Official Report

PROCEEDINGS AND DEBATES OF THE NATIONAL ASSEMBLY OF THE FIRST SESSION (2015-2018) 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

87TH Sitting — Thursday, 26TH April, 2018

Assembly convened at 2.14 p.m.

Prayers

[*Mr. Speaker in the Chair*]

ANNOUNCEMENTS BY THE SPEAKER

Welcoming the Prime Minister on his return to the National Assembly

Mr. Speaker: Hon. Members, I welcome you back to this our sitting after a hiatus. I would like to say to Hon. Members, the Hon. Prime Minister, after a break, has returned to us. We would like to say, Prime Minister, welcome back and we trust that you will continue to serve us as you have done. Welcome back. [*Applause*]

Parliament Office to conduct training session for the media

Mr. Speaker: Hon. Members, I crave your indulgence. I wish to tell you that the Parliament Office, in an effort to enhance its relationship with the media had entered a partnership with the High Commissioner of Canada and the Guyana Press Association (GPA) to conduct a training session for the media, particularly those members of the media who cover parliamentary sittings and meetings of parliamentary Committees. The training was conducted over a two-day period, the 7th and 8th April, 2018 in the Parliament chamber. From all accounts, it was a very successful training period. It was certificate training and at the end of the training participants, who participated in the training, over a prescribed period of time, were issued with certificates. It is our hope that such types of training will be continued.

Invitation to Members of Parliament to tour the Cheddi Jagan International Airport

Mr. Speaker: An invitation was extended to Members of Parliament to tour the Cheddi Jagan International Airport tomorrow, Friday 27th April. The invitation is issued by the Ministry of Public Infrastructure and the intention behind the invitation is to enable Members to have a full view of what has happened and with the votes which we, here in Parliament, have granted over time in relation to the extension of the airport. It will afford us an opportunity to speak first-hand, in relation to the progress of the airport. The Ministry of Public Infrastructure will provide transportation to the site and return. Departure will be at 9.30 a.m., outside the Parliament Office.

PRESENTATION OF PAPERS AND REPORTS

The following Reports were laid:

1. (i) Annual Reports of the Guyana Revenue Authority for the years 2012 and 2013.

   (ii) Treasury Memorandum, pursuant to resolution No. 68/2018 date 19th January, 2018 of the National Assembly on the Public Accounts of Guyana for the years 2010 and 2011.

   (iii) End of year outcome Statement 2017.

   (iv) Financial Paper No. 2/ 2018 - Supplementary Estimates, Current and Capital totalling $2,526,563,240,000 for the period 2018-01-01 to 2018-12-31.

   (v) Public-Private Partnership Policy Framework.

   [*Ministry of Finance*]

2. Annual Report of the Guyana Police Force for the year 2016. [*Minister of Public Security*]

Minister announced that a date would be named for the consideration of Financial Paper 2.

REPORTS FROM COMMITTEES

1. (i) Ninth Report of the Parliamentary Standing Committee on Appointments in relation to the appointment of Members of the Rights of the Child Commission.

(ii) Eleventh Report of the Parliamentary Standing Committee on Appointments in relation to the appointment of Members of the Police Service Commission. [*Minister of Social Cohesion – Chairman on the Parliamentary Standing Committee on Appointment*]

2. Report of the Special Select Committee on the Cyber Crime Bill 2016. Bill No. 17/2016. [*Attorney General and Minister of Legal Affairs – Chairperson of the Special Select Committee on the Cybercrime Bill 2016 – No. 17/2016*]

ORAL QUESTIONS WITHOUT NOTICE

Mitigation Support for Fishermen at Hope, East Coast Demerara

Mr. Dharamlall: Members of the National Assembly, re: Mitigation Support for Fishermen at Hope, East Coast Demerara. Over many years, more than 40 boat owners have been mooring their fishing vessels in the vicinity of Hope Relief Canal on the Atlantic Coast. As a result of recent action taken to stop the boat owners from using that area, could the Hon. Minister of Agriculture now inform this National Assembly as to what measures he intends to take to remedy the situation? Thus

(i) How will the Minister facilitate the fish trade in this area and ensure that the livelihood of the fisherfolks and the overall viability of the fisheries sector are not harmed?

(ii) Will the Hon. Minister facilitate the boat owners, who employ more than 120 persons, to continue mooring their boats in the vicinity of the Hope Relief Canal without undue harassment from the authorities?

(iii) Will the Minister allow the security fence to be in a supervised manner to allow ingress and egress of wholesalers/fish traders' vehicles thereby facilitating fish trade?

Minister of Agriculture [Mr. Holder]: For the past decades, I would not say quite from time immemorial, fishermen in the Hope area have been mooring their vessels at the Hope drainage Canal outlet channel. After the construction, after the construction of the eight-door relief

sluice at Hope, which was commissioned in 2015, some fishermen from the Hope drainage outfall started to moor their vessels at the Hope Relief Canal outfall channel. This migration started at the beginning of 2017 and has been steadily growing to about 20 fishing boats at present. The difficulty has been that the fishermen are mooring their vessels at various hours of the day and night, as they work with the tide.

The passage of fishermen and, who knows, perhaps other persons of questionable character, at varying hours during the night, have caused a security nightmare at the site and has resulted in numerous confrontations and threats between the site security and the fishermen. It should be noted that the site is equipped with a number of very expensive materials. There are two generators, a photovoltaic solar system, winches and motors above every gate and a building to house the security staff and sluice operators. The cost of the movable items total approximately $43.7 million. The Ministry of Agriculture is reluctant to expose the site and its valuable items to any pilfering.

2.29 p.m.

In addition, numerous fish traders are using trucks and vans to transport the fish from this new site to the market.

It must also be noted that the fishermen at the Hope Relief Canal outfall channel never sought, nor obtained any approval to ply their trade at this location.

With regard to question one, fishermen, who ply their trade at the Hope Relief Canal outfall channel, were advised to return to their traditional place at the Hope drainage outfall channel, which is about 300 metres away.

The answer to question two, boat owners have already been advised to return to the Hope Canal drainage outfall, which is in the vicinity of the Hope Relief Canal sluices.

(3) From the time of the construction of the Hope Relief Canal sluices, there was always a gate at the beginning of the road, near the East Coast Public Road. We have now relocated that gate and added a fence to prevent vehicles from continuing to traverse the high-level dam, as this can result in a breach with all its associated consequences. This is non-negotiable. Please note that the high-level dam is in effect a continuation of the conservancy dam. If this dam is breached, as

could be done by vehicles moving up and down that high-level dam, severe flooding would affect Anns Grove, Dochfour, Clonbrook and Greenfield.

For the greater good, we cannot permit the use of this outfall channel by fishermen. We would like them to revert to the Hope drainage outfall channel where they have been in occupation from time immemorial.

Mr. Dharamlall: I would like to follow up on where the Hon. Minister left off. This is a supplementary question.

Mr. Speaker: Of which, you have two.

Mr. Dharamlall: Hon. Minister, our investigation has revealed that with the Hope Relief Canal drainage is impassable under certain circumstances. Fishermen have indicated that their boats are being terribly damaged because the outfall is not cleaned properly. Could you please indicate what other measures you intend to take to ensure all the fisherfolks and boat owners have a space to moor their vessels without undue stress to their business and the fishery sector?

Mr. Holder: The clearing of outfall channels is an ongoing operation by the National Drainage and Irrigation Authority (NDIA). These outfall channels we try to clear at least twice a year. The problem would not be any better by using the Hope Relief Canal outfall channel because that would de-silt as well. In terms of the sequence of events, both channels would have to be cleaned constantly. That is part of our continuing work programme.

Mr. Speaker: I thank the Hon. Minister. Hon. Mr. Dharamlall, do you have another question?

Mr. Dharamlall: No Mr. Speaker. It is Mr. Seeraj.

Mr. Speaker: I would inform myself at some time whether the second question is transferable, but on this occasion you may speak.

Mr. Seeraj: Sir, through you, I would like to, first of all, seek a clarification, as to if my hearing is correct. That clarification is if the Minister of Agriculture is saying that $47.3 million...

Mr. Speaker: Are you using the second question?

Mr. Seeraj: That is correct, Sir.

Mr. Speaker: Let us hear the question. We cannot do that.

Mr. Seeraj: Okay Sir, thank you very much. Hon. Minister, $47.3 million worth of equipment was reportedly stolen from this area.

Mr. Speaker: If I may tell you what I heard, I believe that was a reference to the value of the movables and not what was stolen. Maybe, I did not hear that.

Mr. Seeraj: Thank you very much Cde. Speaker. Minister, this action you are taking, is it because of the value of movable equipment that you have on site? Are you telling this House that fisherfolks are likely to remove these equipment, machineries and motors?

Mr. Speaker: Hon. Minister, a question has been put.

Mr. Holder: Fishermen very often operate with the tide and therefore their boats are moored at various times. I think the tide is almost an hour and a half late every date. It could be at 3.00 a.m., 2.30 a.m. or 5.00 a.m. It could be moving up and down. I did not say that fishermen would steal it. I said fishermen and perhaps persons of questionable character. In short, we do not know who fishermen are and who are not. Our two generators are worth over $8 million. The eight winches and motors at each gate are worth $30 million. These are things that can be stolen. The photovoltaic solar system is $5.7 million, a total of $43.7 million. It becomes a security nightmare. The fact I am making is that they were operating for a number for years quite happily at the Hope Relief Canal drainage outfall channel and there is no reason for them to move now, at this point in time. We need to secure Government's property. What is even more important is should there be a breach in the dam at Hope Canal, inundation of those villages, Anns Grove, Dochfour, Clonbrook and Greenfield, would be tremendous and losses would far exceed $43.7 million.

STATEMENTS BY MINISTERS, INCLUDING POLICY STATEMENTS

THANK YOU

First Vice-President and Prime Minister [Mr. Nagamootoo]: Mr. Speaker, I wish to thank you for your statement of welcome back to the National Assembly after my brief sojourn overseas and absence from the proceedings of this House. I also want to thank all Members of

the National Assembly, who unanimously endorsed a resolution of support for me during those difficult days that I was in hospital, for their kind and sincere wishes for my speedy recovery. I am still in recovery mode with a few weeks more of medical restrictions, but I hope, as speedily as I could, I would re-insert myself into what is uniquely robust debates and proceedings in this chambers. With these words, thank you very much for your kindness in welcoming me back to this chamber.

Mr. Speaker: I thank the Hon. Prime Minister for his statement.

INTRODUCTION OF BILLS AND FIRST READINGS

The following Bills were introduced and read for first time:

1. **INSURANCE (AMENDMENT) BILL 2018 – Bill No. 3/2018**

A BILL intituled:

"AN ACT to amend the Insurance Act 2016."

2. **NATIONAL PAYMENT SYSTEM BIIL 2018 – Bill No.4/2018**

A BILL intituled:

"AN ACT to provide for the establishment, regulation and oversight of a National Payment System and for the matters connected therewith."

3. **FINANCIAL INSTITUTIONS (AMENDMENT) BILL 2018 – Bill No.5/2018**

A BILL intituled:

"AN ACT to amend the Financial Institutions Act."

4. **BANK OF GUYANA (AMENDMENT) BILL 2018 – Bill No.6/2018**

A BILL intituled:

"AN ACT to amend the Bank of Guyana Act."

5. **DEPOSIT INSURANCE BILL 2018 – Bill No.7/2018**

A BILL intituled:

> "AN ACT to establish a Deposit Insurance Scheme for the protection of insured depositors, comprising of a Deposit Insurance Fund and a Deposit Insurance Corporation, responsible for managing the fund and for connected purposes."

[*Minister of Finance*]

6. LOCAL AUTHORITIES ELECTIONS AMENDMENT BILL 2018 – Bill No.9/2018

A BILL intituled:

> "AN ACT to amend the Municipal and District Councils Act, Local Government Act, Local Authorities Elections Act, Local Democratic Organs Act, Local Authorities Elections (Amendment) Act 1990 and Elections Laws (Amendment) Act 2000, in relation to Local Authorities Elections." [*Minister of Communities*]

Ms. Teixeira: We are perplexed on the Opposition's side of the House. There are four Bills that have been tabled and they have not been circulated. Are we going to get them today? Are they being circulated today in this House? We going to our first reading without the Bill being in the House, whilst it may be allowable, it has not been a practice of this House.

Mr. Speaker: Hon. Members, I know we are aware that our Standing Orders provide for that. I think what you want to know is when you would have sight of the Bill of the fact that it was read before it was circulated.

2.44 p.m.

Ms. Teixeira: I want to point out that Standing Order 53 states:

> "… a Bill may be presented Assembly on behalf of the Government after notice without an order of the Assembly for its introduction."

The word is the Bill, not the long title. It is the Bill that has a first reading. It is not the long title. We said that the four Bills that are before us, unless they are reduced here, should not be presented by just a long title. The phrase in the Standing Order states the Bill. It does not state

the reading of the long title. It states the Bill. Therefore we have to have the Bill presented in the House.

Mr. Speaker: Hon. Member, you may wish to know that soft copies of this Bill were circulated to all Members today…

Ms. Teixeira: No.

Mr. Speaker: Let me finish, Hon. Members. On Monday, the hard copies will be delivered to Members.

Ms. Teixeira: If I understand you properly, Mr. Speaker, did you say we will be receiving electronic copies or have we received them? We have not received electronic copies of the Bills from the Parliament Office. I just want a clarification.

Mr. Speaker: Hon. Members, once again, I have received assurance that the soft copies have been sent to Members. They were sent this afternoon, sometime after 1.30 p.m. A correction, they were sent sometime before 1.30 p.m.

Hon. Members, I do not know that we are breaking a lance over anything here. The soft copies have been circulated and the hard copies will be delivered on Monday.

Ms. Teixeira: This habit, we are noticing that the sitting of National Assembly starts at 2.00 p.m., 2.04 p.m., or 2.10 p.m. and it is after that time that we are receiving electronic copies of Bills that were supposed to be read for the first time in this House. It is a practice that must stop. If it is that we are going to get the Bills, it has to be before. This is the second or third time that this has happened in this House. We understand that it is not the Parliament Offices' fault. We know that the Ministry sent it late to it. There must be a Bill brought to this House before it is read the first time. There is a protocol. We have done it for donkey's years and it has continued. We ask that this practice of sending electronic copies after the sitting at which they would be tabled is stopped and that we allow ourselves to have advanced notice of this. We are not talking about the details of these Bills. We are glad that the Hon. Minister of Finance has lots of Bills to bring, other than money, which he normally does, but we need to have the thing properly done.

Mr. Speaker: I understand what it is that you are saying. Although Standing Order 54 (2) seems to offer full protection to our Hon. Members in relation to the Bill. What I would say to you is that the soft copies are sent at the most convenient time. You have remarked on the fact that it is probably the third or fourth time that this has happened. I believe that you would agree that this must be exceptional, the third or fourth time should be exceptional. I would even say no harm is done to Hon. Members' rights as Members. Standing Order 53 (2) ensures that nothing further could happen.

PUBLIC BUSINESS

GOVERNMENT BUSINESS

BILLS – Second Readings

JUVENILE JUSTICE BILL 2018 – Bill No. 2 of 2018

A BILL intituled:

> "AN ACT to amend and consolidate the law in relation to criminal justice for juveniles; to make provision for proceedings with respect to juvenile offenders; to provide for the establishment of facilities for the custody, education and rehabilitation of juvenile offenders, and to repeal the Juvenile Offenders Act and the Training Schools Act." [*Vice-President and Minister of Public Security*]

Vice-President and Minister of Public Security [Mr. Ramjattan]: I rise to move that the Juvenile Justice Bill, No. 2 of 2018 published 13th March, 2018 be now read a second time.

This Juvenile Justice Bill that we are considering today is indeed a comprehensive document which I believe would effectively tackle the significant issues related to juvenile justice in Guyana. We are here today to give further consideration and debate and deliberate on it, in view of the fact that we have done so, but outside of the Parliament, and to the extent whereby a fuller comprehension of it and its contents can be more or less appreciated and, of course, be placed on record and we could all appreciate what is.

The journey that brought this Bill here, in my view, commenced since 2004. It is a long time. The then Government of Guyana, of which I was a Member, had delivered its first report to the

committee, the United Nations Rights of the Child Committee. Following that, the committee made a number of recommendations urging that they be implemented by the Government of Guyana, at that time, as early as possible. These recommendations included raising the age of criminal responsibility from the ten years that we have until now; ensuring that persons below the age of majority, that is 18 years, are not tried as adults but be given adequate special protection; amending the Guyana Juvenile Offenders Act, originally enacted since 1931, to reflect international juvenile justice standards in accordance with the Beijing Rules, which is with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, and the Riyadh Guidelines, the United Nations Guidelines for the Prevention of Juvenile Delinquency, two international conventions and sets of guidelines that speak specifically to juvenile justice.

Another recommendation of the Rights of the Child Committee was to ensure that children below 18 years charged with offences are provided with free legal assistance.

There would also be a major recommendation that we are now costing, quite frankly, to establish separate remand homes for boys and girls under the age of 18 years who have been involved with the law.

Finally, another major recommendation, was improving training programmes where the professionals were involved. These were not on an exhaustive list but they are main ones that I am have quoting here because there were other recommendations made.

Nothing happened for a number of years. I think for almost two years. In 2006, the United Nations Children Fund (UNICEF) initiated, with the Ministry of Culture, Youth and Sport, headed by Dr. Frank Anthony, an expert, I think his name was Dr. Bruce Abramson, articulating the need for a new Juvenile Justice Act in a policy paper entitled, A *new Juvenile Delinquency Act for Guyana, a Decision for Policy makers in 2006.*

Things indeed moved a bit faster after Mr. Abramson's persuasive arguments to the extent that by 2007 a draft Bill was completed by Nicola Pierre. I recognise her. It got stuck for some years. Dr. Frank Anthony, my colleague across the aisle, the then Minister of Culture, Youth and Sport, encouraged revisions of the 2007 draft with the support of UNICEF in 2014. I would like to

recognise the efforts of Rosemary Benjamin-Noble, Ms. Flach and Ms. Gittens from UNICEF, in this regard.

