

16<sup>th</sup> April, 2013

**REFERENCE # 4 of 2013**

**RULING ON THE ADMISSIBILITY OF A MOTION IN THE NAME OF HON. KHEMRAJ RAMJATTAN,**

**M.P.TO AMEND 2013 BUDGETARY ESTIMATES**

**Background**

In 2012, during the consideration of the Estimates accompanying the 2012 Budget, the Committee of Supply, by way of a simple majority vote, amended the Estimates presented by the Minister of Finance by removing a total of \$20.9bln from within various heads of the Budget. The Minister of Finance in proposing the Appropriation Bill – Bill No. 3 of 2012, to be taken through its three (3) stages, reported that the Assembly had **approved** the Bill, **as amended**. After much angst, confusion and distress, the 2012 Budget of the Government was **approved** with amendments. It was unanimously accepted that the National Assembly had the power to amend the Estimates in 2012 as even the Minister of Finance, the Hon. Dr. Ashni K. Singh, M.P., stated on 17<sup>th</sup> April, 2012:

***“Over the next six days we will be considering the National Estimates and it is the legitimate right of the Opposition to ask any questions it wishes, within the Standing orders, in relation to those numbers. It is, indeed, the legitimate right of the Opposition to propose any change, within the boundaries of the Standing Orders, to any of those numbers.”<sup>1</sup>***

Subsequently, on June 4, 2012, the Hon. Anil Nandlall, M.P., Attorney-General and Minister of Legal Affairs, instituted Civil Proceedings No. 216-W of 2012, Demerara, a Generally Indorsed Writ, to challenge the validity of the amendments passed by the National Assembly. On July 18, 2012, the learned Chief Justice, the Hon. Ian N. Chang, C.C.H, S.C., (hereinafter Chief Justice) gave a “preliminary” Ruling that emanated from an Ex-Parte application filed by the Hon. Attorney-General asking for the Hon. Finance Minister, Dr. Ashni K. Singh, M.P., (third-named Defendant) to ***“be at liberty to make advances/withdrawals from the Contingencies Fund pursuant to Article 220 of the Constitution for the purpose of restoring the funds to the Agencies...as originally budgeted in the Estimates of the Revenues and Expenditures of Guyana for the year 2012”***.<sup>2</sup> As far as could be ascertained, since the date of the provisional ruling, no further steps have been taken, and the Court is yet to make a final ruling on this very critical matter.

On Friday, April 12, 2013, as per the procedure laid out in the Standing Orders, and as was the case in 2012, Notice of Motion for amendments was received in proper form from the Hon. Mr. Khemraj Ramjattan, M.P.

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<sup>1</sup> Official Report of Proceedings and Debates –First Session of the 10<sup>th</sup> Parliament at page 2556. The Hon. Minister of Finance has since stated that when he spoke in 2012, the National Assembly was in “unchartered waters” and he did so without the benefit of the collective experience of all, and without the matter being put to the ultimate test of being scrutinised by the High Court.

<sup>2</sup> “Since this matter is merely in its preliminary stage and there is no final determination, the views expressed at this juncture are not final.” – Chang, C.J. at pages 7 and 34.

On Monday, 15 April, 2013, in view of the Point of Order, formally raised by the Hon. Attorney General, to the Motion in the name of Mr. Ramjattan, M.P., being properly on the Notice Paper for consideration, and the Speaker being the authority to decide on the due regularity of Motions (See Standing Orders 26 and 27), I invited arguments for, and against, the Motion being introduced.

Previous Rulings Nos. 2 and 5 of 2012 given on the 15<sup>th</sup> March, 2012 and 13<sup>th</sup> June, 2012, respectively, have established that the in strict compliance with the doctrine of the separation of powers, only the Executive, has the right, to formulate the Budget, and correspondingly, the National Assembly has the right to scrutinise, approve, disapprove, or amend, by reducing only, the Government's Estimates of Expenditure. In a manner of speaking therefore, this Ruling is an expansion and continuation of Nos. 2 and 5 of 2012.

For the sake of clarity, I have identified the essence of the arguments of the two sides of the House to be:

#### **Government's Arguments**

- The word "approved" must be given its literal meaning and interpretation and can never mean "amend".

