

# Official Report

*PROCEEDINGS AND DEBATES OF THE NATIONAL ASSEMBLY OF THE FIRST SESSION (2015-2017) 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*

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58<sup>TH</sup> Sitting

Thursday, 5<sup>TH</sup> January, 2017

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*Assembly convened at 2.06 p.m.*

*Prayers*

*[Mr. Speaker in the Chair]*

## **ANNOUNCEMENTS BY THE SPEAKER**

### **New Year Greetings**

**Mr. Speaker:** Hon. Members, I welcome you to this 58<sup>th</sup> Sitting of our National Assembly for the Eleventh Parliament. This is our first sitting for the new year, 2017, which it is our good fortune to be part of. This year, as all other new years, beckons us with hope and opportunity, hope that we will continue to discharge fully and well our duty to this National Assembly in our service to the people of Guyana and opportunity to demonstrate fervency and zeal or continued commitment to that service. All Hon. Members return here today somewhat rested, if not fully so, and you may, Hon. Members, have engaged some of the period of your absence from here in introspection. We look forward to benefiting from any new insights in relation to our service here which may have struck Hon. Members in the interim. Welcome to all Hon. Members and a Happy New Year to all and to those dear to us.

### **Congratulations extended to the Attorney General and Minister of Legal Affairs**

**Mr. Speaker:** Our esteemed Attorney General and Minister of Legal Affairs Hon. Mr. Williams is deserving of congratulations in recognition of the honour of Senior Counsel which was

conferred on him, in recognition of his place as the leader of the Bar of Guyana. This honour is duly merited. On your behalf Hon. Members and on my behalf I proffer congratulations to you, sir.

**Attorney General and Minister of Legal Affairs [Mr. Williams]:** Thank you.

### **Reassignment of Ministers of the Government**

**Mr. Speaker:** By instruments dated 4<sup>th</sup> January 2017 the Hon. Minister Dr. Norton was reassigned Minister of Social Cohesion, Hon. Minister Ms. Lawrence was designated Minister of Health and Hon. Minister Ms. Ally was designated Hon. Minister of Social Protection. These appointments date from the 1<sup>st</sup> January 2017.

### **Leave to Member**

**Mr. Speaker:** Leave has been granted to the Hon. Mr. Hamilton for today's sitting.

### **PRESENTATION OF PAPERS AND REPORTS**

The following Report was laid:

Loan Agreement No. ROG/L0002 dated December 4, 2016 between the CARICOM Development Fund (CDF) and the Cooperative Republic of Guyana for US\$6,625,000.00 for the purpose of financing the Rural Agricultural Infrastructure Development Project in Small Scale Farming Communities. [*Minister of Finance*]

### **REPORTS FROM COMMITTEES**

The following Report was laid:

First Report of the Statutory Instruments Committee on consideration of the Customs (Amendment) Regulations 2016 – No. 9 of 2016, the Excise Tax (Amendment of Schedules) Regulations 2016 – No. 10 of 2016 and the Value-Added Tax (Amendment of Schedules) Order 2016 – No. 18 of 2016. [*Speaker of National Assembly - Chairman of the Statutory Instruments Committee*]

### **PUBLIC BUSINESS**

## GOVERNMENT BUSINESS

### BILLS - SECOND READING

#### MOTOR VEHICLES AND ROAD TRAFFIC (AMENDMENT) BILL 2016 – Bill No. 25/2016

A BILL intituled:

“AN ACT to amend the Motor Vehicle and Road Traffic Act.” [*Minister of Finance*]

**Minister of Finance [Mr. Jordan]:** I rise to move that the Motor Vehicle and Road Traffic (Amendment) Bill 2016 - Bill No. 25 /2016, published on 2016-12-20 be now read a second time.

This Bill really seeks to amend section 9(1)(b) of the Motor Vehicles and Road Traffic Act by abolishing the requirement for a certificate of compliance from the Commissioner-General of the Guyana Revenue Authority (GRA) for the processing of a transfer of registration of motor vehicles. In addition, the Bill seeks to amend the First Schedule of the Principal Act by:

- a. Increasing fees for the transfer of ownership possession of motor vehicles
- b. Introducing fees for the issuance of driving permits issued to drivers residing abroad and who temporarily reside or visit Guyana and;
- c. Introducing fees for the issuance of letters of authenticity to applicants requiring replication of their driver’s licences.

