
**ADDENDUM TO
The Needs Assessment of the
Guyana National Assembly**

**by the Commonwealth Senior Parliamentary Staff Advisor
to the Guyana National Assembly**

18 May 2005

18 May 2005

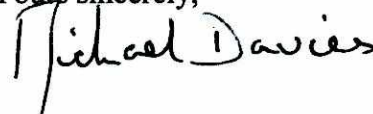
Dear Mr Speaker,

I am delighted to be able to send you now what is, in effect, an addendum to the Needs Assessment Report I gave you on 18th February. You will see that I have not greatly altered my recommendations with regard to the need for greater independence for the National Assembly from the Executive. I have, however, explained my reasoning more fully and tried to put the arguments I make in a Commonwealth context.

I hope that my earlier Report and this addendum will provide you with the material you need to bring about a new relationship between Government and the legislature, something to which I know you are committed.

I was very happy to return to Guyana at your suggestion and I sincerely hope that the further consultations I held have helped move the process on. I wish you and the entire National Assembly, staff as well as Members, well in your endeavours.

Yours sincerely,



Sir Michael Davies, KCB
Senior Commonwealth Parliamentary Staff Advisor
to the Guyana National Assembly

Hon Ralph Ramkarran MP
Speaker of the National Assembly of Guyana
Parliament Office
Georgetown, Guyana

Addendum to The Needs Assessment of the Guyana National Assembly

To Hon Ralph Ramkarran MP
Speaker of the National Assembly

1. On 18th February 2005 I handed to you my Report on the "Needs Assessment of the Guyana National Assembly". You had invited the Commonwealth Secretariat to engage two parliamentary advisers to assist you in improving the way in which the National Assembly functions. I was the first of the two and I was responsible for drawing up a set of recommendations which, from my professional and impartial viewpoint, I considered were the minimum required to meet the purposes of my assignment. Before I left Guyana, you kindly sent me a letter saying that my recommendations accorded with your expectations and that you supported them.
2. However, because of concern in the Government about some of the recommendations in my Report, no progress has been made in the intervening period. Indeed, the Report has not even been discussed by the Parliamentary Management Committee. The reason the Government gave for its reluctance to discuss the Report was that I did not consult with it before making my recommendations and that I spoke to only a handful of PPP/C members. I explained in my Report that the floods of January/February prevented my meeting as many MPs, particularly PPP/C members, as I would have wished. This I regret and understand the Government's concern.
3. The imbalance in the number of Government members and those from other parties that I spoke to can be explained in part by the need to speak to all five parties represented in the National Assembly and by the fact that the Chairmen of the two Committees receiving IDB funded support were both from the PNC/R party. But I acknowledge the understandable perception of some people that my findings were based on a one-sided view of the current parliamentary situation and of the National Assembly's place in the Constitution.
4. In order to break the impasse over progress on the Report, you suggested that I should return to Guyana in order to hold further consultations, principally with the Government and members of the PPP/C party. The Commonwealth Secretariat agreed to my return, which I was happy to make.
5. I am, of course, entirely prepared to accept that some details of my report may be open to challenge. I was in Guyana for a relatively short period and I was not always able to double check the information I was given, although I did my best. I hope it can be accepted on all sides that the information provided by the staff of the National Assembly (at every level) was based on their close knowledge of the current workings of the Assembly and was usually provided in answer to questions I asked. I may not always have asked the right questions nor have interpreted the information correctly--and in certain instances, the information I was given was contradicted by others.

However, I do not believe that the underlying message of my Report depended on the accuracy of certain assertions I made. I say this because some of the points made to me at the meetings I held with politicians on my second visit were that I had got my facts wrong. If so, I apologise, but I am only aware of one apparent error, caused by my loose use of language, which, I accept, has resulted in some irritation and embarrassment. This is the issue of where the Order Paper is sent (Paragraph 32 of my Report). I shall return to this point later.

6. When I met members of the Government and PPP/C members, one of the principal areas of criticisms of my earlier report was that I had not given enough credit for the improvements in governance since the present Government came into office in 1992. They felt that I was too critical of the present situation without recognising how much better it is than what existed before. I am more than happy to fully acknowledge the changes for the better since 1992. I now realise that there was a significant omission in my first Report since I failed to mention the work of the Constitutional Commission and the important changes made to the Constitution. I did, however, draw attention to the "degradation" of parliamentary government between 1974 and the 1990s and said it would take time to recover. I also welcomed the appointment of the sectoral committees and of the Parliamentary Management Committee and drew attention to the substantial amounts of money which are being spent on the Parliamentary building.

7. But when I arrived to make a "needs assessment" of the National Assembly I had not been asked to look backwards, nor would I have considered it very fruitful to do so. My purpose was to see what is still needed to be done to make the National Assembly the centre for political dialogue in Guyana. However, I am delighted to applaud the improvements that were started some thirteen years ago by the PPP/C Government and recognise that improvement is a continuous process. My assignment is to assist in that improvement and to advise on the way forward.

8. I held meetings with members of all the political parties represented in the National Assembly and also with a large number of other people, including public servants, academics, trade unions and representatives of non-governmental organisations in Guyana. I had a very helpful meeting with Dr Roger Luncheon, Head of the Presidential Secretariat, in addition to the one he chaired with members of the Government and PPP/C Chairs of Committees. I also had a meeting with the Parliamentary Management Committee. A full list of those I spoke to is at the end of this report.

9. As I expected, my most important meeting was with Government Ministers and members of the PPP/C party, and the discussion lasted nearly 3 ½ hours.

10. It appears to me that the Government's concerns can be grouped under three headings:

- i. lack of consultation;
- ii. not enough acknowledgement of constitutional progress;
- iii. my findings on the independence of the National Assembly.