- The power to amend would have been explicitly granted to the National Assembly if this is what the framers of the Constitution intended. The words would have been set out as in Article 113 (2) of Constitution of India.<sup>3</sup>
- The Guyana situation of the National Assembly amending Estimates was never contemplated given the unique political system that includes features of a hybrid Westminster/Presidential system, and proportional representation. Further, the constitution reform process of 1998 – 2001 neglected to address this anomaly.
- The Constitution of Guyana is supreme and all institutions of State, including the National Assembly, are subject to it.
- The High Court as the only institution that can interpret and make binding declarations on the Constitution has, through the Hon. Chief Justice, made a ruling that must be followed by the National Assembly.
- Article 171 (2), (a) and (b) have no applicability to the consideration of proposed estimates, but rather, relate only to existing charges on the Consolidated Fund.

### **Opposition's Arguments**

- The power to “approve” must include the power to “amend”
- The majority of the National Assembly is empowered to make changes to the Estimates.

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<sup>3</sup> Article 113 (2)- *So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the House of the People, and the House of the People shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.* (Emphasis added)

- The Hon. Chief Justice’s “ruling” was restricted to one matter: whether the Minister of Finance could make advances and withdrawals from the Contingency and Consolidated Funds.
- The High Court has no jurisdiction to interfere with the National Assembly in the performance of its functions. The High Court’s constitutional duty and responsibility commence after the National Assembly has acted.
- The ruling of the High Court did not strike down the power of the Parliament of Guyana to pass Appropriation Act No. 3 of 2012.
- The National Assembly has the power to amend the Estimates in the Committee of Supply stage and also to amend the Appropriation Bill when it is being considered.

### **The Principle of Budgetary Control**

Ever since the 17<sup>th</sup> Century, the “battle of the purse” began in the United Kingdom and the outcomes were of such that for countries that were former British colonies, these were inextricably affected and influenced unto today by the manner of their constitutional arrangements governing public finance. Many lives were lost and monarchies deposed over this issue about parliamentary supremacy, and the right to approve budgetary allocations for the Crown.

The “Glorious Revolution” of 1688 comprehensively defined the financial role of parliament as it culminated in the promulgation of the 1689 Bill of Rights, which established the principle that only parliament could authorise taxation by proclaiming: ***‘That levying money for, or to the use***

***of the Crown by pretence of prerogative, without grant of Parliament, for longer time, or in other manner than the same is or shall be granted, is illegal.***<sup>14</sup>

Former Prime Minister of Great Britain, William Gladstone, had since 1891 defined the power of parliament over public spending this way:

***“The finance of the country is ultimately associated with the liberties of the country... If the House of Commons by any possibility lose the power of the control of the grants of public money, depend upon it, your very liberty will be worth very little in comparison. That powerful leverage has been what is commonly known as the power of the purse – the control of the House of Commons over public expenditure.***<sup>5</sup>”

And more recently Australian Senator Andrew Murray, 2007 stated: <sup>6</sup>

***“The transparency and accountability of Commonwealth public funding and expenditure is right at the heart of parliamentary life. Those who understand the history of parliaments know that this is the battlefield on which hundreds and thousands of people have lost their lives. It is about the right of people to determine how they are to be taxed and how that taxation is to be spent by those who govern them. The fact that the history of striving for good government goes back centuries and is steeped in blood should remind us that, as dull as this may seem to those who seek other pastures of interest, this is material which goes right to the very heart of our parliamentary function.”***

Senator Murray also wrote in a paper entitled **“Budgets and Finance: Sunlight and the Dark Arts”**<sup>7</sup>:

***“Democracies are wary of a concentration of power and the abuse of power. If parliament controlled its own budget it would advance the separation of powers. Democracies try to keep separate the***

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<sup>4</sup> <http://www.parliamentarystrengthening.org/budgetmodule/pdf/budgetunit1.pdf>

<sup>5</sup> <http://siteresources.worldbank.org/PSGLP/Resources/budgetall.pdf>

<sup>6</sup> Australian Senate Hansard, March 2007, p 43

<sup>7</sup> Paper on Parliament No. 56, July 2011 and found at:

[http://www.aph.gov.au/About\\_Parliament/Senate/Research\\_and\\_Education/pops/pop56/c07](http://www.aph.gov.au/About_Parliament/Senate/Research_and_Education/pops/pop56/c07)

***parliament's power to make laws and to tax, from the executive's power to propose laws and to spend the revenue, from the bureaucracy's power to administer laws and programs, and from the judiciary's power to determine disputes according to law. Each of these is meant to act as a check and balance on the other, but if the executive holds the financial and resources whip-hand then there is a great imbalance in power".***

