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**EMERGENCY MEETING
(FINANCIAL ACTION TASK FORCE (FATF) BILLS)**

FRIDAY 04 FEBRUARY 2022

MIXED VERSION

HANSARD NO: 204



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Friday 4th February, 2022

THE ASSEMBLY met at 9:00 a.m.

(THE SPEAKER in the Chair)

PRAYERS

* * * *

SPEAKER'S REMARKS

MR SPEAKER (MR SKELEMANI): Honourable Members, can we switch on your videos so that we can take care of the quorum.

...Silence...

MR SPEAKER: Order! Order! Honourable Members, good morning.

HONOURABLE MEMBER: Dumilani Mbidzi.

HONOURABLE MEMBER: Good morning Mr Speaker.

MR SPEAKER: Let us start our business today, continue with the second reading of the Criminal Procedure and Evidence Bill.

CRIMINAL PROCEDURE AND
EVIDENCE (CONTROLLED
INVESTIGATIONS) BILL, 2022 (NO. 1
OF 2022)

Second Reading

(Resumed Debate)

MR SPEAKER: Honourable Members, the debate on this Bill is resuming. When the House adjourned yesterday, Honourable Morwaeng had just concluded his debate. We have a list as I understand it, although the names have not been taken down for my benefit, I hope those who were on the list remember...

HONOURABLE MEMBER: It will be Honourable Reatile and Honourable Tshere on the opposite sir.

HONOURABLE MEMBER: Procedure Mr Speaker.

MR SPEAKER: I want to be sure that we follow what was on the screen yesterday. There were three Members or three slots for the opposition, and one for the ruling party. Yes, procedure.

MR TSHERE: Procedure. Yes Mr Speaker, and good morning. Yesterday Honourable Speaker *o ne a re go ya go tsena Mopalamente wa* Mahalapye West, we have since agreed that it is Mahalapye East, Honourable Boko should come in. Thank you sir.

HONOURABLE MEMBER: Ee, le a abelana.

HONOURABLE MEMBER: O *Speaker* wena, o abela wa ga lona fela?

MR TSHERE: Nnyaa, ke ya Mahalapye, re bua se Mahalapye fela, a re tsweng mo go yone.

MR SPEAKER: Honourable Boko, Mahalapye East.

MR BOKO (MAHALAPYE EAST): *Good morning Mr Speaker.* Ke tseye nako e gape go dumedisa le Mapalamente mo mosong wa gompieno.

Mr Speaker, re nnile le nako ya go lebelela Molao-kakanyetso o o fa pele ga rona, o o neng o tla ka Tona ka diamaramara. O e rileng o goroga ra supa re le ba Palamente ya kganetso gore, ga re dumalane sa ntlha le lepotlapotla le o tlileng ka lone. Ka go tlhoka lesego, kopo ya rona ya se ka ya atlega ka mabaka a gore re ne re le palo potlana. Wa feta wa tswelala pele fa o leng teng *Mr Speaker,* mme re ntse re na le dingongorego. Ka nako e re neng re o nganga mo Palamenteng, fa re nganga lone lepotlapotla le molao fela ka kakaretso, Mapalamente a phathi e e busang ba ne ba sa bone go na le botlhabetsi kana bothata gore molao o ka tla ka tshoganyetso ka tsela e o neng o tla ka yone. Ba sa bone Molao-kakanyetso wa teng o na le bope bothata ka nako ya teng.

Mr Speaker, re ne ra supa gore ga re itumelele eng ka re ne re o badile re o tlhalogantse, e bile re itse gore *the implications* tsa one e ka nna eng go yeng kwa pele *Mr Speaker.* Ra emelela *Mr Speaker,* ra bua le ba *the civil society,* batlhophi ba rona le botlhe mabapi le Molao-kakanyetso o, ra supa gore ke eng re sa o itumelele ka fa o neng o ntse ka teng ka nako ya teng.

Re itumelela go bona gore selelo sa rona se re neng re se lela kwa re neng re ba lelela teng, se ne sa tswa maduo, ka ba *the Law Society of Botswana* ba ne ba ntsha mokwalo wa go supa gore bone ba kगतलhanong le se Puso e eletsang go se dira, e bile ba ikaelela go ka ya kwa Makgotlatshekelong go ya go seka kgang e, gore molao o o se ka wa diragadiwa. Ke tsaya nako e go rolela hutshe ba *the Law Society of Botswana* ka tshwetso e ba e tsereng.



Ga se bone fela *Mr Speaker*, le lekgotla la babegadikgang le ne la supa gore molao o ga le o sale morago, kana ga le o tseye tsia, kana ga le dumalane le one. Le bone fela jalo ba tlhalosa gore ba tlaa ikanapa, ba tlaa tsena mo dipateng tsa bone, ba tlaa kopa madi kwa ba a kopang teng, go bona gore molao o o ka se ke wa kgona go ka fetisiwa. Re ne ra bona *the Chairperson* wa Botswana Editors Forum, Rre Spencer Mogapi a kopane le ba mafatshe a sele, *the ambassadors* ba mafatshe a sele go romela molaetsa kwa go bone gore a ko le lekeng go bua le Puso ya Botswana mabapi le molao o. Re a ba leboga ba Botswana Editors Forum.

Ba makgotla a babereki, Botswana Federation of Public Private and Parastatal Sector Unions (BOFEPUSU) gareng ga a mangwe, re ne ra bona ba ntsha mokwalo ba tlhalosa gore molao o o *regressive*, o gataka *the Constitution*, gore ga go na *consultation* le gore o gataka puso ya batho ka batho *Mr Speaker*. Re ba rolela hutshe. Ke rolela gape le baruti ka le bone ba ne ba ntse ba bua ba tlhalosa gore molao o, ke wa matimone, botlatlapi e bile ke dilo fela tsa botsukunapi tsa phathi ga Domkrag. Ke rolela hutshe botlhe ba ba re thusitseng gore molao o o se ka wa fetisediwa ka tsela e ba neng ba eletsa go ka o tliša ka teng.

Mr Chairperson, mo nakong kana mo malatsing a a fetileng, re bone gape Moeteledipele wa Diphathi tsa Kganetso mo Palamenteng, Motlotlegi Rre Dumelang Saleshando a tsaya nako ya gagwe a kwala lekwalo la ditsebe tse pedi, ke a dumela fa ke gakologelwa sentle, a le kwalela kwa Financial Action Task Force (FATF). A tlhalosetsa ba FATF gore, “re thuseng ka kwano, kana Puso ya Domkrag ya re ke lona le ba reetseng le re ba dire molao o ka fa ba o dirileng ka teng. Ke le Moeteledipele wa Diphathi tsa Kganetso e bile ke le Mopalamente, ke romilwe ke batlhophi go ka sireletsa ditshwanelo tsa bone gareng ga tse dingwe, re itemogela fa molao o o gataka *the right to privacy*. Re itemogela fa molao o o gataka Article 12 of the United Nations Declaration of Human Rights, *in light of the fact that this law is arbitrary and interferes with the right to privacy.*” A ba a botsa gore ke eng Puso ya ga Domkrag e batla *to intercept the communications* tsa *the citizens* kana tsa ope fela yo o tlaabong a le mo lefatsheng la Botswana? Le ene Rre Dumelang Saleshando ke a mo leboga, ke mo rolela kuane. Ke mo rolela hutshe gore o ne a itshupa e le moeteledipele mo dinakong tse di thata tse re tsheleng mo go tsone ka go kwala lekwalo leo go le isa gone koo gore e re kamoso fa molao o o ka feta, mme ene a tsoge a ema fa pele ga batho a re nna mme ke

ne ka supa maikarabelo a a kwa godimo. Ke ne ka kwala lekwalo, ke ne ka dira tsothle tse ke tshwanetseng gore ke di dire ke le Moeteledipele wa Diphathi tsa Kganetso mo Palamenteng.

Mr Chairperson, re fano gompiano re utlwalela fa go na le *amendments* tse di tlišitsweng, tse e rileng maabane ba *Party* ya ga Domkrag bangwe, ba itshupa fa bone e le batho ba ba reetsang, ba tlhaloganya, ba e reng fa go na le selelo ba se reetse, ba se diragatse. Re a itse gore moo e ne e le maithamako, go ne go sena boammaaruri mo teng. Ke lebaka fela la gore rona we *stood our ground, we did what we were supposed to do. We have the support from the civic society and international bodies*, ke sone se o bonang ba boetse molao o morago. Le ba ba saleng ba itsile ka one bo Rre Mmusi, ba dumela mo go one, o e rileng fa re o *debate* lantlha ba se ka ba supa fa go na le makgwere mo go one.

HONOURABLE MEMBER: Clarification Honourable Boko.

MR BOKO: Granted, through you Mr Chairperson.

MR HIKUAMA: *On a point of clarification.* Ke a leboga *Honourable Chairperson*. Ke a leboga *Honourable Boko*. Ke utlwa jaaka o bua e bile o supa gore Mapalamente a ga Domkrag a ne a sa dumalane le se re neng re se bua. A mme wena ka go bona le kutlwisiso ya gago, o dumela gore batho ba ba a tle ba bale molao fa o beilwe pele mo Palamenteng kana ba dumela fela gore fa o dule kwa Pusong, ke gore o siame? A ba a tle ba bale, ba bone gore bosula bo fa kae, bomolemo bo fa kae fa o ba reeditse fela ba bua?

MR BOKO: Go na le lefoko le lengwe le ke a tleng ke le dirise, ke le dirisitse fa ke simolola Palamente, e le gone ke gorogang, ka itemogela gore batho ba *Party* yooradomkrag ke batho ba ba ntseng jang. Ke dirisitse lefoko la gore *they are ‘sing-alongs.’* Ke gore fa Tautona a re *do-re-mi-fa*, le bone ba re *do-re-mi-fa*, ga ba lebelele gore *do-re-mi-fa* o o ne a tswa fa kae. Fa pina e tlhabeletswa kwa Ofising ya ga Tautona, ba a tseeletsa botlhe ka mantswe a a magwata, fa gongwe ka a a sukiri, a fa gare, *alto*, gareng ga a mangwe. Ga se batho ba go ka tlhodumela go ka sekaseka, go ka iponela gore a mme se re se beetsweng fa pele ke sone. O fitlhela ke ba tshogela ka gore nako nngwe Tautona o tlaa ntsha molao otlhe wa gore Mapalamente otlhe a Domkrag a bolawe, ba ya go dumalana gore ba bolawe, ba tlaa lemoga kwa morago gore *to follow* rre yo go ne go tewa ka tsela e e ntseng jang. O fitlhela ke ba tshogela *Honourable Member*.



Bagarona, re gone fa gompiano fa e leng gore rona jaanong re utlwalela fa go na le *amendments* tse di tlaa tlisiwang pele mme re a leboga gore lentswe la rona le utlwetse. Jaaka ke tlhalositse, ke ne ke leka go leboga ba ba re thusitseng. Ke tlhalosetse Batswana gore ba se ka ba tsaya gore golo mo e ne e le kakanyo ya bone ba Domkrag, nnyaa, e ne e le ya lona Batswana koo; lona Batswana ba ba kwa Mookane, Mmaphashalala, Palla Road, ba kwa dikgaolong tsotlhe tse di teng mo Botswana. E ne e se maiteko a Mapalamente a ga Domkrag.

HONOURABLE MEMBER: Elucidation.

MR BOKO: Granted Mahalapye West.

MR TSHERE: *On a point of elucidation. Thank you very much Honourable Chairperson and thank you Honourable Boko. Kana kgang e o e buang e o e boelela e bile, ya gore kana gatwe go na le amendments, rona re le Mapalamente gone jaana re debate molao o o sa baakanngwang. Re ka tswa fa ra ya go tlhophya gore jaanong molao o o sa baakanngwang, o o reng batho ba reediwe on phones for 14 days, gotwe go nne le identities tse di rileng tsa maitirelo, kana ke one o re yang go tlhophya mo go one. Ga ke itse gore a o raya gone moo gore ka gore maDomkrag ba kgona gore ba ipolaye e le bone fela, gore o tlaa tla o bona go tlhophiwa, ba tlaabo ba tlhophya ba re ee one molao o ba ntse ba itse gore ga o ise o baakanngwe. Do you not see this as fraud Honourable Boko? Thank you.*

MR BOKO: Ke dumalana le wena *the Member of Parliament for Mahalapye West* gore re tlaabo re tsena fa re tswa gone fa re tlhophya molao ka fa o ntseng ka teng, ka fa o saleng o tlisiwa ka teng. Batswana kwa Tshikhinyega le Mowaneng, ga ba itse ka *amendments* tse e leng gore gatwe di tlaa nna teng.

HONOURABLE MEMBER: Clarification.

HONOURABLE MEMBER: Mo tlhokomologe yoo, tswelela.

MR BOKO: Nte ke mo neele, mme fela fa a ka bua botlhale *Mr Chairperson, I am giving him on the condition that o tlaa bua botlhale. Granted.*

MR MANGWEGAPE-HEALY: *Clarification. Thank you Mr Chairperson, good morning! Thank you Honourable Boko, tsala ya me batho. Ke ne ke bona o kare jaaka o ntse o bua, ka ke go setse morago listening attentively, o ne o supa fa o ntse le... because of the*

protests and other things from different artists, o lemoga gore Tona Mmusi o dirile diphetogo dingwe, e bile o lebogela ba ba neng ba thusa ka pressure eo. Jaanong ke bona o kare Honourable Tshere o go busetsa kwa morago because what he is saying now is inconsistent with what you have been saying. Kana wena o lebogela gore pressure has worked and there are going to be significant changes tse o dumalanang le tsone. Jaanong ke bona o kare Honourable Tshere o santse a le mo tereneng e e kwa Mahalapye mme wena o mo Gaborone. Ke ne ke re can you reconcile with that? Thank you.

MR BOKO: Go a supafala tota gore o ne wa tshaba sekole, o ka se ka wa itumelela gore le fetotse melao ka mabaka a *pressure* e e tswang kwa ntle. *I think go rurifatsa yone kgang e ke saleng ke e bua bogologolo ya gore maDomkrag ba na le leshekere la dikakanyo. Leshekere la teng le ntse le a itshupa ka matsatsi le matsatsi gore bone fa e le sengwe, ba kampa ba act on the pressure from outside, they cannot think for themselves. They cannot come up with laws tse di ka tsayang lefatshe la ya golo gongwe. Ba tshwanetse go emela go ka thaselwa, go nna le pressure e e tswang kwa ntle.*

Ke tswelela *Mr Chairperson*, ke lebile *amendments* ke le nosi, batho ba kwa Mahalapye ga ba ise ba di bone mme ke di ba lebetse, le fa ke ise ke kgone go nna le nako ya go ka di buisanya le bone. *What are the safeguard measures that have been put in place, post the intervention ya the civic society le botlhe go tswa kwa ntle, le rona re le Mapalamente? Mr Chairperson, go tlhalosega gore kana this application e tlaabo e le an ex parte application. 'Ex parte' e raya gore bone e le Puso ba tlaabo ba tla go sena mongongoregi mo teng, ba ya kwa lekgotlatshekelong go ba raya ba re dira ka tsela e e ntseng jaana le jaana because re bone information e e ntseng jaana. Lekgotlatshekelo le bo le tshwanelwa ke to act on the strength of what they are saying.*

Mr Speaker, there is room to testify the evidence or to test the evidence in this application e e tlaabong e dirwa e le ex parte. Ex parte ke tlhalositse gore go tewa eng Mr Speaker. Go raya gore the Judge will be acting on some degree of faith that will be put on the applicant or the integrity of the applicant.

HONOURABLE MEMBER: Clarification, Honourable Boko.

MR BOKO: Ke a go neela *but* ke kopa o bue botlhale le wena.



ASSISTANT MINISTER FOR PRESIDENTIAL AFFAIRS, GOVERNANCE AND PUBLIC ADMINISTRATION (MR MTHIMKHULU): Clarification. Honourable Boko, as a lawyer, *o dumela gore* the current procedure that was envisaged under this Bill...

HONOURABLE MEMBER: Procedure Mr Speaker.

HONOURABLE MEMBER: O a bo a simolola, heish!

MR BOKO: I hope the time has been frozen Mr Speaker.

MR SPEAKER: The clock is frozen Honourable Boko.

LEADER OF THE HOUSE (MR TSOGWANE): *Procedure.* Ke a leboga. Ba ba reng, “o a bo a simolola,” ke ba ba sa lalang fa, le ba tlhokomologe. *Mr Speaker,* Boko o ntse a neela batho *on condition.* Jaanong ga ke itse gore a *condition* e ya gore “ke a go neela, o bue botlhale,” tota a ke se se amogelesegang mo ditsamaisong tsa Palamente e gore fa o neelwa o bue botlhale? E le gore batho ba, o na le *suspicion* ya gore ga ba botlhale kana jang?

HONOURABLE MEMBER: O a ba kgothatsa.

MR BOKO: Mma ke tswelela *Mr Speaker.* Ke a lemoga gore Motlotlegi Mothusa...

HONOURABLE MEMBER: A mme o feditse motho yo o neng o mo neetse, o mo kopile gore a nne botlhale?

MR BOKO: Ee, tswelela Mthimkhulu.

MR MTHIMKHULU: Ee, *as an attorney Honourable Boko,* o itse ka *the provisions that are in the Criminal Procedure and Evidence Act tsa search and seizure.* Ke batla go go botsa *number one; are those provisions as they stand, not intrusive in the privacy ya individuals? Secondly, those provisions a ga se tsone tse di tshwanang le tse di under this Act like the interception of communication ka fa di beilweng ka teng under the current Bill? A ga di tshwane kana ga di tsamaelane? Let us contrast melao e, gore a ba ne ba le kgakala thata le molao which exist, being the Criminal Procedure and Evidence Act kana e ne e bapile e tshwana fela? Batho ba tsenwe ke tsebetsebe ka gore ba ya go reediwa mo megaleng mme the concept ya the search and seizure without the suspect knowing is still contained in the current laws of Botswana as they stand now.*

MR BOKO: I do not know which provision you are referring to. I have the Criminal Procedure and Evidence Act here with me.

MR MTHIMKHULU: Section 52.

MR BOKO: *Yes, I will go to Section 52 because I have here with me the Act. Ke ise ke ye kwa go yone, ke e bone “search by the police without warrant; if a police officer of the rank of Sergeant, blah-blah-blah.” Go na le pharologanyo honourable ka gore fa batho ba tlaabo ba reeditse and search most of the time e diragala in your presence, o bona gore go diragala eng, go tsewa eng, e bile ga go tsewe eng. E bile o kgona go nna le nako to conceal certain properties jaaka se se tsewang mo go wena kana wa ikgabetsa ka tsela epe. Fa o reediwa o bua, ga go na ka fa o ka ikgabetsang ka teng ka gore o a bo o sa itse gore o reeditse. O a bo o bua o phuthologile, fa gongwe o bua dikgang tse di siameng tse di senang mathata le ba o tlaabong o bua le bone. There is a huge difference between search by police without warrant in terms of Section 52 of the Criminal Procedure and Evidence Act le ya gore o bo o reeditse o bua se o tlaabong o se bua mo megaleng wa gago Honourable Member.*

Mr Speaker, fa ke tswelela, tota kgang ya me nna e ne e le selelo seo gore fa go tla *application* kwa go *Judge,* e dirwa ke ba ba tlaabong ba e dira ene a seyo, o kare mo seemong se ga go a lekana sentle. *Judge* o tlaabo a dirisa *evidence or relying on the degree of faith that has to be put on the applicant le integrity ya gagwe ya gore mme motho yo o ka se ka a nna maaka kana o ka nna maaka ka tsela e e ntseng jaana. Ke sone se o bonang go tlhokafala gore Puso e batle mongwe yo e leng gore can come and prove some interrogations in the submissions ya the applicant in this application. I do not know how best we can do it but ke a itse gore go na le mo ba etleng ba go tlhalose ba re, a ‘friend of court’ kana ka SeLatin ba re ke an amicus curiae ka tsela e e ntseng jalo. I think we need some form of an amicus curiae in such applications. Ke dumela gore Tona o tlaa bona gore go ka diragala. It might be a costly exercise because we do not know how many times these applications should come before court but to protect the respondent yo o tlaabong a seyo ka nako e go tlaabong gotwe court, re kopa go reetsa megala ya ga Rre Boko, o kare o botlhabetsi mo Pusong.*

HONOURABLE MEMBER: Clarification Honourable Boko.

MR SPEAKER: Thank you very much Honourable Boko, your time is up!

MR BOKO: Thank you Mr Speaker. 20 minutes is up?



MR SPEAKER: Yes, your time is up!

MR REATILE (JWANENG-MABUTSANE): Mr Speaker...

MR SPEAKER: The floor is yours.

MR REATILE: Oh! Thank you my leader.

DR TSHABANG: Procedure Mr Speaker. Sorry Mr Speaker, procedure.

MR SPEAKER: Ba tlhasetswe ke ditlou kwa Nkange?

DR TSHABANG: No.

MR SPEAKER: What is your procedure?

DR TSHABANG: Procedure. Go tsena *one* ya *opposition then two* ya Botswana Democratic Party (BDP), jaanong ke bona o tlhomaganya *opposition* fela mme go ntse go na le motho wa BDP *on the line*.

MR SPEAKER: That is not a point of procedure.

MR REATILE: *Mr Speaker*, mma ke leboqe go bo o mphile sebaka le nna ke tle ke akgele mo molaong o Tona Mmusi a re o beileng pele mo Palamenteng ya gago e e boitshepo e. Ke tshwanetse ke simolole fela ka gore Motswana o tshwanetse a itse gore re letse mo tebelelong mo Ntlong e. Re letse mo tebelelong ya puso ya batho ka batho mo letsatsing le le letseng le phirima la maabane. Re kgaogane masigo a kgaogana, mme kgangkgolo re lala gare jaana e le gore *Honourable* Mmusi, molao mongwe le mongwe o o tlang fa pele ga Palamente, Mopalamente o o leba ka matlho a a mabedi. Leitlho la ntlha ke go leba gore a molao o, ke o o tlaa sireletsang batho ba ba ntlhophileng? Leitlho la bobedi ke le a tshwanetseng a lebe molao o gore a ke o o tsuololang ditshwanelo tsa ba ba ntlhophileng? Fa e kare a o leba, a bona e le o o sireletsang batho ba ba mo tlhophileng, e bile o sireletsa le seriti sa bone, ga o tsuolole ditshwanelo tsa bone, o o ntseng jalo o opela mogolokwane, o a feta.

Ke sone se o boneng molao o o tla *Mr Speaker*. Ke simolole ke re, ga go na ope yo ke dumelang gore e kare e le moagi, e bile e le Motswana, e le Mopalamente, a dumela gore Batswana le Botswana a se ka a sirelediwa ka sengwe le sengwe se se tlhokafalang ka fa semolaong. E bile ke sone se e leng gore Batswana ba ntse ba batla molao o. E rile ba bona o tsenelela o gataka ditshwanelo tsa bone, o bo o di tsuolola, ga nna le selelo se segolo se se utlwetseng kwa Marah. Ke sone se gompiano jaana

Tona a neng a bona a wa dintshi gore selelo sa bana ba Modimo ga se ka ke sa lelwa jaaka se se kileng sa lelwa ke bana ba kwa Marah. Ke sone se gompiano jaana re leng fa ka sone. Kgangkgolo fa *Mr Speaker*, re tshwanetse re itse gore fa o sekaseka se Tona a tlileng ka sone... Gongwe pele fa ke tlaa tswelela ka kgang ya me, ke supe gore re na le *universal declaration of human rights*. Fa o ka tsaya *Article 12* ya teng *Mr Speaker*, fa ke e nopola ka tetelelo ya gago motlotlegi...

MR SPEAKER: Please do.

MR REATILE: *Article 12 Mr Speaker*, e bua jaana le baagi ba lebope ya re, "*no one shall be subjected to arbitrary interference with his privacy, family or home or correspondence, not to the attacks upon his honour and reputation. Everyone has their right to protection of the law against such interference or attacks.*" Ke sone se e leng gore fa ke bua gore o lebelela pele gore a molao o tlaa sireletsa moagi kana e bile o tlaa tsuolola ditshwanelo tsa gagwe, re tshwanetse re bone pele gore a re tsamaya re le mo tseleng ya se *Universal Declaration of Human Rights* e buang ka sone. Ke sone se re tshwanetseng go bona gore a molao o re o dirang re tle re fete, e bile le rona re tle re ye go kokomala kwa United Nations (UN), re utlwe gore tse di tshwanetseng ke dife, tse di sa tshwanelang lefatshe la rona ke dife. Ke sone se re simololang gone foo.

Mr Speaker, a re tswelela ka molao o o ntseng jaana, o re fitlhetseng e le gore Tona ga a o tliša, o ne o bifela seriti sa Motswana ka ditsela tsotlhe tse o ka di kgonang. E le gore o nyenyafaditse *courts* tsa lefatshe la Botswana, go ne go sena jaaka re le ba kganetso, re ka emang re bo re letsa megolokwane, ba bangwe ba ba itseng go boka, ba bo ba tswelela ka maboko. Re ne re tshwanetse go kopana ka kutlobotlhoko e e feletseng, re bone gore letsatsi la puso ya batho ka batho, le phirimile mo *the 12th Parliament* mo lefatsheng la Botswana.

Ke sone se se dirileng gore go nne le go bokolela mo go kana, mo e salang go lala go kuiwa bosigo le le mo tebelelong gotwe ba kganetso ba ne ba bokolela. Go boammaaruri re ne re bokolela, re bokolelela go bona banna le basadi ba tsere tshwetso ya go nyeletsa puso ya batho ka batho mo lefatsheng la Botswana. Ke sone sebokolelo segolo se re neng re se dira.

Mr Speaker, ke utlwaetse gore *Honourable* Mmusi maabane o tla ka dipaakanyo, mme e bile ke tshwanetse ke supe gore ke bone gore *he has noticed them*. Jaanong ga go na jaaka e kare ke eme fa mo motsotsong one o,



ke bo ke re ke *support* Molao-kakanyetso o o leng mo tafoleng. Ka gore ga go itse sepe ka fa tsamaisong ya lefatshe la Botswana le tsamaiso ya Ntlo e, gore e re fa melao e e sena go feta, fa re re lebeletse *amendments* tse *Honourable* Mmusi a re di solofeditseng, a bo a re *Mr Speaker* indeed, I have noticed *amendments* tse di ntseng jalo jaanong ke di *withdraw* tsotlhe, ga ke sa tlhale ke tswelala ka tsone, ga go na jaaka ke ka *support* molao o o ntse jaana, ke tlaa ya go o *support* kwa *Committee Stage*, e le gore *Honourable* Mmusi jaanong o setse a baakantse melao, o tlotla seriti sa moagi wa lefatshe la Botswana ka sengwe le sengwe. Ke gone jaanong ke tlaabo ke tsena, ke simolola go o *support*. Gompiano ke emetse fa go o kgala, e seng sepe gape. Gore ga go na ope yo o ka...

HIS HONOUR THE VICE PRESIDENT (MR TSOGWANE): *Clarification. Thank you Mr Speaker.* Tanki Rre Reatile, Mopalamente wa Jwaneng-Mabutsane. Ke ne ke re ke go utlwa sentle, ke tlhaloganya se o se buang sentle. Ke ne ke batla gore o re fetise fa, kana ka fa o reng tota gone molao o, *amendments* o dumalana le tsone, di botoka di ka thusa, mme ga o dumalane le molao jaaka o ntse, mme ga o na go o fetisa. Kana ditsamaiso tsa Palamente ke gore *amendments tseo* ga di ka ke tsa tsena fa molao o o sa feta gore o ye kwa *stage amendments*. Jaanong gone fa noka e o ya go e tlola jang *honourable*, gore re tle re kgone go tsenya *amendments*?

HONOURABLE MEMBER: Ke sone se re reng *he could have withdrawn this Bill* a bo a e *gazette* sesha.

MR REATILE: *Thank you Mr Speaker.* Kgang e e motlhofo *His Honour the Vice President (VP)*, e ne e le gore re bo re netefaditse gore *Honourable* Mmusi a bo a kopile fela ka gore re ne re tla ka *Certificate of Urgency*. A bo a ya go kopa *Mr Speaker*, gore ke batla go *polish Bill* e gore bagarona ba se ka ba nna le lesokolela, jaanong ke *submit* e gore *amendments* tse ba bone gore ke setse ke di *incorporate* mo molaong, ke se ka ka re ba fetise molao o Motswana mongwe le mongwe a nang le setlhabi ka one, a bo e re kwa *Committee Stage*, ke bo ke ba solofetsa gore ke tlaa tla ke o *amend*. Ke sone se gompiano ke palelwang ke gore ke a o dumela ka gore ga ke itse gore o bataletse go le kae morwa Mmusi, monna wa Mohurutshe. Ga ke batle go batalalelwa *Mr Speaker*.

MR RAMOGAPI: *Elucidation. Thank you Mr Speaker.* Ke a leboga Rre Reatile. O bua kgang e e bothokwa thata e Botswana ba tshwanetseng go e itse,

ba bo ba e tlhaloganye gore kana molao fa o dirwa, o re o buisanang gompiano, ke o re o amogetseng ka *Certificate of Urgency*, o o reng Botswana ba reediwe fa ba bua mo *cell phones* tsa bone, e bile *they can be searched* fela go sena *warrant*. Ke one o o fa pele ga rona. Jaanong o o akantsweng o, re ya go o bona fela kwa *Committee Stage* o e leng gore ga o yo gone fa. Ga o ise o nne teng fa, ke dikakanyetso tsa ga Tona fela gore nnyaa, re tlaa tla re ya go baakanya. Jaanong o e tshwere fela sentle ka botswere, mme e bile o gatelele thata gore kana tsone dipaakanyo tse Tona a tlang ka tsone tse, o tla ka tsone ka lebaka la gore *opposition* e gotweng ke *opposition* e a busa. Ke dikakanyo tsa *opposition* tsone tse. Ke a leboga.

MR REATILE: *Thank you Honourable Ramogapi.* Kgang ke yone eo *Honourable* Ramogapi. Kana *Mr Chairperson*, tota kganggolo e ne e le gore re le Batlotlegi Mapalamente ba kganetso, dikereke, *unions, lawyers* le bobegadikgang, selelo segolo re ne re batla *remedy*, gore mme fa e le gore molao o *is addressing*, jaanong ra re *remedy* e ka nna eng mo mothong e le Motswana a dumela gore ditshwanelo tsa gagwe di gatakilwe, mme ke yone kgang ya konokono, *not* gore Motswana a se ka a re fa a tsamaya jaana, a bo a sireletsegile. Gompiano jaaka go tlhokana le gore go ka nna le Motswana ka gore re a bona gore bana ba lefatshe la Botswana, bokamoso le babusi ba kamoso, ba ka bonala ba nyelediwa ke diritibatsi tse di gobeyang mo mebileng, tse di tletsetletseng gongwe le gongwe, mme batho ba teng ba sa tshwarwe, le fa re utlwalela gore ba bangwe ba a ne ba tshwarwa, go bo gotwe *no, drop case* eo, motho yo le se ka la mo sekisa, mme gone ke dikgang tse di ngomolang pelo, ga go na jaaka re ka tla mo Palamenteng, re bo re re mapodise a sephiri a se ka a dira tiro ya bone ka manontlhotlho le ka matssetseleko a a rileng.

Mr Speaker, ke batla gore fa ke bua ka *remedy*, ke bue gape ke *quote Universal Declaration of Human Rights, Article 8* ya teng, ke bo ke tswelala le kgang ya me *Mr Chairperson* ka gore ke a bona gore ke setse ka *nine minutes*.

MR SPEAKER: Yes Honourable Member, go ahead.

MR REATILE: *Thank you Mr Speaker.* Ya re, “everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted by the Constitution or by law.” Jaanong ke sone fela se re neng re se kopa gore a re bone gore re tsamaya *in compliance* le *Universal*



Declaration of Human Rights, re lebeletse ka fa lefatshe le tsamayang ka teng. Re se ka ra nna *contrary* kwa re saenneng teng.

