

Ref. No. 4 of 2014

Ruling on the Motion Submitted by the Hon. Carl B. Greenidge, M.P. Regarding the Authorisation of Expenditure From the Consolidated Fund by the Hon. Minister of Finance.

1. The National Assembly in April 2014 did not approve several programmes contained in the annual budgetary estimates for 2014 (See Appendix for details).
2. The Hon. Minister of Finance on June 19, 2014, submitted Financial Paper No. 1 of 2014 (Statement of Excess on the Current and Capital Estimates totaling **\$4,553,761,991**, for the period ended June 16, 2014) seeking the House's approval of this expenditure.
3. These sums, for which approval is being sought, include expenditures that were not authorised by the National Assembly.
4. Article 217 of the Constitution states:
 - (1) *No moneys shall be withdrawn from the Consolidated Fund except –*
 - a) *to meet expenditure that is charged upon the Fund by this Constitution or by any Act of Parliament; or*
 - b) *where the issue of those moneys has been authorised by an Appropriation Act; or*
 - c) *where the issue of those moneys has been authorised under article 219.*
 - (2) *Where any moneys are charged by this Constitution or any Act or Parliament upon the Consolidated Fund or any other public fund, they shall be paid out of that fund by the Government of Guyana to the person or authority to whom payment is due.*
 - (3) *No moneys shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those moneys has been authorised by or under an Act of Parliament.*

(4) Parliament may prescribe the manner in which withdrawals may be made from the Consolidated Fund or any other public fund."

5. The Hon. Minister of Finance relies on Article 218 (3) (b) as the legal basis for the expenditure. This Article reads as follows: *"If in respect of any financial year it is found—that any moneys have been expended for any purpose in excess of the amount appropriated for that purpose by the Appropriation Act or for a purpose for which no amount has been appropriated by that Act, a supplementary estimate, or as the case may be, a Statement of Excess showing the sums required or spent shall be laid before the Assembly by the Minister responsible for finance or any other Minister designated by the President."*
6. The Hon. Member, Mr. Carl B. Greenidge, has complained that the Hon. Minister of Finance has breached his parliamentary privilege and/or is in contempt of Parliament by spending moneys that are unauthorized; notwithstanding Article 218. This Complaint is in the form of a Motion seeking a committal of the issue of this spending to the Privileges Committee of the National Assembly asking for the appropriate sanction(s) to be imposed if the Complaint is upheld.
7. Standing Order 32 of the Standing Orders and Rules of the National Assembly states that the Speaker's duty is to determine whether or not there is *prima facie* evidence that there has been either a breach of the privilege of a Member of the National Assembly, or whether there has been Contempt of Parliament committed by the spending. The Complaint may be raised either through a Motion or on the floor of the Assembly after notice has been given to the Speaker.
8. It is not for the Speaker to determine "guilt" or "innocence," but only to determine whether "on the face" of the Complaint there is sufficient to warrant a probe by the Committee of Privileges.
9. Likewise, it is not the preserve or function of the National Assembly, whether acting as a whole, or in part, through its Committee of Privileges, to determine whether

there has been a breach or misinterpretation of the Constitution as regards the spending. It cannot escape comment however that the wording of Article 218 (3) (b) appears to contemplate a situation so grave and critical that it was not contemplated and provided for in the annual budgetary estimates; a situation, which in my considered opinion, would be akin to an outbreak of war, or the occurrence of some unimaginable natural disaster.

10. From the point of view of the National Assembly, the following facts are not in contention:

- i. The budget was presented and dealt with in accordance with the Ruling of the Hon. Chief Justice (Ag.) dated January 29, 2014.
- ii. The Hon. Minister of Finance adopted the Committee of Supply's recommendations for "amendments" to the Estimates and amended the Estimates accordingly. This was done when he reported to the House after the Committee of Supply's review.
- iii. The National Assembly approved Appropriation Bill No. 10 of 2014, as amended by the Minister of Finance, and as presented by the Hon. Minister.
- iv. His Excellency the President subsequently assented to the Appropriation Bill. This then became an Act of Parliament (No. 10 of 2014); giving authorisation for spending from the Consolidated Fund.
- v. The Hon. Minister of Finance caused spending to be done that was outside of the sum approved by the Act of Parliament No. 10 of 2014.
- vi. The facts and circumstances of these withdrawals from the Consolidated are clearly distinguishable from those that occurred in 2012 and 2013 for the reason being that in 2014, the National Assembly, though aggrieved by the Chief Justice's decision of January 29, 2014, sought to comply in spirit and in letter. The cause for the accusation of "unlawful or unconstitutional" action on the part of the Assembly when it amended the budget was removed.

11. Ruling:

- a. Having regard to all the facts and circumstances above, it is my considered opinion that the issue of the spending by the Hon. Minister of Finance does raise sufficiently serious questions of privilege such that the Committee of Privileges should enquire into.
- b. I therefore find that a *prima facie* case has been made out and the matter is referred to the Committee of Privileges.

Hon. Raphael G.C. Trotman, M.P.,
Speaker of the National Assembly

Dated this 24th day of July, 2014

APPENDIX
PROGRAMMES NOT APPROVED IN 2014 BUDGET

- **47 - MINISTRY OF HEALTH**
Capital Expenditure
Line Item 474 - Regional and Clinical Services

- **16 - MINISTRY OF AMERINDIAN AFFAIRS**
Capital Expenditure
Line Item 161 - Amerindian Development

- **31 - MINISTRY OF PUBLIC WORKS**
Capital Expenditure
Line Item 313 - Transport

- **01 - OFFICE OF THE PRESIDENT**
Current Expenditure
Line Item 011- Administrative Services

- **01 - OFFICE OF THE PRESIDENT**
Capital Expenditure
Line Item 011 - Administrative Services

- **03 - MINISTRY OF FINANCE**
Capital Expenditure
Line Item 031 - Policy and Administration

Financial Paper No. 1/2014 (Statement of Excess) shows that funds were spent by the Government, through the Minister of Finance, from the consolidated fund in relation to the line items that were not approved.