In August, 2015, at a multi-stakeholders meeting, at the Ministry of Public Security, it was decided that consultation should be held for further revisions to be accommodated. Once that was finalised, then it went to Cabinet for approval. When that was obtained it would then come to the National Assembly for passage. I wish to say that we are on our way here to ensure that it would be passed.

In Guyana, we almost always seek guidance from England as to which direction we want our justice system to go in. The youth justice system is just an aspect of this. Once we step back into recent history, the very famous Home Office Secretary of England, Mr. Jack Straw, utterances shone some light as to who we are imitating. He encapsulated rather accurately what we wanted here in Guyana concerning juvenile justice reform. It was based on a paper, in which in 1998 he argued, in this White Paper, which it is called, that the primary focus of juvenile justice must be the prevention of offending and recidivism behaviour.

2.59 p.m.

He said then in 1998 making the case for the Crime and Disorder Act of that year, which largely deals with juvenile justice.

> "The Government wants to see the Youth Justice System make a real difference to the lives of the children and young people from offending. Too many young people begin offending at a very young age. Too many continue offending in their adult lives. Young people who offend damage their own lives. They cause disruption, harm and distress to others. Preventing offenders is in the best interests of all concerned and should be a priority for all those working within the Youth Justice System."

This Government of Guyana wants to see an Act which reflects that modern philosophy of juvenile justice which strengthens the justice system for juveniles and makes it responsive to them and their situation.

In a sense then, this Act is an adoption of that policy framer of England. Moreover, we want to see an Act which provides a framework where professionals are in the forefront supporting

juveniles rather than the police and prison wardens. We do not want to make a jail house nation of our young people. We want to minimise the harsh punishment meted to our young offenders which then stigmatises them for life. We want to maximise their education, their rehabilitation and their reintegration into society.

Additional and central to these policy innovations of which we have gotten from England and the guidelines from Riyadh and the Beijing guidelines, it is a search for effective alternatives to prison. Jails and secured confinement are not the place where the substantial amount of young people should be.

In this day and age, we have to provide a humane alternative to incarceration for young law breakers. This certainly will assist in helping them avoid falling deeper into a life of crime and helping our country, as I said earlier, from becoming a jail-house nation.

This Bill, I am proud to say, makes provision for this alternative. It is referred to as diversion in part (2) clauses 6 to 12 particularly amongst others. It means diverting the juvenile away from the formal court procedures to informal procedures and includes restorative measures to deal with a juvenile alleged to have committed an offence. As clause 9 adumbrates, it could range from an apology to compulsory attendance to a specified vocational or educational centre, or from community service to compensation to the victim in an amount which the juvenile's family could afford. Even at the stage before commencement of proceedings, the director of public prosecutions or the police officer could consider warnings and referrals. Other alternative sanctions or divulgence could come from the newly created office of director of juvenile justice. It would be up to the creativity and the imagination of this office to come up with more innovative diversions which, of course, must ensure that the young offender is dealt with in a manner appropriate to his or her wellbeing and proportionate to the circumstance of the offence.

Another very important principle which this Bill deals with is the age of the criminal responsibility; we had much discussion on that, whether it should be at the present 10 years, 12, 16 and so on. We contacted the experts to find out in other Caribbean countries what the ages of criminal responsibilities are. We had ranging from 16 years right down to 10. Even in some countries it is less. [**Hon. Member: [***Inaudible*]] Yes St. Vincent; eight and seven.

I support the exclusion, too, of status offences in this Bill. This Bill has literally abolished status offences, which are those offences which criminalised behavioural patterns of children who wander, you regard as committing vagrancy, truancy and are run-a-ways. These are acts which often are the result of psychological or socio economic problems. It is particularly a matter of concern of our girls and street children are often victims of this kind of criminalisation. Because of the socio economic problems, they are now held to be criminals. These are acts not considered criminal when committed by adults, yet, when young children commit them, they are convicted sometimes for secured confinement because they have wandered, committed vagrancy; they are regarded as truants and run-a-ways. There is an inherited injustice here and discrimination on grounds of age. On this score, I must mention that there are a number of children who we have, the statistics in it, who have been sentenced to the new opportunity corps for the offence of wandering. In August, 2015, I recall some 30 of them. These offences must be abolished and they have been abolished in this Act. We must enhance humanness and equity by reducing the use of confinement as a penalty. We must not betray young people by continuing the imposition of custodial sentences; this must only be an exercise of last resort, where nothing else is left to protect the public.

The Government is aware that this revolution in juvenile justice which this Bill inaugurates is going to require a number of changes in a huge amount of resources. The changes must include mindset changes of the professionals presently engaged, what I call certain organisational dynamics which existed in institutions dealing with youth justice. Support will be given for these changes to be made as quickly as possible. Also, resources must be found to be establishing placement facilities which will support this new juvenile justice regime. Resources to staff these facilities, director of juvenile justice, Juvenile Justice Committee will cause my Minister of Finance to start asking some questions of me. But I am certain that Mr. Jordan will ensure that the funding is found and of course they are necessary for the establishment of a regime under this new Bill. Retraining of policemen will be needed; prosecutors, magistrates and even judges will also see expenditures rise. For our young people, unfortunately involved, most if not all of whom are products of mostly dysfunctional families, we must invest today in realistic, rational, sensitive and supportive interventions to reap the dividends of a more secure, far less tomorrow, safer communities tomorrow and ultimately a stable nation tomorrow.

As the United Nations Committee on the Rights of the Child since 1995 noted:

> "…unless the chain is broken, there is reduced hope for the individual child, let alone the rest of the family and future generations"

An ideal society is utopia; it will not be achieved. That does not mean we must not keep trying to improve that which we have. Otherwise, what we have will rapidly disintegrate. We therefore must pursue to do something for our young people. If that something is to educate, rehabilitate, and reintegrate then certainly that is not utopian. It must then be achieved and made achievable. This is what this Bill seeks to do. This Bill is a grand leap forward in that direction. In my view, it is long overdue. I therefore would want the full support of this House for this Bill.

Before I proceed to ask its support of this House, I would like to say a couple of things in relation to the consultation that was done. In 2013, that Committee on the rights of the child that made the observations, started that process in 2014 where, I think it was Sigmund Consultants Limited that was led locally here by Ms. Rosemary Benjamin-Noble, started the process of consulting. The consultation that started especially within the institutional arrangements, the Judiciary, the Magistracy, the police force, the director of public prosecutions chambers and the director of prisons. We widened it to multi-stakeholder meetings in Georgetown; I remember it was at the Marriott Hotel that we had a big consultation of the draft Juvenile Justice Bill and a number of people spoke there, including Members of the Judiciary and lots of questions were asked. We had, also, in Suddie, a major consultation and in New Amsterdam where the team carried the Bill to explain it to those who were present; there were lots of people present, namely, members from the City Council, the Mayor and a number of people from Neighbourhood Democratic Councils (NDCs) in and around those Regions. There were questions asked about a number of things; removal of wandering as crime, access to legal aid and how are we going to set the institutions for that, the detention, what are diversionary programmes, the age of criminal responsibility and a number of other things, all of which were captured in a list and a matrix that is encompassed in this Bill now - what form the Juvenile Justice Committee will take, the training that will be required and a whole host of things. That consultation process realised a better Bill, as I said.

I would wish to thank those who did that consultation process, especially Ms. Rosemary Benjamin-Noble and her team. We have, then, this final product. I do not know if there is going to be any final adjustments to it from the Opposition. I wish at this stage to commend this Bill. I do not want to go through the various sections of it because I think I did that in an explanatory memorandum under the various parts; parts 1 to 11 that state it in very categorical terms and explain it all there. With that, I wish to commend this Bill to this House for its passage at this time. [*Applause*]

Dr. Anthony: Mr. Speaker and Hon. Members, I rise to join the debate on the Juvenile Justice Bill 2018. The Bill, as was just explained, brings to fruition an undertaking from the past and the present Governments and various partnering agencies such as United Nations Children's Fund (UNICEF) and there were also others. They all came together to address issues relating to Juvenile Justice and to overhaul our obsolete, I would say, laws and make them far more compatible with international norms and standards.

3.14 p.m.

This Bill is a very comprehensive one. It sought to cluster all matters relating to juvenile justice conveniently under one umbrella legislation known now as the Juvenile Justice Bill. It also entails repealing the Juvenile Offenders Act and sections 11 and 12 of the Training Schools Act; it amends the Education Act, the Probation of Offenders Act, the Rehabilitation Act and the Parole Act. This Bill has a more progressive approach and seeks to rehabilitate rather than punish juveniles that have a problem with the law. As was already pointed out, a significant feature of this Bill is really the section dealing with diversions, which is to provide alternative to custodial sentencing. Many studies have shown that depriving juveniles of their liberty can lead to long term and costly psychological and physical damage. Of course, in some of our institutions, overcrowding and poor detention conditions can also threaten the development, health and wellbeing of the juvenile.

It is also a known fact that removal of a juvenile from their family and community networks as well as from educational and vocational opportunities at critical and formative periods in their lives can compound their social and economic disadvantage and even lead them to further marginalisation. Also, exposure to criminal influences and violent behaviour while in detention.

In the worst instances mixing juveniles with others who have more benign offenses can lead to further complications and problems.

Mixing juveniles with adult offenders are often seen in studies to cause or to encourage repeat offending. There is a real case here to be made for alternative sentencing, which is why a substantial section of this bill has been dedicated to putting in motions the principles of diversion. Some people have argued that diversionary measures already exist in various parts of our laws, but this option has really been used by the judiciary. In this Bill, you have not only one location where all of this can be found, but you also have clear measures in how and when to apply these measures, if you like. So, Part II of the bill speaks to the principles, objectives, and clarifies what can be done.

As was already explained, this bill goes back to a very long time. In 2004, the Rights of the Child Convention when the United Nation (UN) first looked at our reports and they pointed out that our laws were inconsistent with the convention that we had signed. Therefore, if we are going to measure up, we have to start making sure that our domestic legislation is really on par with our international obligations. I would not go through some of the things that the hon. Minister has listed.

Just to say that the then government People's Progressive Party (PPP) took this very seriously because we recruited a consultant, Mr. Abrahamson, and shortly thereafter he was able to do a report. In addition to the things pointed out by the Rights of the Child Commission or the Observation Report, some of the other things that were addressed by him were that he said there was a need for a broader range of placement facilities for juveniles. What he meant by that is that we should have closed facilities for juveniles who committed serious offences and open facilities for offenders who had more benign offences. When we speak of open facilities, he meant that they can probably be staying in an institution but was allowed to go outside of the institution to schools and such like.

He also said that there was a real need to separate juveniles from adults in our detention facility because this has been a practice where sometimes when you have a young offender they were put together with adult prisoners, whether in the lock ups or in the detention centres. Therefore, he pointed out that we needed that separation.

Then, he also pointed out that we need a clear distinction between delinquency and children who really needed assistance. There were a number of offences on our books, the status offences as they were called; things such as wandering and so forth, and those provisions were used basically to imprison children. When we were working on the bill, we wanted to outlaw that, but then when you work in this field you will also find out that children who really need help there were not institutions that existed that could really help these children, many of whom were from dysfunctional families and many of whom were very poor. And, sometimes the system would use these provisions as a way of allocating children to institutions such as the New Opportunity Corps (NOC), and of course, they do not belong there, but we have to find a separate institution where to house them and where we could treat their matters separately.

The point he was making here was we needed to make that distinction, because that was a very important distinction and we needed to treat children differently. I think we still have those challenges today, because there are many children who need that type of assistance.

He went on to state that we need to process offenders more efficiently, reducing the time that they spend on remand. Of course, we know that sometimes can be a problem, because if the judicial system and the whole mechanisms that we have, if they do not work very proactively, then people can languish a long time awaiting the outcome of these courts.

He also spoke about the need for stronger counselling services. We know that we do not have a lot of physiologist or qualified people in counselling and this has been one of the major weaknesses. He pointed out then, that we needed people to do more counselling. While generally we do not have persons who are properly qualified to deliver counselling in the area of working with children, we need specialised counsellors who are able to work with children, and that too is a specialisation that I think we are really weak on.

Another sore point has always been interagency collaboration, because you have, probation department, different agencies responsible for different aspects as it relates to a juvenile who would offend or who has been in trouble with the law. At one time, you had the Ministry of Culture, Youth and Sport, the Probation Department, the Ministry of Home Affairs and sometimes these institutions do not talk to each other the way that they need to. By not doing that very effectively, the victim in this instance is really the juvenile.

Following this report, the Government then acted almost immediately on a number of the recommendations. This includes establishment of the Legal Aid Programme and I think my Colleague here the, hon. Priya Manickchand, can speak more of that programme. One of the things we were able to do in partnership with United Nations Children's Fund (UNICEF) was to get funding so that we can help juveniles who were in trouble with the law.

We were able to offer advice and in some cases offer representation. A number of young people benefited tremendously from the services that had been offered through the Legal Aid Programme.

The New Opportunity Corps, the place where we have kept juveniles for years. This place, I recall when I first visited, the state that it was in and we worked to improve that facility in a very systematic way. The dormitories were upgraded, new training programmes were put in place, including vocational training programme at the site of the NOC. We started training people in masonry, carpentry, sewing, and a whole host of other things. This was because many of the young people we wanted to give them a skill so that when they leave the institution they were able to have a skill to become employable. Another thing that we did, if we train them, was that people were not certifiable or they did not get a certificate, so we started using the facility at Kuru Kuru to be able to certify those that were exiting the NOC.

Then too, we also started providing basic literacy and numeracy programmes to juveniles. You would be surprised that there are a number of persons who are there who are unable to read and write and they are 10 and 12 years old. Those who were more academically inclined we were able to offer enrolment in nearby schools. So the institution used to take them to school and bring them back in the afternoon. We have a few successes, because some of these students have gone on to write Caribbean Examinations Council (CXC) and they have done very well. These are programmes that we have to continue to make sure that our young people are able to benefit from them.

Separating juveniles from adults in detention centre: we had embarked on this because the creation of the holding centre was a step in this direction. That facility had a dual purpose because while it was used to hold troubled juveniles there while they await sentencing, it was

also used as a halfway house because when people were coming out of NOC they came there before they were fully integrated back into the community.

Another area that this report had described that we started working on was, how do we reintegrate young people back into their community? We did that by creating a programme between the Ministry of Culture, Youth and Sport. We had people dedicated to doing that. Before the juveniles came out, persons used to go to their home, talk to their parents, see whether they are willing to accept back this child, and you might be surprised that in some cases when you go to some of these homes they were not prepared, they did not have space, and things like that because of the economic conditions existing in some of these homes.

One of things following from that - another collaboration we had with UNICEF is that the young people who were trained in the area that they were trained when they came out we gave them tools so that they can work in that particular in which they were trained. Those who wanted to go on and go back to school, that programme ensured that we worked with the Ministry of Education to get them back into the school system.

3.29 p.m.

These were good initiatives and I hope that they are continuing.

In addition to that, through the United States Agency for International Development (USAID), there was a mentorship programme and that programme, when kids came out of the New Opportunity Corps (NOC), there were people who were assigned to them to help them through as they reintegrate back into the community. These are good programmes and these are the kinds of things that we need to continue and I think that this Bill has now been able to put it into that context. While, we were working on trying to get the Bill going, we knew that we had to make these improvements. There is always that quest for this comprehensive piece of juvenile legislation and we are happy that that is here today.

As was said, there were a number of drafts: 2008, 2009,2014,2015,2016 and now 2018. Some of the things that were mentioned in those drafts, and I will probably zero in on maybe one or two of them, was this whole concept of the minimum age of criminal responsibility. I think that that has been the big challenge that we had going forward with this Bill – the minimum age of

criminal responsibility. Our laws clearly state that it is 12 years old and that is what we have been using. Now, what does this mean? A child under the age of criminal responsibility, in a way, cannot commit a crime. This means that he or she is immune from criminal prosecution; authorities cannot formally charge them with an offence nor can they be subjected to any criminal law procedures or measures. I think that that was the bugbear of a lot of the discussions that were ongoing.

Under Article 40(3) of the Convention on the Rights of the Child, it states that parties are encouraged to establish a minimum age below which children are presumed not to have the capacity to infringe the criminal law. And there is much controversy about what should be that appropriate age for criminal responsibility. There is no absolute international standard in this regard. The Hon. Minister cited the United Kingdom (UK), and perhaps while looking at the good frameworks and trying to put that in place, the laws of the United Kingdom state that the minimum age of criminal responsibility is 10 years old. In Scotland, it is as low as eight years. When we look across the Caribbean, there are a number of places in the Caribbean where it is eight years old, and in some places I came across, seven and things like that. However, our neighbour across Brazil has gone in the other direction and they have put it at 18 years old. The thing is though, we need to look at this age and we look across the world, the median age or the mean age, if you like, is pegged at 12. Perhaps, that is one of the guidelines that were used to advocate and one would have seen in previous iterations of this Bill, the request of moving it from 10 to 12.

There is another instrument from the Convention on the Rights of the Child and in that Convention is something called a General Comment No.10, and in that General Comment No.10, one of the things that it stated was that the minimum age of criminal responsibility below the age of 12 is considered by the Committee not to be internationally acceptable. So, even if we set it at 12, I think that we will be in compliance with what they were asking for and perhaps which is the guidance that we should use. When the Minister spoke about the consultation that was done, I think it was on the 27th April, 2016, and at that consultation, after the people who were there after the talks and so forth, one of the things that were circulated was a questionnaire on asking the participants a number of questions. The first question dealt with what should be the age of criminal responsibility in Guyana. The options that were given were 14, 16 or 18. So, three

options were given; not the *status quo*, maybe not going to 12 or so. So, it was, in a way, already bias in a certain direction. And perhaps that is something we need to review. The reason why we need to review it is because based on what I said in terms of how people view a child, once you set this bar of the age of criminal responsibility anybody below that really cannot be prosecuted. So, once that bar is set, there is an issue.