Ke sone se gompiano jaanong re leng fano ka sone. Ke sone se o bonang re tlhodumela go bona gore a mme molao o, *Honourable* Mmusi, a o ne a sekaseka gore a ga o thulathulane le dikgang tsa molao wa boditshabatshaba ka gore bone ga ba re direle melao, ba a re *guide* gore e re fa le dira molao, mme le lebeleleng gore tse di latelang, le felela le di sireletsa mo melaong ya mafatshe a lona. Le UN ga e re direle molao re le mo Botswana, mme fela re le neela *guiding principle* gore ditshwanelo tsa motho di a sirelediwa, e bile le dithoto tsa gagwe di tshwanetse go sirelediwa ke Puso, mme leka gore dilo tse go nne le *balance* ya teng. Ke sone se gompiano re leng fano *Mr Speaker*.

Why re tshwenyega thata ka dikgang tsa *remedy Mr Speaker*? Re tshwenyega ka tsone ka gore re na le *experience*. Re bone maabane jaana, re na le dikgang tse tsa bo P100 *billion*. Ke ile ditlhophong ka 2019, ke dumela gore P100 *billion* o golo gongwe, re tlaa tla re mo neelwa, re ya go tlhabolola dikgaolo tsa rona o utswilwe. E rile fa letsatsi le ntse le tlhatloga, ga supafala gore re ne re itlhamela, re le kwa madisong, ga go na gope kwa P100 *billion* a kileng a utswiwa teng, le ene P100 *million* fela, re sa bue ka *billion*. So jaanong tsone dilo tse, potso e bo e nna gore fa re dira molao o o setlhogo jaana, re setse re na le *experience* ya 2019, o tlaabo o re o raya Botswana o re o ba tsholetse eng fa o tsena kwa gae? O tswa go ba direla molao o o ntseng jang? Ke gone fa bothata bo leng teng.

Ke gopola mongwe wa babegadikgang yo o neng a kwala ka nna thata ka ditlhopho tsa 2019, a supa gore ga ke motho ke Judas, ke rekisa lefatshe la Botswana. Maabane o ne a nthaya a re, “mokaulengwe kana golo mole re ne re laelwa gore re kwale jang, bona gore gompiano go diragala eng,” ke mo raya ka re, gakere ga ke ise ke nne lefufa le wena, ke ne ke itse gore o sedirisiwa mokaulengwe, o a dirisiwa, mme letsatsi la tsogo le tlaa tlhaba, jaanong fa le go tlhabetse, ke a leboga.

Re ne re batla dikgang tse di ntseng jaana *Mr Speaker*, ka gore fa re ya go bua ka *assumed identity*, mafatshe a Europe a tlaa felela ba tsaya *stand* sa gore Botswana ga e goroge kwano. Fa re sa tla go le *detailed* gore *assumed identity* e ya go dirisiwa go ntse jang, ka mabaka a a rileng, mme e bile *it can be withdrawn* mo lebakeng le le kae. Ke sone se re neng re bona gore Botswana e tlaa

re fa ba re ba tsena kwa Europe, Australia le America go bo gotwe *no*, ba le itse gore ke ba ba *fake*, ga se maina a bone, Botswana e dirile molao wa gore Botswana go na le *fake identity* tse dintsi. Yo o batlang go emelela fela o a tsamaya o ya go e reka.

MR MANGWEGAPE-HEALY: *On a point of clarification. Thank you Mr Speaker. Thank you Honourable Reggie.* Gongwe o ka re fatlholola fa gore, gone kwa mafatsheng a o buang ka one ao, batsayaditlholwa ba bo Central Intelligence Agency (CIA), MI6, Federal Service Security (FSB) kwa bo Russia, bone fa go tlhokafala gore ba nne le *an assumed identity*, thulaganyo ya teng e bereka jang? Ba na le molao kana ba itirelela fela? Ke a leboga.

MR MATHOOTHE: *On a point of clarification.* Ke ne ke batla gore o mphitise fa *Honourable* Reatile, gore fa o tsaya kgang e ya 100 *billion*, ya madi a a nyeletseng, yo o neng a na le tshiamelo ya go ka tlhothomisa sentle *between the* Directorate of Intelligence and Security (DIS) *and the* Financial Intelligence, ke mang?

MR REATILE: *Thank you. Honourable Healy,* o boditse potso e e maleba mokaulengwe. Potso e ya *assumed identity* e gongwe le gongwe mo bathong ba *intelligence*. Jaanong rona *the way* Tona a e kwadileng ka teng *is open-ended*. Ga go na gope fa go supang gore e ya go ntshiwa ka mabaka afe. Gompiano *when we invite* gore fa a re o ya go dira gore *court* ya lefatshe la Botswana e bo e le gore jaanong ke yone e e yang go tlhatlhaba, *he or she applies* kwa *court*, batho ba mafatshe ao ba tlaa bona gore tsamaiso e e kwa go bone, le kwano jaanong *we have introduced it*. Ba tlaa simolola ba itse gore ga re di reke *assumed identities* tsa teng, jaaka mafatshe a mangwe a Africa a tumile ka tsone. Go bo re na le yone ga go molato, *but the process* ya gore o e bona jang ke gone e neng e le matlhabisaditlhong *Honourable* Healy.

Honourable Mathoothe, kgang ya 100 *billion*, motho yo o letsang phala la ntlha ke Financial Intelligence Agency (FIA), a re ke bona *transactions* tse di ntseng jaana le jaana. Ke ene yo e leng gore jaanong o tlaabo a simolola *compiling information* yotlhe, a bo a ya go kopana le ba Botswana Police, ba feta ba ya go kopana le ba Directorate of Public Prosecutions (DPP), ba aga kgang ya bone go bo go iwa kwa *court*. Jaanong o kgonne go bona gore mo go 100 *billion*, go ne go sena fa FIA e leng teng. Fa o re o botsa ba Directorate on Corruption and Economic Crime Directorate (DCEC) ga ba itse le fa e le sepe. O re o botsa ba *police*, ba tsenya tlhogo. Ba ba neng ba itse fela e ne e le DPP le DIS.



HONOURABLE MEMBER: Le yone Bank of Botswana e sa itse.

MR REATILE: Le Bank of Botswana e sa itse, le ba Botswana Accountancy Oversight Authority (BAOA) ba sa itse, ba ba okametseng *auditors* tsoatlhe mo Botswana. E le lantlha ba utlwa dikgang tse di ntseng jaana. Golo mo e ne e le *international embarrassment of the highest order* Mr Speaker mo lefatsheng la Botswana e e diragaletseng.

Ka go rialo re bo re dira eng, re bo re tsaya tshwetso ya gore re simolola re nopola Mme Welheminah Maswabi gore *we declare her a terrorist*, ka fa dipampiri tsa *court* di kwadilweng ka teng. *Resolution 1373 Mr Speaker* e e neng ya tsalwa ke *resolution* ya di 28 tsa ga *September 2011* e supa gore, lefatshhe le e leng gore *has picked a terrorist*, le tshwanetse le felele *sharing* le mafatshe a mangwe *and report* le kwa UN gore re kwano, *we have picked terrorists*. Bo Isaac Kgosi, Rre Khama, batho ba e ne e le gore re ye *to submit them* kwa mafatsheng a re bapileng le one, le kwa UN, ba itse gore batho ba ke *terrorists*, ga se ba ba ka bapadisanang le bone, le bone ba ba tsenye mo *radar*. Jaanong re dirisa mafoko a a *very strong loosely* mo lefatsheng la Botswana, *tarnishing and destroying the image* ya Batswana ba bangwe ba ba solofetseng *protection* ya *liberty* e e rileng go tswa mo Pusong.

Mr Speaker, re tshwanetse gore dikgang tse re di bue. *Honourable* Mmusi ema ka dinao o baakanye molao o e ka reng kamoso fa re tswa fa batsadi ba lefatshhe la Botswana ba re botsa ra ba araba go tlhamaletse gore, ga go na jaaka re ka gana le sirelediwa, mme tshireletso e le sireleditsweng ka yone le ditshwanelo tsa lona le tsone di sireleditswe. Ke sone se re tshwanetseng re gatelele dikgang tse di ntseng jaana. Ka gore fa e ne e le gore re tlaabo re tswela ka fa molao o neng o ntseng ka teng, tota e ne e tlaa re mo bogaufing Botswana e bo e le gore le fa o bona batho ga o itse gore a ke ba ba phakileng bo Omang, mme re utlwile gore *assumed identity* ya teng Tona o eletsa gore e ye go tsamaya *three months*. E bo e le gore ka mabaka a a ntseng jalo go tlaabo go raya gore dilo di tsamaya sentle. Bona gore gompiano re ya golo gongwe, mme e bile a re go ya go nna le *committee* e e tlaabong e le gore e ka re yo o ikuetseng ya felela e mo phimola dikeledi. Ke tsone *the remedial actions* tse e leng gore *we have to put in place*, gore yo e leng gore ga a direlwa sentle, e bo e le gore jaanong *Article 18* re diragaditse mo melaong ya go nna jaana.

Molao o ka bofiwa ka dikgang tse tsoatlhe tsa ditshwanelo tsa setho di le teng, wa tia, wa fetelela mo o tiileng. Mo e kareng kamoso batho ba itse gore kwa Botswana ga se botshamekelo. Le bone ba e leng gore ke batlhotlhomisi fa e ka re kamoso ba ya go polompegela le lwela lefatshhe, motho a bo a re ka gore o kwa ofising ya batlhotlhomisi o tlaa go direla *story*, fa nnete e ya go tswa, ga bone ke nageng. Ke tsone dikgang tse re neng re di batla ka gore, lantlha e ne e le gore Tona o tla ka molao o ka fa a o kwadileng ka teng, a supa gore batlhotlhomisi bao ke baengele fela, ga go na selabe se se ka ba kotamang, ga go na ntsi e e ka fokang fa go bone. Gompiano ke gone a gakologelwang gore ke bana ba ba tsetsweng ke mosadi, ke batho ba nama le madi. Ke tsone fela dikgang tse re neng re di supa mo semolaong.

Tona, molao fa o ka bo o ne o tllile go ntse jaana, go ka bo go ise go ke go nne le dikgang tse dintsintsi. E kae nako Mr Speaker?

MR SPEAKER: E fedile. *Thank you.*

MR MANGWEGAPE-HEALY (GABORONE CENTRAL): *Thank you Mr Speaker. Good morning Honourable Members. Mr Speaker, re iphitlhela re le fa mo mosong wa gompiano re mekamekane le namane e tona ya molao; molao o e leng gore jaaka go ntse go buiwa, o na le dibelebejane. Dibelebejane tsa gore o gotlhogotlhana le ditshwanelo tsa setho kana civil liberties. Mme kana Mr Speaker mo botshelong there are no absolutes. The Constitution of the Republic of Botswana guarantees the right to life. Molaomotho wa re o na le tshwanelo ya go tshela, mme ka mabaka a a rileng tshwanelo ya go tshela e kgona go tsewa. So the absolute fundamental right to life can be tampered with under certain circumstances. So the right to life can be tampered with, go raya gore almost every single right that we are guaranteed can be tampered with under certain circumstances. Jaanong molao o ke o o supang one of the circumstances tse e leng gore your Constitutional rights can be tampered with.*

Tla ke simolole fela ka gore, molao o e rile o simolola, *it was Recommendation 31.2 of FATF* e e neng e bua ka *investigatory powers of law enforcement agencies*. Lekgotla la FATF le ne le lemogile gore go na le *loopholes* mo molaong wa rona wa *investigatory powers of law enforcement agencies*. Nngwe ya tsone e ne e le gone ka tsamaiso ya go reetsa babelaelwa. Financial Action Task Force e ne ya supa gore melao e re neng re na le yone e e buang ka go reetsa babelaelwa *is not streamlined*, e dira thata gore makgotla a mafatshe a



mangwe, *even indeed in our own country*, melao eo e magapagapa jaanong e dira thata gore e ka dirisiwa. E ne e batla *to be streamlined*. Ke sone se se dirileng gore re felele re le fa.

O ne wa tsosa modumo, *rightly so because* o ne o bua ka *civil liberties*. O ne wa tsosa modumo, go ne go ka se ke ga tlhoka. O tsositse modumo kwa *caucus* ya BDP, *opposition, civic organisations, press, trade unions*, jalo le jalo; *many different interested parties*. Mo Gaborone Central go ne ga tshwenya ba Ditshwanelo Centre for Human Rights. Ba ne ba ikgolaganya le nna ke le moemedi wa bone wa Gaborone Central go mpolelela matshwenyego a bone ka molao o, le batlhophi ba bangwe mo kgaolong. Fa ba sena go ikopanya le nna, *I relayed their concerns along other members of the BDP in our caucus. We relayed our concerns to Honourable Minister Mmusi yo e leng gore ene o ne a tlisitse molao fela e se ka kakanyo ya go batla go tsenya tsebetsebe, e le go batla go tswala a loophole. Ke gore mo Setswaneng ke mo gotweng, "mašhi ke tla ke le phepha, selabe se tla le motsayakgamelo."* Rre Mmusi *had good intentions but he is a human being* jaaka rotlhe re le fa, *he might have overseen some aspects of this Bill. Ka ke motho yo o reetsang, a utlwa dikgakololo, fa opposition, rona le civic societies* ba ngongorega, Rre Mmusi a bo a re golo fa go tshwanetse ga bo go na le mathata, *there is need for introspection, and that is exactly what he went and did.*

HONOURABLE MEMBER: Clarification.

MR MANGWEGAPE-HEALY: Jaanong kana ga se lantlha BDP e gakololwa ke ba *opposition, civic society, Editors Forum* le *trade unions. A lot of ... (Interruptions)...* 2019 *elections were based on complaints and dikgakololo tse di neng di ntse di buega* fa re tswa kwa ditlhophong tsa 2014. *A lot of other policies that we have* jaaka go fokotsa dingwaga tsa go tlhopho to 18 e le sekai, e ne e le dikgakololo tse di neng di tswa mo go ba *opposition*.

HONOURABLE MEMBER: Elucidation.

MR MANGWEGAPE-HEALY: Ema pele. *The BDP has been running Botswana for over 55 years. A wise man of such an age takes counsel, o a gakololwa o a reetsa. The BDP is a wise man, it takes counsel, ba opposition* ba tlhola ba bua *...(Inaudible)...* o tlaa utlwa *Honourable Keorapetse a bua fa ka the contributions they have had in the policies of this country including Constitutional amendments* tse di tlileng ka dikakanyo

tsa opposition. When the BDP sees it worthy, it accepted those. Ke batla go le akgola members of opposition, civil society, ba dikereke, Botswana Press Council, Media Institute of Southern Africa (MISA) le botlhe fela ba ditsala tsa Botswana from across the world ba ba neng ba tshwenngwa ke molao o ba leba gore o tlhoka *safeguards. The BDP Government as its tradition, has listened and responded accordingly. So, a re se ka ra e tsaya o kare ke santlha BDP e tsaya kgakololo, BDP ke phathi e e tsayang kgakololo. The reason why the BDP has been in power for this long, it is because it is responsive to the needs and the concerns of the citizenry. That is why they have continuously elected it 12 times because* ba a bona gore batho ba ba na le *responsibility, ba a reetsa fa ba gakololwa. Jaanong an organisation like that obviously would be entrusted with power and I know for certain, 2024 BDP will be back entrusted with power because people would see it is a responsible organisation. Mr Speaker, there were couple of requests, I can take one or two now.*

MR HIKUAMA: *Elucidation.* Ke a leboga *Honourable Healy. Mma ke atolose kgang e o e adileng sentle ya gore re ne re gakolola sentle le bo le amogela. Ke dumela gore ke yone thuto e re tshwanetseng gore re e tsenye le mo go Vice President (VP) le Honourable Kabo Morwaeng gore fa re gakolola re a bo re sa tsose modumo. Re a bo re tliša dikakanyo tse di ka isang lefatshe le kwa pele. Ke itumelela go bona ga gago mo go farologanang le VP le Rre Kabo Morwaeng yo o reng gore re gakolole ke gore re tle ka dipalo. Fa re sena dipalo go gakolola mo go rona ga ba ka ke ba go reetsa. Ke itumelela selo seo mokaulengwe, ke a leboga.*

MR MOTSAMAI: *Clarification.* Tanki *Mr Speaker.* Ke ne ke re *Honourable Healy* le fa ke sa go bone o bua o iphitlhile, mma ke go fetise fa gore a o dumalana le mafoko a me a maabane a ke neng ke feta ka one, VP a bo a a tshela dithole, *Honourable Morwaeng* le ene a a tshela dithole? Ke bua kgang ya gore tota kgang e ya go tliša phetogo e ya molao ke ka lebaka la *pressure* le ditlhong gore batho ba tlaa re leba jang fa re ka gagamatsa fela ra se ka ra reetsa batho. Ke raya gore mafoko a, ke ne ke batla gore o supe o papamale gore a o dumalana le one rraetsho? Ke a leboga.

MINISTER FOR PRESIDENTIAL AFFAIRS, GOVERNANCE AND PUBLIC ADMINISTRATION (MR MORWAENG):

Clarification. Ke a leboga *Mr Speaker.* Ke ne ke re Rre Healy, a se rra ga se supe gore molao fa o tlišiwa mo Palamenteng, o tlišediwa gone gore o buisanngwe ke Mapalamente mo boemong jwa setšhaba ba lebile



mabaka, go tsweng foo re bo re tswa ka *product* e e leng ya rona rotlhe? A ga se yone *process* ya *democracy* e re buang ka yone? A gore re bo re reeditse batho fa ba bua, a ga se sone se se siameng, a ga se sone sekai sa *democracy* ya gore re Puso e e reetsang?

MR TSOGWANE: *Clarification.* Tanki, nnyaa ke ne ke batla go tlhatswa fela gore go ne go ka se ke ga gagamatsa e bile ga rona, o dumalane le nna Healy gore e re ba *opposition* ba bua ba bo ba ka supa leina la me le la ga Morwaeng. Kana go a itsiwe fela gore ba *opposition* jaaka ba tlhola ba bua, go lebilwe rona. Boramogoma ba re kana fa re ka bo ra fenyba, re tlaabo re fentse. Jaanong ke sone se o bonang ka dinako tsotlhe go ganeletswe mo go lebeng leina la me, la ga Morwaeng kana Tautona wa lefatshe le. O supe jalo Healy gore a mme mo *caucus* ya rona e e leng gore fa Tautona a seyo ke a bo ke e *chair*, a go na le kamano jaaka o supile, ke batla gore o gatelele ntlha e *because this...*

MR SPEAKER: VP, there is a point of order by Honourable Boko.

MR BOKO: *Point of order.* Tanki *Mr Speaker.* *Mr Speaker,* kana Setswana sa re, “susu ilela suswana gore suswana le ene a tle a go ilele.” *Mr Speaker, the longest serving Member* mo Palamenteng, Motlotlegi Mothusa Tautona gape e le *Leader of the House, we are Honourable Members,* ga re ka ke ra letlelela go bitswa boramogoma. Setšhaba se tlaa re tsaya re le batho ba ba ntseng jang? Ke kopa gore botoka a boele mafoko ao morago. Ke itse gore ke motho yo o reetsang.

HONOURABLE MEMBER: O ramogoma Boko.

MR TSOGWANE: Nte ke a boele kwa morago. Kana rre yo fa a ka utlwa gotwe ke bonwe kwa Dovedale, ke gore ga a robale. Jaanong ke tlaa boela mafoko ao kwa morago *Mr Speaker.*

MR SPEAKER: Thank you VP.

MR TSOGWANE: *Mr Speaker,* nte ke tswelele. *Mr Speaker,* nte ke supe jaana gore o gatelele ntlha ya gore kgang e ga se kgang fela e e leng gore e dule fela ka bone, le rona re e buile jaaka o simolotse gore o bue kwa *caucus.* Gape ke rona re ntseng re ba tlhalosetsa gore molao o o ntse o teng. Bone fa ba tla, ba batla go raya setšhaba gore ke molao o mosha. Rona re ntse re ba raya re re melao e kana re a e tsaya, re e fetola jaana ka dikgakolo tsa lekgotla lone le, mme ke melao e e ntseng e le teng. Fela re tlaa dira gone gore go nne

le tshireletsego ka fa go ntseng ka teng. Ngongorego ya bone e tona, Rre Healy, o tlaa akanya gore ba ne ba re kana motho yoo fa a go foseditse, jaanong go ya gotweng ka ene. Jaaka go ne go ntse, Rre Mmusi o ne a tlhalosa gore Goromente ke ene a sekang. Re ne ra tla ra dira le diphetogo mo molaong o gore motho yo o ka lebiwiwa molato wa kgolegelo e telele. Ke dilo tse di neng di fetolwa ke rona ba BDP e seng ba *opposition.* Jaanong a ko le tlogele go ipaya botoka.

MR MANGWEGAPE-HEALY: Thank you VP, Your Honour. *Mr Speaker, e tsamaya fa kae nako?*

MR SPEAKER: Six minutes.

MR MANGWEGAPE-HEALY: *Thank you sir.* Nnyaa, jaaka bagolwane bame ba setse ba buile, kana nako e nngwe dikgang tsa gore gongwe go tsosiwa modumo kana go tlhatlharuane, *comes from the way matters are presented.* Jaanong fa re leka go baya dikgang, mme re baya ka go tsosa modumo, ka go tsenana ganong, ka go reng, go tlaa felela e le modumo. *Therefore, VP would be well within his rights to say go ne go tsositswe modumo. Le nna ke ne ke le teng, go ne go tsogile modumo. Le Batswana ba ne ba ngongorega kwa ntle kwa gore go tsogile modumo. Therefore, it is a fact, go ne go tsositswe modumo, that we cannot run away from.*

VP, further to that I will agree with you that by targeting the Presidency, Motswana a re noga e bolawa kwa tlhogong. Jaanong if you want to demean the BDP... (Inaudible)... Therefore, indeed I am not surprised that you are a target of ridicule, a target of humiliation ka gore ba a itse gore when they humiliate you, they humiliate me, when they humiliate His Excellency the President, they humiliate me, when they humiliate the Minister in the Presidency, they humiliate me. Therefore, you are definitely right sir gore that is why you become targets of these things.

Gape bakaulengwe ba rona nako e nngwe o ka ba ela tlhoka. Jaaka o ntse o bona fela ke ntse ke botsa *Honourable Boko* potso, e ne a bo a bona go le botoka gore a mpolelele gore ke tshabile sekole, ke a reng, ke a reng. *Sometimes our orientation, our background, our political orientation, it...*

HONOURABLE MEMBER: Go rata dilo. O bue gore ke go rata dilo mo gongwe.

MR MANGWEGAPE-HEALY: If you come from an organisation that split in violence, in undemocratic principles, *e e leng gore gongwe jaaka re bua jaana e*



na le 10 years e ilhamilwe, mme go ise go bo go nne le congress. The only way that you can know to articulate yourself is in a vulgar manner. I am not surprised VP. Therefore, *nako e nngwe ga re re ba itshwarele* because it is their political orientation. *Ke ka fa ba godisitsweng ka teng ka sepolotiki*. I come from a party that priorities peace and working together. ... (Interruptions)... It was simply a difference of opinion. There was no violence. There was no need to call the police. There was no destruction of property. However, I cannot say the same of how the Botswana National Front (BNF) congress in Palapye in 1998 for instance, or... (Interruptions)... Therefore, we are different. *Rona le bone ga re tshwane*, we are a true reflection of a Motswana *gore ntwakgolo ke ya moloma*. *Bone kana a utlwetse mafoko a ba a dirisang* which are foreign to us; *a bo comrades*. *Ke dilo tsa mafatshe fela a dintwa a a koo*. Therefore, I do not blame. They are just a product of their upbringing. *Re tlaa nna re ntse re ba pepetlets, re ba leka go ba aga gore ba itse gore Batswana ba dumela gore ntwakgolo ke ya molomo*.

VP *kana melao e* is spoken in the RICO laws *tse di neng di tswa kwa lefatsheng la United State tse di saleng di evolve ka 1970*. RICO o emetse Racketeer Influenced and Corrupt Organisations Law. *E ne e dirwa ka gore go ne go lemogiwa gore organized crime cannot be tackled one-one*. *Fa o sekisa motho o mo filhela ka beke ya madi, o mo sekisetsa beke ya madi a le nosi, ga o kgone go tshwara yo o mo neetseng bag eo, kana yo a neng a mo transport*. *Jaanong melao e e ne ya direlwa gore organized crimes di kgone go reediwa, di kgone go salwa morago, di kgone to be disturbed*. *Ke yone the basis ya melao yone e re mo go yone e*. *Jaanong fa o akanya gongwe batho ba tshwana le bo Zunaid Moti ba ba kileng ba tshwarwa ba utswetse bahumi ba bo Russia diteemane jaana, o tlaa lemoga gore these are organized criminals*. *Ke batho ba organized crime*. When you have somebody like that funding a political party, obviously product of that political party will be opposed with laws that are going to tamper with organized crime.

MR BOKO: *On a point of order Mr Speaker. Thank you Mr Speaker*. Mo nakong e e fetileng *Honourable Mpho Balopi* o ne a bua ka dikgang tsone tse e leng gore re tlaabo re bua ka motho a se gone fa, a ka se ke a kgona go ikarabela. *Honourable Healy* fa a bua gore *Zunaid Moti* o ne a tshwarwa a dirile eng, a utswile eng, ga a yo fa go ikarabela. *Kamoso ke tsoga ke re malomaagwe Healy* le ene o ne a utswa dikgomo kana o ne a utswa madi a National Petroleum Fund (NPF). *Ke raya gore*

malomaagwe Healy ga a yo mo Palamenteng, ga a ka ke a kgona go itshireletsa. *Ke raya gore he is out of order*. *We cannot proceed in this manner whereby re gasagasa maina a batho ba e leng gore ga ba kgone go ikarabela mo Palamenteng Mr Speaker*. *Unless o tla ka bosupi ke re nnyaa, bosupi jwa teng ke jo bo tshotse dikgomo tseo rra semangmang*. *I think Mr Speaker, Healy is being out order*. *He has been doing this quite in that manner*. *Ke ne ke re o mo kgalemele Mr Speaker*. *This is not right and can never be right*.

MR SPEAKER: You are fair Honourable Boko, that is correct. He should not do that. We should respect other people. *O a utlwa Honourable Healy?*

MR MANGWEGAPE-HEALY: *Ke a utlwa Mr Speaker*. *Gakere go ne gotwe ke kampa ka tla ka bosupi*. *Therefore, Mr Speaker...*

MR SPEAKER: *Nnyaa, tlogela maina a batho ba bangwe, fetsa your debate*. *You are just left with one minute*.

MR MANGWEGAPE-HEALY: *Jaaka ke ne ke bua Mr Speaker, obviously magodu a rhinos kwa Okavango Delta ga ba ka ke ba rata molao o, gore o ya go dira gore ba reediwe, batho ba kgone go bodiwa gore ke eng fa e sale April 2018 a bo bogodu jwa ditshukudu bo ile kwa godimo ka mokgwa o bo ileng kwa godimo ka one*. *Ka gore ba Botswana Defence Force (BDF) le ba DIS ba ya go kgona go reetsa magodu ao*.

Mr Speaker, this thing is... (Inaudible)... Armed robberies tse di ntseng di dirwa tse di le kang to destabilise this country, go ya go nna thata. *Batho ba ba ntseng ba dira gore batho ba tseye gore Botswana is unstable ba a kgona go reediwa... go bo go kgonwa go ba pitlaganya*. *Obviously, beneficiaries of those robberies will not like molao wa go nna jaana*. *Therefore, it goes without saying that there will be strong opposition from certain interest groups*. *Some of them kwa bo Stellenbosch kwa, ba ba iphitlhileng kwa bo Stellenbosch ba tlaa roma barongwana ba bone go tla go protest gore melao e ga e a siama ka gore ba a itse gore botsukunopi jo Boko a nnang a bua ka jone, bo ya to be exposed*. *Ga go gagamatse gore go tlaa nna le bangwe ba e leng gore ga ba ka ke ba rata molao o, mme ba sa o rate mabapi le gore they are going to be exposed*. *We are not surprised go bona these things, there will also be opposition, ... (Inaudible)...*

HONOURABLE MEMBER: ... (Murmurs)...



MR MANGWEGAPE-HEALY: ...ba batlang *the fertile lands of this country, in exchange for sponsoring election. We are not surprised that there would be the opposition, obviously anything ... (Inaudible) ... for the public ... (Inaudible) ... so ga re gakgamale gore...*

MR SPEAKER: Thank you very much Honourable Healy. Honourable Mmolotsi.

MR MANGWEGAPE-HEALY: So ga re gakgamale gore...

MR SPEAKER: Your time is up Honourable Healy, Honourable Mmolotsi.

HONOURABLE MEMBERS: ... (Murmurs) ...

MR MMOLOTSI (FRANCISTOWN SOUTH): Thank you very much Mr Speaker. *Le nna tlaa ke...*

HONOURABLE MEMBER: Procedure Mr Speaker.

MR SPEAKER: What is wrong with our procedure Honourable Minister?

MINISTER OF BASIC EDUCATION (MR MOLAO): *Procedure.* Ke a leboga *Mr Speaker.* Ke ne ke raya gore gongwe o tlhole *Mr Speaker,* gore maabane e rile fa re tshaisa, *the Speaker* yo o neng a ntse foo, o ne a balolola gore go setse batho ba le kae *in terms of...*

MR SPEAKER: Honourable Minister, I know what I am doing, you are just going to waste more time, I know exactly what happened yesterday. Honourable Mmolotsi.

MR MMOLOTSI: Tanki *Mr Speaker.* Ke ne ke re gongwe...

HONOURABLE MEMBER: O batla go nna *Speaker* wena?

MR SPEAKER: *Nnyaa, o ne a gakolola,* but I am saying I know what happened, he should not worry. Honourable Mmolotsi.

MR MMOLOTSI: *Mr Speaker,* ke simolole ka go supa gore e ne ya re mo Palamenteng e e fetileng, melao e e neng e lebege o kare ke melao e e tlaa nnang kgatlhanong le Batswana, e ne ya dirwa masigo. Re ne re tswa mo Palamenteng go le phakela, re dira melao e kwa bofelong e ileng ya itshupa fa e le melao e e neng ya re direla mathata ka bontsi. Jaanong maabane o ne o lemoga *Mr Speaker* gore, re ne re ra tswa fa ka 12 o'clock re dira molao o o ntseng o tshwentse Batswana, *civil society* le

mongwe le mongwe. Jaanong ke batla gore golo mo *Mr Speaker,* re go ele tlhoko re le Palamente ya Botswana gore re se ka ra iphitlhela re le *labelled,* re le batho ba e leng gore fa re batla go dira melao e e sokelang Batswana dirope, re dira gore ba robale ke gone e bo jaanong re lala masigo re khuthutha re dira melao e e ntseng jalo. Re bone ka 11th *Parliament,* melao ya teng gompiano ke yone e gompiano e tswelentseng ka go tlisa kgotlhang mo Lefatsheng la Botswana. *Mr Speaker,* selo se se a re tshwenya.

Se ke batlang go simolola ka sone *Mr Speaker* ke gore, *Honourable* Mmusi o re beile molao pele, o o belaeang, o gataka ditshwanelo tsa batho ka maoto. Kana nna ke bua ka molao jaaka o ntse gompiano, re a itse gore *Honourable* Mmusi a re o tlaa tlisa dipaakanyo, mme kana ke dipaakanyo di setse di dumetswe. O ke o lebileng gompiano, ke one o o santseng o na le kgatelelo e e kalokalo, mo ke batlang gore ke tshwenngwe ke kakanyo ya gore *Honourable* Mmusi le Puso ya Domkrag, ba bo ba ne ba akanya gore go ka nna kaone gore ba tlise molao o o ntseng jaana. Ke gore kakanyo ya teng fela ka bo yone, e tshwanetse go tshosa mongwe le mongwe, gore *why would they think* gore ba ka tla ka molao o o ntseng jaana, o o gatakang ditshwanelo tsa setho ka tselo e molao o o ba o tsiitseng mo Palamenteng o gataka ditshwanelo tsa setho ka teng.

Rre Mogae o kile a bua ka nako e a neng a le Tautona a re, tshwanelwa ke gore fa re le Palamente ya Lefatshe la Botswana, re bone ka dinako tsotlhe gore ga re dire melao re tenegile *because* fa re tenegile, re ya go dira melao e e tenegileng. O ne a tswelela ka go tlhalosa gore fa re itumetse, le gone re tshwanelwa ke gore re se ka dira melao, ka gore fa re dira melao re itumetse thata, re ya go dira melao e e itumetseng thata. Mo nakong ya gompiano go a itshupa gore BDP tota e tenegile, go na le sengwe se se e tshwentseng, ke sone se se dirang gore mo nakong ya gompiano e bo e akantse gore ba ka dira jang gore ba reetse Batswana fa ba bua. Phathi ya BDP e tenegile, ke sone se o bonang ba ipotsa gore jaanong ba ka dira jang gore le *court* di se ka tsa tlhola di dirisiwa go kopa ditetla tsa gore ba dire dilo dingwe mo Batswaneng.

