, il faut trois conditions, M. le président.

- Premièrement, une institution solide et indépendante. Nous savons ce qui se passe avec l'ICAC, je vais dire un mot tout à l'heure.
- Deuxièmement, il faut absolument une volonté politique réelle pour combattre la fraude et la corruption et le blanchiment d'argent, et
- Troisièmement, à la tête de l'institution il faut une personne qui est intègre, une personne qui est compétente et une personne qui mérite le respect de la population. C'est-à-dire la population a confiance ; il y a un élément de confiance dans cette personne en se disant que oui ce monsieur, ce directeur général, à la tête de l'institution quelle qu'elle soit, est vraiment la personne qui va lutter contre la fraude et la corruption, le blanchiment d'argent et tous les autres délits dans notre pays, M. le président.

Donc, il faut absolument une institution solide et indépendante, il faut une volonté politique réelle et il faut une personne intègre et compétente qui mérite le respect et la confiance de la population. Pourquoi ? Parce que où nous en sommes aujourd'hui, M. le président, il faut briser le lien entre la mafia et la classe politique. Il faut briser le lien entre les corrupteurs et la classe politique. Il faut briser le lien entre tous les gens qui ne veulent pas respecter les procédures et les lois et qui sont gagnés par l'argent facile au niveau des contrats, au niveau des appels d'offres, au niveau du blanchiment de l'argent de la drogue.

Il faut donc briser ce lien parce que tout système mafieux, M. le président, fonctionne au détriment de l'intérêt public. Ce sont les fonds publics qui paient les pots cassés quand il s'agit de la fraude et de la corruption. C'est le public qui paie finalement sans le savoir.

Et il y a de plus en plus un lien incestueux qui finit par devenir un *modus vivendi*, comme si un accord entre la classe politique et un accord avec ceux qui veulent absolument se frayer un chemin à travers les maillons, le filet de la lutte antidrogue, la lutte anticorruption. J'avais donc demandé un débat, un débat large, mais ce débat n'a pas eu lieu.

Alors, je me pose la question: *why are we rushing through this Bill? Why is this Bill being presented in the second week of December just before we adjourn the session? I would like to say a word that my friend, Dr. Boolell usually uses: "fools rush where angels fear to tread."* I will say a few words on this when I am going to make my conclusion.

Alors, je vais prendre un certain nombre d'éléments. Le premier c'est la nomination du Directeur général de la commission. J'étais membre du *Select Committee* présidé par l'honorable Collendavelloo en 2000 quand nous avons fait venir M. de Speville de Hong Kong, et c'est ce *Select Committee* qui a débouché sur le *Prevention of Corruption Act* qu'on appelle - cela lui fait honneur - la loi Collendavelloo. Et, dans ce projet de loi à l'époque, dans le gouvernement MSM-MMM, *the Director General was appointed by a Committee where you had the President of the Republic, you had the Prime Minister and the Leader of the Opposition*, et le premier Directeur de l'ICAC a été nommé ainsi. Mais c'est en 2005 qu'on a amendé la loi pour venir avec le fait que le Directeur général de la commission serait choisi *by the President on the advice of the Prime Minister, which means that at the end of the day, it is the Prime Minister who is going to appoint him in consultation with the Leader of the Opposition*. Mais en ce qui concerne *the consultation*, nous savons tous où cela mène, les consultations entre le Premier ministre et le Leader de l'opposition.

Maintenant, cette nomination, elle est donc essentiellement une nomination du Premier ministre. Alors je pose deux questions. Le Premier ministre avait nommé un commissaire de police suppléant et nous avons pour la première fois dans l'histoire de Maurice un commissaire de police qui avait été nommé en *actingship*. Mais comment un commissaire de police qui a été nommé *on actingship* pouvait avoir une capacité d'opérer dans l'indépendance quand il voit tous les jours le premier ministre et sa première préoccupation c'est sa nomination ? Alors moi, je me pose la question : comment une commission de cette envergure pourrait être... Il faudrait que ce soit le Premier ministre qui nomme ; c'est un débat que tout le monde a soulevé ici.

La deuxième chose, pour nous – je pense au sein de l'opposition –, en tout cas, en ce qui me concerne, moi je crois qu'il est grand temps qu'on mette en place ce que j'ai appelé *The Constitutional Appointments Authority*, un comité de sages pour choisir les personnes qui sont *the right persons in the right place* et ce qu'on appelle *the rare bird* pour assumer ce rôle, parce que l'exemple doit venir d'en haut. Quand il s'agit de la fraude et de la corruption, il n'y a pas d'autres recettes. L'exemple doit venir d'en haut.

Comment fonctionne la corruption ? Il y a quelqu'un qui a obtenu un contrat. Alors, il y a une tierce personne qui va voir la personne pour lui dire que 'ben tu sais, *bizin desan lor pie*', pour lui-même ou pour quelqu'un d'autre, un officier ou un *official*. La deuxième chose c'est qu'on peut même avoir celui qui a alloué le contrat qui dit 'ben tu dois me donner quelque chose'. La troisième possibilité c'est celui qui a obtenu la faveur qui devient de corrupteur ; c'est lui qui vient voir l'officier ou l'officiel, *the public official*

pour lui dire ‘je vais te donner ceci ou cela’. Alors, ce que moi je suis en train de dire est que l’exemple ne peut venir que d’en haut si on veut vraiment combattre la fraude et la corruption.

Maintenant, je prends la section 10 –

“(2) *The Director-General shall be a person who –*

(a) has served as a Judge of the Supreme Court;”

Et il y a aussi donc d’autres critères mais cumulatifs –

“(b) has served as a Magistrate in Mauritius for a period of not less than 10 years;

(c) is, or has been, a practising barrister or a law officer for a period of not less than 10 years;”

Et (e) –

“(e) has served in an anti-corruption body at a senior level for a period of at least 5 years(...)”

Mais est-ce qu’il y a beaucoup de gens à Maurice qui répondent à ces critères ? *Who has been a Judge and who, at the same time, has been a senior official for a period of 5 years in an anti-corruption body?* Et bien, il y a très peu de gens, en fait, et beaucoup de gens ont pensé que c’était le Directeur de l’ICAC, mais ce n’est pas vrai, parce qu’il n’a jamais été Juge de la Cour suprême. Alors, je ne sais pas qui le Premier ministre a en tête, *whether he is a local or a foreigner*, mais la chose la plus importante c’est qu’il est le symbole de ce corps au sommet des institutions contre la fraude et la corruption.

La question que j’ai demandée: why are we rushing through the law, this one? If we really want to fight fraud and corruption, I believe that there are two legislations which have to come to this House as soon as possible. One is the Financing of Political Parties, and if we all in this House, the Opposition and the Government, really mean business, we should come to a consensus as regards a law for the financing of political parties. Then we can say that yes, we want to fight fraud and corruption. That is a first thing.

The second thing, we should introduce the Police and Criminal Evidence Bill because of this incestuous use of the Provisional Charge to harass or *atas enn lake fer blan*, as we say it, with Members of the Opposition. We have to stop this. Now, can you imagine a law like this Financial Crimes Commission Act with the Provisional Charge being used the way it is being used politically? Can you imagine the damage this can cause? So, if we really want to have a law, we should at least, first of all, have another law

regarding the financing of political parties, and second, we should do away with the Provisional Charge which has often been used as a political tool.

M. le président, pourquoi j'ai aussi dit qu'il faut abroger cette loi ? Parce que la loi va porter atteinte aux principes fondamentaux de notre démocratie qui est aujourd'hui une démocratie chancelante, et on sait pourquoi. Je ne vais pas entrer dans tous ces détails. Alors, ce que je voudrais dire maintenant, M. le président, concernant la philosophie et concernant l'objectif principal de ce projet de loi : est-ce que ce projet de loi est un outil, un instrument politique pour, dans un premier temps, protéger, faire *le cover-up* de délits de personnes, de proches du régime ? Est-ce que c'est le premier objectif ? Est-ce que le deuxième objectif est d'instrumentaliser la chasse des opposants politiques avec tous les moyens exceptionnels dont la commission va disposer ?

Justement, pourquoi j'ai parlé de l'accusation provisoire ? Parce que l'accusation provisoire, nous avons tous été victimes de cela. Le Premier ministre a été victime de l'accusation provisoire. Beaucoup de membres des deux côtés de la Chambre ont été victimes.

Il faut arrêter avec ça, parce qu'avec l'accusation provisoire et une loi comme celle-là, on peut faire des dégâts énormes, stigmatiser plusieurs personnes. Et c'est pour cela que je demande donc qu'on puisse introduire aussi pace et le financement des partis politiques.

Maintenant, je voudrais aborder la question de '*Further investigation by Commission*'. Il arrive un moment où la Commission fait un premier examen et il y a un deuxième examen, et la section 58(7) –

“After conclusion of an investigation, the Director-General shall submit a report to the Commission.”

And it can –

“(...) institute criminal proceedings for an offence under this Act(...)”

D'où tout le débat qui a été évoqué, ici, concernant l'usurpation des pouvoirs constitutionnels du Directeur des poursuites publiques.

Et puis, *subsection (8) (b) –*

“whether to discontinue the investigation;”

C'est la Commission qui va décider *whether to discontinue the investigation*, alors qu'aujourd'hui ce n'est pas le cas. Donc, qu'est-ce qui va se passer ? Nous savons comment ça se passe à l'ICAC. Il y a beaucoup de dossiers qui dorment dans les tiroirs.

Donc, finalement, la Commission, à un moment donné, va décider *to discontinue with the investigation*. Et ne on saura même pas qu'est-ce qui s'est passé, et ça va rester là. Alors, est-ce que c'est un moyen *to discontinue any investigation without anybody knowing why and nobody challenging why the investigation was discontinued?*

Et *part (c)* –

“on any other course of action as it may deem fit and proper taking into consideration all circumstances of the case.”

Alors, je vous pose cette question.

Maintenant je voudrais m'attarder sur la section 66.

Mr Speaker: You have only one minute left!

Mr Bodha: Quoi?

An hon. Member: Déjà?

Mr Speaker: One minute left!

Mr Bodha: One minute?

Mr Speaker: Less than one minute!

Mr Bodha: *Okay.* Alors, je vais parler des pouvoirs d'exception. Dans les démocraties, il y a des pouvoirs d'exception de *MI5*, les pouvoirs d'exception des services spécialisés en France où ils ont ces pouvoirs-là, c'est-à-dire tout ce qui nous fait peur, qui nous fait frissonner. Et ce sont des pouvoirs qui sont utilisés pour la sûreté de l'État, pour la sécurité de l'État contre un certain nombre de personnes qui peuvent commettre des délits comme le terrorisme ou encore faire commettre des délits qui ne sont pas dans l'intérêt de l'État. Mais ces pouvoirs exceptionnels, ici, de la section 66 ne seront pas du tout proportionnels à ce qu'on veut faire. Pourquoi est-ce que la Commission doit avoir ces pouvoirs exceptionnels ? Je trouve qu'il y a une question de proportionnalité.