Today, the position that the people's representative Assemblies must have the right to raise taxes and to approve spending by governments, is well settled and established. Erskine May captures the essence of the principle this way:

***"The dominant influence enjoyed by the House of Commons within Parliament may be ascribed principally to its status as an elected assembly, the members of which serve as the chosen representatives of the people. As such, the House of Commons possesses the most important power vested in any branch of the legislature, the right of imposing taxes upon the people and of voting money for the public service".***<sup>8</sup>

In Guyana, despite having a unicameral legislature, a hybrid of the Westminster system and proportional representation, it is my considered opinion that the principle of "representatives of the people" is no less potent, and is very valid and alive.<sup>9</sup>

There are several well recognised universal principles and tenets that inform the function of parliamentary control of public money.<sup>10</sup> These are:

1. The Executive cannot levy taxes or borrow monies without the Legislature's authority.

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<sup>8</sup> W. McKay, (ed), Erskine May's Treatise on the Law, Privileges, Proceedings and the Usage of Parliament, 23<sup>rd</sup> edition, Lexis Nexis, 2004, page 73

<sup>9</sup> The principle was the rallying cry for the American Revolution with the words: "no taxation without representation!"

<sup>10</sup> Appropriations and the Business of Supply –[www.parl.gc.ca/Content/LOP/ResearchPublications](http://www.parl.gc.ca/Content/LOP/ResearchPublications)

2. The Executive has spending authority only when it has received such authority from the Legislature and in accordance with the limitations stipulated by the Legislature.
3. Each year the Legislature grants, through appropriation acts, approval to the Executive to spend monies on those expenditure items for which approval has not already been given – normally all expenditures other than statutory items.
4. The Executive must submit an Annual Budget of Expenditure (the estimates) to the Legislature.

Joachim Wehner<sup>11</sup> observes that:

***“Many legislatures have constitutionally unfettered powers to shape budgets, including those in Scandinavia, much of continental Europe and the United States. To the contrary, ‘reductions only’ restrictions apply in the Westminster tradition, so that Parliament may only reduce existing items but it may not include new ones or increase existing ones...Finally, the Westminster tradition precludes a creative role for parliament in budget policy through the amendment process. Any amount from an expenditure item that is cut cannot be shifted to increase spending on a different item elsewhere in the Budget.”***<sup>12</sup>

Even in the face of what many consider to be clear and defined rules, the matter of the right of Parliaments to exercise control over public spending is one that continues to generate tension and confusion. The relationship between the legislature and the executive, and the powers over public spending, vary from region to region, and from country to country. Indeed the varying systems deployed are the subject of much debate and judicial intervention. A 2003 National

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<sup>11</sup> **Joachim Wehner** is a Lecturer in Public Policy at the London School of Economics and Political Science (LSE).

<sup>12</sup> **Back From the Sidelines? Redefining the Contribution of Legislatures to the Budget Cycle**, World Bank Institute, 2004 at page 15.



Democratic Institute paper traces the various systems used to regulate this delicate balance and the tense situations these evoke from time to time:

***“In almost all political systems, it is generally accepted that the executive has the primary role in developing an Annual Budget and presenting it to the legislature. The legislature has the right to review, debate, in some cases amend, and approve or reject the spending plan proposed by the executive...In developed presidential and parliamentary systems the executive and legislative branches have traditionally struggled to find an equitable balance of power over financial matters. That struggle continues today as executives and legislatures seek to exercise their budgetary prerogatives, fashion new ones, and mould policy through the allocation of the nation’s resources to priority programs”.***<sup>13</sup>

In a paper entitled **“The Role of Parliament in the Budget Process”** by Warren Krafchik and Joachim Wehner, the authors boldly advance the position that:

***“As representatives of the people, Parliament is the appropriate place to ensure that the Budget best matches the nation’s needs with available resources...the international debate is framed as a tension between the roles of the executive and the legislature – between technicality and democracy. In virtually all countries it is accepted that the executive has a mandate to prepare the Budget. The role of the legislature is to exercise oversight and to authorise the executive to raise revenue and spend money”.***<sup>14</sup>

Finally, Mrs. R. A. Ahmadu, writing on **“The Appropriation Procedure - An Aspect of the Budgetary Process of Nigeria”** in September 2001 says:

***“In virtually all Parliaments of the world there is common provision in their countries’ constitutions as to whose duty or responsibility it is to pass laws. This duty is invariably bestowed on the legislature. The responsibility is indeed more pronounced in regard to money matters – that is ‘Appropriations’***

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<sup>13</sup> Legislatures and the Budget Process-An International Survey Prepared by the National Democratic Institute for International Affairs, 2003, pages 4 and 6.