In our consultations when we were doing this, a lot of people expressed fear because there was or we knew of young people who perhaps committed very violent crimes or some of them who were being used by adults in the commissioning of violent crime; some of them were involved and perhaps adults were using them to do violent things in terms of initiation. Then there is also a phenomenon that is affecting a lot of countries in the Caribbean which is this whole question of youth gangs. And so, if we raise the bar, then how do we deal with some of these consequences? And I think that that has been the debate, to raise or not to raise it and if it is raised then by how much. And so, I do not think that we were able to come up with that right answer but a lot of people are still fearful that if it is taken up too much there will be a problem.

Now, even as the Bill suggests that we want to take it up to 14, then it makes no provision for a young person under the age of 14 if they commit some serious crime, how you are going to deal with him or her. What it did was to minimise this age between 18 and 14 and we have a menu of measures on how we deal with that. But below 14 there is nothing. Now, if we take the example of Scotland, what they did was that although their minimum age is eight, they have some special institutions that just in case somebody under the eight commits some serious crime that they had a mechanism by which to address some of these issues and that is something that we have to look at because that is not expressed in the Bill before us.

The other thing that I want to point out which was a deviation maybe from previous Bills or previous drafts of the Bill is that we have substituted the Director of Youth with a Direct of Juvenile Justice. While, maybe, a name change, that is okay, but what is not very clear is the reporting relationships, where this person is going to be sited, what is the structure this person is going to have, resources, and a whole host of other things that perhaps we need to look at, and that is not very clear in this particular Bill.

There are also some other little things we see as contradictions but I think can be ironed out because the measures here are all good measures and this is a direction we want to go. So, one of the things that I want to suggest to the Minister is that we feel that there are some very small grey areas that we can quickly sort out and if he would consider that we take this Bill to the Select Committee so that we can iron out these small grey areas and then we will have unanimity, I think, with the entire Bill.

Thank you very much. [*Applause*]

Dr. Persaud: Thank you, Mr. Speaker.

I would like to say how happy I am that this Bill is on the floor today and I would like to commend the efforts of all those who worked on the Bill in its current form and previously when the Bill came to fruition in its draft form. It means that the conversation that is taking place with regard to juvenile justice is alive and healthy and very necessary in the era that we live in when more crimes are being committed by very young people. No doubt, wherever we go in the country, once there is media, we are aware that more headlines speak of teens, teenagers and youth and they are all involved in some degree of crime. This Juvenile Justice Bill puts it all together in a comprehensive progressive piece of legislation and I feel it is a great step in the right direction. However, I would like to also say that there are some areas, not a lot, but some areas that could do with refining, more consultation especially with civil society a little more so that the Bill as a whole could be one that is impactful for the evolving world in which we live.

My Colleague, Dr. Anthony, highlighted many of those. I want to also say that there are many deep seated reasons for the phenomenon of youth crime that we cannot ignore in the country in which we live. Violence and crime perpetrated by and against young people are caused by various factors that work simultaneously to create situations of social instability. The easy access to firearms and drugs, the abuse of alcohol, drug trafficking, weak educational and policing systems, poverty, unemployment among youth still stands at 40%, disruptive and unstable families, socio-political exclusion, paucity of rehabilitation facilities and youth programme, and harsh penalties meted out to first-time non-violent offenders have all contributed in some measure to youth crimes as we see them today. No doubt, much work has been expended in the years before in trying to curb and target this and in trying to deal with youth crimes in Guyana.

I believe the fact that the Juvenile Justice Bill has been brought here is our efforts as a country to make this a national priority and that is a good thing. It requires collaborative efforts from all the stakeholders that can make a tangible impact in what we want to achieve. We cannot, when we look at juveniles and/or children who would have engaged in illegal activities, ignore why they do it and the fact that many of them have been coerced into illegal activities for all manner of things, whether for benefits or by threats to their person or their relations or for other sinister means.

3.44 p.m.

While we look at the legislation, we should look at the measures which are aimed at preventing juveniles from coming into conflict with the law and if we do not have sufficient measures, then the law would suffer from some degree of shortcomings.

I would like to suggest, because this Juvenile Justice Bill is so detailed, so complex in some way, that it requires intense interagency collaboration, training and so much to make it work, and work as you would like it to work. It requires commitment so that it could be implemented and be effective in giving young people a chance to live their lives' free of stigma or labelling and gives them an opportunity to receive an education and to be rehabilitated.

I would like to say that it does require some more discussion in the select committee. I believe, too that, if it is amenable, maybe we could come up with some amendments in that committee and we could have the Bill going forward in a short time.

If we look at the minimal age of criminal responsibility, more than a decade ago, the United Nations Committee on the Rights of the Child (UNCRC) recommended:

> "…an absolute minimal age of 12 for criminal responsibility…"

The global discussion still rages, as was highlighted by Dr. Frank Anthony, and there are differences as to why countries choose to go above or below the age of 12. Also, there is thinking about what are the safety nets, the infrastructure that we have in our countries that could support one age or another. However, the fact remains, there is no consensus. Some of the young people, who engaged in criminal activities, benign or otherwise, would have suffered from harm themselves. They might have been victims and now they retaliate. Some of them are victims of

poverty; victims of dysfunctional families; victims of poor mental health; and the list could go on – emotional, physical sexual abuse. There is information about the processes by which children learn and develop the capacity to make fully informed moral judgements and behavioural choices. I believe a broader inclusion of civil society in this particular instance would benefit the Bill going forward.

Within the Bill, there is mention of persons who are needed to examine the child's mental health or state, or their emotional condition. It is true in our country that there is paucity of Child Psychologists and people who have training in this specialised area. I believe, instead of saying only qualified persons, we should detail this a little more because this is serious. There must be adequate qualified persons trained in this regard, as Child Psychology is a specialised field. Maybe the disciplines required should be spelt out in the legislation to prevent children from being labelled because they are inadequately examined or justice be thwarted for the same reason.

There remains the unrelenting issue of first time non-violent offenders who receive sentences which do them more harm than good. Many times, these offenders are housed with hardened criminals who could negatively influence their future life choices. However, evidence shows that many first time offenders do not reoffend, if they are given alternatives, alternatives that could rehabilitate them, educate them and show them a different way of life. As such, I am very happy that within this Bill there is a lot on diversions, and there are many restorative programmes which are advocated in this Bill.

What do we know from studies and reports? The Youth Justice Board of England shows that young people start committing crimes and express antisocial behaviour when they are between the ages of 10 and 12 and that the peek offending age for juveniles is 14 years old. Some children start committing crimes even earlier because they are not attending school. A United States (US) study concluded that gang prevention and substance abuse prevention work better when the children were 12 and a little older. All of this I say because this clearly highlights the need for safety nets and comprehensive effective infrastructure to complement the legalisation which has been brought to the House today. Prevention must not be lost in our quest to deal with a problem and prevention is key, if we would like to curb this whole issue of youth offenders.

Important to the whole process must be the collection of data, monitoring and evaluation of what we have at present. How we could refine those; how we could improve those; and how they could be effectively utilised to complement the Bill. Once the Bill has been implemented, and I believe too that once that refining process goes forward, we all will support this Bill because it is long overdue and much needed by the children of this country.

Specialised training is a must. If the Bill is perused in its entirety, it is clear that, for the effective impact of juvenile reform and rehabilitation, there must be trained human resources. The Hon. Minister mentioned this when he spoke. Notably, that should have occurred at the first point of contact and Part V of this Bill brings to mind the need for that kind of training. When offences are read to the young person, the child, the language should be couched in such a manner that that child or youth understands. In the case of language barriers, physical impairment, there must be a trained person, an officer, to engage appropriately.

Children have increased susceptibility to interrogation techniques compared to adults. They are more likely to be manipulated and are more likely to believe someone in authority who tells them, “If you confess you can go home”. They are also more likely to answer a question to please whoever that adult is or to say what they think that adult wants to hear. The legislation should set out restrictions on the questioning of children and should cover such issues as the numbers of hours for which a child could be questioned, the breaks that should be offered and the time of the day the child could be questioned. That is a humane approach to children.

With the inclusion of excellent restorative and diversion programmes in the Bill for juveniles, I think that we could see that we may have, based on the implementation of similar Bills around the world, less instances of crime. Because of the important role played by the police in implementing juvenile diversion, it is critical that juveniles feel confident that they would receive fair treatment from the police and all of the protection provided by the law.

In court, legislation should contain a right to an interpreter if a child cannot understand the language or has a speech or hearing impairment or cannot make him or herself understood in court. Legislation should require that all law enforcement and court personnel undergo training on ensuring effective access to justice for children with disabilities - that is another area within the legislation that I think needs to be looked at a little more.

Of course, to have all of this make an impact, many resources are needed. I trust that, going forward, budgeting would be done to ensure that these resources are allocated to make this Bill work in the manner in which we all want to see it work.

Legislation is unlikely to succeed unless it is accompanied by ongoing effective training. Both legislation and professional codes of conduct should require personnel identified to undergo regular, relevant training. The legal team, be it prosecution or defence, all of those persons need to be trained in order to ensure that this legislation is implemented properly. All juvenile justice systems require an adequate pool of well trained and skilled defence lawyers for children. There should be a minimal quality of standards for lawyers who are going to represent or prosecute children and, as such, training must be important and afforded to all of these.

When we look at the Juvenile Justice Act, the question arises; should there be a special juvenile court, is there need for child sensitive environments with specially trained staff to deal with all of these and also the whole issue of delays? We need to ensure that is addressed within the Bill, so that children are not sitting waiting for counsel or waiting for attention, but that they could be dealt with quickly.

Non-Governmental Organisations (NGOs) and civil society could play a very important role, both in prevention of juvenile offending and in providing community-based services for children in conflict with the law, including prevention and reintegration programmes, and diversion and restorative justice programmes and facilities. There is mention of that inclusion in the Bill before us today, but I think there should be more discussion and consultation, so that, specifically, this could be determined.

I am happy that the Bill finally addresses certain status offences, which currently criminalise children, facilitating their detention with sometimes hardened criminals and ignoring the circumstances which would have led to these offences. I remember on one of my visits to the Sophia Detention Centre, I was appalled at how many children were locked up for truancy and wandering. In fact, reports state that at least 70% of children who are detained are there because of truancy and wandering. Status offences are offences that could only be committed by persons of a certain status, generally children and we know of those offences - chronic or persistent truancy, wandering or running away, being unruly or simply bad behaved with parents, or at

school and possessing alcohol or tobacco. The irony of it is that adults will not be prosecuted for many of these things, but children are.

Although status offenders are not criminal and their acts are not harmful to others, they may nevertheless be subject to arrest and detention. Children who commit status offences find themselves within the justice system and they often have little parental or legal support. I would like to see that this Act has more for children who are impoverished or who find themselves in difficult circumstances, so that they could have adequate legal counsel before they even get into the court and then, that is decided.

I think we have heard much about children or young people who are detained with hardened criminals and, of course, there are many problems that exist. They could be bullied, they could be tortured, they could be abused, and, essentially, they could come out with a mind-set that is more criminal than what they entered that detention centre with.

The right to appeal - there is review mentioned in the legislation, but a right of appeal would only be meaningful if children are informed of their right to appeal in a language that they could understand and that they have a right to free legal representation to prepare that appeal. Legislation should guarantee the child the right of appeal against conviction and sentence to a higher independent and impartial authority, whenever the child is convicted or is found to have infringed the criminal law.

Then, there comes the media. There is mention of what information is allowed and not allowed, but I think that the legislation should directly address the media in how it should report or broadcast any information that could lead to the identification of a child; alleged to, accused of or recognised as having committed an offence. This should include the prohibition on the use of photographs of the child and parents, names, parents, schools and neighbourhood in which the child lives. Legislation needs to contain sanctions, if there is breach of this and those breaches violate the right of privacy of a child in conflict with the law. For the law to work and for young people to have access to it, a child friendly version of law should be published and made widely available, that is a recommendation that I hope would be taken on board.

3.59 p.m.

The financial implications of reforms should be contained in the policy paper that represents the start of the process. It will prove virtually impossible to implement any new law if it has not been costed and resources have been allocated. The content of the law may well depend on the level of the financial resources available, for instance, whether or not to have new courts or whether or not to have courts only centrally placed or decentralised. All of those may depend on one's financial resources.

A more effective way, and this is dealing with prevention as well as targeting juveniles, is to target communities severely affected by violence and other criminal activities with a holistic approach to the rule of law. I think that we are all aware that more recreational facilities are needed, more youth programmes are needed, and that argument has been made over and over. We all need to ensure too, when this legislation is placed into effect, that there is an awareness of it at all levels and by all stakeholders.

Sentences without impunity handed down to first time juvenile offenders, while career criminals roam free, fail to realise that they have torn families and communities asunder and perpetuated more criminals. I noticed in the Bill that proportionate measures are given to the activity and that is a very good thing.

As I said, the Bill has a lot of positives. I think that it would be even more amenable to everyone if we can refine it to the level where it is acceptable to all stakeholders. The Juvenile Justice Bill, as such, is a progressive piece of legislation that is necessary in our country. Research demonstrates that the earlier the investment in an individual, the greater the chance that violent behaviours can be prevented through adulthood, and the more cost effective it is to the country.

While I am really happy to see this Bill brought here, and I once again commend all those who would have worked on it in the past Government and in this Government. I would really like to see it go to a select committee, be dealt with alacrity and be brought back to the floor so that we could all support it unanimously.

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

Mr. Speaker: Hon. Members, it is now two minutes after the 4 o'clock hour. It seems appropriate that we should take the suspension now and we will return at 5.00 p.m.

Sitting suspended at 4.02 p.m.

Sitting resumed at 5.23 p.m.

Mr. Speaker: The next speaker is the Hon. Amna Ally. You have the floor.

Minister of Social Protection [Ms. Ally]: Thank you, Mr. Speaker.

I stand today, before this National Assembly, in a state of great euphoria to debate the much anticipated Juvenile Justice Bill 2018. Many would agree that this Bill was long overdue and that it is time for this nation to have a juvenile justice system that is rational, fair, effective, in accordance with our international treaty obligations, and one that will improve synergy among departments, agencies and ministries responsible for juvenile justice.

This ground-breaking Bill seeks to amend and consolidate the law in relation to criminal justice for juveniles, and make provisions for proceedings with respect to juvenile offenders. It makes provisions for the establishment of facilities for the custody, education and rehabilitation of juvenile offenders and repeals the Juvenile Offenders Act and the Training Schools Act, which are obsolete.

Although this reform Bill will hold young offenders accountable for their actions, it will protect them from harm, increase their chances at having a better life, and manage the risks they pose to themselves and to public safety.

Article 38B of the Constitution of the Co-operative Republic of Guyana Act stipulates that:

> "The best interest of the child shall be the primary consideration in all judicial proceedings and decisions and in all matters concerning children, whether undertaken by public or private social welfare institutions, administrative authorities or legislative bodies."

Therefore, I can confidently stand before this House and say that this Bill will guarantee that the decisions on all matters, relevant to children, will be in the children's best interests and that they are intended to further their well-being under the new and reformed juvenile justice system.

No longer will our youths be placed before the courts for status offences, such as wandering and truancy. With the passage of this Bill, these crimes will finally be abolished and decriminalised. This will be a major achievement in Guyana's Juvenile Justice Reform. Over 70% of the 70 youths who are currently incarcerated at the New Opportunity Corps (NOC) are there for these related charges, as well as minor offences. A child at risk of delinquency, which is wandering in Guyana's context, is by far the principal reason for the loss of a child's right to liberty.

We must be cognizant that many of these children are a product of their environment and that many come into conflict with the law for various reasons, ranging from: poverty, family unit break-up, lack of education, unemployment, migration, substance abuse, pressure exerted by peers or adults, lack of parental supervision, violence, abuse and exploitation, to name a few. Youths that come from poor economic and dysfunctional homes or backgrounds are disproportionately involved with the juvenile justice system. We must actively work to change this.

The time has finally come for us to put an end to the tragic act of prosecuting youths for being unable to positively chart their lives on the right paths, and to align our juvenile justice system in accordance with the international treaty obligations under the United Nations Convention on the Rights of the Child. This is exactly what this Bill will enable us to do.

Depriving children of their liberty can have longstanding effects on a child's physical, mental and emotional health and development. There is no credible evidence that shows that detaining children will contribute to improving security or decreasing criminality in society.

The provision of adequate diversionary options are made under Part II of the Bill, which is in keeping with Article 40 (3) (b) of the UNCRC, which speaks to the development and implementation of measures for dealing with children in conflict with the law, without resorting to judicial proceedings, whenever appropriate and desirable.

The Act sets out the principles and objectives to be used in the diversion and stipulates the general conditions that govern diversionary measures. These measures will provide effective means to divert a juvenile away from formal court procedures to informal procedures, including restorative measures to deal with the juvenile alleged to have committed an offence. It also sets

out the various diversionary measures that are available under Part II, clause 9. Some of these diversionary measures include:

"(a) an oral or written apology to a specified person or institution;

(b) placement by the court under the supervision and guidance of the Director of the Childcare and Protection Agency;

(c) the issue by the Director of the Childcare and Protection Agency of a positive peer association directive requiring the juvenile to associate for a specified period with a specified person who the Director of the Childcare and Protection Agency has reason to believe can contribute to the positive behaviour of the juvenile;

(d) referral by the court to counselling or therapy for a specified period;

(e) compulsory attendance ordered by the court at a specified place for a specified vocational or educational purpose for a specified period;"

Some of these diversionary measures stipulated in Part II, clause 9 of the Bill will facilitate the Ministry of Social Protection in carrying out its mandate by playing a much more integral role in positively changing the lives of children through behavioural modification programmes, rather than have them detained.

