

**Ruling No. 1 of 2014**

**RULING: THE ADMISSIBILITY OF MOTIONS ON THE BERBICE RIVER FERRY & RESTORATION OF THE CRITCHLOW LABOUR COLLEGE SUBVENTION –WHETHER OFFENSIVE TO ARTICLE 171 (2) OF THE CONSTITUTION & STANDING ORDER**

1. In November, 2013, the Hon. Member, Mr. Trevor Williams, submitted two (2) Motions for consideration, and approval, by the National Assembly. The Be It Resolve clauses of these Motions respectively read as follows:-
  - i. **“BE IT RESOLVED:** That this National Assembly immediately calls on the Government of Guyana to restore this service thereby reviving those communities and giving hope and stability to the many Guyanese who wish to venture into Agricultural entrepreneurship”; and
  - ii. **“BE IT RESOLVED:** That the National Assembly calls on the Government of Guyana to restore the full subvention thereby allowing the Critchlow Labour College to be re-opened to its full capacity.”
2. These Motions were approved by me for publication on the Order Paper in keeping with the requirements provided for in Standing Order 25, and subsequently, published (See Notice Papers Nos. 256 and 257) for debate at the sitting scheduled for Thursday, December 12, 2013.

3. On Friday, November 6, 2013, I received a letter (attached) issued under the hand of the Government's Chief Whip, Ms. Gail Teixeira, M.P., stating the Government's objection to the introduction and debate of these Motions on the basis that they:-

***"...offend the Guyana Constitution Article 171 (2) and the Standing Orders No. 25 (1) (a) (ii), (iii) and (2), the latter being an exact copy of the constitutional provisions. Both effectively and explicitly state that "the Assembly shall not proceed" on any Bill (SO 25 (1) (a) or Motion (SO 25 (2) which would "impose any charge upon the Consolidated Fund of Guyana or any other public fund"...except on the recommendation or with the consent of Cabinet signified by a Minister".***

4. I have since indicated to Ms. Teixeira, M.P., by way of letter dated December 10, 2013, that my opinion is that the Motions did not offend the constitutional injunction contained in Article 171 (2) and restated in Standing Order 25 (1) (a) (ii) and (2).

5. Article 171 (2) of the Constitution reads in part as follows:-

**"Except on the recommendation or with the consent of the Cabinet signified by a Minister, the Assembly shall not-**

- a) Proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding, makes provision for any of the following purposes-**
  - i) For imposing or increasing any tax;**
  - ii) For imposing any charge upon the Consolidated Fund or any other public fund of Guyana or for altering any such charge otherwise than by reducing it;**
  - iii) For the payment, issue or withdrawal from the Consolidated Fund or any other public fund of Guyana of any moneys not charged thereon or any increase in the amount of such a payment, issue or withdrawal..."**

6. Article 171 (2) (b) speaks to the introduction of Motions that have the same purport and effect as stated in relation to Bills, and prohibits the National Assembly from:-

***Proceeding with any Motion (including any amendment to a Motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of the purposes aforesaid.***

7. The identical wording recited above, is repeated in Standing Order 25.

8. This matter, as to whether a motion was offensive to the Constitution and the Standing Orders vis-à-vis the Consolidated Fund, had been raised during the debate on a Motion brought by the Hon. Member, Mr. Carl B. Greenidge, on National Assets that took place in June 2012, by the Hon. Dr. Ashni K. Singh, Minister of Finance, and I had given an oral response to the effect that the Resolve Clause that the House was being asked to adopt then:-

***...does not go on to actually fix a sum and to cause this Assembly to draw on the Consolidated Fund in any shape or form, so I take your argument, but I do not accept it.***

9. However, in view of the fact that the challenge has been raised again, albeit on different subjects, and under different circumstances, I considered it appropriate to make a more fulsome response for the benefit of Members.

10. The procedure for the financing of public expenditure in Westminster styled Parliaments has been settled over centuries and can now be regarded as immutable. It is established on a simple principle, i.e., the Executive is solely responsible for spending and raising taxes, and the National Assembly, is solely responsible for approving same. Neither can intrude into the preserve of the other. A hallowed feature of this principle is that only the Executive has the authority to initiate spending. This is the basis for the existence of Article 171 (2) of the Constitution, and Standing Order 25.

11. The House of Commons of Canada's publication on Financial Procedures<sup>1</sup> traces the historical basis for this principle in this way:-

***“The whole law of finance, and consequently the whole British Constitution, is grounded upon one fundamental principle, laid down at the very outset of English parliamentary history and secured by three hundred years of mingled conflict with the Crown and peaceful growth. All taxes and public burdens imposed upon the nation for purposes of state, whatsoever their nature, must be granted by the representatives of the citizens and taxpayers, i.e., by the Parliament...”***

***By the end of the seventeenth century, the principle of modern financial procedure – most particularly the annual treatment of finance by the House of Commons and the notion of effective and permanent House control over all public expenditure – were well established. Their evolution had taken several centuries and was related to the rise and gradual abolition of the Civil List, the creation of the Consolidated Fund and the growth of the “estimates” system, whereby the government receives annual operating grants from Parliament.”***

12. Thus was created what became known as the “Royal Recommendation” whereby the Crown alone initiated public expenditure and only those expenditures “recommended” by the Governor, and now by Cabinet, were permissible.

13. Today, one can always expect to hear the Minister of Finance say: ***“Mr. Chairman, in accordance with Article 171 (2) of the Constitution, I signify that the Cabinet has recommended for consideration by the Assembly, the Motion for the approval of the proposals set out in Financial Paper...”*** thereby signifying that the necessary Executive's “recommendation” has been given.

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<sup>1</sup> [www.parl.gc.ca](http://www.parl.gc.ca). See also: The Financial Initiative of the Crown: [Improving the Government's Financial Veto in New Zealand](#), by Matthew Louwrens, for a comprehensive discourse on the Crown's prerogative vis-à-vis financial matters. (<http://www.anzacatt.org.au/prod/anzacatt/anzacatt.nsf/pdf>)

14. Any Bill or Motion, and whether or not introduced by a Government, or private Member, which seeks the National Assembly's approval for expenditure, must obtain the consent of the Executive, and if this is absent, then the Speaker is constitutionally mandated to reject it and prevent any further proceedings.
15. The matters before us – a motion for the restoration of a Berbice River Ferry and the another for the restoration of the Critchlow Labour College make no specific requests for appropriations from the Consolidated Fund; though by implication, if approved, and are to be implemented, will require expenditure from the Fund.
16. I believe that a determination of this issue rests in an interpretation of the words: "...impose a charge on the Consolidated Fund". It is my considered opinion that a Bill or Motion can only "impose a charge" if a specific sum or "charge" is sought from the Consolidated Fund. No "charge" or "warrant" can issue simply by saying the Berbice River Ferry service should resume, or the Critchlow Labour College subvention should be restored.
17. If the Hon. Member had attached a quantum to the Motion for its approval then this would have taken it into collision with the Constitution and Standing Orders. This is not the case at present.
18. Further, it is my considered opinion that a Bill or Motion may only offend or contravene Article 171 (2) and Standing Order 25 if the purpose of these is primarily financial.
19. My opinion is reinforced by the fact that this House routinely approved motions, without opposition or reservation, for the establishment of Commissions and other entities, and in one recent instance, even for the issuing of a commemorative stamp; all of which will require expenditure from the Consolidated Fund.

20. In the circumstances of the above, it is my Ruling that the Motions referred to above, and submitted by the Hon. Member, Mr. Trevor Williams, are permissible Motions for debate by the National Assembly.

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

**Dated this 16<sup>th</sup> day of January, 2014**