Je vais terminer en disant que moi, je ne suis pas d'accord avec ce projet de loi, et je dis quelque chose : que demain, il ne faut pas que ce projet de loi fasse boomerang, parce qu'aujourd'hui nous sommes dans la Chambre ; on peut être de ce côté-ci ou de l'autre côté. La loi sera toujours là.

Merci, M. le président.

Mr Speaker: Now, we go to the next orator. Hon. Mrs Koonjoo-Shah!

(5.59 p.m.)

The Minister of Gender Equality and Family Welfare (Mrs K. Koonjoo-Shah): Mr Speaker, Sir, thank you for the opportunity to bring my two cents to these very important debates.

Having listened to hon. Bodha just now, who stated at the beginning of his intervention that he is *fondamentalement contre ce projet de loi, par rapport à la philosophie de ce projet de loi*, hearing the word 'philosophy' from hon. Bodha reminded me very, very quickly of the parable of Mote and the Beam, which is an extract from the Sermon on the Mount Gospel of Matthew, where you should first of all get your own act together before you criticise others. You should address your own hang-ups and your shortcomings before you cast the first stone.

When we speak about philosophy, we speak about democracy and we are debating a Bill that is all about combatting fraud. What is fraud? Fraud is all tinged with dishonesty. So, hon. Bodha should have remembered and applied this kind of philosophy and ethics when he decided midway during a mandate to leave the Party which gave him a ticket under whose banner he was elected. He says it is his choice; he can go and choose to sit on the other side but sticking to the whole element of philosophy and ethics and honesty, you should have returned the ticket in the first place before going to join the other side.

Mr Speaker, Sir, one thing that I do agree with hon. Bodha, and I am happy to hear him concur that, yes, we are here, we should all get together to combat fraud and to combat crime. But what is required, Mr Speaker, Sir, to bring about this fight? There are conditions attached to our ability. First of all, it is the political will to combat fraud and corruption, which I dare say was absent in the previous Government led by the Leader of the *PTr*; first, it is the political will which we have. Second and most importantly, is today, it is institutional reforms and this is what this Bill is coming to address. This Bill is coming to introduce a whole system response to economic crime.

We have heard Members of the entire House speak about the complexity and the ever-evolving intricacies of economic crime, Mr Speaker, Sir. So, this Bill, yes, I do agree, it is an unprecedented one, but it is driven by one very purposeful guiding principle and that is to *précisément* tackle this constantly evolving challenge. The main objective is to drive out dirty money. So, one should not make a mistake about the objects, of the aim of this *projet de loi*. We are witnessing organised criminals, kleptocrats; they are threatening not just our national security. They threaten our global influence; they threaten our international reputation as a place to do safe business. And this, contrary to what Opposition Members are purporting all throughout when they are getting a chance to debate.

This Bill is a mere component of the wider approach of our Government. This Bill sits alongside the provisions of other key legislations like the FIAMLA, anti-money laundering. Therefore, Mr Speaker, Sir, I reiterate that there are three compelling, three estimable objectives of this piece of legislation. The first one is we should expose corruption. We should ensure that dirty money has no place to hide in our Republic. The second objective is we should punish perpetrators, they should be brought to justice and we should also support those who are afflicted by corruption. But most importantly, this Bill comes here to drive away the culture of corruption. Some hon. Members, Mr Speaker, Sir, were alluding that this Bill is here to target certain individuals or I have listened to the usual mantra of *d'un agenda caché*. Nothing, Mr Speaker, Sir, could be more preposterous, nothing could be farther from the truth. Just so I can put the complexity and the magnitude of economic crime into perspective, financial crime very often is thought as a crime that does not do real harm, we do not see any blood on the carpet, there are no broken bones but, Mr Speaker, Sir, the very nature of financial crime, especially modern financial crime, is beyond border; it is international in its scope. We cannot be tackling modern problems with ancient solutions and this is what this Bill is coming to do. This is what is behind *la philosophie de notre gouvernement et du Premier ministre, M. le président*.

I was going to put this into perspective, with your permission, Mr Speaker, Sir, by citing and making reference to two recent cases. One of them being the potential Ponzi scam of the Telegram application where there are roughly about 4,000 known victims. I say 'known' because so many are yet to be discovered. This scam has brought an approximate monetary damage of Rs150 m. We are talking about the monetary, the pecuniary damage here; we are not talking about the gargantuan psychological human damage.

The second case I want to refer to, Mr Speaker, Sir, is the subsidiary Greenway PPC, the Mauritian offshore company and the international corporation Stanford Asset Holdings Ltd, if that is going to be reminding some Members of the Opposition of something, the company registered in the Seychelles whereby the Chief Justice granted a freezing order against 11 persons.

Mr Speaker, Sir, we are not ready and we should not forget any of this nightmarish experience that fraudulent companies have brought about. Hon. Shakeel Mohamed, who is not here today, mentioned the BAI Group in his intervention. Mr Speaker, Sir, shell companies, bogus structures have been utilised as vehicles of financial crimes. These crimes/scams have festered on with the blessings; I am not going to mention the name of,

we all know whom. Today, Opposition Members are trying to *faire croire à la population* that this Bill is here to target or to corner, like was stated in the press recently, the leader of the Labour Party.

Mr Speaker, Sir, no legislation is person specific! It is one rule for one nation. Corner Dr. Navin Ramgoolam? Mr Speaker, Sir, the question is do we need new legislation for someone who is already facing not one, but 33 counts of overpayment under section 5 of the FIAMLA? Mr Speaker, Sir, I put the question out there: does our Prime Minister need new legislation for a leader who is accused of having accepted Rs63.8 m. in cash over a six year period? The same Dr. Navin Ramgoolam whose appeal was categorically refused by the Privy Council, we need new legislation for that? The same leader of the PTR who is now going to be facing trial before the Financial Crimes Division of the Intermediary Court with no less than 35 witnesses summoned for the proceeding, we need new legislation for that?

Mr Speaker, Sir, I fully understand hon. Shakeel Mohamed and his histrionics during his intervention because he has an allegiance to his party; he has an allegiance to his leader, an allegiance which is most likely clouding and overpowering his legal acumen. I can understand that. But what about the Members of MMM with their *lame prop, latet haute*? Is this the level of desperation the MMM has now reached today? To become bedfellows with somebody who is facing so many accusations? And you come and say that we are bringing a law to corner somebody who is already six foot deep?

Mr Speaker, Sir, hon. Shakeel Mohamed, again, I make reference to the case that he himself brought up – the BAI case. I remember him talking about him being the barrister in the BAI case. But he forgot, very conveniently, to mention the other side of the case. He forgot! He has a selective memory; he does not talk about the human tragedy behind the BAI Ponzi scheme. The shattered dreams of so many families, the education plan investment, the marriage, the retirement pensions. This is what I call *crime de l'histoire*! This is the biggest scam in our history. Hon. Shakeel Mohamed had forgotten to mention that it is under the leadership of Pravind Kumar Jugnauth that compensation was brought to so many of those victims, so many of those broken dreams! The Bill comes at the right time so that we can ensure such tragedy does not strike our citizens again. I say it, I am known to be candid, Mr Speaker, Sir, it is shameful! It is shameful for the Opposition to come and today, cast doubt on the provisions of this Bill. They are doing so to what objective? Most likely for the usual lunge to gain some political brownie points!

They have continuously been engaging in slandering our institutions, Mr Speaker, Sir. Yourself! Nobody is spared! Not a single institution is spared! The chair of the

Assembly is insulted, the office of the Electoral Commissioner is insulted, and the judiciary is taken to task! Even the Privy Council is not spared!

Mr Nuckcheddy: *Fini paye?*

Mrs Koonjoo-Shah: But, Mr Speaker, Sir, they forget. These very institutions have served under different governments. So, when Members of the Opposition are in government, the institutions are functioning well. When the same Members go and sit in Opposition, institutions, *Iznogoud*.

Mr Speaker, Sir, our institutions are pillars. They are the pillars of our democracy. Mudslinging our institutions, contaminating the public opinion, trying to diminish trust in our systems, this is the height of anti-patriotism! Hon. Dr. Boolell, Mr Speaker, Sir, unfortunately who is not here...

(Interruptions)

Mrs Koonjoo-Shah: I miss him that is why I am saying unfortunately he is not here! He often speaks of *la tyrannie du nombre*. I quote him actually word for word: "tyranny of majority is no democracy." Mr Speaker, Sir, in case hon. Dr. Boolell has forgotten, Parliament is a place for elected members. Even the Opposition Members sitting here, they are here following a democratic exercise, Mr Speaker, Sir. The existence of Opposition is the most concrete example of democracy. The fact that you have the luxurious right to participate in these debates, not always constructively, is testimony to our democracy in full swing. We are here, through this Bill, implementing recommendations. Let us not make no mistake about that! We are implementing recommendations of the Lam Shang Leen report! I said earlier, we cannot tackle today's problems with yesterday's solutions!

Mr Speaker, Sir, I have listened very carefully, in very good parliamentary decorum, to hon. Bodha, I have listened to everybody who have purported that we are violating, usurping the powers of the DPP. The powers of the DPP, Mr Speaker, Sir, learned barristers like hon. Mohamed and hon. Reza Uteem, and hon. Bodha would know that the powers of the DPP are enshrined in our Constitution. Are we amending the Constitution? We are not amending the Constitution! We are working alongside already well-established legal frameworks; we are strengthening our legal landscape. There is no competition when it comes to combating financial and economic crimes. The objective is one and the same. It is the guiding principle of the Prime Minister to combat crime, to ensure that every citizen gets the opportunity to live and prosper in a crime free republic.

This is our commitment. It does not come from yesterday or fell from the sky! This has been in our electoral manifest as a top priority. So, this should not be coming as a surprise!

Therefore, Mr Speaker, Sir, to conclude allow me to congratulate the Prime Minister for his guts, because you have to have the guts, not to mention the part of steel that you have to have as well. You need to have the guts to bring such legislation.

You need to have the political will, you need to be fearless in your quest to combat financial crimes. And I can remember only two such fearless individuals: one, the late Sir Anerood Jugnauth who instituted the much required first Commission of Inquiry on Drugs, and second to none is our current Prime Minister, Pravind Kumar Jugnauth!

Mr Speaker, Sir, Government remains committed and through these legislations, these Acts, Mr Speaker, Sir, I have no reason to doubt that we shall one day live in a crime-free republic.

I thank you all for your good attention. Thank you.

Mr Speaker: MP Lobine!

(6.15 p.m.)

Mr K. Lobine (First Member for La Caverne & Phoenix): Mr Speaker, Sir, thank you for giving me the floor to bring my contribution on this Financial Crimes Commission Bill.