5.35 p.m.

This modern Bill makes provision for a variety of dispositions, such as care, guidance and supervision orders, counselling, probation, foster care, education, vocational training programmes and other alternatives to institutional care to ensure that children are dealt with in a manner appropriate to their well-being and proportionate, both to their circumstances and to the offense.

Diversion from judicial proceedings and alternatives to detention are essential focus areas for those working on reforming justice systems to ensure the protection of the rights of children in conflict with the law and in conformity with the Convention on the Rights of the Child – Articles 37 (b), 41, 43 (b) and 44.

Sir, it is imperative that we support effective alternatives to detention when possible because children should not be incarcerated. The vast majority of children who are incarcerated have been accused of minor or non-violent crimes, and they should not be stigmatised and ostracised for having committed relatively minor acts.

According to the United Nations International Children's Fund (UNICEF), conditions of confinement interfere with rehabilitation and can increase recidivism. They need adequate care and support and to be diverted from the justice system. Diversion programmes serve as opportunities to correct youths' anti-social behaviours with the assistance of their families and the community, rather than through the justice system. As an alternative to traditional processing, diversion is intended to reduce stigma, reduce coercive entry into the system and unnecessary social control, reduce recidivism, provide youths with services they would not have otherwise received and connect them to broader community service alternatives.

Evidence from a range of UNICEF project reviews, evaluations and Meta-analysis show that such programmes can reduce offending by up to 70%, depending on the quality of the programme. Diversion leads to a decrease in the case loads of prosecutors, judges and Juvenile Probation Officers and will lead to a decrease in the number of youths sent to detention facilities. Detaining children waste both their childhood and valuable public resources that could be allocated to diversion programmes for youths.

In addition to that, UNICEF has noted that investment in prevention, diversion and alternatives is more cost effective than investment in systems which have an overreliance on detention. Even if diversion and alternative programmes result in additional initial set up costs, this money is recouped in the medium term and these costs are still far less than investment in new detention centres.

Part IV of the Act makes provision for access to legal aid services for any youth who comes into contact with the law and referral of the juvenile to the Director of the Childcare and Protection Agency (CPA) for assessment to determine if the juvenile is in need of child welfare services.

Children have unique legal rights and interests. Although the Guyana Legal Aid Clinic has been providing service to juveniles over the years, this Bill will now make it mandatory for all

juveniles to have the right to legal counsel, which is central in providing access to justice for juveniles, by ensuring equality before the law and the right to a fair trial.

I would like to remind this honourable House that the Hon. Minister of Finance, Mr. Winston Jordan, in his 2018 Budget presentation, had identified the creation of a legal aid programme this year, to not only focus on defending non-violent juvenile offenders, but to also reduce the burden on the prison system. During his presentation, he informed us that Government will be piloting the programme to work on the defence of minors, non-violent offenders who are on pre-trial detention. I concur with the Hon. Member when he noted:

> "It is not the wish of this administration to have children and youth incarcerated for petty offences, such as wandering. To continue to do so would be to deprive this nation of the true potential of its rich human capital."

He also noted that, by the end of 2018, the programme will commence work on the over 500 cases, on assessing the sustainability of this pilot legal aid programme, and in providing capacity building to non-governmental organisations (NGOs) that share a similar objective.

The passage of this Bill will usher in a new milestone in this nation's journey towards juvenile justice reform, in that, it will increase the age of criminal responsibility from 10 years to 14 years old. It sets out that it shall be presumed that no child under the age of 14 years old shall be capable or guilty of committing an offense. This new measure will be on par with our progressive approach to youth justice and the Ministry of Social Protection's goal to give children the best possible start in life.

The Ministry of Social Protection stands ready to cater to the needs of children who are predisposed to delinquency, but under the age of criminal responsibility and juveniles, where it has been determined that they are in need of care and protection under the Childcare and Protection Agency. To achieve success with the enactment of this Act, it would require increased collaboration among key stakeholders, including the Ministry of Education, the Ministry of Social Protection, the Ministry of Public Health, the Ministry of Culture, Youth and Sport and the Ministry of Public Security, since child rights and well-being have taken centre stage. This means that efforts have to be made to keep juveniles from coming into contact with the law and

if they do, then, from the time they are arrested, rehabilitation methods must be effectively employed.

Consequently, detention and custodial centres must be more rehabilitative than punitive, meeting the needs of the juvenile for continued schooling, education, adequate health and social services. The efforts for keeping juveniles from contact with the law will include programmes for youth development and meaningful occupation - job creation for youth rather than job seeking. There must also be an overhaul of the probation service for more effect. We need rationale policies that prevent children from committing crimes in the first place and treat our incarcerated youth humanely because children's rights are human rights.

This Bill represents an effort to strengthen the nation's juvenile justice system and improve the odds that delinquent youths would become productive adults, who would contribute positively to the sustainable development of this nation.

It is our hope that the passage and implementation of this reformed Bill will decrease the number of youths unnecessarily or inappropriately detained in juvenile detention centres. In other words, the Bill will seek to ensure that only those youths who are found culpable of serious offenses are detained, and that these youths are detained for a minimum amount of time needed to advance to the next phase of the juvenile justice process rehabilitation. This Bill will reduce the number of youths who fail to appear in court or reoffend. Redirecting public funds spent on juvenile justice towards effective processes for rehabilitation and public safety strategies, ensuring that those youths who must be detained and the staff responsible for their care and custody are held in facilities whose conditions of confinement meet, at least, the standards of the established law.

In closing, I wish to note that Juvenile Justice Reform should not be driven by fads or politics, but only by what is best for our nation's children. In this regard, I humbly request the passage of the Juvenile Justice Bill in this National Assembly and I urge my Colleagues on the opposite side to support this Bill also.

I thank you. *[Applause]*

5.50 p.m.

Ms. Manickchand: May it please you, Mr. Speaker. I am very pleased that we are here this afternoon addressing what I think is one of the necessary pieces of legislation to finally complete the slew of legislation that we had passed in the last Parliament relating to children. The House may recall, the nation certainly well and those children benefiting every day from the various pieces of laws, that it is contrary to what my colleague just said. This atmosphere of looking after children and their rights did not start with the introduction of this building to the National Assembly. In fact, it started a while ago when this nation began to talk about how we were going to deal with children, in keeping with the modern understanding that had been codified and mentioned in cases for a couple of decades that the welfare of the child will be paramount. On that note, Guyana passed between 2007 and 2010 five pieces of legislation, the Adoption of Children Act, the Custody of Children Act, Custody Contact, Guardianship and Maintenance, Protection of Children Act, Status of Children Act and the Child Care and Protection Agency Act. In fact, in this Bill, it is mentioned repeatedly - my colleague on the other side just specifically made reference - to the Director of the Child Care and Protection Agency.

Prior to 2011, we did not have a Child Care and Protection Agency. We certainly do not have a director. Progress over the years has been made with a focus to making sure that our children can exist in an environment that is conducive to making sure, as far as we can, we address their needs. This Bill is properly positioned in that atmosphere and environment of trying to make sure that we address children who have needs as far as it relates to justice in the criminal arena. I am very happy that we are addressing that, I am particularly pleased that this Bill is going to abolish Status Offences. We have heard the definition of that, essentially offences that are peculiar to children alone because they are children. The minority is what attracted the criminality of the thing that they do that we have made into offences.

I am very happy that truancy and wandering are no longer going to be an offence. I am pleased that in 2018 Guyana can say that we are not going to wait much longer before we remove this bit of anachronism from our books.

I am very happy that corporal punishment is in a limited form that is going to be banned through this legislation. I do not believe that I have seen Guyana coming together so much, unite on an issue, such as the issue of attempting to abolish corporal punishment. I saw a unity across to divide of ethnicities, religions, classes, and so on, get together to stop the abolition of corporal

punishment. I think this is a progressive move in this piece of legislation to ban corporal punishment, at least, for the children who will be subjects of this piece of legislation.

This piece of legislation definitively addresses the modern learning that has been informed by centuries of research and experience, that it is better to attempt to prevent, first of all, and then to use the diversionary measures to deal with children who have fallen foul of various pieces of legislation. We will see less of that now that we have removed these Status Offences. We are finding ways that have been informed by experience to deal with that. All in all, this piece of legislation really completes and it has had been noted.

I wish to commend Dr. Anthony who began its birthing, pulling together of teams to put this on paper to give us a first draft and continuous drafts over the years so that Mr. Ramjattan was able to pick it up and he, himself said, after one revision, it is to bring it to the National Assembly. I wish to say that it comes at a time that it is needed. It is timely and it comes at a place where it fits very squarely in what was our nation's vision for children and where we should see them going.

However, it would be remiss of me if I did not raise with this House, not only on my own behalf, although I will very happily accept that much of what I am about to raise I have concerns about also, but raise with this House concerns that have been raised with me by other persons, including Members of the Guyana Association of Women Lawyers (GAWL) or other colleagues at the Bar. That is why we are asking that this Bill goes to the Special Select Committee where Mr. Ramjattan and the Government will have control over how quickly we deal with it and how quickly it comes out of that Committee. I see no harm in this harm, going to Special Select Committee to be addressed so that we can get the best out of it all for the benefit of our children. In fact, every single piece of legislation, which was passed in this House relating to children, went to Special Select Committee. I do not think anyone in this House could stand here and say that this Bill enjoyed more consultation than the Sex Offences Bill. You cannot tell that to this nation. No one can stand here and say that this Bill enjoyed more consultation than any of the five Bills on children that we have passed, yet, we took them all to the Special Select Committee sat and hammered out the things that we needed to hammer out and came back to this House and passed them all unanimously, all of them. It sent a message to this nation that across to divide, we were going to stand with our children.

I think that it would be a tragedy if poor governance practices would see us railroading this Bill through this National Assembly here this afternoon, especially, when I would say with confidence, that this Bill cannot be brought into force anytime soon. It is simply because of the provisions that are in the Bill. For example, this Bill requires that every summons served on a child has, endorsed on the summons, as part of the summons, that that child in entitled to legal representation. This country is not ready to serve a summons that if we were to bring this into force tomorrow.

This Bill requires the attention of the Director of Public Prosecutions (DPP) for every single charge and, in fact, if private criminal charges are instituted the permission has to be got from the DPP, so states this piece of legislation. People might be wondering because we do have these current topics going on. It is not a requirement that you get her permission to institute private criminal charges, irrespective of what is being touted. This Bill states that you must or she will withdraw them. She is not ready to do that or that office is not ready to do that.

This Bill states that every child, who is arrested, must benefit from legal representation at the expense of the state. You are not ready to do that. What is the harm?

This Bill states that every child that has encountered this system must benefit from a psychological evaluation at the cost of the state. You are not ready to do that. We do not even have the resources to do that. What then is the harm in taking this to Special Select Committee and having us…

I do not understand how it could be a Bill. Mr. Ramjattan is going to be the chairperson of that Committee. Mr. Ramjattan is going to have control over how that Bill moves through that Committee. I do not understand why he is trying to shout me down. I do not think anyone here would dispute that I have and I have done much to make sure that children have a good legislative environment. There is no harm in taking this to Special Select Committee.

For example, if you look at clauses 11 and 12, they could do with more refine drafting. Anyone who looks at it will see it. Those are things that we can fine-tune very easily and come back out in a month’s time with this Bill ready for unanimous passage.

It is incredibly important that we look at this Bill which is utopic. We all stand here and cheer it. We need to pay attention to some of the issues that have cause concern. For example, Guyana is almost standing very progressively modern in raising this criminal responsibility age to 14 years. Many persons have a problem with that. We need to sit down and trash out whether that is best for our Guyana at this stage. It is modern but, is it the best? Should we do it at 12 years and come back a few years from now and then raise it to 14 years? That is a discussion that needs to be done. I heard the example of England being used. England has an age of criminal responsibility at 10 years. It has refused. We did not have our High Commissioner giving it a lecture but it has refused to change it over the years, including when its own law lords have gone to the House and presented papers there to increase that age of responsibility. Thirty-three of the United States of America's states do not have a minimum age of responsibility. Forget those wide countries that are far apart. We love to quote them. Mr. Ramjattan's speech, quarter was based on what England has told him to do but let us take our neighbours.

Jamaica's criminal age of criminal responsibility is 12 years old. We more like Jamaica, one would assume. It is 12 years old. Barbados, 11 years old, Canada, 12 years old, Scotland, 8 years old. Trinidad and Tobago, it does not even have a law addressing it, so it goes with the common law which is more age 10. That is what our neighbours are doing. We are not alone in having a problem with addressing this issue. The people who have raised with me, that the age for criminal responsibility needs to be something carefully considered, are not backward. They have real concerns. They have real concerns in our Guyana because there was a time when people said young children who are exploited to do crime were freedom fighters. People have a real issue with it. They know that children are supported, equipped and resourced to go out there and make mischief, take lives, rob people and they have support of entire outfits and bodies.

In 2017 - I cannot remember the date - in March, the economist had an entire article that was entitled "The minimum age of criminal responsibility continues to divide opinion". Guyana is not backward to be having this conversation. We are not backward. People want you to consider their views and then make informed decisions. I am not saying that we have not done that. I am saying that we can give more mature consideration to this at a Special Select Committee in a short space of time and come back to this House with everyone being comfortable.

The other thing is, when you are making these big kinds of changes, you do not force it down your people's throat. You do not stand up like *massa* and say *"we seh ya gah do this"*. It is best if we can get the people across this nation on board supportive of this legislation, supportive of the changes that we want to introduce. I am not necessarily saying, I may be very well be one of those persons who said I would like to keep it at 14 years old but we cannot dismiss the people who have problems with placing it at 14 years old, especially, when they would provide me with information that shows me countries across this world have it at lower ages because they have to deal with realities on the ground.

6.05 p.m.

Additionally, I am not hearing in the utopic Bill, and the euphoric and utopic presentations made on it, a very important thing. How are we addressing some of the issues that caused us to feel that we needed to draft this piece of legislation? How are we addressing that? I disagree respectfully. I do not know of any child, born anywhere that is predisposed to delinquency. That is the Hon. Member's view and I do not share it. I heard my friend say it earlier. Children become delinquent - in my respectful and considerate view - because of circumstances. A child would wander if a mother's husband at home is sexually interfering with that child. The child will run out of the House and somebody will hold him or her for wandering. A child would be a truant if his or her father is an employee at the Enmore Sugar Estate, the Government knocks him off and he cannot put lunch in his or her lunch kit. These are real issues that people are facing. Mr. Ramjattan cannot entertain a philosophical discussion on anything, so he descends into the gutter.

The reality is if anyone knows what happens in the courts. Parents go to the courts or police stations and say to the police, "I can no longer handle this child. Please deal with him or her." Ask any lawyer who practises in the juvenile court and you would find that out. The courts, with limited circumstances and resources, sentence them as a resident. Nobody is an inmate. I heard them being called that earlier. They are sentenced residents of the New Opportunity Corps (NOC). The law is clear on that. They go there and, to some limited extent, are safer there than being on the street. That is old; it is archaic. It cannot be the way modern Guyana deals with our children, but saying that we are not going to send them to the NOC, or we are not going to give parents the ability to go to the police and say, "I cannot deal with them, help me". It does not

take away the problem that there is an uncle somewhere, interfering with the child who needs to exit the house. It does not take care of the problem whereby parents cannot put food in their children's lunch kits and they cannot go to school, so they become truants.

We have to deal with the source of the problem. What are we doing to address the issue that caused this child to run away in the first place? Saying that you cannot lock them up does not address that issue. It removes from the system, the ability to send them somewhere safe. I hope we understand what we are doing here. It removes the ability of the system to send them somewhere undesirable but safe, which is at the NOC. We need to look at how we are addressing this. We have been told, by the only person we should listen to in this House on financial matters, according to the Government, Minister Jordan, that our economy is in shambles. When we have an economy that is performing poorly, slipping and not performing the way they predicted....

Minister of Finance [Mr. Jordan]: I rise on the Point of Order 40 (b). I would like the Hon. Member, to please quote the source of the comment that she made that I said that the economy is in shambles or withdraw it.

Mr. Speaker: I thank the Hon. Member.

Ms. Manickchand: My source is the Minister Jordan's budget speech in late 2017, whenever he presented that. I may be using words, paraphrasing here, but he could correct me and use the right words. The Minister said that our economy had not performed the way it was expected, it had declined and dipped and we now had to...[*Interruption*]

Mr. Speaker: Hon. Members, let us not descend... Hon. Member Ms. Manickchand, I would remind you to stay with the matter of which we are presently doing.

Ms. Manickchand: I am very much there, but it appears that I have to say it again. It appears that I have not been articulate enough for everyone to follow.

The Minister of Finance said that we are doing poorly economically. We have had families who are doing poorly economically, and are doing even more poorly economically. This would cause their children to be unable to attend school, as a result of which they would become truants. This Bill is removing from us the ability to deal with them in any other way, although an undesirable

one, but to just leave them there. I am saying that is something we have to address. What are you doing to look after the 5, 000 people you just fired and to make sure their children go to school? What are you doing with them? Additionally, this Bill comes at a time where we have seen very poor governance. Bringing a Bill in April, 2018 to say each child, who comes into contact with the system, must get legal assistance, at the expense of the state - excellent. It is something that we worked on ourselves.

We expanded legal aid from Georgetown to Regions 2, 3, 5, 6 and 10. That is what we did. We are saying now that we must give these children legal help, but what did we do in the last budget? We cut the allocation to the Guyana Legal Aid Clinic by several million dollars. Only last two weeks, this could be confirmed by the Guyana Legal Aid Clinic, a child went there for representation and she was unable to get it because it was acting for the other party. When we caught that, as my learned friend just alluded to, we said that we are going to start a children's legal aid programme. It is six months later and we have been unable to get that off the ground. Money is sitting somewhere, our children are going unserved and you are coming with a Bill here.

