Official Report

PROCEEDINGS AND DEBATES OF THE NATIONAL ASSEMBLY OF THE FIRST SESSION (2015) OF THE ELEVENTH PARLIAMENT OF GUYANA UNDER THE CONSTITUTION OF THE CO-OPERATIVE REPUBLIC OF GUYANA HELD IN THE PARLIAMENT CHAMBER, PUBLIC BUILDINGS, BRICKDAM, GEORGETOWN

4TH Sitting	Thursday, 09TH July, 2015

Assembly convened at 2.09 p.m.

Prayers

[Mr. Speaker in the Chair]

ANNOUNCEMENTS BY THE SPEAKER

President to address the National Assembly

Mr. Speaker: Hon. Members, I was informed that His Excellency the President, Brigadier David Arthur Granger, (MSS), will attend and address the National Assembly at today's sitting. The sitting will be suspended at a convenient time to receive His Excellency.

PRESENTATION OF PAPERS AND REPORTS

The following Papers and Reports were laid:

(1) (i) Audited Financial Statement of the Linden Mining Enterprise Limited for the year ended 31st December, 2013.

(ii) Mid-Year Report 2014.

(iii) Compensation Agreement under the Framework of the PETROCARIBE Energy Cooperation Agreement dated March 13, 2014, between PDVSA Petróleo, S.A. (PDVSA) and the Co-operative Republic of Guyana for the cancellation of the oil debt in compensation for the white rice and paddy shipments under the Guyana/Venezuela Rice Trade Agreements in the amount of **US$55,453,000.00**.

(iv) Loan Agreement **No. 8/SFR-OR-GUY** dated April 14, 2014, between the Caribbean Development Bank and the Co-operative Republic of Guyana for **US$25,000,000.00** for the Sea and River Defence Resilience Project.

(v) Financial Agreement **No. 5473-GY** dated October 10, 2014 between the Co-operative Republic of Guyana and the International Development Association for **SDR6, 500, 000. 00** for the Secondary Education Improvement Project.

(vi) Financing Agreement **No. 5474-GY** dated October 10, 2014 between the Co-operative Republic of Guyana and the International Development Association for **SDR 7,700, 000. 00** for the Flood Risk Management Project.

(vii) Loan Contract **Nos**. **3242/OC-GY** and **3243/BL-GY** dated October 10, 2014 between the Co-operative Republic of Guyana and the Inter-American Development Bank for **US$16,838,250.00** for the Water Supply and Sanitation Infrastructure Improvement Program.

(viii) Loan Contract **Nos. 3238/OC-GY** and **3239/BL-GY** dated October 10, 2014 between the Co-operative Republic of Guyana and the Inter-American Development Bank for **US$37,641,750.00** for the Power Utility Upgrade Program.

(ix) Debt Relief Agreement (E-HIPC Debt Initiative) dated March 14, 2014 among the Government of the Co-operative Republic of Guyana, the Bank of Guyana, the Board of Directors of the Caricom Multilateral Clearing Facility (CMCF) and the Central Bank of Trinidad and Tobago (As Agent) to write-off 100 per cent of Guyana's total outstanding debt to Creditor Participants in the amount of **US$35,948,387.25**.

(x) Compensation Agreement under the Framework of the PETROCARIBE Energy Cooperation Agreement dated September 12, 2014 between PDVSA Petroleo, S.A. (PDVSA) and the Co-operative Republic of Guyana for the cancellation of the oil debt in compensation for the white rice and paddy shipments under the Guyana/Venezuela Rice Trade Agreements in the amount of **US$69,010,500.00**.

(xi) Annual Report of the Guyana National Printers Limited for the year 2013.

(xii) Annual Report of the Atlantic Hotel Inc. for the year 2012.

(xiii) Annual Report of the Atlantic Hotel Inc. for the year 2013.

(xiv) Audited Financial Statements of Matthew's Ridge Power and Light Inc. for the year ended 31st December, 2013.

(xv) Annual Report of the National Insurance Scheme for the year 2012.

(xviii) Annual Report of the Financial Intelligence Unit for the year ended 31st December, 2013.

(xix) Annual Report for the Guyana National Newspapers Limited for the year ended 31st December, 2013.

(xx) Annual Report for the Linden Electricity Company Inc. for the year ended 31st December, 2012.

(xxi) Annual Report for the National Industrial and Commercial Investments Limited for the year ended 31st December, 2013.

(xxii) The Value-Added Tax (Amendment) Order 2014 – No. 30 of 2014.

[Minister of Finance]

The Minister asked for the presentation of (xvi) Members of the National Assembly and Special Offices (Emoluments) Order 2014 – No. 33 of 2014 and (xvii) Constitutional Offices (Remuneration of Holders) Order 2014 – No. 34 of 2014 to be deferred.

(2)

(i) Annual Reports of the Guyana Geology and Mines Commission for the years 2004 and 2006.

(ii) Annual Report of the Guyana Geology and Mines Commission for the year 2013.

(iii) Annual Report of the Guyana Lands and Surveys Commission for the year 2013.

(iv) Annual Report of the Guyana Lands and Surveys Commission for the year 2014.

(v) Annual Report of the Guyana Gold Board for the year 2012.

(vi) Annual Report of the Environmental Protection Agency for the year 2013.

(vii) Audited Financial Statements of the Environmental Protection Agency for the years ended 31st December, 2012 and 2013.

(viii) Annual Report of the Environmental Protection Agency for the year 2014.

(ix) Annual Report of the Guyana Forestry Commission for the year 2013.

(x) Annual Report of the Guyana Forestry Commission for the year 2014.

(xi) Annual Report of the Ministry of Natural Resources and the Environment for the year 2013.

[Minister of Governance]

STATEMENTS BY MINISTERS, INCLUDING POLICY STATEMENTS

Incorrect debt figure reported to the National Assembly

Minister of Finance [Mr. Jordan]: On Friday, 26th June, 2015, I informed this honourable House that the external public debt had risen to US$1.6 billion and that the domestic debt had also increased, though I did not state a figure. On my return to Guyana on Tuesday, 1st July, 2015 from Venezuela, where I had gone on official government business, I was informed that the figure I had quoted for the external debt was incorrect. I have had the opportunity to recheck the numbers and now inform this honourable House that it is the public debt, comprising the external debt and the domestic debt, which stands at US$1.6 billion, and that it is not the external debt.

The external debt is US$1.2 billion and the domestic debt is US$0.4 billion. I apologise to this honourable House for the earlier mistake and for the erroneous impression created.

Mr. Speaker: Hon. Members, it would appear as if this is a good time for the sitting to be suspended to enable us to receive His Excellency the President.

Sitting suspended at 2.21 p.m.

Arrival of the His Excellency the President of the Cooperative Republic of Guyana.

Sitting resumed at 2.44 p.m.

ADDRESS BY HIS EXCELLENCY THE PRESIDENT OF THE COOPERATIVE REPUBLIC OF GUYANA ON GUYANA/VENEZUELA BORDER ISSUE

Mr. Speaker: Your Excellency, we welcome you to the National Assembly and invite you to address us.

His Excellency the President of the Cooperative of Guyana [Brigadier (Ret'd) David Granger]: Hon. Speaker, Hon. Prime Minister and Leader of the House, Hon. Members of the National Assembly, members of the Diplomatic Corps, members of the media, ladies and gentlemen.

I have decided to address this Assembly on a matter of national importance in accordance with article 67 (1) of the Constitution of the Cooperative Republic of Guyana. I wish to bring you abreast with the developments in relation to the Decrees that have been issued by the Bolivarian Republic of Venezuela and which have impinged on the exercise of Guyana's sovereignty and our rights to our exclusive economic zone (EEZ).

President Nicolás Maduro Moros of the Bolivarian Republic of Venezuela reported on 6th July, 2015 that he had replaced *Decree No. 1.787* that purported to exercise sovereignty over the waters it claimed from neighbouring states with *Decree No. 1.859.*

2.47 p.m.

President Maduro told the Venezuelan National Assembly:

> "I have decided to take all the content of this decree 1787 to the State Council and the Supreme Tribunal of Justice (TSJ) and, in the meantime, taking the doctrinarian, constitutional criteria (…) issue a new decree to supersede it… in all of its parts."

President Maduro also announced the recall of Venezuela's Ambassador to Guyana, for consultations, his decision to reduce the Venezuelan Embassy staff in Georgetown and his directive to the Foreign Minister to review all diplomatic relations with Guyana.

Decree No. 1.787, published in Venezuela's Official Gazette No. 40.669 and dated 26th May, 2015, had repeated that country's basic assertions that the entire western Essequibo was a *zona en reclamación* and restated its quest for a *salida al Atlántico* - access to the Atlantic. These two claims, one on land and the other at sea, have been at the heart of Venezuela's geopolitical strategy towards Guyana for over 50 years.