<sup>14</sup> [http://www.europarl.europa.eu/pdf/oppd/Page\\_8/Role\\_of\\_parliaments%20in\\_budget\\_process.pdf](http://www.europarl.europa.eu/pdf/oppd/Page_8/Role_of_parliaments%20in_budget_process.pdf)

*and 'Finance' including even bills whose subsidiary elements involve money. In order, however, to implement the constitutional provisions in practice, Parliaments employ rules and regulations commonly known as 'Rules', 'Standing Rules', or 'Standing Orders' which are generally similar for legislatures in democratic countries, but may vary in operational details".<sup>15</sup>*

## **Guyana**

In the 1960's, being the era that peoples everywhere agitated for the right to self-determination, Guyana, like scores of former British colonies, received political independence; but not without being given the tools to organise and govern the State, which we know as a written Westminster-type constitution. Most former colonies have altered and refined their original independence Constitutions. Guyana is no exception as in 1970, 1980 and in 2001, Guyana's Constitution received substantial amendments. Nevertheless, the portions dealing with public spending and finance have remained virtually untouched.

The regime that regulates the various aspects of public spending can be found largely in three primary instruments: the Constitution, the Fiscal Management and Accountability Act, and the Standing Orders of the National Assembly. The relevant Articles and Sections of these instruments are set out in the schedules attached and are; for the Constitution, Articles 171, 218, and 219 – for the Fiscal Management and Accountability Act, Sections 16 and 17 – for the Standing Orders of the National Assembly, 71, 75, 76 and 77.

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<sup>15</sup> To be found at:  
<http://www.asgp.info/Resources/Data/Documents/HCTENHRMSMTPRLLHXSESQUUQTPIOM.pdf>

Article 9 of the Constitution of Guyana recognises the legality of the Standing Orders of the National Assembly:

***“The rules and orders of the existing Assembly as in force immediately before the appointed day shall, until it is otherwise provided for under Article 165 and 173 of the Constitution, as the case may be, be the rules of procedure of the National Assembly and of the Supreme Congress of the People established under the Constitution, but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution”***

Parliament, in its wisdom, went further by placing into the Constitution, the following in Article 165 (1):

***“Subject to the provisions of the Constitution, the National Assembly may regulate its own procedure and make rules for that purpose”.***

It is apposite to note that in a Ruling given by Hon. Speaker Ramkarran, S.C. in the 9<sup>th</sup> Parliament, arising out of a Point of Order raised by Mr. Anil Nandlall, M.P., as he then was, on the legislative potency of the Standing Orders, the Speaker ruled thus: ***“I therefore disagree with Mr. Nandlall and rule that the Standing Orders fall within the definition of “written laws”.***<sup>16</sup> Then, the Hon. Speaker relied on the definition of “written law” as laid out in the Interpretation and General Clauses Act, Chapter 2:01 of the Laws of Guyana. I endorse this Ruling.

The relevant Standing Orders relating to the business of parliamentary scrutiny and approval of financial bills are set out in Standing Orders 71 - 79.

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<sup>16</sup> See Ruling given on 8<sup>th</sup> January, 2009 with reference to the Trade Union Recognition (Amendment) Bill No. 25 of 2008

## Other Jurisdictions

Reference has already been made to the fact that in all instances, save one, where former British colonies gained their independence, and adopted a written Constitution, the regime and architecture for financing government spending is for all intents and purposes, the same.<sup>17</sup> To this end, reviews have been made of the Constitutions and Standing Orders of Parliaments and Assemblies in other jurisdictions with a Westminster tradition and a written Constitution. In those reviewed as a representative sample of all – Trinidad and Tobago, Jamaica, Nigeria, Canada, New Zealand, India, Ghana, Singapore, and Sri Lanka - the **power to amend** financial estimates is recognised and upheld.

