



SEVENTH NATIONAL ASSEMBLY

PARLIAMENTARY

DEBATES

(HANSARD)

FIRST SESSION

TUESDAY 19 DECEMBER 2023

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PRINCIPAL OFFICERS AND OFFICIALS

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MAURITIUS

Seventh National Assembly

FIRST SESSION

Debate No. 36 of 2023

Sitting of Tuesday 19 December 2023

The Assembly met in the Assembly House, Port Louis, at 11.00 a.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 Finance, Economic Planning and Development

- (a) The Public Procurement (Amendment No. 4) Regulations 2023. (Government Notice No. 182 of 2023).
- (b) The Customs Tariff (Amendment of Schedule) (No. 3) Regulations 2023. (Government Notice No. 183 of 2023).

B. Ministry of Commerce and Consumer Protection

- (a) The Consumer Protection (Control of Imports) (Amendment No. 6) Regulations 2023. (Government Notice No. 180 of 2023).
- (b) The Rodrigues Consumer Protection (Control of Price of Taxable and Non-taxable Goods) (Amendment No. 33) Regulations 2023. (Government Notice No. 181 of 2023).

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.

PUBLIC BILLS

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.

(11.06 a.m.)

The Vice-Prime Minister, Minister of Education, Tertiary Education, Science and Technology (Mrs L. D. Dookun-Luchoomun): *Mr Speaker, Sir,* à regarder les sièges vides de l'opposition, je me demande s'il faut en rire ou en pleurer. Ces mêmes personnes, qui viennent chaque semaine vilipender toutes les mesures que nous sommes en train de mettre de l'avant, sont toujours absentes quand il faut venir faire leur représentation et dire des choses. On les a écoutés gentiment pendant des semaines mais voilà, eux ils trouvent mieux de rester chez eux au lieu de venir prendre leur responsabilité au sein de notre parlement.

M. le président, it is for me a privilege to intervene on this Financial Crimes Commission Bill, a Bill that is called upon to be a landmark in both legal and institutional domains.

This Bill is concerned with situating Mauritius as a jurisdiction that is willing to crack down on financial crimes that negatively impact the repute of Mauritius. The Bill in itself is extremely comprehensive as delineated as it is in 169 clauses.

The Explanatory Memorandum sets the tone and clearly spells out the object of the Bill to make Financial Crimes Commission the Apex Agency to and I quote –

“...detect, investigate and prosecute financial crimes...”

To do this, the Commission will onboard the functions and powers of a number of existing institutions like the ICAC, the Asset Recovery Investigation Division as well as the Integrity Reporting Services Agency.

The goal, Mr Speaker, Sir, is obvious – bringing the functions of a number of bodies on the one umbrella for better coordination of actions. It must be understood, Mr Speaker, Sir, that the battle against financial crimes cannot suffer from a dispersal of efforts. That explains the setting up of a number of divisions but within the Commission itself. Indeed, with the evolving digital environment, financial crimes are metamorphosing at a tremendously fast rate and it takes concerted action, vigilance and alertness to tackle these.

D’ailleurs, M. le président, les honorables membres se souviendront que la commission d’enquête sur la drogue avait bien fait ressortir le manque de communication entre les différentes institutions et qu’il y avait un besoin de beaucoup plus de coordination et de réseautage entre ces institutions. Les dispositions de cette loi viennent combler ces lacunes.

Mr Speaker, Sir, the synchrony of action is clearly implied in Clause 6 of the Bill that spells out the functions and powers of the Commission. Thus Clause 6, sub-clause (1) paragraphs (c) to (i) show a clear demarcation of the responsibilities of the different divisions. The Investigation Division, the Asset Recovery Management Division, the Education and Prevention Division, the Legal Division and the relevant units, the Financing Crimes Investigation Unit, the Financing of Drug Dealing Investigation Units. They will be called upon to accomplish their tasks pertinent to their mandates.

Mr Speaker, Sir, I understand there is some head-scratching about this arrangement on the other side of the House. It appears there are some who are sceptical about this new proposed institutional arrangement. The migration of institutional responsibilities towards the new commission will definitely avoid having offenders, existing and potential ones, taking advantage of loopholes or inadequate communication between institutions.

So, the hon. Members of the Opposition do not need to be dubious or to be the doubting Thomas of this Assembly. Perhaps, they would gain by considering this parallel, the parallel being the MRA. As we know, the MRA was established precisely for the purpose of bringing isolated and scattered revenue units together into one integrated entity. Control of fiscal evasion has ultimately emerged the winner as MRA

results and outcomes visibly demonstrate today. So, let's give the Financial Crimes Commission its chance to prove itself.

Mr Speaker, Sir, financial crime is almost universally considered as covering such offences as fraud, money laundering, terrorist financing, organised crime corruption and the like. Governments, too, always set safeguard against these, sometimes successfully, sometimes not. There have been times in the past, Mr Speaker, Sir, when we have been traduced as a tax haven that offers true money laundering momentum. Do we want to have these tags stuck to us? So, what is wrong with having this Commission set up? Why militate against it?

M. le président, j'ai écouté avec attention tous les arguments mis en avant par l'opposition à travers les journaux, la radio et même au sein de l'Assemblée mais franchement, je n'ai pu trouver quoi que ce soit de concret.

An unfortunate argument, Mr Speaker, Sir, commonly thrust forward since the Financial Crimes Commission Bill came into the public domain is that it will be bereft of its independence. It will not be independent but it will be following externally commandeered dictates that the President will appoint the Director General on the advice of the Prime Minister and that, in itself, is presumably riddled with forbidding and ulterior motives.

Et bien sûr, M. le président, ils ont déjà choisi le présumé coupable. Il est tout désigné. Ce sera le Premier ministre lui-même qui va tirer les ficelles puisque c'est lui qui va proposer la personne désignée pour prendre en main les rênes de la Commission. M. le président, laissez-moi faire ressortir que ce n'est pas nouveau; nous désignons le CP, le chef juge, le directeur de l'*ICAC* ou même l'*Ombudsperson* de la même façon et personne n'a rien eu à dire depuis tout ce temps.

Et en plus, nous le savons déjà dans le cas de l'*ICAC*, l'ancien régime travailliste avait décidé qu'il n'y avait même plus besoin du président; qu'on pouvait le faire directement entre le Premier ministre et le leader de l'opposition.

Ce projet de loi, M. le président, assurera qu'il n'y aura pas d'ingérence de qui que ce soit dans les opérations de cette commission et il est clair que la législation comprend des mesures très bien établies.

Clause 4, sub-clause (3) states explicitly that, and I cite –

“(3) Subject to this Act, the Commission shall, in the discharge of its functions and exercise of its powers, not be under the direction or control of any person or authority.”

I wonder what can be more explicit than that. It certainly puts paid to the notion of an external, occult string-pulling.

L’opposition, M. le président, passe son temps à essayer d’empoisonner l’esprit des gens en semant le doute dans la tête. Ils le font systématiquement à chaque fois que le gouvernement vient de l’avant avec une nouvelle mesure. Et je ne comprends vraiment pas ce besoin constant de vilipender les mesures préconisées par le gouvernement; les mesures qu’eux-mêmes savent sciemment bien qui sont positives, mais ils n’osent pas l’affirmer en toute honnêteté, matière demandant l’expertise du bon Dr. Jagutpal. Je suis sûre qu’il pourra nous expliquer qu’est-ce qui pousse ces gens de l’opposition à continuellement, constamment venir dire que rien n’est bon et de semer le doute dans la tête des gens.

Mr Speaker, Sir, I would now like to draw the attention of the House to Clause 6, sub-clause (2) paragraph (u) that states that the function of the Commission will be to set up and oversee good governance and integrity reporting campaigns to enhance the standing of Mauritius as an international centre of excellence of unimpeachable integrity with the object of attracting investment. Let me be very clear that government has opted through this Bill for Mauritius to take the high road of transparency and ethical conduct in its bid to position itself as a centre for global business.

M. le président, quand Maurice a été mis sur la liste grise, que disaient ces membres de l’opposition ? Comme les oiseaux de mauvais augure, ils annonçaient à tue-tête que nous nous retrouverions très vite sur la liste noire de l’Union européenne. Et pourtant, Maurice a été félicité pour s’être sorti de cette liste en très peu de temps; un temps record, n’en déplaise à certains.

M. le président, I would not want to state the obvious, but it is nevertheless important to highlight some of the virtues that arise by being known not to be soft on cracking down of financial crimes. These obviously include corruption and fraud, both of which can have deleterious effects upon the country’s integrity and reputation.

M. le président, nous avons pris les mesures nécessaires afin d’éviter que la République soit pointée du doigt comme un paradis fiscal, un *tax haven*. *The international reputation of Mauritius counts for a lot if we want to attract foreign investments and businesses. Credibility is reinforced by trust and confidence and the risk of international sanctions are thus minimised. An open and transparent jurisdiction mitigates the occurrence of fraudulent activities of corruption and eliminates the risks of being pilloried.*

Mr Speaker, Sir, Mauritius has been positioning itself as an international financial centre. For this to materialise, it is imperative for our country to introduce legal and regulatory reforms to meet international standards and expectations. We must not forget that many international organisations, like the OECD, place a huge premium on combatting money laundering, tax evasion and other financial crimes.

The bottom line is clear, Mr Speaker, Sir, if we do not want to be seen or considered as a non-cooperative jurisdiction, we must show our capacity to adhere to set standards. I would like here to draw the attention of the House that following the due diligence shown by our teams to allow Mauritius to move out of the FATF Grey List, our delisting from the EU High Risk Country List in a record time, we are today considered as being largely compliant to all FATF recommendations so much so that Mauritian expertise is being sought by countries in the region.

This Bill, Mr Speaker, Sir, therefore, sets out to create the pathway that will help maintain the country's credibility in the global financial system. Mr Speaker, Sir, the Bill lays the solid foundation for actualising this into reality.

Mr Speaker, Sir, let me now come to Clause 45, Sub-Part IV – Financing Drug Dealing Offences which makes it very clear that the Commission will act against any person who would either directly or indirectly finance or collect funds for the purpose of financing drug dealing activities or derives a benefit or commission from drug dealing activities or both, would commit an offence and be liable on conviction to a fine and a spell of imprisonment.

Mr Speaker, Sir, the impact of drugs upon individuals and their families is turning out to be horrendous. Despite all the measures taken to tackle head-on this scourge, we all know the heavy price that individuals pay in terms of dependence they develop, the psychoneurological and biological impact of chronic use. The same applies for the consequences of substance abuse on families and on communities and on society itself, Mr Speaker, Sir. Without forgetting the number of accidents, the devastating impact on families, the sheer loss of lives due to drugged-driving.

Of course, we do have a lot of concerted efforts being carried out to stem the tide. Drug busts and drug seizures are almost regular features in Mauritius. Mr Speaker, Sir, more than Rs16 billions worth of drugs have been seized, yet those traffickers do not seem to get discouraged. Being an island with widespread open borders does not help. That is why we need to have greater deterrence and greater means to track down on them. Drug money is big money and we know that trade-based money laundering is one of ways by which illicit funds are disguised and moved.

Ce projet de loi, M. le président, nous donne les moyens de prendre les actions qui auront un impact certain. Il est donc grand temps que la législation soit renforcée et qu'on se donne les moyens afin de contrer ces viles transactions. En effet, M. le président, nous parlons aussi d'un commerce meurtrier.

Mr Speaker, Sir, financial crimes today have international ramifications. Indeed, the traditional definition of financial crime is that which is considered as covering such offences as money laundering, terrorism financing as well as organised crime corruption. We need to reduce financial crimes especially cut down whatever benefits the perpetrators may enjoy through their financial crime activities and that cannot always be successfully done by a country on its own. Indeed, we cannot tackle serious crimes of this sort and the sort mentioned earlier and that have international ramifications without genuine international support and cooperation.

It is obvious that limited or non-exchange of information will always make it harder to tract illicit financial transactions. Besides, it will prove to be a very costly activity. So, we need to recognise that a strong collaboration with partners both international and local will lead to shared expertise in combating transnational financial crimes. This Bill, Mr Speaker, Sir, keeps this dimension in view as can be seen at clause 6(2) paragraph (b), (g) and (h) that indicate prompt exchange of intelligence and information, but not only amongst local enforcement agencies, but also with international bodies.

It is vitally important, Mr Speaker, Sir, to conduct public awareness campaigns to educate the people, the public about financial crimes. But as importantly, we have to eliminate the *omertà* that spreads the code of silence virus. People must be encouraged to report suspicious activities.

Therein lies the significance of including Clauses 123-125 into the Bill. These concern the protection of informers and witnesses as well as the Witness Protection Scheme for endangered persons. We are all aware of how far the tentacular reach of drug lords can go and how dangerous they can be. We are all conversant with the attempts by some organisations to surround themselves in a cloak of secrecy to better hide their illicit activities and misdemeanour. This Bill, Mr Speaker, Sir, sets the conditions under which witnesses and endangered informers can be protected.

With your permission, Mr Speaker, Sir, I would wish to take a couple of minutes to highlight another feature that is central to this Bill. Sub-Part 1 of Part III – Financial Crimes, talks of corruption offences. That section covers a vast territory of gratification, the tendering exercise, the bribery of or by public officials, the receiving of gifts and so

on. The World Bank defines corruption as “the abuse of public power for private benefit”. Of course, the benefit may well not be personal but for someone or something else: family, friend, affiliated members.

Historically, corruption and gratification have always been frowned upon, but these should be strongly condemned. The ‘*tas dite*’ culture should no more exist. The crusade against corruption has to be unrelenting. We have to make it very clear that institutional controls exist and these will ensure that those who commit crimes will be caught and punished. The Bill will definitely act as deterrence and discourage potential offenders.

Mr Speaker, Sir, I believe it is also of vital importance that actions to combat financial crimes be taken at both *ex-post* and *ex-ante* levels. Of course, it is important to set up an agency in this case, a Commission that will wield enough power to crack down upon so many criminal activities, but it is also important *qu'un travail de base soit fait en amont*. It is therefore noteworthy that the Commission will comprise an Education and Prevention Division that will have responsibilities defined at Clause 6. Reference is made here to the holding of awareness campaigns, workshops to educate the public and help them and the Commission in combating fraud, corrupt practices and alert authorities about clear signs of opulence that may not be justifiable.

I would wish also here to draw the attention of the House that one of the educational activities will be to explain the process, the manner in which complaints against financial crimes would have to be made. On the other hand, it always pays rich dividends to inculcate the right notion right from an early age and this Bill makes provision for the support the Commission will provide to enhance school curricula such that learners from a young age get to understand the ramification of financial crimes and avoid them.

Mr Speaker, Sir, let me now take up the points raised by Members of the Opposite sides of the House. There are some other aspects that have become the subject of apprehension. One which I have mentioned earlier relates to the appointment of the Director General by the President of the Republic following the advice tendered by the Prime Minister after consultation with the Leader of the Opposition. Unfortunately, the Leader of the Opposition is not here right now and he takes umbrage of the fact that his views are not considered, that he would have wished to be given the opportunity to speak to a potential candidate before he gives his thumbs up and that he is simply presented with a letter and so to say placed before a *fait accompli*.

Besides, having consultation between the PM and the Leader of Opposition has never meant that the Leader of the House has to go back to the drawing board just to please his counterpart in the Opposition ranks. *Je peux comprendre que le leader de l'opposition ne soit pas satisfait*, but unless he has strong reasons and solid grounds and makes his objections clearly known, he would not expect Government to change its position, would he? Because you see, Mr Speaker, Sir, we may have our own impression on someone but unless we have solid grounds, we have proofs that this person is not adequate for position; we cannot expect Government to go back because of the Leader of Opposition's whims and caprices. The fact that the Bill states that the nomination of the Director General will be made on the advice tendered by the Prime Minister ruffled some of the feathers on the Opposition side.

M. le président, je ne comprends pas cette levée de bouclier. This is not the first position that will be so filled. There have been others that have followed the same pattern and I have said it before, I do not mind repeating it, other posts have been filled along the same principles and there has never been a hue and cry about that and what is more, *comme je l'ai dit tout à l'heure*, they even made it less. They had even got rid of the need to go to the President before appointing the Director General of the ICAC. So, the question is why should we prejudge that the one appointed would not be independent in his or her thinking and action? Why be adamant in questioning the integrity of any potential candidate to the position and believe that he or she would be at the beck and call of any person or authority?

Examples abound of so many persons in strategic positions who are performing without fear and favour their job. I have in mind the Ombudsperson, the Chief Justice amongst others.

The Bill at Clause 4(3) makes it amply clear and I quote –

“(3) Subject to this Act, the Commission shall, in the discharge of its functions and exercise of its powers, not be under the direction or control of any person or authority.”

If that does not satisfy the Members of the Opposition, I wonder what will.

On the other hand, Mr Speaker, Sir, we hear the argument that this side of the House is creating conditions that serve to trample upon the constitutional rights of the DPP; the Government is aiming at an all-out destruction of the DPP's office. Goodness me! This is indeed very far from reality. We are presumably doing that through this Bill thanks to Clause 142(1)(a) that states that –

“(1) (a) (...), the Commission may institute such criminal proceedings as it may consider appropriate for any offence under this Act or the Declaration of Assets Act.”

But, Mr Speaker, Sir, the Commission will in no way usurps the powers of the DPP. Is it not a fact that other bodies too do carry out a prosecution role and exercise? The Ministry of Local Government, the Ministry of Health have all been doing that but above all, I think that it is all too clearly enunciated at paragraph (b) and (c) of the same clause that criminal proceedings will be instituted without prejudice to the powers of the DPP and the DPP can discontinue the criminal procedures instituted by the Commission if he so decides as per our Constitution, Mr Speaker, Sir. So, I suggest that we do not worry too much about these apprehensions as they do not stand on solid ground.

Mr Speaker, Sir, the other argument that merits our attention and deserves to be countered is that time and again, the issue of invasion of privacy has been raised, giving the impression that ‘Big Brother’ would be watching everyone, everybody, one and all without exception. There is no question of spying on anyone, of hacking messages and mail boxes, of tapping telephones or constantly monitoring the movement of people. We have absolutely no interest in eavesdropping on the private lives of individuals and even less, those of the Opposition.

Mr Speaker, Sir, we are not living out of ‘Minority Report’ or ‘Eye in the Sky’ Hollywood scenario. True, in the course of a suspicious situation, surveillance will be done but it is only for those who would be engaged in sinister, obnoxious and toxic activities and other heinous crimes. Those whose hands are clean will have nothing to worry about, do they?

Mr Speaker, Sir, I really do not understand why they are making such a fuss about it. Incidentally, where such malevolent activities are concerned, that place society at risk, evidence generating activities should be done and cannot and should not be time barred. This is and should be out of question, Mr Speaker, Sir!

So, Mr Speaker, Sir, what is there in this Bill that anyone should be apprehensive of? I do not understand. Why do we allow what is not there to create a sense of unease, of nervousness to the point of contesting what is in itself quite obvious? This Bill before the House, the Financial Crimes Commission Bill, Mr Speaker, Sir, will serve to reinforce the existing laws, hitting hard on those bent on benefitting from perpetration and perpetration of illicit acts. We have to ensure that the reputation of this country that has taken time to build does not ever get stained. And this Bill has all the ingredients that

will empower the Commission to tackle financial crimes. Time has now come for an endgame, Mr Speaker, Sir.

Let me once again congratulate the hon. Prime Minister for coming up with this legislation which forcefully illustrates his determination to put an end to all insidious activities that pose a threat to our society as a whole. This mission *possible* and, we, on this side of the House, are fully behind the Prime Minister in this sacred mission because we have to move on. There is no question of going back or maintaining the status quo.

It reminds me, Mr Speaker, Sir, and I will end on this note, of the words attributed to Benjamin Franklin. He said, and I quote –

“There are three thoughts of people in the world: Those who are immovable, people who don’t get it, or don’t want to do anything about it; there are those people who are movable, people who see the need for change and are prepared to listen to it; and there are people who move, people who make things happen.”

We, on this side of the House, Mr Speaker, Sir, have clearly made our choice and we stand by it. We situate ourselves among the movers.

Thank you for your attention.

Mr Speaker: Hon. Ganoo!

(11.35 a.m.)

The Minister of Land Transport and Light Rail (Mr A. Ganoo): Thank you, Mr Speaker, Sir. Thank you for allowing me to participate in the debates on the Financial Crimes Commission Bill, which is, in my view, undoubtedly, one of the most important pieces of legislation introduced by this Government to reinforce law and order in Mauritius.

Mr Speaker, Sir, the debates are nearly over and in a few minutes, we will listen to the Prime Minister who will sum-up the debates. We are by now aware of the highlights of this Bill, the main provisions, the primary aim of which is to establish the Financial Crimes Commission (FCC) as the preeminent institution dedicated to combating financial crimes, encompassing offences related to corruption, money laundering, fraud, financing drug-related activities and other related ancillary offences.

Mr Speaker, Sir, this new legislation introduces, in fact, a cohesive, contemporary and more fitting framework, inspired by what obtains in other jurisdictions to strengthen the battle against corruption and the different forms of fraud that exist.

Mr Speaker, Sir, if we tread along memory lane and look back and scrutinise our anti-corruption legislation, we must say that we have travelled a long and sinuous way. With the MSM-MMM government, I remember very vividly, in the 1990's, under the Prime Ministership of Sir Anerood Jugnauth, the attempt of this government then to amend the Constitution in 1990 to invest the Ombudsman with powers to enquiry into cases of corruption, which we failed because I remember, the Labour Party in the Opposition did not lend their support to that project. Then, came the legislation a few days afterwards to set up the Anti-Corruption Tribunal, subsequently, followed by the amendment to our Criminal Code to introduce provisions to deal with corruption cases.

Then, once again, under the MSM-MMM government of 2000 to 2005, came the setting up of the Select Committee to review the shortcomings of our legislation. The Select Committee rightly concluded that our legislation was then antiquated, insufficiently comprehensive and insufficiently encompassing and it laid the ground work for the new POCA, Mr Speaker, Sir.

Then came the culmination in the adoption of the POCA in 2002. In the meantime, Mr Speaker, Sir, the Asset Recovery Act, the Good Governance and Integrity Reporting Act came to be adopted by the House. But with time, it was evident that our legislation had demonstrated its limitations and inadequacies.

This is why, Mr Speaker, Sir, this Bill represents a significant step in addressing those deficiencies within our system and offers a comprehensive legal response to the challenges posed by financial crimes in our society.

This is the underlying reason for the FCC to take over the functions of the ICAC, of the Asset Recovery Investigation Division of the Financial Intelligence Unit and of the Integrity Reporting Services Agency.

Mr Speaker Sir, this Bill addresses new financial offences, as we have heard during the debates, namely corruption in relation to sporting events, fraud offences and the financing of drugs dealing offences. All these offences should be tackled in a holistic way given their interconnectivity, which, in turn, serve as the backbone for organised crimes.

We know that crime syndicates operate in various forms and sizes, ranging from small, local street gangs to large, transnational criminal organisations with a regional and global reach.

The nexus between drug trafficking, sports gambling, money laundering, and other crimes is a complex and multifaceted issue that involves various illegal activities

intersecting with each other. The connection between these activities can have a significant negative impact on society, Mr Speaker, Sir. It can lead to addiction, the spread of illegal drugs, to the undermining of the integrity of sports, the destabilisation of legitimate economies, and last, but not least, Mr Speaker, Sir, of even destabilising democratically elected government.

Mr Speaker, Sir, horse racing activity is the centre of our focus now and has the capacity to connect with narcotics trade and other financial crimes, including money laundering in the most lucrative way.

We are aware that drug trafficking generates large sums of illicit money, which can be used to fund other criminal enterprises, including sports gambling operations. Drug barons, Mr Speaker, Sir, can legitimise their proceeds of crime through horse racing betting.

Criminal organisations involved in drug trafficking and sports gambling often use money laundering techniques to legitimise their ill-gotten gains. Sports gambling can serve as a convenient means to launder money obtained from drug trafficking or other criminal activities. Betting winnings can be mixed with illegal proceeds, making it difficult to trace the source of the funds.

In other words, Mr Speaker, Sir, we are fighting a very difficult and complicated war on drugs and financial crimes. The fight is not taking place on equal footing. Crime syndicates are increasingly well-organised, especially with sophisticated communication technologies. They often have a hierarchical structure with leaders at the top who make key decisions and delegate tasks to lower-level members.

Loyalty and secrecy are highly valued within these organisations, and members are often bound by a code of silence, known as *omertà* in criminal circles.

Mr Speaker, Sir, in the face of such onslaught, what are we as a responsible State supposed to do? We need to continuously step up our intelligence, our surveillance and investigative capabilities, including digital technology capabilities. To achieve this, we must establish a robust legal framework, a new legal architecture that leaves no room for ambiguities which criminals could exploit to carry out harm without hindrance.

Efforts to combat crime syndicates involve law enforcement agencies, governments, and international organisations working together collaboratively to disrupt their operations, to arrest their key members and seize their assets. Mr Speaker, Sir, besides extensive intelligence gathering and surveillance, this typically require explicit

legal actions to dismantle these criminal enterprises and reduce their evil influence on our society.