Unofficial maps, generated by the National Organisation for Rescue and Maritime Safety of the Aquatic Areas of Venezuela, a non-governmental organisation, indicate that the claim would encompass a large part of the maritime zone sited off the Demerara coast in which the United States firm ExxonMobil discovered oil earlier in 2015.

Decree No. 1.787 created the notion of the "Atlantic coast of Venezuela." This geographical fiction purports to justify the extension of that country's sovereignty over Guyana's territorial waters in the Atlantic Ocean off the territory of five regions of Guyana and over a distance of 200 nautical miles thereby completely blocking Guyana's access to its own exclusive economic zone. The Decree also created the so-called "Areas of Integral Defense of Maritime Zones and Islands" extending Venezuela's sovereignty even into part of Suriname's maritime space.

The Decree, of course, violates the word and spirit of the 1966 Geneva Agreement that forbids the claiming of new territory while the agreement remained in force. Article V of the Agreement states *inter alia*:

> "No new claim, or enlargement of an existing claim, to territorial sovereignty in those territories shall be asserted while this agreement is in force, nor shall any claim whatsoever be asserted otherwise than in the Mixed Commission while that Commission is in being."

The Venezuelan Government, therefore, had no right, either under the Geneva Agreement or in international law, to oppose exploratory activities by ExxonMobil and its subsidiary Esso Exploration and Production (Guyana) Limited in the 'Stabroek Block'. Venezuela had no right to demand prior notification owing to the fact that the specific area of operation in the Stabroek Block is located in a new maritime area over which sovereignty had been claimed by Venezuela.

The action taken by Venezuela's Foreign Minister in February to write to the Country Manager of Esso Exploration and Production (Guyana) Limited and to object to the dispatch of a rig to proceed with the exploration for petroleum in accordance with the concession granted by the Government of Guyana, therefore, constituted an unnecessary and unlawful interference in Guyana's sovereign jurisdiction.

Guyana's sustained efforts to alert the international community of the adverse effects and to seek the repudiation of Venezuela's unilateral and illegal delineation of maritime territory, not only in relation to the territory of Guyana but also other states in the hemisphere, have come to fruition. Guyana has never used aggression against any state. Guyana has always embraced the principle of the peaceful settlement of disputes. But in as much as we are a peace loving nation, we will not allow our territorial integrity to be threatened or violated. We consider *Decree No. 1.787* as constituting an act of aggression against Guyana.

In response to the Decree, my Government sought the solidarity of the regional and international community. The Commonwealth was one of the first communities to express its support for Guyana. In a statement issued on his arrival in Guyana, the Commonwealth Secretary-General recalled that, at the last Commonwealth Summit held in Sri Lanka in 2013, the community had reaffirmed its "unequivocal support for the maintenance and preservation of Guyana's sovereignty and territorial integrity." The Secretary-General stated that "the Commonwealth remains steadfast in support for the Government and people of Guyana." In addition, the matter is to be discussed at the Commonwealth Foreign Ministers' meeting in New York in September.

We have sought the solidarity of the Caribbean Community. I have just returned from the 36th Regular Meeting of the Conference of the Heads of Government of the Caribbean Community. I am pleased to report that support for Guyana was overwhelming. I met personally with a number of leaders of the region and they all pledged their continued support for Guyana. In the Final

Communiqué issued by that Conference, the Heads indicated their deep concern over the decree because of its implications not only for Guyana but also for a number of Caribbean states. The Conference called on the Bolivarian Republic of Venezuela:

> "To withdraw those elements of *Decree No. 1.787* insofar as they apply to the territory and maritime space of CARICOM states."

During the course of the CARICOM Summit, I had the pleasure of meeting the Secretary-General of the United Nations, Mr Ban Ki-moon. I shared with him Guyana's position. He has committed to sending a mission to both Venezuela and Guyana. I thank him for his pledge and look forward to receiving his mission to Guyana.

While the new *Decree No. 1.859* does not contain the coordinates of *Decree No. 1.787*, it does contain a general description of all the defence zones, with the description of the Eastern, Central, and Western regions remaining consistent with previous versions of the *Decree*. It goes further to state that these 'defence zones' are spaces created to plan and execute integral defence operations. This portion remains offensive to Guyana. It is like a bone in our throat since there continues to be a threat of the use of force in these areas.

The Cooperative Republic of Guyana therefore rejects the description of its maritime territory as a 'defence zone' of the Bolivarian Republic of Venezuela.

Guyana is a sovereign state. It is empowered under international law to exercise sovereign rights over its continental shelf and exclusive economic zone. Guyana has full and unfettered authority to unilaterally explore and exploit the living and non-living resources within its jurisdiction. Any objection to, or obstruction of, the exercise of such jurisdiction is contrary to international law.

The expulsion of an unarmed, seismic survey vessel from Guyana's exclusive economic zone by a Venezuelan naval corvette, therefore, was a dangerous and egregious exhibition of gunboat diplomacy. The corvette — *PC 23 Yekuana* — of the Bolivarian Navy of Venezuela entered Guyana's exclusive economic zone around 16:00 h on Thursday, 10th October 2013 and, under the threat of force, prevented the unarmed *Teknik Perdana*, a vessel contracted by Anadarko, from conducting seismic surveys. The *Yekuana* incident was as extreme use of armed force. It violated the Charter of the United Nations. It threatened regional peace and stability. It

contradicted the promise of President Nicolás Maduro Moros who, speaking at a public event in Nueva Esparta shortly after his visit to Georgetown in August 2013, solemnly promised:

> "Any issues we have with our neighborly countries, either serious or not, will be solved peacefully through the diplomatic channels and international law. There will never be war. We have never declared war in South America the land of peaceful people."

That was six weeks before he sent a corvette into our waters.

Venezuela has relentlessly claimed the entire Essequibo region of Guyana, and this has been going on for 50 years. It still insists on referring to the entire Essequibo, in its publications and charts, as the *zona en reclamación*. It still attempts to appropriate the waters off the Essequibo in defiance of international law. It still continues its policy of economic blockade of the Essequibo regions as it has always done:

- President Raúl Leoni Otero placed an advertisement in the *Times* newspaper of London on 15th June 1968 to the effect that the Essequibo belonged to Venezuela and that it would not recognise economic concessions granted there by the Guyana Government. He then issued *Decree No. 1.152* of 9th July 1968, purporting to annex a nine-mile wide belt of sea-space along Guyana's entire Essequibo coast and requiring various agencies, including the Defence Ministry, to impose Venezuelan sovereignty over it.

That was 47 years ago.

- President Rafael Antonio Caldera blocked Guyana's attempt to allow petroleum exploration rights in the Essequibo by a German company.

- President Luis Herrera Campins reinforced the blockade by obstructing the development of the Upper Mazaruni Hydropower Project. He issued a communiqué in April 1981 stating that, because of "Venezuela's claim on the Essequibo territory", it "asserted the rejection of Venezuela to the hydroelectric project of the Upper Mazaruni." Venezuela's Foreign Minister, José Alberto Zambrano Velasco, wrote a letter giving the President of the World Bank an ultimatum to refrain from financing the Upper Mazaruni Hydroelectric Project.

- President Carlos Andrés Pérez paid a visit to Guyana in 1978 during which he indicated Venezuela's willingness to help finance the same hydroelectric power project in the Cuyuni-Mazaruni region of the Essequibo. But behind his apparent friendliness, however, the realpolitik of Venezuela's geopolitical interests remained unchanged. Carlos Andres Perez frankly expressed Venezuela's geopolitical interest in gaining a s*alida al Atlantico* – access to the Atlantic – from the Orinoco delta by offering to reduce the territorial claim to about 31,000 km^2 in return for the Essequibo coast.

- He was followed by President Jaime Ramón Lusinchi who reaffirmed the claim of previous Presidents insisting that the territorial claim could not be renounced.

3.02 p.m.

- Then came President Hugo Rafael Chávez Frias who in July 2000 issued a declaration to prevent the Beal Aerospace Corporation from establishing a satellite station in the Barima-Waini region. He opposed the issuance of petroleum exploration licences to American companies off the Essequibo coast.

- Then along came President Nicolás Maduro Moros by issuing *Decree No. 1.787* and *Decree No. 1.859* in 2015 and he has continued the attitude of his predecessors.

Guyana, therefore, has long recognised that Venezuela's territorial claim has hindered the development of all five of its Essequibo regions through lost foreign investments and blocked projects. Guyana had to seek the safety beneath the shelter of international law in order to guarantee its territorial security and to attract foreign investment in a competitive international environment.