- Only recently (March 2013), in Singapore, the Parliament passed the government's Budget, but not before a gargantuan number of Motions (483) for amendments were submitted; albeit not passed.
- In India, "cut Motions" are actually so named in the Standing Orders and the procedures are more defined and expansive than ours. Members of the Lok Sabha guard their right to file these cut motions both vigorously and jealously. As an aside, I believe that given India's extensive and impressive judicial activism, this is one area that the Supreme Court of India would have struck down as being unconstitutional, a long time ago, if in fact it was so.
- In Australia, a country with a written Constitution and Westminster-styled parliamentary system, the Parliament, contrary to the opinion of some, has retained its

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<sup>17</sup> New Zealand is the only former colony that shares the same characteristic as the United Kingdom of not having a written constitution.

amendment powers, where as recently, as 1995, a nominal amendment in the form of AU\$250,000 reduction was made to Capital Expenditure.

- In 1994, in the United Kingdom's House of Commons, admittedly operating without a written Constitution that is supreme, an amendment to a budget resolution was carried by 319 to 311 votes.
- In Trinidad and Tobago, the relevant Standing Order (67) is identical to Guyana's National Assembly's Standing Order 76, and gives the House of Representatives the power to amend by way of a reduction.

The fundamental point being made is that in all these Commonwealth territories, with a Westminster tradition and written Constitutions, the power of the legislative assembly to amend, is preserved.

### **The Chief Justice's Preliminary Ruling in Civil Action No. 216-W of 2012 - Demerara**

Much ado has been made about the Chief Justice's ruling in Civil Action No. 216 of 2012 – Demerara. Far be it for me to use the Speakership to exercise as an appellate or review function over the High Court, but indeed, what is incontrovertible, and needing of no debate, is the fact that there is no burden, or duty, placed on this House, to adopt or enforce rulings of the High Court. Following on the arguments of the Hon. Attorney General on this matter, I am not convinced that the High Court exercises a supervisory jurisdiction over the National Assembly. What it can do, is review decisions made by the National Assembly to ensure constitutional compliance.

It has been previously indicated that the National Assembly will observe, strictly, the concept of the separation of the powers, and with it, the recognition of the fundamental pillar that the National Assembly is in charge of its own procedures. The statement made in Ruling No. 3 of 2013 (Right of Hon. Member Clement J. Rohee to speak and participate in the business of the National Assembly) still holds as valid:

***“The exercise of my duty should not be interfered with, or fettered, by the Courts, or be determined by the outcome of the issue before the Courts; though we are both respectful of, and grateful for, opinions and interpretations provided by the High Court from time to time. Nonetheless, the National Assembly is legally and intellectually empowered, and capable to work out its own procedures and settle its own issues”.***

Unless, or until, the Standing Orders are amended, or deleted *in toto*, they must be recognised, applied, and upheld in this National Assembly. The Standing Orders provide the only procedure of this House. This House cannot, with the greatest of respect, be bound by a “preliminary” ruling of the High Court made in an interlocutory application for interim relief, over and above its own Standing Orders, but can, and does, invite those with a deep interest, in matters constitutional, to engage the Judiciary to provide a more final and definitive ruling on this issue - as a means of providing guidance and interpretation for the House’s fullest consideration.

It has been suggested in this House that because the word ‘amendment’ is not included in the Constitution’s language, then the National Assembly cannot amend the Estimates. This is quite a quantum leap to take. If taken to its logical conclusion, its manifest absurdity is immediately evident. Articles 65, 170, and 171 of the Constitution establish the Parliament’s sovereign authority to make laws for the peace, order and good government of Guyana. The National Assembly is a constituent member of the Parliament of Guyana.

Nowhere in these Articles is the word “amendment” mentioned, yet, it is accepted, as trite, that the Standing Orders (S.O. 60 in particular) relating to amendments of clauses of Bills, are valid and applicable to every Bill that is introduced into the House. We cannot approbate and reprobate on this matter of the power of the National Assembly to amend Bills brought before it for approval. The National Assembly has the power to amend any Bill brought into the House - **though in the case of financial Bills, that power is circumscribed to be a power to amend by reductions only** - except where a Minister proposes an amendment to increase expenditure.

Further, if indeed the House of Assembly has no power of amendment, by way of reduction, then I posit, that this would render the function of, and necessity for, the Committee of Supply, obsolete, as it would have a simple robotic function of approving or disapproving the Estimates – a mere minute’s work. The authors of the National Democratic Institute’s (NDI) research paper, referred to above, capture this sentiment better, than I ever could, when they wrote:

*“The ability to amend the government’s proposed Budget is one of the most direct and powerful means for a legislature to influence national policy. In most countries, amendment power is considered a critical tool for enhancing the public’s involvement, enabling effective oversight, bolstering transparency, and monitoring fiscal policy. Without the opportunity for amendment, legislatures become ‘debating societies’ or lose ambition and simply rubber stamp legislation, thereby depriving the people of their most direct links to the governance of the nation”.*<sup>18</sup>