Selo se *Mr Speaker,* ke bona se ntshwenya ka gore se supa Puso e o kareng e na le mowa o montsi wa ntwa, e na le tenego e ntsi, o kare ga se Puso e maikaelelo a yone e leng go emela Batswana, ke Puso e maikaelelo a yone e leng go swelela le go felela tota e tsentsa Batswana mo mathateng. Ke raya gore ke yone fela e e ka dirang



molao o o ntseng jaana, go bo gotwe ga gona *appeal structure*. Ke gore fa o rubeletswe, molao o o supa gore ga go na kwa o ka ikuelang teng. Dilo tse di ntseng jaana *Mr Speaker*, kakanyo ya gore go ka nna le molao o o ntseng jaana, e tshwanelwa ke gore ka bo yone e re tshwenye re le lefatshe la Botswana gore, kante batho ba ba re busang, bosetlhogo jo bo kana ba bo akantshiwa ke eng. Maikaelelo a bone ke gore ba ye go dira eng, ke mang yo ba mo akantseng, yo ba batlang go mo gobelega gore fa ba sena go nna ba mo gobelega, go bo go sena kwa ba ka ikuelang teng. Melao ga e a tshwanela gore e dirwe ka tsela e e ntseng jalo *Mr Speaker*.

Jaanong ke tsene mo kgannyeng ya *assumed names and identities* gore, kakanyo ya ga *Honourable Mmusi* le phathi e e busang, fa ba tla ka molao o o reng batho ba dirisa maina le bo Omang ba e seng ba boammaaruri, le kakanyo eo fela, e ne e tshwenya e bile e le gore batho ba gatwe ba ka kgona gore ba dirise maina a le *identities* tse go sena *safeguards*. Ke gore motho o neelwa karata ya Omang, ya maina a e seng a gagwe, o ya go dira ka fa a dirang ka teng. Tota fela kakanyo e kwa tshimologong jaaka e supafala mo molaong o, e re ntswa Rre Mmusi ba ya go e baakanya, kakanyo fela eo e a tshwenya. Ke sone se ba ba reng ke kgang fela ya gore bo Rre Mmusi ba lebile ditlhopho tsa 2024, gore ba ba ka neelwang dikarata tse ba ye go ikwadisa ka dikarata tse di farologanyeng, gore phathi e e busang e kgone go fenywa ditlhopho, go nna bokete, Motswana a se ka a e dumela. Ka lebaka la gore jaanong go raya gore o ka ipotsa gore kakanyo eo fela, e ne e tswa kwa kae, e bile e tla e sena tsamaiso ya lekgotla. Ka tsela e e ntseng jalo *Mr Speaker*, tota golo mo go ne go re tshwentse thata.

Ke batla gore ke re ke a itumela, gore e bo mo nakong ya gompiano kgang ya gore go tlaa nna le gore jaanong dilo tse di ye go kopiwa kwa lekgotleng, *it is a positive thought* e re tshwanelwang ke gore re e amogele, mme fela re tshwenngwe ke kakanyo ya gore e bo e re fa batho ba re busa ba ka re akanyetsa bosetlhogo jo bo kanakana, jo ba batlang gore ba bo dirise. Ke lebogela gape gore e bo *Honourable Mmusi* e ne ya re fa dingongorego tse di tla, a kgona gore a di lebalebe, e bile ke a rapela gore e re fa re tsena kwa *Committee Stage*, re se ka ra tsena mo seemong se *Honourable Mmusi* le ba gabone ba tlaabo gongwe ba gana *amendments* tse, kana *Honourable Mmusi* a bo a di flogela re sa tswelele ka tsone.

HONOURABLE MEMBER: Elucidation.

MR SPEAKER: Honourable Saleshando.

MR SALESHANDO: *Elucidation.* Ke a go leboga Motsamaisa Dipuisanyo tsa Palamente. *Honourable Mmolotsi*, gone mme tota ke lefe lefatshe le le nang le melao e e fetisiwang ke Palamente, e re reng re baya *stamp* sa rona gore go ye go nna le *false document*? Go bo gotwe jaanong re laletsa *courts* gore le tsone di beye a *stamp* gore a go nne le *false documents*, ke lefe lefatshe le le tsamaisang jalo? Go ya go raya eng rona kamoso fa re tsena kwa mafatsheng a sele, go tlaa itsewe jang gore a ke *false document* kana ke *true document*, fa e le gore Palamente le makgotla gotlhe go a dumalanwa gore Puso e letlelela gore go nne le *false documents*?

MR MMOLOTSI: Ee rra, ke letse maabane ke kile ka re ke a leka go senka, ka go tlhoka lesego gongwe ka gore dikgang tsa *security*, ke paletswe ke go bona lefatshe lepe le le dirang golo mo ka tsela e e ntseng jalo. Motho yo mongwe maloba e ne o kare o a tshameka a re kana dilo tse tsa *false documents*, go kgona go dirisiwa dilo tse di gakgamatsang. Ene o ne a re o a tshameka a re akanya fela motho a ya go kopana le motho wa mme, a bo a felela a mo dirisitse ngwana a mo itse ka leina leo le e seng lone. A re motho yoo kana o ka nna a re nnyaa, nna ke semangmang, fa e le gore wa re ke semangmang, go raya gore yo o go sentseng ke o sele mme nna ke o sele. Ke gore re rurifatsa go tlhoka bonnete mo lefatsheng leno mme legale ka gore *Honourable Mmusi* a re ke dilo tse e leng gore *he is in control*, ga go na mathata.

Ke batla gore ke tshwenyegwe gape gore batho ba tshwana le bo *Honourable Molale*, a bone gore molao o ga o a siama. E bile o a bona gore molao o ga o a wela mme o tswela a bua gore o dirwa jalo, go tlaa nna le *incremental improvement* mo molaong o. Kante ke eng re sa dire molao o o siameng, gona le gore e re fa re lemoga gore ga o a siama, re bo re re tlaa nna re ntse re o baakanya nako e ntse e tswelletse. Kana go tshwana le maloba fa re dira molao wa *Citizen Economic Inclusion*, re tshwanelwa ke gore re o dire sentle o o *yang to empower* Botswana. E bo e le gore gatwe nnyaa, batho ba tlaa re leba jang, jaanong re tsenye kgang ya *targeted citizen* gore re se ka ra tloga ra lebiwa ka leitlho le sele, re itse gore mafatshe a mangwe fa ba dira molao, ba felela ba dira gore *objectives* tsa one ke tse ba di akantseng, ba a di batla. Rona jaanong ke fa molao ga o a siama gatwe nnyaa, re tlaa nna re ntse re o baakanya jaaka re tlaabo re tswelletse.

Ke batla go leka go supa gore ke tshwenngwa ke gore mo tirong ya molao jaaka re o dira jaana, go na le *dishonesty* e e gakgamatsang mo tirong ya molao wa lefatshe la Botswana. Kana ga se lantlha re dira molao, melao e re



neng re e dira e e mo tirisong gompiano, ditshwetso tse di neng di tsewa ke *administration* e e fetileng, ke tse di neng di tsewa ke *administration* ya *Party* ya Domkrag. Re ne re tsene mo *greylisting* ka lebaka la ditshwetso tsa *administration* ya Domkrag. Jaanong ke tshwenngwa ke gore e bo e le gore bo *Honourable* Molao fa ba bua, ba batla gore e nne o kare e ne e le mongwe, e ne e se bone. Ke batla gore letsatsi leno kgang e ke e tlhatswe e fele, ya gore batho ba se ka ba itatola dilo tse ba di dirileng ka nako ya *administration* ele ka fa ba neng ba baakanya melao ya teng. Ke sone se Rapitsenyane a neng a botsa kwa Kgotleng ya Serowe gore le ne le le bokgakala bokae fa go senyega? *Honourable* Tautona wa lefatshe leno *His Excellency* Mokgweetsi Masisi was *Vice President in that administration*, e e leng gore gatwe ke yone e e dirileng gore re tsene mo *greylisting*. Rre Molale, *right at the Office of the President as Minister in that administration*. Rraetsho Rre Slumber Tsogwane was *at Local Government* e le *full Minister* ka *administration* e gotweng e dirile gore re tsene mo *greylisting*. Rre Molao was *at Agriculture* mo go yone *administration* e a tlholang a e sotla e e dirileng *to be greylisted*. *Honourable* Autlwetse was *at Local Government as Assistant Minister* ka nako ya *administration* yone eo. Rre Mzwiniwa was *at Lands*, so o kgona go bona gore a *number of Members of Parliament* (MPs) ba e leng gore ke *Ministers* gompiano, ba ne ba le teng mo go yone *administration* e e re tsentseng mo *greylisting*. Jaanong ba se ka ba batla gore ba re *greylisting* e e dirilwe ke bo semangmang, e se bone mme ba ne ba le Matona.

MR TSOGWANE: *Clarification.* Ke a leboga *Honourable* Wynter Mmolotsi. Nnyaa, kana ke gore se o se gwehlhang fela, o batla gore o re gwehlhe gore re bue gore e rile fa go tla melao e, ke mang yo o neng a re tshwarisitse bothata e bile a gana gore e ka fetisiwa. Ke sone se o batlang gore o se gwehlhe mme ga re na go ya koo ka gore go setse go iponaditse gore motho yo e leng gore e ne e le tshosoerweleng mo go ganeng ka dikgang tse o setse a itshupa, setšhaba se a mo itse jaanong ga re na go ya koo. *If you were to ask all the people* ba o ba biditseng bo Rre Molale, nna le *the current President*, ba tlaa ya go supa *and you can go to the minutes of the Cabinet, you will realise and see* gore motho yo o neng a gana ke mang. *I thank you.*

HONOURABLE MEMBER: Re a di batla *minutes* tseo, di bonwa kae *sir*?

MR MMOLOTSI: Jaanong ke go tlhoka boikarabelo *Mr Speaker*, fa e le gore *Cabinet, which is the Executive*, e ka re e dirile ditshwetso, e bo e tla e re semangmang a

le mongwefela ke ene yo o neng a gana. Ga ke bone gore golo mo go tshwanelwa ke gore e nne *excuse*. Kana go raya gore e tlaa re *His Excellency* Masisi a tsamaya, ba tlaabo ba mo itatola le ene ba re re ne re sena le ene mo diphokong, o ne a re patika ka tsone fela re sa di batle.

MR LUCAS: *On a point of clarification.* O ne o bua kgang e o reng ba ne ba le bokgakala bo kae fa go dirwa melao e e neng ya felela e dirile gore re tsene mo *greylisting*. Potso ke gore rraetsho, ba ne ba le bokgakala bokae fa go tla molao o gompiano gotweng o direlwa dipaakanyo? A molao o ga o bone gore gongwe o ne o dirilwe ke *lawyers* tsa DIS, bone ba sa o bona, ke gone ba neng ba o bona fa re bua ka mathata a gore molao o o a gobelela? Ke a leboga rraetsho.

MR KEORAPETSE: *Further quick elucidation.* Ke ne ke re wena o bona e le batho ba mofuta mang, go tsewa ditshwetso tse ba sa dumalaneng le tsone, ba bo ba tselela ba nna *in Cabinet*? Lebaka le le kanakana motho a le *in Cabinet* mme a sa dumalane le ditshwetso tse a reng di baya lefatshe ka fa mosing. Ke motho wa mofuta mang yo o ntseng jalo, yo o sa itholeng marapo mo *Cabinet* e e ntseng jalo, e go tsewang ditshwetso tse a sa dumalaneng le tsone?

HONOURABLE MEMBERS: ... (Murmurs) ...

MR MMOLOTSI: Selo santlha fela, golo moo ke go tlhoka boikarabelo ga maemo a ntlha gore...

HONOURABLE MEMBER: O kobilwe ka dilepe kwa Palapye, ga se gore o ithotse marapo.

HONOURABLE MEMBERS: ... (Laughter!) ...

MR MMOLOTSI: Ke go tlhoka boikarabelo jo bo gaggamatsang *because* le mo molaong wa lefatshe la Botswana, gatwe fa o na le batho ba dira molato, *you are an accomplice to the crime. Therefore*, ga re ka ke ra re ope o ne a seyo, re itse fela gore ditshenyio tse di dirwang, di dirwa ke batho ba le mmogo, *otherwise* ba ka bo ba ne ba phatlalala mo *Cabinet*, sepe sa se ka sa dirwa (*transacted*), go supa gore ga ba dumalane. Jaanong fa e le gore *Honourable* Tsogwane o batla go tlhalosa gore semangmang ke ene yo o neng a ba patika go dira dilo, gompiano molao ke o, semangmang yoo ga a yo mo molao o o tlang o re o batla go swelela Batswana. Jaanong one ka gore semangmang ga a yo, la re jaanong re tlile *to blame* mang mo go one? Fa e le gore gompiano *Honourable* Mmusi o tla ka *amendments* di feta 17 mo molaong o o dirilweng ke lona, gone foo la re ke mang yo o le patikang? Ke mang yo o sa reetseng kgakololo? Ke mang yo le tlileng go mo itatola mo nakong e e tlang?



Dilo tse *Mr Speaker*; di supa boeteledipele jo bo senang boammaaruri. E rile fa ke sa dumalane le tsamaiso ya Domkrag le Rre Motswaledi, Rre Ntuane le ba bangwe, re ne ra tswa mo Domkrag re bona gore *party* e ga e na boammaaruri. Ke eng bone fa ba ne ba dumela gore dilo ga di tsamaye sentle, ba ne ba sa tswe mo *Cabinet*, ba boa ba tswa le mo Domkrag ka lebaka la gore dilo di ne di sa siama? Golo mo ke go ...*(Interruptions)*... fela ka gore batho ba rata maemo, ba leba dimpa tsa bone.

HONOURABLE MEMBER: Le nne le bua boammaaruri, le kobilwe.

MR MMOLOTSI: Ke sone se e leng gore *Mr Speaker*, ke ne ke kopa gore a re direng molao ka boammaaruri.

HONOURABLE MEMBER: ...*(Inaudible)*...

HONOURABLE MEMBERS: ...*(Murmurs)*...

MR SPEAKER: A ko le leseng ngwana yo mongwe a fetse, la re go rileng?

MR MMOLOTSI: Fa re dira molao bagaetsho, re tshwanelwa ke gore re neele dikakanyo tsa rona tsotlhe tiro ya molao. Golo mo ga Palamente le go dira molao, go direlwa molao tshiamo le tsamaiso ya Puso e e siameng ya lefatshe. Ka tsela e e ntseng jalo, re tshwanelwa ke gore re e tseye ka tlhoafalo e re itseng gore melao e e sa siamang e ka nyeletsa lefatshe, melao e e siameng e ka baakanya lefatshe. Ke sone se ka dinako tsotlhe ke eletsang gore Matona le Mapalamente re ka itsaya ka tlhoafalo mo e leng gore ope ga a ka ke a tla a re morago ga molao o sena go nna o dirwa a o itatola, a re go botswe semangmang, ene ga a itse sepe.

E bile *Mr Chairperson*, ke utlwa ke tshoga gore motho yo o mo *level* ya Bothusa Tautona, a ba a ka kgona go itatola *collective responsibility* e e tserweng ke *Cabinet*. Fa a ka nna Tautona, e ya go nna Tautona wa mofuta mang, a o ya go solofela gore *Cabinet* ya gagwe e ikamanye le ditshwetso tsa gagwe?

LEADER OF THE HOUSE (MR TSOGWANE): *Point of order.* Nnyaa, a a bua boammaaruri, re itse gore ke motho yo o se keng a bua boammaaruri mme fela gompiano a a bua boammaaruri. Ga ke a re ke itatola ditshwetso tseo. Fa a re re ne re le kae, ke ne ke batla go mo neela *the perspective* ya gore re ne re le teng re gakolola. Yo o neng a tsaya ditshwetso tse re neng tsa re baya ka fa mosing o teng, ke semangmang. Golo mo ga se go itatola. *That is why we have continued* re tla ka melao eo, ra bo ra e dira. Re e ema nokeng mme ga

se go itatola. Ke batla ke mo tlhalosetse fela gore golo moo ga se boammaaruri mo a go buang a re re itatola ditshwetso. Re tshwanetse re supe gore yo o tsereng ditshwetso la bofelo ke mang *against* kgakololo ya rona jaaka re ne re dira. Re ne ra felela re fetisitse melao eo bosigo.

MR MMOLOTSI: *So, Cabinet* ya gompiano, ke a le gakolola, le a mo utlwa moeteledipele wa lona. Go raya gore le lona fa ba re le dire dilo tse le sa di batleng, le tlhalose gore ke bone ba ba le patikang go dira dilo tse le sa di batleng. Fa e le gore ga le dumalane le ka fa dilo di dirwang ka teng, dirang jaaka *Honourable Mpho Balopi who is honourable*, yo o neng a tswa fela *by resigning* a re, “ke emela fale, ga ke batle go tsena mo nthagarageng e e ntseng jaana.” Le tlogele go rata maemo mme le itse gore go ya go felela go tsentse lefatshe la Botswana mo mathateng. Bagaetsho, maemo ga a tshwanela go tsamaelana le gore motho a itebatse gore go na le Botswana ba a ba emetseng, ba a tshwanelwang ke go ba sireletsa ka dinako tsotlhe. Fa moeteledipele a tswa mo tseleng, le bona a le ntsha mo tseleng, se reng nnyaa, re tlaa reng ka gore o batla jalo, ganang. Le se ka la dira jaaka Molao yo e leng gore fa gotwe a o kgotshe...

HONOURABLE MEMBER: O tswetse kwa Botswana Movement for Democracy (BMD) maemo ka gore o ne o jelwe kwa Bobonong.

MR MMOLOTSI: Golo mo go ntseng jalo le dira selo se se sa siamang. Go ka re babalela re le lefatshe, go ka re senyetsa kagiso, mme le bone Botswana go ka ba kgobera maikutlo. Ka mafoko a a kalo *Mr Speaker*, ke kope Mapalamente gore a re tlogeleng go ikamanya le go itebateba. Re lebe leina le re tlaa le tlogelang mo Palamenteng gore e tlaabo e le la mofuta mang. Melao e re tlaa e tlogelang mo Palamenteng e, a ke e e ka reng re e leba re le kwa malwapeng *after having retired*, ra nna *proud of ourselves* gore re kile ra dira e e ntseng jaana, re e direla Botswana. Le tshwanetse le itse gore melao e re e dirang, fa e le gore e maswe, e ya go le babalela. Melao ya DIS e e neng e dirwa ka nako ya ga Tautona Khama a le teng gone foo, gompiano bona gore go diragala eng. O babalelwa ke yone melao e e dirilweng ka nako eo mme le lona go tlaa le diragalela. Ka tsela e e ntseng jalo *Mr Speaker, this was just a warning* e ke lekang go gakolola bakaulengwe gore fa go le monate *salaries* di le kwa godimo, gompiano le e ja monate ka dikoloi tse di ntsho, go tlaa le tlela. Ke a leboga *Mr Speaker*.

MR SPEAKER: Order! Order! Honourable Members, may I call upon the Minister of Defence, Justice and Security to reply to the debate.



MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): *Thank you Mr Speaker. Mr Speaker, ... (Interruptions) ...* gompieno dikgang tse re ntseng re di bewa pele ke Mapalamente a Ntlo e, a a tlotlegang. *Mr Speaker*, ke batla gore Mapalamente le Batswana ba gakologelwe gore e ne ya re ka di 24 fa re simolola...

HONOURABLE MEMBER: Your volume is low. Your volume is low Honourable Minister.

MR MMUSI: *Thank you your Honour.* O a nkutlwa jaanong? *Sorry, I have a hissing voice. My apology, I have a hissing voice.* Ke na le *flu*, so, le tlaa intshwarela. *Mr Speaker*, e ne ya re fa re simolola kgang e ka di 24, ra tla mo *General Assembly* go rolela Mapalamente a Ntlo e e tlotlegang e melao e re tllileng go e fetisa, e re e tletseng. Melao e yotlhe ke dumela gore e ne e le 16, go bo go nna le wa bo 17 o re neng re tla go o kopela *certificate of urgency*. Molao o o ne o tla jaana e le gore kwa ntlheng go ne go tulwe o salele kwa morago. Ba bogakolodi fa ba ntse ba le baleba, ba lemoga gore molao o, o a tlhokafala gore le one o tsamaye le melao e. Ke sone se e neng ya re re thulanya ditlhogo le boeteledipele, ra itse gore Palamente go na le ka fa e tsamaisiwang ka teng. Go na le Standing Orders, mme Standing Order 72.3 se a re letla gore re ka tla mo Palamenteng re tle go kopa *Mr Speaker* le Palamente e e tlotlegang gore re na le molao ke o. Melao e e tshwaragane, jaaka e tsamaya jaana, e tlhokafala yotlhe. E ne ya re fa re rola, ga rola *Honourable Serame, Minister* wa Madi e le ene a tshotseng *the overarching law* o re neng re batla go o fetisa. Mme le nna ke rotse melao mo Palamenteng e, e le *eight*; o e le wa bo *nine*. Ke batla batho ba itse gore tota re tswa kae. Melao e mengwe e e *eight* e, Palamente e ne ya e amogela yotlhe mme e ntse e le mengwefela. Mme le one o, ke tla jaana ke o tliša kwa go lona, ka le rolela le le Palamente gore molao o, re o tlhokela eng. Ra bua gore molao o, o tshwanetse gore o tsamaye yotlhe e le *package* ka fa re neng re lebeletse ka teng. Re ne ra o kopela *certificate of urgency* mme ra o tsenya.

E ne ya re re le kwa *General Assembly*, Mapalamente a a tlotlegang ba ne ba ntsha bogakolodi jwa bone. Ba bua ka fa ba neng ba bua ka teng, ka fa ba neng ba sa dumele ka ditsetlana dingwe. Re ne re na le ba bogakolodi go tswa mo *ministry* le *drafters* go tswa *Attorney General's Chambers* re ntse re tshwaragane le bone. Komiti e e lebeletseng melao e ya Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) le FATF kwa *Ministry of Finance*. Ke batla go gakolola Ntlo e gore

e rile fa re le kwa *General Assembly*, Mapalamente ba phathi ya kganetso e leng Rre Ramogapi le *Honourable Reatile*, e rile fa go tswalelwa ba nthaya ba re, “o ye go baakanya, re a itse gore o motho yo o reetsang.” Ka ba raya ka re, re tlaa boela kwa morago re ya go baakanya. Go tswa lone letsatsi leo, ra nna fa fatshe le bodiredi jo bo mo tirong e, ra lebelela molao o gore re ka o baakanya jang. Ke ne ka boela kwa go bagaetsho ba BDP, le bone ra nna ra buisana, ra gakololana fa re gakololang teng gore mme re tlaa baakanya fa kae, re tlaa sutisa fa kae. E rile ka Mosupologo yo o neng a feta o, ba ofisi ya *Ministry of Defence, Justice and Security*, dipaakanyo tsotlhe ba bo ba setse ba di neetse *Clerk* kwa Palamenteng. Dipaakanyo tse ga di a ya kwa Palamenteng maabane kana maloba a maabane. Ke batla go tlhalosa gore ba le tsayang gore *pressure* le ne le re e tsentse jaaka le ntse le tlhalosa, nnyaa. Re sale re isitse dipaakanyo tse kwa Palamenteng. Re ntse re lebeletse ka kwano ka Mosupologo gore dipaakanyo tse re tlaa di tlišang fa jaanong re tla go dira *second reading*...

MR BOKO: *Clarification.* *Thank you Mr Speaker.* Ke a go utlwa Tona gore wa re dipaakanyo tse le sale le di dirile. Bakaulengwe ba ba ntseng ba bua bo *Honourable Healy* le Rre Rakgare gareng ga ba bangwe, ba farologana le wena. Ba itse gore dikgakololo tse, di ne di tswa kwa BOFEPUSU, Mapalamenteng, *civic society* ka kakaretso le botlhe fela. Ba re le supile fa le le Puso e e reetsang, e bile e amogela. Jaanong go farologana le se o se buang gore le sa le le dirile dipaakanyo *unless* o nthaya o re, ga ba bue boammaaruri.

MR MMUSI: Gakere ke go bolelela gore ke rona ba re kgweetsang. Ke rona ba re leng mo tirong e. Ke go tlhalosetsa gore go diragetse eng. Babegadikgang ba ba neng ba letsatsi ba ba farologaneng ba ntshwara, bangwe ka ba kopa gore ba name ba re file nako. Ba se ka ba batla gore re tswalelwa kwa go bone, kana jaaka ba ne ba re laletsatsi gore re tle go tlhalosa, ka ba raya ka re nnyaa, sedibeng go iwa ka tsela, ga ke ka ke ka tabogela go ya kwa babegadikgannyeng kana kwa dipampiring, kana kae go ya go bua ka molao o. Molao o o tshwanetse gore o fete pele kwa Palamenteng, ke bo ke *notify amendments*.

HONOURABLE MEMBER: Clarification Minister.

MR MMUSI: *Honourable* Lucas, a ko le nteseng ke tsamaye, ke batla go tlhalosetsa Batswana, *why* e re fa motho a tlhalosa, e bo le iteega dipelo?

MR LUCAS: Nnyaa, re ne re batla go tlhaloganya.



MR MMUSI: Le tlaa swa ka bonana kana fa le ka dira jalo.

MR LUCAS: Ke ne ke botsa fa Mokhurutshe gore kante molao o fa o tla o o tlisa ka *Certificate of Urgency*, a o ne o setse o kile wa feta ka Attorney General's Chambers, *Cabinet*? Fa e le gore o ne o fetile ka Attorney General's Chambers le *Cabinet*, a bone ba ne ba bona o siame fela go fitlhelela ka nako eo? Ke a leboga rraetsho.

MR MMUSI: Tanki *sir*. Ga go na molao ope... kana melao yotlhe *are drafted* kwa Attorney General's Chambers. Jaaka ke go bolelela, melao e e ne e fetile lantlha e le 16, mme o, ba ba gakololang ba ofisi ya rona yone ya FATF, ya re fa ba lebelela melao, ba lebelela *recommendations* tsotlhe tse ba di beilweng pele, ba lemoga gore ke molao o re o tlhokang, mme ba o tlisa kwa go rona ka gore o ne o setse, mme jaaka ke bua, re ne ra o tsenelela thata beke e e fetileng le rona. Ra o tsenelelela kwa teng gore re o tlhatswe, mme re o kopetse *Certificate of Urgency*, ka gore gongwe bangwe jaaka ke bua, re ne ra se ka ra iketla pele gore tota re fe molao nako gore o tle o tliwise ka *steps* tsa one, ra simolola go o kgala, mme rona ba re neng re o tshotse jaaka ke bua, ba nne ba re ba a ntaletsa ba re ke tle go o buelela kana ke tle go o *defend*, ke ne ka ba raya ka re ba mphe nako ka gore ke ne ke itse gore ke ya kae. Ke ne ka tsamaya, ka nna ka buisana le boeteledipele, *His Honour the Vice President (VP)*, le ene ke ntse ke mmolelela, beke e e fetileng le beke yone e, mme le ene Tautona, ra boela kwa Khuduthamageng le bone ra ba bontsha, ra boela kwa *caucus* jaaka re ne re tlile le maabane kwa *General Assembly* gore tsela e jaanong e re e tsamayang e... (*Interruptions*)... so, ke tsaya gore...

HONOURABLE MEMBER: Clarification.

MR MMUSI: A ko o iketle Motsamai. Jaanong o tloga o re ke a go ila go siame rraetsho, bua.

MR MOTSAMAI: Nnyaa, tswelela ka *story*.

MR MMUSI: ... (*Laughter!*)... *Okay sir*. Nnyaa, mme ke ne ke tlhalosa. Ke tlhalosetsa Motswana kwa gae, le lona Mapalamente *and there is no how... we appreciate* dikgang tse le di buileng, *we appreciate* dikgakololo tse le di re beileng pele. Re a di amogela *and we have corrected wherever we can correct*. Re amogela dikgakololo tsotlhe tse di beilweng ke Batswana, ga re di gane, *we appreciate them*.

Molao o jaaka le le Mapalamente jaana, le tlile fa go dira melao, go tla go ganetsa, re bo re baakanya.

Ke tiro ya rona gore fa re kgonang *to accommodate* teng, re *accommodate* teng, mme go tlaa nna fa re sa *accommodate* teng. Ga go reye gore e bo e le gore, ke gore jaanong lona e ka re le batla go tsaya *limelight*, *no, no, no, limelight* ga se ya lona borraetsho. Golo fa re ne re bereka, le rona re theogetse, re a utlwana?

Ke utlwile dikgakololo tsa lona. *Dance floor* e ke ya rona rotlhe, re mo tironng e rotlhe, re e tshwaraganetse, mme *by the time* le tlisa kana bo MISA ba ya kae, go iwa kwa kae, kwa kae, re ne re setse re beile *amendments* tse kwa ga *Clerk*, kwa Palamenteng, gore a itse gore re ya go tsamaya jang. Jaanong ke ne ke re fela ke tlhalose kgang e gore Motswana a e itse gore Puso e, *yes*, re a reetsa, re a buisana, go nniwa fa fatshe, go ntshiwa mabaka. Ga re patike, ee, gongwe le gongwe go ka nna le phoso fa e diragetseng teng, mme e bile gape *it is very unfortunate* gore fa re tlile ka molao o ntse jaana, jaanong batho bone ba kgarametsa kwa DIS, ba batla go tshosa batho gore DIS e ya go dira eng, go ya go diragala eng, ga re ka ke ra bereka jalo.

Golo fa re batla go isa lefatshe kwa pele. Re tliseditswe mo *term* e *from 2019 to 2024*, re tshwanetse go bona re dirile ditiro. Ga re ka ke ra nna ra tshosa, ra palelwa ke go dira ditiro, e le gore re lebeletse gore ba ba neng ba le fale go diragetse jang. Re fano go tla go dira melao, re tlaa e tlisa, re tlaa e bereka, re tlaa e baakanya.

Jaanong molao one o re o tliseditse *amendments*. *Amendments* tse ke dumelang gore lotlhe le le Mapalamente, le letse le di bone. E rile maabane ka 6:49 p.m, Rre Nfila *communicated these amendments* mo WhatsApp *group* ya Mapalamente. *So*, le ne la di lebelela. *We assured you* le go tswa phakela re ne re le kwa *General Assembly*, *we took you through on what we are going to do*. Re ne re ntse re le bolelela gore ke se re ikaelelang go se dira. Selo se re se dirang se ga se tlhola ntsha, e bile re tlisa molao jaana, ga se selo se sasha, ke selo se se ntseng se diragala, bo *Honourable* Wynter o sale a tsene mo Palamenteng e le monana, o tsofalela fa, jaanong ke dilo tse a neng a ntse a itse gore di a diragala. Ga se selo se sasha gore re ka tla go fetola gompiano *Honourable...*

HONOURABLE MEMBER: O mpuisa jang?

MR MMUSI: *Sorry*, o santse o le monana mo Palamenteng. *Honourable* Keorapetse...

MR MAJAGA: Motho a na le phandane e e kana, o tsofetse motho yo.



MR MMUSI: Jaanong mme fela ke ne ke batla gore ke e beye jalo gore Batswana ba itse kwa lelwapeng gore batho bangwe ba se ka ba tla go leka go tla go tsaya *limelight* fa. Re sale re beile kgang e. *Honourable* Reatile o ne a nkgalemela...

HONOURABLE MEMBER: Ga o batle *limelight* fela?

MR MMUSI: Nnyaa rraetsho, ke tlisitse tiro, ke mo tiring golo fa, mme e bile wena o letse o nkakgotse tsala ya me, ke a go leboga thata gore o ne wa farologana le ba bangwe. *Honourable* Reatile o ne a nkgalemela le *Honourable* Ramogapi, gore rraetsho re kopa gore o *make sure* gore o dira tiro e e tlhamaletseng, mme fela ke batla go lebogela Mapalamente otlhe a a akgetseng mo molaong o ke o beileng, bangwe ba ne ba batla go o leba e santse e le molao wa maloba, ba sa batle go lebelela tse di yang kwa pele, mme tota gone ga re ka ke ra lebelela tsa maabane, fa tsa gompiano di le mo tafoleng, re tshwanetse go di lebelela *irrespective of what* molao o ya go tsamaya ka *amendments which I have already noticed* kwa Palamenteng *and that is why they are noticed* kwa Palamenteng.