Guyana enacted the Maritime Boundaries Act, which determined that sovereignty "has always extended to the territorial sea and to the seabed and subsoil underlying and the airspace over such sea." Guyana asserted that it had always had "full and exclusive sovereign rights in respect of the continental shelf." The President of Guyana made Order No. 19 of 1991 under the Act on 23rd February 1991, declaring a specific area an 'exclusive economic zone.' The Act established a fishery zone beyond and adjacent to the territorial sea with an outer limit of 200 miles from the

baseline of the territorial sea. This area coincided with that of the exclusive economic zone and served to ensure Guyana's sovereignty over its living marine resources.

Guyana also enacted the Petroleum (Exploration and Production) Act, in 1986. Licences have been issued under the Act, from time to time, for foreign companies to conduct exploration activities. All the areas in which foreign companies were granted licences to conduct exploration were located in Guyana's waters. Bilateral fishing agreements allowing foreign vessels to fish in Guyana's waters were also made without challenge or protest.

Guyana's National Assembly enacted legislation and the Government made regulations which were enforced through the courts and by various arms of the state. Sovereignty and jurisdiction, therefore, were exercised openly and continuously by these executive actions of the Cooperative Republic of Guyana.

The National Assembly later unanimously approved a resolution on the 10th November, 1993, which endorsed Guyana's ratification of the United Nations Convention on the Law of the Sea (UNCLOS) and its deposit of the 60th Instrument of Ratification on the 16th November, 1993, enabling the convention to enter into force a year later.

Venezuela's claims to over 150,000 km² of Guyana's land-space and a large part of its hydrospace have their origins in its rejection of the 1899 award of the International Tribunal as a nullity. The land boundary, subsequent to the award, was surveyed and the details embodied on maps and certified by agreement on the 10th January, 1905 - 110 years ago.

Guyana will continue to pursue a wide range of diplomatic options as our first line of defence. Guyana remains resolute in defending itself against all forms of aggression. We remain wedded to the ideal of peace. We have never, as an independent state, provoked or used aggression against any other nation, and we never will. We have never used our political clout to veto development projects in another country. We have never discouraged investors willing to invest in another country. We have never stymied the development of another nation state. We do not expect, and not will we condone, any country attempting to do the same to us.

Guyana seeks friendly relations with its continental neighbours and with the Caribbean Community. We want to develop our resources for the benefit of our people. We want the Caribbean to be a zone of peace.

Guyana has no interest or intention to be aggressive towards Venezuela, a country that is 912,050 km², more than four times the size of Guyana; a country with a population of more than forty times that of Guyana; a country with armed forces - the National Bolivarian Armed Forces - with more than twenty times as many members as the Guyana Defence Force. How can Guyana launch an aggression against Venezuela?

The Government of Guyana expects the Government of the Bolivarian Republic of Venezuela to observe, fully, the 1897 Treaty and the Arbitral Award of 1899, the 1905 demarcation of the boundary between Guyana and Venezuela pursuant to the Arbitral Award and other formally ratified documents between the two states.

In the short term, our objective will be to have all threats withdrawn. In the long term, we shall be seeking a permanent juridical solution under the auspices of the Geneva Agreement and under international law.

I look forward to the support of this honourable House as we defend our right to exist, our right to development, our sovereignty and our territorial integrity.

Mr. Speaker, I thank you. [*Applause*]

Mr. Speaker: I thank Your Excellency for the opportunity afforded to us to hear from you first-hand about the unacceptable situation which exists on the western border of Guyana. We are grateful that you have explained that situation to us in such detail and I must express how deeply troubling that explanation has moved us and certainly place us in a position to appreciate the dangers to Guyana's future development. We are deeply grateful and thank you Mr. President.

Sitting suspended at 3.10 p.m.

His Excellency the President departed the chamber.

Sitting resumed at 3.16 p.m.

PUBLIC BUSINESS

GOVERNMENT'S BUSINESS

BILLS - Second Readings

CONSTITUTION (AMENDMENT) BILL 2015 - BILL NO.1/2015

A Bill intituled:

> "AN ACT to amend the Third Schedule relating to Article 222A of the Constitution to provide financial autonomy to certain entities." [*Attorney General and Minister of Legal Affairs*]

Mr. Speaker: Hon. Members, we will now proceed with the second reading of the Constitution Amendment Bill 2015- Bill No. 1/2015 published on the 18th June 2015.

Attorney General and Minister of Legal Affairs [Mr. Williams]: I rise to move that the Constitution (Amendment) Bill 2015 - Bill No.1/2015, published on the 18-06-2015, be now read a second time.

This piece of legislation might appear to be somewhat tepid but I can assure you and this honourable House that it is very phlegmatic in its consequences. It raises a question of governance – rather I should say good governance - and it seeks to restore due constitutionality and the independence of certain constitutional commissions and bodies.

The Explanatory Memorandum states that the Bill seeks to amend a Third Schedule relating to Article 222A of our Constitution. "…to add named entities with the intention of enhancing the functioning of those entities by guaranteeing and strengthening their administration and control of moneys allocated to them for carrying out their functions pursuant to the Constitution."

Article 222A of the Constitution provides:

> "In order to assure the independence of the entities listed in the Third Schedule…"

These entities are the Ethnic Relations Commission, the Human Rights Commission, the Women and Gender Equality Commission, the Indigenous Peoples' Commission, the Rights of the Child Commission, the judiciary and the Office of the Auditor General.

A literal interpretation of the provisions conveyed is that the seven entities listed in the Third Schedule are independent entities. Article 222A, however, seeks to assure or guarantee their independence by providing a mechanism in paragraph 222A (a), that is:

> "The expenditure of each of the entities shall be financed as a direct charge on the Consolidated Fund, determined as a lump sum by way of an annual subvention approved by the National Assembly after a review and approval of the entity's annual budget as a part of the process of the determination of the national budget;"

In listing those seven to the exclusion of the entities listed in clause 2 of this Bill brings easily to mind the Latin maxim *expressio unius est exclusio alterius* which means to say "that which is omitted is understood to be excluded." Therefore, as I said, it raises serious consequences if those commissions listed in this Bill were to be excluded as not being surely and purely independent.

Those commissions listed in the Bill before us today include the Judicial Service Commission, the Public Service Commission, the Police Service Commission, Teaching Service Commission and the Guyana Elections Commission. These are all independent entities in their own right by virtue of the provision of articles 226 (1) and (7) of our Constitution.

Article 226 (1) provides that:

> "…in the exercise of its functions under this Constitution a Commission shall not be subject to the direction or control of any other person or authority."

Sub paragraph (7) provides:

> "…the expression "Commission" means the Elections Commission, the Judicial Service Commission, the Public Service Commission, the Teaching Service Commission, or the Police Service Commission:"

The Chamber of the Director of Public Prosecutions is independent by virtues of the provisions of 187(4) which provide that:

> "In the exercise of the powers conferred upon him or her by this article the Director shall not be subject to the direction or control of any other person or authority."

3.22 p.m.

Another listed entity, the Public Procurement Commission, according to article 212W, its

> "….purpose of which is to monitor public procurement and the procedure therefor in order to ensure that the procurement of goods, services and execution of works are conducted in a fair, equitable, transparent competitive and cost effective manner according to law…"

Article 212W (2) then provides:

> "The Commission shall be independent, impartial, and shall discharge its functions fairly."

Equally, the Public Service Appellate Tribunal is constituted under article 215A, to receive appeals from employees of the Public Service Commission.

Article 215A (2) provides that in deciding any question arising in an appeal brought to the tribunal or an application made to it, no member of the tribunal shall be subject to the direction or control of any other person or authority.

Lastly, it is the Office of the Ombudsman which is also listed in the Bill before this honourable House.

This office is established by article 191 (1) of our Constitution and it function is expressed in article 192 (1):

> "…investigate any action taken by any department of Government or by any other authority to which this article applies, or by the President, Ministers, officers or members of such a department or authority, being action taken in exercise of the administrative functions of that department or authority."

The independence of the Ombudsman inheres in article 192 (4) which provides that in determining whether to initiate, continue or discontinue an investigation the Ombudsman shall act in accord to with his or her borne individual judgement.

It is in light of these premises that we seek to assure the independence of these entities, before us today, in this Bill, by amending the Third Schedule of the Constitution to add them to the list therein.

The passage of this Bill through this honourable House requires, notwithstanding the soothsayers, only a simple majority when one has recourse to article 164 (1), (2) (a) and (b) and the *proviso* thereto.

Article 164 (1) provides for a simple majority, article 164 (2) (a) for a referendum and article 164 (2) (b) for a two-thirds majority. The articles for the referendum are listed therein paragraph (2) (a) and the articles for the two-thirds majority are listed in paragraph (2) (b). It simply means that if article 222A is not listed under the referendum provisions nor is it listed under the two-thirds majority provisions, it could only be by virtue of not being listed therein, that it is required to be under article 164 (1), which provides for a simple majority.