The requirement for a certificate of compliance to transfer registration for those who have gone through this process - was first introduced by Act 14 of 1982. Basically, the certificate states that the registered owner has, in accordance with section 60 of the Income Tax Act, Chapter 81:01, delivered all its returns and paid all outstanding taxes or has made arrangements to the satisfaction of the Commissioner-General for the payment of taxes due and payable. In other words, you have to get your taxes right and up to date before such a certificate can be issued, if you want to transfer a motor vehicle or motorcycle.

Now, what has happened over the years is that many persons, instead of applying for this certificate of compliance, merely just transferred possession of the said vehicle by way of irrevocable power of attorney or sought to effect transfer of the title through the courts of Guyana by means of specific performance, thus attempting to circumvent this whole approach to try to trap those who have been delinquent in their payment of taxes. Indeed, it is not unheard of for improper attempts, in the form of inducements to be made to the staff of the Guyana Revenue Authority, in an effort to procure this certificate of compliance.

Thus the abolishment of this requirement for the certificate of compliance from the Commission-General of the Guyana Revenue Authority for processing a transfer or ownership of possession of motor vehicles will remove these loopholes, while, at the same time, reducing the burdens of taxpayers by removing the duplication of documents submitted by taxpayers to the Guyana Revenue Authority. This, no doubt, will further significantly reduce the processing times for such transactions and thereby freeing staff and effort to be diverted to more revenue generating and high risk activities.

The Bill seeks to impose transfer fees for motorcycle of \$5,000 and for other motor vehicles the fee will be \$25,000 or 2% of the selling price or the vehicle current evaluation, whichever is greater.

The Bill also seeks to recover part of the cost of processing temporary driver permits to persons residing overseas but who are visiting the country temporarily; and, also, letter of authenticity for verification of driver's licences. Each year the Guyana Revenue Authority processes about 4,000 of these transactions. These transactions of course require human, other effort, and resources which all at the present moment are delivered at no cost to the recipient. But these services are not free and therefore the deduction of fees at this stage is not necessarily to offset the full cost but it is to share the cost between the Government and the recipients of these documents. The cost of a driving permit issued to drivers residing abroad but visiting Guyana temporarily will now be \$2,000, while the letter of authenticity for verification of driver's licences will also be \$2,000.

As I said, this is an uncomplicated Bill. There are several benefits on both sides to be added. It will improve tax administration while reducing a number of loopholes in the system and thereby of course, also reducing efforts at corrupting the employees of the GRA.

*2.21 p.m.*

It will decrease the burden placed on taxpayers to submit duplicate documents. Regardless of your tax status now, you will be able to transfer a vehicle freely without having to worry that you owe tax to the Commissioner. Of course, there will be some fees that will be collected and at the end of the day, as I said, this is a win - win Bill for both sides.

I therefore commend this Bill to the House for passage.

**Mr. Dharamlall:** I would like to wish Mr. Speaker, yourself, and Hon. Members of the Assembly, the staff and those who are gathered here a Happy New Year. Mr. Speaker, you did mention that you hope that we had done some introspection over the course of the holidays. I did quite a lot of introspection. I had rest and I also did not have rest. Mr. Speaker, I would also like to join you in congratulating the Hon. Ministers, the new Minister of Public Health, the new Minister of Social Protection and the new Minister of Social Cohesion. One of the things that I thought would have happened in 2017 is that in addition to these appointments, noting all that has happened with the Budget 2017, that there would have been a reshuffling or a disappointment of the Minister of Finance.

**Mr. Speaker:** Hon. Member Mr. Dharamlall, I understand that you indulged in introspection and I understand the direction of it. I must tell you that we will stay within the ambit of what we were obliged to do. If we depart from it, I hold myself free to ask you to take your seat.

**Mr. Dharamlall:** No problem.

**Mr. Speaker:** Be focused on what you are doing please.

**Mr. Dharamlall:** I am very focused, Mr. Speaker, I am actually warming up.

In addressing the Motor Vehicles and Road Traffic (Amendment) Bill 2016, the Hon. Minister moments ago said that some fees will be collected. I am not sure if I quote him well. This is a worrying sign of this Government that it continues to create more hardships for people,

irrespective of the amount of fees that we see increased here. For example, a motorcycle, the registration has moved from \$500 to \$5,000. For other vehicles from \$1,000 to \$25,000, that is the compliance, the cost of the compliance, or 2% whichever is greater. Evaluation of \$1.25 million would be equivalent to a compliance fee of \$35,000. Any other vehicle above \$1.250 million will attract a compliance fee of 2% of the value of that vehicle. I am not certain how many vehicles in this country are valued at Guyana \$1.25 million. It is in that context that I said it is another hardship measure on our citizens.