I think that we need to sit down. It is not something we are incapable of doing. I think everybody here agrees that we need to look after children, but paying lip service to it, it is not going to do it. Looking after children requires far more than putting a Bill, passing it, cheering ourselves on and clapping ourselves on the shoulder. It would require far more than that.

For example, when we bought these Bills to the House, accompanying them was the creation and establishment of the Family Court which is being used daily and the Child Care and Protection Agency (CPA). I do not believe Mr. Ramjattan is not paying attention to what needs to be built. He said earlier that he is costing stuff. I have to believe that he understands there are things that need to be built and he is costing them. Should we not hear what those things are? Should we not sit and see where might have priorities? Should we not look at statistics and see that this is the region that has the most children who are getting into conflict with the laws? Our laws are changing now, so we would not have the same numbers. If these are the numbers, this is where we should put our first facility, that is where we should build our first holding centre.

There is much that can be discussed on this Bill at a Special Select Committee. There has been no reason shown as to why this Bill should not go to a Special Select Committee. I call for it. I want to say very clearly this is a piece of legislation that is needed in this country; this is a piece of legislation I would have great difficulty not supporting, but this is a piece of legislation that can be perfected. I passed the Sexual Offences Act and within a year we had to come here and amend it because it did not have everything it needed. What is wrong with going to the Special Select Committee and fine-tuning this piece of legislation? In fact, it would be a better thing. It would show *bona fides* in really looking after our children, even as you do some of the things that are needed to be done under the Act, like getting the summons. We are not going to change that in the Special Select Committee. Getting the summons prepared, creating offices and hiring the persons, those things are not going to be changed. We know that. You could actually give yourselves time to prepare and bring this Act into force, while we are studying and deliberating more maturely over it in that body.

I think we owe the children of Guyana a more deliberate examination of this piece of legislation, so that we could make sure that we are addressing them, not only the ones who may be subject to this Act but those who would not be. For example, the age of criminal responsibility, are we addressing all our children if we are going to deny ourselves the opportunity to deal sensibly with a 13-year-old who has committed serious crimes?

Your Honour, with that said I wish to say that we commend this Bill to a Special Select Committee. It would be a practice of good governance for it to go there. It would be in keeping with what all major pieces of legislation have gone through in this House, prior to the couple that are now coming. We could come back out here, and I would be the first to stand and support, whatever that Committee decides would be best for our children in these circumstances.

With that, I thank you Sir. [*Applause*]

Ms. Burton-Persaud: The Juvenile Justice Bill 2018, Bill No. 2 of 2018 places emphasis on three areas, rehabilitation, education and reintegration of juvenile offenders. In that context it speaks to the three models that inspire the administration of the juvenile justice system and these are the welfare model, the justice or control model and the restorative model. What does this all mean?

The welfare model would speak to the social wellbeing, elimination of poverty, access to education and proper parental guidance. All of these help to formulate the welfare of anyone, including our children.

The justice or the control model would speak to reform, rather than sentences. We need a system as the Juvenile Justice Bill to be able to help our children who tend to be delinquent, to put them in an environment to be reformed. Instead of giving up hope on them, instead sentencing them, taking them away and removing them from society.

The restorative model speaks to counselling, mentoring, training and social respect and responsibility. When we talk about restorative models, we are talking about getting our juvenile offenders back into society, for society to reaccept them despite the hiccups they might have had along the way. We need to have more preventative methods rather than look to have all the corrective methods in place. As there is the old saying, prevention is better than cure.

We also need to have wider consultations so as to heighten awareness and best answer the questions about how to deal with our young offenders. We need to acquire the knowledge of factors from the individuals, families, social settings and communities that influence the development of delinquent behaviours, of the types of offences committed by young people and of the types of interventions that could efficiently and effectively prevent offending in the first place or its reoccurrence. We know there are many cases where our young people, who are juveniles, are getting into some areas of crime.

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When that happens we need to look at the environment in which they live or the environment in which they socialise and see what effect it would have on them. We also need to look at how we could prevent them from a reoccurrence, going back down the same road that they went.

How we treat repeat offenders, we need to have a system in place to deal with those who may want to be chronic juvenile offenders, those who want to be in a situation where they are put into community service, and for them it is as a slap on the wrist. They feel it is okay, that they could go back out there and do the same thing again because nothing will happen. We also need to look at the situation where some of them are forced by adults to commit various forms of crimes.

In doing so, we need to look at the system of sentencing. There are various forms of sentencing. There is the informal supervision where the court informally monitors a minor and dismisses a pending charge if the minor stays out of trouble. We need to use that as a yardstick of encouragement to get those first timers to be able to reform, give them some kind of hope where they could say I am not branded or I am not stained for life. I made a mistake somehow and society is now giving me a chance to get back on the straight road.

There is also formal supervision where a juvenile meets with and is supervised by a juvenile probation officer. We need that to happen. We need the Child Care Protection Agency and the agencies that would deal with correctness of juvenile offenders to be able to do counselling, mentoring, educating and encouraging these young people. What we would want to term a mistake, we do not want to believe that it was deliberate or intentional, but they would have made a mistake so there is someone who could sit and talk with them and bring them back to, sometimes what we may say, their senses.

There is incarceration where the juvenile is sent to detention facility. When that happens we need to ensure that the facilities to which they are sent that the personnel there are trained to deal with them. The personnel are trained to be able to counsel them, to guide them and to parent them. Many times these juveniles would come from homes in some instances, have very poor standards of parenting.

We also need to look at factors that may affect a court's treatment of a juvenile offender and the disposition of the case. These are such as the severity of the offence, how serious is the offence. We need to look at cases where some of these juveniles carry out acts of crimes that involve violence. They use arms and weapons. They sometimes use guns and knives and these kinds of things. We need to look at that when they are to be sentenced.

The age of the person, in which my colleague alluded to earlier, and the minor's past record. Was it a first time, a second time or a third time or a continuous situation? How would we deal with sentencing of those persons? Will we decide that there is hope where we could reform them, where we might put them in a very stringent environment with persons who are forceful enough to be able to reform them? Would we put them away in a facility that would take them out of society for a while?

The strength of the evidence that the minor committed the crime. Sometimes there were very damning evidence that they committed the crime.

The minor's social history. We need to also look at the parents or guardians apparent ability to control the minor. Some parents give up hope. As the Hon. Member Ms. Manickchand spoke of earlier, there are times when parents would take children to the police station and say that they cannot deal with them anymore. How would we deal with issues such as those?

There is also the minor's attitude to the crime that they committed or alleged to have committed. Some of them are very penitent, some of them who are very sorry for what they have done and there are those who just cannot bothered, because as far as they are concerned, it is a part of their hyped up lifestyle.

When we talk about reintegration into society, we need the involvement of the community. There is the saying "it is a community that raises a child." We need every sector in that community to play an important role in helping that child, that juvenile to get back in to society and not cases where we see persons snubbing on them or banishing them into exile because they are a known juvenile offender. We need the community to take responsibility for having to get that child back on track.

We need the education process which would involve the awareness of the importance of this Bill. We should not just have the Bill just as it is and we put it out there. It is very important for us to have an awareness to get persons who would be involved and who would have to come into contact and play some part in this Bill, to be aware of its importance and the purpose it would serve. We need the judiciary that would have their various roles to play. We need the Child Protection Agency. We need the Rights of the Child Commission, the law enforcement as it relates to the police and how would they deal with juvenile offenders. We need social workers to be aware of their roles that they would have to play when this Bill comes on stream. How important it is for the counsellors and what type of counselling they need to give. Our educators and our teachers, how would they be able to let the students know from a very early age about this Bill – what it has in it and what it has to offer and how it is there to help them and not stigmatise them. We need community and faith-based organisations to be involved and for them to know their roles as it relates to this Bill. We need the students, the children and the young

people to know the importance of the Bill, the Bill is there to help them, the components of the Bill that they could reach out to and embrace and that the Bill is there to help them along the way.

We need to have our parents and guardians aware of the Bill and the role that they would have to play and what might be the penalties for them not cooperating when the time comes for them to do so. We need the care givers of the foster homes where these children would be placed to seriously understand that these children have been placed in their care for them to be the second parent, for them to be able to help them. It is not that their parents have failed them, but that their parents might be very young and are not capable of dealing with them at the present state that they are in, and so they have been placed in their care, not in their custody, to help that child or children to evolve and to be able to reintegrate into society.

It is important that the systems put in place must be proactive and aggressive, so that benefits could be derived from it. It must be able to guard against those adults who would see this Bill as a juicy piece of material to use young children and put them to do the criminal activities that would give them. Once they do it, heavy sentences and use the children to do the crime because they know that the children would be able to get lighter penalties or they would be pardoned. The Bill must seek to protect the children and it must help them and guard against, protect the young and vulnerable citizens of our society.

Looking at all of that in its context and what would have said before, I think that it is important that we take up this Bill. It is very important, very useful and is very much needed. I want to be happy, when this Bill is assented to, that we would have a Bill which we could stand up and cheer as a people in Guyana that we have something in place that would protect our children. I feel this Bill is all about that, protecting our children and not leaving them to be vulnerable to the vultures in society. Thank you. [*Applause*]

Attorney General and Minister of Legal Affairs [Mr. Williams]: I rise to support this Bill which aims to change the way children and juveniles are dealt with in Guyana. In that regard, I concur with the presentations of the Hon. Minister Mr. Ramjattan, the Hon. Minister Ms. Ally, together with the presentations of the Hon. Members Dr. Persaud, Ms. Manickchand and Dr.

Anthony, all of whom spoke in support of the Bill. We are assessing the presentation of the Hon. Member Ms. Burton-Persaud. I will conclude on that.

Before I embark, allow me to treat with the contention that was made in this honourable House that we have cut the budget for Guyana Legal Aid. On the contrary, we are very focused on that. We, in fact, have with the Inter-American Development Bank (IDB), a proposal and plan that is in train. We just recruited a former Attorney General of Montserrat to be the consultant with respect to harmonising legal aid in Guyana. You would recognise that the IDB programme targets, in terms of alternative sentencing, to reduce the population and the youths in juvenile prison population to ensure that young people do not go to court without legal representation. That would certainly contribute to the reduction of the volume of... We have US$8 million to deal with this. There is no question of any diminution in our approach to provide legal aid. In fact, today, we have approved a contract in relation to a programme in Guyana for legal aid. It is just to correct that record.

To really put into perspective, clause 19 states that:

> "Private Prosecutors of juveniles shall not be conducted without a written consent of the Director of Prosecutions."

This is a very important provision because it recognises that juveniles really are vulnerable. Adults cannot say that. It therefore suggests that adults must know that they cannot approach the justice system whimsically and or capriciously without making imprimatur of the Director of Public Prosecutions.

To return to my remit, this Bill is timely, it is relevant and it is long overdue. Article 2 of the United Nations Convention on the Rights of the Child (UNCROC) requires:

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> "In all actions concerning children, whether undertaken by…courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."

This Bill will reform the Juvenile Justice Sector in Guyana and it is one of the main ways that this Government intends to make the best interest of the child the primary consideration. It is said that one of the ways you could judge a society is the way in which it treats those who are most vulnerable. The Government recognises the vulnerability of our children and youth. As such, since taking office, our Government has implemented several programmes to ensure that the best interest of the child remains paramount.

According to United Nations Children's Fund (UNCIEF's) guidance for legislative reform on juvenile justice:

> "Juvenile justice system: …describe the policies, strategies, laws, procedures and practices applied to children over the age of criminal responsibility."

A Juvenile Justice System then is a system that encompasses legislation, norms, standards, guidelines and policies, procedures, mechanism, provisions, institutions and bodies specifically applicable to children in conflict with the law who are over the age of criminal responsibility. In other words children who are *doli incapax*

The main goal of any juvenile justice system is rehabilitation not punishment. According to Article 43 of the CRC:

> "Article 40(3) of the CRC requires States to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of or recognised as having infringed the criminal law."

This is what this Bill proposes to do. This Bill is important because, in addition of being exposed to the risk of abuse, children loose the guidance and support of their families and communities and suffer discrimination after they would have been released from incarceration. Further, they would have had their education interrupted. Simply put, their young lives could take a turn for the worst completely, derailing their otherwise bright future. Taking this into consideration, the focus of this Bill is on restorative justice, which makes the juvenile responsible for the harm caused but at the same time allows the juvenile an opportunity to be reformed.

In my presentation, I will focus on a few ways that this Bill reforms the Juvenile Justice System in Guyana. Criminal capacity, *doli incapax* the Bill reforms the age of criminality of a child by

changing the age from 10 to 14 as we have heard. This means that a child under the age of 14 shall be presumed not to have criminal capacity to infringe the criminal law.

Accordingly:

> "A child under the minimum age of criminal responsibility cannot be formally charged with an offence or subjected to any criminal law procedures or measures."

This was changed because of our legal system must recognise that the age shall not be too low, considering the emotional, mental and intellectual maturity of the child. However, this presumption could be rebutted and no one has dealt with this; this is basically a rebuttable presumption. Clause 4 for the Juvenile Justice Bill states:

> "(2) Where a child is charged the Director of Public Prosecutions, the Prosecutor or the attorney-at-law representing the child shall request of the court that an evaluation of the child be done and the court shall order that the evaluation be conducted by a suitably qualified person at the expense of the State.
>
> (4) The evaluation shall include an assessment of the cognitive, emotional, psychological and social development of the child.
>
> (6) If the presumption is rebutted the child shall be treated as a juvenile and dealt with in accordance with the provisions of this Act."

On the other hand:

> "(7) ...the presumption is not rebutted the court shall refer the child to the Director of the Childcare and Protection Agency… and the Director of Public Prosecutions shall withdraw the charge."

This is very important. If the child is assessed to be not the age of 14, but has capabilities *et cetera,* if they decide that is not a juvenile, the child is a child. If the child is capable, then the child is transferred into the category of juvenile. That is as simple as it gets.

The issue of diversion has been dealt with but I will approach diversion in another concise way. One of the corner stones of achieving juvenile justice is by implementing diversion measures as you see Article 43 (b) of the CRC states:

> "The CRC requires States to develop procedures that allow children to be dealt with without resorting to judicial proceedings or a trial…"

This is so coincident with our remit in resorting to reducing prison population. Wherever appropriate and desirable, Part II of the Bill, as was said deals with diversion and sets out principles and objectives that must guide diversionary measures. Diversion is often the most appropriate and effective way to address juvenile crime as preventing contact with the law is a crucial element of any juvenile justice. It reminds me of the Jamaican song – divert.

Investing in children in preventing children from coming into contact with the law is essential to the protection of children rights. Children should not be behind bars. They need adequate care and support and to be diverted from the justice system. Physical, sexual and emotional abuse may happen during detention which adds to the vulnerability of children and exacerbates their situation even more.

Diversion programmes allow children in conflict with the law to be directed away from the former coach system. It is predicated on the belief that formal system, processing and or incarceration has creamy no genic effects and alternatives such as diversion is rather for long term youth development. Diversion programmes are intended to hold juveniles accountable for their behaviour without formal court involvement.

Additionally:

> "diversion measures are designed to reduce stigma, reduce corrosive entry into the system and unnecessary social control, reduce recidivism, provide youths with services they would not have otherwise receive and connect them to the broader community service alternatives."

These recidivistic accusations that are usually made against some juveniles, we must be careful with it by suggesting that they are incapable from season from criminality. It is very important

that we implement affectively these measures that are outlined in this Bill. Further, Clause 5 (b) states:

> "(b) diversion allows for effective and timely interventions focused on correcting offending behaviour;"

Clause 6 states:

> "Diversion measures shall be designed to-
>
> (a) provide an effective and timely response to offending behaviour outside the bounds of judicial measures;
>
> (b) encourage juveniles to acknowledge and repair the harm caused to the victim and the community;
>
> (c) encourage families of juveniles including extended families where appropriate and the community to become involved in the design and implementation of those measures;
>
> (d) provide an opportunity for victims to participate in decisions related to the measures selected to receive reparation;
>
> (e) promote reconciliation between the juvenile and the victim;

Clause 8 of the Bill sets out some examples of diversion and diversely measures that will be employed by the relevant authorities. These include:

> "(a) an oral or written apology to a specified person or institution;
>
> (b) placement by the court under the supervision and guidance of the Director of the Childcare and Protection Agency;
>
> (c) the issue by the Director of the Childcare and Protection Agency of a positive peer association directive requiring the juvenile to associate for a specified period with a specified person who the Director of the Childcare and Protection Agency has reason to believe can contribute to the positive behaviour of the juvenile;

(d) referral by the court to counselling or therapy for a specified period;

(e) compulsory attendance ordered by the court at a specified place for a specified vocational or educational purpose for a specified period;

(f) restitution by the juvenile as ordered by the court of a specified object to a specified victim of an alleged offence where the object concerned may be returned or restored;…"

This is just but some of the measures.

Now, let me deal with the right to a fair trial for the juvenile. Another important feature of the Bill is how proceedings with juveniles are conducted. Part II of the Bill is designed to ensure that juveniles are accorded a fair trial. Clause 20 states:

"(1) A juvenile has the right to retain and instruct counsel without delay,… at any stage of proceedings…

(2) Every juvenile who is arrested or detained shall, on being arrested or detained, be advised without delay by the arresting officer or the officer in charge,… of the right to retain and instruct counsel, and be given an opportunity to retain counsel.

(3) When a juvenile is not represented by counsel at any hearing or trial, review or other judicial proceedings under this Act the court before which the hearing, trial or review is held, shall advise the juvenile of the right to retain and instruct counsel and shall give the juvenile a reasonable opportunity to retain counsel."