To argue by analogy, in the Ninth Parliament, article 61, was amended by the would-be Opposition and we believed, since article 61 provided that three months could not have been exceeded in determining the first sitting of the National Assembly after an elections, the Government pushed through that Bill on the same basis as this one, that is, if there is recourse to article 164 (2) (a), that is, the referendum provisions, article 61 will not be therein, and if there is recourse to article 164 (2) (b), the two-thirds majority provisions, article 61 will not be found therein.

Mutatis Mutandis, in the same manner, it follows that since article 222A is not in the referendum provisions or in the two-thirds majority provisions, it has to be somewhere, and it could only be in article 164 (1), which requires passage by a simple majority.

I rest my case Mr. Speaker. [*Applause*]

Minister of Social Protection [Mrs. Lawrence]: I stand in support of the amendment of the Constitution Bill No. 1 of 2015, as we in the Government believe that the independence of the

named commissions and offices is critical for the promotion of our democracy. The amendment being proposed herein seeks to entrust greater responsibility for the management, functioning and control of these institutions within the very bodies.

Sir, democratic Constitutions are based on the philosophy of the decentralisation of powers, and ours is no different. The Bill before us today seeks to enforce the guiding principles in its position of an amendment to the Third Schedule of the Constitution by giving the institutions the power of administering and controlling moneys allocated to them for the execution of their duties. This reduces the dependence on other institutions, such as the executive arm of the Government, thereby lessening the room for encroachment and interference. The efficiency of these institutions is limited when they are forced to depend on the executive for funding. This is inexcusable and clearly mocks the independence that the architects of this Constitution intended.

Consider the consequences and implications for these commissions if the Government were to refuse or delay the provision of much needed funding or resources for their effective functioning. We have seen the countless hiccups and lack of transparency that have occurred in the past as a result of this.

Sir, permit me to quote from a presentation made by the Hon. Attorney General in this National Assembly in 2013:

> I personally encountered it, in dealing with the elections of 2006, with the Guyana Elections Commission (GECOM) because suddenly the honourable gentleman Dr. Luncheon was suddenly the person who had to be looked to for money for GECOM. There were elections afoot; there were scrutineers to be paid; things had to be bought, and at that time we were dealing with biometrics. All of those things were being introduced and everything was dependent on the money coming from the budget agency head, who happened to be Dr. Luncheon. I do not know how the independence of GECOM will be guaranteed, when we had to look to the piper by the name of Dr. Luncheon.

He further stated, Sir:

> It was a mockery of the guarantee of independence, contemplated by the builders of this Constitution who erected that architecture.

At present some of the commissions and offices are not functional; some are even non–existent, as in the case of the Public Procurement Commission. It is this administration's intention, however, to ensure not only that they are operational but that they receive the resources for optimal operation. Fully operational independent institutions are critical for a democracy because they serve to administer checks and balances and keep governments accountable. They provide recourses and redress for citizens and prevent illegalities and unconstitutional conduct. These institutions largely represent the voices of the people we serve, and are at the very heart of social protection. Proper management and oversight, by these institutions, will lend to improving the economy, efficiency and effectiveness of Government operations and offer to Guyanese, a well deserving social protection.

These institutions ensure a fair and just system, where the primary benefactors are the people of Guyana, regardless of their economic status, political persuasion or ethnicity. They provide a restraint on abuse of power and arbitrary behaviour. Many of these institutions provide independent mechanisms to ensure that issues are addressed and managed in a befitting manner to correct errors. One prime example is the Office of the Ombudsman, the existence of which ensures that the Government performs its duties in the interest of its citizens and holds it accountable for violations.

It is easy to see how interference by the executive could compromise its effectiveness and result in the waning of public trust, something that this Government, this A Partnership for National Unity/Alliance For Change (APNU/AFC) Government, highly esteems. For this reason, I urge this honourable House today to support this amendment which will assure Guyanese of the independence of these commissions and offices and renew their faith in the Government, and the country, to offer them social protection by ensuring that there is no political interference in the institutions established by the Constitution to safeguard their rights and the democracy of Guyana.

It is, therefore, Sir, in the interest of this Parliament, which comprises the people's representatives, to empower these institutions and reinforce checks and balances in the system. I ask that these institutions be granted autonomy and be allowed to exercise the powers vested in them independently and objectively. They must be allocated the resources and skills required to

improve their effectiveness. Hence, this request to add the named commissions and offices to the Third Schedule to restore public confidence in their functioning must become a reality.

I thank you Sir. [*Applause*]

3.37 p.m.

Vice-President and Minister of Foreign Affairs [Mr. Greenidge]: It is with a great deal of pleasure and perhaps an unusual amount of pride, that I think I can stand today to lend my support to this Bill which is before us. So, I take the opportunity to explain a little of the background of the Bill.

This Bill seeks to rescue the institutions, concerned with the protection of our fundamental rights, from the clutches of the Executive. I wish to remind the House that that intention, and in the first iteration of this Bill, came to this House in 2012, under my hand. The Constitution (Amendment) Bill was preceded by a motion in 2012, calling upon the Government to make arrangements to ensure the autonomy of the constitutional offices mentioned under titles one to six of the Constitution.

Prior to that motion, the two parties, the A Partnership for National Unity (APNU) and the People's Progressive Party/Civic (PPP/C), had a discussion on the importance of this matter. I am explaining this because, of course, as often happens in politics, politicians take the opportunity, after the fact, to rewrite the history. The PPP/C and the APNU agreed, at that time, that it was important to amend the Constitution as it now stands because the Fiscal Management and Accountability Act, together with the budgetary practices of the House, did not make for the independence of the constitutional bodies. At that time, the PPP/C declined to join us in amending the Constitution because they argued that the article pertaining to the Constitution, therefore, could not be amended without a 2/3 majority.

Subsequent to those discussions, which took place in March and April, 2012, we investigated the constitutional provision. As the Attorney General just indicated, we got it on excellent authority, outside of the House, that this particular article was not one which required a 2/3 majority and could be amended by a simple majority; and we therefore indicated that.

The motion underlying this Bill was passed. It was followed in 2013, by a Bill, again, which I had the privilege of piloting and which went through the House; the Bill was passed. Just to show the intent of the Government, notwithstanding the fact, the Attorney General and the Government – well at least the Attorney General apparently - advised the President not to sign the Bill on the grounds that it was illegal.

We came into office in 2015, three years after a glaring omission was recognised, three years after all the parties, on all sides, recognised that this threat to our Constitution needed to be removed. Today, I am delighted that we are able to give effect to that decision – that recognition by the Parties.

Also, I should say that, I think, one is especially proud of the fact that this A Partnership for National Unity +Alliance for Change (APNU+AFC) coalition that we have, notwithstanding the fact that they are now in Government, have no difficulty putting in place a Bill and seeking to have it enacted which, in effect, would curb the excesses of the Executive. I would like to emphasise this.

We have before this House a Bill that we struggled to pass, after a motion and a Resolution. After having passed it, it was in fact to me, I may be wrong, but let me say here - I am flanked by two Colleagues that might want to squeeze me for saying this - that it was the first time the APNU and AFC operationally, not only agreed on a principle, but saw it through to the end. The Bill was passed through the three stages and we voted for it, notwithstanding the opposition of the PPPC/C. We are now proud to say that we live by that principle, whatever it means.

I would like to say that articles one to six of the Constitution, deals with the entities protecting our fundamental rights. Some of these have been mentioned by my Colleagues, if not all of them, the Attorney General and the Hon. Minister Lawrence, indicating that a range of bodies/entities, charged under the Constitution with protecting us as individuals, institutions and citizens from the excessive exercise of power by the Executive, the legislature and the other arms of the Government. The autonomy which was called for in article 222A of the Constitution is important, in the sense that article 222A has an invocation which says as follows:

> "In order to assure the independence of the entities listed in the Third Schedule –

(a) the expenditure of each of the entities shall be financed as a direct charge on the Consolidated Fund, determined as a lump sum by way of an annual subvention approved by the National Assembly after a review and approval by the entity's annual budget as a part of the process of the determination of the national budget."

At one stage there were criticisms that this puts into the hands of maybe the Chancellor of the Judiciary, the Registrar or the Director of Public Prosecutions (DPP), the capacity to spend without constraint. This is nonsense. The following article 222A (b) says that:

> "each entity shall manage its subvention in such a manner as it deems fit for the efficient discharge of its functions, subject only to conformity with the financial practices and procedures approved by the National Assembly…"

So, it is not a blank cheque. If I continue with that quotation:

> "…to ensure accountability; and all revenues shall be paid into the Consolidated Fund"

This charge that article 222A sets out, does not give the entities the right to ask for whatever they want and to spend it however they want, without the approval of the House. It is constrained. So that particular complaint, which the then Attorney General and the Minister of Finance made, as a justification for not approving the Bill, is spurious, invidious and incorrect. The Constitution does not give such powers to these entities.