11. I have dealt, I hope adequately, with the first two concerns. I held, as already described, long meetings with Government members and others who were able to

give me information on the implications of some of my recommendations. And I have acknowledged, as strongly as I can, the progress which has been made in improving governance since 1992.

12. I must now deal with the concern relating to my Report's analysis and recommendations in regard to specific aspects of the internal management of the National Assembly where I found that its independence from the Executive is less than it should be. I shall deal with each aspect in turn but first I should like to say something about what I mean by "independence of Parliament".

Independence of Parliament

13. By "independence" I do not mean that the Government should have no control over its members or its legislative programme. As I said in my original Report, any Government which is able to command enough votes in the Chamber has the ability to pass its legislative programme. And in order to do this, it has the right to demand loyalty of its members in support of its legislative programme. But under all the best models of parliamentary government, the legislature should be independent of the executive, both in the management of its internal affairs and in its ability to hold the Government to account. The "hybrid" nature of the parliamentary system of Guyana was highlighted by many of those I spoke to. I accept that it is no longer exactly modelled on the Westminster example because of the nature of the Presidency and its relationship with the National Assembly. However, if it is growing closer to the American system of government, then it should also be adopting the purer system of the separation of powers which exists under the American Constitution. France provides another example of a system of government where there is an executive President, but the Assemble Nationale is an independent body, responsible for its own staffing and budget.

14. I am not alone, as someone from one of the older democracies, in arguing for greater independence for the National Assembly. I was pleased that a member of the TUF delegation who came to see me recognised the issue and encapsulated it in the following way. He said that the problems of Guyana were due to the fact that there is no "separation of powers".

15. At the Commonwealth Heads of Government Conference at Abuja, Nigeria, in 2003 the Commonwealth Principles on the Accountability of and the Relationship between the Three Branches of Government were agreed. These in turn were based on what are commonly known as the Latimer House Guidelines which were agreed in June 1998 by Commonwealth Law Ministers. Among the Guidelines are such provisions as—"*Parliament should be serviced by a professional staff independent of the regular public service*" (VII. 4) and "*Adequate resources to government and non-government backbenchers should be provided to improve parliamentary input and should include provision for:*

training of new members

secretarial, office, library and research facilities

drafting assistance including private members' bills". (VII. 5)

It will be noticed that both these Guidelines are directed at increasing the capacity of Members and staff, something which I recommended in my first Report and to which I shall return in this report.

16. Among the Commonwealth Principles one can find the following additional principles in regard to the role and independence of Parliament--- "*Parliamentary procedures should provide adequate mechanisms to enforce the accountability of the executive to Parliament*" (VII (a)) and "*Where appropriate, opportunity should be given for public input into the legislative process*" (VIII).

17. There are other provisions to which I could draw attention but that would unduly lengthen this report. However, it will be seen that the Commonwealth has set standards which all its member states have agreed to be the best way of ensuring the democratic accountability of the Executive to Parliament.

18. It is, therefore, important that the Commonwealth Principles are more deeply embedded in Guyana. President Cheddi Jagan in his address to the National Assembly at the Opening of Parliament on 17th December 1992 spoke of the need to restore "pride" in all things Guyanese "including this House". Parliament "must remain sacrosanct". All MPs should take pride in being selected to do an important job where they may have to exercise their own judgement on issues; part of that pride should be directed at establishing a legislature independent of the Executive in its internal affairs and which it is their duty to cherish. And the National Assembly should become independent enough to ensure that its work, particularly that of committees, is not made difficult by Ministries or any other section of the Executive.

19. In my last Report to you, I used the words "constitutional" and "unconstitutional". I was challenged about their use; in the Guyana constitutional context, I was told that the words were wrongly applied. I must make it clear that I was using the terms in the wider sense of best constitutional practice for parliamentary democracy, and being, or not being, in accordance with the Commonwealth Principles.

20. As I said in my first Report, the theory and practice of the separation of powers began at a time when many countries were governed by unelected rulers. It was important then that elected parliamentarians had the freedom to debate unhindered by the monarch, so that representatives of the people could hold him accountable for his actions. The American Constitution, drawn up after the War of Independence, carried the process much further and ensured that decisions of the President were subject to the agreement of Congress. Many constitutions since then have endorsed the "separation of powers" and my earlier recommendations were directed to deepening this in respect of Guyana.

21. I now turn to consider the points which were made to me in respect of the five areas where I said that the National Assembly is not independent of the Executive.

I. Budgetary Independence

22. It was explained to me that Guyana is a developing country and that it was important for the economy that the budgets of public institutions should be centrally controlled. While it is entirely correct that the National Assembly should receive an allocation through the normal budgetary processes of the state, and that that should take into account what the country can afford, it is the extent of Executive control thereafter which is, by international and Commonwealth standards, far too tight.

23. It was not at all clear to me why the Assembly should not have much greater discretion over its own expenditure than it currently has. Indeed, the present level of control does not conform to what is the proper constitutional relationship between the Executive and the Legislature, which I have attempted to describe above. For reasons of transparency alone, it would be desirable for the Assembly to prepare and publish its own accounts. Indeed section 223 of the Constitution provides that the accounts of the Clerk of the National Assembly shall be audited and reported on by the Auditor General. But this provision appears to be ignored since the accounts of the Clerk are incorporated within the accounts of the public service as a whole. If the accounts were separately published, they could be accompanied by a report on the year to which the accounts relate, describing the way in which the Assembly used its financial resources. This would enhance interest in its work and increase transparency.