This is a very important provision because, as we know in practice, if they bring an alleged confession statement from a juvenile, no counsel present or any member of the family, then it follows that that confession statement would be thrown out. In circumstances where a juvenile wishes to retain counsel but is unable to so, the court shall, if there is a Legal Aid Programme or an assistance programme, refer the juvenile to that programme. If there is no such programme, then the court may direct that the juvenile be represented by counsel and this, of course, would be at the expense of the State. Clause 20 states:

"(7) If it appears to a court that the interests of a juvenile and the interests of a parent are in conflict or that it would be in the best interests of the juvenile to be represented by the juvenile own counsel, the court may allow the juvenile to be represented by counsel independent of the parent."

Therefore, it is important to note that a juvenile that has been arrested shall not be questioned or asked to make a written statement in relation to an offence in respect in which the juvenile has been arrested, unless the person questioning the juvenile or taking the statement has clearly explained to the juvenile in a language appropriate to the juvenile's age and understanding, the juvenile's Miranda rights as detailed in clause 20, Miranda in parenthesis:

"As detailed in clause 20 of the Bill, notice must also be given to the juvenile's parents of their arrest or detention within twenty-four hours."

I now deal with reform in sentencing. Another area that this Bill reforms is sentencing with respect to juveniles. Clause 38 (1) in Part VI:

"(1) The purpose of sentencing is to hold a juvenile accountable for an offence and to promote the juvenile's rehabilitation, education and reintegration into society.

Additionally, from the outset, this part states at clause 41:

"A child or juvenile shall not be sentenced to imprisonment."

A child or juvenile cannot be sentenced to imprisonment.

Further, clause 42 states:

"Where a juvenile is found guilty of an offence under any law the finding of guilt shall not be recorded as a conviction."

This is another protective devise to afford the juvenile a second chance. Further clause 42 states:

"Where a juvenile is found guilty of an offence under any law the finding of guilt…"

[**Mr. Ramjattan:** Mr. Williams, we just…] Yes, Part VI… nothing like repetition. [**Ms. Teixeira:** At least you are honest.] Part VI further sets out several guiding principles that must be considered when sentencing the child.

6.50 p.m.

These include that the sentence shall not result in a punishment that is greater than the punishment that would be appropriate for an adult who has been convicted of the same offence committed in similar circumstances. The sentence shall be proportionate to the seriousness of the offence and the degree of responsibility of the juvenile for that offence and that all available diversion measure shall be considered in deciding whether or not to order a custodian sentence.

The Bill also provides a wide range of sentences. Some of the orders that the court may make includes discharge of juvenile, reporting and being supervised by the Chief Probation Officer, commit the juvenile to the care of relative or other adult, payment of a fine, payment of compensation for any loss, damage or injury suffered, restitution of any property, community service, probation for a specified period not exceeding two years, make a custody and supervision order and ordering that a period be served in custody in an open residential facility as it relates to the schedule of offences which deals with serious offences including murder, manslaughter, robbery, trafficking and narcotics, the sentence will and can be ordered include a probation not exceeding three years. The emphasis is on giving the juvenile another chance to take up a responsible place in our society.

In conclusion, bringing this Bill to Parliament is commendable because every effort is made to improve the lives of children and young people who find themselves in conflict with law. Let us not fail our most vulnerable, but let us offer them an opportunity to be rehabilitated so that they could make a tangible contribution to building a beautiful society in the Cooperative Republic of Guyana. [*Applause*]

Mr. Rohee: That note on which the hon. Member, Mr. Williams, ended about a beautiful society, I think we are quite some distance away from that. When we began our deliberations in this House this afternoon, the very Mr. Williams stood and asked permission to postpone the Cybercrime Bill. No explanation was given with respect to the postponement of the Cybercrime Bill, but he did it. The question is why the encouragement from this side of the House to take this

Bill to a Parliamentary Special Select Committee could not be done in a similar spirit, in the similar manner that was done in respect to the postponement of the Cybercrime Bill?

I wish to join with my Colleagues who have issued a very enthusiastic and very spirited well informed call for the postponement or the referring of the Bill to a Parliamentary Special Select Committee, and I would like to state that from the very outset.

A close examination of the Bill would show that the balance between what we could describe as a restorative justice and law enforcement has been lost at the sense that there is more under restorative justice side rather than the law enforcement. Whereas I thought that there should have been a reasonably good balance between the restorative justice aspect and the law enforcement aspect of the Bill that is before us.

The hon. Member, Mr. Ramjattan, in presenting the Bill spoke in glowing terms about Mr. Jack Straw from the United Kingdom and his white paper. I am just very pleased as a Guyanese in this very hon. House to see this evening that we have a black and white paper in the form of a Bill before this House and not only a white paper. It is printed in black and white and that is good for our country.

By hon. Member, Mr. Ramjattan, admission he made reference that the fact that this Bill is crafted after what exists in the United Kingdom. This is a good example to show that the slavish and the kind of what I would describe as the dependence syndrome on a document that originates outside Guyana. Why should we rely so exclusively and so extensively on Mr. Jack straw's white paper? The Bill in its present form reflects what exists in a first world country and the Bill is aimed at achieving objectives that are consistent with the customs and the morals of a first world country. This is most unfortunate because most of my Colleagues from this side of the House had pointed out that much more work needs to be done on this Bill for reasons which I think very excellent explanations have been given. But, it seems as though the hon. Member, Mr. Ramjattan, probably has a director from cabinet that he is Dr. Buds or from Jack Straw on the matter.

This Bill needs a much broader consultative mechanism. It does not matter whether it is 10 or two. It could wait 10 more days or 10 more weeks. You waited 10 years. What is the problem with waiting 10 more days or 10 more weeks in order to put the mechanism in place where you

have the Parliamentary Special Select Committee and you have a larger number of persons from Guyana who will bring a much more indigenous perspective to the Bill consistent with many of the challenges which we face in developing a third world country. What I found with the Bill further is that - Mr. Ramjattan admitted this - he said that he wants to depoliticise the process. In depoliticising the process, he wants instead to civilianise. We heard about this word civilianising so often. We heard about civilianising the police force. We have heard about civilianising the passport department and so forth. Now, the hon. Member, Mr. Ramjattan, comes to this House and tries to encourage us that we must go along with him in civilianising this process of inheriting this Bill.

The police role in law enforcement in this Bill has been pushed to a larger extent on the back burner. The beginnings of the Bill have the police playing a very major role, but the police or the law enforcement aspects of the Bill are pushed at the side-lines after having played the steering contribution to the enforcement and implementation of the Bill they pushed by the side line who is supposed to be speaking on behalf of the police, but he is pushing the police in the corner. That is what he is doing.

I would like to speak on certain aspects of the Bill, but I recall going once to the New Opportunity Corps in Essequibo and I spoke to some of the residents there, both young men and women. One of them told me when I spoke to him, I asked him what is your ambition, what would you like to be, would you like to come out of here? He said, yes. I said what would you like to be? Do you know what he said? He said, a better thief man so that he would not be caught to end up once more in the lock ups like that. That reflects to a certain extent to what the hon. Member, Ms. Manickchand, was speaking about. These are the types of challenges that we face.

In Part VIII of the Bill the issue of the appointment of the Justice Juvenile Committee, setting up another bureaucracy. This question is addressing the Bill yes, but no mention was made of the conditions under which the committee members may be removed for either misconduct or for negligence of duty. I wish to draw attention to two incidences that come to mind when we speak about neglect and misconduct.

We have the two incidents one in July, 2016 at the Children’s Drop-In Centre where two brothers, one six years and the other three years old died in the fire, were burnt alive and 34

children in all had to be taken out from a burning building. The hon. Member, Lt. Col. (Ret'd) Harmon, the official spokesperson for the Government - because sometimes you have so many spokesperson and women that you do know if it is the Tower of Babel - in the *Kaieteur News* on 28 June, 2016, after the fire took place had this to say, that there is poor collaboration between the agencies who are responsible for managing the centre, that there was poor collaboration, lack of policies, neglect and maltreatment and other systemic problems that resulted in the deaths of children and adults.

Then there was another incident at the Juvenile Holding Centre at Sophia with another fire there where a 16 year old and eight others had to be taken out. You cannot take care of children. How are you going to take care of them in this juvenile justice system that these Bills that you are talking about? How are you going to do that with all these problems and the absence of so many necessities which, Lt. Col. (Ret'd) Harmon, your colleague spoke about in Cabinet? [**Lt. Col. (Ret'd) Harmon:** I do not see the connection.] Well, I see the connection, and it is a big connection.

7.05 p.m.

Hon. Member Mr. Ramjattan also failed to take care of the prisoners at the Georgetown Prison; so many died there. We approach this Bill with a tremendous degree of trepidation, having regard to the track record of the Hon. Minister in so many instances.

The Bill describes that any person appointed to the Committee and such person may be interpreted to mean that they would be setting their own conditions of service. We have no information about the conditions of service that will be attached to these persons who will be serving on the Juvenile Justice Committee. There are no penalties for breaches of privacy and non-disclosure of rules; no mention is made of such penalties. More than that, in PART X of the Bill, there is a total absence of any penalties for hindering an officer in the execution of his duties. And then, equally important, the Bill appears to be silent on the issue of a juvenile being jointly charged with an adult. We have many instances where adult criminals use juveniles to commission crimes. What do you do with a juvenile who is jointly charged with an adult in the commissioning of a crime? These are some of the issues that we need to address. [**Mr. Ramjattan:** It has to be a separate charge.] I do not know. I do not know if we are

debating whether there should be a criminal charge or there should be a separate charge in that area or the other. [**Mr. Ramjattan:** But that is what you are debating there.] Well, you will get a chance to answer.

[*Mr. Speaker hit the gavel*]

The Hon. Member seems to be very *thin skin* when it comes to giving constructive criticisms and observations with respect to the Bill. But let us go on. From the Bill, it appears as though there is an assumption that there will be what I will describe as a tsunami type avalanche of juveniles. And so, we have to begin planning and taking care by putting up the buildings and creating the conditions for these young juveniles who we expect to emerge overnight and therefore it seems as though we are in a crisis situation. This Bill seems to be aimed at dealing with a crisis. But the Hon. Member Mr. Ramjattan does not want to address the question of a crisis that is emerging in the country with respect to youth and gang violence, and the involvement of younger persons in these matters.

In submitting that this Bill should go to a Select Committee, there is ample room for that when one looks at all the clauses that give the possibility for that to happen. I believe that the Hon. Member Mr. Ramjattan and his Colleagues, disciplined as they are in respect of a decision of Cabinet, must be able to see the difference between the Executive and the Parliament. Bringing a Bill to the Parliament means that space needs to be created for parliamentary intervention and that parliamentary intervention comes from the Opposition. But if a Bill is brought to the House and refusal and rejection of any space whatsoever of parliamentary intervention, especially from the Opposition benches, then it makes absolutely no sense because no need for involvement by the parliamentary Opposition is seen. Clearly, they cannot expect us to rubber stamp and railroad a Bill because then it means that the Parliament plays no functions at all. The Hon. Member Mr. Ramjattan has gone to many parliamentary conferences. Many of the Members on the Opposition and the Government sides have attended workshops on what a Parliament ought to do on matters of this type. But we have reached a stage where we do not seem to go beyond what the Government benches require and that seems to be the end of this story. It is a mockery to the Parliament. It means that the Parliament has absolutely no role to play in this measure. So, when we talk about accountability and transparency that has to also be seen in the context of the role a Parliament plays in matters of this type.

I want to conclude by suggesting and supporting my Colleagues who have unanimously called for this Bill to go to a Select Committee for further consideration and consultation with the involvement of other stakeholders who have a role to play in this matter. Thank you. [*Applause*]

Mr. Speaker: Hon. Members, I believe this is the time when we should take a brief break. We will return at 7.45 p.m.

Sitting suspended at 7.13 p.m.

Sitting resumed at 7.59 p.m.

Ms. Teixeira: Sir Michael Davies had brought a Needs Assessment of the Guyana Parliament in 2005 and it had gone to a Parliamentary Select Committee which brought back its report. In that Committee, the Standing Orders were totally revised in 2005/2006. That Select Committee's report was unanimously agreed to by this House. One of the recommendations in that Select Committee report based on the Davies Needs Assessment was that all large and complex Bills be sent to a Special Select Committee. And therefore, maybe the new Members of this Parliament are not aware about that, but there are Members of this House who vehemently fought on the Opposition side in those days for that amendment and that principle to be recognised and held to by the Government. Therefore, I start by referring to that because I believe in that - matters going to Select Committee, large and complex Bills. And we have had a problem in this Parliament, the Anti-Terrorism Bill, over 100 pages, the State Assets Recovery Agency (SARA) Bill over 100 pages, Insurance Bill over 100 pages, none of which went to a Select Committee. They went through and in one case they were rather rushed through the stages.

There are Bills, right now, in Select Committees and I cannot understand the Government's reluctance to send this one. After all, the Government has the Chair of these Select Committees on Bills and they have the majority in the Committee. So, what is your problem? And I will give you a further example, the Petroleum Commission of Guyana Bill, which is so important to this country, has been sitting in Committee since June, 2017 and has had one meeting. So, what is the problem? You are in the Chair, not us. There is also the Constitutional Reform Consultative Commission Bill which has also been sitting since July in the Committee that met once or twice since then. And I would not refer to the Animal Welfare and Food Safety Bills, as the Government seemed to not have been sure what it was doing in those Committees. So, the issue

of going to a Select Committee is not a problem for us; it is a problem for you. You control the Committee; you have the majority; you have the Chair and yet you are reluctant to let a Bill of this importance go to the House to have further correction and deal with some of the omissions and/or contradictions in the Bill.

The Hon. Members on this side have spoken very well. Dr. Anthony, Ms. Manickchand, my Colleague, Gillian Burton-Persaud, Mr. Rohee *et cetera*, have all spoken, and I do not want to repeat what they have said. However, when we get euphoric about a Bill, we have to be very careful that we do not get caught up in the language and also we do not forget what the language is all about. The language, when there is the Hon. Minister of Social Protection talking about incarceration, when, in fact, this Bill obliterates the issue of incarceration of juveniles, but the word is used of incarceration. When another Member is speaking and talks about prisoners or inmates, the children at the New Opportunity Corps of this country have never been called any of those names.

I go back to the Training Schools Act, 1907, long before Independence and long before our constitutional amendments of 1999 –2001. It talked about the "best interest of the child" and "the rehabilitation of the child" who got into conflict with the law. It is the People's National Congress (PNC) Government that took the Essequibo Boys' School and the Belfield Girls' School and merged them into one which made us have the only co-educational correctional institution in the entire region and it has worked. However, it came under the National Service up until 1997 and the removal of the National Service from running that institution was able to remove some of the wrongs that happened there and some really serious wrongs. But the NOC children have always been called students; it is a training school. It is not a prison; there are no bars. And therefore, I am very surprised that the Minister of Social Protection, in the Supplementary Financial Paper that is coming sometime, whenever we have a Sitting, maybe in a month's time, six weeks' time, God knows, that $81.6 million will be spent for the construction of a concrete fence or perimeter fence of 4,338 feet at NOC in order to address security breaches. Well, $81.6 million for 4000 feet of fence, what kind of fence is that? Is it electrocuted or electrically wired? What is it? Anyway, the $81.6 million, by the way, could be better spent if you do not rush this Bill through and refuse to send it to a Select Committee. The $81.6 million, I propose, should go to setting up the programmes and the facilities to make this Bill happen. And

unless you have the money, you cannot do it. Eighty one million and six hundred thousand dollars for a fence, when NOC is supposed to be, under this Act, a residential institution; not a prison or a detention centre, a residential institution for custodial care of children in conflict with the law. So, you are talking through two sides of your mouth because while you are saying that you have fought the great thing for the children, you are building a big huge fence around the place to keep the children out. [**Ms. Lawrence:** It is to keep out the paedophiles.] There are no paedophiles which you are talking about; that is an excuse – $81.6 million. If you know of a paedophile, lock the paedophile up. Do not talk about walls.

8.06 p.m.

The Ministers, I am sure, are familiar with the Situation Analysis of Children and Women in Guyana 2016, UNICEF Report. It was launched with a lot fanfare at a nice hotel and fancy invitations. I am sure that you have all read the document and I am sure that the Ministers of Education, Public Health and Social Protection ought to have read the document because it has to do with this. There is a section to do with children in conflict with the law. The statistics show that, in 2014, there were 214 boys and girls in the Juvenile Holding Centre. At the New Opportunity Corps (NOC) between 2011 and 2014, the total number of children that passed through NOC was 831 children. That was when our children could be sent there from the ages of 10 to 17. Seventy per cent of these were boys. Of course, the admitted level of the things which they had done wrong were, break-and-entry and larceny, mainly. There was one case of murder, and, of course, robbery-under-arms and simple larceny, which were the big ones. So there is data here.

In fact, the UNICEF Situation Analysis Report proposed a number of recommendations. It recognised that on the situation of women and children in Guyana, particularly children and the particular issues of why children were involved with conflict with the law, it is that it has to do with, as Ms. Manickchand said, the issue of poverty, social economic circumstances, lack of economic opportunities, dysfunctional families. It is in the sense that if you have 29% of households headed by women alone, being single parents, whether they are grandmothers, aunties, or biological mothers, you have a problem and it is not a problem of 2018. George Lamming, the Barbadian famous writer, wrote in the late 1960s *My Mother Who Fathered Me*. The issue of irresponsible male behaviour in our country remains an issue. Irresponsible male

behaviour would continue to sow their oats all over the place and leave children to be taken care by women alone. Then, we are surprised that we have poverty levels in this country, in these families.

When we talk about law making, we are talking about the reality of our country and the context in which we are dealing with the issue of poverty. Poverty issues in Guyana are exacerbated by the fact that too many households are being run by women alone and young grandmothers sometimes, who are in their 40s and who themselves have children.