That is one dimension of autonomy, as regards an operational entity. The other dimension has to do with the way, for example, the Members of the Public Service Commission, the Judicial Service Commission and the Appellate Tribunal, are appointed and how they function. I would not like us to think that, by only passing or amending the Regulations as they pertain to financial autonomy, we have solved the problem, but it is an important part of the issue. As I read to this House, article 222A (a) requires that the budget for these entities be approved in a particular manner.

If one looks at the Fiscal Management and Accountability Act, which contains a Schedule, that Schedule includes those agencies that are supposed to be autonomous. I mention this because the Schedule, which includes autonomous agencies, is a part of an Act which gives certain powers to

the Minister of Finance and the Finance Secretary (FS), which constitutes a breach of the provisions pertaining to the manner in which the moneys should be provided. Whilst they are supposed to receive their moneys as lump sums, for example, the Schedule at the back of the legislation lists a range of budget agencies. The budget agencies are defined and are listed in the Fiscal Management and Accountability Act. They include some of these agencies that are listed as Schedule Three in the Constitution, for example, the Auditor General. Immediately, there is a conflict between the Fiscal Management and Accountability Act and the Constitution. More than that, it enables the Minister of Finance to modulate the flow of funds to these entities. One would remember that the Constitution says that they must get it as a lump sum.

The Fiscal Management and Accountability Act states that, the Minister goes to the House and the House then approves the sum. They get the amount, when and how the Minister deems fit. He may, at any point, for purposes that he deems appropriate, refuse to disburse moneys to them, during the course of a year, notwithstanding the fact that moneys have been approved for them. That is inconsistent with autonomy.

When the budget is submitted to the Minister of Finance, the autonomous agencies, let us say for example, the Registrar or the Supreme Court, submits that budget, the Registrar does not submit that budget through his/her Minister as such. It goes to the Minister of Finance, who then amends it before it comes to this House. If it were an autonomous agency, as for example, in the United States of America (USA), the Registrar provides that request directly to the House. In fact, in the USA, it goes directly to the President who is obliged to re-direct it to the House, without amendment. The House then debates it and agrees on the sum, after it would have amended it as appropriate. So it is the House that has that responsibility.

Under the existing arrangements, specifically because the Constitution is undermined by the Fiscal Management and Accountability Act, the Minister of Finance, in the first instance, amends that budget. The Minister and his or her Finance Secretary are then in a position to disburse, as they like, notwithstanding the fact that it is they who have placed the figure into the budget, but not as a lump sum.

What we are saying is, under the Constitution, there are a set of rights associated with bodies that are deemed to be bodies protecting our fundamental rights. In the Constitution, under titles one

to six, there is a discussion of those bodies. However, when one goes to the Schedule Three of the Constitution, he/she will find that there are only five bodies. We have been through all of this before. I do not propose to go through all of those details again. As I said, in 2012, there was a full debate and the motion was in full support and again in 2013. The entities listed under the Third Schedule are very restricted and are perhaps not even the most critical of the agencies protecting our fundamental rights.

3.52 p.m.

So, what this amendment to the Constitution seeks to do is to remedy that omission or oversight. It seeks to do that by adding to Schedule Three, those entities which, in the Constitution, fall under the discussion, titles one to six, as entities which protect our fundamental rights. These are, as our Colleagues will see from the Bill before us, under section 2: the Chamber of the Director of the Public Prosecution, Judicial Service Commission, Public Service Commission, Police Service Commission, Teaching Service Commission, Public Service Appellate Tribunal, Office of the Ombudsman, Guyana Elections Commission and so forth.

There can be no doubt that these are very critical agencies. If the Constitution identifies and specifies them as agencies guarding our fundamental rights, when it comes to making sure that they are autonomous and not interfered with in the manner that the Attorney General read from the relevant Clauses, one then has to agree that the entities listed under the Third Schedule have to be incomplete because it is a fraction of those from which it draws, from titles one to six. That is the logic behind this dry Bill, as it appears before you, Mr. Speaker.

There are, of course, a number of issues that have been raised, with respect to the appropriateness of the change. Those issues were dealt with in the debate. What I wish to say is that the search to control everything, the obsession of the Executive of exercising control over all the elements of the organs of the State, is what lay behind the other problem, namely, what is found in the Fiscal Management and Accountability Act.

The Fiscal Management and Accountability Act is a subsidiary Act. It was forced upon the People Progressive Party/Civic (PPP/C) Government by the donors. The donors required the PPP/C Government to establish arrangements that would allow the Government to get the approval of Parliament for expenditures, in a manner that was transparent and then to implement

them in a manner that the public could follow and it could be clear that those expenditures had to have been authorised and the steps of authorisation could be specified. The differences between the Fiscal Management and Accountability Act and the Financial Regulations that it succeeded, are that this Fiscal Management and Accountability Act sets out a number of steps that were implied or taken as given in the original financial regulations. So, it specifies how an authorising officer has first of all to sign a document in which he requisitions the funds and that he is not authorised to sign such a document, if the funds are not available under the budget. If the funds are available and they are inadequate, he still has to go through a specific process, he cannot simply spend.

What I am trying to say is that the problems that led to 11th May, started with the problems of breaches of the Constitution, breaches that pertained to financial transactions, which led, in June 2012, to the threat and then delaying of a No Confidence Motion. The No Confidence Motion lay behind the breaches of the privileges and the undermining of the role of these institutions that protect our fundamental rights. I hope that I am not exaggerating the importance of the constitutional dimension, but I think that it is exceedingly important.

Therefore, it is a particularly happy time that we, as the Opposition who first of all raised this problem and pursued it relentlessly through the period from the election to 11th May, could find ourselves laying amongst the first of the Bills that we have laid, this particular Bill, which serves to curb the excesses which Guyanese are becoming entirely fed up of. They are fed up with these practises, abuse of the legislation and the abuse of constitutional offices. Therefore, the idea here is that we, now in passing this Bill and having it enacted by the President, are in a position to ensure that, for example, of what may seem an innocuous and trivial thing, for example, when the Registrar of the Supreme Courts or the Director of Public Prosecutions wants to undertake a particular series of actions and those actions appear inconvenient to the Government, it is quite easy or possible for the request for funds, which would include investigations or equipment to ensure that they can do certain types of analysis, and field work. The Minister of Finance and his staff can easily exercise that request from the submission by the DPP. In that way, actually, cripple it operationally, without the Parliament even having the chance to discuss it or being given an explanation.

The Parliament does not know what the Minister cuts from the request that comes from any agency. The request that comes to this House is the request of the Minister of Finance. The Minister of Agriculture asks for $2 billion for capital expenditures, the Minister of Finance cuts it and then brings it to the House, as the Government's request for the Ministry of Agriculture. The Commissioner of Police may have asked for divers or special investigators to do certain things, but when they come here they could have been cut. We do not discuss it; we do not know. Therefore, it is very important to understand the significant of article 222A (a), that is that the amounts be provided by way of a lump sum to these entities, but also, as part of that request, since it is an autonomous agency, it is not to be treated as a budget agency, which requires it to go through hoops that have to do with agencies that are in effect sub- servant.

There is a provision in the Fiscal Management and Accountability Act, that allows the Financial Secretary to interrogate the head of any budget agency and one realises the significant of the that, for example, the Registrar. The Finance Secretary can ask about anything that money is spent on, including cases. Now, the previous Attorney General denied that this could ever happen, but we have seen similar and worst occur, in terms of the exercise of powers vested in some of our technicians, under the direction of politicians.

Perhaps, I am making a long issue of this Mr. Speaker and Colleagues because it is very important. I wish to say to you that the suggestion that, at any point, we had agreed with any other parties that this matter could not be dealt with by way of a simple majority, by passage through the House, is false. The discussions that took place before were discussions where it was agreed that these changes need to be made, but the Government found it useful at that time to hide behind the excuse that one needed to discuss the modality of getting a 2/3 majority. When it was obvious that one did have the modalities, all the two sides had to do was to agree because they had 100 per cent majority, not 2/3.

If one looks at the Attorney General's presentation in the debate on the second reading of the Bill, Colleagues would recall that he was saying, "Are you suggesting that Attorney Generals or Judges have not been autonomous, have they not been able to make the decisions they want; have they not gotten the money they was supposed to get?" The Speaker at the time questioned a comment I made about a previous Attorney General and others, complaining about moneys due to them not being paid, by way of retaliation against decisions that were made. A former Judge

of the High Courts was denied moneys and it was in the newspapers. They have said it publicly and I was able to provide your predecessor with that information Mr. Speaker. The point that I am making here, is that this Bill seeks not the remedy, if you like, an intellectual *curiosum,* something that is possible. It is to remedy, in part, things that have actually taken place in the past and we are determined that it should not be allowed to occur again.