Ke dumela gore ke *process* e Palamente e berekang ka yone. Ke teng ka fa Palamente e tsamaisiwang ka teng. Se ke se dirang se, ga se selo se sesha, e bile ga se gore se pharologanyo gope, gore ke bo ke tla ka molao, ke bo ke tla go o kopela *amendments*. Le maabane re tlhotse fa re lebeletse *amendments*. *Honourable* Saleshando *have noticed amendments* mo melaong di se kana ka sepe. *So*, le nna ke tlisitse *amendments*, Mopalamente mongwe le mongwe o ka tliisa *amendments* mo molaong gore o baakanyege. Jaanong *Mr...*

MR RAMOGAPI: *Elucidation*. Ke go netefaletsa gore *amendments* tse go raya gore re ka sutisa molao o, wa re rurifaletsa gore nnyaa, ga e ka ke ya re o tsena kwa, wa tloga wa fetola gape wa re jaanong ke a di busa. Re dumalane le wena ka pelo e tshweu re re nnyaa, re dumalana le molao o tota ka kitso ya gore *amendments* ke tse re di tshwere tse.

MR MMUSI: *Once amendments are approved* mo Palamenteng jaaka di tlaabo di tsena jaana, *Honourable* Ramogapi, ga go na jaaka ke ka di fetola ke sa tle kwa Palamenteng, mme wena fela jaaka o ntse o ntshepha, o tlaa tsoga o ntse o ntshepha, ke dumela gore o tshhepe fela jalo. Le wena *Honourable* Hikuama jaaka o ntshepha, ke itse o le motho yo o ntshephang, ke dumela jalo. *Honourable* Keorapetse le ene fela jalo, mme le se

mo phathing le nna. Mme fela ke le tsere fela lotlhe, ke bereka le lona, re tlaa berekisana fela jalo, re tliisa melao re tla go e baya fa. Lephata le la me ke la melao, mme se lebaleng gore re tlisitse melao, re setse re fetisitse melao e le *eight*. Ke raya gore mafoko a me a ne a le kalo. E ne e le gore ke tlhatswetse Batswana gore ba itse gore golo mo ga go a simologa maabane, e bile ga go a tlisiwa ke bo semangmang, e bile go ne go sena *pressure*. Ee, re amogetse. E bile le makwalo a a neng a le *publicised* a bo MISA, a bo mang, ga ke ise ke ko ke a bale, ke ne ke a bona ka gore ke ne ke itse gore re theogetse.

MR SALESHANDO: *On a point of clarification*. Ke a go leboga. Le fa o re o ne o se ka fa tlase ga kgatelelo, kana se batho ba se gakgamalelang ke gore, la kopana le le Khuduthamaga, o le teng, Tautona a le teng, Mothusa Tautona a le teng, Matona a mangwe a le foo, bodirelapuso bo le foo, le bo *Attorney General* ba le foo, la ipona le dumalana gore molao o re o isa kwa Palamenteng, o o reng go ka reediwa megala ya batho go sena *court order*. O gompiano o tlang ka *amendments* di se kana ka sepe. Le fa o re o di tlisitse ...*(Inaudible)*... o a itse gore o di tlisitse fa pele ga Palamente maabane. Segakolodi se ne se le kae le le *Cabinet* le sa bone gore dilo tse dintsi mo molaong o di a fatlha?

Sa bobedi se ke kopang gore o tle o wele ka sone, ka gore o nnile le *benefit* ya dikgakololo tsa semolao, kgang e ya *the assumed identity*, a go na le melao mengwe e o ka re e bontshang wa re, go na le melao ya mofuta o, o o letlelelang gore Palamente e ka rurifatsa gore tsamayang le ye go dira *document* e e tlaabong e se ya boammaaruri, *go and produce a false but legal document?* Le *courts* di beye *stamp* gore, ee re a itse gore ke *false document*, *but* re batla gore e bo e siame ka fa molaong. Re ka *benchmark* le melao efe ya mafatshe a mangwe go bona gore go tsamaisiwa jang? Ka gore go santse go pala go wela mo go nna gore, ke tlaa tshaisa gompiano ke re ke dirile thulaganyo e ntšha mo lefatsheng la Botswana e go tlaabong go na le *false documents* tse di beilweng *stamp* ke Palamente le makgotla a ditsheko.

MR MMUSI: Mma ke go arabe fela jaana *Honourable* Saleshando. Kana gompiano jaana *false documents* kana *false identity* tsa go reetsa, ke fa e le gore lefatshe le beilwe mo mosing, *there is danger to the country*. Re tshwanetse gore re sireletse lefatshe ka sengwe le sengwe. Fa e le gore lefatshe le mo kgatelelong, le mo mathateng, re a bona gore mafatshe a kgona go tlhaselwa ke ditsuolodi, mme fa re batla *to intercept* gore ditsuolodi tse di se ka tsa tsenela ka kwano, *we can give*



a false identity to somebody to go and join ditsuolodi tseo, gore a tle a kgone go re fa information. We are protecting the country with that.

MR SALESHANDO: *Honourable Mmusi, fa o ba fa false identity, a re re ke Omang le passport, a di tsena mo database ya rona ya Omang kana ka gore ke false, ke e e fa thoko? Akere lekgotla la ditsuolodi ga le ka ke la itse gore ga e yo mo database ya Omang, a o tsenngwa mo dipampiring tsa rona tsa Omang mo e leng gore le kamoso fa a tlhokafala you issue a false death certificate? How do you close that chapter?*

MR MMUSI: *Aha! that chapter gets closed immediately when that event closes. Fa e le gore re go raya re re ke three months, fa o fetsa project eo in three months re itse gore e wetse. Re tlaabo re tswala chapter eo.*

HONOURABLE MEMBER: ... (Inaudible)...

MR MMUSI: *Okay, nnyaa ke ne ke re ke mmotsha fela gore e tlaabo e tswalelwa gone foo.*

HONOURABLE MEMBER: *A e tsena mo database? That is the question.*

MR MMUSI: *Nnyaa mo ke kgang e sele, ke kgang ya intelligence.*

ASSISTANT MINISTER OF AGRICULTURAL DEVELOPMENT AND FOOD SECURITY (MR MOLEBATSI): *On a point of clarification. Honourable Leader of the Opposition o ntse a botsa gore ke kae kwa mafatsheng a go nang le melao ya assumed identity. A teng mafatshe a a dirang jalo, ke fe sekai, kwa Australia go na le Crimes (Assumed Identities) Act of 2009, o e leng gore it was effected ka di 17th December 2021. So this is common, ga go go ntsha. Jaaka re dira fela jaana, assumed identity e teng, go kopiwa kwa courts, it is operational as we speak. Ga se selo se e leng gore ga se diragale. Gongwe o a itse Honourable Mmusi gore go ntse jalo.*

MR MMUSI: *Ke ne ke sa batle re bua ka mafatshe ka gore re dumalane mo Palamenteng e gore ga re ye go bua ka mafatshe a mangwe. I thank you Mr Speaker. Ke tsaya gore ke tlhalositse. Ke lebogetse dikakgelo tse di neng di tswa kwa Mapalamenteng a a fano, bontsi jwa bone supported molao o ke ba o beileng pale.*

Ke re Mr Speaker thank you. I therefore move that the Criminal Procedure and Evidence (Controlled Investigations) Bill, 2022 (No. 1 of 2022) be read a second time. Thank you Mr Speaker.

Question put and **agreed to.**

Committee - **Forthwith.**

ASSEMBLY IN COMMITTEE

(CHAIRPERSON in the Chair)

**CRIMINAL PROCEDURE AND
EVIDENCE (CONTROLLED
INVESTIGATIONS) BILL, 2022 (NO. 1
OF 2022)**

MR CHAIRPERSON (MR SKELEMANI): Order! Order! Honourable Members. The Bill before you has 34 Clauses and a number of amendments have been noticed.

Clause 1 **agreed to.**

MR CHAIRPERSON: There is an amendment noticed at Clause 2.

Clause 2

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): Thank you Mr Chairperson.

Mr Chairperson, *ke kopa gore ke tlhalose sengwe*, allow me to present the amendment as follows so as to ensure that there is clarity on a noticed amendment as to which amendments are substitutions and which ones are the new insertions. I beg your indulgence to do so at Paragraph 1, 5 and 10.

MR CHAIRPERSON: No Minister! No, our records must come out quite clearly, so you do them arithmetically, one after the other.

MR MMUSI: That is what I am going to do Mr Chairperson, I was just explaining but I will be doing them that way Mr Chairperson.

MR CHAIRPERSON: Proceed Honourable Minister.

MR MMUSI: Thank you Mr Chairperson. The Bill is amended at Clause 2 appearing at page B.3 by substituting for the following definitions, the following new definitions -

We have just made that change Mr Chairperson, that there is a substitution and they are in sessions. We are saying; (a)

“controlled investigation” includes -



- (a) undercover operations;
- (b) covert operations;
- (c) use of informants;
- (d) controlled delivery; and
- (e) interception of communications;”;
- (f) “court” or “the court” means the High Court;”;
- (g) “judicial officer” means a Judge of the High Court;”. And by inserting in the correct alphabetical order, the following new definitions -
- (a) “Chairperson” means a chairperson appointed in terms of paragraph 4 of the Schedule;
- (b) “Committee” means a Committee established under Section 13...

MR CHAIRPERSON: Honourable Minister, you are doing exactly what I am saying you should not do. In terms of today’s Order Paper, immediately after amendment 1 which deals with a, b, c, up to e.

MR MMUSI: It is just because Mr Chairperson, I am trying to explain that Chairperson and Committee which is a, and b, are new definitions. And then a, b, c, d and e, are substitutions.

HONOURABLE MEMBER: Gakere *Honourable Mmusi*, kana o di tswala ka bo *Honourable Minister*, fa gotweng *Minister of Justice*, ke gone fa o emang teng, ga o ka ke wa fetela kwa tlase ga yone. Re bo re fetsa ka yone, fa re tsena kwa go 3...

MR MMUSI: Okay, but I will do what Mr Chairperson wants.

MR CHAIRPERSON: Honourable Minister, maybe it is Parliament which misunderstood you and therefore produce an Order Paper ... (Interruptions)... which you never intended should be put. It should be quite neat for the purpose of the record, if you just went by this Order Paper and read your amendments up to e.

MR MMUSI: I will do that Mr Chairperson, thank you.

The Bill is amended at Clause 2 appearing at page B.3 by substituting for the following definitions, the following new definitions -

- (a) “Chairperson” means a chairperson appointed in terms of paragraph 4 of the Schedule;

- (b) ““Committee” means a Committee established under Section 13;”;

- (c) ““controlled investigation” includes -

- (a) undercover operations;

- (b) covert operations;

- (c) use of informants;

- (d) controlled delivery; and

- (e) interception of communications;”;

- (f) ““court” or “the court” means the High Court;”;

- (g) ““judicial officer” means a Judge of the High Court;”. I so move Mr Chairperson.

MR REATILE (JWANENG-MABUTSANE): *Thank you Mr Chairperson. Mr Chairperson, ke ne ke re mo amendments tsa ga Tona ka fa a sa tswang go di supa ka teng, a tlhalose gore e tle e re fa ke tlhophla le ene, ke bo ke mo tlhalogantse. Mo go ya (a) undercover operations and (b) covert operations, ke tsaya gore ka fa ke tlhaloganyang ka teng, o kare o bua gore ke batla lebeso, kgantele a bo a re ke batla mašhi ka gore undercover le covert ke ngwana a le mongwefela, ga se twins. A tlhalose eo gore why re nna le (a), le (b), re bitsa motho a le mongwefela ka maina a a farologanyeng? I thank you Mr Chairperson.*

MR KAPINGA (OKAVANGO): Thank you Mr Chairperson. I had raised my hand earlier just when we started debating the amendments to ask where the Schedule being referred to *fa go buiwa ka* definition *ya* Chairperson, *gore se kae* so that we can see paragraph 4 of such Schedule? Thank you Mr Chairperson.

MR CHAIRPERSON: If I can try and answer what the Minister says and I go by the Order Paper, mine indicates that there is an amendment at Clause 34 that introduces a Schedule. If you look at Page 7 of today’s Order Paper at the bottom, it says, “the Bill is amended by inserting immediately after Clause 34 appearing at B.16 the following Schedule.” I am sure the Honourable Minister o *tlaa e tlhatswa fa go tlhokafala*.

MR MMUSI: *Mr Chairperson, ga ke sure gore a Honourable Kapinga o ne a botsa gore Schedule se kae. Se simolola mo page...*

MR CHAIRPERSON: *Fa ke mo utlwa sentle Honourable Minister, o ne a re when you say “Chairperson” means a Chairperson appointed in terms of paragraph 4 of the Schedule, which is that Schedule.*



HONOURABLE MEMBER: Yes, but you have explained Mr Chairperson, it is at the back of Page 7 of the Order Paper.

MR CHAIRPERSON: *That is what I said but ke ne ke re gongwe Minister o itse sephiri o ka tlhalosa.*

MR MMUSI: Ga ke itse gore o ne o raya se sele sefe *Mr Chairperson* ka gore *Schedule* sone se teng fa.

MR CHAIRPERSON: O ne wa se ka wa utlwa gore *Honourable* Kapinga o ne a reng?

MR MMUSI: Ke ne ke utlwa a bua ka B.3 kwa re buang gore re tsenya *definition ya Chairperson* e e leng gore *it is appointed in terms of paragraph 4 of the Schedule, which is Schedule 1* e e kwa morago e kwa page 7.

MR CHAIRPERSON: *That is what I said. So, confirm* se o re ee, o a dumalana.

MR MMUSI: Ke a dumalana mongwame.

MR CHAIRPERSON: I am sure Honourable Kapinga now has heard you.

MR MMUSI: *Ee rra. Honourable Reatile o ne a botsa ka* undercover operation *le covert* operation. Undercover operation is the arching, *ke yone ... (Inaudible) ...* then *bo* covert, use of informers *ke tsone tse di tlang ka fa tlase. Ke gore* undercover operation *ke yone e ke ka reng e kwa godimo*, and then *bo* covert *di tla ka fa tlase e le* a special operation. These are technical or security words.

MR CHAIRPERSON: I think *ga le utlwane*. If I heard Honourable Reatile properly *a re*; under (c) controlled investigations include (a) undercover operations, (b) covert operations. *A bo a re ene ka fa a tlhologanyang ka teng*, undercover operations and covert mean the same thing. That was his argument. *A re a mme go na le pharologanyo* Mohurutshe?

MR MMUSI: Ee rra, ka fa go ba...

MR CHAIRPERSON: Nnyaa, nna ke tlhalosa fela gore o ne a reng, wena o ka mo araba.

MR MMUSI: *Ee, ke a mo araba* sir. Kana undercover will ensure the clarity in the scope of investigative techniques. *Ke yone* undercover. *Jaanong* covert is a particular operation. *Ga ke itse gore a o a nkuthwa* Honourable Reatile?

MR REATILE: Ga re ka ke ra nganga ka dilo tsa Makgoa Mohurutshe. E tlogele gone foo. Le fa o ka lebelela bo (m) (f) e tlaabo e le *undercover or covert*. Ke gone ka fa beng ba sone ba se buang ka teng. *Anyway*, magodimo ga a we, ga re ka ke ra tla go ema fa.

MR MMUSI: Tanki *sir*.

Amendment agreed to.

Clause 2 as amended agreed to.

New Clause

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): The Bill is amended at page B.4 by inserting immediately after Clause 2, the following new clause, and renumbering subsequent clauses accordingly -

“Application 3. This Act binds the state.”

Ke yone e e tsenang foo Mr Chairperson. I so move Mr Chairperson.

Amendment agreed to.

New Clause agreed to.

Clause 3 agreed to.

Clause 4

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): The Bill is amended at Clause 4 appearing at page B.5 by substituting for Clause 4, the following new clause -

“Prohibition of undercover operation without warrant.”

4 (1) An investigating officer shall not engage in an undercover operation unless the investigating officer is authorized to do so by an undercover warrant issued under this Part.

(2) A person who engages in an undercover without authorization commits an offence.”

MR CHAIRPERSON: *Ke ne ke botsa* Honourable Minister, *gore a go ka twe* in an undercover, kana undercover operation.

MR MMUSI: It has to be undercover operation.

MR CHAIRPERSON: *Ehe, e ne e le Sekgoa?* Order! The question is that the amendment be agreed to.

MR SALESHANDO (MAUN WEST): *Thank you Mr Chairperson. Two points; ya ntlha ke e o setseng o e supile, gore a mme ga e tlhaele sengwe Tona. “A person who engages in an undercover without authorization.”* Ya bobedi ke e; ke bonye mo go tse dingwe gore o leka go dira *a deterrence*, go leka go tlisa sengwe mo molaong



se se tlaa dirang gore ba ba filweng dithata ba tshabele kgakala go di dirisa ka tsela e e seng yone e Palamente kana bakwadi ba molao ba neng ba e ikaeletse. O buile kwa go tse dingwe jaaka kwa *misuse of assumed identity*. Jaanong fa ke eng re sa dirise yone thupa ele ya go kgalema gore ope a itse gore ga a letlelelwe, re re yo o tla dirang jalo, a dira “*an undercover operation without authorization, commits an offence.*” O se ka wa ema foo, o re, “*commits an offence, and is liable to a term of imprisonment for life,*” fela jaaka e nngwe ele ya *identity*. Re se ka ra lesa fa gore gone go tlaa twe *offence* fela, mme go sa buiwe gore o dirile eng. Gore mongwe le mongwe yo o diragatsang molao o, a itse gore fa a ka ba a leka gore a itirele go rata le go bona, botshelo jwa gagwe o ya go bo tshelela kwa toronkong, go tlaa rotloetsa gore le ba ba neng ba batla gore ba dirise *junior staff* go dira dilo tse, se nne le tsetla ya go ikemela ka dinao gore mongwame ke tshaba go ya toronkong botshelo jwa me jotlhe. Ke *proposal* e ke e dirang gore a *Minister* o ka e amogela, fa a e amogela re bo re baakanya. Ke ne ke sa batle go e sutisa ke ise ke utlwe maikutlo a gagwe. Ke a leboga.

MR REATILE (JWANENG-MABUTSANE): *Thank you Mr Chairperson. Honourable Saleshando o tsera part of kgang e ke neng ke re ke ya go bua ka yone ya 4 (2). E ke neng ke batla go e tlhologanya Honourable Minister ke ya gore, fa re dumela gore “the investigating officer shall not engage in an undercover operation unless the investigating officer is authorised to do so by undercover warrant issued under this part,” ga ke na bothata le yone, but kana golo fa we are dealing with dikgang tse di bokete Honourable Minister. A mme re tlaabo re sa ba bofelele matsogo ka fa morago mo go feteletseng? Ke eng ba ne ba sa neelwe window ya gore they can act but within 24 hours e bo ba setse jaanong ba tsera warrant ya gore jaanong ba tsewedise tiro ya bone. Gongwe dinokwane di tsoga di ya go ba tswa ka phatlha tsa menwana, ba santse ba tshwanetse go ya go tla ka warrant. Ka wena o ntse fa fatshe le didupe tsa gago tsa bomaitseanape, gongwe o e fetise gone foo, tse dingwe tse ke dumalanang le Honourable Saleshando. I thank you sir.*

MR MMUSI: *Thank you Mr Chairperson. E ya No. 2, there is a typo mo go yone, gatwe “a person who engages in an undercover operation without authorisation commits an offence” ke yone eo. Honourable Keorapetse, ke a go utlwa rraetsho, mme kana ga ke agente, mme...*

MR CHAIRPERSON: Honourable Saleshando.

HONOURABLE MEMBER: Keorapetse ke ofe?

MR MMUSI: *Honourable Saleshando, ga ke agente, mme fela gatwe golo mo go kwa the General Offences gotlhe, it has been catered for, so ga o ka ke wa go dira specific. Ke raya ke gakololwa ke ba e leng diagente, ga ke motho wa molao, mme fela e rile fa le nna ke gakololwa ke bo agente ba nthaya ba re nnyaa, kana golo go kwa the General Offences, so it has been catered for.*

MR SALESHANDO: *Clarification. Tlhaloso e ke e kopang ke gore mo dipaakanyong tse o di dirang, o tlaa bona gore fa o baakanyang teng Clause 15 appearing at page B.9 o tse tse gore those who will misuse assumed identity, ga o a re fela wa re they are committing an offence, o tsewetse wa re “and is liable to a term of imprisonment for life,” yone e farologana jang?*

MR CHAIRPERSON: Honourable Minister.

MR MMUSI: *One of the things tse ba neng ba di bua rraetsho ba ne ba re, it is the gravity of the offence, that is why go na le pharologanyo. That is why ele e le specific, e e le kwa General Offences. I hope ke go arabile sir.*

HONOURABLE MEMBER: Le nna o nkarabe foo, ke utlwe gore wa reng.

HONOURABLE MEMBER: Mr Chairperson.

MR CHAIRPERSON: Vice President (VP).

HIS HONOUR THE VICE PRESIDENT (MR TSOGWANE): Jaaka Rre Reatile a ntse a bua gore, ya gagwe o kare ga go a arabiwa mo go yone. E bile ke ne ke batla go gatelela gore o tlile ka ntlha e e botlhokwa, probably e ya go nna le bothata jwa gore kana jaanong le fa go na le dispensation eo, e tshwanetse gore e supafale sentle, ka gore re setse re supile gore fa o sena warrant o bo o dira jalo, o a bo o tlodile molao. Tota ntlha e a e buang ya gore, kana re lwantsha borukutlhi jo re tshwanetseng ra ema ka dinao ga nna bonako, gongwe within 24 hours oo, o ka nna botlhokwa ka fa Rre Reatile a neng a bua ka teng. Legale re tlaa utlwa Tona gore o e araba a reng, ka gore o ne a ise a arabe. Ke a leboga.

MR MMUSI: *Thank you Mr Chairperson. Honourable Reatile, kana borukutlhi jo re bo lwantshang jo, ga bo tshwane le borukutlhi jwa go utswa mo shopong kana mo go eng, ke borukutlhi jo bo ka feretlhang lefatshe. Jaanong operation ya teng e a bo e ntse e le telele, e sa*



bolo go nna e diragala. Re dumela gore *the investigating officers* ba a bo di na le nakonyana e ntsi gore di ka kgona gore di batle di bo di ye kwa *court*. E bile gompieno re a itse gore *courts* tsa rona di bereka bosigo le motshegare, fa go na le *a crisis* e e tshwanang le e, *they can attend to it*. I thank you Mr Chairperson.

...Silence...

MR MMUSI: A re a utlwana Mr Chairperson?

MR CHAIRPERSON: Yes sir. I think Honourable Members, as the Minister indicated, there is a typo, the “undercover” should be followed by the word “operation.”

Amendment **agreed to.**

Clause 4 as amended **agreed to.**

Clause 5 **agreed to.**

MR CHAIRPERSON: Honourable Minister, there is Clause 6.

Clause 6

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): Thank you Mr Chairperson. Mr Chairperson, the Bill is amended at page B.6 by inserting immediately after Clause 6, the following new Clause and renumbering subsequent Clauses accordingly -

“Protection of Privacy in controlled investigations”

7. (1) In determining an application for an undercover operation, a court shall consider -

(a) whether what is sought to be achieved by the warrant could reasonably be achieved by other less intrusive means;

(b) whether the level of protection to be applied in relation to any obtaining of information by virtue of the warrant is higher because of the particular...

MR CHAIRPERSON: Sorry Minister. I called you to make a mistake, we are not dealing with Clause 6 as such, but a decision immediately after Clause 6. So let us dispose of Clause 6 first.

MR MMUSI: Yes sir.

Clause 6 **agreed to.**

MR CHAIRPERSON: Honourable Minister, you can now deal with the insertion after Clause 6.

New Clause

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): Thank you Mr Chairperson. Mr Chairperson, the Bill is amended at page B.6 by inserting immediately after Clause 6, the following new Clause and renumbering subsequent Clauses accordingly -

“Protection of Privacy in controlled Investigations 7.1”

7. (1) In determining an application for an undercover operation, a court shall consider -

(a) whether what is sought to be achieved by the warrant could reasonably be achieved by other less intrusive means;

(b) whether the level of protection to be applied in relation to any obtaining of information by virtue of the warrant is higher because of the particular sensitivity of that information; and

(c) any other aspects of the public interest in the protection of privacy.

(2) The other considerations by the court under Sub-section (1) may include -

(a) national security interests;

(b) public interest in preventing or detecting serious crime related activity;

(c) whether the conduct is authorised is proportionate; or

(d) any other consideration that the court may consider relevant for purposes of this Act.” I so move Mr Chairperson.

MR CHAIRPERSON: Honourable Members, the question is that the amendment be agreed to.

MR KAPINGA: Thank you very much Mr Chairperson. I would want to request the Minister to explain the meaning of the proposed Clause 7 (1) (b). To me it is a bit mixed up, I do not understand what it is intended to convey. Thank you Mr Chairperson.

MR MMUSI: Thank you Mr Chairperson. 1 (b) “whether the level of protection to be applied in relation to any obtaining of information by virtue of the warrant



is higher,” I believe that and as I have always said, I am not a lawyer, but the way I understand this Clause to be saying is that the level of protection to be applied in relation to any obtaining of information by virtue of the warrant is higher. If obtaining the information, the warrant is higher because of the particular sensitivity of that information and it is because of the sensitivity of that information, so the warrant is higher.

HONOURABLE MEMBER: ‘Higher’ o raya mo go eng foromane?

MR KAPINGA: Nnyaa, *Chairperson* o tlaa re thusa, e neele *Attorney General*, ga ke tlhaloganye.

HONOURABLE MEMBERS: ...(Laughter!)

MR MMUSI: Ke ne ke tsaya gore ba raya gore *level of protection* ke yone e e kwa godimo fa re bua Setswana. Legale jaaka ke bua ga ke agente, ga ke ise ke ko ke tsene mo *court*, ke ithutela fela mo *Ministry* o wa *Defence*, ke ithuta molao gone fa.

HONOURABLE MEMBER: Ke ka go supela, ga o ise a bo o seke kana.

MR CHAIRPERSON: *Le batla go ntsenya mo thaelong.* I have already asked Legal Counsel whether the new proposed Clause 7 (1) (b) in determining an application for an undercover operation, a court shall consider - (a) whether the level of protection to be applied in relation to any obtaining of information by virtue of the warrant is higher because of the particular sensitivity of that information. I thought when I read it, it meant that when you make your application to the courts, the courts may actually refuse your application if in the view of the courts, there is no need for you to be asking for that warrant because the sensitivity of the information you require, you obtained without that warrant, so they can refuse.

Amendment agreed to.

New Clause agreed to.

Clause 7

MR SALESHANDO (MAUN WEST): *Thank you Mr Chairperson. On Clause 7, nte ke e tlhalose pele, e leka go dira dilo tse pedi, kwa 7.1 gore undercover operations di ka diriwa ke two or more investigatory authorities. That is the first one.*

Then kwa number two, e letlelela gore these investigatory authorities di ka dira di tshwaraganetse an operation e e leng gore it involves a non-security agency. That is

where I understand it. E bo e re gore go diriwe jalo, go tshwanetse go kopiwe tetla kwa go Tona ka gore go tlaabo go tsena ba ba senang dithata tsa to investigate. Kana golo fa re rile re batla to introduce judicial oversight jaaka re ntse re dira gore dilo tse dingwe di nne di lebelelwa ke makgotla ka gore ga se tse di neng di solofetswe ke molao, a di a letlelesega. Jaanong kwa 7.2 ya re Minister ke ene a tlaa fang tetla yone eo.

Ke kopa go fetola *Clause* yone e gore go e letlelela to operate go tsewe tetla kwa lekgotleng. Tota ke yone kopo ya me *Mr Chairperson*, I move that the Bill be amended at Clause 7 (2) on Page B.6 by substituting the word ‘Minister’ with the word ‘court’. I move accordingly.

MR CHAIRPERSON: Honourable Members, I think the proposed amendment is simple enough for us not to worry about the Standing Orders which require that the Honourable Member should submit a written proposal. All he wants is that he substitutes for ‘Minister’ with ‘court’.

HONOURABLE MEMBER: Procedure.

MR REATILE (JWANENG-MABUTSANE): *Thank you Mr Chairperson. Mr Chairperson, ke dumela gore Tshutiso ya ga Honourable Saleshando e maleba ka mabaka a gore Tona o dirile amendments tse a tlleng ka tsone, tse ke dumelang gore ke dumalana le tsone. O mo lepotlapotleng ka nako e khutshwane, as he noticed molao o, a o tlisitse under certificate of urgency. Fa a ne a na le nako, ke dikgang tse a ka bong a lebeletse (reflected on) mo go tsone. Ga ke bone gore go na le lenaneo lepe le le sokameng le a neng a le dira. Minister can authorise ka mabaka a gore go he should clean submission ya gagwe yotlhe, e bong this Bill. Ke dumela gore ke go bontshiwa fela gore mme fa, go na le omission Minister. A re ntsheng Minister re tsenye court e o setseng o e tlhomamisitse gore e tlaa simolola e le yone e go iwang fa pele ga yone, go ya go tsewa assumed identity le dikgang tse dintsi fela. A go nne gone jalo Minister gore o tsene kwa dilong tse o begang, tse tsa operations o seyo mo go tsone since o le lepolotiki motlotlegi. I submit Mr Chairperson.*

MR CHAIRPERSON: Honourable Morwaeng, your procedure.

...Silence...

MR CHAIRPERSON: Honourable Morwaeng, a re feteng.



MR RAMOGAPI (PALAPYE): *Mr Chairperson, ke ema nokeng Tshutiso e e dirwang ke Leader of the Opposition (LOO) ka mabaka a gore the intention of the piece of legislation e re akanyang go e dira, ke gore go iwe kwa makgotleng a ditsheko jaaka Minister a buile. Ke tsaya gore it was an error fela e e ka baakangwang. Gongwe re ka neela Tona go bona gore kgakololo e a e neelwang e, o e bona e ntse jang. Ke tsaya gore ga e na bana ba phefo Mr Chairperson. Re e baakanye ka gore ke ene a re tletseng gore go tsenngwe Kgotla, jaanong go bo go diragala phoso go tsenngwa Minister. I therefore support Honourable LOO.*

MR CHAIRPERSON: Honourable Members, before...

HONOURABLE MEMBER: My hand is up Mr Chairperson.

MR CHAIRPERSON: Yes, I saw your hand Vice President (VP) but I want you for something else. I am looking at my clock and it says now it is about 19 minutes to 12. I had thought by now we will get a fair indication of whether we are likely to finish this Bill by 12:30; I have great doubts. The reason I want you Leader of the House, is to try and take steps that will ensure that we finish with this Bill today.

BUSINESS MOTION

LEADER OF THE HOUSE (MR TSOGWANE): Thank you Mr Speaker. In the interest of what you are saying and in the interest of having to conclude this Bill today, Mr Speaker, if you allow, I will move in terms of Standing Order 27 (1) (c), which I would like to invoke to extend today's business by at least three hours. I thank you Mr Speaker.

MR CHAIRPERSON: Order! Order! Honourable Members...

HONOURABLE MEMBER: *Dira* four hours.

MR CHAIRPERSON: ...(Laughter!)... the question is that...

HONOURABLE MEMBER: Wa re *four*, kana...

MR CHAIRPERSON: ...the Motion be agreed to.

HONOURABLE MEMBER: Ee, ka rialo.

MR TSOGWANE: No, I am amenable to four hours Mr Speaker because it does not do any harm if we finish within an hour or so.

HONOURABLE MEMBER: Then why do we not adjourn for lunch and reconvene at 2:00 p.m.?

HONOURABLE MEMBER: Nako ya *lunch* ga e ise e tšhaye.

HONOURABLE MEMBER: Kana le etla le robala go ntse go tseletswe, *that is why* le sa lape.

HONOURABLE MEMBER: *Mr Speaker* o santse a bua, hei!

HONOURABLE MEMBER: O raya LOO jalo?

MR CHAIRPERSON: You know what Honourable Members, to avoid the...(Inaudible)... of hours, His Honour may want to consider whether his Motion should not really be to extend the sitting of the House today until all the stages of this Bill are done, so that we have lunch in between. It is really internal management.