24. Ways should be found to release Parliament's budget from the present extraordinarily detailed control of the Government. This can be done without jeopardising control of public expenditure, something which, I accept, is of enormous importance. For instance, the National Assembly could, and should, be granted an overall sum for its expenditure within which it would have to live, subject to exceptional and unexpected items such as repair of the Chamber ceiling. The Assembly staff would draw up an estimate which would be based on the genuine requirements of all the various functions of the National Assembly (staffing, Members' salaries, committee work, library, travel, office equipment, etc.) which would then be submitted to a committee, possibly the Parliamentary Management Committee (although that may be too large a body) for approval. At present, so far as I can discover, it is the staff of the Parliament Office who draw up and submit the estimate with no input from the Members at all, a situation which is very unsatisfactory. Members should be involved in approving any final estimate for the National Assembly.

25. The Government is, of course, represented on the Parliamentary Management Committee and would be able to reduce the estimate where it appeared too large. The Minister of Finance could be asked to attend the meetings. Alternatively, a small Finance Committee could be appointed, with the Minister of Finance as a member. The committee would also monitor the budget throughout the year and would be able to decide priorities when necessary. Perhaps the best way of describing what would be the responsibilities of such a committee would be to call it a Board of Internal Economy, as is done in Canada. These Boards are rigorous in their examination of all aspects of the requirements and expenditure of the Legislature in question. The important point is that it is the House itself which imposes the financial discipline and not the Government.

26. I accept that the expenditure of the National Assembly will grow if it has its own budget. But that would not be because of extravagance or lack of proper control but because it will give the Assembly the opportunity to seek the resources to become a more effective body by increased expenditure on the library, on new staff and on support for Members. I refer again to the Latimer House Guidelines which call attention to the need for "adequate resources" for backbenchers, including library and research facilities.

27. I made it plain in my earlier Report that these changes could not be introduced immediately. The National Assembly does not have at present the necessary staff who could take on these additional responsibilities and significant levels of organisational change and capacity building would be required before any budgetary transfer could take place (paragraphs 54 to 58).

28. As you yourself know, there have been two recent examples when the National Assembly has not had the money available to carry out its legitimate business. The first example concerns the question of your travelling in a representative capacity. In many countries the Speaker has a status akin to that of Head of Government. I do not know where the Speaker ranks in protocol terms in Guyana but I suspect it is pretty high; it is therefore wrong that you have to apply to the Government for reimbursement of your costs incurred on representative travel on behalf of the National Assembly. When I made this point to the meeting I had with members and Ministers of the PPP/C party, I was told that Ministers have to seek permission for travel from the Office of the President and the same should apply to the Speaker. But if anything encapsulates the need for a separation of powers and the need for the National Assembly to have an independent budget, it is the argument advanced above that the Speaker is the same as a Minister in having to seek permission (or at least the financial means) from the Head of the Presidential Secretariat to make an official visit overseas. In my opinion, the two bare no comparison.

29. The second matter goes to the heart of the work of the National Assembly. I understand that the Natural Resources Committee wished to make a visit out of Georgetown but there was no financial provision for such a visit. Again I am told that the need for the visit was queried by the Office of the President and funds have not yet been made available. How can the legislature perform its proper role of keeping the Executive under scrutiny, if the Executive denies the Assembly the funds to carry out work that its members have deemed to be necessary? Of course, the visit may have been unjustifiably expensive and therefore should have been refused on that ground alone, but the decision whether a committee should undertake a visit should **not** be made by the Government but by the National Assembly, the Parliamentary Management Committee or by the Speaker. If the National Assembly had a specific budget head for Committee visits, then decisions could be made by one of the above bodies on how that money should be spent; for instance, would it be better value for money to spend the money on several cheap visits or on one expensive one. Once the money for Committee visits had been spent, no more visits would be possible.

30. It was not my expectation that a recommendation about the financial independence of the National Assembly would be immediately adopted and acted on. Clearly it is a big step and would require statutory changes to the Fiscal Management and Accountability Act. As I have said above the Parliament Office does not at

present have the capacity to undertake these additional responsibilities. This would have to be addressed if budgetary independence were introduced. But I believe that it is the correct development, and an undertaking by the Government that it will now move towards that position would be highly desirable.

II. Independent Staffing

31. There is a difference of view on what is the present position with regard to the staffing of the National Assembly. The Government sees the process in which the staff are chosen and managed as a collaborative one between the Public Service Commission and the Clerk of the National Assembly. The Public Service Commission consults the Clerk about suitable staff and responds positively to the needs of the Parliament Office. This may indeed be the case but, if it is, the Clerk does not feel that he has any true responsibility for, or involvement in, the recruitment or management of staff.

32. I cannot say with certainty what role the Clerk has for staff recruitment, discipline, promotions, transfers or dismissal. Dr Gopaul, Permanent Secretary at the Ministry of Public Service, confirmed my belief that the Clerk's role is negligible. The Permanent Secretary indicated that while suspicions remain that advancement, or otherwise, in the public service are based on ethnic grounds, it is better to place the responsibility for all staff matters in the hands of an independent Public Service Commission. The argument is that if responsibility were in the hands of the Clerk of the National Assembly the staff would have less confidence in the system and he, the Clerk, could be subject to political pressure. The present position provides security for staff and manager alike.

33. I understand the argument but I still believe that the National Assembly can only develop its parliamentary staff capacity if management responsibility is much closer to the workplace than it now is. There are inevitable delays in seeking permission for staff moves etc. from the Public Service Commission. And as I pointed out in my earlier Report, staff would feel more loyalty to the National Assembly if they were employed by the Clerk rather than by some remote body responsible for staff matters in the wider public service. And I cannot understand how meaningful human resource management can take place at one remove from the employee's workplace. What arrangements exist for dealing with requests for compassionate leave or investigating and dealing with allegations of harassment in the workplace? I acknowledge that these are problems that apply to all public sector workers but I draw attention again to the Latimer House Guidelines which state that the legislature should be served by a professional parliamentary staff which is independent of the rest of the public service.