Mr Speaker, Sir, there is a perception from Members from the other side of the House that Members from this side of the House are not committed to fight fraud and corruptions or financial crimes. This is not the case. In a debate whereby you have got a Bill with more than 154 clauses, there are debates on specific clauses that to the likes of the population at large, they do not understand because we did not have much time to disseminate all those clauses to the public at large.

The civil society needs more time to debate, to take their views and to disseminate those amendments, those changes being brought to our penal system whereby we are talking about giving a political appointee, the new Director General of the Financial Crimes Commission, powers to prosecute and very importantly powers not to prosecute and I would come to the specific clauses later on in my delivery, Mr Speaker, Sir.

Let me remind hon. Members of this august Assembly that - hon. Minister Seeruttun mentioned it - I came with questions as to when are we coming with this Financial Crimes Commission Bill. But way back in 2015, there was a PNQ from the then Leader of the Opposition, hon. Bérenger, to the then Prime Minister, Sir Anerood

Jugnauth, with regard to the introduction of a new legislation to create this apex body which will be called the Financial Crimes Commission and during questions and answers on that day, the main issue was the appointment. In 2000 to 2005, we had an Appointment Committee composed of political persons. So, there was an issue with regard to whether to continue with such an Appointment Committee, whether you reintroduce the Appointment Committee that we had in the year 2000 to 2005 or whether you stick to the amendment that was brought in 2005-2006 or whether you come with a novel approach to appoint this new Director General of the Financial Crimes Commission.

And, the debates started in 2015 with regard to who will appoint and whether that person will have the security of tenure which is very important in a country like Mauritius. You need to feel secure in the job that you are being asked to do and we see that the mode of nomination is taking the same backdrop as 2005-2006. There is no change! We are keeping the same mode of nomination of the Director General. So, what I wanted to see in this Bill because we need a Bill. After 21 years, we need an apex body to fight against financial crimes, very complex crimes as hon. Minister Mrs Koonjoo-Shah was saying to the House. She took the example of Greenway PCC. Yes, it is a very complex case with many intricacies in that case and later on I might brief the hon. Minister on that case as well.

In this very Assembly, Mr Speaker, Sir, the complex issues are: this Director General, you will nominate him through the same critics that you are giving to the previous Government, previous Prime Minister. It is the same thing, it is just you are changing the name from Dr. Ramgoolam to hon. Pravind Jugnauth. The mode of nomination is staying the same. So, what I wanted to say in this Bill, Mr Speaker, Sir, was the mode of nomination because fighting financial crimes, many clauses in it, it just has been a cut and paste legislation. We have taken from the POCA, we have taken from the Asset Recovery Act, we have taken from FIAMLA. Most of the clauses are clauses that we need to combat fraud and corruption but where *le bât blesse*, it is how to appoint that person and I personally is of the humble opinion that this Director General of the Financial Crimes Commission ought to have been nominated in the same vein like the Director of Public Prosecutions, that is, through the Judicial and Legal Service Commission.

I heard my learned Senior Counsel, hon. Collendavelloo, said: “no we cannot do that, it cannot be through that.” But why not? Because, section 72 of the Constitution says there shall be a Director of Public Prosecutions whose office shall be a public office and who shall be appointed by the Judicial and Legal Service Commission. The DPP is an emanation of the executive. The DPP appears in Court, the DPP fights cases in Court

despite the fact that he is appointed by the Judicial and Legal Service Commission composed of Judges. So, why can we not appoint the new Director General of the Financial Crimes Commission in the same vein as we appoint the Director of Public Prosecutions? The perception will be that it will not be a political nominee because tomorrow to fight fraud and corruption, perception is also very important. If you look at various reports: Afrobarometer, Transparency International, Corruption Index, we are way behind countries that have promoted transparency and accountability in the fight against fraud and corruption. So, this would have gone the extra mile to give the impetus to this Financial Crimes Commission to start a job with all the credentials that this Commission needs and this is where the problem lies. This is where the problem lies when you appoint the Commissioners as well. They are all political nominees.

Mr Speaker, Sir, if you look at clause 58(8), and if you do an exercise to compare it with the actual legislation, section 47(6) of the POCA, you will see where the devil lies. You will see in those little details. In the current legislation, when you proceed from further investigation by the Commission, you end up by sending the conclusion to the Commission. After the Director General shall submit a report to the Commission and getting the opinion of that Commission, the Director General has got the legal obligation to submit a report to the Director of Public Prosecutions and the details are as follows. This is very material to this present matter, Mr Speaker, Sir –

“which shall include –

- (a) all the material, information, statements and other documents obtained in the course of the investigation;
- (b) a description of the articles of evidence which have remained in the custody of the Commission;
- (c) the recommendations of the Commission.”

This is very important. This is where we are saying that there is a big problem. This is where we are saying that we are curtailing the powers of the DPP because in the current form that is being proposed at sub-paragraph 7 and 8 of Clause 58 of the Bill, it is said and I quote –

- “7) After conclusion of an investigation, the Director-General shall submit a report to the Commission.
- (8) On receipt of a report under subsection (7), the Commission may decide –

- (a) whether to institute criminal proceedings for an offence under this Act or the Declaration of Assets Act in accordance with section 142;
- (b) whether to discontinue the investigation; or (c) on any other course of action as it may deem fit and proper taking into consideration all circumstances of the case.”

Completely different from what we have in POCA and this changes the whole issue. This raises all the debates about our criminal justice system, about our penal system. This also creates the doubt and serious reservations of the Director of Public Prosecutions when I take the latest communiqué of the Director of Public Prosecutions and I will quote from a public communiqué of the Director of Public Prosecutions, paragraph 8 –

“The Office of the DPP also took note of the various other comments made in relation to the introduction of the Financial Crimes Commission Bill and the Office of the Director of Public Prosecutions has already imparted its serious concerns and reservations to the Government in respect of the Bill, and at this stage, the office of the Director of Public Prosecutions will not make any remarks in order not to interfere with the ongoing democratic debate.”

Mr Speaker, Sir, this is what we are talking about. All those clauses that we are talking about, boil down to this power given to this political nominee not to prosecute. Be it as to the powers of the DPP under section 72 where there is an action before Court, before the Financial Crimes Division as to the provision of clause 152 of this Bill, the DPP can enter in this case. However, if we go into the details that I have been elaborating earlier on, with regards to possession of the files, details with regards to the enquiry, the evidence; if you do not have a file, if you do not have the details of the enquiry, if you do not have at prior hands how those charges are being laid, how can you intervene at a later stage when the case is before the Court? Then it will create another perception that we are creating and throwing under the DPP that “you know he will intervene in a case and he will just file Notice of this continuance or a *nolle prosequi*. This is the danger in this Bill. The danger is giving powers to a political nominee to have the right to prosecute and not to prosecute financial crimes. This is not a good signal to be sent to the public at large.

In those festivities, many people are now getting the grip of what is happening with regards to this Bill. That is why I make a humble appeal to the Government, to the hon. Prime Minister to enlarge the debate, to bring the civil society and allow them to participate. We can move on with the debates later on as well. We do not need to rush and vote this Bill right now. We could have other views that would give us the impetus to

bring amendments and to work in the best interests of combating fraud and corruption in this country; a real combat against financial crimes because, as it stands, Mr Speaker, Sir, what will happen? We will end up again in another battlefield; a constitutional battlefield. We have had a sort of a cold war since 2015 between the Office of the DPP and certain members of the Executive. We are having an open war between the CP and the DPP in the battlefield before the Supreme Court and this has not started some years back. It has started way back in 2015 and, if I may go down memory lane, Mr Speaker, Sir, the Office of the DPP as it was created way back in 1964, it was then the Office of the Procureur and Advocate General and over the years, in 1964, when the Office of the Attorney-General was created, then we created the Office of the DPP. Throughout the years, the Office of the DPP was empowered to prosecute. It is the Prosecution Arm of the Executive.

Over the years, Mr Speaker, Sir, we had the Mackay Report. There was the Mackay Commission in 1998 if my memory serves me right. Over there, what was debated is that we need to give more autonomy to the Office of the DPP and after the judgement of the Privy Council in the Mohit v DPP case; you said we had to declared interest. I declared my interest. I was one of the Counsel of Raju Mohit in this particular case which is jurisprudence now with regards to the powers of the DPP. Then, what has happened? In 2009, we have created a separate Office for the DPP. We gave the DPP an autonomous way of functioning and way back, in 2015, what has happened? Again, the Government decided in 2015 that the DPP's Office would again be under the administrative control of the Attorney-General's Office. Let me remind this House that this case is still a live issue. There is a fight between the Attorney-General's Office and the DPP's Office before the Supreme Court. It is a live issue and in this live issue, mention is made as to the then Government trying to bring the Public Prosecutions Bill.

And, thanks to the PMSD at that time, hon. Xavier Luc Duval and his friends, they prevented the enactment and the amendment of the Constitution to bring this Prosecutions Bill. This is the cold war that we had since 2015 and now, with this Bill, Mr Speaker, Sir, we will be again creating loads of confusion amongst members of the Executive. There will again be challenges in Court. I do not want it to happen. I do not want in-fighting between members of the Executive because we need to work altogether; the DPP, the CP, the Executive but I doubt that this will happen. With clause 66, with regards to infringement to privacy, intrusive surveillance and all these techniques being used, not just in the public domain but in your own private house, there will be challenges.

This Bill, I am afraid, Mr Speaker, Sir, will have to stand the test of constitutionality. I do not know who will be bringing those cases. We need to know what

shall be the *locus standi* of different protagonists but I am talking as a lawyer and in my experience, this is a Bill that most certainly will end up with contestations, challenges on its constitutionality in Court. I do not want it to happen and that is why I am appealing, urging this Government, Members of this Government, Ministers, MPs, to try to consider the greater picture; combating financial crimes. We need to have a consensus in this House to fight financial crimes because why not having a proper appointment through a proper organism that will dissipate all doubts with regards to the nomination of the Director General? This is the crux of this debate Mr Speaker, Sir, because as things are proceeding, we do not have the Criminal Justice Bill yet because we have this huge concern about this abuse of the practice of using provisional charges and unfortunately, I will come back to my maiden speech when I made an appeal to this Government. We need to consider the introduction establishment of a Constitutional Court. We are having so many issues of interpretation of constitution.

In a country, in a democracy like Mauritius, having such law, because we do not have the same House as in England because I heard the hon. Minister Jeewa-Daureeawoo, and even hon. Ramchurrun spoke about the Serious Fraud Office where appointments are made by the Attorney General, but it is not in the same context. Over there, Mr Speaker, Sir, the appointment is made after due and rigid exercise, competitive exercise done by the Civil Service Commissioner. It is done by the Civil Service Commissioner and it recommends it to the Attorney General.