Mr Speaker, Sir, money laundering lies at the heart of this crime infrastructure, of this criminal web. This is why we have to confront head-on the centrality of money laundering activities in criminal operations. By limiting the opportunity for legitimising proceeds of crime, we will go a long way in crushing the evil connection between drugs trafficking and horse racing betting and other avenues of laundering dirty money. It is, therefore, extremely important for the offence of money laundering to be dealt with in its own right. Hence, Mr Speaker, Sir, the wisdom in this legislation, in this Bill, presented by the Prime Minister today; hence, the inclusion of novel provisions in our legal arsenal.

Let us look at Section 38 (1) of the Bill, Mr Speaker, Sir, I quote –

“A person may be convicted of a money laundering offence notwithstanding the absence of a conviction in respect of a crime which generated the proceeds alleged to have been laundered”.

It means, Mr Speaker, Sir, that an individual can be found guilty of money laundering even if they have not been found guilty of the crime that produced the claimed proceeds of laundering. The way we deal with the proceeds of crime will have a powerful bearing on the crime itself.

Furthermore section 38 sub-section 4 states that –

“Notwithstanding section 184 (f) of the Courts Act, the Court may consider the past conviction of any person prosecuted for a money laundering offence, to find or to reasonably infer that the proceeds subject matter of the money laundering offence emanates from a crime which that person has already been committed of.”

My friends at the Bar, listening to me will readily understand what the purport of this section is, Mr Speaker, Sir. So, in the course of the trial, the past conviction of a suspect will be disclosed, Mr Speaker, Sir.

In essence, this provision allows the court, in cases of money laundering, to consider a defendant's past criminal record as evidence that the money being laundered is connected to a crime for which the suspect has previously been convicted. It provides the court with the discretion to use this information to strengthen the prosecution's case or establish a link between the money laundering offense and the individual's prior criminal activities.

In French, Mr Speaker, Sir, we can sum up the essence, the philosophy of these new provisions by something which we all know in French, *aux grands maux, les grands remèdes*.

Mr Speaker, Sir, there has been a lot of comments and criticisms regarding the supposedly unwarranted extensive powers which will be given to the Director-General of the FCC under the new law. The Opposition Members are assuming that the Director-General will misuse the authority vested in his role without sufficient checks and balances provided in the legislation. Mr Speaker, Sir, as we have heard from the benches of Government, this criticism, argued so well on this side of the House, couldn't be further from the truth. In fact, we are committed to ensuring good governance in the operationalisation of this new set-up.

The detractors of this Bill, Mr Speaker, Sir, the critics of this Bill have deliberately or ignorantly failed to consider or overlook the different checks and balances and safeguards inserted in this Bill and as we know, this new Bill establishes this Operations Review Committee, which is designed to serve as an independent oversight mechanism, separate from the Commission's regular operations. Its primary role is to ensure that the Commission is functioning properly and within the bounds of the law.

This Operations Review Committee, Mr Speaker, Sir, is granted the authority to request information from the Director-General of the Commission. This indicates that it has the right to access to relevant data and documents to carry out its oversight responsibilities effectively.

Mr Speaker, Sir, the Operations Review Committee's scope of oversight covers various aspects of the Commission's operations. These are wide-ranging checks and balances mechanisms put in place to prevent potential abuses or misconduct in the conduct of inquiries or investigations by the Commission. The goal is to ensure that the Commission operates transparently, fairly, and within the boundaries of the law.

This provision is intended, Mr Speaker, Sir, to strengthen the accountability and transparency of the Commission's activities by establishing an independent body that can review and assess its operations, particularly in cases involving complaints, lengthy investigations, exercise of powers, prolonged provisional charges, and discontinued investigations. These checks and balances aim to protect the individuals' rights and to prevent any misuse of authority by the Commission.

Mr Speaker, Sir, as we all know by virtue of the law, the Committee will be chaired by a retired Judge of the Supreme Court or a law practitioner of at least 10 years'

standing. It should also be pointed out that the *ex-officio* members who will sit in the ORC will have no right to vote.

The Commission, Mr Speaker, Sir, will also be accountable to the Parliamentary Committee. The Commission will not operate therefore in an oversight vacuum. It will be under parliamentary control and also under judicial control. Mr Speaker, Sir, there will be several layers of oversight as this Government is committed to establish a modern institution that not only effectively combats frauds and corruption but also operates within a robust framework of checks and balances.

Mr Speaker, Sir, it should also be pointed out that the Operations Review Committee draws on the recommendation of the OECD which represents exceptional international best practice. Since I am referring to the OECD, let me, Mr Speaker, Sir, remind our House with regard to the status of Mauritius and the OECD working group on bribery. I do that, Mr Speaker, Sir, because very often we hear of certain unfair comments made baselessly on the reputation of our country, on the international scene supposedly with regard to corruption.

Mr Speaker, Sir, in March of this year, on the proposal of the OECD working group on bribery, the OECD Council agreed to invite Mauritius to become a participant in the working group with a view to facilitate the access to the OECD Convention on combatting bribery of foreign public officials in international business transaction. In short, the OECD Anti-bribery Convention, as a participant in this working group representative from Mauritius, will be able to attend all non-confidential meetings of the working group.

The working group annual report, Mr Speaker, Sir, highlights good practices and positive development such as the adoption of the national anti-corruption strategy, the general regime for the prevention of corruption, the establishment of national mechanism against corruption and the enactment of the legislations thereof.

Mauritius has applied to become a participant member of this OECD Working Group on Bribery in International Business Transactions, Mr Speaker, Sir, which will facilitate access to the OECD Anti-Corruption Convention by non-members.

Mr Speaker, Sir, a few months ago, in November last year, our Prime Minister, at the launching of a forum on Public-Private Partnership in Combating Financial Crime indicated that Government is supporting ICAC recommendation for Mauritius to become a member of the OECD Working Group on Bribery pointing out that we would be the second African country to become member of this working group. During his address,

the Prime Minister underlined Government resolve to adopt measures to combat financial crimes which are getting more sophisticated with the support of technology.

Mr Speaker, Sir, let me now continue with my speech by saying that with this legislation, *la peur doit changer de camp. M. le président, l'opposition ne cesse de dire qu'il s'agit d'une loi dangereuse. Oui, effectivement, nous confirmons que c'est une loi dangereuse, M. le président, mais une loi dangereuse pour les barons de la drogue, pour les parrains de la criminalité financière, pour la mafia des jeux, pour les blanchisseurs de l'argent sale.*

Dorénavant, ils ne sont plus en sécurité. Nous amenons au cœur de leurs activités et nous visons au cœur de leurs activités illicites, M. le président, et au cœur de leurs réseaux de criminalité. Et c'est exactement ce que nous sommes en train de faire avec cette nouvelle loi. Les citoyens de ce pays, M. le président, ont le droit de vivre en paix et en sécurité et leurs enfants ont le droit à un avenir certain et stable. L'État se doit de tout mettre en œuvre pour assurer leur protection contre les mafias de la drogue et la criminalité organisée. Nos compatriotes ont placé leur confiance dans ce gouvernement et ils savent qu'ils peuvent compter sur nous.

Notre priorité absolue est de neutraliser les criminels. Ce texte de loi revêt une importance cruciale dans notre lutte contre la fraude et la corruption. Nous ne céderons pas aux menaces et aux pressions de quelques groupes qui cherchent uniquement à préserver leurs intérêts financiers personnels et ceux de leur cercle, tout en faisant croire qu'il s'agirait d'une mauvaise loi ou d'une loi scélérate comme quelqu'un l'a dit dans cette Chambre.

Comme à son habitude, M. le président, l'opposition tente de discréditer le gouvernement en créant de toute pièce une hypothèse fallacieuse, chimérique et paranoïaque, M. le président. Puis, en lançant un débat au sein d'une section de la presse qui lui est favorable et qui promeut son propre agenda en se basant sur cette hypothèse erronée.

M. le président, cette hypothèse erronée porte sur la prétendue usurpation des pouvoirs du DPP en matière de poursuite au sein de ce nouveau dispositif légal et institutionnel. Venons-en aux faits concernant les pouvoirs et prérogatives du DPP qui semblent tant les préoccuper.

Examinons, M. le président, ce que stipule la clause 142 du texte de loi, traitant précisément des poursuites étant maudites par cette opposition. Cette clause stipule que, suite à la conclusion d'une enquête – ma collègue, la ministre de l'Éducation vient de

commenter sur cette clause 142 – que suite à la conclusion d'une enquête, la commission a le droit d'engager des poursuites pénales pour toute infraction prévue par cette loi ou par la loi sur la déclaration de patrimoine – *declaration of assets* – si elle le juge approprié.

Cependant, M. le président, il est important de noter que cette action de la commission d'engager des poursuites pénales n'empêche en rien sur les pouvoirs du DPP, tels que définis dans la Constitution. En effet, en vertu de l'article 72(3)(b) et (c) de notre Constitution, le DPP conserve le pouvoir exclusif de reprendre, de poursuivre ou d'interrompre de telles poursuites pénales, indépendamment de toute autre personne ou activité, M. le président.

Clause 142(1)(b), je cite le texte de loi –

“(b) The institution of criminal proceedings by the Commission under paragraph (a) shall be without prejudice to the powers of the Director of Public Prosecutions vested in him to the exclusion of any other person or authority under section 72(3)(b) and (c) of the Constitution to take over, continue or discontinue such criminal proceedings.”

Now, we were told by the Members of the Opposition, how can the DPP discontinue, in case he wishes to do so, since the file is not in his possession? This was the argument advanced by the Opposition, Mr Speaker, Sir, when it was put to them that the DPP still has the power to discontinue proceedings. But, Mr Speaker, Sir, this argument of the Opposition does not hold water because we know, and the Opposition must know. Let us take the cases of private prosecutions of which the Opposition *raffole*. They have got so many private prosecutions, Mr Speaker, Sir!

In these cases of private prosecutions, haven't we seen so many times that the DPP has ordered the discontinuance of these cases though he was not involved in the prosecution? How could the DPP then discontinue proceedings in private prosecutions, Mr Speaker, Sir, though this was a case between two private parties as we know in cases of private prosecutions?

Mr Speaker, Sir, le rôle du Directeur des poursuites publiques est extrêmement clair et explicite en vertu de cette disposition dans la nouvelle loi. Le DPP a toute la latitude pour décider de poursuivre ou d'abandonner une poursuite. Il n'y a aucun changement fondamental à ce sujet, comme veulent le faire croire les membres de l'opposition. Le pouvoir conféré à la commission en vertu de la clause 142, M. le

président, vise à garantir un traitement plus rapide des affaires, car les retards compromettent inévitablement leur issue favorable.

M. le président, il s'agit aussi d'ajouter que plusieurs autorités à Maurice sont déjà investies du pouvoir de poursuite. Je crois que Madame la ministre vient de le dire, l'article 8 (3) du *Food Act* autorise un officier dûment mandaté à mener une enquête et à engager des poursuites devant un magistrat en ce qui concerne toute infraction prévue par la loi ou les règlements pris en vertu de celle-ci. Prenons les officiers, les inspecteurs, les mairies, les *District Councils*, les municipalités, les conseils de districts; tous les jours, nous voyons ça. J'étais avocat et beaucoup de nos collègues ont aussi exercé au barreau, M. le président. Très souvent, nous allons dans les *District Courts* et on voit ces officiers des collectivités locales, M. le président, ce sont eux; *they prosecute the suspect, the accused party. Firstly, they contravene. Quand vous construisez un bâtiment in breach of your conditions of the BLUP or whatever infractions, they contravene, they inquire, they suggest prosecution, they prosecute, Mr Speaker, Sir.*

Mais pire, M. le président, laissez-moi ajouter aussi quelque chose d'autre. *In all criminal cases before our District Courts, it is the Police which opens the enquiry; it is the Police which conducts the investigation; it is the Police which records statement from suspects and witnesses; it is the Police which decides on whether to prosecute or not, Mr Speaker, Sir.*

The Police and not the DPP decides to prosecute the cases before a District Court. This happens every day in all our Criminal District Courts, Mr Speaker, Sir. Therefore, are we going to say that there are hundreds of miscarriages of justice which are taking place in this country every day before our District Courts, Mr Speaker, Sir? Of course not! What I also want to say, Mr Speaker, Sir, to reply to another argument of the Opposition but before I come to that, Mr Speaker, Sir, I just wanted to come back to what hon. Mr Ramful said and this was taken also by hon. Bérenger.

Mr Speaker, Sir, this question about the monster, in fact, I do not see any contradiction between what hon. Collendavelloo had said. Mr Speaker, Sir, I hope to find the copy of the Select Committee. This is what I can see in chapter one of the Select Committee on Fraud and Corruption presided by/chaired by hon. Collendavello. In paragraph 798, Mr Speaker, Sir, by virtue of section 72 of our Constitution, the DPP has the sole and unfettered control over criminal prosecutions. Nothing has been said that can persuade us that an exception should be made in respect of fraud or corruption. We believe that it is to the DPP alone to control what has been done by ICAC in the course of the investigation and so on.

But, Mr Speaker, Sir, this is what is exactly in our law. I say it again, the Commission has not been vested with unfettered powers, absolute powers, Mr Speaker, Sir. The DPP has still the right to discontinue as I just quoted, Mr Speaker, Sir –

“(c) The Director of Public Prosecutions may discontinue before any Court the criminal proceedings instituted by the Commission under paragraph (a) giving such reasons as he may deem fit for such discontinuance before the Court.”

So, what are we seeing now? What is this law providing for? In case the Commission has instituted proceedings, prosecution, the DPP still has the right to come and say: ‘I do not agree’ and he discontinues the criminal proceedings instituted by this Commission but he must give reasons for such discontinuance before the Court.

Then what happens, Mr Speaker, Sir? Then what happens? To show you the proof that this Commission has not been vested with absolute and unfettered powers, you know what he has to do then? He feels convinced that his prosecution should have been proceeded with, then the law says –

“(d) Where any aggrieved party [which means the Commission] is dissatisfied with the decision of the Director of Public Prosecutions under paragraph (c)...”

Then the Commission applies to the Supreme Court for a judicial review of the decision. Then, it is up to the judiciary to come and set matters right, Mr Speaker, Sir.

So, I do not see where the monster is, Mr Speaker, Sir. If there is a monster, the monster is the Supreme Court. The Supreme Court has the last word, Mr Speaker, Sir, not even the DPP, not even this Financial Crimes Commission. So, this theatrical and histrionic speech of hon. Ramful concerning what took place before the Committee, trying to show that the hon. Collendavello *a tourné sa veste* does not hold water because there is no contradiction between what we are saying, the powers of the DPP under section 72 and the prerogatives of the Commission to institute proceedings after investigation.

And let me add, Mr Speaker, Sir, replying to another argument of the Opposition that the power and the decision whether or not to institute criminal proceedings do not rest with the Director General. Somebody said that, Mr Speaker, Sir, but it is the Commission which as can be seen by virtue of clause 142(a), the Commission may institute such criminal proceedings and this Commission, Mr Speaker, Sir, is comprised of five members. Five members, this is what is to be found in section 8(4) which stipulates that –

“(4) All matters shall be decided by a majority of the votes and in the event of equality of votes, the person chairing the meeting shall have a casting vote.”

Mr Speaker, Sir, it is the Commission, comprising of five members which will institute prosecution. This is different in the case of the DPP when advising prosecution, he decides on his own, Mr Speaker, Sir, in the solitude of his office. Clearly, there is a difference; the Commission comprising of five members and the DPP deciding on his own.

Mr Speaker, Sir, even when we go – I do not have much time, – when we look at the powers of arrest also, we will see that this law is much better than what obtains in the POCA legislation which we will be repealing once this Bill is adopted, Mr Speaker, Sir. I do not want to go into the details.

M. le président, il est essentiel de saisir pleinement le contexte et les motivations des membres de l'opposition derrière ce postulat, somme toute opportuniste. L'opposition, M. le président, a maintes fois tenté d'instrumentaliser politiquement le bureau du DPP dans le cadre de sa stratégie politique visant à semer la discorde, la division et le dénigrement des institutions. Cette fausse polémique entourant cet aspect du FCC va dans le droit fil de cette démarche purement démagogique. Tout le monde sait, M. le président, qu'il n'y a aucune sincérité dans leur revendication. Ils tentent simplement de déplacer le débat vers un domaine où ils excellent, à savoir la diffamation, la désinformation et la provocation d'une psychose collective.

Quoi qu'il en soit, M. le président, cette opposition qui raffole – comme je viens de le dire – les *Private Prosecution* n'a jamais formulé la moindre objection à l'idée qu'une procédure de poursuite puisse être engagée, dans ce type de situation, sans l'approbation du DPP. Ils pourront nous éclaircir sur cette question dans le cadre de ce débat. Malheureusement ils ne sont pas présents, mais nous regrettons leurs absences, M. le président, à vaincre sans péril, on triomphe sans gloire. Car, non seulement c'est un viol, un boycott de la démocratie, M. le président, mais concernant ce projet de loi comme nous le voyons, c'est une campagne à fort relent politique dont ils sont les instigateurs.

Une fois de plus, cette opposition révèle sa démagogie flagrante en tentant de faire un lien entre ce projet de loi et le sort de leur leader, Navin Ramgoolam, comme-ci le monde tournait autour du leader du Parti travailliste.

An hon. Member: *So coffre.*

Mr Ganoo: Ils sont obsédés par le sort de Ramgoolam justement parce que leur avenir politique dépend de M. Ramgoolam. Mais cela, M. le Président, c'est leur problème. N'en faisons pas une affaire d'Etat. En tout cas, le gouvernement ne va pas entrer dans ce petit jeu.

M. le président, notre préoccupation principale est d'assurer la protection de nos concitoyens contre les criminels. Il est évident que les membres de l'opposition ne partagent pas ces mêmes priorités. Mais effectivement, M. le président, d'où vient cette volonté, cette rage, ce désir effréné d'orchestrer méthodiquement toute cette campagne démagogique et vile contre ce projet de loi dont nous, au gouvernement, nous ne lâcherons pas de défendre ces vertus et ces avancées ? Le Premier ministre dans son discours de clôture va certainement mettre le dernier clou au cercueil de ces détracteurs insensés. M. le président, en vérité, cette campagne, savamment distillée et intelligemment diffusée, est le résultat d'un constat amer de leur alliance conçue dans un désespoir certain qui peine à décoller et à prendre son élan.

Et aussi, à leur désespoir en voyant leurs *meetings* qui n'attirent que des agents de toutes les circonscriptions, à l'instar de ce dernier *meeting* de Chemin Grenier qui réunissait à peine 1,300 personnes après plus d'un mois de battages et de matraquages publicitaires. Ce désespoir provient de cette incapacité de faire face à ces mesures généreuses et socialistes annoncées récemment par rapport au salaire minimum juste et compensation salariale sans précédent et aux autres mesures sociales qui se retrouvent dans le droit fil d'une politique et philosophie socialiste dans le cadre d'un esprit de solidarité envers un peuple, qui conscient des grands enjeux nationaux et autres challenges internationaux, continu a voué sa loyauté à ce gouvernement et son Premier ministre, M. le président. Voilà ce qui explique ce frétinement, cette excitation, cette agitation d'une opposition discréditée et sans aucun avenir politique.

M. le président, pour terminer, je tiens à exprimer mes félicitations au Premier ministre pour avoir présenté ce projet de loi novateur et progressiste visant à lutter contre la fraude et la corruption ainsi qu'à renforcer notre État de droit. Nous reconnaissons toute sa sincérité et sa détermination à mettre hors d'état de nuire à ces empoisonneurs publics, ces mafieux sans scrupules qui s'enrichissent sur la santé et les cadavres de nos enfants, ainsi que leurs transactions financières associées.

Avec cette nouvelle loi, M. le président, nous disposerons des moyens légaux plus efficaces pour les traquer et les traduire en justice. Nullement compare à cette opportunité historique d'agir et d'apporter des changements fondamentaux à l'ordre public et à notre système de sécurité. Que Dieu bénisse la République de l'île Maurice.

J'en ai terminé, M. le président.

Mr Speaker: Hon. Gobin!

(12.15 p.m.)

The Attorney General, Minister of Foreign Affairs, Regional Integration and International Trade (Mr M. Gobin): Thank you, Mr Speaker, Sir, for allowing me an opportunity to lend my voice in support of the Financial Crimes Commission Bill (FCC) before this House. This Bill has been before this House for a number of days and a few weeks, so that this House has had full opportunity to debate on the provisions of this Bill.

Mr Speaker, Sir, I have to start by saying that I am here in this House because I have a responsibility bestowed upon me as an elected Member. I am here because I am an elected Member just in the same way as my colleagues, on this side of the House, have been elected and we have been given a responsibility to implement a programme. It is in the discharge of our responsibilities that we are here today to vote in support of this Bill.

It is very unfortunate that some others have been elected to be in this House, but they choose to disappear. They choose to disappear! I say this because I have been used to saying this before the courts at the beginning of a trial that I appear for a client. But, before you, Mr Speaker, Sir, I appear for the people. I appear for the people in the discharge of my responsibility, but there are those who choose to disappear. And they do not only choose to disappear today, they always disappear!

Let me remind the House. They lodged cases to challenge the elections, but when it comes to trial, when it comes to standing in the box to give evidence, they disappear!

(Interruptions)

They challenge all sorts of challenges. They bring about challenges to, I remember, the Local Government Act. What happened then? They say, this, we will challenge, we will go to the Privy Council. Then, when comes the moment to challenge, they disappear! They lose their cases!

Now, let me come to hon. Bodha. He is gesticulating this morning on the footpath. He is gesticulating on a footpath? We will make him and his friends dance when it comes to the electoral campaign very soon! We have no qualms. We have no qualms, Mr Speaker, Sir. They always choose to do this kind of gesticulations, whether they want to do it in some forum, sometimes they want to do it in court, but they do not

succeed. And then, they choose to do it on a footpath and then sometimes, Mother Nature says, no, you can't, because it was raining this morning.

(Interruptions)

This is what happens. We are doing our duty, Mr Speaker, Sir.

Let me come to the Bill because I have 20 minutes according to the allocated time. I will wear my political hat a bit later again. I have started on a political tone, but let me wear my hat as the Attorney General. It is important for me to say this, because time and again, the courts, have in the interpretation of legislations, gone to the debates and they have looked and scrutinised the *travaux préparatoires*. So, let me say something about this Bill, it is very important to say it, this Bill is about the combat against money laundering, financing of terrorism, fraud by whatever name we call it. In summing up, it is about combatting financial crime.

As we speak today, we have seen, over a number of years, the development of institutions. As we speak today, we have the Integrity Reporting Services Agency, we have, of course, the ICAC, we have the Asset Recovery Investigation Division. Of course, we also have in the same framework of fighting financial crime and economic offences, the Declaration of Assets Act. So, we have this number of institutions and each institution doing one specific duty. But in the end and with experience, what do we see? We see lack of proper coordination and lack of that one missing link, the apex body at the top of all those existing institutions. That one is crucially missing. And this is what we are doing today. We are creating that apex body which will englobe all the existing powers given to individual institutions. We are not creating a monster. We are incorporating the existing powers of existing institutions into one. This is what we are doing with the creation of the FCC.

What are we doing? I call this Bill a consolidating statute. It is consolidating existing provisions, and I have already specified which ones. This is already set out in the Explanatory Memorandum. It is consolidating – let me say it again – these legislations are being consolidated: the Prevention of Corruption Act, the Asset Recovery Act, the Good Governance and Integrity Reporting Act and Part II the Financial Intelligence and Anti-Money Laundering Act. These legislations are being consolidated.

In a consolidating statute, whenever we consolidate existing provisions, there is a necessary corollary. Once we consolidate, we also repeal existing statutes. When we look at Clause 165 of the Bill, it is very clear –

“The following enactments are repealed –

- (a) the Asset Recovery Act;
- (b) the Good Governance and Integrity Reporting Act; and
- (c) the Prevention of Corruption Act.”

What the Opposition Members are saying is that we are creating a monster, but they do not say to the people that we are also repealing three separate legislations. This is the necessary corollary of a consolidating statute.

It is not just the first time that this House has voted a consolidating statute; there have been a number of occasions. This is exactly the same here today. On the one hand, consolidating existing provisions, and on the other, repealing certain legislations in consequence. When I say existing legislations, I want to illustrate what we are consolidating.

I can say it, Mr Speaker, Sir, almost three quarters, maybe more, I would say 80 to 85% of the provisions of this Bill are already existent.

When we look at the powers of arrest, they already exist in today’s existing POCA. They already exist but the Opposition is creating a mountain of, not even a molehill, it’s a creation of, in the air, as if we are giving powers of arrest for the first time. We are using the same provisions. In fact, we have reduced it a little; we are using the same provisions of the existing provisions in POCA and we have incorporated in this legislation. Much has been said about the powers for surveillance and telecommunications as if it is for the first time that this House is voting such a provision.

Mr Speaker, Sir, when we look at the existing Section 32 of the ICTA, provision has been made in law for a Judge’s Order to be obtained by relevant institution for telecommunications surveillance. It exists in our law and in a criminal investigation, the relevant institution can apply for a Judge’s Order for telecommunication surveillance. It already exists. They haven’t even read the Bill. After the power of arrest and the telecommunication’s order, we also have the Special Investigative Techniques, one of the oldest serving Members of this House, hon. Bérenger was saying –

“ ...the word special, fait peur...”