I will rest the case at this point and urge Colleagues, not merely to support this particular Bill, but to ensure that the spirit that lies behind this Bill, be remembered. So that in going forward, in relation to our own Bills - these are old Bills in a sense because they ought not to be before us again - the Bills to which I made reference, the Fiscal Management and Accountability Bill and the others, because anyone could see that they needed to have been passed, but as we move to new Bills that are fashioned by this new Government, that spirit be respected. Namely that we ensure that we fashion Bills that are fair to the organs of Government, they do not seek to dominate, for example, the legislature, that they do not seek to overwhelm the Executive arms of the State and so forth. That is the importance of this.

I invite Colleagues to lend their support to this Bill and to ensure that they lean on the President, although I am sure that he would not be need to be leant on to sign it at the appropriate point, when we shall have approve it, so that we can keep our faith with the public, who has elected us to do just this. I thank you very much. [*Applause*]

Mr. Williams (replying): If it pleases you Mr. Speaker, I would like to thank the Hon. Minister of Social Protection and congratulate her on her presentation and the Hon. Vice-President and Foreign Affairs for sounding like the Minister of Finance at this time. I know that it is something that is dear to his heart. He has led in this House, on this issue and in the context of the recognition that even though one expresses to be independent, if he/she is not in control of his/her own finances, then one assuredly is not. My sister reminded me of my presentation in another incarnation, as an Opposition Member of Parliament (MP), about "Who pays the piper calls the tune".

This Bill being brought back here, when passed, would be a victory for due constitutionality. I wish to say that it is not merely adorning the Constitution with these entities now being

expressed to be truly independent. We have recognised that in the Schedule, as it exists, the judiciary is there and its independence is supposed to have been assured, but what happened?

4.07 p.m.

There was no lump sum payment for the judiciary and in the very last session of Parliament that we had with the last budget, the Hon. Vice-President, the then Opposition MP for the Ministry of Finance, had actually gotten the Opposition and the Minister of Finance to accept that they must make a provision for lump sum payments before we processed onto the Budget. They agreed, but what happened? We have received a complaint from the honourable Chancellor that they had completely refused to deal with any lump sum arrangements on the capital expenditure side. They agreed with us on the one hand and then took it back after we left the budget presentation. We would need a political will. As my Colleagues had said, what we are trying to engender is a new culture that is irrespective of which Government is in power, the Guyanese people must be allowed to breathe the sweet scent of justice. There would be no question of this Attorney General advising the President of Guyana not to assent to any Bills passed by this honourable House. So with these few words, I commend this Bill to this honourable House.

Question put, and agreed to.

Bill read a second time.

Assembly in Committee.

Bill considered and approved without amendments.

Assembly resumed.

Mr. Williams: Mr. Speaker, I rise to report that the Constitution (Amendment) Bill 2015 – Bill No. 1/2015 was considered in Committee, clause by clause and passed without amendments. I move that the Bill be read a third time and passed, as printed.

Question put.

First Vice-President and Prime Minister [Mr. Nagamootoo]: May I, Mr. Speaker, ask for a division?

Assembly divided: Ayes 33, Noes 0, as follows:

Ayes

Mr. Rutherford

Mr. Rajkumar

Mr. Persaud

Ms. Patterson

Mr. Figuera

Mr. Carrington

Mr. Allen

Mr. Adams

Ms. Bancroft

Ms. Wade

Ms. Henry

Mrs. Charles-Broomes

Dr. Cummings

Mr. Sharma

Mrs. Garrido-Lowe

Ms. Ferguson

Mrs. Hastings-Williams

Mr. Holder

Mr. Gaskin

Mrs. Hughes

Mr. Patterson

Lt. Col. (Ret'd) Harmon

Mrs. Lawrence

Mr. Trotman

Mr. Jordan

Dr. Norton

Mr. Bulkan

Dr. Roopnarine

Ms. Ally

Mr. Williams

Mr. Ramjattan

Mr. Greenidge

Mr. Nagamootoo

Motion Carried.

Bill read the third time, and passed as printed.

Sitting suspended at 4.17 p.m.

Sitting resumed at 5.17 p.m.

Former Presidents (Benefits and Other Facilities) Bill 2015-Bill No. 2/2015

A BILL intituled:

"AN ACT to provide certain benefits and other facilities for former Presidents." *[Minister of Finance]*

Mr. Jordan: Mr. Speaker, I rise to move that the Former President's (Benefits and Other Facilities) Bill 2015-Bill No. 2/2015 published on 2015-06-18 be now read a second time.

As the explanatory memorandum indicates, the Former President's (Benefits and Other Facilities) Bill 2015-Bill No. 2/2015, makes pellucid the reasons why this Bill is before this honourable House for debate and passage.

First, the Bill seeks to repeal Act No.12 of 2009 and replace it with this Act. This is a very important sentence and part of this Bill, so I would like to read it again, the Bill seeks to repeal Act No. 12 of 2009 and replace it with this Act.

Secondly, it provides for greater specificity, acceptability and predictability of the entitlements of Former Presidents.

And thirdly, it specifies the conditions under which the benefits may be enjoyed.

By now, everyone should be aware that the genesis of this Bill lies in Resolution No. 22 which was passed in the National Assembly on the 2nd August, 2012. However, the antecedent of that Resolution was Act No. 12 of 2009. The preamble to Resolution No. 22 says in part:

"AND WHEREAS the provisions of the Former President's (Benefits and Other Facilities) Act 2009 has caused concern and resulted in adverse reaction among sections of the citizens of Guyana, in particular as to the ability of the country to sustain the benefits set out therein.

RESOLVED,

That this National Assembly immediately takes steps to have the aforementioned legislation repealed without prejudice, however, to the payment of benefits;"

Although the *Merriam Webster Dictionary* defines the word "immediately" as being without any delay, I think we would be forgiven for bringing this Bill almost three years, after approval of

Resolution No. 22 of 2012, given all the circumstances, obstacles, challenges and manoeuvres that were made to frustrate the earlier passage of this Bill.

5.24 p.m.

When the Bill was eventually passed, with the combined strength of A Partnership for National Unity (APNU) and the Alliance For Change (AFC) sitting on the opposite side of this House, even though they possessed the majority, the then President failed to assent to the Bill to give it the legal force of the law.

In reading through the Hansard in preparation for this debate, I was struck by the quality of the arguments, and the eloquence and forcefulness of the speakers who supported the Bill. Two of the Speakers are here with us today – Hon. Vice-Presidents and Members, Mr. Carl Greenidge and Mr. Khemraj Ramjattan – but, this time, they are seated on the eastern side of the House, the right side, I may add. The two Members will follow me to speak in support of the Bill. They are formidable speakers in their own right, and I will not deign to match their oral acumen.

One may well ask why, in the face of the persuasive, morally sound arguments, did the then President not assent to the Bill? If I were to essay an answer, I would say that it lay in vested, partisan interests, where the larger picture of the state and size of our economy and our inability to sustain such open-ended, uncapped, multiple benefits of former Presidents were subsumed under narrow, self-serving interests and considerations.

In speaking to the merits of this Bill, reference has to be made to the pension of former Presidents as this will lay the basis as to why it is necessary to curb and cap the benefits as they exist now. Permit me, therefore, Sir, to quote some very revealing statistics. According to the International Monetary Fund (IMF), in 2014, the Gross Domestic Product (GDP) by purchasing power parity per capita for Guyana was US$6,895. This figure placed Guyana at 120 out of 187 countries, well above Zambia, for example, at US$4,064 and number 140. However, Guyana's per capita GDP was the second lowest among the Caribbean Community (CARICOM) countries with Trinidad and Tobago topping the list at US$32,139 per capita, more than four and a half times that of Guyana's. At the other extreme, there is the United States of America (USA) at 10 with US$54,597 per capita, nearly eight times the size of Guyana.

Clearly, those countries are in a better position to offer their former Presidents attractive packages, consistent with their better ability to pay.

Let us see how we shape up. The former President of the USA is paid a taxable pension that is linked to the annual rate of basic pay for the head of an executive department or a cabinet secretary's salary. A local comparison would be the salary of a minister which currently stands at $579,000 per month or US$2,895. So, had we copied the formula applied to our financially better off friend, the USA, a former President in Guyana would have been receiving a gross pension equivalent to US$2,895 in keeping with our current circumstances and ability to pay. Instead, we have a situation where a former President is enjoying a tax-free pension; note, the United States of America's former President is paid a taxable pension. We have a former President enjoying a tax-free pension that is equivalent to 7/8 of the salary of a sitting President. The current salary of the sitting President is $1,690,934. So, the current pension of a former President is $1,427,067 tax free.

The absurdity of this anomalous situation is laid bare when the pension of a public servant is considered after he or she would have laboured for 33 1/3 years. Here, I want to make reference to a recently retired graduate Headmistress who had worked for 417 months. That would make, approximately, 34 ¾ years, but, unfortunately, her pension can only be calculated at a maximum of 33 1/3 years or 400 months. This public officer's reduced pension amounts to $86,857 per month. The pension so computed would be paid to this former public officer for the rest of her natural life, except in those circumstances when, by Government's edict, she may or may not enjoy a small increase.