So, again, to conclude, Mr Speaker, Sir, I urge Members of the Government, of the other side: do not rush through this Bill. Create more debates amongst civil society and come with an amended version with regard to the nomination, appointment of Commissioners and the Director General. And I am sure Members from this side of the House will walk along to combat fraud, corruption and financial crimes with regard to how to appoint this new member of the Commission.

I am done, Mr Speaker, Sir, and I invite Government to kindly consider my request to postpone the debates with regard to this Bill.

Thank you.

(6.36 p.m.)

Mr Speaker: Hon. Teeluck!

The Minister of Arts and Cultural Heritage (Mr A. Teeluck): Thank you, Mr Speaker, Sir, for allowing me to bring my contribution to the debates on this very important piece of legislation.

Mr Speaker, Sir, the Prime Minister has elaborated on the rationale behind the introduction of the Financial Crimes Commission Bill and of course supported by Members of the Government. I believe it is important to stress on the reasons for the introduction of this Bill, a Bill which aligns with the philosophy of this Government to fight corruption and other financial crimes and the setting up of the Financial Crimes Commission as an apex body to fight financial crimes was first evoked in the Government Programme of 2015-2019. It was already clear at that time that good governance, accountability and transparency would be the guiding principles of the 2014-2019 government and of course, this present Government.

Mr Speaker, Sir, a legislation pertaining to the fight against corruption and financial crimes requires robust provisions. Loosely crafted or frail provisions will not serve any purpose against those who have the means, *sans exagérer*, Mr Speaker, Sir, to run a parallel black economy in a country. We are here talking about people who have the financial means to distort governance, to induce corruption and to put at stake the very spirit of a democratic State.

And talking about democracy, Mr Speaker, Sir, a lot has been said. The previous orator talked about it; many Members of the Opposition have spelt out their concerns about this Bill being unconstitutional and with some of the arguments resting on the fact that the Director General of the Financial Crimes Commission being vested with powers to prosecute and that this would appear to be a usurpation of powers of the DPP.

Mr Speaker, Sir, first thing, I ran, like all other Members, through the provisions of the Financial Crimes Commission Bill and unless I missed out any provision, I put the question, Mr Speaker, Sir: where in this Bill is the proposal to amend section 72 of the Constitution? Section 72 of the Constitution, Mr Speaker, Sir, relates to the Director of Public Prosecution and its powers. Again, where, in the Financial Crimes Commission Bill being proposed in this National Assembly, is reference made to amendments being proposed to section 72?

Mr Speaker, Sir, the introduction of this Bill, even afterwards when this Bill is voted, even after the appointment of the Director General, even where the Director General exercises his powers to prosecute under the FCC, the powers of the DPP will remain intact and this is something fundamental in these debates which the Members of the Opposition failed to understand. We are not in any way, in any manner, proposing to alter or to tamper or to touch the powers of the DPP under section 72 of the Constitution. The Financial Crimes Commission will not have any incidence on the powers of the DPP.

What is being proposed in this Bill, Mr Speaker, Sir, is simply to empower the Director General to prosecute offences as provided in this Bill and as an enforcement and investigative agency, it is natural that it should be vested with the power to institute criminal proceedings. It should be able to carry its own prosecution independently without any undue delay which otherwise might lead to unsuccessful outcomes. And, Mr Speaker, Sir, this type of prosecution-led investigative body is not only recognised but also recommended by international organisations such as FATF.

I would like to highlight, Mr Speaker, Sir, that the same section 72 of the Constitution actually does already makes provision for other authorities to have the power to prosecute. Section 72(3) (b) and (c) –

“(b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority;”

Paragraph (c) –

“(c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.”

Et d’ailleurs, this concept of authority vested with prosecutorial powers already exists in our law – the Food Act, the Waste Management and Resource Recovery Act 2023, or even the Local Government Act. So, there is nothing sinister in proposing a prosecution-led investigative body. And Mr Speaker, Sir, I do not understand *l’acharnement contre la mise en place de cette commission*.

Members of the Opposition are saying that they are not against the setting up of the Commission, but there is *une contradiction dans leurs discours*. On the one hand, they are not opposing the setting up of the Commission, but on the other hand, they are contesting each and every provision of this Bill. Actually, Mr Speaker, Sir, we are today giving ourselves, as a democratic country, additional capacity to fight corruption. Actually, we are today, through this Bill, helping the DPP to fight corruption, Mr Speaker, Sir. Now, along the DPP, the FCC will also help to prosecute financial crime offenders and is this not correct, Mr Speaker, Sir? What is sinister *dans cette démarche*? What is unconstitutional in that? What is against the democracy in this Bill?

Hon. Lobine and hon. Bodha and some other Members *ont fait un procès* of section 58 of the Bill – discontinuing criminal proceedings. Now, Mr Speaker, Sir, if an authority has the power to initiate investigations, obviously, if after investigating there is no material to pursue further the case, it is only legitimate and natural that it would discontinue it.

It is very normal. If you have the power to initiate and you do not have any findings, you do not have anything, it is natural again to discontinue. There is no room to prosecute, to discontinue. I fail to understand why you believe that there has to be a sinister motive behind the setting up of this Financial Crimes Commission. Coming back to section 72, if the Members of the Opposition are still not happy, you can rest assured, the DPP still reserves his powers to either take over, continue or discontinue a criminal proceeding.

Mr Speaker, Sir, *la démagogie autour de ce projet de loi m'étonne. L'acharnement surtout contre la position du directeur général, certes regrettable.* Do you really believe that an institution, a Commission of this nature will be operated on the whims and caprices of just one person? How can we disregard the fact that at all times there will be four layers of scrutiny, Mr Speaker, Sir?

First layer: the Legal Division of the FCC, the legal scrutiny and legal advice of the Legal Division on any investigation being carried out. That is the first layer of scrutiny, Mr Speaker, Sir.

The second layer: the Operations Review Committee. Coming to the Operations Review Committee, Mr Speaker, Sir, talking about democracy, 2005 with the introduction of the amendment to the POCA, what was proposed and what was voted? To scrap the Operations Review Committee. The Operations Review Committee was scrapped by the Labour Party at that time. *Et*, Mr Speaker, Sir, hon. Duval was a Cabinet Minister at that time. Talking about democracy! Hon. Dr. Boolell was a Cabinet Minister at time. Talking about democracy! Hon. Shakeel Mohamed was a Member of Parliament at that time. Talking about democracy! So, the tune of democracy changes according to where they sit in this House? We are reintroducing the Operations Review Committee! Talking about democracy!

Third layer: Mr Speaker, Sir, the Director of Public Prosecutions himself who can at any time step in.

Finally, Mr Speaker, Sir, the fourth layer of scrutiny: the court. You do not trust the Commission? You do not trust the Legal Division? Let us assume you do not even the DPP now, but being a learned Counsel, you do trust the court. We have these layers of scrutiny, Mr Speaker, Sir, there is no reason why we should have this *acharnement* with the introduction of this Bill. Seeing the glass half empty all the time!

Mr Speaker, Sir...

The Prime Minister: And don't trust the Privy Council!

Mr Teeluck: Yes, of course!

(Interruptions)

Mr Speaker, Sir, criticism has also been made as regard the appointment of the Director General. The Prevention of Corruption Act 2002, hon. Collendavelloo talked about it, provided for an Appointment Committee. Again, what happened? Hon. Ramful, of course, will rebut what I am saying, but you will agree, hon. Ramful that when amendments were brought in 2005 in this very House by a Labour-led Government, they proposed to scrap the Appointment Committee. The principle of democracy – it is very easy because hon. Shakeel Mohamed will say: that ‘oh, that was long time back. That was ten years back, fifteen years back, twenty years back.’ The principle of democracy does not erode with time. What was democratic at one point in time remains democratic! The Appointment Committee was scrapped!

Mr Toussaint: *Ramful depi ler li...*

(Interruptions)

Mr Teeluck: Mr Speaker, Sir, you need guts to come up with concrete and forceful legislations to fight corruption and this Bill is what we need today. For the powers conferred under the Bill, there are judicial checks. Actually, section 66, Mr Speaker, Sir, the Special Investigative Techniques, again much has been said about going to spy on people using advanced technologies. But, Mr Speaker, Sir, again, the Director General cannot just wake up in the morning and say ‘okay, I am going to spy on hon. Bobby Hurreeram,’ for example. He cannot do that.

Mr Speaker, Sir, unless he applies to a judge for an order to use these investigative techniques, he will not be able to activate this provision under the law. Mr Speaker, Sir, we cannot read halfway through a provision in the law. We cannot read what pleases us. We cannot interpret things how it suits us. When we interpret the law, it should be with qualifications attached to it and this special investigative technique provision has a qualification that we need to apply to a judge for an order to be able to activate this section of the law.

Mr Speaker, Sir, we do not just talk; the Prime Minister does not just talk, he acts. For years, while sitting on the benches of the Opposition, you called for reforms of the electoral system. Hon. Bodha just talked about it *sur le financement des partis politiques. Discours, discours et discours!* It needed a Pravind Kumar Jugnauth to come with the relevant Bill to the House to regulate the financing of political parties! It is not unfortunate for political parties, it is not unfortunate for MSM, for Parti travailliste, for MMM, for

PMSD; it is unfortunate *pour la population*, for Mauritius, for the Republic that the Opposition showed their real colours and voted against! Where was the principle of good governance and willingness to fight corruption then? *Encore une fois, discours*, Mr Speaker, Sir ! *Et surtout, operasion zet labou !*

We are discussing the Financial Crimes Commission Bill and hon. Uteem talks about Medpoint! He has the audacity actually to refer to Medpoint. The Privy Council proved you wrong, all of you, and actually you should *demand eskiz pou sa*.

An hon. Member: *Paye!*

Mr Teeluck: Recently, the other Privy Council judgment...

Mr Balgobin: *Linn gagn klak!*

Mr Teeluck: Mr Speaker, Sir, again,...

(Interruptions)

Mr Speaker: Order!

Mr Teeluck: Hon. Uteem also talked about ... Unfortunately,...

(Interruptions)

Mr Speaker: Order!

Mr Teeluck: It is very unfortunate, Mr Speaker, Sir, that hon. Uteem also referred to Angus Road in his speech. Very unfortunate! The Prime Minister was man enough to answer three PNQs in this House on Angus Road. The Prime Minister was man enough to hold a Press conference and to provide all explanations in relation to Angus Road!

The Prime Minister: Two investigations by Labour Party!

Mr Teeluck: Including two investigations by Labour Party. The Prime Minister steps up to these false allegations! If you want to ask questions, you like to ask questions, let us ask questions about *220 millions dans coffre*.

(Interruptions)

Till now, he has not had the decency to come and explain where that money came from!

(Interruptions)

An hon. Member: *La osi pa pe fini la!*

Mr Teeluck: Talking about corruption and fighting financial crimes, I congratulate the Prime Minister for coming to the House with this Bill. This shows in clear terms that the Prime Minister is committed to fight corruption and financial crimes and to clean

Mauritius of all types of malpractices and irregularities for the benefit and in the interest of the country.