34. Under the terms of the Constitution, Article 201, the Public Service Commission may delegate to the Clerk of the National Assembly any of its powers to appoint, discipline or remove public officers. I suggest that this provision in the Constitution should be used to allow the Clerk to "run" his own office.

35. At my meeting with Dr Gopaul, I discussed the possibility of using section 201 to achieve my recommendation that the parliamentary staff should be independent of the public service. He said that there were constitutional, legal and labour relations

obstacles to that step. He agreed that the first two obstacles could be solved by political will and a change in the law. But he predicted considerable difficulties with the public sector union if the parliamentary staff were reassigned and their employer became the Clerk of the National Assembly. He drew comparison with the long drawn out negotiations over the transfer of staff to the Auditor General's Office. The Guyana Public Service Union (GPSU) confirmed that, while they would be very supportive of the idea of an independent parliamentary service, they would be concerned about staff employment rights in any new arrangement. However, I learned from the Auditor General that he did not feel that the transfer of staff was a problem---of 130 public service staff employed in his office, 123 had agreed transfer terms. These figures were not accepted as accurate by the GPSU, when I met them.

36. Subject to future approval by the Public Accounts Committee, draft regulations setting out the employment rights of employees of the Auditor General already exist. If it is possible to make the staff of the Auditor General independent of the public service, it is surely possible to do the same for the parliamentary staff---acknowledging, of course, all the initial difficulties which would have to be surmounted.

37. Such a change would not be possible immediately because staff capacity for managing human resources within the Parliament Office does not at present exist. I learned from the Auditor General that the new arrangements in his office had been assisted by consultants funded by international donors. I would be surprised if such help were not available to assist the Parliament Office plan for its new responsibilities. I would certainly recommend that such assistance should be provided.

38. Less controversial seems to be one of my earlier recommendations that consideration should be given to altering the working hours of staff of the National Assembly so that they conform more to the working hours of the Assembly. The staff would have to be consulted and the GPSU would have to be satisfied with the new arrangements but it would be of no concern to the Ministry of Public Service.

39. A member of the Government told me that the internal management of the National Assembly is unsatisfactory. I think this is a valid criticism and endorses some of the points I made in my original Report (paragraphs 61 to 75). If the Clerk were allowed to take unfettered decisions about unsatisfactory staff, that should result in some improvement. A properly structured training programme and the presence of qualified human resources staff would also assist improvement. In the meantime, senior managers should do more to actively manage the staff under them. Some additional staff are required as proposed in my previous Report, one to support the Clerk of the National Assembly procedurally so as to give him more time to concentrate on management. But since the National Assembly usually sits no more than one day a week, except for the Budget debate, there should be no reason why more attention cannot already be paid to internal management by those at the top of the Parliament Office.

40. In certain areas, there appear to be too many staff doing too little. I said in my earlier Report that I consider that the number of staff involved in finance and accounting is too large but also largely unqualified. The various operations which are now spread around four or five different locations should be brought together and

streamlined (paragraph 56). Another example was given by Minister Texeira when I spoke to the PPP/C members. She said that at one recent committee meeting she had attended there were eight staff involved, including four committee clerks and two sound recordists. She questioned the need for such a large number and I do as well.

41. I recommend that a staffing review of the Parliament Office is undertaken by a management expert, perhaps, if necessary, funded by an international donor. This would, in any case, be essential if the recommendation on an independent staff is adopted.

III. The Order Paper

42. In my Report, I said that the Order Paper was sent to the Office of the President, a statement which could be read as meaning that it was sent to the President himself. The Order Paper is, of course, sent to the Minister of Parliamentary Affairs, who currently has an office in the Office of the President. I apologise for this inaccuracy which caused understandable irritation.

43. I suggested in my original Report that the Order Paper was subject to alteration by the Government when it is sent to the Minister of Parliamentary Affairs at the Office of the President. This is not accepted by the Government and I had therefore to re-examine this allegation. There remain conflicting accounts of what happens to the Order Paper after it has left the Parliament Office. The Minister maintains that he merely checks the Questions and Motions for compliance with the Standing Orders, something which has already been done by the Clerk and the Speaker. But during my visit this time, I was shown two oral Questions which had been tabled to the Minister of Parliamentary Affairs on 14th February 2004 but did not appear on the Order Paper till April 2005. Since, under the Standing Orders, Questions may appear on the Order Paper 30 days after they have appeared on the Notice Paper, the reason for this lengthy delay remains a mystery because the Member who had tabled the Questions wished to ask them in the first half of 2004.

44. I was also told that a motion tabled by Mr Ravi Dev MP to approve the Report of the Standing Committee on Constitutional Reform was not placed on the Order Paper in accordance with the decision taken by the Parliamentary Management Committee but was delayed in some way.

45. President Cheddi Jagan said in his address at the Opening of Parliament on 17th December 1992 that "the current configuration" of the Parliament Chamber "allows for the full and frank exchange of views on the Order Paper" He immediately went on to say that "this Parliament has the capacity to preserve the ideals which a Parliament in a true democracy is duty bound to respect". President Jagan was clearly expressing his opinion that the Order Paper should allow those with different points of view to those of the Government to ventilate their views. Indeed, he went on to say that "the minority must be able to rest assured that decisions have only been taken after opposing views have been expressed".