You also have cultural and religious practices; you also have an issue that is a major social problem. When we were dealing with the National Working Group on the public/private partnership on Millennium Development Goals, there was a round table held in 2014 on - male participation and achievement in education. What was the problem of why boys were dropping out more than girls? Why were boys having a higher rate of getting into trouble with the law, or in many cases, just being underemployed or were just liming? It was seen as a major loss to the country in terms of resources, in terms of economic and social development.

These recommendations, the Ministry of Education, at that time, sat with the public partnership group, which included the private sector, manufacturers, technical education institutions, probation of the Ministry of Social Services, the Teacher's Union, *et cetera*, and the rights commissions, to look at what were the reasons and what could be done. The reason why I am raising this is that, if the figures from UNICEF are correct, that 70% of children who had gone through NOC are males, and also in the holding centre, what we saw in the crime wave in 2005, 2006 and 2007, were kids coming in who were 15 years old, who had been involved with armed robbery, who, in fact, had been involved with the gangs that were carrying out the most violent crime waves in our country, and who, in fact, by all definition by international standards, would have been considered to be "child soldiers" for the gangs. These were children at the age of 15 years who had held the AK47 guns. They served their two years at NOC and have come out. What happens to a child when they are given weapons at such a young age? The sociological and psychosocial issues we have been fearful to deal with because, sometimes, we are too involved in the attack of who caused the crime wave and, in particular, of course, the People Progressive Party (PPP) is always blamed for that.

Members of Parliament (MPs), if we are truly concerned about juvenile justice and yes, we must be, we must deal with the conflict. When you have a drop-in centre that burns down and you move some children to somewhere else, and there are children who the Childcare Protection Agency has to take into custody who are under the age 14 years, as you are proposing, where are you putting them? You have not put in your budget for 2018, anything to do with increasing numbers. That is the point.

The President came here and said that the Juvenile Justice Bill would be brought. The Minister in the budget debate said that the Juvenile Justice Bill would be brought, the Minister of Finance in his budget speech said that, but there is no money for legal aid, other than the talk about a pilot legal aid programme. The percentage of money the Ministry of Social Protection has for children is about 6% of the entire budget of the Ministry. So why are you not understanding that… or is it that you just want the public relations (PR)?

It is because you have not brought many Bills so true and I understand that you are in a difficult situation; your parliamentary agenda is so thin – your legislative agenda is so thin that you have to show that you have done something. I understand your predicament. The problem my dear Friends is that in drafting this law, and parts of it were drafted under the PPP and there was a problem under us too, the same thing with resources.

Let me say this, in pulling parts from the Training School and Juvenile Offenders Acts, parts from education, parts from other Bills, sometimes when you are pulling different sections from different Bills into one consolidated Bill, mistakes are made, omissions are made. I want to show an example.

In the original old law, it talked about 10 years for children who were criminally responsible and 17 was the age at which they ended that period of *juvenile hood*. It was in the new Bill that was discussed when our Government spoke of 12 years old. In this Bill you have talked about 14 years.

However, in the Juvenile Offenders Act, which you have repealed by way of this Bill, no child is kept in custodial care for more than three years. So, assuming that a child goes in at 12 years old - by 15 years; if a child goes in at 16 years old, they cannot stay longer than 17 years old in a juvenile custodial facility. By moving it in your Bill to the maximum of 14 years, you have

changed the periods, Minister, from what is three years to five years. In other words, a child may go in at 14 years old and may be given the maximum of five years. He would therefore be 19 years old. His is beyond the age of being a juvenile. The untidiness in the Bill has to be corrected. Then, as a result of that, someone caught themselves and realise "*Oop*s we have made a mistake". What you have in the Bill is a person who reaches 18 years old while serving a custodial sentence, could now be transferred into the adult facility or they could be kept in the juvenile facility, although they are no longer 18 years old.

These are rather interesting and important issues and you may not appreciate it, but I am very familiar with the New Opportunity Corps. I know that the children, from the time they are sent there, they know the date on the court order of the day they come out and they make sure of the day that they know they come out.

I believe that, in the rush or whatever, we should continue to hold 17 years old for the custodial care. If you want to change the 14 years old to 17 years old, I am not getting into that right now. I support Ms. Manickchand, that we need more consultation. By moving it up to five years, you could give a child custodial, when it was formally three years and in other cases one year. You have now made the sentences harsher for children who are juveniles. Therefore, I believe that you should review this.

In addition to that, you have… [*Interruption*] …at least I am not like Sancho. [**Ms. Manickchand:** She is like what?] He said that I am not like [*Inaudible*], so I said I am not like *Sanko the donkey*.

Mr. Speaker, we have in the Bill, a number of issues that we have to look at. Ms. Manickchand had raised the issue of legal counsel, which I think is very important. I would not repeat that.

I pointed out in Part IV, clause 44, the issue that the maximum and the minimum sentences are actually, in some areas, harsher and longer than what was in the original Juvenile Offenders Act. In some cases, nothing is stated - no sentence is stated.

When we get to Part VII, I have a problem, I am not a lawyer and I know that Minister Ramjattan would make fun of me, but that is okay, I am used to it. When we come to clause 67 (4) of the Bill, there is then an issue where it causes some problems. Clause 67 (4) states:

> "No review of a sentence in respect of which an appeal has been taken shall be made until all proceedings in respect of any such appeal have been completed."

I am not a lawyer, but I remember this being a big issue with President Lula, who was recently charged and he was not allowed in relation to the sentence. In our Constitution, as far as I am aware, clause 67(4) is in contradiction with our Constitution.

Clauses 68 and 69 - clause 69 states:

> "No appeal lies from a review of a sentence."

I would like that to be looked at as well, as I said, I am not a lawyer.

The appointment of the Director of Juvenile Justice by the Minister - in the original Bill, it was the Director of Youth. I, personally, had problems with that. However, it is now Director of Juvenile Justice. The problem with this is that, when you go to clause 76, which deals with the appointment of the Director of Juvenile Justice, and we look at the responsibilities the person has to carry in the entire Bill. There is no idea of what qualifications the person must have or the skills which they must have nor does it say whether they would be heading a unit that would be dealing with juvenile justice or whether it is a one-woman/one-man show. How is it possible with what is written into the Bill here? What are the responsibilities of a Director of Juvenile Justice to do this? The Bill has no idea there. Could you just pick up anybody and make them the Director of Juvenile Justice? It does not have to be someone with a legal background - a sociologist or something, just someone to be appointed by the Minister. I think this is a major omission. It cannot be that you are coming with such a major innovation and you have not thought about how this thing is going to unfold or if it is going to be someone's family or some political comrade who would get the job?

I am asking that clause 76, "Director of Juvenile Justice", must, with the enormous responsibilities of this Bill, also have some issue of some kind of staffing, some kind of unit that would be able to do this. Of course, I would assume that the Minister of Social Protection or the Hon. Minister Ramjattan would then come back to the House looking for money. This is because you cannot have a juvenile justice programme as you all are touting to the heavens, and you do

not have the financial technical and human resources to make it happen. These are children and each child will take an enormous time of each of your professionals, who are handling each case.

8.21 p.m.

You spoke about the Juvenile Justice Committee. Again, the Juvenile Justice Committee seems to carry a lot of responsibility and appears, sometimes, to be overtaking what are the Visiting Committees, which were called the Prison Visiting Committees. It is in the law and it is there for the Georgetown Prison, for all of the other prisons, and for NOC. There was a facility for the NOC to have a Visiting Committee made up of civil society that could report directly to the Minister about when it was seeing violations of human rights, mistreatment of children and on their own investigations without the Minister being involved. This now is the Minister appointing. This group reports to the Minister and seems to have investigations only when it gets a complaint from any juvenile, but it does not seem to have the capacity to take complaints or information from persons within the institution, who may not be juveniles or persons outside of the institution. The Visiting Committee's formula, which is civil society dominated, should be looked at again for some incorporation into the Bill.

In terms of the Juvenile Justice Committee itself, it is a committee. Whiles it states that it shall include an attorney-at-law, a retired probation officer, a retired head of a secondary school, a retired head of a vocational institution, *et cetera*, I do not know why we are going in that direction in a Bill. What you are looking for is the involvement of professionals. There is the Guyana Bar Association, the Guyana Medical Association, the Guyana Nurses Association, the Guyana Association of Professional Social Workers, the University of Guyana Faculty of Education and Humanities – I think that is what it is called now, and the police themselves. The Juvenile Justice Committee needs to be a multi-sectorial grouping that is able to deal with coordination between agencies on matters relating to the rights of children, particularly those children in conflict with the law. The way this is constructed is "*old hat*" history. You have to bring the civil bodies, the stakeholders who are involved with children and who know about them and of some of the issues that they face. I just gave a few ideas of some of the bodies that should be invited.

There is also, in this whole thing, an issue of no consultation or the inclusion of other bodies in relation to the thrust to do with juvenile justice. Juvenile justice requires an enormous partnership, both public and private sectors, civil society, villages, *et cetera.* I think it was Ms. Hillary Clinton who said that it takes "a village to raise a child". Therefore, this concept is more than just about these issues.

When we look at clause 92 - Discipline - the issue of the deprivations, one of the issues where an amendment had been brought in 2012 to the Training Schools Act and the Juvenile Offenders Act had to do with removing all forms of corporate punishment whatsoever. I am glad that is retained here. However, there is one that I want to add and that is 'solitary confinement'. It is considered a form of torture, but it has also been a problem since years and years ago at the NOC where it was felt that you were not beating them, but you were locking them in a room for a day and when that was discovered, people lost their jobs. We need to put that in because the tendency is that solitary confinement is something that is non-physical, non-torture, so that is okay. I would like to ask that solitary confinement be prohibited in the juvenile custodial facilities.

There are issues, Minister. If you want people who are passionate about juvenile justice, there are persons on this side of the House, including myself, who are very passionate about it, particularly the children that go to NOC. I am willing to work with you, as members on my side of the House are, to make this an even better Bill than what it is and to fill in the loopholes that are there.

There needs to be regulations that will come out of this and who brings it out - regulations that have to do with the whole admission process. By trying to cut and paste between different Bills, what was lost was a series of policies or rules that existed and that had to do with the child from the time that child touches the gate of the NOC, for example. I am just dealing with custodial care because that is the one of greatest concerns - custodial care; what happens when a child crosses that gate and the steps which have to be done. Those policies, protocols and standing operating procedures were there, and they could become regulations, Minister, so as to make sure that when a child enters, they have a medical examination and they are started on case management. If our thrust is reintegration, education and bringing these children to reintegrate into society, there has to be a case management of how the child, in two or three years, will be able to do better and be able to come out a better child with less problems, rather than if they are just going in and are just sitting there.

There is also a lot of emphasis on the Childcare and Protection Agency, and that is understood. However, again, you therefore again have to have more resources in the CCPA. There needs to be more money, more technical people and facilities because, as Ms. Manickchand said, if the children - as UNICEF shows, that there are children who are under the age of 14 years, as you are proposing, who are in the NOC and in the holding centre - you have to find alternative care for them. They may not be in conflict with the law any longer because you are getting rid of wandering and so on, which is fine, but you still have to deal with the reality that these children have a problem. Sometimes they have nowhere to go or they do not want to go to where they have to go because it is violent or they are neglected, harassed or abused. So, we cannot *hide our heads in the sand* and pat ourselves on the back and say "oh, we are getting rid of wandering, is that not wonderful?" What are you doing with the kids? If you have noticed, there are more kids on the road in the last year than they were before. We have to understand and not keep saying how great things are. They are children. Go in the market and see the children - go in the markets on the Corentyne; go in the markets in Mahaica; go in Mon Repos; go in Lusignan and see that the children who should be in school and are not. You are getting rid of truancy and wandering, correct, but you have to have an alternative to be able to do that and you cannot be saying to children, or to parents alone, "It's your fault".

For the many children who are at the NOC, there is the practice of not having any records. That has been going on for *donkey years* - it is nothing new in this Bill. There are no records of children who have passed out of the NOC. There are children who have gone to the NOC, who have then gone on to the Youth Skills Programme under the PPP/C Government, who have then gone on to the Guyana Industrial Training Centre (GTIC), who have gone on to the University of Guyana (UG) and who are amongst us as professionals in the public service and the private sector. That is what we want. That is the trajectory that we want.

Mr. Speaker: Hon. Member, you have two minutes remaining.

Ms. Teixeira: Thank you very much, Sir.

I wish to therefore move that this Juvenile Justice Bill be sent to a Special Select Committee to go through further examination and scrutiny to enhance it in the best interest of the children of Guyana. Thank you. [*Applause*]

Mr. Ramjattan (replying): I wish to thank all of the speakers who were fully supportive, substantially supportive and partially supportive of what we have before us here, this Juvenile Justice Bill 2018.

I wish to, of course, substantially congratulate the speakers on this side for their full support and, to a large extent, Dr. Frank Anthony for giving his support to a Bill that was more or less under his auspices right down to 2015. Basically, what this Bill comprises of is substantially what was done under the PPP/C Administration. It started, as I said, in 2004 and 10 years after, in 2014, the final set of revisions had commenced for the purposes of doing that which we had as an international obligation under the conventions: The Beijing Rules, the Riyadh Guidelines and, of course, the United Nations Convention on the Rights of the Child, which is the third one.

This Bill, as was stated by almost all of the speakers, has what it takes in relation to measuring up to all of those guidelines, conventions and international obligations. Moreover, this Bill … and I will come to that part that was mentioned by the Hon. Member Clement Rohee, clause 4 where he gave the impression that we are taking it from white paper rather than from black and white paper. I can understand the denigrating kind of significance of that. The trouble is that it is largely a modern Bill with the underlying philosophy being that we give second chances to young offenders who are under the age of 18 years. To that extent, I cannot see, after such a long period of time, us having this Bill in two or probably 3 administrations since 2004 - I do not know how many administrations that will count up to. And members of the other side are now coming here to indicate to us, stating "This is what else we should have put in and that is what else we should have put in". Everything that was here up to the year 2015 is in here. [*Interruption*]

Mr. Speaker hit the Gavel.

If anything was omitted, it is largely because you had omitted it. All of a sudden, the omissions are a big part of it. Well, let me just say this: We have indicated that it is not going to any select committee and that is final. This Government will fix its legislative agenda, not the Opposition.

There is call for wider civil society consultation. We called on the civil society. This was sent to the civil society and on three major occasions, we had consultations in Georgetown, New Amsterdam and Suddie. I do not know: Would you have wanted us to have gone to Linden and

to Lethem now? [**Hon. Member:** *[Inaudible]*] Oh yes, you used to go. In my initial statement, I indicated what it is that they asked us for as amendments, as inclusions, and a matrix. In that matrix, we incorporated a whole lot of them, as a matter of fact almost all of them.

The troublesome one indeed was the one in relation to age of criminal responsibility. In the age of criminal responsibility, a number of, what I call the more modernistic thinking people who go along with the guidelines from the Beijing Rules and all of that, felt that it should be high and those who are more conservative, felt that it should be the same 10 years. I, in my call it 'wisdom', indicated that we could come a medium range way. It was 14 years, but it was not exclusively 14 years because the 14 years old that we have here ... and to the Hon. Member Clement Rohee, I wish to say that, we did not do it like it was under the Juvenile Offenders Act, where every child, who committed an offense, and is 10 years and under, cannot be what you call *doli incapax* - cannot suffer form of criminalisation.

In this one … [**Mr. Rohee:** He is an accessory to the crime.] Even if he is an accessory, an aider or an abettor, he cannot be charged completely. He is not responsible at all.

8.36 p.m.

Any child, for instance a nine year old in our existing law, if he or she commits murder you cannot charge them. [**Mr. Rohee:** What?] That is correct. Did you not know that former Minister? That is the law as it exist right now. From the age of 10 and below, whatever crimes the child commits they cannot be charged because of this concept and because they are not criminally responsible.

From the age of 10 to the age of 13, under our criminal law, if the court can be satisfied that the child has what is called a 'mischievous discretion' that child could be charged. It has to go through a process whereby there are two gatekeepers, the Director of Public Prosecution (DPP) first and then the court and then they will make up their minds that indeed this child is of a mischievous discretion and that child could be charged for even murder. Of course, from the age of 14 to the age of 17, we had an anomaly there again because it ought to have been from the age of 14 to the age of 18, where, generally, the child could be charged. From the age of 10 and under, it is stated clearly that they cannot be charged; from the age of 10 to the age of 13 it would

be a mischievous discretion. Do you remember that from Smith and Hogan's Criminal Law? Also, from the age of 14 to the age of 17, one can be in a situation whereby one can be charged.

What we have done here, and we did not necessarily pluck it out from England, we decided that we were going to call clause 4, "Criminal Capacity". [**Mr. Nandlall:** You did not pluck it out.] Yes, you are reading. We stated in clause 4 that it will be up to the age of 14 that:

> "It shall be presumed that no child under the age of fourteen shall be capable of or guilty of committing an offence."

However, it was a rebuttable presumption and that is why, for the next set of clauses or paragraphs to that clause, we have what are the considerations and how one would go about approaching this. When a child is charged by the DPP for an offence and the child is under the age of 14, the prosecutor or the attorney-at-law shall request from the court for an evaluation to be done by a suitably qualified person at the expense of the State. There can be a 30-day delay in relation to that Order being effectuated, and then the evaluation could be done in relation to the child's psychological, social, cognitive and emotional development. If they are of the view that the child is under the age of 10 to 13 and is of a 'mischievous discretion' or has that cognitive ability to understand right from wrong, that child, although under the age of 14, can be charged and that is what we have put in by virtue of imitating what is there internationally, but also inventing locally.