In the research paper: **“Back From the Sidelines? Redefining The Contribution of Legislatures To The Budget Cycle,”** the author notes:

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*“The ‘power of the purse’ is an incontestable democratic fundamental. This also means that there is an obligation on the legislature to ensure that the revenue and spending measures it authorises are fiscally sound, match the needs of the population with available resources, and that they are implemented properly and efficiently”.*<sup>19</sup>

### **Article 171 (2) (b)**

This Article specifically states that no Motion can be proceeded with that seeks to impose any charge on the Consolidated Fund or for altering any charge otherwise than by reducing it. It is clear to me that the strict delineations of the separation of powers are maintained. The Hon. Minister of Finance moved a Motion for the adoption of the Estimates as is his constitutional right.

The Hon. Khemraj Ramjattan, M.P., has proposed an amendment to that Motion **to reduce only**, without crossing over into the realms of the Executive by proposing increases. Article 171, in my considered view and opinion, allows for reductions by this House on any Bill or Motion introduced by the Minister responsible for Finance, any other Minister of Government, or by any Member of this Assembly.

### **Ruling**

1. The Constitution of Guyana is, as is every Constitution, the embodiment of the nation’s fundamental principles and provides the philosophical and guiding underpinnings of the State. It is through enabling legislation that Constitutional provisions are given efficacy

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<sup>19</sup> Joachim Wehner, World Bank Institute - [http://siteresources.worldbank.org/EXTPARLIAMENTARIANS/Resources/Back\\_from\\_the\\_Sidelines\\_Joachim\\_Wehner.pdf](http://siteresources.worldbank.org/EXTPARLIAMENTARIANS/Resources/Back_from_the_Sidelines_Joachim_Wehner.pdf)



and effect. In this regard the Fiscal Management and Accountability Act and Standing Orders of the National Assembly, are the enabling legislation to give effect to the provisions of Articles 171 (2), (a) and (b), 217 and 218 of the Constitution.

2. The provisions of Standing Order 76 do not, in my considered opinion, collide with, but rather complement, Articles 171, 217 and 218 of the Constitution.
3. The rules of procedures for the passing of Finance Bills are written and enabling laws that cannot be ignored, or circumvented conveniently.
4. The political system practised in Guyana does not negative the authority of the National Assembly to amend Bills and Motions including, those dealing with public finance.
5. The National Assembly of the Parliament of Guyana has the power to amend, **by reducing only**, the Estimates of Expenditure submitted by the Minister responsible for Finance.
6. The National Assembly has the option of rejecting the entire Budget, or accepting the entire Budget with or without amendments.
7. The power to amend cannot be used capriciously, injudiciously, whimsically, and/or wantonly.
8. The Motion submitted in the name of the Hon. Khemraj Ramjattan, M.P. on April 12, 2013, and placed on Notice Paper No. 179 of the same date, is properly before the National Assembly and can be considered in, and by the, Committee of Supply.
9. The aforesaid Motion is compliant and not in collision with, Article 171 (2) (b) of the Constitution and Standing Orders of the National Assembly.

## **The Way Forward**

In preparing for this Ruling it occurred to me that the easier part was in formulating a Ruling; the more difficult, was pointing the House in the direction that is nationally wholesome. Those who gave and those who received, the instruments of Independence, could never have intended that such a hallowed right and privilege of the National Assembly to “amend” estimates, that was fought for and won with much bloodshed, and sacrifice, many centuries ago, would be usurped, surrendered, or easily given up. Correspondingly, such an important right must be used responsibly. Undoubtedly, the adage that with great rights come great responsibilities ring true here.

The power to amend must not be exercised capriciously, vengefully, or wantonly and without any rational basis. The preeminent duty of the National Assembly is to pass laws for the peace, order and good government of the State of Guyana. In recognising this right to amend, I believe that it will be exercised responsibly and within the spirit of the Constitution. To do otherwise would be to invite a Court to vacate any amendments as being predicated on wrongful, unreasonable and an unconstitutional use of power.

It is my considered view that the Minister responsible for Finance has two choices. When the Committee of Supply reviews the estimates and proposes amendments, if those amendments are adopted by a majority of the Committee, then the Minister of Finance, when reporting to the House, may either report that his Government accepts the amendments and go on to report to the House that the estimates have been approved, as amended, or he may indicate

that he is withdrawing the Estimates entirely as his Government does not accept the amendments and see them as an indication of lack of confidence in the Government.