Mais il n'a pas lu le reste. Il a lu seulement le mot spécial et dit special investigative techniques, ça fait peur. Mais, what does the special investigative techniques mean? They say control surveillance. There is the word ‘used’ there that the

officers under the authority of the Director General will be able to do these exercises of control surveillance.

Mr Speaker, Sir, today and I don't know for how many years, control delivery exists under the Dangerous Drugs Act. The control delivery has happened in so many cases and so many cases have been tried and tested before our courts. There is nothing sinister about control delivery, here it is control surveillance. *Ça fait peur selon lui.* Maybe he hasn't even read, I will leave it up to him to go and read it later but all the existing powers of existing institutions have been incorporated in today's consolidating Bill and insofar as any further powers, apart from what I have just said, all the further powers, Mr Speaker, Sir, have to be exercised after and under the control of a Judge's Order. This brings control under exercise of powers by the FCC. There are a number of examples where we look at the requirement for a Judge's Order.

We look at Sections 63 *et suivant.* 63 – Disclosure of financial transactions and any other information: there is the requirement for a Judge's Order when it comes to obtaining any document, book, record or any other information which is required by the Commission in an investigation and this order is obtained notwithstanding the Law Practitioners Act or the Notaries Act. I am saying this because a number of practitioners outside have made representation saying –

“There will no longer be any legal privilege concerning documents or records between a law practitioner and a client.”

But if we are faced with a criminal investigation, then will the legal privilege stand as a block, as a barrier to a criminal investigation? That surely cannot be the case but the safeguard is such a document, such a record which can be obtained with a Judge's Order.

So, when you are faced with a Judge's Order, once obtained, you have to bow to the Judge's Order and provide. There is nothing wrong in that and I give another example where a Judge's Order is required. Clause 64 – Order to search specified premises: it is clear, the Commission may apply to a Judge for an order authorising an officer designated by the Director General to enter premises etc. All this will be done under the authority of a Judge's Order.

Mr Speaker, Sir, Clause 65 – telecommunications order, the Commission may, for the purpose of an investigation under this Act, all the Declaration of Assets Act apply to a Judge for a telecommunication order directing a public operator or any of its employees or agent to intercept or withhold a message or disclose to the Commission a

message or any information relating to a message. Once again, all this is done under the control of a Judge's Order, same for the special investigative techniques in Clause 66. Control remittance and surveillance are existing powers exercised by the police today whether it's for drugs under the Dangerous Drugs Act or otherwise. Anything further than that which will be under Clause 66 (2) requires a Judge's Order. So, there is no qualms whatsoever as to the exercise of those powers by the FCC.

Mr Speaker, Sir, this is the first thing that Government is doing, I said, I say it again, consolidating existing provisions and repealing those legislations as the Asset Recovery Act, the POCA and the G GIR. Second thing that we are doing, we are providing in this legislation, I say this because one may ask: is it merely a consolidating statute? No, it is not. Consolidating statute for perhaps 75% of its contents, I say it but about the rest? This is what we are adding in this Bill – checks and balances. First, as I said earlier, the requirement of a Judge's Order on a number of occasions, this is in itself very strong checks and balances in the exercise of the FCC's Powers.

Second and it is very important to highlight this. The checks and balances to be provided with the Operations Review Committee in Clause 126. Once again, we have to say it. Such a Committee existed in the first version of POCA, affectionately called *la loi Collendavelloo* *parce que cette loi a été le produit du Select Committee dans le gouvernement 2000-2005, c'est-à-dire aux alentours de 2002, 2003, la législation est venue devant cette Chambre. Il y avait le FIAMLA et le POCA.* The ORC was there. The Operations Review Committee, as the name suggests, is to review the operational aspect of the ICAC. *Cependant, le gouvernement de 2005 est venu,* at the stroke of a pen, to do away with the ORC. We are bringing the ORC back. Why? Because today the Parliamentary Committee has oversight over ICAC for only two matters. I see the hon. Chief Whip looking at me. The hon. Chief Whip chairs the Parliamentary Committee. You have jurisdiction for only two things –

1. Financials, and
2. Administrative matters.

That's all. When it comes to the Investigation, that's a no go area. We cannot even ask questions to the then Commissioner, now Director General and even if questions are asked, he can refuse to answer. Now, we are bringing back the operations of Review Committee under Section 126 and that Committee will be chaired by a Chairperson, no less than a retired Judge of a Supreme Court or law practitioner of at least 10 years standing and the functions and powers of the ORC, Mr Speaker, Sir, have to be highlighted.

This Committee will look into amongst others; I wish to highlight just a few investigations being carried out by the Commission and which have lasted more than 12 months. All cases where suspects have been provisionally charged for more than 12 months, we always hear of complaints that the provisional charge has been before a District Court for months and years and nobody is questioning that.

Here, we are giving the opportunity for the ORC to question the Commission and to say: 'Why? Explain why?' Amongst others, the Commission will also have the power to review, to ensure effectiveness on prosecutions of offences or appeals or information revealed by investigation into offences, etc... So, this acts as a very powerful Committee to review the work of the Commission when it comes to its operational side.

We have not stopped only at the creation of ORC, Mr Speaker, Sir, we have also provided in this Bill, by way of checks and balances, to provide for coordination. We have identified for a number of years and more particularly, ever since the years 2020 à monter, because that was a crucial period when we were on the Grey List, we were under observation, this is where we have seen that coordination is a keyword between institutions. So, lessons learnt. We have provided, here, a Clause 132: the National Coordination Committee, to provide for coordination among so many institutions, including the Solicitor General, the Commissioner of Police, MRA, *la Banque centrale*, *la FSC*, etc...

We go one step further, Mr Speaker, Sir, Public-Private Partnership Task Force. This will be created under clause 135: Public-Private Partnership Task Force. *L'opposition n'a rien vu en terme de coordination, n'a pas vu le* Task Force Public-Private when it comes to combating of financial crimes; I have highlighted it in my speech today.

There are other similar provisions which cater for the loopholes that have been identified over a number of years of operation of ICAC, for example, protection of witnesses and Witness Protection Scheme. The Witness Protection Scheme is something we only see in movies; witness protection programme.

Nobody has ever brought legislation to provide for witness protection programme here, but we have and it is in Clause 125.

So, Mr Speaker, Sir, this is what this Bill is about: consolidating for the majority of its provisions, but enhance provisions for checks and balances, for coordination, for public-private partnership, for protection of witnesses, etc. This has to be highlighted today because of the demagogic of the Opposition.

Let me come to the argument, the main thrust, of a number of Opposition Members which concerns the appointment of the Director General. They say that the Director General ought to be appointed by the JLSC. Mr Speaker, Sir, I have to remind them and I have to remind the country what they have said about the Electoral Commissioner. I am so sorry to do that today; the Electoral Commissioner might not appreciate that I am bringing him in the debate, but I have to. The Electoral Commissioner is a constitutional post and what have they not said about the Electoral Commissioner since 2019!

The Prime Minister: Shame!

Hon. Members: Shame! Shame on them!

Mr Gobin: It is a shame to hear and to read what the press has printed on the Electoral Commissioner. Of course, the press has been printing what the Opposition Members have said. But let me say something today: who appoints the Electoral Commissioner? The Electoral Commissioner is appointed by the JLSC. So, even when it comes to somebody who is appointed by the JLSC, when it suits them, they will mudsling, they will defame, they will call for his resignation. So, what is this nonsensical argument that once somebody is appointed by the JLSC, that makes him an angel?

I think they should go back and think very, very deeply about the level of their argument that we have heard. They...

The Prime Minister: They are the monsters!

Mr Gobin: Yes, the hon. Prime Minister is right. They are the monsters and they need to look at themselves in the mirror! So, this argument of the JLSC does not hold water at all, Mr Speaker, Sir! This is all I have to say on their argument.

In so far as the powers of the DPP, Mr Speaker, Sir, the DPP is a creature section 72 of the Constitution. The DPP exists since 1964; the DPP was not even there before 1964. Ever since the creation of the post of the DPP in 1964, the powers of the DPP have remained the same until today. Not a comma has been touched in the Constitution of this country for section 72; the powers have remained the same since 1964 and are still the same today irrespective of what the Opposition Members say. I think, hon. colleagues, here on this side of the House and the last orator before me, hon. Ganoo, have made it amply clear that the powers of the DPP as contained in section 72 remain untouched.

Mr Speaker, Sir, on a final note, I have to remind some Members of the Opposition that there is no conspiracy. Hon. Ganoo said that! As if *le monde tourne autour du leader du Parti travaillist*, as if the FCC is a conspiracy against him. Now, the

FCC is being set up *comme un complot contre sa personne*. Mr Speaker, Sir, let me remind the House, let me remind the population, the first time the words ‘Financial Crimes Commission’ appeared were in the Electoral Programme of 2014; *dans notre programme. Et le programme de 2014 disait –*

« Combat contre la fraude et corruption

- Mise sur pied d’une ‘Financial Crime Commission’ (...) qui agira comme un ‘apex body’ pour enquêter sur les crimes financiers, tels que les diverses types de fraude, incluant les ‘ponzi schemes’, la corruption et le blanchiment d’argent. [C’est le programme de 2014.] Cette commission englobera différentes institutions existantes – la FIU, l’ICAC [je m’arrête là] et le département ‘enforcement’ de la FSC. »

Mr Speaker, Sir, what are we doing with this existing FCC? It is taking over existing powers, existing provisions of existing institutions. But what is the difference now? You see, when we look at the programme for 2014, *c’etait: “Gouverner pour le peuple avec le peuple”*.

Unfortunately, I have not brought printed copies for the House and we have the beautiful pictures of, of course, Sir Anerood Jugnauth as the leader of the Alliance, hon. Pravind Jugnauth as the leader of the MSM, hon. Collendavelloo as the leader of ML, but also hon. Xavier Luc Duval as the leader of the PMSD on this manifesto! He was part of this manifesto then and even, I speak as the Secretary General of my party, hon. Bodha, he was then the Secretary General of the party. We know when he was Secretary General of the party how almighty he was. He was directly concerned with the drafting of this manifesto then. What has happened now? When we come with the FCC Bill in 2023, then everything has changed? Then it has become a monster? I think he has to go back and think very, very well and deep on what he is doing. He is doing a disservice to his country.

Mr Speaker, Sir, I think I have said enough. What is important is that we will go ahead with this Bill. This Bill will be voted today. We are all very patiently waiting for the summing up of the Prime Minister because there are a few more interesting arguments that we will hear from the Prime Minister, I am sure.

We will vote for this Bill and we will vote for this Bill today, Mr Speaker, Sir. Thank you.

Mr Speaker: Hon. Members, I suspend the Sitting for an hour and a half.

At 12.43 p.m. the Sitting was suspended.

On resuming at 2.14 p.m. with Mr Speaker in the Chair.

Mr Speaker: Please be seated! Hon. Prime Minister!

(2.14 p.m.)

The Prime Minister: M. le président, les membres de l'opposition brillent par leur absence au moment de la clôture des débats sur un projet de loi aussi important comme le *Financial Crimes Commission Bill* qui vise à accentuer le combat contre le trafic de drogue, le blanchiment d'argent et autres crimes financiers et j'espère que le *National Assembly Broadcasting* va montrer les bancs vides de cette opposition irresponsable!

Hon. Members: Shame! Shame!

An hon. Member: *Met kamera lor zot! Met kamera lor zot!*

The Prime Minister: Et cela, M. le président, après avoir participé aux débats, fait des accusations gratuites et essayer d'empoisonner l'esprit des gens sur l'intention du projet de loi.

De ce côté de la Chambre, on a pris la peine de les écouter et moi j'ai tenu personnellement à être présent pour écouter leurs arguments aussi futiles qu'ils soient, mais voilà qu'ils déguerpissent tels des lâches pour ne pas faire face à nos répliques. Je laisse les Mauriciens juger qui sont les démocrates et qui ne le sont pas.

Ce sont eux qui sont en train de violer la démocratie et n'oublions pas ces gens qui essaient de nous donner des leçons. En 2014, le Dr. Navin Ramgoolam, en complicité avec l'honorable Paul Bérenger alors leader de l'opposition qui s'était accroché à son siège de leader de l'opposition, avaient tourné la démocratie en ridicule et avaient fait comme ils aiment dire – vous aussi vous aimez dire - c'est un *Temple of Democracy*. Mais qu'est-ce qu'ils n'ont pas fait de ce *Temple of Democracy*? Pendant allons dire presqu'une année en 2014, ce *Temple of Democracy* était vide, ne siégeait pas.

(Interruptions)

Mais au-delà de cela, les Mauriciens constatent comment semaine après semaine les membres de l'opposition agissent mal dans cette Chambre. Ils insultent le *Speaker*, font fi des *Standing Orders*, provoquent des *walk outs* ou encore cherchent l'expulsion.

M. le président, aujourd'hui ils sont venus, – certains je dois dire, pas tous – j'apprends, prendre leur petit déjeuner à l'Assemblée nationale.

(*Interruptions*)

Hon. Members: *La honte!*

The Prime Minister: Prendre leur petit déjeuner pour ensuite aller manifester en dehors de la Chambre

(*Interruptions*)

Qui plus est...

(*Interruptions*)

Qui plus est, M. le président, pendant que nous nous sommes en train de travailler et nous travaillons avec sincérité, nous travaillons dur et lorsqu'on est arrivé à l'heure du déjeuner c'était vide là-bas. Mais est-ce que vous savez, M. le président, que certains ont pris leur déjeuner en *take away* ?

(*Interruptions*)

Hon. Members: Shame!

The Prime Minister: Attention !

(*Interruptions*)

Attention ! Attention ! Je ne dis pas qu'ils n'ont pas droit à leur petit déjeuner ou déjeuner, mais lorsque vous boycottez les débats à la Chambre, au moins ayez la décence de ne pas être – je vais utiliser ce mot en créole – des véritables *krever* !

(*Interruptions*)

Mr Nuckcheddy: *Deser tou zot inn pran !*

The Prime Minister: Je dois dire c'est un cinéma de mauvais goût qui est condamné par la majorité de nos compatriotes qui s'interrogent avec raison si les membres de l'opposition peuvent toujours toucher leur salaire et leur boni de fin d'année. Cela étant dit, M. le président, l'absence honteuse de l'opposition ne m'empêchera pas à fournir des explications sur les points soulevés et dénoncer les fausses propagandes, la mauvaise foi et le vrai agenda de certains !

Mr Speaker, Sir, first of all, I would like to thank all the hon. Members, from both sides of the House, who have taken the floor and contributed to the debate over this very important Bill which is indeed a landmark in our fight against financial crimes.

As I explained in my Second Reading speech, this Bill is a bold, decisive and proactive step by the Government towards the integration of key agencies into a single

apex body, which will foster greater synergy and coordination in investigations and prosecution of financial crime offences and in the confiscation of illicit assets. The new framework proposed in the Bill acknowledges the dynamic nature of financial crimes and incorporates appropriate mechanism to assess evolving trends and stay ahead of current and emerging threats.

We have no doubt that this Bill will contribute to enhance the effectiveness of the financial crime strategy thereby increasing public confidence in the stability and integrity of our financial sector. It also reflects our commitment and engagement to fulfil our international obligations and our proactive stance in fostering global cooperation.

Mr Speaker, Sir, I have listened carefully to the different speakers who intervened on this Bill and I must say that, while some of them have made meaningful contribution to the debate, others, mostly from the other side of the House, sadly enough, have engaged themselves in cheap and petty politics. Although the Bill comprises 169 clauses, they have chosen to focus only on a few clauses, mainly clauses 10, 66 and 142. Because of their tunnel vision approach and lack of perspective they could not see the forest for the trees. They either missed the point completely, or they have been deliberately misinterpreting things only with the intention of creating fear and doubts in the minds of the people. What they see as dangers to civil liberties in the Bill is only a figment of their imagination.

This Bill, Mr Speaker, Sir, is targeting only the corrupt, the fraudsters, crooks and criminals, drug dealers, scammers, those who have accumulated unexplained wealth or ill-gotten gains and the likes. They are the ones who have to fear. But honest people of this country have nothing to fear from this Bill. It is meant to protect them and the country. And I have no doubt that the majority of the people of this country understand that. And they also understand the demagogic and hypocrisy of this Opposition.

Anyway, Members from this side of the House have given a fitting rebuttal to their arguments. Nevertheless, I would like, on my part, to respond to a few points which have been raised in order to dispel any remaining doubt, fear or confusion which their arguments may have created in the minds of some people.

Mr Speaker, Sir, let me first take the issue which has given rise to much apprehensions, or should I say, misapprehensions in the minds of the Opposition. In fact, the Opposition has made a lot of hue and cry, both inside and outside the House, over Clause 142 of the Bill, which is vesting the FCC with prosecutorial powers. The Leader of the Opposition, and few others, questioned the constitutionality of the provisions of Clause 142 and queried about the rationale and justifications for vesting the FCC with

prosecutorial powers. I think some of them have either misread the relevant provisions of the Bill and the Constitution or they are deliberately trying to instil fear and doubt in the minds of people.

Mr Speaker, Sir, let me restate, most emphatically, that this Bill is not curtailing any of the powers of the DPP under section 72 of the Constitution, which is not being touched at all. Moreover, the provisions of Clause 142 of the Bill do not, in any manner, contravene the provisions of section 72 of the Constitution. The Bill is only vesting the FCC with prosecutorial powers, which is constitutionally and legally in order. The overriding and ultimate objective of Clause 142 is to protect the integrity of our financial sector by reducing delays in bringing the perpetrators of financial crimes to justice and securing convictions, in the interest of all parties concerned and also consolidating our AML/CFT framework in anticipation of the FATF evaluation exercise scheduled for 2027.

Mr Speaker, Sir, there is absolutely nothing sinister or controversial in conferring prosecutorial powers to the FCC in order to enable it to institute and undertake criminal proceedings, in its own name, against any offender for any criminal offence under the FCC Act or the Declaration of Assets Act.

Mr Speaker, Sir, the advisability of vesting the FCC with prosecutorial powers is an issue that was carefully examined by the Attorney General's Office which has also consulted eminent and experienced jurists on this matter. The question was examined particularly in the light of the powers of the DPP under section 72 of the Constitution. As the House is aware, section 72(3) to (5) of the Constitution set out the powers of the DPP with regard to the institution and conduct of prosecution for criminal cases. These sections read as follows, and I quote –

- “(3) The Director of Public Prosecutions shall have power in any case in which he considers it desirable so to do to –
 - (a) institute and undertake criminal proceedings before any court of law (not being a court established by a disciplinary law);
 - (b) take over and continue any such criminal proceedings **that may have been instituted by any other person or authority**; and”

The emphasis is mine.

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

Again, the emphasis is mine.

- “(4) The powers of the Director of Public Prosecutions under subsection (3) may be exercised by him in person or through other persons acting in accordance with his general or specific instructions.
- (5) The powers conferred upon the Director of Public Prosecutions by subsection (3)(b) and (c) shall be vested in him to the exclusion of any other person or authority:

Provided that, where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the court.”

Mr Speaker, Sir, it follows that section 72(3) of the Constitution does not confer upon the DPP the exclusive right or monopoly to institute criminal proceedings. Section 72(5), in fact, confers constitutional powers to the DPP to take over, continue or discontinue any criminal proceedings instituted by any other person or authority.

It is, therefore, constitutionally permissible for any statutory authority to institute criminal proceedings without the consent of the DPP provided that such powers are conferred upon that authority by law.

The consequential effect of section 72 of the Constitution with respect to Clause 142 of the FCC Bill, therefore, means that –

First: it would be constitutionally permissible for the FCC to institute criminal proceedings, without the consent of the DPP, for a criminal offence under the Financial Crimes Commission Act after its enactment;

Second: the DPP would be constitutionally empowered to take over, continue or discontinue such criminal proceedings.

Indeed, there are already several instances where statutory authorities have been vested with prosecutorial powers. In my second reading speech, I had mentioned, as an example, that the Food Act 2022 empowers an “Authorised Officer” to conduct an inquiry, swear an information and conduct prosecution before a District Magistrate, in respect of any offence under the Food Act or any Regulations made thereunder. There is

no mention in the Act of any mandatory consent of the DPP for the institution of such criminal proceedings before the District Court.

Mr Speaker, Sir, another instance where the law has vested such powers upon a statutory authority is section 87 of the Environment Protection Act, which empowers an “Authorised Officer”, to “swear an information and conduct prosecution in respect of an offence under an environmental law before a Magistrate,” and again, no mention is made for the mandatory consent of the DPP for the institution of criminal proceedings under the Environment Protection Act. Again, I would like to inform the House, and especially hon. Uteem who is not here, in particular, that the Environment Protection Act of 2002 was introduced by his colleague hon. Bhagwan, with the blessings of his leader.

A further example would be section 43 of the Waste Management and Resource Recovery Act which also empowers an authorised officer to swear information and conduct prosecution, without the consent of the DPP, in respect of an offence under that Act before a Magistrate.

Mr Speaker, Sir, I would like to underline the fact that no questions were raised in this House regarding the constitutionality of the proposal to vest the authorised officer other than the DPP with prosecutorial powers under these three legislations I have just mentioned.

Moreover, the offences committed under these three legislations are not merely minor offences, not to say fixed penalty offences that carry fixed penalties of Rs500 to Rs1,000, for example. Under the Food Act of 2022, the penalty is a maximum of Rs100,000 and imprisonment for a term not exceeding 2 years. In the Environment Protection Act, the fine is a maximum of Rs500,000 and imprisonment not exceeding 12 years and as regards the Waste Management and Resource Recovery Act 2023, the fine is a maximum of Rs200,000 and imprisonment not exceeding 8 years.

Therefore, prosecutorial powers without the consent of the DPP have always been entrusted to other authorities with respect to major and serious and not minor offences.

Mr Speaker, Sir, I would further like to point out that, irrespective of the legislation that I have made reference to, there is no legal requirement for the Police to seek prior consent of the DPP for the lodging of cases before the District Court, as has been mentioned earlier by the Attorney General unlike cases that are lodged before the Intermediate Court which need the fiat of the DPP pursuant to Section 112 of the Courts Act.

On the one hand, the law provides that cases that are lodged before the Intermediate Court need the mandatory consent of the DPP, whereas on the other hand there is no legal requirement for the consent of the DPP to lodge a case before the District Court. Therefore, on an assumption that section 72 of the Constitution conferred an unfettered power for the DPP only to institute criminal proceedings before any Court of law, there would have been no need for the existence of Section 112 of the Courts Act. So, why has the legislator provided for Section 112 of the Courts Act? Precisely because the institution of criminal proceedings does not fall under the sole province of the DPP and other authorities may do so.

Mr Speaker, Sir, in regard to the powers and functions of the DPP, I would like, for the benefit of the House, to refer to the views of Professor Stanley Alexander de Smith who was the constitutional Commissioner for Mauritius and who drafted our Constitution at the time of our Independence.

In a Paper of the Law Reform Commission of Mauritius, dated March 2009, entitled, I quote -

“The office of Director of Public Prosecutions and the Constitutional requirement for its Operational Autonomy”

the Law Reform Commission stated that the framers of our Constitution adopted the best constitutional practices that had then emerged in the New Commonwealth.

The Law Reform Commission then extensively quoted and referred to Professor de Smith’s book entitled, I quote –

“The New Commonwealth and its Constitutions”

in which Professor de Smith expressed his views on the constitutional powers of the DPP as follows, and I quote –

“In instituting, conducting, taking over, continuing and discontinuing prosecutions [the DPP] is not to be subject to the direction of any person; and in the exercise of all of these functions, other than that of instituting prosecutions, his responsibilities are to be exclusive”.

So, Mr Speaker, Sir, it is clear and unambiguous, from the wordings of Professor de Smith, that the DPP does not have exclusive powers of prosecution under Section 72 of our Constitution.

Mr Speaker, Sir, I would also like to refer to an article by a former DPP, Mr Cyril de Labaude d’Arifat, entitled “Le Directeur des Poursuites Publiques,” published

in the Mauritius Law Review of 1978. Mr d'Arifat was occupying the post of DPP in the seventies and his article has very often been used as a guide and reference. In his article Mr d'Arifat stated the following and I quote –

« La constitution se contente de prévoir que le DPP, pourra, quand cela lui paraît opportun, intenter des poursuites, continuer celles qui auraient déjà été intentées par quelqu'un d'autre, stopper tout procès pénal avant le prononcé du jugement et même après le jugement, s'il y a appel et que l'accord de l'appelant a été obtenu. En effet - *the underlining is mine* - le DPP n'as pas, en droit mauricien, l'exclusivité ou le monopole d'intenter des procès. »

It is clear, therefore, that under the Constitution, the DPP does not have the exclusivity or monopoly to institute criminal proceedings and that other persons or authorities can also initiate and bring prosecutions as provided under Section 72(3) of our Constitution.

Mr Speaker, Sir, I am going to quote from judgments and documents because I understand and I hope also that this Opposition will go before the Supreme Court and eventually before the Privy Council. *Laissez-moi freiner leurs ardeurs.*

Any debate or uncertainties concerning the possibility of other person or authority, apart from the DPP, to institute criminal proceedings have been laid to rest by the Judicial Committee of the Privy Council in its landmark judgment in the case of Commissioner of Police v/s Steadroy Benjamin. This is a judgment dated 16 April 2014 and unanimously delivered by five Law Lords on an appeal coming from Antigua and Barbuda.