46. It is impossible for me to say what happens to the Order Paper when it goes to the Office of the President and is seen by the Minister of Parliamentary Affairs; I can

merely report two viewpoints. However, the practice of sending the Order Paper to a Minister apparently only started in 1992, so the best way of putting an end to unhealthy speculation would be to stop the practice immediately, as I recommended in my earlier Report. **I recommend that you instruct the Clerk of the National Assembly to that effect.** If the Government wishes to ensure that its own business has been correctly tabled, the Minister's Private Secretary (or the Minister himself) should go to the National Assembly and check the Order Paper there. But in any event, neither the Clerk nor you as Speaker should allow the Government to delay business tabled by the Opposition or by backbenchers.

IV. Meetings of the National Assembly

47. My assertion that the scheduling of meetings of the Assembly was entirely in the hands of the Executive was not accepted by the Government. Yet I was present at a meeting of the Parliamentary Management Committee on 1st February which was called at the request of opposition members of the National Assembly expressly to demand a meeting of the Assembly to debate the flood situation and the Government flatly refused to countenance a meeting for a further two weeks. You told me that you also had urged the Government to call a meeting of the Assembly but they had not agreed.

48. At my recent meeting with members of the Government and others, it was explained to me that it was their view that to have held a meeting during the worst period of the floods would have been insensitive to the desperate plight of the affected people who needed whatever help MPs could offer. I recognise that point of view but suggest that it diminishes the status of the National Assembly as a place where the concerns of the people can be heard. And I am also aware of the view put to me by one of those I spoke to that the National Assembly has failed to hold anyone accountable for the failure of the storm drainage system.

49. The present Standing Orders on meetings of the National Assembly are ignored because they require the Assembly to sit every day except Saturdays and Sundays. They clearly need revision to provide for a more realistic sitting pattern. I suggested in my first Report that the Standing Order should be replaced with one which requires the National Assembly to sit normally one day a week, except during the budget session when more sittings are usually held. Mr James Pender has drafted a new Standing Order for consideration. I recommend that this is considered by the Standing Orders Committee as soon as convenient. When a new and more realistic Standing Order is agreed to, its provisions should be obeyed even if the Government does not have business to transact---other parties would welcome the opportunity, I am sure, to raise matters of concern to them.

50. I understand in fact that since my Report was published the National Assembly has been sitting more frequently and on a regular basis. I am delighted that there has been some recognition of the validity of what I said.

V. Legislation and Assent

51. During my meeting with members of the TUF party, I was told that there have been occasions when, after a bill has been passed by the National Assembly and has been sent to the President for his Assent, those affected by the provisions of the bill apply pressure on the President either to withhold his Assent or to return the bill to the National Assembly. I have no way of knowing whether this is true or not, but the very possibility of it happening is a negation of proper parliamentary governance, even if, as I have been told constantly, Guyana has a "hybrid" system of government. The proper time for those affected by legislation to make their views known is when the legislation is before the National Assembly, which is the legislative Chamber. I question the point of a legislative Chamber if, after it has passed legislation, the Head of State can respond to pressure from those affected by the legislation.

52. It is, therefore, important that sufficient opportunities for the scrutiny of legislation by the National Assembly are provided, that civil society and the private sector is given time to comment on legislation and that the legislation is made widely available (see paragraphs 39 & 40 and paragraphs 148 & 149 of my earlier Report). I draw attention again to what President Jagan said at the Opening of Parliament on 17th December 1992. He said this: "To carry out its functions effectively, Parliament must be a truly deliberative body.....All major legislation coming before the House must be thoroughly examined and there must be prior consultation with those whose interests are directly affected". This is exactly what I was recommending in my previous Report.

53. I said in my earlier Report (paragraph 90) that the President apparently does not always give his Assent to bills immediately they are sent to him from the National Assembly. I said that, if true, this was a negation of parliamentary government. I have been told on my recent return visit that there are two bills which have been with the President for very long periods without either being assented to or having consent withheld. The Demerara Mutual Life & Assurance Bill was passed on 11th December 2003 and sent to the President on 14th January 2004 and the Infrastructure Development Bill was passed on 21st October 2004 and sent to the President on 17th November 2004. Neither bill has yet been assented to and the National Assembly has not been informed that assent has been withheld. This appears to be in violation of section 170 of the Constitution.

Committees

54. I was told that the sectoral committees have been meeting on a much more regular basis since my last visit, although the Foreign Affairs Committee had met only twice. It is, of course, for you, as Speaker, and the National Assembly to ensure that the committees become a natural part of the working pattern of members. The new Committee Rooms will help. I made a series of recommendations to help the process and Mr Pender provided training for the staff of the Committee Division.

55. I was delighted to be shown a public advertisement inviting evidence on the Age of Consent Bill. This shows that committees are now prepared to involve the public in considering the provisions of bills.

56. During my meetings, allegations were made about the absence from Committee meetings of members of this or that party. Of course, during the boycotts of the National Assembly by the PNC/R this was inevitable and regrettable. There are undoubted difficulties in ensuring that MPs are able to undertake all the parliamentary duties for which they are required. Most, except Ministers, have jobs outside Parliament and sometimes there are conflicting demands on their time. And the Government side of the House has fewer backbenchers available to sit on the sectoral committees, thus increasing the workload on those who undertake the work.

57. It is not profitable to apportion blame and I cannot do so unless I were to spend several months here or study all committee minutes for the last two or three years. All I can do is to urge that political differences are set aside and the committees continue to work as constructively as they have been doing in the last two months. The provision of new rooms for committee meetings should ensure that it will become easier to arrange meetings at times convenient to their members.