It is for the government to make a calculated political decision as to whether it can live with the amended estimates or not. If it cannot, then the decision is obvious.

In 2012, when the amendments to the Estimates were proposed by the National Assembly and adopted by the Executive, albeit reluctantly, the nation did not fall apart. We have passed this way once before, and now have a better definition of what to expect, and we know that we can survive. The decision is ours to make – to embrace the realities and opportunities of the 10<sup>th</sup> Parliament or to ignore them altogether.

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

## APPENDIX 1

### The Constitution

Article 171.

(1)

Subject to the provisions of this Constitution and of the rules of procedure of the National Assembly, any member of the Assembly may introduce any Bill or propose any motion for debate in, or may present any petition to, the Assembly, and the same shall be debated and disposed of according to the rules of procedure of the Assembly.

(2)

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

(a)

proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding, makes provision for any of the following purposes-

- (i) For imposing or increasing any tax;
- (ii) for imposing any charge upon the Consolidated Fund or any other public fund of Guyana or for altering any such charge otherwise than by reducing it;

- (iii) For the payment, issue or withdrawal from the Consolidated Fund or any other public fund of Guyana of any moneys not charged thereon or any increase in the amount of such a payment, issue or withdrawal; or
- (iv) for compounding or remitting any debt due to Guyana; or

(b)

proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of the purposes aforesaid.

Article 218.

(1)

No moneys shall be withdrawn from the Consolidated Fund

Except—

(a)

to meet expenditure that is charged upon the Fund by this Constitution or by any Act of Parliament; or

(b) where the issue of those moneys has been authorised by an Appropriation Act; or

(c) where the issue of those moneys has been authorised under article 219.

(2) Where any moneys are charged by this Constitution or any Act of Parliament upon the Consolidated Fund or any other public fund, they shall be paid out of that fund by the Government of Guyana to the person or authority to whom payment is due.

(3) No moneys shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those moneys has been authorised by or under an Act of Parliament

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

Article 219.

(1) The Minister responsible for Finance or any other Minister designated by the President shall cause to be prepared and laid before the National Assembly before or within ninety days after the commencement of each financial year estimates of the revenues and expenditure of Guyana for that year.

(2) When the estimates of expenditure (other than expenditure charged upon the Consolidated Fund by this Constitution or any Act of Parliament) have been approved by the Assembly a Bill, to be known as an Appropriation Bill, shall be introduced in the Assembly, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

## **APPENDIX 2**

### **The Fiscal Management and Accountability Act**

#### Section 16

There shall be no expenditure of public moneys except in accordance with Article 171 of the Constitution.

#### Section 17

(1) The Minister shall cause to be prepared an appropriation Bill in respect of each fiscal year detailing the appropriation of public moneys for all current expenditures, including entitlement payments, and all capital expenditures to be made by each budget agency.

(2) The appropriation Bill shall be presented to the National Assembly as part of the annual budget proposal.

(3) The Minister shall determine the format for the presentation of the appropriation Bill and that format shall conform, so far as it is practical, to accepted international standards for the classification of government finances.

### **APPENDIX 3**

#### **STANDING ORDERS OF THE NATIONAL ASSEMBLY**

##### **FINANCIAL PROCEDURES**

###### **71. Estimates of Expenditure.**

(1) The Estimates of Revenues and Expenditure for a financial year shall be laid before the Assembly by a Minister before or within ninety days after the commencement of that year. At the Sitting at which the Estimates are presented to the Assembly or at any subsequent Sitting, a Minister, after signifying the recommendation or the consent of the Cabinet may, without notice, move a motion for the approval of the Estimates of Expenditure. Such motion shall be the occasion for the Minister to make the Annual Financial Statement or Budget Speech.

(2) After the motion has been proposed the debate thereon shall be adjourned for not less than two days after which five further days shall be allotted for the debate on the motion. The debate, when resumed, shall be confined to the financial and economic state of the country and the general principles of Government policy and administration as indicated by the Budget Speech and the Estimates. After Members have spoken and the Minister has replied, or at the end of the Sitting on the last day allotted (whichever is earlier), the debate in the Assembly shall be concluded, but the question on the motion shall not be put at this stage.

(3) The Assembly shall resolve itself into Committee of Supply, without question put, to consider the Estimates.