In this case, the law lords had the opportunity to give judicial consideration and to determine the scope and ambit and interpretation to be given to Section 88 of the Constitution of Antigua and Barbuda which concerns the constitutional powers of the DPP.

This judgment has a direct bearing in Mauritius as section 88 of the Constitution of Antigua and Barbuda is identical to section 72 of our own Constitution.

The issue that the Law Lords had to thrash out in this case is actually very relevant and pertinent to the issues which have been under discussion around the FCC Bill. In the Antigua and Barbuda case, the issue was whether the DPP had the power to prevent the police from instituting criminal proceedings, which they were empowered to do under the Police Act.

The Law Lords authoritatively laid down the following propositions and judicial determinations concerning the constitutional powers of the DPP of Antigua and Barbuda, which, I must repeat, is identical to the constitutional powers of the DPP under our own Constitution -

- (1) The DPP has the constitutional power to institute criminal proceedings in any court and if he exercises his power, he does so in his own name. And in that, it is a power rather than a duty, the DPP can elect not to exercise it, in other words, not to institute such proceedings;
- (2) The Constitution expressly recognises that criminal proceedings can be instituted by a person or authority other than the DPP;
- (3) No express power is given to the DPP under the Constitution to control the exercise of the powers of any other person or authority to institute criminal proceedings;
- (4) The power of the DPP to institute criminal proceedings cannot be construed as a power to prevent exercise of the power to do so, expressly recognised elsewhere in the section, by any other person or authority;
- (5) The Constitution does not enlarge the powers conferred on the DPP when it provides that the functions of the DPP can be exercised by him in person or through other persons, acting under and in accordance with his general or special instructions. This only addresses the mode of the exercise of his powers;
- (6) The Law Lords held further that, under the Constitution, criminal proceedings can also be instituted by private persons and by authorities other than the police, for example the Inland Revenue and the Immigration Department, and, although such proceedings can be discontinued by the DPP, it is not suggested that he has power to prevent private persons and those other authorities from instituting them. Logically, therefore, the suggested power to prevent, cannot be derived from the power to discontinue;
- (7) It was also held that the DPP exercises his power to discontinue criminal proceedings by taking a formal, publicly visible, step in the proceedings which can be challenged by judicial review. An instruction by the DPP to the police not to institute proceedings would also in theory be susceptible to judicial review but would often lack the public visibility which would alert potential applicants to the possibility of challenge;

(8) Finally, the Law Lords held that a statement issued by the DPP to the effect that the DPP remains solely responsible for the taking of all prosecutorial decisions and the police remain solely responsible for the conduct of investigation, is wrong in law.

Mr Speaker, Sir, there is another judgment of the Judicial Committee of the Privy Council in the case of Commissioner of the Independent Commission of Investigations v Police Federation dated 04 May 2020. This judgment was also unanimously delivered by five Law Lords on an appeal coming from Jamaica. The issue to be decided in that case was whether the legislature intended to give to a statutory commission express general prosecutorial powers and functions, in addition to its investigative role.

In this case also, it is important to note that section 94 of the Jamaican Constitution is identical to section 72 of our own Constitution concerning the powers of the DPP. The Supreme Court of Jamaica held in that case, that the powers vested in the Commissioner and officers of that Commission to arrest, charge and prosecute offenders in no way undermined the constitutional authority of the DPP who still retained his power to take over and/or to discontinue any prosecution.

The Law Lords, on appeal, held in this case that the legislature could have conferred, through an Act of Parliament, to a statutory commission, the power to arrest, charge and prosecute offenders. The intention of Parliament to give such prosecutorial powers and functions must be clearly expressed in the provisions of the Act of Parliament providing for such prosecutorial functions. It means, therefore, that vesting of prosecutorial powers under an authority other than the DPP is a policy matter to be decided upon by the Executive.

Mr Speaker, Sir, I would also like to mention a ruling given by the High Court of Fiji in 2008 in the case of the Fiji Independent Commission Against Corruption (FICAC) v/s Inoke Devo, in which the Court confirmed that, and I quote –

“the FICAC or any other body or person, whether created by statute or not, has common law powers to prosecute. This is acknowledged by the Constitution and the right is specifically provided for in the Criminal Procedure Code. It is quite clear that the Director of Public Prosecutions does not have exclusive rights to prosecute. He only has exclusive rights to intervene in someone else’s prosecution and to discontinue such prosecution. Section 96(4) specifically provides for the existence of prosecutions brought by persons other than the DPP.”

Mr Speaker, Sir, it is also to be noted that the powers of the DPP under section

114 (4) of the Constitution of Fiji are similar to those under section 72(3) of our own Constitution.

I continue! Let's move on.

I would now like to mention a ruling given by the Supreme Court of Seychelles on 19 November 2021, on a Motion filed by the Anti-Corruption Commission of Seychelles seeking leave of the Court to conduct a prosecution against two suspects under section 64 of the Anti-Corruption Act of 2016. The judge of the Supreme Court of Seychelles made the following pertinent observations in relation to the powers and functions of the Attorney General; there, the Attorney General is vested with prosecutorial powers similar to our DPP here in Mauritius, and I quote –

- “I note that the Anti-Corruption Commission is a prosecuting authority. It is endowed with prosecuting powers. This is so by virtue of section 64 of the Act, which provides that prosecution for an offence under part III of the Act may be instituted by the Commission. The former provision that subject a prosecution to the consent of the Attorney General was deleted and replaced with the actual provision.
- This power to prosecute has to obviously read to and has to be in accordance to Article 76(4) of the Constitution, which gives prosecuting powers to the Attorney General and makes him the national prosecuting authority.
- However, reading this Article 76 (4) of the Constitution in its entirety leads me to conclude that though the Attorney General is the principal prosecuting authority he is not the sole prosecuting authority in this country. This is clear upon a reading of Article 76 (4) (b) and (c) of the Constitution.
- Article 76(4) (b) can be paraphrased as follows, the Attorney General shall have the power in any case in which he considers it desirable to do so, to take over and continue any criminal proceedings that have been instituted or undertaken by any other person or authority. Whilst Article 76 (4) (c) provides that the Attorney General shall have the power to discontinue at any stage before judgment is delivered any criminal proceedings instituted or undertaken by any other person or authority.
- By necessary implications therefore, Article 76 (4) (b) and (c) of the Constitution grants constitutional power to a person or authority to prosecute criminal cases by instituting and or undertaking criminal

prosecutions. The only power of the Attorney General over these prosecutions is supervisory, that is to take over and continue or to discontinue at any stage any prosecutions otherwise commenced by any persons or authority before judgment is given.

- The Anti-Corruption Commission is a statutory authority, which read with Section 64 of the Act and Article 76 (4) (b) and (c) has power to prosecute its own cases and under its own name.”

Mr Speaker, Sir, this ruling from the Seychelles Supreme Court goes in the same direction of the previous judgments I mentioned earlier regarding vesting of prosecutorial powers in statutory institutions other than the DPP. However, hon. Paul Bérenger, on Friday last, mentioned the example of Seychelles regarding the mode of appointment of the head of the Anti-Corruption Agency but he made no reference to the fact that the Anti-Corruption Agency is vested with prosecutorial powers.

M. le président, je dénonce ici la mauvaise foi de l'honorable Paul Bérenger qui a choisi d'être sélectif en se référant au modèle Seychellois.

Mr Speaker, Sir, there are several other authoritative sources which support the provisions of Clause 142 of the FCC Bill.

In the Third Edition of the OECD Report, published in 2017, entitled “Effective Inter-Agency Co-operation in Fighting Tax Crimes and Other Financial Crimes”, on the aspects of Prosecution Authority for Financial Crimes, “prosecution authority” has been defined as the Government agency that represents the State before courts in prosecutions of criminal offences.

The report argues that agencies responsible for investigating offences may have competency to conduct prosecutions directly, and countries like New Zealand have adopted such models. The advantages of this model are that, firstly, each agency has a high degree of specialist skills with respect to its area of focus, which enables prosecution to be conducted by experts in a particular area of criminal law.

Secondly, by controlling their own prosecution, agencies also benefit from greater autonomy in decision making and flexibility in setting their strategic direction, with less direct competition for the resources of a central public prosecutor.

In Germany, for example, tax administrations have responsibility for conducting prosecutions of all tax offences, while in Australia, the Australian Taxation Office has authority to prosecute offences. In Singapore, the Inland Revenue Authority can

prosecute income tax offences directly. In Sweden, the customs administration has a small number of prosecutors who are able to directly prosecute cases.

Mr Speaker, Sir, the UK Serious Fraud Office, commonly known as the SFO, is perhaps the most notable and comparable example abroad of a specialised and expert enforcement agency against financial crime which is vested with special investigative and prosecutorial powers. The SFO was established in 1988 by virtue of the Criminal Justice Act as a specialist body dealing with the most serious cases of fraud, bribery and corruption. It is one of United Kingdom's biggest law enforcement agencies having both investigative and prosecutorial powers and functions. It has on its staff a number of experienced investigators, barristers and solicitors.

Mr Speaker, Sir, the SFO is a good example with which we can compare the FCC, given the similarity of their respective mandate. The development of the FCC model was supported throughout by the United Kingdom SFO and National Crime Agency. After completing an enquiry into a matter, the SFO does not send the file to the Crown Prosecution Service for charge or prosecution. Ever since its inception, the Serious Fraud Office was meant to deal with a case "from cradle to grave", as they call it there. It means that the SFO takes in intelligence referrals, and in case it decides to formally start an investigation, the case stays with it for investigation, charging decisions, prosecution and all ancillary matters, including proceeds of crime, namely restraint, forfeiture, confiscation and compensation.

Mr Speaker, Sir, the SFO was set up specifically to work in this unique way, and there were some good reasons for that, which are very relevant for the purpose of our discussions. As a matter of fact, the SFO was established in 1988, following the Roskill Report of 1986 which had recommended the setting up of a single unified organisation, responsible for all the functions of detection, investigation and prosecution of serious fraud.

Mr Speaker, Sir, let me quote the relevant part of the Roskill Report which is very pertinent in the present debate as it authoritatively answers the questions raised by Members of the Opposition, both inside and outside this House, regarding the rationale and justification for vesting the FCC with prosecutorial powers. The Report says, and I quote –

"We consider it essential that the team of specialists involved in any substantial fraud investigation, including investigations by the Inland Revenue or Customs and Excise, is given expert direction by one or two highly skilled lawyers. Unless advice of high quality is available from the outset of investigations of this type, the inquiries will

be slowed up and valuable time may be wasted pursuing the wrong lines of inquiry. It is undesirable that the investigation should take one course and for that course to be found not to be the right one by counsel who is brought in to prosecute only at a much later stage, perhaps after the case has been committed. Counsel who are appointed during the investigation stage should be the counsel who are to conduct the case at any subsequent trial so that the same person who has given the inquiry direction will be involved in the presentation of the prosecution.

A considerable advantage of involving counsel from the beginning is that he will have had the opportunity of becoming familiar with the case and less of time will be taken up at the stage when the case is being prepared for trial”

The SFO, therefore, does not refer cases or decisions to the DPP or the Crown Prosecution Service. The Director of the SFO is already empowered, under section 1(5) of the Criminal Justice Act 1987, to initiate criminal proceedings. It is noteworthy that the Director can also delegate his powers under the Act, but he can do so only to members of the SFO, not outside the SFO, that is he cannot delegate or pass the charging decision on an investigation to the DPP or the Crown Prosecution Service.

It is equally of note that under the Bribery Act 2010, the SFO is vested with powers to give consent to prosecute offences under that Act. In fact, section 10 of the Bribery Act provides that such consent may be given either by the DPP or the Director, SFO. That section further specifies that when the Director, SFO is unavailable the consent power may be delegated only to another person within the SFO.

It is also apposite for me to mention here that the Director, SFO is appointed by the Attorney General who is a political figure. The appointment is made under section 1(2) of the Criminal Justice Act 1987. The DPP is also appointed by the Attorney General, albeit under a different legislation. The CPS and the SFO sit as separate arm's length bodies under the Attorney General's Office.

Mr Speaker, Sir, in addition to the SFO, there is in the UK, the Financial Conduct Authority, commonly known as the FCA, which is a body established under the Financial Services and Markets Act 2000. It is an expert and specialised body which regulates the UK's financial services industry. The FCA is also vested with both investigative and prosecutorial powers and functions.

Therefore, Mr Speaker, Sir, we see no legal or constitutional impediments in Clause 142 in as much as it is a current practice in several comparable jurisdictions for statutory institutions to be vested with prosecutorial powers.

Mr Speaker, Sir, Members of the opposing side have, in their interventions, tried to make believe that this Bill is vesting too much power upon the Director General, more specifically powers to institute criminal proceedings for a financial crime. My colleague, hon. Ganoo, had already replied to this, I would call it, a very frivolous argument.

But let me make it clear that the Director General has no power at all to institute or not to institute criminal proceedings, but rather it will be for the Financial Crimes Commission, comprising of 5 persons with diverse competencies and professional background, to determine whether or not to institute criminal proceedings. It will not be the decision of an individual, as it would, if a case were referred to the DPP. We are here talking about the collective decision of a Commission of 5 persons, as compared to the decision of one individual person in the DPP. Furthermore, there are several procedures and safeguards that have to be followed by the FCC before any decision is taken by the Commission.

Mr Speaker, Sir, allow me to refer again to clause 142(1)(a) of the Bill, which reads as follows, and I quote –

“(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.”

Therefore, the Commission needs to be in presence of a report and such report would contain the conclusions of the investigation and any advice that may have been tendered by the Chief Legal Adviser. There is a whole process starting from investigation and the legal and evidential aspect of the investigation being considered by the Legal Division, which shall tender its legal opinion before a report is submitted to the Commission for it to reach a decision.

It is obvious, that several safeguards have been put into place in the Bill before the Financial Crimes Commission makes a sound and reasonable decision.

Mr Speaker, Sir, hon. Paul Bérenger stated on Friday last that Government is not amending section 72 of the Constitution because it does not have the required majority. Mr Speaker, Sir, we are not amending section 72 for the simple reason that it is not necessary at all, as section 72(3) and (5) already provides that any other person or authority, apart from the DPP, can be vested with prosecutorial powers. Therefore, the question of amending section 72 simply does not arise.

Mr Speaker, Sir, during his intervention, hon. Shakeel Mohamed stated that I should clarify whether, under the provisions of the FCC Bill, the DPP would be entitled or allowed to intervene at the stage of a provisional charge or to specify at what specific point in time during a criminal proceeding, the DPP would be able to intervene under the powers conferred upon him by section 72(3)(b) and (c) of the Constitution.

Mr Speaker, Sir, I thought hon. Mohamed, who is a lawyer, was at least following the issues that are before the Court right now, because I hope he is also not selective in putting the questions.

This is a matter which is being argued now before the Supreme Court, therefore, for me to reply to this question of hon. Mohamed would be tantamount to me usurping the powers of the Supreme Court which is the sole Authority entitled to interpret the provisions of our Constitution, the more so as I say that there is a case pending before the Supreme Court, where the Commissioner of Police is seeking Constitutional redress against a decision of the DPP.

Only the Supreme Court, as guardian of our Constitution, is entitled to give an interpretation as to the precise meaning of criminal proceedings in the context of our local criminal law system and under our Constitution and clarify at what specific point in time exactly criminal proceedings is deemed to start under our system according to the provision of section 72 (3)(b) and (c) of the Constitution.

Mr Speaker, Sir, another issue on which almost all the speakers from the Opposition, especially hon. Paul Berenger, hon. Bodha and hon. Ramful, have raised concerns, although unjustified, is in relation to the power that is being vested in the FCC to use special investigative techniques, including intrusive surveillance for the purpose of gathering intelligence or evidence. Their reactions, comments and criticisms in regard to this proposal only betray their ignorance about the drastic changes in the financial crime landscape over recent years. As I stated in my Second Reading speech, such tools and techniques are indeed essential if we are to increase the effectiveness of our fight against financial crimes in this digital era.

The Opposition questioned the need for the FCC to be vested with special investigative powers, which hon. Bodha called “*pouvoir d’exception*”.

In this context, hon. Ramful referred extensively to the position of hon. Collendavelloo in 2001, when the latter was chairing the Select Committee on the setting up of the ICAC, stating that hon. Collendavelloo was very much against the idea of

vesting prosecutorial and greater investigative powers upon the ICAC and that today he has changed his stand and he is now supporting the FCC Bill.

Well, all that I can say is that Hon Collendavelloo reckons with the fact that the financial crime landscape has changed drastically over the last 20 years and, I must say he is wise enough to change his position now.

M. le président, à l'époque où l'ICAC allait être créé par le biais de la Prevention of Corruption Act, des discussions avaient eu lieu sur la nécessité ou non de donner à l'institution des pouvoirs de poursuites. Cela d'ailleurs m'a été confirmé par l'honorable Collendavelloo. Puisque c'était une nouvelle institution, il y a eu un consensus à cette époque, pour ne pas la donner de tels pouvoirs mais avec le temps et l'expérience vécue par l'ICAC en ce qui concerne l'efficacité de ces actions et aussi, l'évolution des crimes financiers, la nécessité de donner ces pouvoirs à la nouvelle institution que sera la FCC s'est révélée. C'est pourquoi lors des discussions que nous avons eues avant la préparation du projet de loi, il a été décidé de donner des pouvoirs de poursuites à la FCC.

Mr Speaker, Sir, as someone has rightly said –

“A wise man changes his mind sometimes, but a fool never. To change your mind is the best evidence you have one”.

Indeed, in a dynamic and ever changing world, our institutions need to evolve and adapt to the new realities so as to remain fit for purpose.

Mr Speaker, Sir, financial investigation constitutes an essential component of any financial crime strategy. Any attempt to modernise and strengthen a country's financial crime strategy should sufficiently emphasise financial investigation as an integral part of law enforcement efforts. Accordingly, there should be clear objectives, dedicated action, sufficient resources, training for investigators and the use of legal tools available in a comprehensive, creative, consistent and committed manner. These are all important elements of an effective financial investigation strategy.

As a matter of fact, controlled remittance exercise and surveillance are investigative techniques already being used by the ICAC and the Police to identify and uncover offences. My colleague, the hon. Attorney General, has given a fitting reply to those queries of the Opposition but, let me say that the use of intrusive surveillance is a power that the Police already have under the Dangerous Drugs Act. Those techniques are recognised through case laws in Mauritius as well as

across the world by law enforcement agencies; for instance, the SFO in the UK uses similar tools and techniques.

In fact, there is nothing sinister in providing such powers to a financial crime agency vested with the function to investigate into serious offences such as corruption, bribery, money laundering, fraud and financing of drug dealing. In order to ensure effectiveness in the fight against financial crimes, it is important for it to have such powers to be able to detect, identify and gather evidence for such offences.

Mr Speaker, Sir, at any rate, intrusive surveillance will require a Judge's Order before it can be used. There are several international organisations which advocate the use of controlled remittance and surveillance techniques in the fight against financial crime. In fact, Mauritius will be examined on these issues in the forthcoming FATF mutual evaluation and the OECD-Working Group on Bribery peer review. For example, FATF Recommendations 30 and 31, as well as Immediate Outcome 7, clearly lay down the obligation for countries to use a wide range of investigative techniques which include undercover operations, intercepting communications, accessing computer systems and controlled delivery. Countries can implement these requirements within their legal systems. These specialised techniques are used in many countries across the world in their law enforcement strategy and legislation.

Mr Speaker, Sir, I would like to quote from the FATF President's Paper of June 2018 entitled "Anti-money Laundering and Counter Terrorist Financing for Judges and Prosecutors" regarding investigators powers and techniques which says, and I quote –

"Experts stressed the importance of competent authorities conducting investigations of money laundering, associated predicate offences, or Terrorist Financing being able to access all necessary documents and information for use in those investigations and prosecutions. This should include available compulsory measures to obtain records held by financial institutions, Designated Non-Financial Businesses and Professions (DNFBPs) and other natural or legal persons; search of person and premises, take witness statements and seize and obtain evidence.

The FATF Standards also requires jurisdiction to be able to use a wide range of other investigative techniques, some of which entail more specialised expertise, such as undercover operations, intercepting communications, accessing computer systems, and conducting controlled deliveries."

Mr Speaker, Sir, I would also like to quote from the ESAAMLG Mutual Evaluation Report of July 2018 which states as follows on Overall Conclusions on Immediate Outcome 7, and I quote –

“Mauritius has used its legal and institutional framework to investigate and prosecute money laundering offences. However, the outcome of money laundering investigations and prosecutions did not appear to be in line with the risk profile of the country. In addition, there was no evidence that authorities (except in ICAC) regularly pursue money laundering in conjunction with the predicate offence, third party money laundering or self-laundering. Although the DPP’s Chambers had a general knowledge of money laundering they did not have any cases to demonstrate that they were able to determine and prosecute the various types of money laundering and they had not prosecuted any foreign predicate offences.”

Mr Speaker, Sir, it is equally of note that, one of the key factors taken into consideration by the United Nations Office on Drugs and Crime in effectively fighting corruption, is the implementation of Article 50 of the UNCAC. Mauritius, as we all know, is signatory to the UNCAC. Now, what does Article 50 say? Mr Speaker Sir, Article 50 expressly provides that in order for State parties to combat corruption effectively, they shall take such measures as may be necessary, within its means, to allow for the appropriate use by its competent authorities of controlled delivery and, where it deems appropriate, other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, within its territory, and to allow for the admissibility in court of evidence derived therefrom.

So, what is this issue they are emphasising on ‘special investigative techniques’, as if they are now born and discovering this term today which has been used by the UNODC by so many of the international institutions?

Mr Speaker, Sir, these techniques are especially useful in dealing with sophisticated, organised criminal groups because of the dangers and difficulties inherent in gaining access to their operations and gathering information and evidence for use in domestic prosecutions, as well as providing mutual legal assistance to other States parties. In many cases, less intrusive methods will simply not prove effective or cannot be carried out without unacceptable risks to those involved.

Mr Speaker, Sir, as the House is aware, Mauritius has become a Participant Member of the OECD Working Group on Bribery since February 2023. It has two years as from that date to bring necessary amendments to its legal framework in combatting corruption and foreign bribery so as to make it eligible to accede to the OECD Anti-Bribery Convention. One of the key factors and considerations by the OECD under Article 5 of the Anti-Bribery Convention is that Investigators should have a range of investigative measures, including power to deploy special investigative techniques, that is, covert techniques, in order to effectively fight foreign bribery.

Mr Speaker, Sir, the United Kingdom Government, through the British High Commission in Mauritius, is providing technical support to Mauritius such that the country can accede to the OECD Anti-Bribery Convention. Accordingly, GovRisk, which is a UK-based Consultant, carried out an assessment of Mauritius's compliance with the OECD Anti-Bribery Convention earlier this year and submitted its report, with a range of recommendations, with a view to improving the legal framework in Mauritius to fight corruption and foreign bribery.

GovRisk has made the following observations –

- (i) The POCA 2002 only provides for specific investigative powers and tools and Mauritius does not have a dedicated law on the use of special investigative techniques. The legal basis of the deployment of special investigative technique is very limited under POCA 2002 as it provides for specific investigative powers and tools, which do not include, for instance, surveillance and other novel techniques.
- (ii) The existing legal basis for the deployment of special investigative techniques is at odds with international standards and puts the investigators and the ICAC at legal risk and may compromise any subsequent prosecution.
- (iii) Intelligence gathering is, by its nature, usually undertaken in a covert and discrete manner. It is important to emphasise that, at the stage of collecting intelligence, particularly where special investigative techniques are deployed, agencies acting on behalf of the State are required to undertake their activities in compliance with human rights law and ensure that any intrusive deployment is lawful, necessary and proportionate. No state agency acts in a legal vacuum whether it is gathering intelligence or converting it for evidential purposes.

Therefore, Mr Speaker, Sir, in order to be in line with international requirements, the FCC, being the specialist agency to investigate financial crimes, is being expressly provided with the power of using special investigative techniques. Those special techniques are very important so as to meet the demands of modern complex financial crimes, including new offence of financing of drug dealing. Indeed, the increasing cyber nature of financial crimes, that is the use of the internet by criminals to communicate, organise, conspire, incite, trade and otherwise facilitate financial crimes, pose special challenges for the law enforcement agencies. Using the internet offers criminals the advantage of no physical risk, greater anonymity and a wider range of targets. At the same time, virtual currency systems provide a cheap, quick, unregulated and almost anonymous method of transferring value between individuals or groups anywhere in the world. Also, there are indications of a considerable increase in the use of encrypted communications by criminals across all threat areas and across all levels within crime groups. These are the new realities which, unfortunately, the Opposition seems to be oblivious to.

Mr Speaker, Sir, we also heard a lot of criticisms from the Opposition, particularly from hon. Bérenger and hon. Bodha, against the proposed mode of appointment of the Director General and the Commissioners of the FCC. Mr Speaker, Sir, presently Section 19 of the Prevention of Corruption Act provides that the Director General of the ICAC shall be appointed by the Prime Minister after consultation with the Leader of the Opposition. What is being proposed in the FCC Bill is that the mode of appointment of the Director General of the FCC be aligned with comparable constitutional and statutory positions, such as, the Chairperson and Members of –

- the National Human Rights Commission;
- the Competition Commission;
- the Central Procurement Board;
- the Procurement Policy Office;
- the Independent Review Panel, and
- the Statistics Mauritius.