58. I was told of the problems faced by the Committee responsible for recommending members to serve on various Commissions (the Appointive Committee). Because of political differences over the appointment procedures for the Commission on Women and Gender Equality, the whole process has stalled and no meetings are being held. This is a political dispute for which there is no procedural solution that I can recommend. I hope, however, that the logjam can be cleared soon and a way found for appointing members to the remaining Commissions. As I said in my last Report, "deals" are done. Oppositions are entitled to use whatever parliamentary mechanisms exist to express their dissent and opposition but they should not bring parliamentary proceedings to a complete halt; in this case a compromise should be sought, so that the intentions of those who drafted the new Constitution, which made provision for the Commissions, are not frustrated by Parliament. I suggest that the Chief Whips should meet and see what can be done to move the process on.

59. The Government denied that Ministers frustrated the work of, committees, as I had said in my Report. They pointed to the fact that most Ministers had responded to Committee requests for them to attend and give evidence. I am sure that that is true but the anecdotal evidence of the staff of the Committee Division is that it is difficult to get ministry officials to appear before Committees. The Government argue that officials do not make policy but only implement what Ministers have agreed and therefore it is not proper for them to be questioned by Committees. I have already recommended that the Government should draw up guidelines, which should be agreed with the National Assembly, on what areas of policy or its implementation officials may be questioned (paragraph 103). It should not always be necessary for Ministers, who are busy people, to have to give evidence to Committees themselves; senior officials should be trusted to provide information appropriate to their positions.

60. I cannot take this matter any further. It is the responsibility of the National Assembly to develop a constructive relationship with the Government on committee work.

The Opposition

61. I held a meeting with senior members of the PNC/R who told me that they supported my original recommendations and would work to see them implemented. I asked if this would have been their policy if they had been in Government and they assured me that they now believed in the separation of powers and the accountability of the Executive to Parliament.

62. I also asked them why they had not taken steps to have my original Report debated in the National Assembly. They said that this was because the Report had not been laid before Parliament. This illustrates the need for politicians in Guyana to be provided with some guidance as to what is permissible in parliamentary terms and given the confidence to do it. And it emphasises how much needs to be done to establish the National Assembly as the forum where important issues are discussed. It should not matter that a Report has not been laid before Parliament for it to be debated, if the subject is one which deserves debate. At present, it appears that press statements and comments outside Parliament take precedence over parliamentary debates. It is for that reason that the explanation caused me some concern.

63. There were several to whom I spoke (I hasten to explain they were not politicians, nor, so far as I could gather, politically aligned) who suggested that the PNC/R are not interested in working within Parliament. I am sure that such allegations will be denied by the PNC/R but they must show by their actions that what I was told is wrong. In my last Report I said that the Opposition was angry and frustrated and did not use the opportunities which already exist to pressurise the Government. I said further that my recommendations about "Opposition time" and the Order Paper should assist them become more effective. I hope that the Opposition will now begin to use Question Time and all the other opportunities to play its proper part in the National Assembly.

64. Parliamentary democracy depends on a vigorous Opposition; one which is constantly, but constructively, scrutinising the Executive. No-one else is likely to be as interested in holding a Government to account as an Opposition. There is little point in my arguing that the Executive must accept proper scrutiny if the Opposition does not fulfil its essential role and does not work within the parliamentary framework. In any case, not to do so would be in breach of the Communiqué signed by the Leader of the Opposition, together with the President, on 6th May 2004.

65. I must guard against reference to the Westminster model but it is helpful, I believe, in the context of this particular problem to point out that in the United Kingdom, the main Opposition party is formally known as "Her Majesty's Loyal Opposition". This means that the Opposition is recognised as an important part of the dynamics of Parliament. I urge the Opposition to begin now to make full use of

parliamentary procedure to ensure that the Government has to account for its performance.

Capacity Building for Members and Staff

66. In my last Report, I recommended that Members should participate in parliamentary workshops and be exposed to the experience of other Parliamentarians both regionally and further afield, so that they learn from others the wider duties of a Member of Parliament. This was not said, in any way, to denigrate the present MPs but it was clear to me that many were not aware of the wider role they could play if they knew how, because there has never been any tradition of an active role for backbenchers in Guyana. I have mentioned above the reluctance of the Opposition to proceed with a debate on my previous Report "because it had not been laid before Parliament". If the National Assembly is to become the principal institution for political dialogue in Guyana, its Members must be exposed to guidance on how this can happen. This is best achieved by meeting, talking and exchanging experiences with MPs from other jurisdictions which have had longer periods of sustained parliamentary activity.

67. I am, therefore, very pleased that the planned parliamentary "workshop" to be provided by the Commonwealth Parliamentary Association will now take place later this year. I am certain it will be a wholly beneficial occasion.

68. It is also important that the parliamentary staff are trained to give a better service to Members, in all sorts of areas (library, committees, financial matters, etc) but particularly in procedural matters. The staff of the National Assembly will, hopefully, serve for periods longer than one Parliament. They can, therefore, provide a continuity of knowledge and are able to advise new MPs at the beginning of a new Parliament. I was, therefore, a little surprised to be told that Members from at least one party would not be happy if staff capacity were improved. How far this view goes, I cannot say, but as I said in my first Report, the strength of a Parliament rests very often on the quality of its staff. Why a well qualified, capable and impartial staff should be a cause of concern to Members, I do not know. It rather suggests that the Members do not want the National Assembly or its committees to function better.

69. I hope that attitudes will change and that Members will understand that better qualified staff can only be to their benefit. But I must make it clear that I do not favour better qualified staff more than better qualified Members. That is certainly not the case. Everyone working in the National Assembly should contribute to a more effective legislature.

Other Matters

70. My recommendation on the undesirability and danger of paying some MPs and Ministers in cash (paragraph 60) was strongly supported by a member of the TUF delegation. I hope that the Parliamentary Management Committee will act on this matter.