I am done, Mr Speaker, Sir. Thank you so much.

Mr Speaker: MP Ramful!

(6.55 p.m.)

Mr D. Ramful (First Member for Mahebourg & Plaine Magnien): Thank you, Mr Speaker, Sir.

To start with, Mr Speaker, Sir, I think I have to clear out something with regard to the Appointment Committee because I have been hearing Members saying that the Labour Party apparently scrapped the Appointment Committee under the Prevention of Corruption Act. I will ask hon. Teeluck to go and look in Hansard. You know, there was a judgement; the judgement of Bhadain against Beekarry. Following the judgement of the Supreme Court, the two Judges made serious remarks against the then - well, he was Commissioner at that time - Commissioner of ICAC, and then, the Prime Minister - hon. Paul Bérenger is here, he was the Leader of the Opposition - wrote to the President of the Appointment Committee, asking him to call for a meeting of the Appointment Committee to look into the allegations or whatever has been said by the Judges against the Commissioner. The President at the time refused to call for a meeting saying that he was the one who decides when to call for a meeting. This is in Hansard, go and check! And this is why when the Labour Party came in power, they scrapped the Appointment Committee because it was not working. This is the reason why the Appointment Committee was scrapped.

Let me come to my speech.

The Prime Minister: I hope you are here when I will be back. I hope you are here.

Mr Ramful: There is another thing. Hon. Teeluck said that, 'You know, the DPP, he can still discontinue investigation at any time.' Hon. Teeluck is a lawyer. Tell me how the DPP is going to discontinue a proceeding if he does not have the file. How is he going to do that? Anyway!

M. le président, cette loi nous est présentée dans un contexte où les fléaux tels que la corruption, le blanchiment d'argent sale et surtout le business de la drogue abattent sur notre société de plein fouet. Nous sommes impuissants devant la situation et on a l'impression que le gouvernement et les autorités concernées sont dépassés par l'ampleur et la gravité de la situation. Les nombreux scandales que nous avons vécus depuis 2015, les contrats pour l'achat des médicaments et d'équipements pendant la période de Covid-

19, l'affaire Franklin, le *grey listing* de notre juridiction sont les quelques exemples pour nous rafraîchir la mémoire. Mais on aurait cru que le gouvernement allait se ressaisir et qu'avec le *Financial Crimes Commission*, on allait finalement remédier à ces failles, renforcer nos institutions, afin de protéger notre société ainsi que nos enfants de ces fléaux.

Mais, malheureusement, et l'histoire retiendra comme en 2002 quand l'*ICAC* avait été créé, aujourd'hui encore, le gouvernement au pouvoir dirigé par le MSM nous propose une agence anticorruption ; la *FCC*, qui risque d'être hautement politisée, pire de que ce que nous avons vécu avec l'*ICAC*. La liste de ces nombreux cas qu'on appelle des *high-profile cases* dénoncés à l'*ICAC*, mais qui, pour des raisons qu'on sait, n'ont pas eu d'aboutissement à ce jour est connue au grand public.

Ce qu'on nous propose avec la *FCC*, je ne vais pas entrer dans les arguments légalistes, mais c'est une tentative délibérée à travers un simple projet de loi d'éroder l'*Office* du *DPP* de ses pouvoirs sacrosaints qu'il retenait jusqu'à présent : ceux d'instituer et d'entreprendre des poursuites dans tous les cas criminels, inclus les crimes financiers. Pire, c'est qu'on donne ces mêmes pouvoirs à un nommé politique, le futur Directeur général de la *FCC*. Cette démarche est sans précédent, exceptionnelle, et ce que les constitutionnalistes vont vous dire c'est qu'avec cette loi, on risque de frôler l'inconstitutionnalité, entacher les principes de séparation de pouvoirs et menacer l'État de droit.

Alors, vu l'impact et les conséquences de cette loi, des explications franches et claires du gouvernement et surtout du Premier ministre sont nécessaires. Pourquoi transférer à un nommé politique des pouvoirs qu'un *judicial officer* de l'*Office* du *DPP* retenait depuis notre indépendance ? J'ai beaucoup écouté les discours des différents membres du gouvernement et du Premier ministre pour chercher la ou les réponses, mais personne n'a donné une raison valable pour ce transfert de *decision-making*. On doit réaliser qu'on ne parle pas de poursuites criminelles concernant des simples contraventions sous le *Food Act* ou sous le *Local Government Act*, comme avait dit l'honorable Teeluck. On parle là de la fraude, de la corruption, de blanchiment d'argent, et ces offenses sont accompagnés par des peines d'emprisonnement lourdes de 10 ans. Et on sait très bien, tout comme le Premier ministre, si ces poursuites sont - et je dis bien si ces poursuites sont - politiquement motivées, les dommages que cela peut créer à la réputation d'une personne.

J'ai même entendu certains membres et même le Premier ministre citer les rapports d'*ESAAMLG*, le *Mutual Evaluation Report*. Les recommandations de la *FATF*, d'*UNODC*

et même les conclusions du rapport Lam Shang Leen sur la drogue dont le Premier ministre avait fait mention, ne montrent pas du doigt l'*Office du DPP* – non. Ils montrent du doigt nos *law enforcement agencies* qui sont l'*ICAC* et la police en particulier. Et, aujourd'hui, on est en train de glorifier l'*ICAC* en lui donnant plus de pouvoir et *strip down* les pouvoirs du *DPP* à des simples poursuites criminelles. C'est le monde à l'envers ! Et en plus, vous osez donner des pouvoirs de poursuite à une institution qui a failli, qui fait du *selective investigation*, comme l'a bien dit la magistrate Bholah dans l'affaire Molnupiravir. Et quand on critique cette loi, on nous traite d'antipatriotes. Au contraire, vous devez nous remercier ; on attire votre attention sur les possibles dérives pour que vous ne fassiez pas de notre île Maurice une *banana republic*. C'est nous les vrais patriotes !

J'ai écouté avec beaucoup d'intérêt l'intervention de l'honorable Collendavelloo, puisqu'il était le parrain de l'*ICAC* et il avait présidé lui-même le *Select Committee* sur la fraude et la corruption de 2001. Je voulais l'entendre, lui, un avocat respectueux et respectable, si ce n'était pas contre le principe d'impartialité pour qu'un enquêteur, la *FCC*, s'auto-saisine lui-même le pouvoir de décider si sa propre enquête a débouché sur un *prima facie case* qui mérite d'être poursuivi en justice. Et l'honorable Collendavelloo trouve cela normal. Et bien, dans ce cas-là, je vais retourner l'honorable Collendavelloo, pas à l'époque de la deuxième guerre mondiale, comme il avait fait référence pour justifier cette loi mais à un extrait de son propre rapport sur le *Select Committee* sur la fraude et la corruption en 2001, et je cite –

« Et je dois dire aussi que ce comité n'était pas composé de n'importe qui. C'était composé des *seniors members* de cette auguste Assemblée »

Y compris l'honorable Collendavelloo lui-même, l'honorable Alan Ganoo qui est présent là, l'honorable Anil Gayan, l'*Attorney General*, Monsieur Leung Shing.

Allons voir ce qu'il disait à l'époque, en 2001, sur les pouvoirs du *DPP*, parce qu'à un certain moment on parlait même de donner à l'*ICAC* les pouvoirs de poursuite, comme on propose dans cette loi aujourd'hui. Et regardez ce que l'honorable Collendavelloo de 2001 avait dit : '*we have read [tous les membres] with alarm [s'il vous plaît] the considered opinion of some commentators who feel that ICAC must shoulder its responsibilities all the way and itself conduct the prosecution of cases it has investigated*'. Ils ont considéré avec '*alarm*' ce que les commentateurs avaient proposé, et la réponse a été : '*we do not agree*'.

Alors en 2001, l'honorable Collendavelloo n'était pas d'accord avec ce principe, et avec raison. Il justifie sa décision et il dit : '*by virtue of section 72 of our Constitution, the*

DPP has the sole and unfettered control over criminal prosecutions. Regardez bien ce qu'il dit: *'nothing that has been said can persuade us that an exception should be made in respect of fraud and corruption. We believe that it is to the DPP and the DPP alone to control what has been done by ICAC in the course of the investigation and to decide whether the investigation should result in a prosecution.'* Il continue et il dit: *'the DPP is a highly respected institution in this country. The DPP's decision may be found to be wrong, but the DPP must continue to act independently. To immerse the DPP in concurring to parts of the investigative process is to cloud the DPP's judgment from the very start'*. C'est ce qu'on est en train de faire! On est en train de *cloud* la décision du directeur général de cette commission *right from the very start because he himself will be investigating and he himself will be deciding whether there is prima facie case for prosecution*.

Et regardez ce qu'il dit à la fin, vous allez être choqués, les membres du gouvernement: *'it would also be wrong to concentrate into ICAC the task of intelligence gathering, investigating and prosecuting at the same time'*. Je pèse mes mots, l'honorable Collendavelloo sait très bien ce que je vais aller dire: *'this would lead to the creation of a monster who would soon get out of control by reason of this over concentration of power – le Select Committee Report d'Ivan Collendavelloo*. Cela va créer un monstre! Un monstre qui va *get out of control*. Mais ce monstre-là, heureusement, est sous le contrôle du Premier ministre. Le monstre qu'on va créer, avec l'*appointment* qu'on va faire, sera sous le contrôle du Premier ministre. C'est bien.

Mais l'honorable Collendavelloo avait bien raison en 2001 because there is one simple and basic reason why the power to prosecute should remain with the DPP. It is because the DPP is not a political nominee, but an independent judicial officer. When he takes his decision, he acts in the public interest as per the Code for Prosecutors in order to uphold the integrity of the Judicial System and he does so without fear and favour. He is only answerable to the Court of Justice, not to government and even less to the Prime Minister. It is on the same principle that he proceeded when he decided to institute proceedings against the current Prime Minister and the former Prime Minister. And it is on that same principle that he proceeded when he decided not to prosecute hon. Juman.

An hon. Member: Huh!

(Interruptions)

Mr Ramful: What criteria is the Director General of the Commission going to follow? You know what criteria? Your political affinity! This is the criteria he is going to follow rather than public interest.

So, Mr Speaker, Sir, I won't be long. What is also alarming is with regard to the fact that the Director General will not have to account for some of the cases ...

Hon. Members: *Bwar delo! Bwar delo!*

Mr Ramful: ... where he decides not to prosecute and there will not be any transparency on cases he decides to discontinue.

They were talking about the Operations Review Committee. It was being headed by a retired public officer. I remember the retired public officer was scared of the Commissioner; he couldn't even ask him about the cases and this is why the Labour Party amended and introduced section 47 for the Commissioner to report to the DPP on all cases that he decided to discontinue and if the DPP is not agreeable, the Commissioner was obliged to follow the directive of the DPP.