They are all appointed by the President of the Republic on the advice of the Prime Minister, after consultation with the Leader of the Opposition.

Moreover, there are many other constitutional and statutory positions where appointment is made by the President after consultation with the Prime Minister and the Leader of the Opposition. A few examples are –

- the Electoral Boundaries Commission;
- the Electoral Supervisory Commission;
- the Public Service Commission and Disciplined Forces Service Commission;
- the Public Bodies Appeal Tribunal, and
- the Ombudsman.

As a matter of fact, there are, at present, around 50 constitutional or statutory positions that are filled either by the Prime Minister or after consultation with him or upon his advice. It is noteworthy that the Chief Justice, which is the highest position in our judiciary, is appointed by the President of the Republic after consultation with the Prime Minister.

It is also to be noted that the Director of Audit is appointed by the Public Service Commission after consultation with the Prime Minister and the Leader of the Opposition. Moreover, according to section 89(4) of the Constitution, the Public Service Commission can make an appointment to the post of Secretary to Cabinet and Head of the Civil Service, Financial Secretary, Secretary for Home Affairs, Senior Chief Executive, Permanent Secretary and other Supervising Officers only if the Prime Minister concurs in it.

Mr Speaker, Sir, none of the officers appointed to these positions can be said to be political nominees just because of the fact that the Prime Minister is, directly or indirectly, connected with their appointment. And, when the Opposition says such things, they are in fact attacking, as they have been doing, the Judiciary because the Chief Justice is appointed, as I have said, by the President but after consultation with the Prime Minister.

So, they continue to throw mud on independent institutions. Their independence, neutrality and impartiality have not been, and cannot be, called into question. Therefore, the argument that the independence of the Director General of the FCC will be questionable only because of the mode of appointment is untenable.

By the way, this Opposition has had in its ranks two former Prime Ministers: Dr. Navin Ramgoolam and hon. Paul Bérenger. When they were sitting on this side of the House, I have never heard anyone, either coming from them or from other Members, saying that ‘ah, let us review the mode of appointment of x, y, z!’ No! Everything was fine then! Maybe they have been sitting for too long in the Opposition; now they have started to say ‘ah, the mode of appointment is not correct. It has to be reviewed!’ But, anyway, Mr Speaker, Sir, any mode of appointment, even the one that has been referred

by hon. Bérenger - he has come up with three to four suggestions -, at the end of the day, someone has to appoint somebody! Who has to appoint somebody? While we are in Government, we will give that power, that right to the Opposition to appoint? What kind of nonsense have they been talking?

Anyway, Mr Speaker, Sir, on the issue of mode of appointment and independence of the members of the FCC, I would like to quote a pertinent observation made in a Privy Council judgment in the case of The Belize Bank Limited vs. The Attorney General of Belize and Others delivered on 20 October 2011 in which the Privy Council held.

I won't go long. I have read the judgment; it is a beautiful judgment, but there are, in fact, very extensive quotes which are of direct interest both to this House, to the Members of the Opposition, and to the public.

Let me quote only few parts of the judgment, and I quote—

“From time to time, Judges are appointed by Government Ministers to investigate allegations that have been made against the State. It might be said in such cases that the appointing body has an interest in the outcome of the investigation. But it would be absurd to suggest that the fair-minded and informed observer would conclude on that ground alone that there was a real possibility that the appointed Judge would be biased.”

Therefore, Mr Speaker, Sir, the power of appointment alone does not create any objective absence of independence.

Mr Speaker Sir, some Members from the other side, including hon. Bérenger, suggested that the Director General of the FCC be appointed by the JLSC. My colleague, the Attorney General has already replied, but I think it is good to repeat it so that those who are listening to me, I hope the Opposition, *dans leur salon, ils sont bien rangés, très cosy*. Quelle heure est-il? 3h37 ! Peut-être que c'est un peu tôt pour certains de prendre un petit...

An hon. Member: Avek zot take-away!

The Prime Minister: Avec leurs take-aways, on me dit!

Hon. Members: Ha! Ha! Ha!

The Prime Minister It is good that they listen! JLSC? In the case where appointment has been made by the JLSC, the appointee has been the subject of criticisms by this same Opposition. We still recall how the Electoral Commissioner, who is

appointed by the JLSC, was openly and vehemently criticised by this same Opposition in the wake of the last general election. *Les mauvais perdants!*

Mr Speaker, Sir, these modes of appointment to constitutional positions have stood the test of time and have, to a large extent, guaranteed stability of the institutions concerned. After all, it is the person who makes the institution, and not vice versa. No institution can be better than the person heading it. It is the person who matters and not the mode of appointment. No mode of appointment can guarantee, on its own, that the appointee will be totally independent and impartial. It all depends on the person. On this issue, I can do no better than quote Dr. Ambedkar, the father of the Indian Constitution, who said, and I quote –

“However good a constitution may be, if those who are implementing it are not good, it will prove to be bad. However bad a constitution may be, if those implementing it are good, it will prove to be good.”

Mr Speaker, Sir, the most straightforward ‘single-branch’ appointment process by the President or Prime Minister to directly select and appoint the head of a financial crime institution has often been associated, although unjustifiably, with a perception of indebtedness to the appointing body, which is likely to impede on impartiality. This is a completely false and erroneous interpretation. There is nothing sinister about the appointment of the head of an agency by the Prime Minister or the President of the Republic. This system is relied upon in many countries in the world and there is nothing wrong in the mode of appointment, especially when the process for the removal of the head of that agency is done through a separate and strict mechanism and process.

The Corrupt Practices Investigation Bureau (CPIB) of Singapore and the Independent Commission Against Corruption (ICAC) of Hong Kong, widely considered amongst the most effective agencies of their kind, use this kind of appointment process. In the United Kingdom, as I stated earlier, the head of the SFO and the DPP are appointed by the hon. Attorney General, whereas the head of the National Crime Agency is appointed by the Home Secretary. The majority of countries using single-branch appointments require at least some consultation within the Executive.

Furthermore, Mr Speaker, Sir, this misguided perception of the Opposition about alleged impartiality, often makes abstraction of the checks and balances in the existing provisions in the appropriate law, guaranteeing the accountability and independence of the head and the institution. The FCC Bill is making provision for an Operations Review Committee which will act as an oversight body over investigations by the FCC. The Parliamentary Committee is also being maintained with its existing powers. But the

Opposition somehow downplayed the importance of this in-built accountability mechanism.

I must point out that the Bill is only vesting in the Prime Minister the power to advise the President on the appointment of the Director General of the FCC. He will not have his say in the termination of the appointment. The Bill is providing for a separate and detailed procedure for the removal of the Director General. It is the Parliamentary Committee that is being vested with this power of removal, but under clearly defined and strict requirements and procedures. This aspect of the recruitment process was totally ignored by the Opposition in the debate about the independence of the Director General.

Mr Speaker, Sir, I would like to react to the accusation made by hon. Dr. Boolell in this House in relation to the provisions of clause 63(2) of the Bill. I heard him insinuating that, through clause 63(2), Government is targeting law practitioners. He is totally wrong, of course! In fact, similar provisions already exist under section 51 of the POCA, which enables the ICAC, where it has reasonable ground to believe that a law practitioner has failed to report any suspicious financial transaction or he has in his possession documents or records which may assist the ICAC, the latter may apply to a Judge in Chambers for an order allowing the ICAC or any officer delegated by it, to enter and search his premises and remove therefrom any document or material.

Hon. Dr. Boolell seems to be unaware that the legal profession is already regulated as Designated Non-Financial Businesses and Professions under the AML/CFT Framework, in line with the International Standards set by the FATF.

They already have an obligation to keep records and do customer due diligence and has reporting obligations to the FIU under sections 14 and 17C of the Financial Intelligence and Anti Money Laundering Act (FIAMLA) in order to enable detection of suspicious transactions for money laundering offences. Any such failure may make them liable for an offence under the FIAMLA. Having this obligation means that they have a duty to collaborate in an investigation pertaining to financial crimes. The legal profession should be seen as partners in fighting financial crimes. At any rate, members of the legal profession will be required to disclose relevant information to the FCC only following a Judge's Order.

Mr Speaker, Sir, in regard to the powers of arrest of the FCC, I heard hon. Paul Bérenger, in his intervention, expressing concern over what he considers to be extensive powers of arrest being vested in the FCC. In fact, he got it all wrong. Just as he got it all wrong when he was congratulating some Members of his side when he was referring to hon. Uteem, he mentioned Kader Bhayat!

An hon. Member: *Lin dépasse!*

The Prime Minister: I think *qu'il est en train de vivre dans un autre temps! Il est resté figé dans le temps, M. le président!* But let that be, I won't comment on this.

I clearly stated, and I think he has not listened or maybe he cannot recall or he cannot memorise certain things. In my Second Reading speech, I stated that the FCC is being vested with less, not more, powers of arrest compared to the ICAC. At least, he could have some time to check whether what I was saying in my Second Reading speech was correct or not.

Mr Speaker, Sir, I would also like to react to the criticisms of hon. Uteem who spoke about what he considers as poor results of our different anti-corruption agencies and he tried to make believe that there is very little in terms of achievement, in spite of the fact that I enumerated, in my Second Reading speech, the numerous measures taken by the Government to consolidate our anti-corruption framework.

Mr Speaker, Sir, let me remind the hon. Member of some other important measures taken by the Government over recent years with a view to reinforcing integrity and public trust in our public sector institutions and enhancing transparency and accountability in the management of public affairs.

As the House is aware, with a view to modernising our public procurement system and enhancing transparency and accountability in the process, Government has introduced the mandatory use of the Electronic-Procurement System whereby bidders receive notifications about bidding opportunities by e-mail in real time. They can view the published procurement plan online, as well as submit bids electronically and attend the opening of bids online.

Moreover, public bodies are now required to publish a copy of the signed contract agreement, letter of acceptance, bid submission form, addenda, if any, special or particular conditions of contract and any amendments or variations made during the course of implementation of the contract. In addition, the list of disqualified and debarred bidders as well as the decisions of the Independent Review Panel are published on the website of the Procurement Policy Office and are accessible to the public.

We have also introduced the Citizen Support Portal which is an innovative internet platform, accessible on the web and the CSU mobile app, and which enables any citizen to, either register a complaint or a suggestion or make a query online and track progress on their query and complaint at any time. Since its inception in April 2017 to-

date, the portal has registered 233,254 complaints, out of which, 212,261, that is, 91% have been resolved.

In line with our e-Government Strategy, Government has implemented the National Open Data Portal which houses and provides links to data pertaining to Government processes. By opening up data through the Open Data Portal, Government aims precisely at promoting transparency inasmuch as citizens are able to freely access information on Government activities.

Mr Speaker, Sir, hon. Uteem, in his lopsided assessment of performance, pointed to only one aspect of the mandate of the ICAC. I think this is unfair. The achievements of an institution like the ICAC cannot be measured solely in terms of investigation outcomes. It should be recalled that, besides investigation, the ICAC is also mandated to carry out corruption prevention and education functions as well as manage declaration of assets and liabilities.

As regards investigation, for the period 2016 up to now, which includes the COVID period, ICAC referred 520 cases to the DPP, 325 were recommended for No Further Action and prosecution was recommended in 195 cases, involving 236 suspects. Out of the 195 cases, 80 relate to corruption and 109 for money laundering and six to both money laundering and corruption. Moreover, for the same period, 164 other cases have been lodged before the Financial Crime Division involving 218 suspects.

ICAC has also secured convictions in 106 cases, out of which, 47 were corruption cases and 59 money laundering cases. These convicted cases have led to either imprisonment, Community Service or payment of fines amounting to approximately Rs20.5 m. Moreover, during the same period, the ICAC seized and attached illicit asset to the tune of nearly Rs2.5 billion.

Under its education mandate, the ICAC has, *inter alia* –

- conducted numerous sensitization campaigns targeting the public sector, the education sector, the private sector, and the civil society whereby some 500 000 persons have been reached through face-to-face contacts;
- organised empowerment sessions, workshops, seminars, conferences, and fora on specific issues such as procurement, recruitment and selection, inspection and ethics and integrity;
- developed anti-corruption materials and tools to support the education campaign;
- produced numerous e-learning modules which are available on the ICAC Moodle Platform, and

- set up and serviced anti-corruption platforms to enlist the engagement of private sector, civil society, academia, and youth through the Public Private Platform Against Corruption, the Trade Union Against Corruption and Integrity clubs in secondary schools.

Under its prevention mandate, the ICAC exercises vigilance and superintendence over integrity systems in public bodies. In this endeavour, a collaborative and risk-based approach is adopted whereby corruption risks are identified and recommendations are provided to enhance systems, procedures and practices in public bodies.

Mr Speaker, Sir, regional and international cooperation are crucial components of the global strategy to fight corruption. Over the years, ICAC has strengthened links with peer organisations and other international organisations to allow for sharing of best practices and mutual learning.

ICAC's participation in the G20 Anti-Corruption Working Group has provided among others an opportunity for Mauritius to strengthen networks with G20 countries as well as reinforcing working relations with international organisations.

The ICAC actively contributed in the drafting and finalisation of G20 High-Level Principles, reflecting the priority issues of G20.

ICAC is also working closely with the SADC and African Union Advisory Board Against Corruption on a number of initiatives including capacity building programmes and on the development of alternative anti-corruption indicators.

Currently, ICAC is working on the setting up of a Regional Financial Crime Training Institute in collaboration with the UK Foreign Commonwealth and Development Office to service the African continent by meeting the growing needs for specialised training on financial crime detection, prevention, investigation and prosecution.

The ICAC, as we all know, is also the depository of all declarations of assets under the Declaration of Assets Act and it is also responsible for their monitoring. Since 2019, the ICAC has received 6,403 such declarations and collected penalties amounting to more than Rs5.6 m. The ICAC initiates the monitoring exercise of the assets and liabilities of declarants, their spouse and minor children on a risk-based approach.

M. le président, l'histoire retiendra qu'à chaque fois qu'un projet de loi est présenté dans cette auguste Assemblée pour accentuer le combat contre la mafia de la drogue et tout autre criminel en col blanc, l'opposition Parti Travailiste, PMSD et maintenant ajouter à cela l'honorable Bodha, je ne sais pas de quel parti il est parce que

j'avais appris ce matin qu'il allait être présent, il a eu des directives s'il vous plaît de son leader, M. Rama Valayden, qui avait publié formellement une directive pour dire que son député allait être présent mais qu'au moment du discours de l'honorable Attorney General, il allait se retirer mais je ne sais pas, en cours de route, peut-être qu'il a eu un autre leader, peut-être qu'il a commencé à se rattacher au Dr. Navin Ramgoolam. On verra avec le temps, mais en tout cas cette opposition Parti Travailliste, PMSD, MMM et Bodha, ils se sont opposés à chaque fois, avec véhémence contre ce projet de loi.

Et à entendre leurs vociférations lors des débats dans cette Chambre, certains croiraient qu'ils sont des grands défenseurs des droits fondamentaux de la population. Mais, comme on sait, M. le président, dans la réalité, c'est un show de mauvais goût à répétition, un spectacle concocté pour induire des gens en erreur, une astuce pour cacher leur vrai agenda.

Loin de se soucier des droits et des libertés de la population, ils viennent surtout pour défendre les intérêts des multiples mafias qu'ils ont engendrées, soutenues et protégées durant leur règne maléfique. Tout le cinéma qu'on a vécu mardi et vendredi dernier dans cette Chambre découle du fait que l'opposition Travailliste/PMSD s'est rendue compte que la Financial Crimes Commission Bill que j'ai présenté va encore faire mal à ces mafias que je viens de mentionner. Ils sont vexés parce que ce sont leurs sources de financement, leur *war chest politique* qui sont menacés.

Le temps est venu confirmer, M. le président, comme j'ai dit les masques tombent et les masques vont continuer à tomber. La connexion entre le Parti Travailliste, le PMSD et la mafia de la drogue dont j'ai parlé, vous voulez des exemples, je vous les énumère –

- L'ami de Nita, un certain A. D. grand agent du Parti Travailliste à Belle Rose/Quatre Bornes a récemment été condamné aux Assises à 40 ans de prison pour trafic de drogue, d'héroïne d'une valeur marchande de R 30 millions.
- Un certain Jonathan A, alias 'ti-papier', qui ne connaît pas Jonathan, alias 'ti-papier', très proche du leader du Parti Travailliste, a fait l'objet d'une enquête concernant le trafic de drogue et le blanchiment d'argent. Il a été condamné déjà pour outrage à la Cour.
- Monsieur Vimen S., Body Guard du leader du Parti Travailliste a été arrêté pour possession de tant de kilos d'héroïne d'une valeur de R 155 millions.

- Un certain, il va se reconnaître, M.R.G.K.C.T.M. qu'on appelle plus communément Michael, chauffeur attitré d'un honorable Patrick dans la circonscription No. 18 durant la campagne de 2014, a été arrêté pour possession et trafic de drogue après la saisie à son domicile de drogue de 7,3 kilos de cannabis et autant d'autre chose aussi que je n'énumère pas.
- Un certain M. Akil B., membre du Parti Travailliste, s'il vous plaît, a été arrêté en compagnie de sa concubine pour possession de drogue d'une valeur de R 260,000. Ce même individu a été arrêté pour importation de drogue, en l'occurrence, 1,022 comprimés d'ecstasy d'une valeur supérieure à R 20 millions.
- Un autre individu adoré et ouvertement défendu par le leader du Parti Travailliste et d'autres dirigeants du Parti Travailliste, celui-là je l'appelle c'est un star, un certain Bruneau L. Je ne parle pas de B.L.D., je parle de B.L. seulement qui a été arrêté pour possession d'haschich d'une valeur supérieure à R 221 millions.

Voyez, M. le président, combien d'argent peuvent faire fructifier ces marchands de la mort et pourquoi ils viennent défendre ! Cela explique. Le Parti Travailliste, le PMSD, n'ont jamais voulu mettre sur pied une Commission d'enquête pour enquêter sur le trafic de drogue pendant presque 10 ans qu'ils étaient au pouvoir. Nous, nous l'avons fait et maintenant que nous implémentons les recommandations qui ont été faites par la Commission Lam Shang Leen, là aussi ils viennent essayer d'empoisonner l'esprit des gens.

Donc, M. le président, on peut facilement comprendre la raison de l'énerver et l'acharnement des députés travaillistes dans cette Chambre. Leurs intérêts et ceux de leurs amis mafieux sont en danger. Alors, il fallait s'attaquer à ce projet de loi.

En ce qui concerne le PMSD, qui ne connaît pas leur proximité avec une certaine Cindy qui transitait par le VIP Lounge à l'aéroport SSR sur intervention de – il n'est pas là, – l'honorable Richard Duval pour faire entrer des milliers de comprimés de Subutex dans le pays.

On comprend encore mieux aujourd'hui pourquoi le Parti Travailliste et le PMSD au pouvoir n'ont jamais, comme j'ai dit, institué une Commission d'enquête sur la drogue. On comprend aussi pourquoi, ils n'ont pas soutenu le projet de loi sur le financement politique.

M. le président, en ce qui concerne les positions adoptées par les députés du MMM sur le projet de loi devant la Chambre, elles sont encore remplies d'hypocrisie et de malhonnêteté. Dois-je rappeler que le MMM, qui se gargarise du slogan '*lame prop*', n'a pas hésité une seconde à encaisser les R 10 millions venues de la BAI...

Hon. Members: *La honte!*

The Prime Minister:qu'il avait pourtant dénoncé, l'honorable Bérenger lui-même l'avait dénoncé en premier pour des transactions financières illicites, opérées par le biais d'un *Ponzi Scheme*.

Comment, M. le président, quelqu'un qui vient dire qu'une compagnie est en train de voler l'argent de la population, lui-même il accepte, il tale la main avec son *katori*, il accepte, il demande à Monsieur BAI : 'donnez-moi une petite contribution pour les élections,' et il oublie tout d'un coup ce qu'il avait dit pendant des années concernant la BAI.

Et, a-t-on oublié, M. le président, comment et avec quelle verve le député Uteem avait défendu un caïd de la drogue sur le plan international, un certain Peter Uricek que les autorités mauriciennes avaient logiquement remis aux autorités slovaques. Ce criminel, que d'autres membres de l'opposition avaient aussi défendu dans cette Chambre, a été condamné à 22 ans de prison en Slovaquie pour fabrication, possession et trafic de drogue. La population avait pu constater comment ces membres de l'opposition, incluant l'honorable Uteem, qui souvent agissent en donneurs de leçons, se sont mis dans le camp d'un marchand de la mort. Ils ont soutenu un homme dangereux qui voulait contracter un mariage de convenance avec une Mauricienne pour se réfugier dans notre pays et faire son odieux business et mettre en péril la vie de nos enfants, la vie de nos jeunes, la vie de notre population.

Quant à l'honorable Bodha, il me fait pitié.

Mr Toussaint: Vender ! Vender !

The Prime Minister: Il a parlé de la nécessité de couper les liens entre la mafia et la classe politique. Mais force est de constater qu'après avoir été largué comme du *jamalac* par le leader indigne de confiance, il est allé se livrer dans les bras d'un homme qui lui-même s'est autoproclamé le parrain des émeutes que notre pays ait vécues, quelqu'un connu pour ses connexions mafieuses. Quelle honte !

An hon. Member : Shame !

The Prime Minister: M. le président, on a aussi témoigné les récriminations des membres de l'opposition concernant la réglementation sur le réenregistrement des cartes SIM. Pourtant, cette initiative découle d'une recommandation de la commission d'enquête Lam Shang Leen sur le trafic de drogue. Et le but est de traquer les marchands de la mort et autres criminels qui mettent notre population en danger. L'opposition, elle, parle d'espionnage, mais dans la réalité c'est encore une fois l'intérêt de leurs amis et partenaires mafieux qu'elle défend et souhaite protéger.

Les masques des membres de l'opposition continuent de tomber, M. le président, et ils osent nous pointer du doigt ! Cette opposition est indigne et suscite le mépris. Le peuple saura, j'en suis convaincu, juger ces membres de l'opposition, en temps et lieu.

M. le président, en tant que Premier ministre à la tête d'un gouvernement responsable, nous n'avons pas d'agenda caché. Le *Financial Crimes Commission Bill* vient renforcer notre arsenal législatif pour combattre les crimes financiers. Ces crimes sont liés au trafic de drogue, au blanchiment d'argent, au monde des jeux et aussi à certaines autres activités occultes comme le financement du terrorisme. Nous implémentons avec courage les recommandations du *Financial Action Task Force*, de l'*Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG)*, de l'OCDE et de la Commission d'enquête sur la drogue pour que Maurice adopte les meilleures pratiques mondiales dans la lutte contre le blanchiment d'argent et le financement des activités occultes. Nous n'avons pas de *sinister motives*, comme veux faire croire l'opposition, contrairement au Parti travailliste, qui au pouvoir, a utilisé les institutions à des fins de vendetta politique. Je sais de quoi je parle avec ce que j'ai vécu moi-même dans l'affaire Medpoint où le régime Travailliste et ses hommes à tout faire placés dans des institutions ont tout tenté pour me culpabiliser pour un délit que je n'avais jamais commis. C'était le temps des complots politiques - ça s'appelle le complot politique - et du règne des tontons macoutes du régime machiavélique de Navin Ramgoolam. Et ils ont le culot, ces députés du Parti travailliste de venir nous accuser de vouloir se servir des dispositions de ce projet de loi à des fins de victimisation politique !

M. le président, j'ai présenté durant mon intervention des arguments documentés et solides pour démontrer qu'il n'a aucun danger pour les libertés, pour la démocratie ou encore pour le poste de Directeur des poursuites publiques. Ce projet de loi que nous présentons n'est pas une loi scélérate, comme l'a décrit l'honorable Paul Bérenger vendredi dernier. C'est une loi qui, au contraire, vise des scélérats, précisément.

De ce côté de la Chambre, nous sommes des progressistes. Les lois ne peuvent demeurer statiques quand les criminels utilisent tous les moyens technologiques pour

poursuivre leurs activités illicites. Nous avons le devoir de nous donner l'arsenal légal et les moyens nécessaires pour combattre efficacement les crimes financiers. Avec l'adoption par l'Assemblée nationale du *Financial Crimes Commission Bill*, notre pays se mettra au diapason des juridictions internationales les plus crédibles et dont les institutions seront plus aptes à agir de manière efficace contre tous ceux qui daigneront s'engager dans le trafic de drogue, le blanchiment d'argent et d'autres crimes financiers. Ce pas en avant, M. le président, va nous permettre de mieux appréhender la nouvelle évaluation de l'*ESAAMLG*, du *FATF*, de l'OCDE de notre juridiction financière, une évaluation qui sera, cette fois-ci, axée sur l'efficacité de nos institutions dans le combat contre les crimes financiers.

Aucun complot de l'opposition, aucune fausse propagande, aucune menace ne va m'arrêter dans ma mission à combattre ces mafiosi qui mettent en péril la vie de nos compatriotes et la réputation de notre République.

Mr Speaker, Sir, on Tuesday last, I heard both hon. Dr. Boolell and hon. Shakeel Mohamed stating very forcefully and theatrically in this House that once the Labour Party will be in power, they are going to scrap this piece of legislation. Well, first of all, they are not going to be in power anytime soon.