HONOURABLE MEMBER: O e tshwere *Mr Speaker*, re fa go tla go bereka.

MR TSOGWANE: O e tshwere sentle *Mr Speaker* le fa Standing Order sone se sa letle gore *Motion* wa me o baakangwe ka *Clause* e e mo Standing Order seo. *I thank you Mr Speaker.*

HONOURABLE MEMBERS: ...(Murmurs)...

MR CHAIRPERSON: That is okay VP; that is okay Leader of the House. The question Honourable Members is that we extend the sitting of this House until you have disposed of all the stages of the present Bill.

Question put and **agreed to.**

MR CHAIRPERSON: What we want to do Honourable Saleshando, because we normally on Friday adjourn at 12:30 p.m., will be to adjust and ask the Clerk to provide you with lunch so that we can move a little closer to 1:00 and then adjourn for that lunch if need be, come back at 2:00 p.m. and finish up.

MR SALESHANDO: That is fine sir.

MR CHAIRPERSON: Ee rra.

MR TSOGWANE: Ke a dumela mme go na le bothatanyana, ke ka feta ka jone?

MR CHAIRPERSON: Ee rra.

MR TSOGWANE: Ke kwa Orapa, ga ke itse gore ke tlele *to access lunch* jang, kana ke ka tsaya *receipt* fela ka tla ka e supa ka Mosupologo?



MR CHAIRPERSON: VP, go and see the General Manager *o re Speaker a re o fiwe lunch. E tlaa re fa ke ya morakeng ke tlaa tla ke mo duela.*

Honourable Members, there is an amendment moved by Honourable Saleshando concerning the word “Minister” and he wants that to be deleted and insert the word “court.” Now, Honourable Mmusi...

HONOURABLE MEMBER: My hand was up Mr Chairperson.

MR CHAIRPERSON: Indeed, Honourable Leader of the House.

HIS HONOUR THE VICE PRESIDENT (MR TSOGWANE): Nnyaa, ke gore *Minister* le ene go raya gore o nnile bonyanyana, nkabo re sa mo tsena ganong. Ke ne ke re ke utlwa *amendment*, mme ga ke batle go e ema nokeng kana go sa e ema nokeng go fitlhelela *Minister*, tota *my intention was* gore *Minister* a ...*(Inaudible)*...ka gore ke tsaya ke re e ne e se phoso jaaka bangwe ba tsaya gore ke phoso, fa a ne a tsenya gore *Minister* a dire. E bile Rre Reatile o kile a supa kgantele a re gone ga *warrants* tsa gore nako le nako *even* ka nako e khutshwane go iwa kwa *court*, gongwe go nne le *window* ya *24 hours*, mme gongwe gone moo, bofefo jo re bo tlhokang fa, *courts* kana le tsone ga se gore re tlaa nna re fitlhela di sena tiro nako le nako. Jaanong ke sa itse gore gone fa ga re ipofe thata. Legale *Minister* o tlaa re *guide. With those few remarks*, re tlaabo re reeditse *Minister* fa go tla kwa *voting* gore ene a reng.

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): Mr Chairperson, *kana tota kang e ya joint* undercover operations, the reason why *gotwe* Minister *ke ene a* authorise, *ke gore kana* let us say *mapodise le masole* go into a joint operation, *a jaanong ga re ka ke ra re ba ye kwa* court, Minister *ke ene a ba* okametseng, that is why Clause *e re* Minister *ke ene a* authorise, in the very simple term, that is how it is sir.

HONOURABLE MEMBER: Elucidation.

MR MMUSI: It is a governance structure *e e teng*.

HONOURABLE MEMBER: E ya re *non-law enforcement*.

MR SALESHANDO: Tlhaloso e ke neng ke batla go e fa *Minister* ke gore, 7.1, e bua gore *an undercover operation can be conducted jointly* ke mekgatlho e le mebedi kana go feta e e leng gore ke *investigatory*

authorities ka botsone. Ga e tlhoke *permission* ya gago le ya *court, it is given*, ga go tlhoke *to authorise* sepe. E bo e tswelala kwa go 7.2, wena o ne o bua ka 7.1 gone jaana, eo e teng, ga o tlhoke *to authorise, it is given, but* ke bua ka 7.2 e jaanong yone e reng, *an investigatory authority* jaaka bone masole kana mapodise, e e tlaabong e dira *an undercover operation, under Section 1* di e tshwaraganetse, mme e na le keletso ya go tsenya *a non-law enforcement entity*. Jaanong kamoso gongwe o batla go tsenya bangwe ba e leng gore ga se batlhotlhomisi mo teng, kana o batla go tsenya babereki ba Choppies mo *operation*, o belaela gore ...*(Interruptions)*... di tlaabo di tsene mo shpong ya Choppies, gore ba...

MR MMUSI: E tlaabo e le gore ke bodirelapuso *like Ministry wa Agriculture* kana wa eng jalo. Kana ke go boletsetse jalo *sir*.

MR SALESHANDO: Jaanong ke sone se re reng gone foo *because* se se tlaabong se diragala ke gore *a non-law enforcement entity*, lekgotla le le sa direlwang go dira ditlhotlhomiso, ra re le lone le nne *part of a special operation*. Ke gone fela foo fa re reng go iwe *court* teng ka gore ga se selo se se diragalang kgapetsakgapetsa. Ke selo se re tsayang gore se diragala *once in a blue moon*. Fa go diragala jalo, fela jaaka tse dingwe, a makgotla e nne one a a reng, nnyaa, mme jaanong re a letlelela gore batho ba ba senang dithata tseo re ba di fe re le lekgotla, re sena go reetsa se le tlaabong le se bua. Ke a leboga.

MR MMUSI: Nnyaa, ke raya gore tota kana maphata a, re tlaabo re dirisa maphata a Puso, go na le *resources* tsa Puso tse *Minister* a di okametseng, tse di tlaabong di dirisiwa mo *operations*, so, ga re ka ke ra ya kwa *court* go ya go kopa gore go kopiwe *resources* tsa Puso. *Minister* ke ene a okametseng lephata le, mme fa e le gore re ya go tsaya Lephata la *Agriculture* le tla go bereka le lone mo *project*, e tlaabo e le gore go akantswe gore *Minister* ke ene a ka *authorise*, e seng *court*.

HONOURABLE MEMBER: So, a re ka tsenya gore golo fa re raya e le lephata le lengwe la Puso?

MR MMUSI: *Ee*, maybe as...

HONOURABLE MEMBER: Honourable Chair...

MR CHAIRPERSON: Honourable Members, as the ...*(Inaudible)*... stands, where it refers to “non-law enforcement entity”, it could be any entity, it does not have to be a Government Department. *Ke ne ke re* Minister *fa gongwe a utlwe* what the argument is.



MR RAMOGAPI: *Mr Chairperson*, ke ne ke re kana ka fa go ntseng ka teng, re leka go thusa *Minister* mme kana le ene o na le lephata. Kana melao e e dirwang ka sepiti e, ke ne ke etla ke akanya gore gongwe go batla dilo tse dingwe kana ka gore re dira ka lepotlapotla, a e tla a *consult legal advisor* kana *team* ya gagwe gore e mo direle sentle.

Ke leka go bua se fela ka gore fa re lebelela *spirit* se *Honourable* Saleshando a tlang ka sone gore re baakanye, tota ga ke bone bape ba ka gana *this advice*, gongwe e batla gore re ba fe nako ba bone gore golo fa re bua ka eng, ka gore ke tsaya gore re a tlhaloganya gore e tla ka sepiti jang, Tona le ene a bo a re a tsene ka sepiti. Kana *in normal circumstance* go a ne gotwe *later date*, jaanong e, e le go leka go thusa fela gore fa go kgonagala re e tle re ba fa sebaka, mme ke tsaya gore tota e tlhamaletse fela *Honourable Minister*.

MINISTER OF BASIC EDUCATION (MR MOLAO): Ke a go leboga *Mr Chairperson*. Tota fela ka gore gongwe ga re e lebe go tshwana, *I was understanding it from the perspective* ya ga *Minister* to *apply* kwa go ene to *seek authority* fa e le gore go tlhokega gore *any non-law enforcement entity* e ka itshwaraganya le bone ba ba setseng ba builwe gore ke *investigating authorities*. Ka gore jaanong fa e le gore e ka nna a *governance structure or administrative structure* se *Minister* a ka se dirisang, ga ke itse gore *the mischief* ya teng e ka tswa e bonala fa kae, e e ka tlhokang gore gongwe go ye to *appear* kwa *court* to *say* re bona gore bosemangmang ba ka re thusa *in this activity* ya to *investigate and prevent crime* e e ka tswang e diragala. Fa e le gore *Minister* o ka *approve* golo mo.

Ke ne ke e lebelela fela *from that perspective* gore *it is governance or administrative structure* se *Minister* a ka nngang *answerable to it* gore nnyaa, mme le ka *involve* bosemangmang ba le tlang le *propose* gore ba ka tsenngwa. *I do not know* gore e tlaabo e kgopa fa kae fela *from the reading of a...*

HONOURABLE MEMBER: Clarification.

MR MOLAO: *Why Minister* kgantele a ne a bua a re, kana golo fa *it will be administrative*, e re ntswa a file sekai sa mapodise le masole fa gongwe ba dira *joint operations*, mme *being authorised by Minister* fa ba *patrol* mekgwatha, ba reng, ga go tlhokege, go sa tlhoke gore gotwe e tiro ga se ya bosemangmang, e ga se ya bosemangmang, e le *Minister* a re dira, a bo a ka e emisa ka nako e a ka e emisang ka yone. *I thought we should look at it in that spirit*.

MR CHAIRPERSON: Your time is up.

MINISTER OF INVESTMENT, TRADE AND INDUSTRY (MR KGAFELA): Ke a leboga *Mr Chairperson*. Ke re ke leke go thusa. *Minister* o tlaa intshwarela, dilo tse fa re ntse re di bala, ke gone go senogang fa nako e ntse e tsamaya, mme fela fa ke utlwa Rre Saleshando ka mo a buang ka teng, fa re ka lebelela *Clause 5 (3) (b)* ke yone e e laelang gore *warrant* e tshwanetse ya dira eng. E tshwanetse to *specify* batho ba ba tshwanetseng ba tsaya karolo mo *undercover operation* e. Jaanong ga e ka ke ya re *when the warrant has specified* batho, e bo e le gore ba bangwe ba a tsenngwa, bone ba tsenngwa ka tetla ya ga *Minister*. Bothata bo teng foo, gore *Minister* o tlele go nna le bothata jwa gore e re batho ba seyo *on the warrant*, e bo e le gore jaanong o a ba tsenya mo teng gore ba nna karolo ya ditlhotlhomiso. *I think the best thing to do* *Mr Chairperson* ke gore, *this Clause 7 (2)* ga e tlhokafale gotlhelele, ka gore kana fa go batliwa motlhotlhomiso gore a tsene *in the covert operations, the starting point* ke *Clause 5 (3) (b)* e o tlaa bonang *warrant* ka yone. Mo go rayang gore jaanong tota fela *it deals away with Clause 7 (2)*. *Unless* e le gore gongwe maikaelelo e ne e le dikgang tsa *procurement*, gore fa gongwe go batliwa to *procure the services* tsa batho ba sele e se ba Puso, e bo e le gore ga ba fete ka *the normal procurement process*. *Minister* a ba supa fela ka monwana, e bo e le gore ba a hirwa. Fa e le gore *it is for that purpose, then I would understand, but even then language* ya teng *will have to be re-crafted, to remove parts that they suggest* gore *an undercover operation will have already undertaken. It must be couched to show that it is a proposed undertaking, not one already undertaken. That is, if it is for procurement processes. Otherwise, those are my respectful submissions* *Mr Chairperson* gore, *the two Clauses are mutually destructive of each other and I think we must yield to Clause 5 (3) (b), it should take precedence*.

HONOURABLE MEMBER: Fa a santse a letlelela nako foo...

MR CHAIRPERSON: His time is up!

MR REATILE: *Mr Chairperson*, ke ne ke dumela gore *if we can polish Clause 7 (2), maybe* fa go 'entity' ra tsenya 'department' or 'personnel' ga ke itse, e tlaabo e kgona go dumela ka gore fa re ya kwa go 5 (3) (c) (ii) *Honourable Kgafela*, fa e bua ka *use of informants*, ke dumela gore jaanong re tlaabo re lekile go ya to *cover it* gone fale, re dumela gore *the informants*, ga se batho



ba e leng gore ke ba *law enforcement*. Jaanong fa re lekile *to broaden it* jaaka a dumela gore e tlaabo e le tsa maphata. Ke dumela gore fa re bua ka *law enforcement entity*, go na le batho ba re santseng re ka ya go ba tsaya e le babegadikgang, e bo e le gore re itse gore ba ya kwa *world cup*, mme go na le tsa ba di etseng. Ba tsamaya ka *tag* eo ya bone ya bo *media*, mme e le gore lekgotla *has authorised them* gore ba ye go tswaledisa *mission*, e re nako ya *world cup* e boa kana *whatever mission* o ba tlaabong ba o etse, e bo e le gore jaanong *we have collected enough data* e e leng gore *surveillance* ya rona e berekile. Jaanong fa re boa *and confine ourselves* gore ke bodirelapuso fela, e-e, go raya gore ga re itse, re tlhoafalele go lwantsha bokebekwa jo bo tlhasetseng lefatshe *Honourable Mmusi*. *I thank you.*

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): On a point of clarification. *Kana tota fa re bua gore* Minister will be authorising the undercover operation, but *go ya go kopa* warrant, *e ya go kopiwa* operation *e nse e simologile*. *Kana* the reason why the Minister authorises the undercover operation *ke gore*, the resources *di tswa mo go ene tse di yang go dirisiwa*. So he is accountable at all times.

HONOURABLE MEMBER: Ga di tswa mo go wena *Minister*, ga di tswa mo go wena.

HONOURABLE MEMBER: O a e tlhakatlhakanya jaanong Mohurutshe.

HONOURABLE MEMBER: O a e tlhakatlhakanya. Ga di tswa mo go wena.

MR MMUSI: Gongwe re ne re ka e beela fa thoko, re tlaa tla re e boela kwa morago. *So that I consult.*

HONOURABLE MEMBER: Fa re feta re fetile Kgabo.

MR KAPINGA (OKAVANGO): Mr Chairperson, I will be very brief. I think Honourable Kgafela has finished the argument *gore*, all people that engage in an operation are stipulated in the warrant, *jaaka a nopotse* 5 (3) (b). So all the persons that get involved in an undercover operation are stipulated in a warrant issued by the court. So *ga go na* Minister *fa a tsenang teng* Mr Chairperson. Thank you.

MR TSOGWANE: Ke a utlwa *Mr Chairperson* le *argument* ya ga Rre Kgafela. *Kana we must weigh his argument against what the Minister is saying* gore, kana fa o tla o kopa *warrant*, e a bo e le legato le lengwe, le go

tlileng go tswelwa ka ditlhotlhomiso. *The warrant is for a specific purpose*, mme go ka tswelwa gongwe ka tsela e a batlang go tlhotlhomisa ka yone, mme a batla bangwe gore ba bo ba le teng, mo teng, pele ga *warrant* e kopiwa ya gore jaanong go ye go reediwa, go ye *to intercept*. Jaanong gone foo ke bona e le gore *Minister* a fiwe sebaka, a e akanye sentle, ka gore *he is right*. Gongwe fa re ka e tsaya ka semolao gore *warrant has already prescribed* batho, *it is not always the case*, jaaka a bua a re fa re tla re goroga fa *warrant* e tlhokafalang teng, re a bo re ntse re tswetse ka ditlhotlhomiso dingwe tse di rileng. *We must be careful of what we are doing, otherwise* re ya go ipofa diatla, e bo e le gore fa gongwe re ne re tshwanetse gore re thusiwe ke bangwe ka ditlhotlhomiso *before the warrant is required, because there is a point where you will require a warrant*. *I thank you Mr Chairperson.*

MR MMUSI: *Mr Chairperson*, ke dumalana le *His Honour* fa o ntetla mongwame, ka gore golo mo *as I say*, kana *investigations* tse, ga se tsa fa o utswile dipodi tsa motho kana eng. *These are very detailed and entailed investigations*, tse di buiwang fano. Jaanong go tlaa simolola go nna le ditiro tse dingwe kwa tlase, mme letsatsi le go tlaabong go nna le gore go iwe *to deploy* motho a direlwe bo Omang, kana go simolola go reetsa mo *phone* ya gagwe, ke gone fa go yang go kopiwa. Motho yoo o a bo a sa bolo go nna a salwa morago, bangwe *tipped*, ba simolola *to build a case, which they are going to take to court to go and ask for the warrant*. *I thank you Mr Chairperson.*

MR CHAIRPERSON: The question Minister was, your understanding of Clause 7 (2), is it that, that Clause applies before a warrant under Clause 5 is sought?

MR MMUSI: That is my understanding Mr Chairperson. You are very right.

MR CHAIRPERSON: Honourable Kgafela was then saying, if that is the understanding, you need probably to tinker with 7 (2) to pin that out. Of course the moot question is *gone fa e le gore bana ba gago ba ba tlaabong ba nkgankga* around *ba batla* involvement of other people, why would they have to come to you?...*(Inaudible)...e tsamaelwa mo ke ma*Criminal Investigation Department (CID), *ke eng, ba bona o kare mathakanyana a o kare ga ba a re ema sentle, mma re bue le mothakanyana wa rona re nwa mmogo* shake-shake *ka weekends, re utlwe gore ene o bona eng ka koo*. You are going into operations.



HONOURABLE MEMBER: ... (Laughter!)

HONOURABLE MEMBER: *Minister*, o batla go nna leDIS.

MR CHAIRPERSON: ... (Laughter!)... *Nnyaa* Honourable Members, try to see how the Honourable Minister is... (Inaudible)... *ene o akanya ka nako e e leng gore ga go ise go iwe kwa court go ya go batla warrant.* Let us debate this Clause with that understanding *go bona gore a mme* has it covered the Minister clearly, is there anything that should be done to bring that out clearly because the Minister is just clear *gore o akanya gore Clause e bo e le ka nako efe.*

MR SALESHANDO: But can they do that Mr Chairperson, undertake a joint undercover operation because that is what Clause 7 is talking about, undertaking a joint undercover operation with non-investigatory bodies? Can they do that before they get the warrant, because if they do that before they get the warrant, then they are violating Clause 5, which says you cannot do that before you get a warrant?

MR CHAIRPERSON: If you understand what the Minister is thinking of, and reflect on what Honourable Kgafela was then proposing *gore gongwe*, bearing in mind what the Minister wants, is it possible to re-couch 7 (ii) to cover the Minister? If in fact it is not possible because there is another provision, we should bar you from doing that, then we should debate that part.

MR KAPINGA: *Kana tota* Minister does not have any role to play in operational investigations. He just wants *go ipulela phathanyana ya go tsenya letsogo* but he does not have any role. The role he is contemplating is the responsibility of the Commissioner of Police and not him. When it comes to undercover operations, we have agreed that those shall be authorised by the court. *Ene* as a politician, he has no role to play in the investigations. *Ga a tshwanela gore a itshukunyetse mo teng* when he does not have any legal role to play. *A re phimoleng fela* this provision *re sale ka 5, ga a na role e a e tshamekang* Mr Chairperson.

MR MMUSI: *Mr Chairperson*, ga ke dumalane le Honourable Kapinga.

HONOURABLE MEMBERS: ... (Murmurs)...

MR TSHERE: *Procedure. Thank you Mr Chairperson.* Ke ne ke tlhologanya Honourable Kgafela le Honourable Kapinga gore kana dithata tse di tsewa kwa lekgotleng. Jaanong gore di tsewe kwa lekgotleng jaana,

kana batho bao ba tshwanetse ba tle ba fe bosupi gape kwa lekgotleng ba ba neng ba ile *covert operation*. Ke ipotsa gore *Minister* fa a batla go itsenya mo teng, a le ene fa a tswa fa o ya go fa bosupi ka *covert operation* eo ka gore o tsentse batho foo ba e leng gore ga ba mo lekgotleng? Ke dumalana fela gore *it is irrelevant* yone Clause e *Mr Chairperson*. *I think we should move ahead and delete it. Thank you.*

MR CHAIRPERSON: Honourable Tshere, there was nothing procedural about what you were saying, our procedures are quite right.

MR MMUSI: *Mr Chairperson*, ke dumela gore jaaka ke bua, *Minister oversees and he is responsible and that is why he has to account* le fa go santse go tsenwa mo teng mo. *Do not look at me as the politician, look at me as an executive of the Government. I think that is the difference where* Kapinga a tsietsegang teng. Ene fa a nteba o lebeletse Domkrag, *no, lebelela gore I am an executive of the Government and therefore, I am accountable.*

MR RAMOGAPI: *Mr Chairperson*, ke ne ke re ke leke go thusa gore nna ka fa ke tlhologanyang Honourable Mmusi ka teng, le ka fa ke balang Clause e ka teng, ke bona o kare go raya gore tota yone ga e a kwalega sentle ka gore tota *warrant* e tsewa kwa court. Jaanong se Honourable Mmusi a neng a se batla ke gore *before warrant* e ntshiwa, go raya gore fa a batla *to engage another person* yo e leng gore *he is non-enforcement person*, e bo e le gore jaanong o kgona go mo tsenya mo teng. Jaanong mme fa e le gore go ntse jalo, e tshwanetse gore e balege e re, "*before the application of the warrant.*" Go raya gore *Minister* o tshwanetse gore e bo e le gore *he has approved it* fa e le gore ke tlhologanya sentle.

MR MMUSI: Ke dumalana le wena foo Ramogapi, eo ya gago ke a e endorse.

MR RAMOGAPI: Ee. E ne e tshwanetse gore e wele jalo ka fa ke e utlwang ka teng ka gore ene o lebeletse gore *budget and everything* ... (Interruptions)... jaanong go raya gore e bo e le gore *Minister*...

HONOURABLE MEMBERS: ... (Murmurs)...

HONOURABLE MEMBER: Clarification Honourable Ramogapi.

HONOURABLE MEMBER: He is not holding the floor.



HONOURABLE MEMBER: A ntse a bua?

MR CHAIRPERSON: He is not the one holding the floor.

MR RAMOGAPI: Re tshwanetse re bone gore mme tota yone re ka e bopa jang. Kana kgang e e tona batho betsho ke lefatshe. Ke tsaya gore ...*(Interruptions)*... mme rotlhe batho ba bararo ba re wela mo kgannyeng e le nngwefela gore mme *the spirit of this legislation* ka fa re batlang e dirwa ka teng ke gore go iwe kwa court pele. Tona fa e le gore re a mo tsenya, o ka tsenngwa *before*, e seng *after*...

MR CHAIRPERSON: Honourable Ramogapi, before going for a warrant *kwa* court, what will stop the Minister agreeing with the Commissioner or whoever that, “*nnyaa, mathakanyana ale a kwa Mogoditshane a ko le ba atumele le bone gore ga ba ka ke ba thusa?*” What will stop the Minister doing that *a bereka le mapodise a gagwe le ba security ba bangwe?*

HONOURABLE MEMBER: Ga go na sepe se se mo emisang.

MR CHAIRPERSON: ...*(Inaudible)*...

HONOURABLE MEMBER: Ga o tlhoke molao.

HONOURABLE MEMBER: Go tsenya *Minister* ke mathata tota gone.

MR MMUSI: Nnyaa, lona kana ...*(Inaudible)*... ke Domkrag, jaanong a re leseng go lebelela Domkrag re lwele...

MR CHAIRPERSON: Unless the Minister thought he could be sued but it does not help that you put him in danger, *o tlaabo a na le thata ya gore ba tsenyeng.*

HONOURABLE MEMBER: But he is not the Accounting Officer.

HONOURABLE MEMBER: Yes, Accounting Officer *ke* Permanent Secretary (PS).

MR CHAIRPERSON: *I thought that question to us is ... (Interruptions) ... now* fa ba batla gore ba ba nkgankgang ba bue le *Minister* gore *hey*, kana ... *(Interruptions)*... re ka dira jaana kana jaana, ke eng se se kganelang gore ba dire jalo?

MR MMUSI: *Mr Chairperson*, ke ne ke kopa go tlatsa fa gore kana fa o re *the PS*, o raya ene *Minister*. Ke raya gore go *change* o tsenya PS kana *Minister*...

HONOURABLE MEMBER: *No*, PS ga se *Minister*.

HONOURABLE MEMBER: The buck stops with the Minister.

MR CHAIRPERSON: Ke eng se se mo kganelang gone jaana gore a bue le bana ba gagwe gore mo *case* e le reng e ka re e teng, ke eng le sa tseye bosemangmang le bosemangmang? Ke eng se se mo kganelang?

HONOURABLE MEMBER: Ga go na, e bile ba a mo *brief*.

HONOURABLE MEMBER: *Ga go na* what covers him from a gazetting point of view.

HONOURABLE MEMBER: *Point of view?* Re ne re bua fela moo.

HONOURABLE MEMBERS: ...*(Murmurs)*...

MR CHAIRPERSON: ...*(Inaudible)*...

HONOURABLE MEMBER: Le mo forola eng?

MR REATILE: Ke ne ke re kana *Mr Chairperson, the Minister* o setse a tlisitse fa a supa gore gongwe o setse a lebetse gore o ne a reng. O ne a re *non-law enforcement entity*; tota *he is referring* mo *the Government employees*. *However*, fa o bua ka *non-law enforcement entity*, e *broad*, ga e a tswalelwa mo teng ga Puso, le batho ba e leng gore ba kwa Mauritius fela e ba buletse. O santse o ka ya go tsaya G4S, Debswana, wa tsaya Railways. Gongwe a tlhalose yone eo gore a o santse a tswelitse a ema ka lefoko la gore *non-law enforcement entity* o ntse o *refer* mo bodirelapusong, kana e tona ka gore re lwantsha borukutlhi jo bo matswakabele? Ka gore go na le kompone ya maranyane, e ba dirang ka Information Technology (IT), e le gore fa o pikile motho wa bone a tsena gone fa, re itse gore jaanong tseo tsa matswakabele re tlaa di fitlhelela. Jaanong a ko o tlhalose gore a o ntse wa re o tswalela mongwe le mongwe kwa ntle o batla gore o sale fela ka bodirelapuso?

MR MMUSI: Nnyaa rra, ga ke tswalele mongwe le mongwe kwa ntle. Ke ne ke go fa *an example*. Ke batla go boa gape ke go araba gore kana tota *Minister* gompiono ke ene a emeng mo Palamenteng. Ga o ka ke wa bitsa PS gore a tle go tliša molao fa. *Minister* ke ene a leng *answerable to Parliament*. Sengwe le sengwe *Minister is answerable*. Jaanong ke sone se o bonang re tsentse *Minister* fa.

MR MOLAO: Ga ke itse gore re tlaa tswa jang fa *Mr Chairperson*. Kana ke ne ke dumela gore kgantele o boditse gore se se kganelang Tona gore e kare ba



botlhotlhomisi ba tla kwa go ene ba re go na le bangwe gongwe ba ba ka re thusang, a bo a re ee tsweleng le dire le bone, a bo ba ka thusa go rarabolola gongwe kgang e e lebilweng. Gongwe letshogo lame le nna, gongwe le Tona le ene a nang le lone, gone gore mme fa ba sena go nna ba thusa bone batho bao, a ba reile a re nnyaa, tsweleng le bereke le bone, fa go setse gongwe go tlhokega gore go iwe Kgotlatshekelo go ye go sekwa, gongwe jaanong ba bitswe ba tle ba fe masupi, a ga go na go tlhaga kgang fa e le gore mo molaong *the Minister has not covered* gore *he authorizes*. Ga go na go nna le bothata jwa masupi gotwe nnyaa, mme ba go ne go le *illegal* gore ba tsene batle ba le thuse, tetla le ne le e filwe ke mang *under* molao ofe, o o kwadilweng fa kae? Ke leka go e akanya *along those lines* gore mme ene Tona o tlaabo a sireleditswe ke eng *to authorize* batho bao?

MR CHAIRPERSON: Honourable Members, I thought Honourable Mmusi *o le utlwile*. Maybe what you should do is to give him a little time to consult *bana ba gagwe* and we deal with the other Clauses. We will come back to it. The Standing Orders allows that, *gore ka fa thoko ka fa a ko a ba kope gore fa ba ne ba reeditse le bone, a ga ba ka ke ba thusa* probably to put into a draft form the Minister's thinking *gore fa a tla a bo a re nnyaa, kana fa ke ntse ke bua jaana ke ne ke raya gore gongwe* Clause *e e ka bewa jaana ka gore se ke se batlang nna ke se, le se, le se. Re mo feng nako, o le utlwile*. The way you have been arguing, it does not show that we are going to be too progressive. Honourable Mmusi, probably take advantage of that.

MR MMUSI: *Raya Honourable* Saleshando a *withdraw* *Mr Chairperson*, re fete ka molao.

MR CHAIRPERSON: Nnyaa.

MR SALESHANDO: *Ga go thuse* to withdraw. You will still have a problem between this Section le Clause 5.

MR CHAIRPERSON: That is why Honourable Minister I want you and your officers to reflect.

MR MMUSI: Okay, Mr Chairperson, we will do that.

MR CHAIRPERSON: So that we can now proceed with Clause 8.

Clause 8

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): The Bill is amended at Clause 8 appearing at page B.6 by substituting for Sub-clause (2), the following new sub-clauses

“(2) An assumed identity application under Sub-section (1) shall -

(a) be an ex parte application;

(b) be in a sealed envelope marked classified; and

(c) contain -

(i) the name of the applicant,

(ii) where the application is not made by the applicant, the name of the person to be authorised to acquire an assumed identity,

(iii) if the authorised person is not a law enforcement officer, the name and position of an investigating officer to be appointed as a supervisor of the authorised person during an undercover operation,

(iv) the reason for the assumed identity,

(v) details of the investigation or intelligence gathering exercise in respect of which the assumed identity will be used, and

(vi) details of the investigatory authority and the type of evidence to be gathered.

(3) The Registrar shall when presented with an application under Subsection (1) for registration, inform the Chief Justice or any person for the time being acting in the Chief Justice's stead, of this fact before allocation, to enable the Chief Justice to determine which Judge should be nominated by the Chief Justice in terms of Section 6 of the High Court Act.

(4) If, in proceedings before a court, the identity of a person in respect of whom an authority is, or was in force, is in issue or may be disclosed, the court shall unless it considers that the interests of public otherwise require -

(a) ensure that such parts of the proceedings as relate to the identity of the person are held in private; and

(b) make such orders as to the suppression of evidence given before it as will ensure that the identity of the person is not disclosed.

(5) The court may, for purposes of Subsection (1) -

(a) allow a person in respect of whom an authority is, or was in force, to appear before it under the assumed name or under a code name or code number; and



(b) make orders prohibiting the publication of any information, including information derived from evidence given before it, that identifies, or might facilitate the identification of any person who has been, or is proposed to be, called to give evidence.”

Thank you Mr Chairperson. Mr Chairperson, I beg to amend the word “private” appearing in Sub-clause 4 with the word “camera.” I so move Mr Speaker.

MR SALESHANDO (MAUN WEST): *Mr Chairperson*, gongwe e tlaa re Tona a kopa ditlhaloso ka e re neng re tswa mo go yone, le e a e tsenye. Ke na le mathata fela le fa ke se motho wa semolao le fa re ya go tsena fa go (3), fa gotweng, “*The Registrar shall when presented with an application under Subsection (1) for registration*”.

Go tswa fela fa go *registration* mo gotweng “*inform the Chief Justice*” gore a ye go batla *Judge* e ene a batlang e reetsa kgang eo. Kutlwisiso ya me ke gore, re dule mo tsamaisong e go nngang gotwe kgang e go a itlhophelwa gore e batla e reediwa ke mang, ka gore *Judges tsa High Court* di a lekana. Go rileng gore gotwe fa go sena go kwadisiwa, *Registrar* o tlaa dira tsamaiso e e tlwaelegileng, ya *the computerised system* gore e tlhophelwa *Judge* yo o ka tsayang kgang eo. Nako le nako fa dikgang tse di tshwanetse gotwe go itlhophelwa *Judges*, ke bosheng fela jaana le ba Law Society ba ne ba bua gore, a le batla re boela kwa tsamaisong ya Sekgoa sa *forum shopping* gore batho ba nna ba leka gore “e kgang e batla *Judge* semangmang e seng semangmang” *Judges tsa High Court* ke tsaya gore di a lekana ka boikarabelo, *Chief Justice* fela ke gore ene o tla a tsamaisa lephata, mme ke batla go utlwa kutlwisiso ya gore le tshaba eng fa *system* e tlhophile *Judge*, go tlaabo go sa siama? Ke eng le batla gore e nne yo o supilweng ka monwana?