And what are you doing now? Do you know what you are doing? Look at section 128. *La section 128 vous dit maintenant que c'est au Operations Review Committee to advise the Commission on the number and manner investigations are completed and discontinued. Et puis tout juste après, il vous dit à la section 128(4) : this shall not be construed as authorising the ORC to intervene in the decision of the Commission ce qui veut dire que la commission peut discontinue any inquiry et elle n'est redevable à personne, même pas l'ORC.*

So, you are going to allow the Commission to discontinue proceedings on whatever criteria he may think fit and there is not going to be any supervision from any other authority.

Alors, M. le président, pour terminer, c'est clair qu'on est en train de créer un monstre politique, c'est une loi régressive. Mais comme l'honorable Bodha l'avait si bien dit, faites attention, les rênes de ce monstre seront à présent entre les mains de ce gouvernement, Dieu saura ce qui se passera quand ce monstre changera de maître !

Merci.

Mr Speaker: Hon. Lesjongard!

(7.12 p.m.)

The Minister of Energy and Public Utilities (Mr G. Lesjongard): Merci, M. le président, de me donner l'occasion d'intervenir sur ce projet de loi extrêmement important. Tout d'abord, en tant que ministre et en tant que patriote, je tiens à saluer le courage du Premier ministre et aussi à le féliciter pour l'introduction de ce projet de loi au Parlement.

M. le président, la présentation de ce projet de loi franchit une étape décisive dans la lutte contre les crimes financiers. Ce projet de loi arrive à un moment important où plusieurs pays de par le monde intensifient leurs efforts pour contrer les divers crimes financiers. L'éventuelle adoption de cette loi sera un signal fort à la communauté internationale et cela démontre notre engagement, M. le président, à renforcer les mécanismes de surveillance financière et à éradiquer ces fléaux.

Ce que nous voulons, à travers de cette loi, M. le président, c'est d'avoir quelque chose de plus solide, plus efficace dans la lutte contre les activités illicites et notamment les activités financières des trafiquants de drogue. M. le président, ceux qui critiquent cette loi doivent au moins, personnellement, avoir un agenda caché, car, M. le président, un tel projet de loi novateur et avant-gardiste pour notre pays relève simplement de la mauvaise foi.

M. le président, nous avons pris des engagements au niveau international dans le combat contre le blanchiment d'argent et les transactions financières illicites et il nous faut, en tant que pays, respecter ces engagements. Donc, avec ce projet de loi, nous nous donnons les moyens légaux et les ressources nécessaires dans cette lutte contre la fraude et la corruption.

M. le président, je vais retourner sur ce qu'a dit honorable Ramful un peu plus tard, mais permettez-moi, M. le président, de retourner au début de notre mandat où le Premier ministre avait annoncé les changements qui devront être apportés aux présentes législations et je cite au paragraphe 177 du *Government Programme* de 2020-2024 –

“In order to strengthen our legal, regulatory and operational measures for combating money laundering and terrorist financing, additional measures will be taken to further consolidate the regulatory frameworks of our financial and banking services.”

Et, lors des débats – il faut le dire – sur le programme gouvernemental, aucun membre de l'opposition n'avait fait de commentaire sur cette annonce et c'est quatre ans plus tard qu'on trouve maintenant des raisons pour venir contester l'introduction de ce projet de loi qu'ils qualifient d'électoraliste.

M. le président, le Premier ministre avait clairement informé la Chambre de la présentation prochaine de ce projet de loi et c'était lors d'une *PNQ* qu'il avait répondu le 25 avril de cette année et, M. le président, il faut se rappeler que l'*ICAC* a plus de 20 ans d'existence et qu'entre-temps, le mode opératoire des criminels à col blanc a grandement

évolué. Certains utilisent même des nouvelles technologies pour passer à travers les mailles du filet.

Et, M. le président, je le dis aussi il y a quelques temps de cela, les membres de l'opposition avaient publiquement déclaré n'avoir aucune confiance en l'ICAC et du reste certains membres avaient démissionné du comité parlementaire.

Mr Speaker, Sir, instead of promoting cheap politics, Opposition Members should salute the Prime Minister's vision of a more transparent and corruption-free Mauritius and we have adopted a zero tolerance policy against corruption and the fight against fraud and corruption and shall continue relentlessly without fear or favour.

And, my question today, Mr Speaker, Sir, to this august Assembly is why are Members of the Opposition against meaningful changes and so adamant vote against the Financial Crimes Commission Bill? And, why is the Labour Party's Leader afraid of this new law? He is talking about conspiracy but, Mr Speaker, Sir, the greatest political conspiracy in our country was the conviction of the Leader of the MSM and present Prime Minister by the Labour Party *Gestapo* in December 2012. And, Navin Ramgoolam should stop thinking that everything in this country is about him or his coffers, Mr Speaker, Sir. This law and this has been said earlier, targets criminals and law-abiding citizens have nothing to worry.

M. le président, on a beaucoup débattu sur la nomination de la personne qui sera à la tête de cette institution et beaucoup de critiques ont été faites sur l'éventuelle nomination du nouveau Directeur de la Financial Crimes Commission et l'article 10 du projet de loi prévoit la nomination du Directeur général pour le Président de la république, *and I quote –*

“(1) There shall be a Director-General of the Commission, to be appointed by the President acting in accordance with the advice of the Prime Minister, tendered after the Prime Minister has consulted the Leader of the Opposition.”

Et, M. le président, toutes les nominations importantes sont faites de cette façon depuis allons dire, et cela a été toujours le cas aussi pour le Directeur de l'ICAC depuis 2005.

M. le président, ceux qui aujourd'hui émettent des critiques sur la nomination du Directeur de la Financial Crimes Commission sont les mêmes démagogues qui ont amendé la loi concernant la nomination du Directeur général de l'ICAC et cela deux mois après la prise du pouvoir par l'alliance PTr et PMXD. C'est-à-dire, nous avons eu les élections en juillet 2005. Il y a eu un premier projet de loi présenté par le gouvernement Travailleiste et PMXD le 13 août 2005 et le deuxième projet de loi, c'était en septembre 2005 concernant

les amendements de la *Prevention of Corruption Act* de 2005. Et, ils sont à critiquer cette nomination sans faire référence à ce qui avait été dit. L'honorable Ramful a parlé de ces débats, de ces amendements concernant la POCA, mais ils omettent de dire ce que le Premier ministre d'alors, leur leader avait dit concernant cette nomination et permettez-moi, M. le président, de citer ce qu'il avait dit à l'époque. Il avait affirmé, je cite –

“The amendments proposed that the Appointments Committee be abolished and that a Board be set up chaired by a Director General. The Director General shall be appointed by the Prime Minister after consultation with the Leader of the Opposition.”

Et, comme je l'ai dit il avait ajouté –

“I would like to point out, Mr Deputy Speaker, Sir, that in other countries, for example, Singapore, which is generally accepted to be one of the countries with probably the most effective anticorruption institutions in the world, the Head of the Corrupt Practices Investigatory Board is appointed by the Prime Minister. On the African continent in Botswana, a country which is regarded by Transparency International as the least corrupt country in Africa, the Director of the Directorate of Corruption and Economic Crime is appointed by the President who has executive powers. Even in the UK [and this was mentioned earlier] in the Serious Fraud Office which investigates and prosecutes serious and complex fraud and is part of the criminal justice system, its Director is appointed by and is accountable to the Attorney General who is himself appointed by the Prime Minister.”

And, he mentioned also about the cases in Hong Kong, new South Wale, Australia which are well known as countries for their fight against corruption.

Et, ce qui est intéressant parce qu'aujourd'hui nous avons dans l'alliance de l'opposition, le Parti travailliste, le PMSD qui était à l'époque PMXD et le MMM et lors de ces débats sur ces amendements à la *Prevention of Corruption Act*, il s'est passé quelque chose d'extraordinaire ce jour-là, M. le président, que je dois signaler à la Chambre parce que le Premier ministre d'alors fait son intervention en seconde lecture et par la suite c'est le tour du Leader de l'opposition d'alors d'intervenir et c'est l'honorable Bérenger qui intervient et avant d'intervenir, fait rare, c'est-à-dire ce jour-là, il seconde la motion pour l'introduction de ce projet de loi au Parlement. C'est-à-dire, projet de loi qui vient abolir l'*Appointment Committee* et aussi venir de l'avant avec une nouvelle façon de nommer le Directeur de l'ICAC.

Dans son intervention, en plus de seconder cette motion pour ce projet de loi, M. le président, il vient dire à la Chambre –

“Mr Deputy Speaker, Sir, it is one of those rare occasions in our Parliamentary democracy where the Leader of the Opposition stands up to thank and congratulate the Prime Minister, and not once, but twice.”

Et il ajoute –

“I think it is a very good day for Mauritius and for our democracy.”

M. le président, il faut qu’ils accordent leurs violons...

Mr Bérenger: Cite le reste!

Mr Lesjongard: Parce que...

Mr Bérenger: Cite le reste!

Mr Lesjongard : M. le président, à écouter les membres de l’opposition, nous voyons qu’il y a beaucoup de disparités dans ce qu’on est en train de dire aujourd’hui à la Chambre et à la population. M. le président, c’est dans le *Hansard*, n’importe qui peut le consulter. Le comble, M. le président, pour vous dire que cette même personne, quelques années plus tard, effectivement, en septembre 2022, à Quinze Cantons, lors d’un congrès de l’alliance de *Lespwar* et cette fois-ci en compagnie de l’honorable Nando Bodha, il affirme –

« Nou retourn l’ICAC ki nou ti fer en 2000-2005 ki malerezman apre 2005 inn estropie. »

Alors, voilà les commentaires, M. le président, de l’honorable Bérenger en 2022, quelques années après qu’il ait dit pendant les débats que les amendements apportés au POCA en 2005 étaient un jour où la démocratie brillait dans notre pays.

Mr Bérenger: Soyez honnête, citez le tout !

Mr Lesjongard: M. le président, les amendements de 2005, c’était clair que le Premier ministre d’alors, Dr. Navin Ramgoolam, voulait avoir une mainmise sur l’ICAC.

M. le président, permettez-moi de venir sur l’autre argument mis de l’avant par les membres de l’opposition concernant le pouvoir d’arrestation de la nouvelle commission. M. le président, les crimes financiers impliquent souvent des réseaux complexes, des connexions internationales et des moyens sophistiqués de dissimulation. Et, M. le président, ces crimes peuvent également avoir un impact important, premièrement, sur

notre économie, sur la stabilité de notre pays et aussi sur la confiance des institutions internationales envers notre pays.