But, if ever, by misfortune, they accede to power someday, yes, we presume they will repeat what they did in 2006 and 2011 when they dismembered the POCA to suit their convenience and interest of their leader and cleared the way for him to fill up his coffers with unexplained liquid money, including freshly-packed foreign currency in all impunity. Anyway, we do not expect anything better from them. But we know that the people of this country will send them back to the *karo canne*, where they deserve to be.

Mr Speaker, Sir, financial crimes have remained a significant and constantly evolving threat to both national and global stability and security of societies, undermining the institutions, principles and values of democracy, human rights, ethical values and also jeopardising the rule of law and economic stability and investor confidence. Their growing complexity and sophistication represent an evolving challenge to Law Enforcement Agencies in all countries around the world. As a responsible Government, we have no alternative, but to act with foresight and undertake periodic assessment of our current financial crimes framework and take appropriate remedial measures in order to maintain its effectiveness.

The ongoing objective should be to identify ways in which the different agencies can work together in combating financial crimes and delivering better results in shorter time frames and at lower costs. This is precisely the central objective of this Bill, through

which this Government is demonstrating its seriousness of purpose in sustaining the reforms and to continuously build a robust regime in the fight against financial crimes by addressing identified gaps and adhering to best practices.

Mr Speaker, Sir, as I stated in my Second Reading Speech, I shall be proposing certain minor amendments to the Bill at Committee Stage. The proposed amendments have already been circulated.

Mr Speaker, Sir, the Opposition have raised questions over the timing of the introduction of the Bill. Upon hearing their arguments, I recall what Albert Camus used to say, and I quote –

“Those who lack the courage will always find a philosophy to justify it.”

Mr Speaker, Sir, I am also reminded of what Mr Martin Luther King Jr very rightly said, and I quote –

“The time is always right to do what is right.”

Mr Speaker, Sir, this Bill is a major and decisive step in the right direction as the measures embodied therein will fortify the pillars of our country’s economic integrity and societal trust and it is, therefore, a Bill that serves the national interest. I will conclude on this note by quoting Albert Einstein who once said, and I quote –

“The world is a dangerous place, not because of those who do evil, but because of those who look on and do nothing.”

Mr Speaker, Sir, this Government has decided to act and do something and our response is embodied in this Bill.

Thank you, Mr Speaker, Sir.

Question put and agreed to.

Bill read a second time and committed.

COMMITTEE STAGE

(Mr Speaker in the Chair)

THE FINANCIAL CRIMES COMMISSION BILL

(NO. XX OF 2023)

Clause 1 ordered to stand part of the Bill.

Clause 2 (Interpretation)

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

The Prime Minister: Mr Chairperson, I move for the following amendment in clause 2 –

“in clause 2 –

- (i) in the definition of “financial crime”, in paragraph (a)(ii), by deleting the words “law enforcement authority” and replacing them by the words “competent authority”;
- (ii) by deleting the definition of “law enforcement authorities”;
- (iii) in the definition of “repealed enactments”, in paragraph (b), by deleting the words “section 166(8)(b)” and replacing them by the words “section 166(9)(b)”;
- (iv) by inserting, in the appropriate alphabetical order, the following new definition –

“competent authorities” –

- (a) means –
 - (i) an investigatory authority;
 - (ii) a supervisory authority;
 - (iii) the Financial Intelligence Unit; and
 - (iv) the Counterterrorism Unit; and
- (b) includes such other authority as may be prescribed;”

Amendment agreed to.

Clause 2, as amended, ordered to stand part of the Bill.

Clauses 3 to 5 ordered to stand part of the Bill.

Clause 6 (Functions and powers of Commission)

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

The Prime Minister: Mr Chairperson, I move for the following amendment in clause 6 –

“in clause 6, in subclause (2)(g), by deleting the words “law enforcement agencies” and replacing them by the words “competent authorities”;”

Amendment agreed to.

Clause 6, as amended, ordered to stand part of the Bill.

Clauses 7 to 10 ordered to stand part of the Bill.

*Clause 11 (Functions and powers of Director-General)**Motion made and question proposed: “that the clause stand part of the Bill.”*

The Prime Minister: Mr Chairperson, I move for the following amendment in clause 11 –

“in clause 11, in paragraph (m), by deleting the words “law enforcement authorities” and replacing them by the words “competent authorities”;

Amendment agreed to.

Clause 11, as amended, ordered to stand part of the Bill.

Clauses 12 to 113 ordered to stand part of the Bill.

*Clause 114 (Investigation into unexplained wealth)**Motion made and question proposed: “that the clause stand part of the Bill.”*

The Prime Minister: Mr Chairperson, I move for the following amendment in clause 114 –

“in clause 114, in subclause (5)(a), by deleting the words “law enforcement authority” and replacing them by the words “competent authority”;

Amendment agreed to.

Clause 114, as amended, ordered to stand part of the Bill.

Clauses 115 to 125 ordered to stand part of the Bill.

*Clause 126 (Operations Review Committee)**Motion made and question proposed: “that the clause stand part of the Bill.”*

The Prime Minister: Mr Chairperson, I move for the following amendment in clause 126 –

“in clause 126, in subclause (4)(c), by deleting the word “Commissioner” and replacing it by the word “member”;

Amendment agreed to.

Clause 126, as amended, ordered to stand part of the Bill.

Clauses 127 to 138 ordered to stand part of the Bill.

*Clause 139 (Memorandum of Understanding for mutual cooperation)**Motion made and question proposed: “that the clause stand part of the Bill.”*

The Prime Minister: Mr Chairperson, I move for the following amendment in clause 139 –

“in clause 139, by deleting the words “law enforcement authority” and replacing them by the words “competent authority”;”

Amendment agreed to.

Clause 139, as amended, ordered to stand part of the Bill.

Clause 140 (Memorandum of Understanding for sharing of information)

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

The Prime Minister: Mr Chairperson, I move for the following amendment in clause 140 –

“in clause 140, by deleting the words “law enforcement authority” wherever they appear and replacing them by the words “competent authority”;”

Amendment agreed to.

Clause 140, as amended, ordered to stand part of the Bill.

Clauses 141 to 160 ordered to stand part of the Bill.

Clause 161 (Confidentiality)

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

The Prime Minister: Mr Chairperson, I move for the following amendment in clause 161 –

“in clause 161, in subclause (4), by deleting the words “law enforcement authority” and replacing them by the words “competent authority”;”

Amendment agreed to.

Clause 161, as amended, ordered to stand part of the Bill.

Clauses 162 to 165 ordered to stand part of the Bill.

Clause 166 (Consequential amendments)

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

The Prime Minister: Mr Chairperson, I move for the following amendment in clause 166 –

“in clause 166 –

(i) in subclause (9) –

(A) in paragraph (a)(iv), by inserting, after the definition of “Financial Crimes Commission”, the following new definition –

“competent authorities” –

(a) has the same meaning as in the Financial Crimes Commission Act 2023; and

(b) includes Registrars;

(B) in paragraph (d), by deleting subparagraphs (ii) and (iii).

(ii) in subclause (18), by inserting, after paragraph (a), the following new paragraph, the existing paragraphs (b) to (e) being reletterred as paragraphs (c) to (f) –

(b) in section 3, by repealing subsection (2) and replacing it by the following subsection –

(2) Any function or power conferred on the Secretary for Home Affairs under this Act shall, in his absence, be discharged or exercised by any other officer not below the rank of Permanent Secretary, to be designated by the Secretary to Cabinet and Head of the Civil Service.”

Amendment agreed to.

Clause 166, as amended, ordered to stand part of the Bill.

Clauses 167 to 169 ordered to stand part of the Bill.

The First and Second Schedules ordered to stand part of the Bill.

The title and enacting clause were agreed to.

The Bill, as amended, was agreed to.

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

Third Reading

On motion made and seconded, the Financial Crimes Commission Bill (No. XX of 2023) was read the third time and passed.

(Applause)

MOTION

**ELECTORAL BOUNDARIES COMMISSION REPORT –
CONSTITUENCIES’ BOUNDARIES – REVIEW**

Order read for resuming adjourned debate on the following motion of the hon. Prime Minister –

“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.”

Question again proposed.

Mr Speaker: Hon. Ganoo!

(4.29 p.m.)

The Minister of Land Transport and Light Rail (Mr A. Ganoo): Mr Speaker, Sir, thank you for giving me the opportunity to participate in the debates on this very important motion, the Report of the Electoral Boundaries Commission on the review of boundaries of the Constituencies. This report was released in 2020 and was laid on the Table of the National Assembly subsequently.

Today, we are being asked to approve the report in conformity with section 39 (4) of the Constitution of Mauritius. As we know, Mr Speaker, Sir, this august Assembly can accept or reject the Commission’s recommendations by resolution, but it cannot change them. If the House decides to accept the recommendations, they will take effect after the next dissolution of Parliament.

In line with section 39 of the Constitution, the Electoral Boundaries Commission is mandated to review constituency boundaries every 10 years and offer recommendations for any changes the Commission deems necessary to ensure that each constituency’s population is as close to the population quota as is practically possible.

Mr Speaker, Sir, section 39(5) defines population quota as the number obtained by dividing by 20 the number of inhabitants of the island of Mauritius, including any island included in any constituency in the island of Mauritius by virtue of any resolution under subsection (1) according to the latest official census of the population of Mauritius.

The population quota, Mr Speaker, Sir, derived from the 2011 population census, stands at 59,832 and this figure serves as the guiding principle of the current boundary delimitation exercise. The foremost objective is to ensure that constituencies are as

closely balanced in terms of population as possible so that each citizen's vote carries a similar weight.

Mr Speaker, Sir, our nation has always held democracy as a sacred value and we have strived to uphold it through the years and decades. Free and fair elections are the cornerstone of any true democracy and it is our duty in this House to ensure that the electoral process remains transparent, impartial and accessible to all citizens. Our electoral system returns elected members in our 21 Constituencies on the basis of a First-three-past-the-post mode in the island of Mauritius and a First-two-past-the-post mode in Rodrigues before the designation of best losers.

Constituencies, Mr Speaker, Sir, are fundamental to the democratic process as they are the basis for the representation of citizens' interests in the governance of the country. They are designed to ensure that every citizen has a voice in Parliament to the extent that each Constituency elects its own representatives to the National Assembly who are responsible for representing the interest and concern of the Constituents. This is the essence of democracy, the voice of the people should be heard and their will should be reflected in the composition of this august Assembly.

Consequently, Mr Speaker, Sir, the delimitation of Electoral Boundaries is equally vital and lies at the heart of our democracy. The Electoral Boundaries Commission Report is not just a technical document; it is a symbol of our commitment to these democratic principles. The Boundaries it defines must ensure that constituencies are evenly balanced in terms of population; thus preventing any group from being underrepresented and/or overrepresented. This balance is crucial to prevent the distortion of the electoral process and to maintain the principle of one man, one vote.

The Report outlines the delimitation of constituencies, a task that is crucial for distributing political representation fairly among our diverse population. The importance of this task cannot be overstated as it directly affects the power of our citizens to elect the representatives and participate in the governance of our nation. The Electoral Boundaries Commission, Mr Speaker, Sir, has reviewed the Boundaries of the Constituencies in our country as we know and presented four Reports to the Assembly, namely in 1976, 1986, 1999 and 2009. The recommendations of the 1986 and 1999 Reports were approved by the Assembly whilst those of the 1976 Report were rejected.

The 1986 Report, Mr Speaker, Sir, was the most hotly debated boundary delimitation review and the issue of gerrymandering which, as we know, is the deliberate manipulation of electoral boundaries to favour one political party or group over others to center stage in those debates at that time. The exercise of delimiting new boundaries has

been plain sailing so far in our country and it is vital, Mr Speaker, Sir, that we safeguard our democratic tenants and practice in our electoral process. It is our responsibility as representatives of the people to ensure that this Report upholds the principle of free and fair election and that it is testament to the strength of our democracy. Furthermore, the Report must ensure that boundaries are drawn without bias or favoritism.

The Electoral Boundaries Commission is an independent institution set up under the constitution. We have every reason to believe that the commission has acted with the utmost integrity, impartiality, and transparency. Political consideration or gerrymandering should never influence the delineation of constituencies as this would undermine the very essence of our democracy. In that sense, Mr Speaker, Sir, I think we were all shocked at the last Sitting when we saw the reaction of hon. Osman Mahomed who expressed his comments and his opinion concerning this Report.

Mr Speaker, Sir, the founding fathers of our Constitution, have introduced in-built safeguards to prevent gerrymandering by ruling parties. This is precisely why the Report should be either accepted *in toto* or rejected *in toto*. Had it not been the case, ruling parties would have misused their majority in the House or could have misused their majority in the House to pick and choose those parts of the Report that favor their interests, especially as we know the motion to adopt the Report needs a simple majority and not a two-third or three-quarter majority. They could have gerrymandered to redraw electoral constituency lines in a way that favors the ruling party. This can involve creating oddly shaped constituencies that concentrate Opposition voters into a few constituencies, a tactic known as packing or dispersing them thinly across numerous constituencies, a tactic known as cracking.

Mr Speaker, Sir, had the possibility to pick and choose existed and principle ruling parties may choose to ignore demographic changes such as population shift or changes in the composition of a constituency when redrawing boundaries. This would have resulted in the underrepresentation of certain groups or the delusion of their voting power. The current review mechanism and the in-built safeguards are probably the best system we could have, given the risk and temptation of manipulation by dishonest politicians.

Mr Speaker, Sir, when electoral boundaries are not rebalanced or adjusted periodically, it can create opportunities for the manipulation of the voting system to capture the vote by particular groups or political parties. In areas with rapidly changing demographics, vote dilution can occur when electoral boundaries are not adjusted to accommodate these changes. The votes in a constituency which has grown

disproportionately relative to the population quota maybe diluted making it difficult for some groups of voters to elect representative who truly represent their interest. Vote dilution occurs when the population of a specific constituency significantly surpasses a defined population quota which in the case of Mauritius, stands at 59,832. Addressing vote dilution is a fundamental objective of any electoral boundaries delimitation review. It is essential for electoral boundaries to be periodically revisited and adjusted at reasonable intervals.

In UK, Mr Speaker, Sir, this is a very regular practice. This exercise takes place very regularly and there have been cases after the delimitation process has taken place, some MPs even lose totally their constituency because the parts of the specific constituency have been transferred to other neighboring constituencies. This process should be conducted transparently and impartially taking into account changing demographics, geographic consideration and the need to ensure fair and equal representation for all citizens. Electoral Boundaries Commissions or similar bodies in mature democracies like ours, play a crucial role in maintaining the integrity and legitimacy of the Electoral System.

Mr Speaker, Sir, today we have the opportunity to address some very striking discrepancies in our constituency base vote system. According to the Registry of Electors in force, at the time of the preparation of the 2020 Electoral Boundaries Commission Report, the two largest constituencies in terms of electors, namely, Constituencies No. 5 and 14 have 65,115 in the case of No. 5 and 63,500 in the case of Constituency No. 14 respectively.

Today, the figures of 2023 show that Constituency No. 5 has reached 70,269 and Constituency No. 14 has reached 67,770 electors respectively, Mr Speaker, Sir. The smallest Constituency is Constituency No. 3 with 21,943 electors. This ratio, in respect of the constituencies, with a highest number of electors and constituency with the lowest number of electors is nearly 3 to 1. In fact when we look at the latest figures of 2023 in the case of No. 5, it is 3.5 to 1 and in the case of No. 14, it is 3 to 1. This is very much illustrative of the risk scenario where the weight of 1% vote in an overpopulated constituency is much less than the weight of a vote in an under populated constituency. This compromises the equity and equality of representation and goes against the principle of one person, one vote concept.

Mr Speaker, Sir, this is why we are seeing some sizeable shift in some other overpopulated constituencies which, as a matter of fact, include mine – Constituency No. 14, Savannes and Black River and in the case of my constituency, the Commission has

recommended that localities of Route Bassin, Residence Kennedy and Palma be distracted and be annexed to Constituency No. 18, Belle Rose and Quatre Bornes.

This recommendation will result in a decrease of 16,242 electors from Constituency No.14, in fact, it is the biggest shift, it is the biggest transfer of electors according to this exercise, Mr Speaker, Sir.

As a result of the recommendations made in this report, the constituency with the highest number of electors now will be Constituency No. 18 with 58,267 electors and the lowest number of electors will be in Constituency No. 2 with 29,962 electors. The ratio now between the highest and the lowest number of electors will stand at nearly 2:1.

Mr Speaker, Sir, we nonetheless have to acknowledge that in even the most populous and advanced democracies, achieving perfect parity in constituency population quotas is a recognised and accepted challenge and Mauritius is no exception. As the Commission observed in its report, the population within constituencies is in a constant state of flux due to infrastructural and residential developments, population migration making it impractical to mechanically enforce an identical population quota for every constituency. This understanding is underpinned by the wisdom of our constitution framers who explicitly acknowledged that a constituency's population could vary for various reasons. It is essential to strike a balance between ensuring some flexibility in constituency populations while avoiding extreme disparities.

Mr Speaker, Sir, it is worth noting that the Commission acknowledges the historical context in which constituency boundaries were initially established. We all appreciate that designing of some electoral boundaries was the outcome of very complex and intense political negotiations between the political leaders ahead of independence. Before 1967, Mauritius was divided into 40 constituencies and one Member of Parliament was elected from each constituency. Afterwards, the 40 constituencies have been paired and reorganised to form a total of 21 constituencies; 20 for the island of Mauritius with each returning three MPs and one for Rodrigues based on the First-Past-The-Post System and prior to the designation of best losers. We all understand that the redesigning of electoral boundaries ahead of the 1967 general elections was not purely mechanical or reorganisation exercise; there were very complex and sensitive motives considerations behind this fundamental redesigning of constituencies. Despite the Commission's best efforts and adherence to its constitutional mandate, it has no right and it cannot redefine the constituency boundaries of the country.

Mr Speaker, Sir, the application of the recommendations of the Commission will depend on the next updated electoral register. According to the Representation of the

People's Act, every register compiled in any year shall come into force on 15 August in that year and shall remain in force until the next register is compiled. Therefore, the next register in August 2024 will reflect the new constituency delimitation and it is only then that the recommendations of the Commission will come into effect.

Furthermore, as we know according to section 39(4) of the Constitution, the Assembly may approve the resolution and the recommendations shall have effect as from the next dissolution of Parliament.

M. le président, pour conclure, personnellement, c'est avec beaucoup de peine que je vais me séparer de ces quelques 16,000 personnes venant de Route Bassin, résidence Kennedy et Palma dont j'ai eu le privilège de représenter au Parlement et de servir avec vous pendant cinq ans, M. le président, et de servir pendant plus de 40 ans. Avec ce transfert de 16,233 électeurs exactement, la circonscription numéro 14, comme je viens de le dire, subit le changement le plus important dans cet exercice de redécoupage.

M. le président, entre moi et les mandants de Route Bassin, Kennedy and Palma, cela a été une très belle aventure, une aventure humaine avant tout, une histoire d'amour je dirais, M. le président, qui a duré pendant les derniers 41 ans. Ceux qui me connaissent savent que j'ai été toujours à l'écoute de mes mandants, de leurs attentes, de la préoccupation et de leurs aspirations. Je vais manquer ce contact chaleureux avec mes amis de Bassin, de Palma et de Kennedy. Ce fut un honneur de pouvoir les servir, mais ils savent qu'ils pourront toujours compter sur moi.

D'ailleurs dans le cadre de ce nouveau redécoupage, leurs localités seront annexées à la circonscription numéro 18, Belle Rose/Quatre Bornes, une circonscription qui avoisinera la nôtre. Au cours de ces dernières années, nos deux circonscriptions ont développé un lien spécial grâce notamment à l'engagement de la *PPS* Tania Diolle, mon collègue de parti, dans les différents quartiers, non seulement du numéro 14, mais aussi dans les quartiers de Belle Rose et de Quatre Bornes, M. le président.

L'esprit de la Constitution et l'intérêt supérieur du pays doivent primer. Et en tant qu'homme ou femme politique, il nous faut être toujours prêt à retrousser nos manches et affronter de nouveaux *challenges*. Étant un vieux de la vieille, tout en regrettant l'excision de ces trois localités de ma circonscription, qui est, en passant, la plus grande géographiquement, elle est d'environ 330 km², M. le président, je suis déjà prêt avec mes collègues de la circonscription à reprendre la conquête de l'ouest et au sud-ouest et de maintenir notre suprématie dans la nouvelle circonscription qui a été découpée. C'est un optimisme inébranlable qui nous anime et qui nous motive.

Pour conclure, je tiens à féliciter *l'Electoral Boundaries Commission* pour l'excellent travail qu'elle a abattu. C'est une tâche extrêmement complexe et sensible qui a été réalisée, je comprends, au terme de beaucoup de consultations, d'analyses et de *site visits*. Mes appréciations vont aussi au bureau de la Commission électorale et à tous les autres organismes qui ont participé à la réalisation de cet important document. Il incombe maintenant à nous, représentants du peuple, d'assumer notre responsabilité vis-à-vis de la Constitution de la démocratie.

J'en ai terminé. Merci pour votre attention.

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

At 4.50 p.m. the Sitting was suspended.

On resuming at 5.29 p.m. with Mr Speaker in the Chair.

Mr Speaker: Please be seated! Hon. Deputy Prime Minister!

(5.29 p.m.)

The Deputy Prime Minister: M. le président, chers collègues du gouvernement, mesdames et messieurs les députés, quel spectacle affligeant que celui des bancs vides de l'opposition au sein de l'hémicycle cet après-midi alors même que nous débattons d'une motion des plus importantes eu égard à la délimitation des circonscriptions électorales.

Je constate que l'œuvre destructrice de l'opposition visant à décrédibiliser notre démocratie parlementaire en pratiquant une politique de terre brûlée ne se souciant guère des retombées à l'avenir se poursuit alors même que le Premier ministre et la majorité ont écouté patiemment et Dieu sait au prix de quels efforts de notre part, les propos souvent excessifs et démagogiques des députés de l'opposition. Mais la démocratie ne peut être à sens unique, M. le président, et tout comme elle impose aux députés de la majorité un devoir de présence, un devoir d'écoute, un devoir de participer aux débats en prêtant l'oreille aux opinions diverses, elle impose le même devoir à l'opposition et l'opposition stérile et discourtoise qui persiste à refuser à la majorité le même respect que nous lui accordons porte atteinte ainsi aux principes de la démocratie parlementaire.

Mais venons-en à notre sujet. Le 4 novembre dernier, notre Premier ministre a présenté une motion à l'effet que cette Assemblée approuve le rapport de l'Electoral Boundaries Commission ayant trait à la délimitation des circonscriptions; ce rapport, produit en 2020, déposé donc à l'Assemblée nationale la même année, le 3 novembre 2020. Vous me permettrez en guise d'introduction de noter que cette motion et les débats qui s'ensuivirent donc après le dépôt de la motion ici et ailleurs ont fait resurgir de

manière sans doute prévisible et même inévitable les questions plus larges de réformes à apporter au système électoral et à la représentation démocratique à Maurice.

Évidemment, la démocratie représentative dans sa forme mauricienne se doit d'être repensée et réformée vu ses faiblesses avérées. Par exemple, le risque permanent de la capture de la démocratie électorale par l'argent et les intérêts privés. Par exemple, les limites du *First-past-the-post* et son incapacité à assurer une représentation juste des électeurs et de leur choix exprimé dans les urnes. Par exemple, la quasi-exclusion des catégories populaires dans la représentation nationale. Par exemple, la sous-représentation des femmes et des jeunes. Par exemple, et c'est le sujet, les inégalités quant au nombre d'électeurs de différentes circonscriptions.

Et j'ai lu avec intérêt les articles, par ailleurs, fort intéressants de l'ancien ministre, M. Rama Sithanen décortiquant le rapport de l'*Electoral Boundaries Commission* pour souligner la nécessité d'aller plus loin et proposer à la Commission, je cite, des –

“guidelines that strike an informed balance between voter equity and effective representation in a plural society as Mauritius.”

Et cela, en attendant *a ‘thorough review of our entire electoral system.’* On peut être d'accord, mais en attendant que faisons-nous ?

Quand bien même nos convictions démocratiques nous imposent de poursuivre nos efforts en faveur d'une réforme en profondeur du système de représentation démocratique, l'histoire récente nous démontre que c'est un combat ô combien ardu, car la voie est semée d'embûches. La réalité, c'est que toutes les tentatives durant ces derniers 25 ans, de Sachs, aux propositions quant au financement de la politique du dernier gouvernement MSM-ML-OPR, en passant par le rapport Carcassonne, aussi louable fut-elle, se sont avérées incapables de susciter l'adhésion d'une majorité suffisante pour modifier les dispositions constitutionnelles y relatives. Mais nous allons néanmoins poursuivre le combat et le gouvernement auquel j'appartiens travaille sur plusieurs fronts à la fois, qu'il s'agisse du financement des partis ou de la réforme des élections régionales. Mais en attendant, ne faut-il pas avancer ?

Le système de représentation démocratique, qui est le nôtre, est fondé sur un système de circonscription électorale tel que le prévoit la Constitution, dont la délimitation est d'une importance capitale puisque la démocratie politique se définit comme une personne, un vote. *One man, one vote.* Selon la Constitution de 1968, aux clauses 38 et 39, il est prévu un mécanisme au fonctionnement totalement indépendant

sous la forme de l'*Electoral Boundaries Commission* qui est chargé comme nous le savons tous de formuler des propositions tous les 10 ans, je cite –

“so that the number of inhabitants of each constituency is as nearly equal as is reasonably practicable to the population quota.”