It is not as if we are exclusively taking information from other countries Hon. Member, Clement Rohee. We know the situation in Guyana and what the consultation process revealed, so we have come down to a medium position in which we have created what is called in law "The Rebuttable Presumption". Do not think that a 14 year old can commit some very serious offenses and that they are going to go free. Not under what we have created. [**Mr. Rohee:** [*Inaudible*]] If you would have read it more closely you would have not needed to ask any questions. [**Mr. Rohee:** What is wrong with that?] There is no problem, but I am explaining it and I am telling you that if you had read it carefully you would have gotten it.

Indeed, this Bill has largely to do with matters after the crime would have been committed and that is what juvenile justice is all about. So, when there is the big talk that prevention is the key,

in a Bill of this nature, it is hardly likely that we are going to deal with that. Prevention being the key would have largely to do with socio-economic policies, with social policies at the family level, at the educational level and at the acculturation level of bringing up kids. This has nothing to do with that. It is important then to understand what we are talking about before people simply go on and talk about all the theories of punishment and other theories, *et cetera.* For instance, some Members gave the impression that we have to do a lot more when it comes to prevention under this Bill, no, we cannot. This Bill is largely talking about when they would have committed the offence upon arrest, what are their rights, what the police would have to do, when they are not going to be charged, what the DPP would have to do, what the magistracy and the court would have do, then there would be the sentencing and where they must be placed, *et cetera*. Please understand that distinction. I cannot, in a sense, rebut those who are saying that prevention is the key because that is the key to the wrong lock. This lock does not apply to that.

I must say that this Bill gives a chance to those to get back on the straight path as the Hon. Member, Ms. Gillian said. Indeed, the majority of the provisions in this Bill speak to that. It is not as if it has not been done, Hon. Member. We went out of our way, in a sense, to explicitly state what diversions would be, and even apologising in a Court of Law. Even when a juvenile wanted or stole something from a family member and the juvenile's family has to repay, working out an agreed payment to the virtual complainant's family can work as a second chance for a juvenile, rather than incarceration, as presently is, custody or a whole lot of other things.

For the more serious or the less benign offence, they can also go to community service. The magistrates can direct a whole number of "penalties" like he or she must go to school or go to a computer class for at least two weeks and bring back a certificate stating that he or she had attended. That could be and that is what we want. It must be innovative to the extent, whereby, magistrates must understand that they have the capacity to help students and these young people to be disciplined in that kind of way. For a bigger kid, at the age of 17 or 18, they can have them clean the court compound. It is not in any way servitude; it is community service.

All of that is incorporated in this Act so as to ensure that there would be diversionary measures rather than locking the juvenile up. What we want is for the kid to also pay a penalty and understand that they have done something wrong, and that they must apologise for it from that limited extent, right down, and in a sense be placed in custody if it is a very serious wrong. At

the back of the Bill, there are different parts which deal with custody by erecting buildings and facilities and the training in those facilities that must go on to rehabilitate and to reintegrate into the society.

In every respect Hon. Members and Mr. Speaker, this Bill goes an extraordinarily far way. As I said, we cannot come up with the perfect Bill, and that is why, we, in Parliament, whenever we see that there is something that we could do in relation to making it more perfect or better still, to ameliorate it, we can come here with an amendment. In the Sexual Offences Bill, we referred it to all of the fancy Parliamentary Select Committees and we still had a mistake. [**Ms. Manickchand:** One mistake.] Yes, one mistake. We referred it and then it was brought back here and we passed it and then we found the mistake. What did we do? We brought it back here and we corrected the mistake. Why not allow us that attitude? This Bill spent 14 years under a PPP Administration, three years under the A Partnership for National Unity/Alliance For Change (APNU/AFC) Administration, so why should we not get on with the business? It is important that it be appreciated and that we understand then that these provisions in this Bill are very exhaustive and that they cater for a lot of the niceties that are asked of in the international obligations that we have in those conventions.

I would not want to detail you with further rebuttals, but to say that, as best as possible, this is what we can do and if the Opposition has any amendment that it could bring that could be of sufficiency to bare upon us for any amendment, it can do that. Rest assure that we are going to do it. They had it for some time, for years before and they did not. Why now?

Please, I commend this Bill for passage at this stage, Mr. Speaker.

Question put and carried.

Bill read a second time.

Assembly in Committee.

8.51 p.m.

Bill considered and approved.

Assembly resumed.

Bill reported without amendments, read for the third time and passed.

BILL – SECOND AND THIRD READINGS

CYBERCRIME BILL 2016 – BILL No. 17 of 2016

A BILL intituled:

> "AN ACT to combat cybercrime by creating offences of cybercrime; to provide for penalties, investigation and prosecution of the offences and related matters." [*Attorney General and Minister of Legal Affairs*]

Mr. Williams: Mr. Speaker, I respectfully beg to defer the second reading of this Bill.

Bill deferred.

COMMITTEES BUSINESS

MOTIONS

ADOPTION OF THE SIXTH REPORT OF THE STANDING COMMITTEE ON APPOINTMENTS TO ADDRESS MATTERS RELATING TO THE APPOINTMENT OF MEMBERS TO THE ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM AUTHORITY

WHEREAS in keeping with the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act No.1of 2015, Section 7A (1); "the National Assembly shall";

> *by a simple majority; and*
>
> *a) on the recommendation of the Parliamentary Committee on Appointments, after the Committee has consulted such bodies as the Committee may deem necessary to consult, appoint a body comprising ten members to be known as the Anti-Money Laundering and Countering the Financing of Terrorism Authority".*

AND WHEREAS the Committee agreed and consulted with the following list of Non-Governmental Organisations (NGOs) to submit nominees for appointment to the Anti-Money Laundering & Countering the Financing of Terrorism Authority (AML&CFT):

Guyana Private Sector Commission

Guyana Association of Bankers

Institute of Chartered Accountants Guyana

Transparency Institute of Guyana Inc.

Bar Association of Guyana

Insurance Institute of Guyana

Guyana Association of Women Lawyers, and

Guyana Securities Council

AND WHEREAS the Committee conducted due diligence and sought declaration from the nominees on being a "Politically Exposed Person";

AND WHEREAS the Committee on Appointments recommends the following persons to be appointed Members to the Anti-Money Laundering & Countering the Financing of Terrorism (AML&CFT) Authority in accordance with the Anti-Money Laundering & Countering the Financing of Terrorism Authority (Amendment) Act 2015:

Guyana Private Sector Commission	-	Mr. Nicholas Deygoo
	-	Captain Gerald Gouveia
Guyana Association of Bankers	-	Mr. Wayne Eucaulton Fordyce
Institute of Chartered Accountants Guyana	-	Mr. Hance Manohar
Transparency Institute of Guyana Incorporated	-	Mr. Thomas Bissessar Singh
	-	Mr. Frederick Collins
Bar Association of Guyana	-	Mr. Mohamed Alli
	-	Mr. Christopher Ram

Insurance Institute of Guyana - Ms. Melissa Jessica DeSantos

Guyana Association of Women Lawyers - Ms. Sadie Amin

BE IT RESOLVED:

That this National Assembly adopts the Sixth Report of the Standing Committee on Appointments to address matters relating to the appointment of Members to the Anti-Money Laundering & Countering the Financing of Terrorism Authority; and

BE IT FURTHER RESOLVED:

That this National Assembly signifies to the Clerk of the National Assembly that Mr. Nicholas Deygoo, Captain Gerald R. Gouveia, Mr. Wayne Eucaulton Fordyce, Mr. Hance Manohar, Mr. Frederick Collins, Mr. Thomas Bissessar Singh, Mr. Mohamed Alli, Mr. Christopher Ram, Ms. Melissa Jessica DeSantos; and Ms. Sadie Amin be appointed in accordance with the Anti-Money Laundering and Countering the Financing of Terrorism Act No. 1 of 2015, Section 7A (6)." [*Minister of Social Cohesion - Chairperson of the Committee on Appointments*]

Minister of Social Cohesion [Mr. Norton]: Mr. Chairman, I respectfully ask that this motion be deferred to a later date.

Motion deferred.

ADOPTION OF THE TERMS AND CONDITIONS OF THE CHIEF EXECUTIVE OFFICER, THE HEAD OF OPERATIONS AND THE HEAD OF CORPORATE SERVICES OF THE PUBLIC PROCUREMENT COMMISSION

WHEREAS Article 212Z (2) of the Constitution of the Co-operative Republic of Guyana states:

> "The Commission shall appoint a Chief Executive Officer, who shall serve as Secretary, and such other officers and employees as may be necessary for the efficient discharge of its functions. The terms and conditions of the appointment of the Chief Executive Officer and the two most senior officers shall be subject to the approval of the National Assembly."

AND WHEREAS the Public Procurement Commission after consultation with the Public Accounts Committee with respect to the benefits packages for the Chief Executive Officer and the two most senior officers, accepted the following proposal:

1. **The Chief Executive Officer:**

Salary: G$950,000 per month

Gratuity of 22 ½ percent of gross salary paid semi-annually

Entertainment allowance: G$10,000 per month

Telephone allowance: G$15,000 per month

Thirty-five (35) days annual leave and vacation allowance equivalent to one month's salary

24-hour security at place of residence

2. **Head, Operations:**

Salary: G$600,000 per month

Gratuity of 22 ½ percent of gross salary paid semi-annually

Entertainment allowance: G$10,000 per month

Telephone allowance: G$15,000 per month

Twenty-eight (28) days annual leave and vacation allowance equivalent to one month's salary

3. **Head, Corporate Services:**

Salary: G$600,000 per month

Gratuity of 22 ½ percent of gross salary paid semi-annually

Entertainment allowance: G$10,000 per month

Telephone allowance: G$15,000 per month

Twenty-eight (28) days annual leave and vacation allowance equivalent to one month's salary

AND WHEREAS the Public Accounts Committee, at its 35th Meeting held on Monday, February 5, 2018, agreed that the proposal should be forwarded to the National Assembly.

BE IT RESOLVED:

That this National Assembly adopts this motion which relates to the terms and conditions of the Chief Executive Officer and the two most Senior Officers to the Public Procurement Commission. [*Mr. Ali - Chairman of the Public Accounts Committee*]

Mr. Ali: In concurrence with article 212Z (2) of the Constitution of the Co-operative Republic of Guyana, I now present to the National Assembly adoption of the terms and conditions of the Chief Executive Officer, Head, Operations and Head, Corporate Services, of the Public Procurement Commission, as has been unanimously agreed upon by the Public Accounts Committee (PAC).

Minister of Health [Ms. Lawrence]: Mr. Speaker, Hon Members of this National Assembly, I rise to speak in support of the motion which was presented to this National Assembly on behalf of the PAC by its Chairman. Sir, this motion seeks to adopt the terms and conditions of the Chief Executive Officer, the Head, Operations and the Head of Corporate Services of the Public Procurement Commission. We have heard that article 212Z (2) of the Constitution of the Co-operative Republic of Guyana states:

> "The Commission shall appoint a Chief Executive Officer, who shall serve as Secretary, and such other officers and employees as may be necessary for the efficient discharge of its functions. The terms and conditions of the appointment of the Chief Executive Officer and the two most senior officers shall be subject to the approval of the National Assembly."

The Public Procurement Commission constitutes a vital core area of governance and represents the fulfillment of yet another aspect of the campaign promises made by the APNU/AFC Government. That is to establish this independent body to monitor and review the functioning of all procurement systems to ensure that they are in accordance with the law. Sir, this is clearly captured in article 212W, which states that:

> "There shall be a Public Procurement Commission the 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 and such policy guidelines as may be determined by the National Assembly."

Sir, this evening, we are here in this National Assembly to give support to the further strengthening of this body in order to ensure that there is separation of duties, transparency and accountability in its operations with regard.

9.06 p.m.

With regard to the Chief Executive Officer (CEO), that person would be responsible for managing plans and directing all operations of the Secretariat of the commission and will serve as Secretary and Principal Adviser to the commission among others.

As it relates to the Head of Operations, that person would be tasked with the management of systems, monitoring and investigation of procurement practices and entities and with ensuring compliance with legislation and regulations among others.

The third position is with respect to the Head, Corporate Services who would contribute to the preparation of the strategic plan and evaluate the performance against the stated objectives among other responsibilities.

It is therefore quiet evident that the addition of these persons to the Secretariat of the Public Procurement Commission (PPC) will undoubtedly consolidate the work of this body and this august House will be giving support to the establishment of a structure which will provide for the smooth and effective functioning of the PPC.

Our beloved country Guyana will soon be celebrating 52 years as an independent nation and we would be able look back and applaud our efforts at establishing strong institutions such as the PPC which will help to fortify the pillars of a strong democracy. Further, we would be fulfilling yet another tenet of the Constitution of the Co-operative Republic of Guyana.

At the swearing in of the five commissioners, His Excellency posited:

> "The establishment of this commission, indeed creates more transparency in regard to the awarding of contracts and public projects."

In continuing, His Excellency further stated:

> "The public can be assured that under our administration, there will be greater vigilance and scrutiny of projects and less cronyism. It is something we fought for and which will work for the benefit of all Guyanese."

I wish to state, as I close, that the selection of the commissioners at the swearing in ceremony by both sides of this honourable House was a testimony to great need for the establishment of the PPC. I firmly believe that Members of this National Assembly could already appreciate the positive effects and benefits that such an addition to the commission would engender.

On behalf of the Government's side of this honourable House, it is with great pride that I endorse this motion before us. Thank you. [*Applause*]

Mr. Ali (replying): As the Hon. Member would have said, the administrative mechanism of the Public Procurement Commission is now in place. There is actually no hindrance for the fulfilment of the Procurement Act and Cabinet removing itself completely from the awarding, recommendation or any part of the process for the awards of contracts, including its no objection role. We are hoping that in keeping with good governance, transparency and accountability, Cabinet would remove itself from any role, in offering any no objections to the awards of contracts, in this country. Otherwise, it would be doing an injustice to the work of the Public Accounts Committee.

Secondly, I am proud to say that in keeping with our records and history as it relates to transparency and accountability, on this side of the House, it is under the chairmanship of the

Peoples Progressive Party/Civic (PPP/C) that the Public Procurement Commission came into operation and the administrative mechanism came into consideration.

I also want to say that indeed, this is a long trail in terms of the history of procurement in this country. For example, in 1992, there was no National Procurement and Tender Administration Board (NPTAB). The Minister was awarding the contracts himself, in his office. There was no evaluation process and no system of accountability and transparency. It was under the PPP/C Government that the Fiscal Management and Accountability Act (FMAA), Procurement Act and the National Procurement and Tender Administration Board came into being. Of course, it was during that period of accountability and transparency that the approval of contracts was removed from Cabinet. Indeed, these are the facts and we do not have to debate them. These facts are unanimously, agreed by all of us in this House.

If I am to refer to a single document here, the Public Private Partnership Policy Framework that was laid in the House, the role of the National Procurement and Tender Administration Board is completely removed and this document is pointing to the award of public partnership by Cabinet. I want to say that we could pass the best laws, have the best mechanism, but if we do not have people who want to subject themselves to transparency and accountability in the Government, they would not be useful for this country. That is problem. The problem is not laws; the problem is not the mechanism. It is there are persons in the Government who do not want to subject themselves to transparency and accountability.

With these words, I want to say this was a unanimous agreement of the PAC. We are happy to present the adoption of the terms and conditions for the Chief Executive Officer, Head, Operations and Head, Corporate Services of the Public Procurement Commission, to the National Assembly. Thank you very much. [*Applause*]

Mr. Speaker: Hon. Member Mr. Ali, I was a bit concerned that you perhaps would not want to present to the House the provisions of the motion. Please do that now.

Mr. Ali: Thank you very much Mr. Speaker. I am very happy to present this motion that would see the terms and conditions of the Chief Executive Officer, Head, Operations and Head, Corporate Services of the Public Procurement Commission in accordance with:

"WHEREAS Article 212Z (2) of the Constitution of the Co-operative Republic of Guyana states:

"The Commission shall appoint a Chief Executive Officer, who shall serve as Secretary, and such other officers and employees as may be necessary for the efficient discharge of its functions. The terms and conditions of the appointment of the Chief Executive Officer and the two most senior officers shall be subject to the approval of the National Assembly."

AND WHEREAS the Public Procurement Commission after consultation with the Public Accounts Committee with respect to the benefits packages for the Chief Executive Officer and the two most senior officers, accepted the following proposal:

1. The Chief Executive Officer:

Salary: G$950,000 per month

Gratuity of 22 ½ percent of gross salary paid semi-annually

Entertainment allowance: G$10,000 per month

Telephone allowance: G$15,000 per month

Thirty-five (35) days annual leave and vacation allowance equivalent to one month's salary

24-hour security at place of residence

2. <u>Head, Operations:</u>

Salary: G$600,000 per month

Gratuity of 22 ½ percent of gross salary paid semi-annually

Entertainment allowance: G$10,000 per month

Telephone allowance: G$15,000 per month

Twenty-eight (28) days annual leave and vacation allowance equivalent to one month's salary

3. <u>Head, Corporate Services:</u>

Salary: G$600,000 per month

Gratuity of 22 ½ percent of gross salary paid semi-annually

Entertainment allowance: G$10,000 per month

Telephone allowance: G$15,000 per month

Twenty-eight (28) days annual leave and vacation allowance equivalent to one month's salary

AND WHEREAS the Public Accounts Committee, at its 35th Meeting held on Monday, February 5, 2018, agreed that the proposal should be forwarded to the National Assembly.

BE IT RESOLVED:

That this National Assembly adopts this motion which relates to the terms and conditions of the Chief Executive Officer and the two most Senior Officers to the Public Procurement Commission."

Question put, and agreed to.

Motion carried.

ADJOURNMENT

Mr. Speaker: Hon. Members, this brings to an end our business for today. I would invite the Prime Minister to move the adjournment.

Mr. Nagamootoo: I move that this House be adjourned until Friday, 11th May at 2.00 p.m.

Mr. Speaker: Thank you. The House stands adjourned until Friday, 11th May.

Adjourned accordingly at 9.18 p.m.