Now, compare this with a former President's pension which not only enjoys a higher fraction relative to his or her salary, but is also subject to automatic, not discretionary increases whenever the sitting President's salary is increased. This, conceivably, could lead to a scenario where a former President could enjoy a pension that is larger than his income at the time he demitted office. Sure, the President could be considered *primus inter pares*, that is, first among equals, among public officers but that can hardly be the basis or justification for the size of his pension, the vast disparity between his pension and those of public servants or, indeed, the difference between his pension and that of former Presidents of countries which are in better positions than ours.

The Guyanese people are aware and accept that former Presidents must live out their natural lives in dignity. As shown earlier, just on the pension alone, former Presidents are adequately compensated. They can live comfortably on it, regardless of whether they choose to do so in a hamlet or a mansion by the seaside with a lighted and heated swimming pool.

We, the taxpayers, will continue to be appalled by this gross inequality, even as we may have resigned ourselves to its very existence. What taxpayers would not countenance is that, on top of such a humongous pension, a former President is accorded an equally outrageous and scandalous other benefits package. **[Mr. Bulkan:** Scandalous.**]** Yes, scandalous. Quietly, this package has sparked controversy for its size, quantum and sheer audacity of such a package being developed, presented and passed by this House - of course, not without fierce opposition - and assented to by a sitting President who, soon thereafter, became its first beneficiary.

The uncapped, taxpayer-funded benefits package attributed to former Presidents is vulgar; it lacks the *imprimatur* of important moral values. It reflects a level of arrogance, self-righteousness and entitlement that degrades servant leadership. It thumbs its nose at the hard-working taxpayer who labours mightily to fund the tax-free salary of the sitting President and who, under the current Act, is asked to acquiesce to his or her tax dollar being used to fund a tax-free pension and other benefits package for former Presidents. It disregards the plight of lower and middle class families whose taxes are funding these exorbitant, excessive and uncapped benefits.

The following information, which was presented to this honourable House and subsequently reported in the *Kaieteur News* dated 11th July, 2015, lays bare the vulgarity of these benefits. The State spent more than $45 million on former President Bharrat Jagdeo's electricity bill, transportation and security between December, 2011 and February, 2014. [**Mr. Williams:** What? How much did it cost?] It cost $45 million. During that period, his average monthly electricity bill was almost $370,000, 8.7 times the minimum wage. His unlimited security bill cost, on average, $753,000 per month, 17.6 times the minimum wage and 1.7 times the current salary of a senior Minister of the Government. Also, during that period, $15.2 million was spent on transportation with ¾ of that amount being spent between December, 2013 and February, 2014. Here, we are talking about three months where the former President was able to spend almost $15 million just in transportation, a period that just happened to coincide with the

President seeking overseas medical attention. Contrast this latter perk with the average citizen having to contend with the Georgetown Public Hospital Corporation (GPHC) or other local medical centres and the debt-ridden National Insurance Scheme (NIS) should he or she wish to seek medical attention for any serious ailment.

On top of all these benefits, the Guyanese taxpayer is expected to meet the unlimited expenditure of former Presidents' overseas and local medical treatment; water; telephone services at the place of residence in Guyana; services of personal and household staff, including an attendant and gardener; services of clerical and technical staff; provision of motor vehicles owned and maintained by the State; toll-free road and bridge transportation in Guyana; annual vacation allowance equivalent to the cost of two first class return airfares provided on the same basis as that granted to members of the Judiciary.

If I may be allowed to digress a bit here, Mr. Speaker, on this latter one - just to show how open natured benefits can cost the Treasury - just a few months ago, a certain former President made a claim for two first class tickets that cost the Treasury $7,466,700. The tragedies of this are several: if one leaves a benefit as open as this, then someone can pick the time that he or she wants to go on vacation – the high season - and claim the high season ticket cost. He or she can choose the longer way around and receive a bigger entitlement and so on. In this case, even though one does not have a spouse, it seems as if he or she can still claim two tickets for oneself.

It drives home the point that not only do these benefits need to be capped, but there must also be greater clarity, definition and specificity for which this Bill lays claim. We should not be entertaining claims for spousal benefits where no spouse is acknowledged by the claimant. For completeness, the former President claims a tax exemption status identical to that of a serving President while his or her spouse and children are also entitled to certain benefits as part of his or her overall package.

In contrast to this, a more structured, transparent approach is adopted by other jurisdictions. For example, in addition to his taxable pension, a former President of the United States of America gets a budget for a small staff, including office help. Every other allowance and benefit granted is capped. For example, six months after the President of the USA leaves office, the total annual

basic compensation for his office staff cannot exceed US$150,000, and this would be a maximum period of 30 months.

5.39 p.m.

Thereafter, the aggregate rates of staff compensation for a former President cannot exceed $96,000, annually. In terms of medical expenses, former Presidents and their spouses, widows and minor children of the United States are entitled to treatment in a military hospital but this does not preclude them from enrolling in private health care plans. So, in this case here, go to the Georgetown Public Hospital Corporation and you can have your own private plan.

Even as these benefits are capped and are considered reasonable in the context of a high per capita income society like the United States, it has not escaped the attention of the public there. About three months ago, the House Oversight Committee of Congress passed a measure that would limit federal taxpayer money for former Presidents. The Bill provides former Presidents with lifetime benefits of US$200,000 and pays a maximum of US$200,000 per year as allowance.

I do not believe that taxpayers should be footing the bill for all these benefits while former Presidents are engaged in gainful economic activities and it seems that I am not alone in this observation. Again, in the mighty United States of America, for example, Congress is considering a Bill to unfund a former President were he to earn more than US$400,000 in a year under circumstances just described. Thus, if a former President earned other income in excess of US$400,000, he will not receive his pension. If he were to earn US$300,000, then he would only be entitled to claim US$100,000 in pension benefits. Just last month, also in the USA, Iowa Senator Joni Ernst called for legislation to reform the system for providing former presidents with certain perks and benefits. She said that taxpayers should not be on the hook for subsidising former Presidents' lives to the tune of millions of dollars.

In Zambia, for example, a country that was referenced earlier, the Benefits of Former Presidents Act, Chapter 15, provides for a former President to receive a tax-free pension equivalent to 80% of the salary of the serving President plus other allowances, all of which are capped and time-bound. Importantly, though, section 5 (1) of that Act makes provision as follows:

"The pension and other benefits conferred by this Act shall not be paid, assigned or provided to a former President who is-

(a) in receipt of salary from the Government; or

(b) engaged in active politics.

(2) A former President shall be disqualified from the pension and other benefits conferred by this Act-

(a) if he ceases to hold office on the ground of wilful violation of the Constitution or of misconduct; or

(b) if he is convicted of an offence and sentenced to imprisonment for a term exceeding six months;"

You would note some familiarity with the Bill before us today. The limited benefits that are provided in that Act are also provided in the Bill:

1. An office
2. One personal secretary
3. Three security persons
4. One administrative assistant
5. Three house employees
6. A diplomatic passport for president and spouse
7. Medical insurance for the former President and his spouse
8. In each year, one return air ticket for the former President and his spouse
9. Funeral expenses on his death

Closer to home, in Brazil, just last month, President Dilma Rousseff, decreed a new ruling limiting pension benefits in a bid to guarantee the country's social security but none compares

with Jose Mujica, the former President of Uruguay, who was known for his frugality and austere lifestyle. His only listed possession was a 20 year old Volkswagen Beetle which was reported to have valued US$1,900 in 2010. Even more impressive for his frugality is Nepal's Prime Minister, Sushil Koirala, who was sworn in just over a year ago. It was reported by Adam Taylor, in the *Washington Post* of 2nd April, 2014 that Koirala owns no land. His worldly possessions consist of three cell phones, one of which is an iPhone and another which does not actually work.

What seems dominant in these examples is that these leaders were not interested in elected office to feast on the proverbial 'hog', but to epitomise the essence of servant leadership. In his seminal essay, *The Servant as Leader*, Robert Greenleaf expounded on servant leadership thus:

> "The servant-leader is servant first -"

He focused more on the growth and well-being of people and the communities to which they belong. It is obvious that such a person cares about others, not about the perks in and out of office or fortifying himself at the expense of the great mass of people. His dignity, his satisfaction and, indeed, his reward come not from pillaging the treasury but from the honour bestowed on him by the people through his elevation to high office and leadership to serve them. So, at a time when we, in Guyana, are faced with a large debt and pressures on the deficit, especially as a result of billions of dollars in unplanned transfers to State corporations, the time is opportune for us to act to cut out waste and unnecessary and uncalled for expenditure. We can begin at no less a place than in this House and no less a time than now to trim the quantum and unlimited value of benefits of former Presidents that were enshrined in the statutes in 2009. This is the subject of this Bill.