71. In my earlier Report, I wrote of the need for the National Assembly to engage more with civil society and the private sector. This accords with what President Jagan said to Parliament in December 1992 and which I have already quoted. The use of a public advertisement by the Committee on the Age of Consent Bill to invite evidence is a great step forward in reaching out to civil society. I understand that the Guyana Press Association would like to contribute their views on the Broadcast Bill and I hope that they could be encouraged to do so.

72. I heard from the Guyana Human Rights Association that on one occasion they had tried to deliver to the National Assembly some leaflets concerning a particular bill and had been told they could not do this. I accept that it would be entirely wrong for the National Assembly to be the repository of every sort of document which has no relevance to the work of the Assembly. But relevant briefing material should be willingly accepted and placed in the Library. As I said in my previous Report, the National Assembly should become more receptive to those outside---those who vote and those who are affected by legislation.

73. Among others that I met were the Guyana Responsible Parenthood Association and the Guyana Rice Producers Association. Both are bodies which interact with Government but see no reason for approaching the National Assembly. Because they feel they can approach the responsible Minister and then, if necessary, the President himself, it has never occurred to them to use the parliamentary route to express any concerns they may have. This is absolutely fine but it emphasises the point I learned during my previous visit, that the National Assembly is not seen as important by those outside. While I do not wish to change the way NGOs relate to Government, it is surely a matter of concern to Members that the National Assembly is so unrecognised as an important institution of state. Again it is worth mentioning what President Jagan said in 1992, namely that "the populace must consider Parliament as the most accessible forum at which its collective wishes may be carried out".

74. When I met the Vice-Chancellor of the University of Guyana and some of his senior colleagues, I was told of an earlier offer by the University to provide students to do internships with the National Assembly and provide research services to Members. The arrangement had been close to agreement but then had been cancelled by the Parliamentary Management Committee. The University authorities would be interested in re-opening discussions on this matter because they believe there would be benefits to their students, to the National Assembly and to the University.

75. In my previous Report, I drew attention to the lamentable situation with the production of the verbatim report (Hansard). It was a surprise to me that when I raised this matter at the Parliamentary Management Committee recently, no-one seemed to be aware of the delays which have occurred. I pointed out in my previous Report

(paragraph 137) that the budget debate for 2004 was not available at the time when the 2005 budget was due to be presented a year later. This is something which should be tackled urgently: it is not a political matter. I quote again from President Jagan: "the preparation of Hansard has been a problem in the past.....This is a matter of urgency, since I think your work here will not be complete without the speedy preparation of Hansards".

Conclusion

76. I met representatives of all the political parties represented in the National Assembly. The Government party has not rejected the Report of 18th February but has so far declined to address it in Parliament. I hope, since I have now held the consultations which they wished to have with me, and made this further report which deals with their concerns, that they will join with all the other political parties in supporting the Report. The PPP/C has much to be proud of in the way they have improved governance since 1992. The Government now has the opportunity to further demonstrate its commitment to the Commonwealth Principles by openly discussing the issues and principles I have identified and taking the further steps necessary to enhance the independence and relevance of the National Assembly. Having read the entire speech that President Cheddi Jagan made to Parliament in December 1992, I believe he would have wished it to do so.

77. There is much that could be done to make the National Assembly more responsive to the needs of the whole of the population of Guyana. I was very struck by what one of my interlocutors (not a politician) said to me this time. He said that "the National Assembly is not working properly; if it were, someone would have been held accountable for the failure of the storm drainage system during the floods". That is, of course, only one person's perception and may not be widely shared but the important point he made was that the purpose of a Parliament is to hold the Government to account for what it does. "Accountability" is currently lacking and the recommendations in my earlier Report were directed at establishing a separation of powers so that accountability can develop.

78. Some of my recommendations cannot, I accept, be implemented immediately but I have laid out a blueprint for the future. The National Assembly is a small legislature with limited resources and its members can only be active MPs on a part-time basis, for reasons that are well understood. And I also recognise that committee work is difficult to sustain when MPs have other commitments. That is why I recommended in my previous Report that the committees should not be too ambitious to start with.

79. I believe that the way forward should be to follow a plan drawn up by the Parliamentary Management Committee, indicating what is achievable now, what is achievable within two years and what is achievable within, say, four years. This plan should be assessed regularly against what has been achieved to see whether there has been any slippage and whether any re-adjustment is required. The Parliament Office could then respond to decisions made by the Committee and take whatever administrative steps have to be taken.

80. To help the Parliamentary Management Committee make progress on implementation, I set out below the recommendations on which I believe it would be possible to take immediate action. They are in no particular order of importance:

- The Parliament Office should draw up a Strategic Plan, something which currently appears to have a low priority;
- Capacity building for MPs and staff should be arranged this year and should be arranged on a regular basis in the future;
- The Order Paper should no longer be sent outside the Parliament building to any member of the Government until it is finalised;
- The Notice for Questions should be reduced to no more than 14 days;
- Amendments to legislation should be tabled in advance so that they can be circulated. Manuscript amendments should be discouraged;
- The concept of Opposition time one day a month should be agreed;
- A procedural manual as an aid to understanding the Standing Orders should be written once the changes to the SOs have been made;
- The National Assembly should insist by means of a Resolution or a new Standing Order that reports of the Public Accounts Committee are responded to within, say, three months;
- Guidelines should be agreed between the Government and the National Assembly about the questioning of public servants by Committees;
- While recognising that the annual turn-over of sectoral committee chairpersons was a political compromise, consideration should be given to allowing greater continuity so as to enhance the performance of committees;
- Changes to the Standing Orders should be implemented by reference to Mr James Pender's advisories;
- The problems over the production of the verbatim report should be vigorously tackled and an Editor of Debates appointed ;
- A Table Office should be created to assist the Clerk procedurally;
- Consideration should be given to reaching agreement with the University on internships;
- Salary payments in cash should be ended except for lower paid staff who have no bank accounts;
- Mock parliaments in which school children participate should be held;

- In order to reach out to the public and the private sector, some “open days” might be arranged where MPs could meet representatives of NGOs and the business community.