(4) On conclusion of consideration of the Estimates in the Committee of Supply, the Assembly shall resume without question put and the Minister shall report to the Assembly.

(5) The motion for the approval of the Estimates shall be amended if necessary, and put, without further debate, as moved or as amended, as the case may be.

#### 75. Procedure in Committee of Supply

(1) On consideration of the Estimates of Expenditure in Committee of Supply, each Head of Expenditure shall be considered with the appropriate details, and any reference in these Standing Orders to a Sub-head or an item means a Sub-Head or an item in the Estimates for the Head then under discussion.

(2) On the consideration of the Estimates the Chairperson shall call the title of each Head of Expenditure in turn, and shall propose the question "That the sum of \$..... for Head ..... stand part of the Estimates" and unless an amendment is proposed under the provisions of the next Standing Order, a debate may take place on that question. Any such debate shall be confined to the policy of the service for which the money is to be provided and shall not deal with the details of any item or Sub-Head but may refer to the details of revenues or funds for which that service is responsible.

(3) When the question upon every Head of the Estimates has been decided, the Chairperson shall put the question to the Committee that the Estimates (or the Estimates as amended) be reported to the Assembly, which question shall be decided without amendment or debate. Upon such question being agreed to, the Assembly shall resume, and the Minister in charge of the Estimates shall report it to the Assembly.

#### 76. Amendments to Heads of Estimates of Committee of Supply

(1) No amendment shall be moved in the Committee of Supply under this Standing Order until one day after that on which it was published in the Notice Paper.

(2) An amendment to any Head of Expenditure to increase the sum allotted thereto whether in respect of any item or Sub-Head or of the Head itself may only be moved by a Minister who shall signify to the Committee the recommendation or the consent of the Cabinet to the increase. Every such amendment shall take the form of a motion "That Head ..... be increased by \$..... in respect of Sub-Head ..... Item .....".

(3) An amendment to increase a Head whether in respect of any item or Sub-Head or of the Head itself shall take precedence over an amendment to reduce the Head in the same respect, and if it is carried no amendment to reduce the Head in that respect, shall be called.

(4) An amendment to any Head of Expenditure to reduce the sum allotted thereto in respect of any item therein may be moved by any Member, and shall take the form of a motion “That Head ..... be reduced by \$..... in respect of (or by leaving out) Sub-Head ....., Item .....”.

(5) Any amendment to reduce a head in respect of any Sub-Head or by leaving a Sub-Head shall only be in order if the Sub-Head is not itemized.

(6) An amendment to reduce a Head without reference to a Sub-Head therein shall only be in order if the Head is not divided into Sub-Heads.

(7) An amendment to leave out a Head shall not be in order and shall not be placed on the Notice Paper.

(8) In case of each Head, amendments in respect to items or Sub-Heads in that Head shall be placed upon the Notice Paper and considered in the order in which the items or Sub-Heads to which they refer stand in the Head in the Estimates.

(9) When notice has been given of two or more amendments to reduce the same item, Sub-Head, or Head they shall be placed upon the Notice Paper and considered in the order of the magnitude of the reductions proposed, the amendment proposing the largest reduction being placed first in each case.

(10) Debate on every amendment shall be confined to the item, Sub-Head or Head to which the amendment refers, and after an amendment to an item or Sub-Head has been disposed of, no amendment or debate on a previous item or Sub-Head of that Head shall be permitted.

(11) When all amendments standing on the Notice Paper in respect to any particular Head of Expenditure have been disposed of the Chairperson shall again propose the question "That the sum of \$..... for Head ..... stand part of the Estimates" (or shall propose the amended question "that the (increased) (reduced) sum of \$.....for Head ..... stand part of the Estimates") as the case may require. The debate on any such question shall be subject to the same limitations as apply to a debate arising under paragraph three (3) of Standing Order No.

#### 77. Appropriation Bill

(1) The Appropriation Bill shall be introduced in the Assembly after the Estimates of Expenditure have been approved.

(2) The Bill will provide for the issue from the Consolidated Fund of the sum necessary to meet the Expenditure approved by the Assembly in the Annual Estimates and the appropriation of those sums for the purposes specified therein.

(3) After the Bill has been published in the Gazette and introduced in the Assembly, the Minister may without notice, move that the remaining stages be taken forthwith.

(4) No debate shall take place on the motions for the second reading and the third reading of the Bill, and the Bill shall not be committed.

(5) The question for the second reading and for the third reading shall be put without amendment or debate.