MR CHAIRPERSON: Honourable Ambassador Kapinga.

MR KAPINGA (OKAVANGO): Thank you very much Mr Chairperson. Honourable Leader of the Opposition has said most of what I would wanted to say. *Se ke ka se tlatsang fela ke gore*, I would agree with this provision *fa e ka bo e le gore* High Court is divided into divisions, *e bo* these applications are taken and sent to a criminal division of the High Court instead of being handled *ke* every Judge of the High Court. But now in the situation where we are, where any Judge can handle any matter, it is inappropriate *gore go bo gotwe* Chief Justice *e nne ene a itlhophelang gore ke mang yo o ka reetsang kgang ya*

gore, ka gore go rotloetsa kgang e e ngongoregelwang e e buiwang ke Leader of the Opposition (LOO) *ya* forum shopping Mr Chairperson. That is what I wanted to raise. Thank you.

MR RAMOGAPI (PALAPYE): Ke a leboga *Mr Chairperson*, tota ...*(Inaudible)*... re bua selo sele sengwe fela. Ke tsaya gore gongwe go ka tswa go bakilwe ke gore gongwe e rile fa ba kwala molao, ba bo ba lebeletse kgang ya bogologolo ya gore *Chief Justice* o ka kgona go itlhophela gore go reetse mang. Malatsi a gompiano tota kgang e tona ke gone gore kana go dirilwe *computers* tse di tlhophang gore nnyaa, o ye go kwa go mang. A re bona gore *system* eo, e tshwanelwa ke gore e dirwe, kana *Judge* mongwe le mongwe yo e tlaa re fa go kwadisiwa... kana fa o kwadisa kgang gompiano, *the computer picks* gore e tlaa reediwa ke mang. Gona le gore e bo jaanong go tlaa tlhophiwa kana *it is set* gore tsa ba di tlaa reediwa ke ba. Golo moo ga go a siamela puso ya batho ka batho *Mr Chairperson*.

E khutshwanyane fela, ga se e e batlang gore re e tseye ka bolelele. Re a itse gore *Section* e ba e nopotseng e, gantsi e bereka fa e le gore malatsi a gompiano *Chief Justice* o batla jaanong batho ba nna bararo, go reetsa kgang eo. Ke gone fa a tlaabong a tsenya ba bangwe gape. Jaaka *Honourable* Saleshando a bua, a re fefoseng dikgang, *computer* e ntshe motho a bo a tsena mo kgannyeng. Ke a leboga *Mr Chairperson*.

MR BOKO (MAHALAPYE EAST): *Mr Chairperson*, ke ne ke ka se ka ka bua botoka go gaisa ba ba setseng ba buile, ke dumela gore ba a sobokile. Ke sale ke tsholeditse, *but* ba buile fa pele ga me go se molato, ba buile se ke neng ke batla go se bua *Mr Chairperson*. *Unless the Minister* a re tlhalosetsa gore *what is the rationale for this provision?* Re leka go fema dikgang tse kgantele go tlaabong gotwe Moatlhodimogolo o itlhophela *Judges* tse a itseng gore di tlaa dumalana le se Puso e se batlang. A re mo roleng mokgweleo oo, a re lekeng go mo sireletsa, re o mo ntsheng mo dikgannyeng tse di ka tlogang tsa senya leina la *Judiciary* le la gagwe tota. *Let the system* e nne yone e tlhophang, *like you are filing files here in Gaborone, the system will either pick a Judge from Gaborone or Lobatse. If you are filing in Francistown of course it will pick that Judge in Francistown, if you are doing it in Maun it will pick a Judge in Maun.* A re se ka ra batla go kgotlhela *our Judiciary* ka tsela e e ntseng jalo. *Let the system do the job* jaaka e ne e ntse e dira *Mr Chairperson*, re ntsheng Motlotlegi Moatlhodimogolo mo dikgannyeng tse.



Unless go na le lebaka le le tona le Tona a tlaa tlang a le tlhalosa gore, ke eng a akanya gore nnyaa tse fela tsone di tshwanetse gore di nne mo matsogong a ga Moatlhodimogolo. Ke tsaya gore ga se kgang e e ka re latsang fa, le ene ke a bona gore o tlaa dumalana le rona gore re tswelele mo go tse dingwe *Mr Chairperson*. Ke a leboga.

DR DOW (SPECIALLY ELECTED): Ke ntse ke reeditse dikakgelo tse di buang ka *responsibility*... (*Inaudible*)...

MR CHAIRPERSON: Honourable Dr Dow!

HONOURABLE MEMBER: O a bua mme ga re mo utlwe.

DR DOW: Ga le nkutlwe?

HONOURABLE MEMBER: Ga re go utlwe *madam*.

HONOURABLE MEMBER: You are too distant.

DR DOW: Let me try again. Thank you Mr Chairperson, *ke ntse reeditse bakaulengwe ba bua kgang e*, and I note their concerns. We should balance those concerns against another concern *gore*, *kana* these are sealed applications, and therefore if you are going to allow the registration and the handling to be by the Registrar, the registry, you are actually opening the application to too many hands before it actually comes before the Judge. *Ke gore gakere ke tsa sephiri* on the other hand, and therefore you have to limit the number of hands that handled it before there is actually hearing. You do not want to assign it to the Judge, and then they recuses themselves because *a re* maybe there is a conflict, *o bo o isa kwa go yo mongwe jalojalo*. *Ke a utlwa, le nna e rile fa ke e bona la ntlha e ne ya ntlhaba ke bo ke re*, but there has to be a system *e e leng gore* Chief Justice actually manages to make sure *gore* this becomes a secret as possible, *a bo a tlhophha Judge a itse gore fa e ya go reediwa* it is internal...

HONOURABLE MEMBER: Ga re utlwe, o e tle o kope gore batho ba atumele *microphone*.

HONOURABLE MEMBER: Ga a utlwale gotlhelele.

DR DOW: Ga ke utlwale gotlhelele?

HONOURABLE MEMBER: Ke mo utlwile, ke ka bua gore a reng.

HONOURABLE MEMBER: Le nna ke mo utlwile, ke ka boelela se a se buang.

HONOURABLE MEMBER: O a utlwala Mma Dow, o a utlwala...

HONOURABLE MEMBERS: ...(Murmurs)...

HONOURABLE MEMBER: A ba oketse *volumes* tsa bone.

HONOURABLE MEMBER: Rona ga re utlwe.

HONOURABLE MEMBER: Raya Vice President (VP) a oketse *volume*.

HONOURABLE MEMBER: O a utlwala Mma Dow, o a utlwala.

HONOURABLE MEMBER: *Volume* e okediwa ke yo o buang Rre Hikuama, ga e okediwe ke nna.

HONOURABLE MEMBER: Le a tlhodia, le tlhodia motho.

HONOURABLE MEMBER: Ga o utlwale.

HONOURABLE MEMBER: Tlhe bathong didimalang re utlweng.

DR DOW: *Le gompieno jaana* it is possible that I can make an application to court *gore* the identity of maybe my client be suppressed. That application cannot go directly to the registry, because I will be opening up *se ke reng ke sephiri*. I have to make a special application to the Chief Justice or by system *e e leng gore* I am asking *gore* maybe this child should be named as X, or A, or B. I cannot register that application in the normal registration process, because I will be actually undermining the very purpose that I say I want suppression of identity. I wanted to balance these two concerns. Thank you Mr Chairperson.

MR CHAIRPERSON: Thank you Dr Dow. Honourable Mmusi.

MR MMUSI: *Thank you Mr Chairperson*. Mma Dow o ntsetse mafoko a ke neng ke re ke ya go a bua.

HONOURABLE MEMBER: *Mr Chairperson*, ke tshoeditse.

MR MMUSI: Jaanong ke mang yo o rileng ga o a tsholetsa?

MR CHAIRPERSON: So what, *fa o tshoeditse*, so what?

HONOURABLE MEMBER: He is going to respond *gakere* Minister.



MR MMUSI: Mma Dow o ntsetse mafoko *Mr Chairperson* gore, kana golo fa re bua dilo tsa sephiri, *therefore we have to protect information*. Ke kopa gore bakaulengwe fa re nganga *Bills*, re se ka ra ne re gobokanyetsa dilo tse dingwe le se se leng mo tafoleng. Re leke go nna *open-minded*, ka gore golo fa re bua molao o e leng gore o ntse, re se ka ra ne re ya go tsaya tse dingwe tse di kwa ntle re batla go tla go di tsenya mo teng. Kgang e tona ke ya gore, molao o *we protect and there is confidentiality all the way*. I thank you *Mr Chairperson*.

HONOURABLE MEMBER: O siile ka bonako ke ne ke batla go go botsa sengwe.

MR MMUSI: Ke teng gakere.

HONOURABLE MEMBER: Mma ke go botse.

HONOURABLE MEMBER: O feditse gakere.

MR CHAIRPERSON: *Honourable* Keorapetse.

HONOURABLE MEMBER: Ke ne ke re ke go botse gore gatwe...

MR KEORAPETSE (SELEBI PHIKWE WEST): Ke filwe *floor* ema pele, o botsa eng?

HONOURABLE MEMBER: Oh! Sorry.

MR KEORAPETSE: Oh! *Ke* Honourable Kapinga.

HONOURABLE MEMBER: Nnyaa tswelela *comrade*.

MR KEORAPETSE: Ke ne ke tsaya gore gongwe Mthinkhulu, *sorry*.

MR CHAIRPERSON: O rata dilo waitse.

HONOURABLE MEMBER: ...(Laughter!)

MR KEORAPETSE: Rra?

MR CHAIRPERSON: O rata dilo.

MR KEORAPETSE: Mr Chairperson, what the Minister seeks to do *ka go dira jaana* is to legitimise forum shopping. That is the import of this provision, so *rona ga re dumalane le* forum shopping. Law Society has complained *ka case e ba reng* Chief Justice (CJ) forum shopped Justice Gabanagae in a matter *ya ga* President Dr Ian Khama. We know CJ is appointed by the President, and is appointed differently from how other Judges are appointed because *ene*, the President

does not have to take advice from the Judicial Service Commission (JSC). To cure the fear *ya gore* information may leak, let us innovate on Case Management System (CMS) of ex parte applications of this nature. That is how we can cure this issue *ya worry ya gore jaanong* information can leak. *Ga ke itse gore fa o bua ka Registrar, motho wa level ya PS, o bo o re go raya gore* information will be on too many hands. If that is the case, you do not have to reveal *gore* this ex parte application *e batla* to place Honourable Keorapetse under digital surveillance. All you need to do is to enter the case number into the CMS, then it picks a Judge. When it picks the Judge, what appears before that Judge, *e nna* an ex parte application *ya gore* so and so must be placed under digital surveillance because is suspected of being a terrorist. *Ga re ka ke ra tsaya* a political appointee.

Gape Honourable Yandani Boko, *kana* these purports to be in line with Section 6 *ya* High Court Act, *e e leng gore* currently *le yone* is under legal scrutiny *ya gore a mme totatota gone* does it give the CJ, even the power to empanel because we have argued about empanelment *gore* that thing is a bad system because it involves a human being. Where a human being is involved in cases *tse di ntseng jaana, re bone ka* applications *tse e leng gore* CMS having picked a Judge and then the CJ decides to empanel and when he empanel, most of the time *o fitlhela e le gore* decisions *tsa* empanelment *di a belaetsa*. So *le yone* Section 6 *e*, it must be scrutinised because many lawyers do not actually believe *gore* it gives the CJ unfettered powers to empanel, there is still that argument. So *ke* forum shopping, *ga re e batle*, it must be stopped.

MR KEKGONEGILE (MAUN EAST): Tanki *Mr Chairperson*. Nte re dumedise batlotlegi, re dumedise setšhaba. Go a tualo gatwe *prevention is better than cure*. Golo fa re na le bothata *jwa forum shopping* mo lefatsheng la rona *and we know* *gore Judiciary is our last resort when it comes to* *gore go nne le transparency* le go tshela sentle mo lefatsheng la Botswana. *If the last resort, bone ba bofelo ba re beileng mo go bone e bong Judiciary, we allow it to be corrupted in one way or the other, then we are running into trouble as a country*. Go tlaabo go setse ntwā fela jaanong ka gore puisanyo le molao di tlaabo di padile.

Ke utlwa bakaulengwe fa ba bua ka sephiri le go sireletsa mme go sireletsa le sephiri sa *application, can still happen* go ntse go feta fela ka *Registrar*, go sa tlhamalale go ya kwa CJ. Go ka nna le *processes* tse pedi, *e e normal* fela le e e seng *normal ya applications* tse di ntseng jaana.



So ke dumela gore *element of shared confidentiality within each and every profession* e nna teng gongwe le gongwe. Ga o ka ke wa tshwara sephiri o le nosi sa tiro e e kanakana, go bo gotwe tiro e ka tsamaya sentle. Ga go ka ke ga kgonagala e bile ga go ka ke ga diragala mo botshelong. *Let us have shared confidentiality, let us have a different process, let the Registrar be the person not the CJ. Tanki Mr Chairperson.*

DR GOBOTSWANG (SEFHARE-RAMOKGONAMI): *Honourable Mmusi, o se ka wa tshwenyega wa tsaya gore molao o kana re a le kgopakgopetsa. O tshwanetse o akanye gore molao o fa o o dira, o o direle Robert Mugabe yo o ka tlang mo Botswana gongwe dingwaga tse di tlang, o se ka wa o baya fela gore ke wena le ba o nang le bone gompiano. Fa o ka dira jalo, kana lona fa le itibile jaana le bona le le baengele, le fa rona re le bona le le batho ba sele. Ga ke batle gore bo saatane ka gore mo Palamenteng ga go letlelesege mme lona le ipona le le baengele, direla molao o bo saatane ba ba ka busang ka gore fa o ka se ke wa dira jalo, o tlaa nna le mathata.*

MR MMUSI: *Clarification. Ke ne ke re kana molao o ga se o montsha o ke o tlang, fa o tsaya Order 42 of the rules e bua ka gore le nna molao o ke ne ke botsa... Ke boditse thata, ka batlisisa mme fela fa o e tsaya ya re, "where a case of exceptional public importance is presented, the Registrar informs the Chief Justice or any person for the time being acting on his stead, of this fact before allocation to enable the Chief Justice to determine whether a Judge or Judges should be nominated or empanelled by the Chief Justice in terms of Section 6 of the High Court Act." Ga se molao o moshia o ke tlang ka one.*

DR GOBOTSWANG: *Nnyaa ke a go utlwa honourable.*

MR MMUSI: *Tanki sir, ke ne ke re le tlhaloganye selo seo.*

DR GOBOTSWANG: *Ke gore o tshwanetse go lemoga gore mme gone it lands mo kgannyeng ya forum shopping, e e leng gore ga e letlelesege. Ke itse gore o ne o re o tshwentswe ke gore fa envelope e e tlaabong e le sealed e ya kwa go mongwe, e bo e fitlhela e le gore gongwe jaanong o conflicted, go tlaa diragala jang. Gore e dirwa ke Registrar kana ke CJ, go tlaa nna fela jaana. CJ o tlaabo a tlhophile yo a mo tlhophileng mme le ene yo a mo tlhophileng, e ka nna ya re gongwe go setse go ya go bulwa envelope, a bo a iphitlhela e le gore motho yo ke mangmang yo ke mo itseng. O a bona gore go*

tshwana fela mme se e leng gore it is safer and within the rules tse di amogelesegang, ke gore go dirwe system fela e e ka nnang fair with all the checks and balances jaaka go dirwa gompiano. Yone e e leng gore go dirisiwa computers go tlhophisa Judges, Judge e e mo tlhophileng computer, e ka re a tsena kwa a bo a nna conflicted. Yo o tlhophileng ke CJ le ene, it could be the same thing. So ke raya gore ke buile gakere. Ke a leboga.

MINISTER FOR PRESIDENTIAL AFFAIRS, GOVERNANCE AND PUBLIC ADMINISTRATION (MR MORWAENG): *Ke a go leboga Modulasetilo rraetsho. Ke ikokobetsa ka go ema nokeng thata se se neng se buiwa ke Motlotlegi Mme Mma Dow. O ne a re tsibosa gore dikgang tsa mofuta o go a dirwa jaaka Tona a bua. Ke dikgang tse di diragalang mme re tshwanetse re di ele tlhoko. Ke gore ga re ka ke ra tsamaisa lefatshe jaaka e le gore ditsala tsa me ba kganetso ba tlaa re tshidisetso mo dipelaelong ka dinako tsothle. Nnyaa batho betsho, ke ne ke kopa fela gore a re tlogele Rre Mmusi jaaka a re gakolola, re tlogele molao jaaka a o akantse. Ke gone mo go ka re berekelang. Jaanong mo e leng gore e re gotwe ditlhotlhomiso le dipatlisiso ke tsa mofuta o, re bo re nna teng fa re bua jaaka re bua jaana go se molato, ke ne ke akanya gore a re fetseng kgang bakaulengwe, a re dumalaneng le Rre Mmusi. Kgakololo ya ga Mme Mma Dow ke e tsaya tsia thata. Se Rre Mmusi a se buang ke se utlwisisa tota, ke ne ke kopa gore a re se ka ra ya kwa le kwa, re eme nokeng se Tona Rre Mmusi a se buang. Ke a leboga Modulasetilo.*

MINISTER OF INVESTMENT, TRADE AND INDUSTRY (MR KGAFELA): *Ke a leboga Mr Chairperson. Ke utlwa selelo, ke utlwa batlotlegi gore ba fuduiwa maikutlo ke eng. Ke ne ke lebeletse Section 6 ya High Court Act e e fang CJ ditshwanelo tsa to empanel. Fa ke e bala, e mo fa tshwanelo ya go tlhophisa palo ya Judges fela, mme ga e mo fe tshwanelo ya gore a tlhophe gore Judge e tlaa nna mokete kana e nna mokete. It talks about a determination of the sitting of a single Judge or as many Judges as he may determine. So, it does not give him the power to determine the identity of the Judges but it gives him only the power to determine whether it is only one Judge who listens or it is several Judges who listen. I think we can tinker with Clause 3 to remove the Leader of the Opposition (LOO)'s cause of complaint. We can tinker with it by saying in it that, it will enable the Chief Justice upon receipt of that application to determine the number of Judges to preside, and not for him to choose which Judge should be nominated but the*



number, either is one or three. I think in that way Mr Chairperson, it will then be consistent with Section 6 of the High Court Act. I think that is my proposal.

HONOURABLE MEMBER: Clarification.

MR KGAFELA: I have yielded Mr Chair.

MR BOKO: *Clarification. Thank you Mr Chairperson. Thank you honourable. Ke go leboegele gape go tlhalosa that provision e e leng gore the Honourable Minister o ne a ratile go ka re tsenya mo sekgweng ka yone. I was just about to say what you have just said. Mme fela ka bokhutshwane, molao o, re o lebeletse ka lebaka le le telele. I do not see why this is a matter where we would need three Judges kana two panel Judges. I think matters of this nature, a single Judge is sufficient. I think from your years of practice, o ka itse dikgetsi tse di tlhokanang le gore go bo gotwe go bitswa Judges di ka nna tlhano, matters tse di tshwanang le tsa Constitution.*

MR KGAFELA: Ke utlwile.

MR BOKO: I think a single Judge will be sufficient.

HONOURABLE MEMBER: Honourable Kgafela, can I clarify something sir?

MR KGAFELA: I do not think we can prejudge that Mr Chair as to whether a matter is complex or simple. That is not for us to prejudge. It will be determined as it appears before the court. I thought we should do away with the choice of the Judge. We can simply limit it to say, proceed in terms of Section 6 of the High Court Act and deleting these other words which precede Section 6 in this amendment. Such words determine which Judge is to be nominated. I think we ought to tinker with that provision to remove that part, otherwise we should then retain the secrecy of it reaching the Chief Justice in a sealed envelope and being kept secret by him but then limiting him only to the number of Judges that should be in panel but not to the choice. The choice is conducted by the Registrar in terms of Order 42 of the High Court Rules. It is the Registrar who follows a set system of choice. That is how it should be done Mr Chairperson. I propose to the Minister, as I say, *re a thusana mo Palamenteng*. Some of these things are presented to us but when we think about them with deeper thoughts, *ke gone dilo tse dingwe re simololang re di bona*. I think we need to tinker with that Clause to remove the complaints *ya forum shopping* Mr Chairperson, and confine ourselves to Section 6 on what it explicitly says the Chief Justice can do, which does not include the choice identity of Judges but only the number of them. Thank you.

HONOURABLE MEMBER: Nnyaa, ke kopa go botsa sengwe *Mr Chairperson before Honourable Kgafela a tswa mo floor*.

MR CHAIRPERSON: O ka botsa *Minister*.

MR MMUSI: *Ke mmotsa gone fa go Clause ya Order 42, kana gone fa gatwe* “Chief Justice to determine whether a Judge or Judges should be nominated,” “whether a Judge or Judges.” *Gongwe legale ga ke utlwe Sekgoa sentle;* “a Judge or Judges to be nominated.”

MR KGAFELA: Yes, it is still consistent with Section 6. It says a Judge or Judges. It makes a distinction whether he nominates a single Judge like Section 6 of the High Court Act says or he empanels more than one and that is why it then says, ‘Judges’; more than one but it does not give him the power to choose the identity of the Judges. It limits him to choosing the number of Judges. That is what it says, that one says ‘Judge’ and the other one says ‘Judges’. It the number and not the identity sir. Thank you.

MR MMUSI: Thank you for clarifying that one.

MR SALESHANDO: *Mr Chairperson, tota kgang e fela fa e tswa kwa ntlheng, mathata a me e ne e le gore re nne le tsamaiso e gotweng kamoso go tlaabo gotwe go na le Judges tsa ga Chief Justice. A re ntsheng Chief Justice mo dikgannyeng tse gore go se ka gatwe go na le special Judges ba gagwe. I understand ba ba reng the secrecy part must be maintained. Ga ke agente mme ga ke itse ditsamaiso tsa court and I cannot help to improve that. I have no problem with what Honourable Kgafela is suggesting gore role ya ga Chief Justice a tseye tshwetso ya gore a o reetsa a le mongwefela kana o akanya gore ke kgang e e batlang ba feta bongwe mme gore go tlhophiwa bomang, e nne tshwetso ya the system gore ke yone e e tsayang mang. E se ka ya nna... Forum shopping re dumalane gore ga re e batle, a re se ka ra e busetsa.*

MINISTER OF INFRASTRUCTURE AND HOUSING DEVELOPMENT (MR MOLALE):

Thank you Mr Chairperson and good day. *Ke utlwile Dr Dow, e bile ke utlwile Rre Kgafela. You see Mr Chairperson, the purpose ya molao is to bring in about stability and peaceful coexistence, so, whatever a law is drafted, it must be complementary to existing laws. Whenever a law is drafted, fa e ka tsosa conflict with other existing laws, go nna le mo gotweng a lacuna. What Honourable Kgafela is saying is that, let us avoid*



that lacuna by actually saying the law that we are discussing today should actually be in conformity with the High Court Act or whatever it is called, so that *re tswelele re neele* Chief Justice *tiro e a ntseng a e dira go le gale* without prescribing beyond what has been prescribed among the operational law *ya* High Court. It is on that understanding Mr Chairperson, that I concur with the previous speaker and for that matter, very rarely, I concur with the Leader of the Opposition (LOO). I thank you sir.

MR SALESHANDO: Congratulations!

MR CHAIRPERSON: If you know, presently, it is quite clear on how cases are managed. Why do you want to repeat that law? If the High Court Act is clear, why do we want to repeat it?

MR MOLALE: Go bodiwa nna *sir*?

MR CHAIRPERSON: No, I am asking the House.

HONOURABLE MEMBER: Ka gore e ntse e le mo *the High Court*, why should we repeat it? Ke se le nna ke ntseng ke se ipotsa.

MR CHAIRPERSON: Go thusa mang, ka eng?

HONOURABLE MEMBER: Le re jela nako.

MR CHAIRPERSON: Honourable Dr Dow.

HONOURABLE MEMBER: Wena o alotse nako fela Vice President (VP).

HONOURABLE MEMBER: Wena o mo nakong ga o mo *quality* ya molao o o diriwang.

HONOURABLE MEMBER: Ke batla gore dirukhuthli tse di bolayang ditshukudu di ye go tshwarwa ka bonako kwa Okavango.

HONOURABLE MEMBER: You do not care about the quality of the law that we are making.

DR DOW: Thank you Mr Chairperson. *Rre* Hikuama *le* honourable...

MR CHAIRPERSON: Ba re fa o ka atumela selo sa Makgoa.

DR DOW: *Ke se atumetse*, I do not know *gore* what is happening now.

HONOURABLE MEMBER: *Oketsa* volume; click volume *ya* your device.

DR DOW: *Ke okeditse, e gana go supa*. I do not know whether the matter has been settled because I think Honourable Boko *le* Honourable Kgafela *ba itse gore* how a case is registered at the High Court. You come with your papers, you go to the Registry and not Registrar; the Registry. They take the details and put them in a computer, save what has been the nature of the case and then who the attorneys and parties are. That is the process as it is and I think that is an open process, so *ke tsaya gore* we are trying to balance that process although there has to be fairness and transparency to make sure *gore* the interest of the parties *yo o gone foo* is protected. *Ga go na* forum shopping. I think the issue really or the language we should be bringing to this Act *ke gore*, “a Judge or Judges to be selected by a process that will ensure traction of the details of the case.” That is what we are saying. The Chief Justice must put in place that process without compromising or without promoting forum shopping, so there has to be a special process by which these cases are registered without giving out their details but without promoting forum shopping. That is where I think the balance is because if you are using the current process, there is no doubt *gore* 10 people will know at the end of the day what the case is about, who the parties are, what is the nature of their litigation. *Ke ne ke re ke tlhalose fela gone moo*.

MR MMUSI: *Mr Chairperson*, gongwe ke ka kopa *the drafters to redraft based on what Mma Dow is saying*. Ke ene yo ke dumalanang nae.

HONOURABLE MEMBER: No, not just her.

HONOURABLE MEMBER: Re reetse rotlhe Tona.

MR MMUSI: Nnyaa, ke le reeditse.

MR CHAIRPERSON: *Order! Order! Honourable Members*, ke nako ya borakanelo jaanong gatwe di budule. *Please* tsamayang le ye go kopa borakanelo *and we should try to be here* ka 2:00 p.m le ka tla la feta jaana la mpona.

HONOURABLE MEMBER: Di butswa di le kae *Mr Chairperson*?

MR CHAIRPERSON: Di butswa di le kwa le ntseng le e ja teng fa e le Labone.

**PROCEEDINGS SUSPENDED AT 1:00 P.M. FOR
APPROXIMATELY 1 HOUR**

PROCEEDINGS RESUMED AT 2:00 P.M.



MR CHAIRPERSON: Honourable Members, let us resume our Committee Stage. You will recall we are dealing with Clause 8 and there was that issue concerning the filing of ex parte applications.

HONOURABLE MEMBER: Should I comment Mr Chairperson?

MR CHAIRPERSON: *Ee rra.* Honourable Mthimkhulu, has the floor to comment.

ASSISTANT MINISTER FOR PRESIDENTIAL AFFAIRS, GOVERNANCE AND PUBLIC ADMINISTRATION (MR MTHIMKHULU): Yes, Mr Chairperson. When we went to the break, *go ne go buiwa ka* Clause *ya* the Chief Justice.

MR MMUSI: Ke ne ke kopa gore re ise re diege gongwe ke bue gore ke tswa go tsaya *opinion* e e ntseng jang kwa go ba Attorney General's.

HONOURABLE MEMBERS: ... (Murmurs) ...

MR MTHIMKHULU: What if I make my suggestion first?

MR MMUSI: Okay.

MR CHAIRPERSON: I have given the floor... (Interruptions)... Honourable Mthimkhulu has the floor.

MR MTHIMKHULU: *Ke ne ke lebile* Clause *e batho ba neng ba tshwenyega ka* the Chief Justice *e le ene a kgonang go dira* allocation for a Judge. *Kana golo mo ke ne ke akanya gore* maybe to allay the fears of Honourable Members, *gore go nne fela gore fa go sena go kwadisiwa* (registering) case before the Registrar, Registrar can then allocate it to a Judge which should be following a system, *e se* computerised but on a rotational basis. *Fa e le gore* he has allocated it to a particular Judge today, the next allocation is not going to that Judge but to a different Judge *fela jalo, go fithelela ba felela ba bo ba boelela* on that list. That way I think it will allay the fears of Honourable Members. It will also now be following *go dira e kete* the computer system *e bone ba e dirang e le gore* it allocates automatically but *fa jaanong go aba motho yo o itseng gore* Judges *di 27*. Every time I am giving to this particular Judge, the next time I will not give him again before I allocate to the others. *Fa go ntse jalo* I think it will be fair enough; do not go to the same Judge over and over again.

Gape kana golo fa o ka lebelela the Criminal Procedure and Evidence Act *e e mo tirisong gompiano*, the police

can still appear before any Magistrate or Judge *ba bo ba kopa* warrant for search or warrant for arrest, *mme fa ba dira jaana, ga go na* any allocation requirement in the Act. They appear before any Magistrate any time. They can appear before the same Magistrate over and over again but there has not been any complaint about that procedure up to this point, at least about the constitutionality or unfairness of that procedure up to this point. That is why *ke re* when we allow the Registrar to do that on our behalf on a rotational basis, then I do not think there will be any complaints or any fears. There will be nothing to fear about that process going forward. Thank you Mr Chairperson.

MR CHAIRPERSON: Honourable Minister Mmusi.

MR MMUSI: Thank you Mr Chairperson. *Ke ne ke re ke ne ke bua le* our drafters and we have discussed it. *Ke ne ke re re ba fe* chance, they are drafting, *mme ba tlaa boela kwa go nna ke bo ke tla e* present. *Gongwe re ka ya kwa go e e latelang, mme gone* in line with what Honourable Mthimkhulu is saying.

MR CHAIRPERSON: You are asking us to suspend Clause 8 as well?

MR MMUSI: *Ee rra;* Clause 8.

HONOURABLE MEMBER: What about Clause 7?

MR CHAIRPERSON: *Yone remains on suspension until* a re bolelela gore o fa kae.

MR MMUSI: Nnyaa, *Clause 7* le yone go siame, ke tla e ntsha *Mr Chairperson* gone fale *for the sake of ... (Interruptions) ... Clause 7.2* ke tla e ntsha yotlhe.

HONOURABLE MEMBER: You are a very good gentleman.

HONOURABLE MEMBER: You are a gentleman of the first order.

HONOURABLE MEMBER: Ke mo itse a ntse jalo.

HONOURABLE MEMBERS: ... (Murmurs) ...

MR CHAIRPERSON: Honourable Minister...

HONOURABLE MEMBER: Ramogapi, *Mr Chairperson* o a bua.

MR CHAIRPERSON: Ga re kwa rankeng ya Palapye.

MR MMUSI: Hello, Mr Chairperson.



MR CHAIRPERSON: *Re ne re re* regarding Clause 7, if you can then put it on record *gore o a re o dira eng ka yone*.

MR MMUSI: *Ehe rra!* Okay. Clause 7, we will remove 7.2 and then renumber Mr Chairperson. Then redo the numbering of 1 and 3 to 102.

HONOURABLE MEMBER: Procedure, Mr Chairperson; just a quick one.

MR CHAIRPERSON: A o batla go bua kana o batla *procedure tota? O itse the difference?*

MR MMUSI: Tlang re ye kwa *Clause e e latelang*, ke dumela gore ke *Clause...*

MR CHAIRPERSON: Honourable Minister, not so fast. There is a procedure that we must follow. *Monna wa Mahalapye Bophirima o nna* confused between procedure and wanting to speak...(Inaudible)...

MR TSHERE: *Sorry Mr Chairperson.* Ke ne ke re ke kgakololo fela e khutshwane gore, kana *remember, after Clause 6 we introduced a new Clause 7 and we numbered ka go sele. So go batla re di number gore di tsamaye sentle Mr Chairperson. Ga ke itse gore a ke a utlwala sentle.*

MR CHAIRPERSON: Honourable Member for Mahalapye West, do not confuse us ...(Inaudible)... as it appears on the Bill. That is what the Honourable Minister is talking to, not the addition or anything else.