81. The following recommendations could be considered for implementation within two years:

- Agreement should be reached on giving the National Assembly the authority to manage its own budget and a start should be made in establishing a Finance Office with the necessary expertise to manage the finances of the Assembly;
- Agreement should be reached on establishing an independent parliamentary cadre with a professional human resources office to manage the new responsibilities;
- A review of the staffing structure of the Parliament Office should be undertaken so as to ensure that staffing matches the needs of the National Assembly;
- A Document Centre convenient for Members should be created;
- The making available of Bills etc at Post Offices or other public locations should be agreed;
- All the National Assembly’s documents should be placed on its website;
- The establishment of a library which is pleasant to work in, with a relevant book collection and a modest research capability.

82. Further ahead, the appointment of a Public Information Officer and the broadcasting of proceedings should be considered.

83. It is, of course, for you, the Members of the National Assembly and the Government to decide how quickly the recommended changes should be made and what priority should be given to particular recommendations. I sincerely hope that my earlier recommendations and the additional arguments that I have put forward this time, together with my references to best Commonwealth practice, will persuade all who have the future of the National Assembly in their hands to take my ideas forward, adapting them as necessary, so that the National Assembly can become the centre for political dialogue in Guyana.

84. I would like to thank all those who gave up time to speak to me on my return. I now understand the potential difficulties to implementing some of my recommendations better than before and I am grateful for the courteous way I was received by all those I met.

Sir Michael Davies KCB
18th May 2005
London, UK

ANNEX – LIST OF THOSE MET

Parliamentary Management Committee

Hon Ralph Ramkarran MP, Speaker of the National Assembly
Vincent Alexander MP
Ravindra Dev MP
Sheila Holder MP
Hon Dr Henry Jeffrey MP
Winston Murray MP
Hon Reepu Persaud MP
Clarissa Riehl MP
Hon Carolyn Rodrigues MP

People's Progressive Party/Civic (PPP/C)

Hon. Shaik Baksh MP
Hon. Dr Dale Bisnauth MP
Rosanna Campbell MP
Hon. Indra Chandarpal MP
Hon. Henry Jeffrey MP
Hon. Saisnarine Kowlessar MP
Odinga Lumumba MP
Feroze Mohamed MP
Hon. Reepu Persaud MP
Hon. Dr Leslie Ramsammy MP
Hon. Carolyn Rodrigues MP
Hon. Clement Rohee MP
Hon. Gail Texeira MP
Hon. Dr J Westford MP

People's National Congress/Reform (PNC/R)

Winston Murray MP, Party Chairman
Oscar Clarke, General Secretary
Vincent Alexander MP
Debbi Backer MP
James McAllister MP
Stanley Ming MP
Clarissa Riehl MP

The United Force (TUF)

Manzoor Nadir MP, Leader
Michael Abraham, Deputy Leader
Monica Goorahoo, Chairperson
Aubrey Collins
Ismail Muhammad
Errol Vannooten
Murtland Williams

Working People's Alliance (WPA) / GAP

Sheila Holder MP
Professor Clive Thomas

Rise Organise and Rebuild Guyana (ROAR)

Ravindra Dev MP
Amar Panday
Shaun Persaud

The Presidency

Dr Roger Luncheon, Head of Presidential Secretariat
Robert Persaud, Information Liaison to the President

Office of the Auditor General

Deodat Sharma, Auditor General
Donna Ellis, Deputy Auditor General
Thomas Nestor, Deputy Auditor General
Geetanjah Singh, Deputy Auditor General

The University of Guyana

Dr James Rose, Vice Chancellor
Dr David Chanderbail, Registrar
Dr Mark Kirton
Dr Daniel Kumar
Dr Tota Manger
Dr Michael Scott

Guyana Public Service Union

Patrick Yarde, President
Husman De Souza, Vice President
Charles Baker, Asst Education Officer
Denis English, Industrial Relations Officer
Ivor Mitchell, Consultant
Barbara Moore, Registry Supervisor
Roger Moore, Communications Assistant
Indira Thakurdin, Assistant to President
Patricia Went, Principal Industrial Relations Officer

Guyana Agricultural Workers Union (GAWU)

Kamal Chand MP, President
Seepaul Narine, General Secretary
Derek Thakur, Assistant General Secretary

Gaitree Barron, General Council Member
Claude Rogers, General Council Member

Guyana Rice Producers Association

Dharamkumar Seeraj, General Secretary
Ramsaha Ramnarain, Deputy General Secretary
Ricky Roopchand, Project Officer

Guyana Human Rights Association

Michael McCormack
Merle Mendonca

Guyana Responsible Parenthood Association

Pansy Aaron, President
Frederick Cox, Executive Director
Beverly Braithwaite-Chan, Past President
Harrychan Ramu
Samantha Rodrigues

Others

Sherlock Isaacs, Clerk of the National Assembly
Bishop Edghill, Chairman, Ethnic Relations Commission
Dr Gopaul, Permanent Secretary, Ministry of Public Service
Capt Gerry Gouveia, Managing Director, Roraima Airways
Brian James, Chairman, Guyana Securities Council
Deacon Bernard Matthews, Smith Memorial Congregational Church