



STATEMENT BY MINISTER

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MINISTER OF LEGAL & CONSTITUTIONAL AFFAIRS**

**ESTABLISHMENT OF THE CONSTITUTIONAL REFORM COMMITTEE
TO
THE HOUSE OF REPRESENTATIVES
GORDON HOUSE, KINGSTON, JAMAICA
2023 JANUARY 24**

Madam Speaker, this ministerial statement is intended to publicly set the record straight, to correct the untruths espoused by the Leader of the Opposition, and to update this Honourable House and the people of Jamaica on the status of the Constitutional Reform Committee.

Madam Speaker, when I spoke in the Parliament last week, I expressed my deep disappointment at the stance that the Leader of the Opposition has taken to decline the Government's invitation to participate in, and name members of the Parliamentary Opposition to the Constitutional Reform Committee.

Madam Speaker, I find it extremely unfortunate that he deliberately gave the false impression that I did not respond to the queries set out in his response letter of June 3, 2022, until he received my other letter of January 5, 2023. The Leader of the Opposition chose to minimise the conversations I had with him ahead of, and subsequent to, my Sectoral Presentation on June 7, 2022 when I provided additional information, to him, the Parliament and the people, on the constitutional reform work, as I had indicated to him that I would have done.

Madam Speaker, the Leader of the Opposition should recall that I even made specific reference to my letter (of May 31, 2022) which was sent to him in the Sectoral Presentation and also provided a specific answer (as best as I could at the time) to his question concerning the need to revisit the Charter of Fundamental Rights and Freedoms so soon.

Madam Speaker, I wish to direct the Leader of the Opposition's attention to paragraph 94 of the Sectoral Presentation delivered on June 7, 2022.

Madam Speaker, I noted with immense consternation that on January 10, the Leader of the Opposition published via social media (under @JamaicaPNP Twitter handle) *‘Series of Correspondence between Mark Golding, MP and Marlene Malahoo-Forte[sic], KC, MP’*, **falsely** stating that *‘the series of correspondence began with a letter from [you] to [me,] with a follow-up on June 22, 2022, [my] response some seven months after on January 5, 2023 and finally [your] response on January 10, 2023’*.

Madam Speaker, regrettably the Leader of the Opposition omitted to mention my initial letter of May 31, 2022, to him, and again gave the false impression that it was he who wrote to me, not I to him, formally requesting the participation of the Parliamentary Opposition.

Madam Speaker, for the avoidance of doubt, it was I who first wrote to the Leader of the Opposition.

Madam Speaker, I wish to share my responses to the Leader of the Opposition’s concerns expressed in his letter to me dated January 10, 2023.

Madam Speaker, with respect to the Leader of the Opposition’s first concern, he indicated that “...*the move to make Jamaica a Republic ought to walk in tandem with the move to accede to the CCJ as our final court of appeal...*”

Madam Speaker, as stated in my response letter dated January 16, 2023, “*a change of Jamaica’s final court is not one which requires a referendum to effect. At this time there is no consensus on making the Caribbean Court of Justice (CCJ) our final appellate court. Since the constitutional reform work is being done in phases, beginning with matters requiring a referendum and on which there is consensus in Phase 1, it would be unwise to further delay the work now, when ample opportunity will be provided, with the assistance of the Constitutional Reform Committee, to fully ventilate this issue at a later stage.*”

In respect of Concern No. 2, the Leader of the Opposition requested “*.....full and transparent disclosure of the specific changes to the Charter of Rights that the Government is intent to pursue, and of the amendments requiring a referendum that the Government intends to pursue (other than moving to a Republic).*”

Madam Speaker, I responded by making it clear that, as I have repeatedly said before, we are not starting from scratch with these reforms. Instead, we are building on the work done by the Joint Select Committee on Constitutional and Electoral Reform and the Constitutional Commission, culminating in the recommendations set out in the 1995 Report to the Parliament on which consensus was reached.

Madam Speaker, every change to be pursued will be fully disclosed and collaboratively worked on, with the assistance of the Constitutional Reform Committee, guided by research, consultations, and expert advice. Phase 2 of the work will focus on the ordinarily entrenched provisions of the Constitution, which include the Charter and also the matter of our final court. It is no secret that the government has signalled its intention to revisit, for example, section 20 of the Constitution, to provide for an up-to-date emergency powers framework, given the experience of the nation with the COVID-19 pandemic and the government's efforts to secure our borders and people, in the fight against organised and violent crimes of epidemic proportions. Furthermore, and among other things, the language used in various provisions of the Charter (including at sections 13 and 14) require some tidying up. Section 12 (10), for example, requires modification, as the current 'six weeks' timeframe set out therein was not revised when section 20 was amended.

Madam Speaker, by way of another example, section 2 will have to be modified, in light of the repeal of section 50 when the Charter was enacted; and that will involve a referendum, by virtue of section 49 (3).

Madam Speaker, I wish to also report to this Honourable House and the people of Jamaica that I also shared the draft Terms of Reference with the Leader of the Opposition. This was attached to my letter dated January 16, 2023.

Madam Speaker, it is my fervent hope that the Leader of the Opposition will reconsider his position to twin accession to the appellate jurisdiction of the CCJ with abolition of the Constitutional Monarchy and the transition to a Republic. Naming members of the Parliamentary Opposition to the Constitutional Reform Committee is the right and responsible thing to do.

Madam Speaker, the approach that he has taken is truly unfortunate. Working collaboratively to strengthen and build consensus, will be a powerful demonstration to the people of Jamaica that Government and Opposition can rise above partisan considerations and put the best interest of the nation in a place of priority, during this constitutional reform process.

Madam Speaker, let me highlight, however, that I will not hesitate to move forward with the reforms, in accordance with section 49 (5) and (6) of the Constitution, if need be.

I trust that good sense will prevail.

Madam Speaker, I am pleased to announce that all the members of the Constitutional Reform Committee have been identified and contacted.

The Committee, whose tenure will **commence in January 2023** and end in 2025 when a referendum is likely to be held, will be mandated to help guide the constitutional reform process, culminating in the crafting of a modern and new Constitution which reflects an appreciation and understanding of our cultural heritage, governance challenges and development aspirations, and which embodies the will of the people of Jamaica.

The work will be executed in three (3) phases, as follows:

- Phase 1:** Repatriation of the Constitution of Jamaica, abolition of the Constitutional Monarchy, establishment of the Republic of Jamaica, and all matters within the deeply entrenched provisions of the Constitution for which a referendum is required to amend.
- Phase 2:** Review of the wordings and provisions of the Charter of Fundamental Rights and Freedoms set out at Chapter III and the other ordinarily entrenched provisions of the Constitution for which amendments are desired and required.
- Phase 3:** Full assessment of the nation state's legal and constitutional infrastructure to facilitate drafting of a new Constitution of Jamaica and providing guidance and support to the Ministry of Legal and

Constitutional Affairs during the referendum process and the other reform phases.

Madam Speaker, extensive research was undertaken with a view to ascertaining the recommendations that were proffered, and in particular, were never implemented. The Committee will focus on expediting Jamaica's transition from a Constitutional Monarchy to a Republic in Phase 1. It is projected that a Bill in respect of this matter will be tabled in Parliament during this calendar year.

Madam Speaker, in the coming months, I commit to providing periodic updates to this Honourable House and the people of Jamaica on the deliverables of the Committee.