In this Bill, we have incorporated the positive features and best practices of several countries insofar as they meet and reflect our local circumstances. Former President Cheddi Jagan was wont to say words to the effect that we cannot live a Cadillac lifestyle in a donkey cart economy. Were he alive, he would have been appalled and disgusted at the entitlements granted to former Presidents that are embodied in Act 12 of 2009 which was assented to by one of his *protégés*.

I believe that he would have applauded the contents of this Bill which seeks to cure the ills of Act 12 of 2009, return a level of decency and civility to our domestic affairs and ease the

financial burden placed on the Treasury as a consequence of that Act. I, therefore, commend this Bill to this honourable House and pray for its swift passage. *[Applause]*

Mr. Greenidge: Thank you very much, Mr. Speaker, I would not take the floor on this occasion. I would like to forego this opportunity. Thank you. *[Applause]*

Vice-President and Minister of Public Security [Mr. Ramjattan]: I had wanted to take the easy way out and say I concur with my good Friend, Mr. Winston Jordon, the Minister of Finance.

Mr. Winston Jordon indicated that in the earlier debate when we had the motion, Mr. Carl Greenidge and I set out the arguments as to why there should be caps under this schema enriched – and I use the world "schema" here, probably punning on the word because it was required that, unless there be those caps, we are going to have extraordinarily large expenditures and it has now been proven… I had missed that *Kaieteur News* report but I heard it from the Hon. Minister of Finance that these expenditures were inordinately high; $375,000 in electricity bill for the former President, Mr. Bharrat Jagdeo, for a month and then $45 million are enough cogent and convincing reasons why these must be capped.

As a matter of fact, I recall that when we had that motion argued and debated here in relation to electricity, we had said that it should be $5,000; water - $5,000; and telephone - $5,000. But we wanted to be generous and, quite frankly, we have increased those to the sum of $25,000 each because we think that that is a sum, more or less, reasonable in the circumstances for those categories - water, electricity and telephone – and that will bring it to the more realistic figure of $75,000 per month for a former President as against $375,000.

I want to also mention that the other little distinction, what we had argued then as against what we have here now, is the definition of "former President" meaning a president who is going to hold office substantively. Earlier, what we had done was to say that they had to serve a five-year term but that would have definitely excluded former President Mr. Donald Ramotar and we did not want to do that to him. **[Mr. Nagamootoo:** Is he qualified?**]** Well, we had the debates about that and I rather suspect that had they been here, they would not have argued against that and you would not have had the very famous 'Chatree', Mr. Anil Nandlall, arguing that that is unconstitutional. He would not have said that.

Mr. Speaker, I believe that there is justice in this Bill in the context of our economy not doing that well - in the context of our country as a whole. There will be people who are going to argue that these are still very high expenditures to be incurred in the category of "other benefits". But we had to do the analysis and compare it to some other Caribbean countries and so on, and, as best as possible, I want to assure you that there is an element of adhocracy and subjectivity in these things. Therefore, we had to come to the numbers. These are the numbers. These are the caps. We could not have given uncapped gardeners, maids and so on. We had to cap them at three clerical staff and three staff in relation to tasks assigned to a president, officially. Non-political purposes must be a qualification. He simply could not go and take the six staff members there to be "politicos". They must be clerical and non-political. We have made the qualifications necessary for those who could be employed. We have even capped that as to how much they can be paid.

I can do no more than say that this Bill should be passed with the haste, I think, that is required of it getting passed. We all now know that former President Mr. Jagdeo might soon come to this House as its Opposition Leader and we might very well have him being a Legislator now. He might want to argue that he is entitled to pension as a former President and also salary as an Opposition Leader. We just heard from the Hon. Minister of Finance…

5.54 p.m.

Mr. Speaker: I wonder if I can ask the Vice-President to confine the observations to the merits of the Bill before us.

Mr. Ramjattan: It is very directly related here, Sir. I will be short about it. Suffice it to say, there are questions being asked out there and even within our National Assembly by some backbenchers and I want to clarify these.

It will not be the case whereby he will get both sums. There is a law, the Pensions (President, Parliamentary and Special Offices) Act, Chapter 27:03, section 3(2), that makes that very clear. So, notwithstanding there being an argument that he has to be paid both the pension of $1.4 million and as the Leader of the Opposition, a salary which, I think, is another $600,000 or $700,000 to bring it to $2 Million, that is not going to be the case. And, in any event, this Administration will not double-dip for that former President or any former President.

The Pensions (President, Parliamentary and Special Offices) Act, Chapter 27:03, section 3(2), states:

> "The President's pension and the Prime Minister's pension shall, if the person to whom it is payable becomes entitled to salary as a legislator or as President or Prime Minister, cease to be payable during the period in respect of which that person is in receipt of salary as a legislator or as President or Prime Minister, as the case may be; but where the President's pension or the Prime Minister's pension, as the case may be, exceeds the rate of such salary, nothing in this subsection shall prevent the payment of such pension to the extent of such excess."

My interpretation of that section is that if he is going to be paid as the legislator here and he was having $1.4 million as a President's pension, he will be paid his salary as a legislator plus the excess that will bring him up to the former President's pension. So, there will not be an addition; it would just be to the extent of such an excess. I want to make that quite clear. So, if Mr. Jagdeo or any other former President feels that he is going to get both, it is not the case. Having said that, Mr. Speaker, I wish to commend this Bill to this honourable House for the support that is required and a support that is going to come almost three years late. But it is never too late at this stage.

Thank you very much, Mr. Speaker. *[Applause]*

Mr. Jordan (replying): Thank you, Mr. Speaker. Just to be extremely brief, I thank the Hon. Member, Mr. Khemraj Ramjattan, for his short, lucid presentation. I was looking forward to thank the Hon. Member, Mr. Carl Greenidge, for his but I rather suspect that he has been so involved with this Bill in the past that he has said enough and it is already recorded in the Hansard.

Mr. Speaker, just to reiterate, in no society, no matter how rich it is, can it live in a scenario that we find ourselves in, which is to be paying uncapped benefits. Already, with just one person for a relatively short period, you can see how much that has cost us. With two persons now benefiting, you can understand and appreciate what kind of pressure the Treasury would come under.

I want to say also that even with the capping of these Bills and their limitation, it will still cost the Treasury a pretty penny to upkeep the lives of two former Presidents at this current time. And, as I have shown you just now, just with the annual vacation allowance alone, that can net US$1.7 million and two can net US$3.4 million or US$3.5 million. That is just on the annual vacation alone. When you look at the other benefits that we have still left in this Bill and you seek to quantify them, you will then realise how much it will cost the Treasury. We are talking about when the minimum wage is a mere $42,000. So, it is the growth in the inequality and the immorality of that growth that, I think, should prick the conscience of man. And, agreed, despite we only have one side of this House, the passage of this Bill should be a swift, safe, secure, unanimous division to make certain that, for posterity, we all voted for this Bill.

Thank you, Mr. Speaker.

Question put and carried.

Bill read a second time.

Assembly in Committee

Bill considered and approved without amendments.

Assembly resumed.

Mr. Jordan: Mr. Speaker, I rise to report that the Former President's (Benefits and Other Facilities) Bill 2015-Bill No. 2/2015 was considered in Committee, clause by clause and passed without amendments. I move that the Bill be read a third time and passed, as printed.

Question put.

Hon. Member: Division.

Assembly divided: Ayes 33, Noes 0, as follows:

Ayes

Mr. Rutherford

Mr. Rajkumar

Mr. Persaud

Ms. Patterson

Mr. Figuera

Mr. Carrington

Mr. Allen

Mr. Adams

Ms. Bancroft

Ms. Wade

Ms. Henry

Mrs. Charles-Broomes

Dr. Cummings

Mr. Sharma

Mrs. Garrido-Lowe

Ms. Ferguson

Mrs. Hastings-Williams

Mr. Holder

Mr. Gaskin

Mrs. Hughes

Mr. Patterson

Lt. Col. (Ret'd) Harmon

Mrs. Lawrence

Mr. Trotman

Mr. Jordan

Dr. Norton

Mr. Bulkan

Mr. Roopnarine

Ms. Ally

Mr. Williams

Mr. Ramjattan

Mr. Greenidge

Mr. Nagamootoo

Motion Carried.

Bill read the third time, and passed as printed.

Mr. Speaker: Hon. Members, I thank you for your contribution to the debate on this matter. That concludes our business for today.

Hon. Prime Minister, you may move the adjournment of the Assembly.

ADJOURNMENT

Mr. Nagamootoo: Mr. Speaker, I move that this House be adjourned until Thursday, 30th July, 2015 at 2.00 p.m.

Adjourned accordingly at 6.09 p.m.