Population quota, évidemment, c'est la population de l'île Maurice divisée par 20. C'est la clause 39 (3) de notre Constitution.

La Constitution prévoit donc que le rapport soit déposé à l'Assemblée et débattu à l'initiative du *Leader of the House*, donc, le Premier ministre pourrait adopter sans amendement permis. C'est cela la garantie contre le *gerrymandering* parce que sinon le gouvernement aurait tout le loisir d'accepter certaines modifications, d'en rejeter d'autres. Donc, la garantie contre le *gerrymandering* qui consiste évidemment à fausser les délimitations pour favoriser un parti ou un autre, eh bien, cette garantie, c'est que le rapport doit être adopté dans son intégralité ou rejeté à la faveur des débats. Ce dispositif n'a jamais, à ma connaissance, été remis en cause au sein de l'hémicycle jusqu'à la dernière séance, mais j'y reviendrai.

Donc, chaque rapport tous les 10 ans et la décision de l'Assemblée nationale quant à son adoption ou son rejet est un événement rare et une occasion historique de faire vivre la démocratie en réaffirmant, je le répète, le principe fondateur de notre démocratie, c'est-à-dire une personne une voix.

Et je voudrais faire un rapide rappel historique. Tout à l'heure, mon collègue, le ministre Ganoo nous a rappelé comment le système électoral avec les 20 circonscriptions dont nous avons héritées date juste avant l'indépendance, juste avant les élections de 1967 où le nombre de circonscriptions est ramené à 20. N'est-ce pas ? Avec le *pairing* par rapport aux 40 circonscriptions qui existaient antérieurement. Après les élections, évidemment, le régime Travailliste-PMSD de l'époque reporte les élections générales. Le premier rapport après l'indépendance, c'est celui de 1976 qui est déposé et débattu, mais le gouvernement de Sir Seewoosagur Ramgoolam d'alors recommande qu'il soit rejeté et il l'est. En 1986, donc, 20 ans après la dernière délimitation des circonscriptions, le rapport est déposé et débattu sur proposition du Premier ministre, Sir Anerood Jugnauth.

En 1999, 13 ans plus tard, rapport déposé, débattu à l'initiative du Premier ministre, Dr. Navin Ramgoolam, est adopté. Et puis en 2009, le rapport est produit, il est déposé, mais il n'est jamais débattu, ce que dénoncera à l'époque le MMM auquel j'appartenais. Le Premier ministre est bien évidemment le Dr. Navin Ramgoolam. En

2020, nous avons le rapport dont nous débattons aujourd’hui qui est déposé et nous en débattons trois ans plus tard. Donc, nous proposons la révision de la délimitation qui date de 24 ans parce que la dernière fois, je vous le rappelle, ce fut en 1999 – 24 ans, un quart de siècle plus tard. Donc, pour résumer depuis l’indépendance, quatre rapports déposés, deux adoptés et deux rejetés; celui de 2009 n’ayant même pas été débattu de toute manière.

Nous voici avec le cinquième rapport de l'*Electoral Boundaries Commission* dont nous proposons l’adoption. Pourquoi donc ? Et bien, M. le président, aux principes qui inspirent le mandat constitutionnel de l'*Electoral Boundaries Commission*, une personne, une voix. Nous reconnaissions tous la complexité de la tâche qui incombe à l'*Electoral Boundaries Commission* et nous sommes tous reconnaissants envers l'*Electoral Boundaries Commission*. J’ai entendu M. le député, Paul Bérenger, lui aussi exprimé son appréciation du travail de la Commission. Donc, nous nous exprimons à Maître Aboobakar, *Senior Counsel*, qui préside l'*Electoral Boundaries Commission* et son équipe, tous ses membres, nous leur exprimons notre reconnaissance et nos remerciements.

Le fait saillant, sans entrer dans les modifications individuelles des frontières des différentes circonscriptions, demeure que nous étions à un ratio de 3:1 et nous passons un ratio de 2:1. Les chiffres contenus dans le rapport, à la page cinq, sont éloquents. Nous avons en 1972, juste après l’indépendance, un rapport de 2:1 entre la plus grande et la plus petite des circonscriptions, je me réfère à la taille de la population. Nous passons dès 1983 à un ratio de 3:1, et c’est toujours le même ratio que nous avons aujourd’hui. Mon collègue, Alan Ganoo en se référant non pas au nombre d’habitants, mais d’électeurs a avancé le même raisonnement. Nous passons, donc, aujourd’hui, si le rapport est adopté, d’un ratio 3:1 à 2:1. C’est le fait saillant. Donc, même si dans l’idéal, nous aurions tous voulu aller plus loin et plus vite, ce rapport constitue un pas dans la bonne direction. Non seulement un pas, mais un pas fondamental, un pas historique allant de la bonne direction.

Et les débats ici, nous avons, je crois me souvenir, eu deux séances de débats. Contrairement à 1999 où le leader de l’opposition, Paul Bérenger reprochait à Dr. Navin Ramgoolam d’avoir fait circuler un *Order Paper* la veille pour le lendemain, donc, ne donnant pas aux membres du MMM l’occasion de se préparer. Cette fois-ci, l’opposition a eu tout le temps nécessaire.

Mr Ganoo: Il parlait d’un manque de respect.

The Deputy Prime Minister : Parler d'un manque de respect précisément. Mais, d'abord je vais faire une remarque. Quelle a été la pratique jusqu'à présent ? La pratique, c'est que dans le passé, il y avait presque une convention que les débats concernaient le Premier ministre qui présentait la motion et le leader de l'opposition qui parlait généralement au nom de toute l'opposition avec quelques fois des exceptions 1976 en sus du Premier ministre, le Dr. Seewoosagar Ramgoolam et le leader de l'opposition Sir Gaëtan Duval, le député Sookdeo Bissoondoyal intervient sans doute comme leader de l'IFP. En 1988, le Premier ministre, courte intervention du Premier ministre adjoint, je crois que c'était Sir Gaëtan Duval en 1986 puis quelques ministres Satcam Boolell, le ministre Hervé Duval et le leader de l'opposition, Paul Bérenger. En 1999, uniquement le Premier ministre Navin Ramgoolam et le leader de l'opposition Paul Bérenger. Cette fois, l'on s'attendait à ce que ce soit les leaders des partis de l'opposition.

C'est le cas de ce côté de la Chambre. M. le Premier ministre, mon collègue Ivan Collendavelloo, leader du ML, mon collègue Alan Ganoo, leader du MPM et moi-même mais j'ai aussi quelques ministres qui ont pris la parole mais *quid de* l'opposition, le plus étonnant, c'est que le PMSD se soit abstenu de tout commentaire. C'est une première historique. Pour la première fois, un leader de l'opposition n'a aucun commentaire à faire au sein de l'hémicycle, eu égard à un rapport de l'Electoral Boundaries Commission. En 1976, en 1986, en 1999, à chaque fois le leader de l'opposition reconnaît l'importance de cet exercice constitutionnel et nous livre son opinion. Cette fois-ci ni le leader de l'opposition, ni aucun autre membre du PMSD ne s'exprime. Personne n'a commenté cela. Je me réfère aux observateurs et commentateurs soi-disant indépendants qui ne cessent de s'attaquer au gouvernement. Je me réfère à tous ces experts autoproposés qui s'expriment dans les médias à longueur de journée, aux détracteurs patentés du gouvernement, personne n'a eu rien à redire par rapport à cette démarche, pardonnez-moi, mais tout à fait honteuse du leader de l'opposition et du PMSD.

Par contre le leader du MMM s'est exprimé pour son parti comme à l'accoutumée et pour le Parti Travailliste tout le *front-bench* était absent. On nous a annoncé qu'ils étaient au samadi de Sir Seewoosagur Ramgoolam, je veux bien mais ils n'en sont jamais revenus et notre Premier ministre a posé la question 'mais sont-ils toujours au samadi?' Ils ne sont jamais revenus. Donc, c'est tout le *front-bench* du Parti Travailliste qui, prenant exemple sur le leader de l'opposition, décide de bouder, je parle de la séance précédente. Il n'y avait pas de manifestation ce jour-là et celui qui s'exprime, c'est le député Osman Mahomed. Nous présumons qu'il s'exprimait en tant

que porte-parole du Parti Travailliste. J'y reviendrai, ensuite a pris la parole M. Bodha, leader ou co-leader ou leader adjoint d'un parti, d'une alliance.

Mr Toussaint: *P fer leader de lui-même!*

The Deputy Prime Minister : Et qu'ont-ils dit ? Le PMSD n'a rien dit. Vous vous souviendrez qu'il y a un an, deux ans, trois ans, le PMSD s'était attaqué à l'Electoral Boundaries Commission qui, selon lui, ne remplissait pas sa mission constitutionnelle, menaçant même de traîner la Commission en justice mais rien à dire une fois le rapport déposé pour être débattu. Le MMM, le leader nous annonce que –

“The Opposition does not disapprove *in toto*.”

Alors, ça c'est intéressant parce que j'ai oublié de vous dire que le député Osman Mahomed débute son intervention en se référant à –

“Now, that the Opposition is solidly formed...”

L'Opposition, le PMSD qui se tait. Le leader du MMM qui dit –

“The Opposition does not disapprove *in toto*.”

Il va plus loin.

“The Electoral Boundaries Commission has done its best.”

Et il va féliciter l'Electoral Boundaries Commission. Il dit comme je l'ai dit tout à l'heure.

“Still far from equal number of electors but the Report moves us in the right direction.”

Jusque-là on est en parfait accord. Ensuite, le leader du MMM exprime une critique, une seule pour dire que le rapport est déposé *on the eve of the next General Election* alors que nous avons un an jusqu'à la fin du mandat –

“And it does not allow Members to get fully acquainted with the regions that will be added to their individual constituencies.”

Sérieusement, M. le président, un rapport déposé trois ans de cela. Nous avons encore un an jusqu'à la fin du mandat. Ma collègue, la députée Tania Diolle ou le ministre Kavy Ramano me diront-ils qu'ils n'ont pas le temps de se familiariser avec Palma, La Source, Kennedy ?

The Prime Minister: *Sinon Alan est là !*

The Deputy Prime Minister : Ben voilà sérieusement, M. le président. Cette fois, les députés ont eu tout le préavis nécessaire mais venons-en au Parti Travailliste et

c'est là le plus choquant. Donc, le PMSD s'abstient, le MMM donne l'impression d'être en faveur avec des réserves quant au procédé adopté par le gouvernement mais pas par rapport aux recommandations et le représentant du Parti Travailiste, le porte-parole qui nous dit –

“Totally unexpected this motion. We never expected it to be brought to Parliament in an election year.”

Donc, j'ignore si M. le Premier ministre a l'intention de tenir les élections avant le 31 décembre mais je pense que ce serait assez compliqué de le faire.

The Prime Minister: Le délai de ...

The Deputy Prime Minister: Evidemment mais pour M. Mahomed, nous sommes *in an election year*. Et il se révèle incapable de s'élever au-dessus de son rôle de député d'une circonscription particulière et il vient nous dire qu'il est d'accord avec l'ajout de, je ne sais plus, 10,000, 12,000 électeurs dans la deuxième circonscription du pays mais il n'est pas d'accord que ces mêmes électeurs soient enlevés de la première circonscription en invoquant un facteur ethnique et en critiquant l'Electoral Boundaries Commission et là, c'est très grave.

J'ai été relire le procès-verbal, M. le président, et voilà ce que dit M. Mohamed en toute apparence le porte-parole officiel du Dr. Navin Ramgoolam et du Parti Travailiste Mauricien. Alors, il fait référence à notre Premier ministre qui aurait au cours d'un débat sur un projet de loi, un peu plus tôt cette année fait une remarque, c'est une allégation à l'encontre du parti travailliste parlant de *gerrymandering* calculé, projet de loi et il vient nous dire. He used that in his speech –

“Now I believe this is what is happening here.”

Et, M. le président, avec raison vous l'interrompez pour lui dire mais c'est un rapport préparé par l'Electoral Boundaries Commission, à quoi M. le député Osman Mahomed répond –

“I have my right to give my opinion on the Report.”

In other words, the opinion of the hon. gentleman speaking in the name of the Mauritius Labour Party, is that this Report constitutes gerrymandering. *M. le président, j'ai parcouru tous les débats au sein de notre auguste Assemblée : 1976, 1986, 1999, jamais au grand jamais, aucun député au sein de l'hémicycle qu'il soit de l'opposition ou de la majorité...*

The Prime Minister: Il a fait l'histoire!

The Deputy Prime Minister: Il a fait l'histoire, mais de manière ô combien honteuse ! Jamais un député ne s'est attaqué directement, frontalement à l'*Electoral Boundaries Commission* pour alléguer le *gerrymandering*.

Mrs Luchmun Roy: Shame!

Hon. Members: Shame!

Mr Toussaint: *Ban députés take-away sa !*

An hon. Member: Sans précédent !

The Deputy Prime Minister: Et il va plus loin pour dire, en prenant appui sur un document qu'aurait déposé M. Sithanen devant la commission, qu'il n'y aurait pas dû avoir de modification, des délimitations des circonscriptions jusqu'à ce qu'une réforme électorale en profondeur soit effectuée.

Donc, le Parti travailliste souhaite le maintien de ces délimitations datant de 24 ans et qui nous lègue un ratio de trois contre un.

The Prime Minister: Et puis quelle relation entre les deux ?

The Deputy Prime Minister: Quelle relation !

Mr Ganoo: *Si nou pa fer sa la, dan 29 ans...*

The Deputy Prime Minister: Voilà ! La prochaine fois, ce sera dans encore cinq ans, 10 ans à partir de 2019, donc en 2029, oui. Donc, ce sera 29/30 ans.

Et là aussi, M. le président, ce qui m'étonne moi, c'est que tous ces observateurs, ces commentateurs soi-disant indépendants dans tous les médias ne voient rien à dire. Tous ces experts autopropagés, tous les pourfendeurs, les détracteurs patentés du gouvernement n'ont rien à dire. Et voilà, ce que le député Osman Mahomed appelle *the opposition is solidly formed* ; le PMSD qui s'abstient, le MMM qui semble être en faveur et le Parti travailliste qui est totalement contre et s'attaque frontalement à l'*Electoral Boundaries Commission*.

The Prime Minister : *Clairement, ce n'est pas une alliance in toto !*

The Deputy Prime Minister: Et cette opposition, M. le président, prétend gouverner ensemble notre pays. S'ils sont incapables aujourd'hui dans l'opposition, après trois semaines de préavis – deux semaines et demie, trois semaines de préavis – de s'entendre quant à la position à adopter sur le rapport de l'*Electoral Boundaries Commission* qui devrait être très simple, ou l'on est pour ou l'on est contre.

The Prime Minister: Pas plusieurs semaines, plusieurs années !

The Deputy Prime Minister: Trois ans depuis que le rapport a été déposé, effectivement ! Trois semaines depuis qu'ils ont eu le préavis qu'on va en débattre, et que les débats durent. Mais s'ils sont incapables de s'accorder sur l'*Electoral Boundaries Commission Report*, comment vont-ils s'accorder sur quoi que ce soit ? Je comprends mieux l'absence de tout document nous expliquant sur quoi est fondée cette alliance. Je comprends mieux l'absence d'un quelconque accord électoral ou d'un programme gouvernemental.

Non, M. le président, pour moi, je vais reprendre les paroles du leader du MMM, Paul Bérenger, en d'autres temps, c'est une alliance de la haine et de la honte ayant un seul et unique objectif de renverser le gouvernement à n'importe quel prix. Voilà l'opposition *solidly formed* auquel se référait l'honorable Osman Mahomed.

Cette opposition est incapable de placer l'intérêt national et la défense de la démocratie au-dessus des intérêts partisans. J'ai lu avec grand intérêt une déclaration de Sir Gaëtan Duval en 1986, il était donc le Premier ministre adjoint, et il déclare –

“ I really think [en se référant aux débats sur le rapport de l’Electoral Boundaries Commission] this is one of the occasions where in front of the work of an independent Commission, we as a Parliament should show our confidence in our Constitution and in the exercise of the discretion which the Commissioner [il se réfère à la commission] has made.”

Mais que voulez-vous, laissons-les à leurs manœuvres obstructives et à leurs pratiques antipatriotiques. Le peuple mauricien en prendra note. Quoi qu'il en soit, en tant que militants convaincus qu'il faut à chaque fois que l'occasion nous en ait donné, en tout lieu et en tout temps, œuvrer en faveur de l'approfondissement de la démocratie, je suis heureux de soutenir la motion de notre Premier ministre.

Désormais, la disparité entre la circonscription la plus peuplée et celle de la moins peuplée se retrouvera réduite de manière conséquente et, ne serait-ce que par cela, ce rapport assainit notre démocratie représentative et constitue un grand pas en avant.

J'en ai terminé. Je vous remercie, M. le président.

Mr Speaker: Hon. Prime Minister!

(5.58 p.m.)

The Prime Minister: M. le président, si je peux m'exprimer ainsi, pendant la première mi-temps, l'opposition était absente ce matin. Bon, ils sont un peu fatigués, ils ne peuvent plus tenir la route. Je croyais que dans l'après-midi, durant le deuxième mi-

temps, ils allaient être présents parce que qu'est-ce qu'on est en train de débattre cet après-midi ? C'est le rapport de l'*Electoral Boundaries Commission*.

Le matin, ils ont dit qu'ils vont boycotter parce que c'est la présentation d'un projet de loi du Premier ministre au nom du gouvernement. De par la procédure, c'est toujours le Premier ministre présente la motion. Mais qu'est-ce qu'ils sont en train boycotter là, aujourd'hui, cet après-midi ? Ils sont en train de boycotter l'*Electoral Boundaries Commission report*.

Mrs Luchmun Roy: La honte !

Hon. Members: Shame! Shame!

The Prime Minister: Ils sont en train de montrer le mépris qu'ils ont pour cette commission indépendante. Je dois dire que je croyais qu'ils allaient venir quand même, mais cela ne me surprend plus maintenant parce qu'après avoir critiqué injustement la commission électorale, l'*Electoral Supervisory Commission*, après que l'honorable Paul Bérenger, le Dr. Navin Ramgoolam, l'honorable Dr. Boolell, parmi d'autres de l'opposition, qui ont demandé la démission de M. Irfan Rahman qui est l'*Electoral Commissioner* et Me Yusuf Aboobaker qui est le président de l'*Electoral Supervisory Commission*, je crois qu'il faut s'attendre à tout maintenant de l'opposition.

Ils sont tombés à un niveau tellement bas ! En tout cas, il y a des plus anciens que moi dans cette Chambre, mais moi, depuis que je suis de la politique, jamais, je n'ai témoigné une opposition qui est tombée aussi bas que ça. Antipatriotique ! N'acceptant pas le jeu démocratique après une élection générale ! Allez contester – oui, ils ont le droit de contester, mais quand vous contestez, on peut même perdre devant la cour, mais allez contester avec des arguments, allons dire, qui ont un peu de poids, et non pas des arguments frivoles. Même le leader du Parti travailliste n'est même pas allé en cour pour soutenir sa pétition ! Vous imaginez ? Quelle farce ! Mais seulement, ils sont des farceurs. Ils ne sont pas sérieux. Mais quel dommage sont-ils en train de faire à l'image de notre pays.

Et surtout après le discours de l'honorable Osman Mahomed, et je ne vais pas entrer dans les détails parce que le *Deputy Prime Minister* a non seulement répondu, mais a attiré l'attention de la population sur ce genre de discours vraiment sans précédent. Le Parti travailliste et cette opposition, je ne sais pas si c'est une opposition *in toto* ou pas *in toto*, mais en tout cas c'est une honte, c'est une honte.

Alors, laissez-moi quand même saisir cette occasion pour - en tout cas, de notre côté, we commend the excellent work undertaken by the Electoral Boundaries

Commission in the elaboration and the submission of this Report. I also wish to put on record our appreciation for the support extended by the Electoral Commissioner and his staff to the Commission. The report on the review of the boundaries of constituencies released in 2020 – released in 2020, Mr Speaker, Sir, they had what? Ample time *comme vient de le dire le* Deputy Prime Minister. *Je pense c'est comme cela, ils sont eu le rapport. Peut-être qu'ils l'ont mis dans un tiroir, toute l'opposition et lorsque maintenant je présente la motion c'est maintenant qu'ils se réveillent, maintenant qu'ils commencent à voir : 'Ah, il y a une partie de la circonscription qui bouge cela'. Enfin! Ce sont des politiciens sérieux ? La première chose qu'un politicien, qu'un membre de l'Assemblée va voir c'est justement quels sont les changements.* Mr Speaker, Sir, the Report on the review of the boundaries of constituencies that has been released is a clear indication first of all of the good functioning of our independent institutions, which are the pillars of our democracy.

The presentation of the Report into the National Assembly is in itself also a turning point in our history as almost 23 years ago have gone by since the introduction of the last Report, by which we still stand governed and let me also thank the hon. Members who have intervened on the Motion.

Mr Speaker, Sir, allow me to reply to some of the points made by the Members of the other side of the House as well as other quarters. Members of the Opposition have questioned the timing of the presentation of the Report on the review of the constituencies, accompanied by purely theoretical speculations, going as far as qualifying the presentation of this Motion as some sort of a political stratagem and ‘gerrymandering *calculé*’ and even saying that it has been introduced discreetly. How do I introduce a Motion to the National Assembly discreetly? I do not know! This is really absurd as one thing is clear, whatever would have been the timing of the Motion, be it earlier or later, according to section 39(4) of the Constitution, the recommendations of the Electoral Boundaries Commission, if so approved, would have taken effect as from the next dissolution of Parliament.

Mr Speaker, Sir, I hope hon. Osman Mahomed understands the meaning of ‘gerrymandering’. May I remind him that ‘gerrymandering’ is the political manipulation of electoral constituency boundaries with the intent to create undue advantage for a party? So, I believe he is accusing the Electoral Boundaries Commission to have done gerrymandering in order to suit the interest of Parties which are in Government. So, these unsubstantiated accusations really undermine public trust in independent institutions.

Donc, ils sont en train de continuer avec leur sale besogne de décrédibiliser nos institutions.

Let me remind the Members of the Opposition that when the Report was tabled on 03 November 2020, a copy thereof was circulated to all hon. Members.

Therefore, the Opposition cannot say that it has been taken by surprise. Moreover, the Constitution, which is the supreme law of the land, does not prescribe any time frame for the presentation of the Report of the Electoral Boundaries Commission to the National Assembly. But as we all know, the Opposition has, since their defeat at the last general election over the past three years, been putting all their efforts in all sorts of gimmicks and frivolous election petitions, so that the EBC's Report must have slipped out of their minds. They were busy doing something else.

According to Standing Order 30(3), all motions of which notice have been received by the Clerk not less than five days before a Sitting shall unless, the Speaker rules the motion out of order, be circulated to all Members. The Notice of Motion for the presentation of the Report was submitted to Mr Speaker on 01 December 2023 and same is being presented almost a fortnight thereafter. All Members have had ample time to submit their views.

I recently read in the newspapers that the Leader of the Labour Party, Dr. Ramgoolam, commenting on the timing for the presentation of the Report, has said and, I quote –

« *Se inkrwayab ki sa vinn dernié ler koumsa la. »*

Such words ring hollow especially when they come from someone who, when he was Prime Minister in 2009 did not even present the Electoral Boundaries Commission's Report to the National Assembly.

During his intervention hon. Osman Mahomed has indicated that in 2009 the then Government, in their wisdom, did not present a Motion on the Report of the Electoral Boundaries Commission which was tabled on 10 November 2009, since they felt that it was not opportune to adopt the Report given that it was the year of the election and that there would have been a movement of some 31,000 voters across constituencies at that time. This argument, however, does not hold water.

In fact, it was the Electoral Boundaries Commission in its wisdom, which highlighted the fact that “in the event that its recommendations are approved, they will only take effect as from the next dissolution of the National Assembly. This could have consequential repercussions affecting the voting rights of electors in view of the existing

legislation”. The EBC went on to recommend that “the issue may be addressed by appropriate legislative amendments” in order not to disenfranchise any elector and in the light of the pertinent recommendations made by the EBC, it is clear that there would have been no disenfranchisement if appropriate legislative measures had been taken.

At that time, the then Prime Minister, Dr. Navin Ramgoolam, stated in reply to a question from the then Leader of the Opposition, hon. Bérenger, and I quote –

“There are complex legal and administrative issues that are being looked at, that are being worked out. I have talked to both the Electoral Commissioner and the State Law Office and they are actively looking into that. It is more complex than it appears at first hand. Once this is done, then we will come to the resolution”.

Comme toujours et moi aussi j'ai fait mon expérience de 2010 à 2011. Comme toujours, l'ancien Premier ministre, le Dr. Navin Ramgoolam, we are working into it, we are looking at it, we are doing it...

An hon. Member: *Pe fer la, pe fer la !*

The Prime Minister: *Pe fer, per fer mem* and nothing happens at the end of the day. So, this clearly demonstrates the lack of courage and political will of the then Government and absence of intent of purpose.