C'est pourquoi moi, je pense, M. le président, qu'il est important d'avoir un organisme spécialisé qui possède l'expertise nécessaire pour enquêter sur ces crimes qui sont complexes et où chaque seconde compte. Les criminels à col blanc sont devenus des experts dans la dissimulation des preuves et l'argent peut être transféré dans une autre juridiction très rapidement. Ce pouvoir d'arrêter des potentiels suspects octroyé à cette commission, M. le président, permettra une action rapide afin de préserver aussi des preuves cruciales avant qu'elles ne soient détruites.

Mais qui dit pouvoirs accrus, dit aussi responsabilité accrue, particulièrement, M. le président, en matière de protocole à fin d'éviter tout abus. Le rôle du Directeur des poursuites publiques sera important afin d'éviter des potentiels abus par la direction ou par les officiers de cette commission.

Et l'article 142 (b) de la *Financial Crimes Commission Bill* permet au DPP de trancher dans des cas où son bureau, M. le président, trouve injuste une poursuite ou a des doutes sur les aboutissements des enquêtes menées par la *Financial Crimes Commission*.

M. le président, l'*Operations Review Committee* a à sa tête un ancien juge de la Cour suprême, comme c'est stipulé à la section 128 de ce projet de loi, et est aussi une autre section qui démonte que le directeur général de cette institution n'aura pas de pouvoir absolu. Comme le veut faire croire l'opposition, ce n'est pas le cas, M. le président. Ce comité permettra, comme c'est dit dans la loi, à une supervision et à un accès à des informations cruciales sans empiéter sur les opérations quotidiennes de la commission. Et cela, moi je pense, M. le président, peut améliorer la qualité des enquêtes et renforcer l'efficacité globale de la commission.

M. le président, faute de temps, permettez-moi de terminer sur certaines choses que je pense qui doivent être dits à l'intérieur de cette Chambre. M. le président, quatre ans après le début de notre mandat et à presque une année des prochaines élections générales, malgré toutes les difficultés, que ce soit des difficultés sanitaires ou économiques, ce gouvernement a pris des mesures pour répondre aux difficultés de cette population.

Il faut le reconnaître, M. le président, le secteur économique était à genoux et on a pu se relever. Et la population, surtout les plus vulnérables de ce pays, pourront bénéficier d'un revenu minimum plus conséquent pour améliorer le quotidien. On est en démocratie et à la fin de notre mandat quoi qu'il arrive, le peuple en décidera. L'histoire retiendra quelque chose, M. le président, que ce gouvernement sous le leadership de Pravind

Jugnauth a pris des décisions historiques pour le bien-être de la population. Ça, c'est pour nous en ce qui concerne le gouvernement. Mais en face de nous, qu'avons-nous aujourd'hui, M. le président ? Une alliance qui n'a aucune philosophie politique commune et dont le but principal est de prendre le pouvoir par tous les moyens. Je vais citer pourquoi je dis cela. Nous avons noté premièrement une politique dangereuse pratiquée par certains membres de l'opposition, à commencer par cette grande manifestation qui avait été organisée en plein Covid mettant à risque la vie des milliers de Mauriciens.

An hon. Member : Irrelevant !

Mr Lesjongard: Il y a eu des tentatives au coût de millions de roupies pour déstabiliser le commissaire électoral et le système électoral à Maurice.

Mr Balgobin: *Zot inn dekouyone!*

Mr Lesjongard: Et ils ont lamentablement échoué, M. le président. Il y a eu aussi une déclaration grave je pense du leader de l'alliance de l'opposition comme quoi un juge aurait rencontré un ministre...

(Interruptions)

Et aujourd'hui quand nous débattons d'un projet de loi qui est d'une importance capitale dans le combat contre les trafiquants de drogue, ils sont contre. Ce combat, M. le président, est un combat noble et c'est le combat de toute une population menée par le Premier ministre, Pravind Jugnauth. Il représente aujourd'hui la voix de tous les citoyens Mauriciens. C'est donc un combat pour le peuple et nous le ferons avec le peuple, M. le président.

J'en ai terminé, M. le président.

Mr Speaker: Hon. Paul Bérenger!

(7.34 p.m.)

Mr P. Bérenger (First Member for Stanley & Rose Hill): *Mr Speaker, Sir, hon. Members,* la *FCC Bill* qui est devant nous has been *rightly described* comme une loi scélérate. C'est pourquoi l'opposition s'est engagée et s'engage à nouveau ici à remplacer cette loi en priorité après les prochaines élections générales pour mettre sur pied une *Financial Crimes Commission* digne de ce nom.

Nous reprochons trois choses à la *Financial Crimes Commission Bill*. Trois choses en général –

(i) l'attaque contre le *DPP* premièrement ;

- (ii) les *powers of arrest* donnés à la *Financial Crimes Commission*, et
- (iii) les *special investigative techniques* à être mis à la disposition de la *FCC*.

Je parlerai le plus rapidement possible de ces trois choses, mais avant de m'appesantir, surtout sur la dernière partie de mon intervention et c'est dans la tête de tout le monde: comment remplacer dans l'île Maurice d'aujourd'hui et de demain la façon de nommer les responsables? Partout, tous les responsables, ce système où le Premier ministre – n'importe quel Premier ministre – fait ce qu'il veut après des pseudos consultations. À part le MSM, il n'y a personne dans ce pays qui veut que cela continue. Pour moi, c'est la chose principale dont je parlerai ce soir. Remplacer ce système par quelque chose de moderne, de démocratique, de solide.

Les attaques contre le *DPP*, le Premier ministre est venu dire que la *Financial Crimes Commission Bill* ne change rien aux pouvoirs du *DPP*. C'est faux, il le sait. C'est faux et c'est là le plus grave. La section 82 de la loi actuelle que nous allons remplacer, la section 82 de la loi actuelle, le *Prevention of Corruption Act*, la loi *ICAC* se lit comme suit –

“(1) Subject to subsection (2), no prosecution for an offence under this Act or Part II of the Financial Intelligence and Anti-Money Laundering Act 2002 shall be instituted except by, or with the consent of, the Director of Public Prosecutions.”

On ne peut pas être plus clair. L'*ICAC* peut poursuivre, mais ni l'*ICAC* ni personne – enfin dans ce cas, c'est l'*ICAC* – ne peut pas poursuivre sans le feu vert - au moins le feu vert, sinon le *DPP* lui-même - du *DPP*, la loi, et c'est cela qui change. C'est cela la vérité. Il faut regarder la vérité en face, c'est cela qui change.

La section 142 qui remplace cette section de l'*ICAC*, la section 142 de la *Financial Crimes Commission* se lit comme suit –

“(1) (a) Following the conclusion of an investigation and the receipt of a report under section 58, the Commission may institute such criminal proceedings as it may consider appropriate for any offence under this Act or the Declaration of Assets Act.”

Reconnaissons que c'est un changement fondamental. Avant, l'*ICAC* n'avait pas le droit – et avec raison – de poursuivre qui ce soit sans au moins le feu vert du *DPP*, et le Premier ministre vient nous dire que ce qui est proposé ne change rien, ne peut pas changer quoi que ce soit à la section 72, parce que vous n'avez pas trois quarts. Vous avez essayé ! Vous n'avez pas trois quarts, mais vous changez les pouvoirs du *DPP*. Voyons la vérité en face. Il s'agit d'un changement fondamental aux pouvoirs du *DPP*, parce qu'ils n'ont pas

les trois quarts nécessaires ici en ce Parlement pour changer la section 72 de la Constitution qui donne au *DPP* ses pouvoirs. Parce que vous n'avez pas trois quarts, le *DPP* garde le pouvoir qui est dans la Constitution de *take over or discontinue or terminate proceedings*, mais ce n'est pas la même chose. Cela reste, parce que vous ne pouvez pas changer. Vous avez essayé, vous n'avez pas réussi, mais cela reste. Et comme trois orateurs - moi, franchement, cela me fait plaisir ; les trois meilleurs discours que j'ai entendus, *with due respect to all the others*, sont - la coïncidence veut ; ce n'est pas la coïncidence -

- (i) du Parti travailliste, l'honorable Ramful ;
- (ii) du PMSD, l'honorable Lobine, et
- (iii) mon collègue, l'honorable Kader Bhayat.

Les trois meilleurs discours que j'ai entendus. On peut ne pas être d'accord avec eux...

(Interruptions)

Les trois meilleurs discours pour n'importe qui se serve du peu de cervelle qu'il a!

(Interruptions)

An hon. Member: *Kader Bhayat ti ...*

Mr P. Bérenger: Donc, M. le président...

(Interruptions)

...aujourd'hui, mes trois collègues ont bien souligné, ce n'est pas seulement le fait...

Mrs Mayotte: C'est qui Kader Bhayat ?

Mr P. Bérenger: ...que la *Financial Crimes Commission* peut maintenant commencer les *proceedings*, mais ce qui change aussi fondamentalement c'est qu'elle peut arrêter des poursuites, arrêter des enquêtes qui mènent à des poursuites sans en informer le *Director of Public Prosecutions* qui n'aura plus le dossier en main. Ce sont des changements fondamentaux. Qu'on le veuille ou non, regardons la vérité en face. C'est pourquoi je donne raison à mon collègue Reza Uteem quand il est venu dire que la *Financial Crimes Commission Bill* est une loi taillée sur mesure pour protéger certains.

La *Financial Crimes Commission Bill* fait de la *Financial Crimes Commission* un super *cover-up machine*. Nous avons eu l'*ICAC*. Dieu sait quel *cover-up machine* l'*ICAC* a été. Tout le monde sait cela. Tous ceux qui sont dans le gouvernement aussi. L'*ICAC* a été un *cover-up machine all the way*. On est en train de créer un super *cover-up machine*. Bonne chance.

Deuxième critique, les pouvoirs *of arrest*. Oui, l'ICAC a déjà des *powers of arrest*, mais il ne faut pas les augmenter. Il faut corriger au contraire. La section 62, n'importe quel officier de l'ICAC - regardez la définition de 'Officer'- la *Financial Crimes Commission* maintenant, demande à n'importe quel officier, pas seulement un policier ; elle pourra demander à un policier, mais dans la loi il n'y a pas. Dans la loi, n'importe quel officier de l'ICAC peut arrêter n'importe qui et quand ; n'importe quel officier de l'ICAC peut arrêter n'importe qui. Où est-ce qu'on l'emmène? Au bureau de l'ICAC aujourd'hui, au bureau de la *Financial Crimes Commission* demain. Et la loi ne dit pas. Qu'est-ce que cela coûtait de mettre cela au moins ; que n'importe qui arrêté par n'importe quel officier de l'ICAC, enfermé dans les bureaux de l'ICAC, demain *Financial Crimes Commission*, sera traduit devant un magistrat? C'est dit, mais au moins dites *as soon as possible*, donnez un délai, quand on sait quelles ont été les manœuvres de certains.