Clause 7 **deleted.**

Clauses 9 - 11 **agreed to.**

Clause 12 **agreed to.**

New Clause

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): Thank you Mr Chairperson. The Bill is amended at page B.8 by inserting immediately after Clause 12, the following new Clauses and renumbering subsequent provisions accordingly -

“Establishment of Controlled Investigations Coordination Committee”

13. (1) There is hereby established a Controlled Investigations Coordination Committee.

(2) The composition, functions and powers of the

Committee shall be as set out in the Schedule.

MR CHAIRPERSON: Honourable Minister, you are introducing a new Clause after Clause 12?

MR MMUSI: Yes.

14. (1) If, in proceedings before a court, the identity of a person in respect of whom an authority is or was in force is in issue or may be disclosed, the court shall, unless it considers that the interests of justice otherwise require -

(a) ensure that such parts of the proceedings as relate to the identity of the person are held in private...

MR CHAIRPERSON: Honourable Minister, you have now lost me. We have dealt with Clauses 9, 10, 11, 12 and I thought you were introducing a new Clause immediately after Clause 12.

MR MMUSI: Following new Clauses not Clause and renumbering subsequent provisions accordingly.

HONOURABLE MEMBER: *O tsenya* Clauses *di le pedi golo fa* Mr Chairperson at the same time. So renumbering will be attended by *ba ba dirang* clean-up.

MR CHAIRPERSON: We cannot do that, we deal with one at a time. So deal with 13 or what will become 13. The first new Clause that you want to introduce Minister, deal with that one first.

MR MMUSI: Yes Mr Chairperson, understood. Should I repeat it Mr Chairperson. The Bill is amended at page B.8 by inserting immediately after Clause 12, the following new Clause and renumbering subsequent provisions accordingly -

“Establishment of Controlled Investigations Coordination Committee”

13. (1) There is hereby established a Controlled Investigations Coordination Committee.

(2) The composition, functions and powers of the Committee shall be as set out in the Schedule. I so move Mr Chairperson.

MR CHAIRPERSON: Thank you very much Honourable Minister.

Amendment **agreed to.**

New Clause **agreed to.**



New Clause

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): Thank you. The Bill is amended at page B.8 by inserting immediately after Clause 12, the following new Clause and renumbering subsequent provisions accordingly -

“Non-disclosure of identity in legal proceedings”

14. (1) If, in proceedings before a court, the identity of a person in respect of whom an authority is or was in force is in issue or may be disclosed, the court shall, unless it considers that the interests of justice otherwise require -

(a) ensure that such parts of the proceedings as relate to the identity of the person are held in private; and

(b) make such orders as to the suppression of evidence given before it as, in its opinion, will ensure that the identity of the person is not disclosed.

(2) The court may, for purposes of subsection (1) -

(a) allow a person in respect of whom an authority is or was in force to appear before it under the assumed name or under a code name or code number; and

(b) make orders prohibiting the publication of any information, including information derived from evidence given before it, that identifies, or might facilitate the identification of, any person who has been or is proposed to be called to give evidence.”

Mr Chairperson, I beg to move to substitute the word “private” with the word “camera” at Clause 14 (1) (a). I so move Mr Chairperson.

Amendment **agreed to.**

New Clause **agreed to.**

Clauses 13 - 14 **agreed to.**

Clause 15

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): Thank you Mr Chairperson. The Bill is amended at Clause 15 appearing at B.9 by inserting immediately after the Clause, the following new Clause and renumbering subsequent provisions accordingly -

“Misuse of assumed identity”

16. An investigating officer who -

(a) intentionally, knowingly or recklessly acquires evidence of, or uses, an assumed identity covered by his or her authority; and

(b) knows that, or is reckless as to whether, the acquisition or use is not -

(i) in accordance with his or her authority, or

(ii) in the course of duty, commits an offence and is liable to a term of imprisonment for life.” I so move Mr Chairperson.

MR REATILE (JWANENG-MABUTSANE): *Thank you Mr Chairperson. Ke dumalana le Tshutiso ya ga Honourable Minister but ke ne ke batla go itse gore ke eng Honourable Minister, fa re tlamalela fela kwa botshelong jotlhe mo kgolegolong, re sa tla ka gore gongwe go nne le gore o ka re kamoso re bo re simolola re re P50, 000 kana P500, 000 jaaka re tle re supe gore re athola madi kana kgolegelo kana di tsena tsotlhe? Ke eng fa re ne re sa dire jalo foo motlotlegi? Ga ke batle go tla ka amendments, ke batla clarifications fela, fa o di ntlhaloseditse ga ke na bothata. I thank you sir.*

MINISTER OF INFRASTRUCTURE AND HOUSING DEVELOPMENT (MR MOLALE): *Thank you Mr Chairperson. Ke ne ke re re nne careful ka punctuation, we have a precedence there, commas and the hyphens have actually changed the meaning of the Clause. Mo 16 (a), evidence of, or uses, ga ke e tshware sentle, gongwe re ka thusanya foo. Just the punctuation itself.*

MR MMUSI: *Mr Speaker, ke tsaya gore kana golo fa gatwe, knowingly or recklessly acquires evidence of, or uses, an assumed identity. Foo ga ke itse, e siame Rre Molale?*

HONOURABLE MEMBER: No, I think it is fine.

MR MOLALE: Well, if it is fine, that is fine. Mr M.

MR CHAIRPERSON: *I know. Ba bangwe ga ba itse story sa comma. Re tlaa se ba bolelela.*

MR MMUSI: A ko o botse potse ele gape Honourable Reatile.

MR REATILE: *Thank you Honourable Minister. Potso e khutshwanyane fela Tshwene. Ke re golo fa o ne o supa gore mo 16 (b) (ii) e ne e supa gore motho o tlaabo a lebaganwe ke molato wa gore re ka mo romela kwa kgolegolong ya botshelo jotlhe. Ke botsa gore ke eng re*



ne re tla ka katlholo e e boketekete jaana go sena gope fa e leng gore re tllile ka *provision* gongwe ya madi? Fa e leng gore mo molaong ra re nnyaa, mme e bile fa e le gore go bokete thata, jaanong re tlaa go batla madi re bo re go tsenya mo kgolegolong ya botshelo jotlhe. Ke batla go itse gore *why* re sa nna le *option* ya madi motlotlegi jaaka re tswa kwa ke ntse ke bona melao e re neng re e dira?

MR MMUSI: E ke dumela gore kana e tshwana le ya polao. Ga re ka ke ra re re tlaa go kaletsa re bo re boa gape re re re batla madi.

MR REATILE: *Okay*, ga ke na mathata rra.

Amendment **agreed to.**

Proposed New Clause **agreed to.**

Clause 16

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): Thank you Mr Chairperson. The Bill is amended at Clause 16 appearing at B.9 by substituting for Clause 16, the following new Clause -

“Prohibition of interception communications without a warrant.

16. (1) An investigating officer shall not intercept communications unless the investigating officer is authorised to do so by an interception warrant issued under this Part.

(2) A person who intercepts communication without authorisation commits an offence”.

Amendment **agreed to.**

Clause 16 as amended **agreed to.**

Clause 17 **agreed to.**

Clause 18

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): Mr Chairperson, the Bill is amended at Clause 18 (1) appearing at page B.10 by inserting immediately after the word “shall”, the word “not.” I so move Mr Chairperson.

Amendment **agreed to.**

Clause 18 as amended **agreed to.**

Clause 19

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): Thank you Mr Chairperson. The Bill is amended at Clause 19 appearing at page B.10 by substituting for Subsection (2), the following new subsections -

“(2) Section 7 shall, with the necessary modifications, apply to this part, and by inserting the following new Clause;

(3) A court may approve a warrant under Subsection (1) and may -

(a) require a communication service provider to intercept and retain specified communication of a specified description received or transmitted, or about to be received or transmitted by that communication service provider; or

(b) authorise an investigating officer to enter a premises and to install on such premises, a device for the interception and retention of a specified communication or other communication of a specified description, and to remove and retain such device”.

MR REATILE: *The Honourable Minister is making a reference to Section 7, “shall within the necessary modification.” Section 7 ga ke itse gore Tona is referring kwa go efe ka gore ke itse gore fa e le gore he refers mo go e e leng gore ke yone ya Bill e kana ke e e leng gore e dule semmuso, ga e sa tshole e le teng. Jaanong ga go na reference e re ka e dirang to yone.*

MR MMUSI: *I am referring mo go e ntšha Mopalamente yo o tlotlegang Rre Reatile.*

MR REATILE: E ntšha ke raya gore ke yone e re ntseng re e ntsha kana.

MR MMUSI: *Nnyaa, go na le e nngwe e re e tsentseng e e mo Order Paper, e e reng, “protection of privacy in the controlled investigations.”*

MR REATILE: *Okay.*

MR MMUSI: *Thank you Reatile, a ko re ye Mabutsane monna, dipodi tsa me di koo.*

Amendment **agreed to.**

Clause 19 as amended **agreed to.**

MR CHAIRPERSON: The question is that Clauses 20 to 33 stand part of the Bill.



HONOURABLE MEMBER: Mr Chairperson.

MR CHAIRPERSON: Honourable Tshere.

MR TSHERE: *Thank you very much Mr Chairperson, sorry I did not have my microphone on. My query is on Clause 32, I do not have any problem with other Clauses before that. Kana Clause 32 ke e re neng re bua ka yone gore how do we now guard against an officer yo o tlaabong a itirela bosupi, a bo a bo tlisa fa pele ga lekgotla a tlhona o kare ke bosupi jwa nnete? Re mo otlhaya jang ka gore Clause 32 e mo ntsha mo molatong ya re Government be sued? Ke yone e re nang le kutlwisanyo e sa utlwaleng sentle le Honourable Minister, ga ke itse gore o e tlhalosa jang. Ke tlhaloganya ka assumed identity, moo ke molato e bile fa o ka o dirisa botlhaswa, but ga re bue ka yo o itirelang bosupi. Mr Chairperson, I need a clarification on that one. Thank you.*

MR CHAIRPERSON: There are two ways of proceeding, you can dispose of 20 to 31 immediately, and then you have no proposal except you want an explanation...

MR SALESHANDO: Mr Chairperson, did you say up to 31 because I also have an issue I have been waiting for Clause 24 at B.13.

MR CHAIRPERSON: ...*(Inaudible)*... to you that I was calling Clauses 20 to 33.

MR SALESHANDO: I thought you said to 23, my apologies.

MR CHAIRPERSON: 33, but there are no amendments noticed...

MR SALESHANDO: I raised up an issue under 24.

Clauses 20 - 23 agreed to.

Clause 24

MR SALESHANDO (MAUN WEST): *Mr Chairperson, ke na le bothata le Clause 24 ka fa e kwalegileng ka teng, e itebaganya le the service providers. Ke batla go itebaganya thatathata ka gore ke tsaya gore fa re ganeletse mo go tsa megala, re bua ka bo beMobile, Orange, Mascom. Honourable Mmusi o tsentse clause e re neng re e baakanya gone jaana at Clause 19, e e ba pateletsang gore service provider fa go kopiwa, o tlisa information e bile re ka isa equipment ra e baya koo to record, to cover them. Now what we*

are doing here Honourable Mmusi ke gore, jaanong o batla to determine technology e e dirisiwang ke service providers, wa re they must install hardware and software facilities and devices which enable the interception of communication at all times or when so required le tse dingwe fela jalo.

You are now meddling with decisions of investors, ke lebelo le kgaisanyo ya gore who has the best quality network jaaka go iwa kwa go bo 5G, 6G as we go on. Se o se dirang fela ke gore mo Botswana re tlaabo re ka kgona go ba raya re re, no you cannot upgrade your software, ka gore rona re batla e e motlhofo to be intercepted, notwithstanding that we can get an order and force them to record ba bo ba re neela.

I think we are over stepping the mark, and we are going to make our telecommunications industry less competitive fa ba ka tshwarwa ke gore the investigative bodies tsa re nnyaa, ga ke go letlelele to upgrade to where other countries are. These companies a lot of them are international, if Orange upgrades to some software, normally it will be the world over.

Gore go bo go itsewe gore kwa Botswana Goromente o a kganela ka gore a re o batla go reetsa mme re na le provision e e tlhamaletseng e e ba pateletsang gore fa re ka re re batla go reetsa the following numbers tsa bosemangmang they have to comply. Why go to even the technology and software they deploy, I have a problem with that but maybe there is an answer.

MR CHAIRPERSON: Honourable Minister.

MR MMUSI: The way I understand it sir, there is no restriction. The service provider is asked to install a system ya the investigators just to a particular project. It is not on a permanent basis which affects, it is for a particular project. Therefore, we are not going to interfere with their upgrades on anything. It is specifically for projects. *Jaaka re buile gore, warrant is for a particular project, it is for a period of so many months. I thank you Mr Chairperson.*

MR SALESHANDO: Read 24 (b).

HONOURABLE MEMBER: Ga e balege jalo, e bale.

HONOURABLE MEMBER: Ba reye ba go e thuse Motshweneng, ga ba go e tlhalosetse ka fa ba e kwadileng ka teng.

MR MMUSI: Nnyaa, nna ke a bala.



MR CHAIRPERSON: Honourable Tshere.

MR TSHERE (MAHALAPYE WEST): *Yes Mr Chairperson, ke ne ke re ke eme nokeng Honourable Saleshando. Ke gore gape nna...*

HONOURABLE MEMBER: Ga o a supiwana.

MR TSHERE: *...(Inaudible)... Honourable Chairperson, ke tsebe ntlha honourable. I worry ka gore jaaka Honourable Leader of Opposition (LOO) a bua, o kare jaanong re ya go bolelela batho ba gore ba dire jang ka businesses tsa bone, e bo e bile re tselelela thata kwa go bone. Ga ke itse gore a molao o kgona gore o nne jalo, o mpolelele ke le kwa komponeng ya me gore wena dira jaana, e bile o tshwanetse to install dilo mo dibalamakgolong tsa rona to record calls tsa batho. Ke ipotsa gore ke eng this investigation organ e ka se ke e ithekele dilo tsa yone fela, and intersect koo e le nosi, and perhaps ask for information that relates gore go ne go letswa jang at the service provider. Ke bona go ya go tsenya service provider dingalo tota mo e leng gore jaanong re ya go leba Mascom and Botswana Telecommunications Corporation (BTC) ka tsela e sele e o kareng ba tsaya karolo mo go reetseng phones tsa rona. Jaanong re ya go ba ntsha jang from the responsibility ya gore o kare ba tsaya karolo mo go reetseng phones tsa rona? This has been a case globally Mr Chairperson gore, the service providers di felela di rekisa information, di felela di reng, e bile o kare it is offered without a court order. I support Honourable LOO. I thank you.*

MR MMUSI: *Ke ne ke re a re baleng, kana golofa gatwe, "install hardware and software facilities and devices which enable the interception of communication." We are saying they cannot install hardware and software which we cannot enable interception. That is all what we are saying.*

HONOURABLE MEMBER: That is the bone of contention Honourable Minister.

HONOURABLE MEMBER: Yes.

MR MMUSI: We are doing these things for where there is a security threat to the country. It is not about the business, it is about the business, it is about the country which is important.

HONOURABLE MEMBER: I want to elucidate honourable if I may.

MR MMUSI: Yes sir.

MR SALESHANDO: *Elucidation. Here is the difficulty, wa re telecommunication system, o bua ka technical capable of supporting lawful interceptions. O bo o tswelala gape kwa go (b), remember gore re setse re buile gore go na le e nngwe e e go letlelelang gore you can demand gore ke batla go reetsa the following conversations. Over and above that, go na e e reng o ka tlisa. Ke gore you can demand, ba bo ba go neela, ba a patelesega. Before re tsena kwa go 24, you can also go and install for your own recording, go a patelesega. But then when you go further o bo o re jaanong le software and telecommunications systems, that is an investment decision. O bo o re hardware and software facilities describing them. It gets worse fa o ya kwa 24 (2) on the other page, o bo o bua gore fa ba ka se ka ba dira jalo, fa o ka fitlhela ba tsentse software e e leng gore ga e go thuse, they are charged bo P50,000, and the Directors ba dirile molato ba ka ya toronkong. Notwithstanding gore o na le Clause e e reng no matter what software or hardware they have, fa o batla information go reetsa, they must facilitate. I think this is unnecessary over-reach Mr Chairperson.*

MR MMUSI: *Golofa we cannot allow service providers to install dilo tse rona re ka se kang ra di berekisa, we need them to install dilo tse re ka di berekisang because as I say, we were looking at security of a county.*

MR SALESHANDO: I am with you, my point is that Section 7 which we have just dealt with, *eo e setse e go file dithata tseo. Mo amendments tsa gago Number 10, the Bill is amended at Clause 19 ya re, "A court may approve a warrant and may require a communication service provider to intercept and retain specified communication of a specified description received or transmitted, or about to be received or transmitted by that communication service provider." Gone moo go go fa sengwe le sengwe se o se tlhokang go dira tiro ya gago.*

MR MMUSI: Nnyaa rraetsho, moo go raya gore ba ka mpha information. Jaanong fa ka re ke batla gore ke kgone go ka tsenya equipment ya me koo, ke gore ba nne le equipment e e ka kgonang go berekisana le ya me fa go tlhokafala.

MR SALESHANDO: And therein is the difficulty, *kamoso ba tlaabo ba batla to upgrade as investors to compete with other service providers internationally.*

MR MMUSI: That will not affect them at all *Rre Saleshando. Mr Chairperson, that will not affect them at all.*



MR RAMOGAPI (PALAPYE): Ke a leboga *Mr Chairperson*. *Mr Chairperson*, o bona kgang e re buang ka yone fa *if my memory serves me well*, go na le *case* e nngwe e e batlileng go tshwana le e. E e neng e ama ba sepodise, ga ke itse gore e ne e le mang golo fale. Ba ba neng ba rekile *machine that intercept* mme ba kwa Mascom ba bo ba re *no, software* ya rona *has been upgraded*, ga o kgone gore jaanong *messages* kana *communication* e e fetang fa e kgone gore e e kape. Ga bo go raya gore *machine* oo o nna *redundant*. *If my memory serves me well*, motho yo o neng a emetse Goromente... Ke itse gore Rraetsho Sidney Pilane go ne go na le fa a neng a eme teng, ga ke itse gore a o ne a emetse Goromente golo fale mme ke gakologelwa o kare o ne a mo emetse. Jaanong se ke welang ka sone ke gore kgang e e kwadilweng fa ga e a le bana. *Honourable Saleshando* o bolelela ruri ka *software*. Ke lesego ka gore ke mongwe wa batho ba ke ithutileng dilonyana tse dintsinzana, le *communication and technology*. *Software* ke golo mo go shafadiwang letsatsi le letsatsi.

HONOURABLE MEMBER: O *sure* o a e itse wena *software*?

MR MMUSI: E seng ya *mobile company*, wena o raya ya *cell phone*. Re bua ka *mobile company* golo fa.

MR RAMOGAPI: Nte ke wele ke go thuse Motshweneng, o a itse gore ga ke go fufegele, ke motho yo ke lebelelang dilo *objectively*.

Kgang e re e buang fa e ke gore fa re tsaya sekai ka *computers* tsa ga Goromente tse, tsa Government Accounting and Budgeting System (GABS) gore ba tle ba tlhologanye motlhofo, *system* e e mo GABS e e rile fa ba re ba a e tokafatsa ka *computers* tse di ntseng di le mo teng, e bo e gana e re gore ke kgone go bereka, go batla gore le reke *computers* tse dingwe. Jaanong se Rre Saleshando a se buang ke gone gore kana go tlaabo go raya gore gongwe bone ba ya go tla ka *system* e e kwa godimo e batla gore ba *improve*, ba bo ba na le *system* e e rileng ya *computers* tse di kwa godimo. Kana bone ba ya kwa pele ba batla *to improve* e le *investors* jaaka re itse gore ba phadisanya le ba bangwe. Goromente ene a re ga ke na madi, ga ke ka ke ka kgona gore ke bo ke ka berekisana le *system* eo. So ke tsaya gore ka mowa o montle, a ko re lebelelang kgang e *in this manner* gore jaanong fa re re re tlaabo re *interfere* le *the investor*, e bile e re re tsena kwa pele go bo go pala, re raya jang? Re raya gone mo e leng gore tota *software from time to time* e nna e tokafadiwa e ntse jaana.

MR CHAIRPERSON: Thank you very much Honourable Ramogapi.

ASSISTANT MINISTER FOR PRESIDENTIAL AFFAIRS, GOVERNANCE AND PUBLIC ADMINISTRATION (MR MTHIMKHULU): *Thank you Mr Chairperson*. Ke bona *Clause* e e sena mathata fela tota a a akanyediwang ke bakaulengwe ba bangwe. Ke gore *these telecommunication companies* tse Rre Saleshando ke neng ke utlwa a di umaka, go setse go na le *process* e e leng gore *they have a system where they store information*. *Some of us who have dealt with it, there is a certain period of time that they have been storing information*, go tswa foo *they dispose it before* go tla molao o *into play*. *Before this law* e bile o akanyediwa, ba ntse ba dira jalo *from long time back, but they have been keeping it for a certain period of time*, go tswa foo *they dispose information* eo *after maybe three or six months or after a year*. *There is a period that they have been keeping it*. *So these systems they have them*.

Ke utlwa se Rre Mmusi a se buang sentle gore *these systems* tsa bone di kgona *to allow systems* tsa *the law enforcement officers to work in conjunction* le tsone fela *together*. E se ka ya re kamoso e re fa ba *law enforcement officers* ba batla *data* kana ba batla *to intercept*, go bo go nna le *difficulty about the kind of system or infrastructure that they have, which may impede the law enforcement officers from performing their work*. Ke gone fela fa e leng gore *maybe* go ka twe Rre Saleshando o ne a ngongorega teng, a sa tseege sentle teng. Kana Rre Mmusi o ne a bua a re *these systems* tsa bone, *they will not in any way put any additional burden* mo *telecommunication providers* jaaka di ntse di dira gale le gale. Ke tsaya gore *these Clauses* di siame fela *Mr Chairperson*. *Thank you sir*.

MR REATILE (JWANENG-MABUTSANE): *Thank you Mr Chairperson*. *Mr Chairperson*, ke tlaa ikamanya thata le kgang e re neng re gakololwa ke *Honourable Molale* kgantele gore re tshwanetse re bone gore fa re dira molao, ke o e tlaa reng kamoso, le bo le le mo tseleng ya tshiamo, e se ka ya re kgantele e bo e le gore jaanong re fitlhetse re re re dira molao, re bo re bofa e mengwe. Fa o thulana le melao e mengwe, kana go raya gore jaanong o moshana o ga o ka ke wa ntsha e e ntseng e tshela mo tsamaisong. Go raya gore e e tsayang *precedence*, ga ke itse gore a ke o moshana kana ke o mogologolo. Se ke lekang go se supa fa *Mr Chairperson*, mo e setseng e le *judgements*, tsone ga re ka ke ra tla go di dirolola ka molao ka gore fa e le gore



go na le *order* e e neng ya tswa ele ya gore mapodise ba ne ba re *if we have mounted speed traps*, batho ba ba na le *technology* ya gore jaanong, ba na le *sensors*, ba bo ba tsaya motho a ba a ya kwa *court*. *Court* e bo e ya gore *upgrade system* ya lona. *It is a matter of competition*. Jaanong ga re ka ke ra tla fa, batho ba e leng gore ke bone ba neelang batho ba rona ba *security intelligence interception gadgets* ba sena *technology that competes* le ya *the service providers*. Ga re ka ke ra tla go itsa *service providers* go gola mme e le gore tota rona ga re tsamaisa kgwebo e e ntseng jalo, go na le mongwe yo o e tsamaisang a le kwa Russia kana India. Ke gore re batla yo o ka lepalepanang le seemo sa gore *technology if upgraded*, o a e fitlhelela.

Jaanong se *Honourable Minister* a se buang a re, *no*, batho ba re rekang kwa go bone *technology* ya go reetsa ditlhabetsi mo lefatsheng la rona, fa e le gore ba palelwa ke *to upgrade system*, re tlaa raya ba *telecommunications* gore emang pele, ba rona ga ba ise ba nne le bokgoni. *We cannot operate like that*. Competition Authority Act e le gone e bereka fa kae fa e le gore re ya go itsa batho go tsamaela (*move*) kwa pele *Honourable Mmusi*? Ke tsone dilo tse e leng gore fa re bua ka Fourth Industrial Revolution (4IR), re golotse batho ka ditomo mokaulengwe. *Information* e re e batlang kwa go ba *telecommunications*, ga ba ka ke ba tlhoka go e re neela ka *amendment* e o tlileng ka yone le e *Honourable Dumelang Saleshando* a sa tswang go e baya pele. Ka one mabaka a, sekaseka kgang mokaulengwe gore e se ka ya re kamoso, bagwebi ba bo ba seka le rona lebakeng la gore re ba itsa go tswelela. Fa ba seka le rona, ba bangwe ke *international company*. *I thank you sir*.

MINISTER OF INFRASTRUCTURE AND HOUSING DEVELOPMENT (MR MOLALE):

Thank you Mr Chairperson. I see a danger here *ya gore Palamente e bo e tsena mo field e e seng ya yone ya go leka go supa* gore they know a lot about telecommunications' gadgets or anything like that. *Fa re ka bua jalo*, everybody will come with their own knowledge of how the gadgets, systems and everything works. I thought *molao wa re*, whoever is there as a service provider must always be in conformity with the dictates of our security requirements in this country. That is where we should stop. *Ke sone fela se re se batlang and ke sone se Rre Mmusi a se kopang* to try, define and show *gore se se ka bereka, se ga se ka ke sa bereka, fa e le gore Goromente* has to match the compatibility *ya the* new systems as we upgrade. We have to do that for the sake of security. Let us not tread into territory *e e seng*

ya rona. Rona a re bue fela and dictate *gore molao wa re*, every service provider must conform to the dictates of what we are proposing. I thank you Mr Chairperson.

HONOURABLE MEMBER: Letsatsi le ke go utlwile *honourable* mme ga o dumalane le Mmusi.

HONOURABLE MEMBER: Ee, ga ba dumalane gotlhelele.

MR MOLALE: Malatsi a Lucas, o tshwanetse go ntheetsa.

MR CHAIRPERSON: Honourable Ramogapi.

HONOURABLE MEMBER: Honourable Ramogapi o buile *Mr Chairperson*, a re tlhopheng re tsamaye.

MR CHAIRPERSON: We are at Committee Honourable Minister.

MINISTER OF BASIC EDUCATION (MR MOLAO): Ke a leboga *Mr Chairperson*. Tota *part of what I was going to say* ke yone e e amilweng (*covered*) ke Rre Molale. Ke dumela gore *we do not want to have a service provider who may either deliberately or inadvertently* a fitlhela e le gore *has installed a system* e e leng gore *the law enforcement agency* ga e ka ke ya kgona go e dirisa ka nako e e a bong e tlhokafala gore e e dirise *for purposes of crime prevention*. Ke dumela gore molao o, *covers* gone foo ka gore *Clauses* tse di kwa pele *allow for both scenarios* tsa gore *either the service provider can be compelled to provide the information or the law enforcement agencies can install their devices* gone kwa *the service provider for purposes of getting information* e ba e batlang. *Both scenarios must be provided for at all times. In my understanding...*

HONOURABLE MEMBER: Clarification.

MR MOLAO: ...*Clause* e, e akaretsa *scenario* e e ntseng jalo *Mr Chairperson*. Ga ke itse gore a ke utlwa gotwe *clarification*.

HONOURABLE MEMBER: Fa e le gore o na le nako.

MR CHAIRPERSON: You have 40 seconds.

MR TSOGWANE: *Clarification*. Ke dumalana le wena *Minister* le Rre Molale. Dilo tse di tshwana fela le gompieno re ntse re reka dipilisi kana mekento. Re ntse re tlhatlhoba, re bona gore a mme go a tsamaelana, *has it been accredited by others here in our country*. Ga ke bone fa go na le phoso le gore *Minister* o na



le *experience*. O a itse gore o begetswe jang ka tse di ntseng di dirisiwa le gore a mme di tsamaya sentle kana ga di tsamaye sentle. Jaanong a re se ka ra mo ntsha mo tseleng thata. Ke a leboga *Mr Chairperson*.

MR LUCAS (BOBONONG): Ke a leboga Modulasetilo. Tota kgang e builwe ke Rre Molale gore re se ka ra leka go tseno mo *details* tse di tseletseng jaaka *Clause* e, e leka go tselelela mo go tsa *technologies*. Se se botlhokwa ke gore *as* Goromente, *we have a duty to keep up with advances in technology*. Ga re a tshwanela go gogela ope kwa morago ka gore gongwe rona re saletse kwa morago mo *technology*. Fa re dira jalo, re tlaabo re lwantsha *the service providers*, e bile fa gongwe re ba gogela kwa morago gore ba ba gaisanyang le bone ba tle ba fetele kwa pele ga bone. *In a free market economy*, ga re a tshwanela gore e re fa re re lwantsha borukutlhi, e bo e le gore *we sabotage businesses* tsa *communication*. *In that respect*, ke akanya gore *Clauses* tse di setseng di le teng, tse di supang gore *every service provider has a responsibility to ensure that* fa molao o tlhoka *for information to be intercepted*, o tlaa dira jalo. Gone mo ka bo gone fa go builwe jalo, go wetse. Fa a sa dire jalo o molato, *so*, a re ntsheng *Clause* e e lebegang e kete *will interfere with innovation and creativity* ya *private sector*. *Thank you very much Mr Chairperson*.

HONOURABLE MEMBER: *Nnyaa*, you are distorting my presentation. You are distorting it deliberately.

MR LUCAS: Fa ke dumalana le wena o fitlhela o tshogile, ga ke itse gore mathata a gago ke eng.

MR MMUSI: *Mr Chairperson*, ke buile gore molao o o siame, ga o na mathata ape, o tlhamaletse mme re tsamaya ka one o ntse jaana. *I thank you Mr Chairperson*.

HONOURABLE MEMBERS: ... (Murmurs) ...

Clause 24 agreed to.

Clauses 25 - 31 agreed to.

Clause 32

MR TSHERE (MAHALAPYE WEST): *Thank you very much Honourable Chair*. Ke lebeletse *Clause 32* jaaka re ne re buisana ka gore re ne re supa matshwenyego a gore ya re, *investigation officer* fa a tsamale a ya go tlhotlhomisa (*investigate*), kana a tla ka bosupi jo e seng jone, *he cannot be personally held liable* ene ka bo ene. Re ne re supile gore Tona a e sekaseke, a bone gore gone foo *how can we safeguard* batho ba e leng gore *in the past were accused* ka *information* e e *wrong* e e leng

gore *later on*, *the court proved that it was wrong*. Re dira jang gore re kgone *to safeguard and protect* batho go se ka ga tlhola go dirwa *evidence, being fabricated and presented to court* ka maina a bone, ba senyega maina jaana? Ke ne ke ipotsa gore *Honourable Minister perhaps he can explain why* a sa utlwa eo karabo ka gore tota ke motho yo o utlwang yo a ntseng a re ruta. *Thank you very much Honourable Chairperson*.

MR SALESHANDO (MAUN WEST): *Yes, Mr Chairperson*. Bothata jwa 32 *Honourable Mmusi* bo fa, ya re ga o ka ke wa tsaya kgato epe kgatlhanong le ba ba berekelang makgotla a a dirang ditlhotlhomiso, tse ba ka tswang ba di dirile ba ne ba filwe tetla, *authorised*, ke molao. O itse gore o kgona go nna *authorised*, mme a bo o *abuse* dithata tsa gago. Gape re setse re kwadile kwa go tse dingwe gore le fa o filwe *warrant* kana o letleletswe go nna motho yo o seng, *what is the word?* Yo o dirisang *a fake identity, I am not saying that is what it says*, ke lebetse gore le ba bitsa eng, le gore fa o ka dirisa gone moo botlhaswa, o ka atlholelwa toronko le gone ya botshelo jotlhe. Jaanong o a bona ga e tsamaelane le e ya 32 ka gore ya 32 ya re fela fa e le gore o ne o le *authorised*, ga e lebelele gape gore o ka tswa o le *authorised but you did more than what you were supposed to do*. *That indemnity* ka fa e kwalegileng ka teng, ya re fela fa e le gore o ne o na le *warrant*, kgang e tswetswe ga o ka ke wa tlhola o sekela sepe gape. Gongwe o e tlhalose, o e lebelele gape ka gore e ka tswa e thulana le tse re sa tswang go di fetisa. Ke a leboga.