I would wish to highlight that in 1986, late Sir Anerood Jugnauth, the then Prime Minister, was bold enough to present the EBC’s Report even if the implementation of the Report entailed a movement of 58,181 electors. At that time, there was no confusion among the electors when the EBC Report of 1986 was approved on 18 July 1986 and the general elections were held on 30 August 1987, based on the new delimitations.

Mr Speaker, Sir, hon. Osman Mahomed has stated, last Friday, that the number of electors concerned with the change in boundaries is around 90,000. This is totally inaccurate. Hon. Mahomed should get his figures right. *Je ne sais pas quel genre de calculatrice il a utilisé, peut être* the same computer that was used by Rama Sithanen and others for the 2014 general elections. In fact, the change concerns only 45,589 electors, who are being distracted from their current constituency and added to a different constituency. So, I wonder how he came with that figure.

The hon. Member also claims that changes for both municipal and electoral boundaries would put tremendous pressure on our election officials and risk giving rise to further irregularities in addition to the several ones already reported in connection with the last election. It is important to highlight that not a single irregularity has been

substantiated in Court and, as we are all aware, all petitions that were heard by the Supreme Court have been set aside.

And then, I think hon. Osman Mahomed is getting confused. Constituency delimitations and municipal or district council boundaries are two different things. He does not know; he does not understand!

Again, with respect to the statement of hon. Osman Mahomed to the effect that 130,000 names were corrected by the Office of the Electoral Commissioner, there is also nothing abnormal and nothing sinister in the correction of names by the Office of the Electoral Commissioner. In fact, there are two distinct phases involved in the registration of electors, the first being the House to House Inquiry for the updating of the register of electors and registration of new electors, which is conducted in January every year. During this exercise, the names of the electors are cross-checked with their national identity cards and wherever the names are incorrectly written, necessary corrections are accordingly made. This has always been the case.

The House to House Inquiry is followed by a second phase, whereby the electors' list is made available for inspection by the general public at the Office of the Electoral Commissioner and in registration centres between 16 May and 30 May each year. An elector whose name is incorrectly entered on the electors' list may appear before the Registration Officer of the Constituency and present his claim to be correctly registered. A search engine on the website of Office of the Electoral Commission is made available during that period whereby a person can enter his national identity card number to verify whether his name is included on the electors' list. The same facility is also available by way of a SMS service through all mobile service providers. Therefore, the correction of names is an ongoing process to have an accurate register of electors and in no way affects the right to vote of the citizen.

Mr Speaker, Sir, hon. Osman Mahomed has also indicated that he never expected that the motion would be presented this year, on the eve of the general election, as if he knows when the general election is. I think he is very much influenced by hon. Bérenger, because hon. Bérenger, as we all know, on the very next day of a general election, he keeps on saying that election is next week, next month, in a few months' time; it is coming.

An hon. Member: *Derrière la porte !*

The Prime Minister: *Derrière la porte !*

Mr Ramano: *Ena bann gro devlopman !*

The Prime Minister: Yes. Now, the latest, when they have lost the Privy Council case, *gro developman pe arrive la – gro developman*. We are still waiting for the *gro developman*. What is it? *Gro developman* is what? They keep on insulting the independent institutions? Is this the *gro developman*? Or is there no synergy amongst the Members of the Opposition, as we have seen during the debate on this motion? Is this the *gro developman*? The *gro developman* is, I can say, the differences that exist between them. But, anyway, that is their business. I do not rely on their own *désaccords entre eux* and the fight that is going to happen later on. *M. le président, ce qu'on voit c'est la vitrine. La vitrine – tout se passe bien. Oui, une belle vitrine ! Mais à l'intérieur c'est comme on dit, 'karya' qui est en train de ronger le tronc.* We will see.

But we are presenting it on the eve of general election. Of course, it is my prerogative to decide on the date of the next general election, but I have not made it any secret. In fact, I should have made it a secret not only for the Opposition but even for Members of my Government. But I have said it publicly, general elections will be held after we complete our mandate; this mandate. So, when he knows about my public statements, he is still saying on the eve of general election. Well, time will tell! What can I say? To prove him wrong, only time will tell.

But let me remind him that in reply to a Parliamentary Question addressed to me on 27 June 2023, I did mention that a motion would be presented and debated in the National Assembly. The Opposition keeps on saying that the elections are behind the door. And, Mr Speaker, Sir, the general elections, legally speaking – now I say legally speaking –, can be held as far as in 2025.

Mr Toussaint: Yes.

The Prime Minister: But don't get excited.

(Interruptions)

On 17 December 1999, Dr. Navin Ramgoolam presented the motion on the EBC's Report and the National Assembly elections were held less than nine months later on 11 September 2000. At that time, no one questioned the pressure on election staff, if any, nor the timing for the presentation of the motion.

Mr Speaker, Sir, let me remind the House that during his intervention on 17 December 1999 on the Report of the Electoral Boundaries Commission, hon. Paul Bérenger had made similar criticisms against the then Prime Minister, Dr. Ramgoolam regarding the inappropriate timing of the motion. So, I think *ils sont en train de répliquer*, but, now, they form part of the same electoral alliance. So, they are together.

Mr Speaker, Sir, hon. Osman Mahomed has also questioned why any mention of the electoral reform has not been made in my statement on 15 December 2023.

Let me remind the House that my Government had introduced the Constitution (Amendment) Bill into the National Assembly on 04 December 2018 after wide consultations to, *inter alia*, do away with the mandatory requirement for declaration of community, instil a dose of proportional representation and achieve greater gender representation in the National Assembly. The Government's electoral reform proposals that were embodied in that Bill aimed at consolidating and advancing constitutional democracy as well as reinforcing the social fabric and republican values in Mauritius. The proposed measures were expected to address, to a significant extent, the major imperfections and deficiencies of our current electoral system.

However, the Constitution (Amendment) Bill was debated in the National Assembly but was not put to vote on 11 December 2018 as the Opposition was staunchly opposed thereto and no consensus could be reached across the political spectrum with respect to the proposed reforms. Similarly, when the Political Financing Bill was introduced in the National Assembly in 2019, the Bill did not obtain the three-quarter majority as required by section 47(2)(b) and section 47(5)(a) of the Constitution, due, again, to the Opposition's dissent.

Mr Speaker, Sir, hon. Bodha has made a proposal for the time frame for the review of the boundaries to be reduced from ten to five years. Section 39(2) of the Constitution which provides for the time frame of 10 years is deeply entrenched and an amendment thereto will not be passed in the Assembly unless, again, it is supported by the final voting in the Assembly by the votes of not less than three quarters of all Members of the Assembly. But each time my Government has sought to bring electoral reform, which requires a three-quarter majority, it has met sheer resistance from an uncooperative Opposition, as I just highlighted earlier.

We must also bear in mind that the constituency delimitation exercise is indeed a complex one, and it takes time to undertake the process. In addition, frequent changes to constituency boundaries will result in the disruption of ties between the MPs and their constituents.

Hon. Bodha mentioned the participation of the Mauritian Diaspora in the general elections and the definition of an "international constituency". In reply to a Parliamentary Question on 20 April 2021, I indicated that the process of extending voting rights to the Mauritian Diaspora is fraught with challenges and complexities and

the decision to allow the Mauritian Diaspora to vote will require a thorough review of the electoral process.

Mr Speaker, Sir, coming to the recommendations of the Electoral Boundaries Commission, the changes proposed to the existing boundaries are clearly backed by rationale. As far as possible, the Commission has endeavoured to ensure that the proposed changes make voting more accessible and convenient to electors.

Mr Speaker, Sir, in his statement to the Electoral Boundaries Commission on 24 September 2018, the Leader of the Opposition had questioned why Bassin and Residence Kennedy had been included in Constituency 14 when for administrative purposes, these were in the Municipality of Quatre-Bornes. He reiterated this representation on several occasions.

The hon. Leader of the Opposition should be pleased to note that, if the Report is approved, these regions would be integrated in Constituency No. 18. Hon. Ramano has clearly put forward the right arguments for the recommendations made by the Commission in that respect. I am surprised that hon. Duval has decided to keep quiet and not taken the floor to intervene in the debates, especially that he is an elected Member of Constituency No. 18 since nearly two decades. In fact, in 1976, 1986 and 1999, the then Leaders of the Opposition deemed it fit to intervene on the motion regarding the Report of the Electoral Boundaries Commission.

As rightly highlighted by the Deputy Prime Minister, *c'est aujourd'hui sans précédent! Enfin, il est en train de marquer l'histoire! Pas seulement l'histoire concernant son absence d'intervenir au cours de cette motion, mais il est aussi en train de marquer l'histoire politique!*

Mr Speaker, Sir, I must highlight that as a result of the recommendations made in the Report of the Electoral Boundaries Commission, the ratio in respect of the constituencies with the highest number of electors and the constituencies with the lowest number of voters has been brought down from 3:1 to 2:1.

Even in more dense and advanced democracies, it is impossible to attain parity in terms of population quota for all constituencies. For this reason, the Commission did not apply the population quota in a mechanical way so as to be equal for each and every constituency. This is why those who drafted the Constitution of Mauritius provided that the number of inhabitants of a constituency may be greater or less than the population quota, considering means of communication, geographical features, density of population and the boundaries of administrative areas. Bearing in mind that some of

these factors no longer carry the same weight due to subsequent infrastructural and economic developments, the Commission has taken into consideration the significant growth of residential developments as well as existing geographical features and present physical features.

It is also important to highlight, as rightly pointed out by the Commission, that it is not empowered by the Constitution to either increase or decrease the number of constituencies with regard to the island of Mauritius.

The Electoral Boundaries Commission is also not mandated to radically redefine the boundaries of the constituencies of Mauritius. Just like it is not within the mandate of the Commission to address broader issues relating to electoral reform, such as Proportional Representation and other issues which are simply not within its remit.

Mr Speaker, Sir, regrettably, the COVID-19 pandemic was not the only challenge which the Electoral Boundaries Commission had to face during the course of the preparation of its Report. In fact, the Commission was subject to vile attacks and gratuitous, malicious and unfounded accusations from the Opposition. The members of the Electoral Boundaries Commission were malevolently accused in public during a political rally in October and November 2018 by the Leader of the Opposition, of having committed, in regard to the review of the boundaries of constituencies, a, I quote, “*viol collectif*”. Those were the words uttered by him, and I quote -

“*Zot inn fer enn viol de nous konstitution.*”

Enn viol de nous konstitution ? Very serious !

Unfortunately, he also went to the extent of threatening to sue the members of the Electoral Boundaries Commission in Court.

Mr Speaker, Sir, the Opposition left no stone unturned to instigate distrust against our institutions and create a state of disarray in the minds of the people. In addition to slandering the Commission as an institution, they went as far as making personal attacks against members of the Commission, who are trained legal professionals of long standing, in an attempt to undermine their competence and discredit them by using the worst of degrading comments, namely, and I quote, ‘*fatras*’.

In a public communiqué dated 06 November 2018, the Electoral Boundaries Commission expressed its utter disappointment at the insults levelled against them and viewed that the insults were aimed at disparaging and discrediting them and bringing the Commission into disrepute.

The then Acting President of the Republic, with a view to reassuring members of the Commission, met them to inform that they enjoyed the fullest confidence of the State in the work that they did and had been doing and invited them to pursue their work with serenity and with the same independence, impartiality and integrity which had been acknowledged both locally and internationally. The remarks proffered against the Electoral Boundaries Commission were shunned as irresponsible by two former Presidents of the Republic, namely Mr Kailash Purryag and Mr Cassam Uteem.

It is apposite to note that the hon. Dr. Arvin Boolell, in reply to questions from the Press on 30 October 2020, congratulated the Electoral Boundaries Commission for the work accomplished in the review of the boundaries of the Constituencies. However, the same hon. Member in February 2022, hon. Dr. Boolell, in allusion to Mr Irfan Rahman and Me Yusuf Aboobaker, Chairperson of both the Electoral Supervisory Commission and the Electoral Boundaries Commission stated, and I quote –

“Ce n’est pas de gaieté de cœur que nous affirmons que le commissaire électoral et le président de l’ESC doivent démissionner. *The guys must go.* Pour la santé de la démocratie et du processus électoral, il est important qu’ils partent. ”

Likewise, hon. Paul Bérenger in February 2022 stated that, I quote –

« La Plateforme de L’Espoir réclame la démission du Commissaire Electoral. »

Mr Speaker, Sir, everyone knows about the story of the caravan and the dogs. So, the work must continue.

The presentation of the report of the Electoral Boundaries Commission comes at a juncture where the credibility of our democratic institutions has been re-affirmed at the highest level. The unanimous dismissal of the case of Surendra Dayal vs Pravind Jugnauth & Others by the Supreme Court in 2022 and more recently, on 16 October 2023, by the Judicial Committee of the Privy Council, re-asserts the professionalism and competence of our electoral management bodies and electoral supervisory bodies in the organisation of free and fair elections.

The Lifetime Achievement Award conferred upon Mr Irfan Rahman by the International Centre for Parliamentary Studies, during the 19th International Electoral Affairs Symposium and International Award Ceremony held in November 2023, in Portugal, is another recognition of the remarkable job done by our independent bodies.

Mr Speaker, Sir, moreover, in the event that the recommendations of the Commission’s Report are adopted by the National Assembly, the Office of the Electoral Commissioner would ensure that the House to House Inquiry 2024, any subsequent

registration of electors' exercise and the voting process at the next general election is conducted smoothly, as has always been the case.

I am confident that truth will always prevail and the work of our democratic institutions will continue to speak for itself.

Thank you, Mr Speaker, Sir.

The motion was, on question put, agreed to.

Second reading

**THE SUPPLEMENTARY APPROPRIATION (2021-2022) (No.2) BILL
(No. XXII of 2023)**

Order for second reading read.

The Minister of Finance, Economic Planning and Development (Dr. R. Padayachy): Mr Speaker, Sir, I move that the Supplementary Appropriation (2021-2022) (No.2) Bill (No. XXII of 2023) be read a second time.

The object of this Bill is to provide for supplementary appropriation in respect of services of Government for financial year 2021-2022 for an additional sum of fifty million three hundred and fifteen thousand rupees (Rs50,315,000) under two Votes of Expenditure.

Mr Speaker, Sir, the National Assembly had initially voted a sum of Rs145.7 billion for financial year 2021-2022 through the Appropriation (2021-2022) Act 2021. During the course of that financial year, an additional sum of Rs9.5 billion was voted through the Supplementary Appropriation (2021-2022) Act of 2022 in June 2022.

Thus, the total sum already appropriated for financial year 2021-2022, amounted to Rs155.2 billion. The sum actually spent stood at Rs144.1 billion, that is, Rs11.1 billion below the total appropriation for that financial year.

However, actual expenditure under two Votes of Expenditure, namely, Vote 6-2: Foreign Affairs, Regional Integration and International Trade and Vote 13-3: Office of the Parliamentary Counsel, exceeded their appropriations by a total amount of Rs50.3 million. These excess spending were, in the first instance, met through reallocation of funds from Vote "Contingencies and Reserves" and other Votes of Expenditure that had unspent balances.

Mr Speaker, Sir, Section 105(3) of the Constitution stipulates that where in any financial year it is found that money has been expended on any head of expenditure in excess of the amount appropriated for that head of expenditure, then a Supplementary Appropriation Bill shall be introduced in the National Assembly to provide for appropriation of those excess sums.

Thus, although total actual spending in financial year 2021-2022 was significantly below the total appropriated amount, another Supplementary Appropriation Bill is required, in accordance with Section 105(3) of the Constitution, in respect of the two Votes that have exceeded their voted provisions.

Mr Speaker, Sir, this supplementary appropriation is required as follows –

- First, Rs 49.9 million under Vote 6-2: Foreign Affairs, Regional Integration and International Trade.

In fact, the excess spending under various expenditure items of this Vote amounted to Rs118.9 million as follows –

- (i) Rs39.3 million for the payment of wages to local-based staff employed in twenty-one overseas Missions;
- (ii) Rs22.4 million to cater for higher contribution towards international organisations;
- (iii) Rs19.7 million to meet costs associated with the implementation of PRB Report 2021;
- (iv) Rs18.8 million to cater for increase in other operating expenses.
- (v) Rs12.3 million to cater for increase in air tickets, transportation cost and refund of medical expenses for home based staff and Ambassadors, and
- (vi) Rs6.4 million for donations to four countries that were affected by natural calamities.

The total excess spending of Rs118.9 million was partly offset by underspending of Rs69 million under other expenditure items of this Vote.

Thus, a supplementary appropriation of only Rs49.9 million is required for this Vote.

Second, Rs0.4 million under Vote 13-3: Office of the Parliamentary Counsel mainly to cater for higher costs associated with the implementation of the PRB Report 2021. The House will recall that a sum of Rs1.7 billion was initially appropriated for the

implementation of the PRB Report under Vote 24-1: Centrally Managed Initiatives of Government through the Supplementary Appropriation (2021-2022) Act 2022.

However, this sum was not sufficient. As such, some Ministries and Departments had to meet part of the PRB cost under their respective Votes. For the Vote 13-3, the actual spending has exceeded the voted provision thus requiring a supplementary appropriation.

Mr Speaker, Sir, the two Votes of Expenditure requiring the supplementary appropriation are listed in the Schedule to the Bill together with the respective sums. Details on the items of expenditure concerned as well as explanatory notes are set out in the Estimates of Supplementary Expenditure which has also been laid before the National Assembly.

Mr Speaker, Sir, the budget deficit for Financial Year 2021-2022 was 5.6% of GDP. Public Sector Debt at end June 2022 stood at 85.9% of GDP, lower than the estimates of 91.4%.

With these remarks, Mr Speaker Sir, I now commend the Bill to the House.

Mr Gobin seconded.

Mr Speaker: I now call hon. Gobin!

(6.44 p.m.)

The Attorney General, Minister of Foreign Affairs, Regional Integration and International Trade (Mr M. Gobin): Mr Speaker, Sir, my very able colleague, the hon. Minister of Finance has provided all the required details before the House.

I will refer hon. Members to the Explanatory Notes as well as the Estimates of Supplementary Expenditure which have already been laid on the Table of the House. These documents provide full details on the reasons for the Supplementary Expenditure. I do not propose to add anything more.

Thank you, Mr Speaker, Sir.

(6.45 p.m.)

The Minister of Finance, Economic Planning and Development (Dr. R. Padayachy): M. le président, avant de démarrer mon propos, je tiens à saluer la prise de parole, juste et à propos, de mon collègue ministre, l'honorable Maneesh Gobin.

Comme je l'ai dit, je viens de le dire, le vote de ce budget complémentaire est nécessaire car deux crédits ont dépassé les montants initialement votés.

Je souligne par ailleurs qu'il est également d'usage d'introduire un Projet de loi de finances supplémentaire après que les comptes du gouvernement ont été vérifiés par le Directeur de l'audit. Étant donné que ces derniers ont été vérifiés et déposés à cette auguste Assemblée, il s'agit du dernier crédit à voter pour cet exercice, à savoir l'année financière 2021-2022.

M. le président, une partie des crédits que nous votons aujourd'hui est liée à la mise en œuvre du rapport PRB, avec lequel les dépenses réelles ont dépassé la provision votée. Malgré la situation difficile qui prévalait à l'époque, nous n'avons pas fui nos responsabilités. Nous avons mis en œuvre le rapport PRB dans son intégralité. Ces mesures ont donné un coup de fouet à la demande interne et stimulé l'activité économique dans ce pays.

M. le président, ce gouvernement a fait tout ce qu'il pouvait et tout ce qu'il devait faire face à la crise qui prévalait à cette époque et qui avait menacé la dignité socio-économique des ménages les plus vulnérables de notre société. A regarder en arrière, la question posée par George Orwell sonne comme un puissant révélateur de conscience et d'engagement –

« Et si le but poursuivi était, non seulement de rester vivant, mais de rester humain ? »

C'est avec force et courage, la raison précise pour laquelle ce gouvernement s'est battu.

Nous avons été et serons toujours aux côtés de la population, en particulier des plus faibles, afin d'améliorer leurs conditions de vie et leur bien-être. C'est la philosophie de notre Premier ministre, Pravind Kumar Jugnauth et de ce gouvernement.

Nous continuerons à être animés par cet esprit humaniste et progressiste. Aujourd'hui, demain et toujours.

Sur ces considérations, je vous remercie de votre attention et recommande à présent le projet de loi à l'Assemblée.

Merci.

Question put and agreed to.

Bill read a second time and committed.

COMMITTEE OF SUPPLY

(Mr Speaker in the Chair)

**ESTIMATES OF SUPPLEMENTARY EXPENDITURE (2021-2022) (No.2)
OF 2023**

&

**THE SUPPLEMENTARY APPROPRIATION (2021-2022) (No.2) BILL
(No. XXII of 2023)**

The Chairperson: Please be seated!

The Estimates of Supplementary Expenditure (2021-2022) (No. 2) of 2023 was considered and agreed to.

The Supplementary Appropriation (2021-2022) (No.2) Bill (No. XXII of 2023) was considered and agreed to.

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

Third Reading

The Supplementary Appropriation (2021-2022) (No.2) Bill (No. XXII of 2023) was read a third time and passed.

SEASON'S GREETINGS

The Prime Minister: Mr Speaker, Sir, before I move for adjournment of the House, allow me to say a few words regarding the business of the Assembly for this year.

Mr Speaker, Sir, parliamentary business over this year has been sustained with the participation and collaboration of one and all. As at date, we have had 36 Sittings. 23 Bills have been introduced in the National Assembly. Parliament has enacted 21 legislations. Government has replied to 873 Parliamentary Questions requiring oral answers and 12 requiring written answers.

Moreover, Ministers including my good self have replied to 25 Private Notice Questions from the hon. Leader of the Opposition. In addition, Government responded to numerous queries during the Committee of Supply of the Appropriation Bill and two Supplementary Appropriation Bills.

The House also debated and approved a Constitutional motion, standing in my name, regarding the Report of the Electoral Boundaries Commission on the Review of the Boundaries of the Constituencies.

Mr Speaker, Sir, in accordance with the provisions of Standing Order 68, two Sittings were dedicated to Private Members' business. I also wish to highlight that the National Assembly hosted the Third Edition of the National Youth Parliament, which provided an insight on the functions and operations of Parliament to some 76 young persons and afforded them a platform to discuss issues of national importance in a parliamentary setup.

Allow me, Mr Speaker, Sir, to convey my appreciation to you for the successful holding of the 54th Plenary Assembly Session of the SADC Parliamentary Forum, under the vice presidency of Mauritius in November last. The Assembly, which brought together some 130 delegates from the SADC region and Mauritius, including the Rodrigues Regional Assembly, deliberated on the theme: "The Role of Parliaments in Promoting Coordination for Enhanced Disaster Risk Reduction and Recovery Planning in the SADC Region."

Mr Speaker, Sir, I wish to thank you and the hon. Deputy Speaker for your dedication and valuable contribution over the deliberations of the Assembly. I also thank hon. Nuckcheddy, the former Deputy Chairperson of Committees, for chairing the Committee of Supply.

Mr Speaker, Sir, I thank all hon. Members for their participation in the proceedings of the Assembly. My thanks are also extended to the Acting Clerk and the staff of the National Assembly and all public officers for their contribution in the discharge of Parliamentary duties.

Mr Speaker, Sir, may I kindly request you, in my own name, and in that of all the hon. Members, to present the Season's Greetings to His Excellency, the President of the Republic and Mrs Roopun, and to His Excellency, the Vice-President of the Republic and Mrs Boissézon and their families.

Mr Speaker, Sir, I also convey to you and your family our best wishes for a Merry Christmas and a Happy New Year. My Season's Greetings are also extended to all the hon. Members of the National Assembly and their families, to the Acting Clerk, the two Clerk Assistants, the staff of the Assembly, the Serjeant-at-Arms and his officers, the Solicitor General and his officers, and to all public officers who have assisted in the work of the Assembly.

I thank you, Mr Speaker, Sir.

Mr Speaker: Hon. Members, I also convey my best wishes for the Season's Greetings to His Excellency, the President of the Republic and Mrs Roopun, to His Excellency, the Vice-President of the Republic and Mrs Boissézon, and their families.

In my own name, and on behalf of the Acting Clerk and officers of the National Assembly, I thank the hon. Prime Minister for his words of appreciation and the Season's Greetings extended to my good-self and to the staff of the National Assembly. I am pleased to convey my best wishes for a Merry Christmas and a Happy New Year to the hon. Prime Minister and to Mrs Jugnauth, and members of their family, to the hon. Leader of the Opposition and his family, and to all hon. Members and their families.

I join the hon. Prime Minister to thank the Acting Clerk, the two Clerk Assistants, all the officers of the National Assembly, the Serjeant-at-Arms and his officers, the Solicitor General and his officers, and the Parliamentary Counsel and her officers, and all civil servants who have assisted in the work of the Assembly, and I convey to them and their families my Season's Greetings.

I thank you.

ADJOURNMENT

The Prime Minister: Mr Speaker, Sir, I beg to move that this Assembly do now adjourn to Tuesday 26 March 2024 at 11.30 a.m.

The Deputy Prime Minister seconded.

Question put and agreed to.

Mr Speaker: The House stands adjourned!

At 6.58 p.m., the Assembly was, on its rising, adjourned to Tuesday 26 March 2024 at 11.30 a.m.