Donc, pas d'accord avec cela. Et troisièmement, pas d'accord avec les *Special* - l'expression même fait peur à travers le pays. Quelle maladresse de titrer ce chapitre-là les *Special Investigative Techniques* ; des chirurgiens de l'espionnage ! Mais voilà ce que cela dit. En fait, le *Bill* donnera à la *Financial Crimes Commission* d'utiliser les techniques suivantes pour surveiller et espionner –

“(a) *intrusive surveillance*;

(b) *the conduct and use of covert intelligence human source, and*

(c) *equipment interception.*”

Téléphone et tout le reste ! En fait, la *Financial Crimes Commission* aura plus de pouvoirs et de moyens pour surveiller et espionner que la *SSS*.

Voilà les trois raisons. Au lieu de progresser avec la *Financial Crimes Commission*, on est en train de reculer dramatiquement, et le plus bouleversant dedans c'est l'attaque contre le bureau du *DPP*. Dieu sait ce que ce gouvernement n'aurait pas fait, si vous aviez trois quarts, pour amender précisément la clause !

J'ai entendu un ministre dire que la section 72 reste telle quelle parce que vous n'avez pas eu le pouvoir. Vous avez essayé ; vous n'avez pas le pouvoir et vous n'avez pas la majorité. Donc, voilà les trois choses que nous reprochons. C'est un monstre qui est en train d'être créé.

Je remercie mon collègue l'honorable Ramful – j'ai tendance à dire le bon vieux temps – de citer l'honorable Collendavelloo aujourd'hui. Aujourd'hui, il aurait dû se mettre debout et dire qu'on est en train de créer un monstre que j'ai empêché de créer il y

a telle année. Au lieu de ça, il vient caresser le dos du monstre ! L'embrasser même ! Le tenir par la queue même !

Mr Balgobin: *To pe anbras Ramgoolam twa!*

Mr Bérenger: Enfin ! Voilà ce que j'avais à dire ; pourquoi nous disons non, fort - et rire tellement c'est ridicule parfois -, à ce monstre que vous voulez créer. Ce qui m'amène à ce que je considère mon devoir aujourd'hui de dire au pays, pas au gouvernement, pas à l'opposition, mais de dire au pays, voilà ce que vous pouvez faire dans l'avenir. Je le répète, à part le MSM, tout le monde en a marre de ce système où le Premier ministre a tous les pouvoirs. On ne parle pas du président de la République ; cela aurait pu être un poste formidable et ça peut encore être un poste formidable ce poste de président, mais cela a été dévalué malheureusement par certains. À part le MSM, tout le monde dans le pays veut qu'à l'avenir, pour choisir les gens responsables, partout, tous les *constitutional appointments*, assez avec ça !

Bon, mais remplacer par quoi ? Surtout, maintenant, qu'on est en train de créer ce monstre, de donner tous ces pouvoirs à la *Financial Crimes Commission* de demain et en particulier à son directeur général. Et après la performance de l'ICAC, la question des procédures pour l'*appointment*, la nomination du directeur général est pour moi et pour nous d'une importance capitale. Et pas seulement dans le cas, je le répète, pas seulement dans le cas de la *Financial Crimes Commission* à venir, mais en général. Les gens veulent respirer. Les gens en ont marre de cela. Je constate que c'est une des choses sur lesquelles il y a l'unanimité dans le pays.

Alors, allons jeter un coup d'œil. Dans le cas du directeur général de la *Financial Crimes Commission*, il est totalement inacceptable qu'il continue à être nommé par le Premier ministre après des pseudos consultations. Le Premier ministre est venu donner une liste de tous les postes qui sont remplis par le Premier ministre après des pseudos consultations comme si c'était une fierté. Mais c'est une honte ! On a reculé plutôt qu'autre chose.

J'allais oublier de corriger la malhonnêteté de l'honorable Lesjongard ; il a cité une partie de mon intervention. Mais quelle malhonnêteté intellectuelle ! Dans mon discours, quand je continue, je viens prendre position contre l'abolition de l'*Appointment Committee*. C'est dans le même Hansard ! Je félicitais le Premier ministre parce que le Parti travailliste d'alors avait voulu *rush* une loi. J'avais dit : 'Oh là ! Donnez du temps aux pays !' Et le débat a été renvoyé pour donner le temps au pays. J'ai félicité le Premier ministre pour cela et certains autres amendements qu'il avait acceptés, mais j'ai pris position dans mon discours contre l'abolition de l'*Appointment Committee* d'alors et qui

est encore possible, parce que moi, je pense qu'il y a quatre propositions. Je ne crois pas avoir réponse à tout, mais je mets quatre propositions devant le Parlement et devant le pays pour remplacer ce système malade où c'est le Premier ministre qui fait tout, qui décide tout et qui nomme tout !

Premièrement, le leader de l'opposition, et l'honorable Lobine a repris cela il y a quelques minutes, a proposé que ce soit le *Judicial and Legal Service Commission*. Je ne suis pas contre du tout. C'est certainement de loin mieux que l'horreur qu'on a aujourd'hui et qu'on nous propose pour demain. Donc, la première possibilité, c'est que le directeur général soit nommé par le *Judicial and Legal Service Commission*. La *Prevention of Corruption Act* de 2002 avait préconisé cet *Appointment Committee*. L'honorable Ramful a expliqué du point de vue du Parti travailliste pourquoi les choses étaient bloquées à l'époque. Peu importe ! Mais je pense moi qu'on pouvait améliorer. Et je vous dirai comment que les Seychelles ont inventé un système extraordinaire. Je reviendrai là-dessus tout à l'heure.

Donc, la deuxième possibilité, c'est de revenir à un *Appointment Committee*, président de la République, Premier ministre et le leader de l'opposition, avec un processus de déblocage. Dans plein de pays, il y a ça ! Ça demande l'unanimité à un moment donné ; si on n'a pas l'unanimité, on passe à une majorité qualifiée après tant de tours de vote, après tant de tours de prise de décision. Donc, la deuxième possibilité, c'est de revenir avec un *Appointment Committee* : président de la République, Premier ministre et leader de l'opposition, avec des amendements à ce que nous avons proposé en 2002.

Troisième possibilité : en Afrique du Sud, depuis Nelson Mandela, c'est une des grandes choses que Nelson Mandela nous a léguées. Il a mis dans la constitution de son pays un *Public Protector*. J'invite tous les membres à s'intéresser à la chose – un *Public Protector*. Tu as des responsabilités énormes pour combattre la corruption, les passe-droits aussi et les *dominers* administratifs aussi. Avec, je dois préciser, un pouvoir d'ordonner *appropriate remedial action whenever, wherever necessary*. Et ce *Public Protector* est nommé, voté par 60 % du Parlement. Dans aucun pays, pas même en Afrique du Sud, un parti a 60 % ! Donc, cela oblige le parti au gouvernement de négocier, de discuter avec une partie de l'opposition. Donc, j'invite les membres de la Chambre et le pays en général à s'intéresser à cette structure légale que Nelson Mandela nous a laissée. Bien sûr, il s'est passé beaucoup de choses sous Zuma en Afrique du Sud, mais cela ne porte pas atteinte à cette proposition réalisée par Nelson Mandela.

Quatrième possibilité, c'est ce qu'il y a aux Seychelles ou quelque chose de ressemblant. Et c'est aussi l'ironie où les petites Seychelles, nos '*dalons*', nos frères et nos

sœurs à côté, ont trouvé un moyen de dégager une structure et une procédure pareille. Aux Seychelles, ils ont depuis quelques années un *Constitutional Appointment Authority* composé de deux membres nommés par le président de la République qui, aux Seychelles, a le pouvoir exécutif - donc, le Premier ministre, mais le président de la République, parce qu'il a des pouvoirs exécutifs aux Seychelles. Donc, deux membres nommés par le président de la République, deux nommés par le leader de l'opposition.

Ces quatre-là se rencontrent et tombent d'accord sur un cinquième membre qui est le président de ce *Constitutional Appointment Authority*. Maintenant, ils ont même prévu là-bas – peut-être, ils se sont inspirés de ce qui nous est arrivé en 2005 ici – que si ces quatre-là n'arrivent pas à s'entendre pour proposer un cinquième membre qui préside l'*Authority concerned*, alors à ce moment-là, ils soumettent au président de la République les noms de cinq personnes. Et le président de la République nomme quelqu'un comme président du *Constitutional Appointment Authority* parmi ces cinq personnes-là après consultation avec le chef juge de la Cour suprême et avec le Speaker du Parlement des Seychelles.

Mais c'est une petite merveille, franchement ! Ils ont corrigé des problèmes qu'on a eus, et ça marche. Dans tout ce que j'ai vu, je n'ai vu aucun problème. Il peut y en avoir. S'il y a des problèmes, les problèmes sont faits pour être résolus. Donc, je pense que nous sommes *mature enough* en tant qu'un pays et qu'on en a suffisamment marre avec le système actuel pour envisager de choisir parmi ces quatre possibilités. Il y en a possiblement d'autres, je ne prétends pas tout savoir ; j'essaie de tout savoir, mais je ne prétends pas de tout savoir. Donc, il y a quatre possibilités devant nous, et je le répète, je pense que le pays a soif de ce changement, plus de n'importe quel changement.

Ceux qui prépareront un *Financial Crimes Commission Act* digne de ce nom, qui remplacera après les prochaines élections le texte de loi actuel, auront à trancher sur cette question aussi. Ils auront à trancher sur bien d'autres questions, mais ils auront aussi à trancher cette question portant sur la façon de nommer le directeur général de la *Financial Crimes Commission*. Nous sommes en faveur, mais nous ne sommes pas en faveur de n'importe quelle *Financial Crimes Commission*. C'est trop facile de venir dire, l'ex-juge Lam Shang Leen a dit cela, mais il n'a pas dit n'importe quoi, n'importe quelle *Financial Crimes Commission*. Il faut une *Financial Crimes Commission* digne de ce nom.

Nous avons toujours été pour et nous sommes encore plus que jamais pour. Et quand il y aura à trancher sur les questions portant là-dessus, cette question de la nomination du directeur général de la *Financial Crimes Commission* pèsera lourd. Ce sera une des décisions fondamentales à être prise après les élections générales.

Merci.

Mr Speaker: Hon. Mrs Leela Devi Dookun-Luchoomun!

(7.57 p.m.)

The Vice-Prime Minister, Minister of Education, Tertiary Education, Science and Technology (Mrs L. D. Dookun-Luchoomun): Mr Speaker, Sir, I move for the adjournment of the debates.

Mr Toussaint seconded.

Question put and agreed to.

Debate adjourned accordingly.

ADJOURNMENT

The Prime Minister: Mr Speaker, Sir, I beg to move that this Assembly do now adjourn to Tuesday 19 December 2023 at 11.00 a.m.

The Deputy Prime Minister seconded.

Question put and agreed to.

Mr Speaker: The House stands adjourned! Adjournment matter? So, let us call it a day!

At 7.58 p.m., the Assembly was, on its rising, adjourned to Tuesday 19 December 2023 at 11.00 a.m.