MR RAMOGAPI (PALAPYE): Ke a leboga *Mr Chairperson*. Ke dumalana le *Honourable Tshere*. Kana kgang e yone tota re sale re buile ka yone re ngongorega ka yone le kwa General Assembly, re supa gore nnyaa, batho ba Modimo fa re dira melao, tota a re itse gore ga re direle rona gompiono, re direla le bana ba rona le bana ba bana ba rona ba ba tlang. *Already in Botswana we have serious crisis whereby it was stated that some of the investigators fabricated evidence*. *So, in issues like these ones, should we just say* motho a dirile ... (*Inaudible*)... jo bo kalo go bo gotwe nnyaa, a go fetwe fela, ga re a tshwanela go tsamaisa lefatshe ka tsela e e ntseng jalo. Batho ba tshwanetse gore ka fa morago ga bone, ba bo ba nna ba ntse ba itse gore *if* ke dira phoso ya botlhaswa, ya bofafalele, ke tshwanetse go sekisiwa, ke isiwe kwa makgotleng, ke ka seka ka bonosi.

Gape molao o jaaka *Honourable Saleshando* a ne a bua kwa morago, re setse re supile gore fa e le gore motho o ka dirisa *assumed identity* bofafalele, ba tshwanelwa ke



gore ba lebiswiwe molato. Jaanong *Clause* e e farologana le tsele, e bile gape ka ke dumalana, a bagaetsho ka tse di re diragaletseng mo lefatsheng la rona, re monele marulwana pele, re bone gore re baakanya lefatsho la rona. *I therefore support Honourable Tshere.* Ke a leboga.

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): Thank you. Mr Chairperson. Now we understand this Clause, I do not agree with Honourable Tshere *ka gore ke dumela gore kwa* Clause 32 it speaks to immunity for lawful act and clarify that immunity only extends for authorised conduct. *Ke ka fa ke e tlhloganyang ka teng, le ba molao fa ke ba botsa, re ne re e tlhloganya ba nkgakolola jalo. Ga ke dumalane le Honourable Tshere.* I thank you Mr Chairperson.

MINISTER OF BASIC EDUCATION (MR MOLAO): *Mr Chairperson,* ka bokhutshwane, *I think* ke utlwa se *Minister* a se rayang. Kana ke tsaya gore *Clauses* tse di buang ka bofalele le *abuse*, kana *abuse will be determined through due process* gore fa o ne o feteletse, *this was abuse*, e bo motho a lebiswiwa molato jaaka a tshwanetse. *This one* ke dumela gore *it gives sort of assurance* ya gore batho ba ba *authorised* go ya go batlisisa, jaanong ga ba tsamaye e le gore *they are walking on a tightrope*, ga ba itse gore fa ke gata ka fa, fa motho a ka tla a itsheka a bo a fenyha *case*, *then* ke tlaabo ke ya go di arabela ka bo nna. E tlaabo e kete re ba bofelela mabogo kwa morago gore ba se ka ba dira tiro ya bone ba phuthologile. Kana fa motho go ne go bonwe *evidence*, e bo e bewa *before court*, *there are only two things that will emerge, either they will successfully prosecute and convict or they will lose the case.* Ga re batle e re e tloga fa gongwe ba latlhegetswe ke *case* go bo gotwe ehe, jaanong *you are on your own*, o a ikarabela, bosupi jwa re e ne e se jone sentle, mme e le gore motho o ne a dira tiro ya gagwe ka tlhamalalo, a bo e le gore kwa *court* o latlhegelwa ke kgetsi fela jaaka mongwe le mongwe a ka latlhegelwa ke kgetsi. Ke a leboga *Mr Chairperson*.

Clause 32 **agreed to.**

MR CHAIRPERSON: There is somebody else, anything about Clause 33?

HONOURABLE MEMBER: It is amended.

MR CHAIRPERSON: No.

HONOURABLE MEMBER: Oh it is neutral, sorry.

Clause 33 **agreed to.**

HONOURABLE MEMBERS:...(Murmurs)...

MR CHAIRPERSON: Batho ba lebala gore go na le *a mute button*.

MR CHAIRPERSON: There is an insertion immediately after Clause 33, Honourable Minister?

New Clause

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): Thank you Mr Chairperson. The Bill is amended by inserting immediately after Clause 33 appearing at B.15, the following new Clause and renumbering subsequent Clauses accordingly -

“Administrative sanctions and compensation”

34. The Committee may impose an administrative penalty or award of compensation not exceeding P500 000 for purposes of paragraph 1 (2) in the Schedule.”. I close Mr Chairperson.

Amendment **agreed to.**

New Clause **agreed to.**

Clause 34 (2)

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): Thank you Mr Chairperson. The Bill is amended at Clause 34 (2) appearing at page B.16 by inserting immediately after paragraph (c), the following new paragraphs -

“(d) the form and manner for applications made in terms of this Act; and

(e) procedure, manner and form for complaints and award of compensation made in terms of the Schedule.” I so move Mr Chairperson.

Amendment **agreed to.**

Clause 34 as amended **agreed to.**

New Clause

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): Thank you Mr Chairperson. The Bill is amended by inserting immediately after Clause 34 appearing at B.16, the following new Clause and renumbering subsequent Clauses accordingly -



“Savings and transitional provisions”

35. (1) A warrant issued for a controlled investigation before the commencement of this Act shall, in so far as it is not inconsistent with this Act, continue to be effective as if issued under this Act.

(2) Information or material obtained from the undercover operations or interception of communication before the commencement of this Act by means of an authorisation issued in other relevant Acts, may be retained or used for -

- (a) investigative purposes;
 - (b) evidentiary purposes; or
 - (c) any other legal purposes, notwithstanding that the retention or use of the information or material from such undercover operations or interception of communication would, if obtained after the commencement of this Act, constitute a breach of this Act.
- (3) Any lawful act done before the commencement of this Act, that falls within this Act shall, in so far as it is not inconsistent with this Act, continue to be applicable as if done under this Act.

(4) The Minister may, by order published in the Gazette -

- (a) pending the appointment of the Committee, make such transitional arrangements as may be necessary for purposes of the discharge of the functions of the committee; and
- (b) make such transitional arrangements as may be necessary for the purposes of the provisions of this Act. I so move Mr Chairperson.

Amendment **agreed to.**

New Clause **agreed to.**

Schedule

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): Thank you Mr Chairperson. The Bill is amended by inserting immediately after Clause 34 appearing at B.16 the following Schedule -

“SCHEDULE
(Section 13 (2))

CONTROLLED INVESTIGATIONS COORDINATION COMMITTEE

Functions of the Committee

1. (1) The functions of the Committee shall be to -

- (a) assess the effectiveness of policies and measures of criminal investigations to combat serious crime related activities;
- (b) make recommendations to the Minister for legislative, administrative and policy reforms in respect to criminal investigations; and
- (c) promote coordination among the investigatory authorities, supervisory authorities and other institutions with a view to improving the effectiveness of existing policies and measures to combat financial offences through criminal investigations.

(2) Notwithstanding the generality of subparagraph (1), the Committee shall -

- (a) protect the interests of interception subjects and targets;
- (b) receive and hear complaints in respect of the use of warrants issued under this Act, and shall in hearing the complaints -
 - (i) apply the same principles as would be applied by a court on an application for judicial review,
 - (ii) consider matters before the Committee with a sufficient degree of care as to ensure the protection of privacy and interests of complainants in line with Section 7, and
 - (iii) impose administrative sanctions, award compensation, issue and follow up enforcement procedures to ensure compliance with conditions of warrants issued under this Act:

Provided that an administrative sanction, award of compensation or decision made by the Committee under this paragraph shall have the same effect as a judgment of the court;

- (c) recommend regulations for the better carrying out of its responsibilities under this Act, including -
 - (i) codes of conduct, and
 - (ii) records to be kept by investigatory authorities for applications for warrants under this Act;



- (d) advise the Minister on matters relating to controlled investigations techniques and proposed policy and legislation; and
- (e) perform all additional functions and duties as may be prescribed.

Powers of the Committee

2. For the purpose of carrying out its functions under this Act, the Committee shall have power to do all such things as appear to it to be necessary or incidental to the proper discharge of its functions, and may, in that behalf, act in association with other persons or bodies who are knowledgeable about controlled investigations.

Composition of Committee

3. (1) The Committee shall comprise of the following members -

- (a) the Permanent Secretary responsible for Defence, Justice and Security or his or her representative;
- (b) the Permanent Secretary responsible for International Cooperation or his or her representative;
- (c) the Attorney General, or his or her representative; and
- (d) six other persons, appointed by the Minister in consultation with the Chairperson, from among persons with -
 - (i) at least 10 years' experience in human rights, finance, law enforcement, intelligence, Information and Communications Technology (ICT), including any other related subject, and
 - (ii) expertise in subjects under subparagraph (i).

(2) A representative under subparagraph (1) shall not be below the level of Deputy Permanent Secretary.

(3) A person under subparagraph (1) (d) shall be subjected to a security clearance to access sensitive or classified information.

Chairperson of Committee

4. (1) The Committee shall have a Chairperson who shall be -

- (a) a Justice of Appeal or retired Justice of Appeal, Judge or retired Judge, or legal practitioner who qualifies to be appointed as a Judge; and

(b) appointed by the Minister.

(2) The members of the Committee shall appoint, from among their number, a Vice-Chairperson.

(3) A member of the Committee shall hold office for a term not exceeding four years and shall be eligible for re-appointment for another four-year term upon the expiry of his or her term of office.

Disqualification for appointment as a Committee Member

5. A person shall not be appointed as a member of the Committee under paragraph 3 (d) or be qualified to continue to hold office who has -

- (a) in terms of a law in force in any country -
 - (i) been adjudged or otherwise declared bankrupt and has not been rehabilitated or discharged, or
 - (ii) made an assignment to, or arrangement or composition with, his or her creditors, which has not been rescinded or set aside; or
- (b) within a period of 10 years immediately preceding the date of his or her proposed appointment, has been convicted of a criminal offence and sentenced by a court of competent jurisdiction to imprisonment for a period of six months or more without the option of a fine, whether that sentence has been suspended or not, and for which he or she has not received a free pardon.

Vacation of office

6. A Committee member shall vacate his or her office -

- (a) if he or she becomes disqualified in terms of paragraph 5 of this Schedule to hold office as a Committee member;
- (b) if he or she is absent from three consecutive meetings of the Committee without reasonable excuse;
- (c) upon his or her death;
- (d) upon the expiry of one month's notice, given in writing to the Minister, of his or her intention to resign his or her office;
- (e) upon the expiry of such time as the Minister may specify in writing, notifying him or her of his or her removal from office by the Minister;
- (f) if he or she becomes mentally or physically incapable of performing his or her duties, as certified by a qualified medical practitioner, as a member of the Committee; or



(g) if he or she is convicted of an offence under this Act, or under any other Act for which he or she is sentenced to imprisonment for a term of six months or more without the option of a fine.

Removal and suspension from office by Minister

7. (1) The Minister may, if he or she is satisfied that a Committee member has acted improperly as such member, or is mentally or physically incapable of performing his or her duties efficiently, require that member, in writing, to vacate his or her office within such time as he or she may specify.

(2) The Minister shall, in writing, suspend from office a Committee member against whom criminal proceedings are instituted for an offence in respect of which a sentence of imprisonment may be imposed, and whilst that member is so suspended he or she shall not carry out any duties or be entitled to any remuneration or allowances as a member of the Committee.

Filling of vacancies

8. On the death of, or the vacating of office by, a Committee member, the Minister shall appoint a person to take the place of the member who died or vacated his or her office until the expiry of the period during which such member would have otherwise continued in office.

Secretariat

9. The Ministry responsible for Defence, Justice and Security shall act as the Committee's Secretariat.

Meetings of Committee

10. (1) Subject to the provisions of this Act, Committee shall regulate its own proceedings.

(2) The Committee shall meet as often as is necessary or expedient for the discharge of its functions:

Provided that at least 12 ordinary meetings shall be held in each year, and such meetings shall be held at such place, time and day as the Chairperson may determine.

(3) Upon giving notice in writing of not less than 14 days, a meeting of the Committee may be called by the Chairperson provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving of a shorter notice.

(4) The quorum at any meeting of the Committee shall be a simple majority of the members of the Committee.

(5) There shall preside at any meeting of the Committee -

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson; or

(c) in the absence of the Chairperson and Vice-Chairperson, such member as the member's present may elect from amongst themselves for the purpose of that meeting.

(6) A decision of the Committee on any question shall be by the majority of the members present and voting at the meeting and, in the event of an equality of votes, the member presiding shall have a casting vote in addition to that person's deliberative vote.

Disclosure of interest

11. (1) If a member is present at a meeting of the Committee in which the member is directly or indirectly interested in a private capacity is the subject of consideration, he or she shall, as soon as practicable after the commencement of the meeting, declare such interest and shall not, unless the Committee otherwise directs, take part in any discussion or voting of the Committee on such matter.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) Where a member fails to disclose his or her interest in accordance with subparagraph (1), and a decision by the Committee is made benefitting such member, such decision shall be void to the extent that it benefits such member.

(4) A member who contravenes subparagraph (1) commits an offence.

Confidentiality

12. (1) A member or any person attending a meeting of the Committee shall observe and preserve the confidentiality of all matters coming before the Committee, and such confidentiality shall subsist even after the termination of their terms of office or their expert mandates.

(2) Any person to whom confidential information is revealed through working with the Committee shall not disclose that information to any other person unless he or she is required to do so in terms of any written law.



(3) Notwithstanding the provisions of paragraph (1), a member may disclose information relating to the affairs of the Committee acquired during the performance of his or her duties -

(a) within the scope of his or her duties under this Act; or

(b) when required to -

(i) by an order of court,

(ii) under any written law, or

(iii) in the investigation of an offence.

(4) A person who contravenes the provisions of this paragraph commits an offence.

Co-option of advisory personnel to Committee

13. The Committee may co-opt any person to attend any meeting of the Committee on any matter for the purpose of assisting or advising the Committee, but such person shall have no right to vote.

Committee's funds

The Committee's funds shall consist of monies allocated to it from the Consolidated Fund.

Payment of Members

A Committee member shall be paid such allowance and such travelling expenses, incurred in connection with his or her service on the Committee, as the Minister may determine.

Signification of documents

All decisions of the Committee shall be signified under the hand of the Chairperson of the Committee, or a member who presided at the meeting where the decision is made.

Annual Report

(1) The Committee shall, within a period of six months of the end of the financial year, or within such longer period as the Minister may approve, submit, to the Minister, a comprehensive report on its operations during such year.

(2) The Minister shall, within 30 days of him or her receiving the report under Subparagraph (1), lay such report before the National Assembly." I so move Mr Chairperson.

MINISTER OF MINERAL RESOURCES, GREEN TECHNOLOGY AND ENERGY SECURITY (MR MOAGI): Thank you Mr Chairperson. Just subtle corrections there, on page 8, 4 (1) (a), I think there is a missing 'be' "qualifies to be appointed." That is what I picked. Then on question 10 (5) (c) "member's", there is no apostrophe there under members. Then there are a few other ones where we need to be really consistent on the punctuations. I thank you Mr Chairperson.

MR CHAIRPERSON: Thank you very much Minister, you are quite right.

MR SALESHANDO (MAUN WEST): *Thank you Mr Chairperson. Minister ke na le bothatanyana under "composition of Committee."* Gore gongwe re ne re ka thusanya to improve. Kana komiti e ke yone gape e e sekasekang gore a molao ga o dirisiwe botlhaswa. *I hope I am using an acceptable word.* Fa o na le ngongorego, ke yone e o ka ikuelang kwa go yone. Gakere molao o o tsamaisiwa ke Lephata la Puso e leng la gago. Fa go nna jaana gape e bo e le gore boloko jwa komiti yone e bo na le bo PS wa gago, PS wa kwa *Foreign Affairs*, boorra *Attorney General* le bagolwane ba bangwe ba Puso, kana *oversight* go tewa go tlhodomela gore a ba ba filweng boikarabelo ba tsamaisa sentle. Jaanong fa komiti e o ikuelang kwa go yone gape e tletse ba e leng gore ke badirelapuso go sena ba ba senang a duty to defend the department, oversight e batla o na le objectivity ya gore you are not part of the system, o eme kwa ntle o lebelela mo teng gore a mme go tsamaisitswe sentle. A ga o bone go le botoka gore mo go ba o neng o batla go ba tsenya ba le six, o letlelele gore e se ka ya nna batho ba ba berekang mo Pusong? Mo go neng go tlaabo go raya gore Sub-clause 3 (2) e e reng, "A representative under subparagraph (1) shall not be below the level of Deputy Permanent Secretary." Kana go raya gore o batla ba Puso fela. You do not even have scope for mongwe yo o ka tswang kwa bo Law Society a na le experience e ntsi ya melao e e tsamaelanang le dilo tsa telecommunication mme e le agente. A ga se sengwe se o bonang se ka thusa mo go tokafatseng komiti ya gago? Ke a leboga.

MR REATILE (JWANENG-MABUTSANE): Tanki Mr Chairperson. Tlaa ke dumele fela gore ke page 9 ya composition of the committee, e Honourable Minister a supang gore mo bathong ba ba six ba a buang ka bone... Kana jaanong re ne re sa tswa mo melaong ya FATF, re ntse re mo go yone, mme maabane jaana Honourable Serame o ne a re raya fa Honourable Lucas a ne a tla ka



amendments gore re batle batho ba dikitso tse di rileng ba tle ba kgone *to serve* ba ba thuse, o ne a tlhalosa gore ga re ka ke ra nna *prescriptive*. Jaanong gompiano jaana Tona o tla a le *prescriptive* mo dikgannyeng tsa gore jaanong o batla batho ba e leng gore ke ba 10 years, *Human Rights, Finance, Law Enforcement and Information and Communications Technology*. Jaanong ke ipotsa gore *why are we departing* mo kgannyeng ya maabane re bolelelwa gore ga re ka ke ra tsaya yone *route* e? Gompiano jaanong Tona ene fa a tla ka yone a tswa *from the same Cabinet*, a tla a dira sone se e letseng maabane gotwe go tlaa bo go se kaone, Palamente ga e ka ke ya leka gore e nne *prescriptive* mo go direng melao mo lefatsheng la Botswana. Ke ipotsa gore jaanong gone fa go tsamaya jang. O tlaa tla a e tlhalosa go ya pele.

Jaanong ga ke itse gore mo go e ya 4 (a) a ke ne ke e bona sentle *Mr Chairperson*. Ke ne ke bua ka e ya 4 (a) *Honourable Minister* fa o neng o bua gore, “*A legal practitioner to...*” ke tsaya gore ke “*to be appointed as a Judge.*” Ke yone *small typo* gongwe e ke e boneng gone foo.

Ya bofelo o felela mo *Schedule* o ntse o bua gore, “*he or she will be committing an offence.*” Jaanong ke batla go itse gore *offences* le dikotlhaio tsa bone ke eng ka gore tsa *officers* tsone ke a di tlhaloganya? Jaanong ba ba komiti fa ba *commit an offence* jaana jaanong *offences* tsa bone kotlhaio ya teng ke e e ntseng jang motlotlegi? Ke eme gone foo.

MR KAPINGA (OKAVANGO): Thank you Mr Chairperson. *Le nna ke bue ka palo ya komiti e* Mr Chairperson. From my experience, I do not think we should be expecting a high volume of cases that this Committee is going to deal with. To start with a committee of 10 members, *fa ke ba add, ke gorogile kwa palong ya 10*, I think to start with a committee of 10 members is an overkill because we do not expect that high number of cases to be dealt, or a load of work that would justify a 10 members’ committee.

Sa bobedi, ke kope Minister gore a tlhalose gore, ke gore go nne clear tota gore tiro ya komiti e e tlaabo e le eng. Is it oversight or coordination? *Ke buisiwa se* Mr Chairperson, *ke* Clause 1 (c) “to promote coordination among the investigatory authorities.” How does he envisage this committee coordinating or promoting coordination among the investigatory authorities *a lebile functions tsa yone? Ba ya to coordinate jang* those functions?

Le gone ka palo ya committee Mr Chairperson, we must be cognizant of the cost of creating such a big committee of people, *e le gone re simololang fela re bo re setse re re 10 members*. It has cost implications *tse e leng gore* might be avoided if we start with a lower number. *Ke a leboga* Mr Chairperson.

MR MMUSI: *Thank you Mr Chairperson.* Ke dumela gore *committee* e e siame. Ga ke nyatse gope. *The reason why* re na le *Permanent Secretary in the Ministry of Defence* ke gore kana re dira ka dilo tsa *security*. Re bo re nna le *Permanent Secretary in the Ministry of International Cooperation* because re tlaabo re dira nako e nngwe ka dilo tse di mo mafatsheng a sele. *We need that advice.* *Attorney General* re lebeletse yone melao. *Then, six other persons appointed by the Minister.*

Re bua gore we need 10 years’ *experience in human rights*, re kwadile gore re ya go tlhophatho batho ba ba le six ba na le *experience* mo dilong tse di farologaneng. Dilo tse re dumelang gore ke tse re batlang go di lwantsha thata, *human trafficking is a big challenge which we must fight.* *Finance, money laundering, law enforcement intelligence, information and communications technology*, yo o ka kgonang go gakolola komiti. *That is why we need a broad-based committee*, e e tshwanang le e. Ga re a tshwanela gore re e dire nnyenyane re re re lebeletse gore *we share the money*. Le nna ke dumela gore, komiti e e tlaabo e duelwa ka *allowances*, so fa e le gore e lebeletse *cases* di le pedi fela mo ngwageng, *then it is also fine, we are not spending*, mme fa *cases* tse di le kwa godimo, *definitely* ga go na molato, mme gone *we need a wide range of experience* ya batho. Ke dimalana le komiti e thata e.

Honourable Kapinga o ne a re, *how is it going to promote coordination among the investigatory authorities?* Re na le maphata a a farologanyeng a *investigatory authorities*, re na le DCEC, DIS, sepodise le eng. Komiti e e tshwanetse e bone gore maphata a ga a gotlhagotlhane, ga go nne le sepolotiki mo go one. *It is very important that we ensure that coordination* e nna jalo, ka gore kana fa maphata a ka tloga a gotlhagotlhane, e tlike gore kamoso re bo re nna le dikgang tse dintsi, ba sa kgone go berekisanya sentle.

Honourable Reatile, ke kopa gore o boelele potso ele ya gago *sir*.

HONOURABLE MEMBER: The question Mr Minister is, how are they going to coordinate, how?



MR MMUSI: *They are going to coordinate ensuring that ba a kopana, they see what the challenges are. Kana fa e le gore lephata le lengwe ga le bereke le lengwe sentle, coordination e tswa foo gore go berekisanngwe sentle, tiro e nne in a structured manner.*

HONOURABLE MEMBER: They are harmonizing *maphata* comrade?

MR MMUSI: *Ehe rra, thank you for that...*

HONOURABLE MEMBER: ...(Inaudible)...

MR MMUSI: Rra?

HONOURABLE MEMBER: Minister, *ba bolelele gore it is time up.*

MR REATILE: Gone fa *Honourable Minister*, maabane re sa tswa go bolelelwa ka kgang ya *prescriptive*, gore fa re dira molao ga re ka ke ra nna *prescriptive*. Jaanong wena fa mo bathong ba ba *six* o tla o tlhamaletse fela o re ga ke batle go leba ka kwa ntle, ke leba fela fa. *Honourable Mmusi* o letse o e gana jaana, ka gore e ne e tla ka *Honourable Lucas*. Ke batla go itse gore a kgang e ke ya gore re lebelela mebala kana *content* e e bewang mo tafoleng? Ke sone fela se ke lekang go se tlhaloganya.

MR MMUSI: Nnyaa, kana...

HONOURABLE MEMBER: Nnyaa, o ke o sele molao. O ba reye o re ole e ne e le o sele, o ke o sele o.

MR MMUSI: Ke ne ke re ke a rialo *your Honour*, molao o ke o sele, wa maabane ke o sele.

MR REATILE: Go tulwe gatwe Palamente ga e ka ke ya nna *prescriptive* ...(Inaudible)...

MR MMUSI: ...(Inaudible)...gotlhe e bo e nna ditonki fela, ke ditonki. *No*, melao e e farologane, re e lebelela ka pharologano.

HONOURABLE MEMBER: Nnyaa, ke ne ke re Palamente ga e ka ke ya dira *job description*.

MR REATILE: Serame ene a re ga e ka ke ya nna *prescriptive*, ene ke wa *prescriptive*.

MR MMUSI: O ne a itse gore o lebeletse eng.

MR REATILE: Eish! Waitse golo mo ga go lebelela sepolotiki go tlaa dia waitse, ke go dia barwaledi.

MR MMUSI: Tota ke lemogile gore lona ke lona le...

MR CHAIRPERSON: Honourable Mthimkhulu.

HONOURABLE MEMBER: Melao ya *brigade*, *primary* le *secondary* ga e tshwane.

MR CHAIRPERSON: *Honourable Mthimkhulu*, kana o tobeditse ka phoso?

HONOURABLE MEMBER: Kante *backbench* ya BDP e kae?

HONOURABLE MEMBER: Fa e sale maabane, *they are not attending*.

HONOURABLE MEMBER: Ba ile Mogoditshane, ba ile go le ja kwa Mogoditshane kwa.

HONOURABLE MEMBER: Ga ba yo koo Vice President (VP), ga ba dire tiro ya gago, ga ba yo koo.

HONOURABLE MEMBER: Re a le toulam kamoso.

HONOURABLE MEMBERS: ...(Murmurs)...

HONOURABLE MEMBER: Ke ba rometse koo, ba tlaabo ba dule mo tseleng.

HONOURABLE MEMBER: Owai! ba dule mo tseleng VP.

HONOURABLE MEMBER: Reetsang *Speaker* o a bua.

Amendment agreed to.

Schedule agreed to.

Clause 8

MR CHAIRPERSON: Order! Order! Honourable Members, we are now moving back to report Parliament from committee. But we before we do that, Honourable Minister have you ...(Inaudible)... to Clause 8 which was suspended?

MR MMUSI: ...(Inaudible)...

HONOURABLE MEMBER: Unmute yourself.

MR CHAIRPERSON: Honourable Minister, remember we suspended the debate.

MR MMUSI: ...(Inaudible)...

HONOURABLE MEMBERS: ...(Murmurs)...

HONOURABLE MEMBER: *Ke ya forum shopping?*



HONOURABLE MEMBERS: Ee.

MR MMUSI: Thank you Mr Chairperson. Mr Chairperson...

HONOURABLE MEMBERS: ...(Murmurs)...

HONOURABLE MEMBER: Reetsang Mmusi o a bua tlhe batlotlegi, re tle re tšhaise.

MR MMUSI: Mr Chairperson, *gakere wa re* the Bill is amended a Clause 8 appearing at page B...

HONOURABLE MEMBER: Re letetse wena gore o tlhalose, gore jaanong o e baakantse jang, o e bale...

MR CHAIRPERSON: ...(Inaudible)... *go ka bega kwa go* Chief Justice, Chief Justice *a bo a tlhophha gore kgang e tlaa reediwa ke mang*. We recall the explanation by Honourable Mmusi Kgafela and the other Honourable Members is to how the system in the High Court works, and how it ought to work.

MR MMUSI: Thank you Mr Chairperson. Mr Chairperson, I beg to substitute for sub-Clause 3 the following new Clause 3, “in any application received in terms of Subsection 2, the Register shall ensure that the application remains under (c) and that the disclosure of any information in relation to the application shall be made only to the -

- (a) relevant officers directly concerned with the proceedings of the application;
- (b) Judge allocated or Judges empanelled to hear the application; and
- (c) Parties to the application.

I so move Mr Chairperson.

HONOURABLE MEMBER: A ko o ipoeletse, ga ke a go utlwa.

MR MMUSI: Okay, 3 *rare*, “in any application received in terms of Subsection 2, the Register shall ensure that the application remains under (c) and that the disclosure of any information in relation to the application shall be made only to the -

- (a) relevant officers directly concerned with the proceedings of the application;
- (b) Judge allocated or Judges empanelled to hear the application; and

(c) Parties to the application.

I so move Mr Chairperson.

MR CHAIRPERSON: Honourable Members, I think it is straightforward...

HONOURABLE MEMBER: I have a question Mr Chairperson.

MR CHAIRPERSON: Yes.

MR SALESHANDO: *On a point of clarification. I have a question Mr Chairperson, kana re ne re rile re batla to address two things; ya confidentiality e a utlwala ka fa a e buang ka teng. Fa ke sa utlweng teng ke gore se re neng re leka gore se se ka sa diragala sa forum shopping, a se diragetse ka fa a balang ka teng? Fa o re Judge allocated, is it by the Chief Justice (CJ)?*

MR MMUSI: Ga ke a bua jalo, molao o o *specific*, ga o bue ka CJ, o bua ka selo se se diragalang kwa Palamenteng.

MR CHAIRPERSON: Is not by the CJ?

MR MMUSI: Ee.

MR CHAIRPERSON: And the system as it is right now.

MR SALESHANDO: Okay sir. I am covered, if that is the understanding.

HONOURABLE MEMBERS: ...(Murmurs)...

Clause 8 as amended **agreed to**.

MR CHAIRPERSON: As far as I recall, that was the only outstanding Clause with the amendments moved by the Minister. The amended Clause therefore stands part of the Bill.

Honourable Members, we shall now leave the Committee and go back to full Parliament. Honourable Mmusi, you may report the Bill from Committee.

**CRIMINAL PROCEDURE AND EVIDENCE
(CONTROLLED INVESTIGATIONS) BILL, 2022
(NO. 1 OF 2022)**

Bill reported from Committee **with amendments**.

Third Reading - **Forthwith**.



Third Reading

CRIMINAL PROCEDURE AND
EVIDENCE (CONTROLLED
INVESTIGATIONS) BILL, 2022 (NO. 1
OF 2022)

(Minister of Defence, Justice and Security)

MR SPEAKER (MR SKELEMANI): Order! Order! Honourable Members, the question is that the Criminal Procedure and Evidence (Controlled Investigations) Bill, 2022 (No. 1 of 2022) be read a third time.

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR MMUSI): Mr Speaker, I move that the Criminal Procedure and Evidence (Controlled Investigations) Bill, 2022 (No. 1 of 2022) be read a third time and do pass.

MR SPEAKER: Order! Order! Honourable Members, the question is that the Criminal Procedure and Evidence (Controlled Investigations) Bill, 2022 (No. 1 of 2022) be read a third time and do pass.

HONOURABLE MEMBERS: ...(Murmurs)...

HONOURABLE MEMBER: We suspend the rules Your Honour.

HONOURABLE MEMBERS: ...(Murmurs)...

MR SPEAKER: Do you see anything wrong Honourable Members?

Now we are getting caught up again with the Standing Order, it is prescribed as division.

HONOURABLE MEMBERS: ...(Murmurs)...

HONOURABLE MEMBER: *Mr Speaker, ke kopa to move gore re suspend the relevant Standing Order gore re se ka ra felela re call a division ka gore re a dumalana ba rotlhe. I so move Mr Speaker.*

HONOURABLE MEMBERS: 62.1(c).

MR SPEAKER: Order! Order! Honourable Members, the Motion is that we suspend the application of Standing Order 62.1(c).

Question put and **agreed to.**

Bill read a third time and **passed.**

MR SPEAKER: Honourable Members, we have now disposed of all the stages of this Bill in accordance with the Motion moved this morning.

At this stage Honourable Members, may I call upon the Leader of the House to move a Motion of adjournment as we have cleared your desk for today, nothing pending on the Order Paper anymore.

MOTION

ADJOURNMENT

LEADER OF THE HOUSE (MR TSOGWANE): Ke a leboga *Mr Speaker*. Nte ke leboge Mapalamente mo dibekeng tse pedi tse ba itiretseng tshiamelo, ba direla lefatshe la bone tshiamelo gore nako e gorogile ya gore jaanong ba phatlalale mme ba simolola *Budget* kana beke e e tlang. Ke a leboga. Ke kopa gore Ntlo e e ka ya bokhutlong *Mr Speaker*; jaaka o kopile.

Question put and **agreed to.**

The Assembly accordingly adjourned at 4:08 p.m.



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