It is hardship because it speaks to a number of things. One of the things that it speaks to is the lack of economic planning within this Government and for this country. It speaks of elements of, that I would want to classify, gross incompetence on behalf of the administration. I also think that with this additional hardship measure that will soon become law in our country that this Government is alienating itself from the poor, the disadvantaged and the vulnerable. That is an unfortunate circumstance before us in 2017.

It also speaks to a decline in our country when a Government pursues hardship measures on its citizens. Increasing fees by as much as 25 times and higher is a bad omen for all vehicle owners, especially those with vehicles that need to dispose of, those who are intending to own a new one and those who are intending to own a vehicle period. Compounded with all the additional burdens and fees already imposed across the past 19 months, this I would want to say is an inglorious imposition. The only thing, so far, as I was preparing my comments on this Bill, that we have not yet seen fees put to are entrance fees to Government offices and consultation fees to meet Ministers and high officials of the Government. Unless that is already in process and I unfortunately did not have the opportunity to go into anyone of those offices as yet.

From the beginning of 2016 to the end of 2017, the Government intends to raise by this measure \$1,159,000,000 as a result of these licences fee which are required under the Motor Vehicle and Road Traffic Ordinance. One billion, one hundred and fifty-nine million dollars will be raised since this Government took office. At the end of 2015, it was \$335 million. At the end of 2016 it was \$550.7 million. It has now increased in 2017 to Guy\$608.9 million. This is on page 9, table 6, Volume 1 of the Estimates of the Public Sector. This is in addition to licences for motor vehicles approximating to \$1, 137,000,000 in 2017 which is more than \$450 million at the end of 2015. Four hundred and fifty million more vehicle owners in this country are paying to this

Government over the past number of months since they took office. Licence fees for other vehicles, it is now \$1,060,000,000 at the end of 2016 which is \$407 million more than at the end of 2015. These are all figures stated in Volume 1 of the budget estimates. In two years, this regime intends to burden our vehicle owners to a tune of \$2,806,758,000 in 2017 from \$2,422,800 in 2016 which is \$384,750,000 more over the next year. Over two year this figure becomes even more outrageous. In 2015 we raked in Guyana \$1,674,630 which is \$1,132,128 more over the next two years. This is a 70% increase on overall fees and taxes regarding motor vehicles in our country. This, the Government has made it into a billion dollar industry for itself.

When this is coupled with the increases in other areas of a person's life, tell me what is going to happen to the comfort of living of households and families across Guyana. Instead of using the spare change we have left on enhancing our comfort and that of our children we have to give instead to the People's National Congress (PNC) regime to uplift their own lifestyles. Even when it is taken for us and when it is spent by this regime, this is what is taking place. It has been mismanaged and given away to cronies of the regime to the extent that a certain Minister had to be the fall person and lost their prestigious senior Minister's job.

**Mr. Speaker:** Hon. Member, are you still speaking about the motor vehicles?

**Mr. Dharamlall:** Yes Mr. Speaker.

**Mr. Speaker:** You are digressing into...

**Mr. Dharamlall:** I am a politician. I am speaking.

**Mr. Speaker:** Hon. Member, the politician is in the wrong place.

**Mr. Dharamlall:** Okay.

**Mr. Speaker:** If you do that again, you will be made to resume your seat. I say no more.

**Mr. Dharamlall:** The long and short of my position is that I cannot understand why the Government is imposing more hardship measures on our fellow Guyanese. We were not elected here, in this Parliament, to make the lives of Guyanese people worse and I intend to agitate on their behalf until this Government stops its unwarranted attacks on the livelihood and comfort of our citizens. I say this that the citizens also want a good life, a good life similar to what a select

few are enjoying at this point in time. When these fees take effect the cost of transportation is going to increase. As a matter of fact, it has already increased. This morning I was at Stabroek Stelling and the boat fees across the river have doubled. The cost of doing business will increase; the cost of living is certainly going to increase. Unfortunately what happens when the cost of living increases our lives become a nightmare. I am worried that we now live in a country of nightmares.

The Hon. Minister in his validation of this Bill spoke to addressing the delinquency of taxpayers and as a result abolishing the compliance, onerous documents, but this is not contributing to efficiency. This is taking away money from poor people. It is unprecedented. The Hon. Minister of Finance spoke about making the system less complicated or uncomplicated but fixing the system cannot result in a disadvantage to the users of the system, it must be to our benefit. What the Hon. Minister is proposing to us is by creating a hardship on citizens in effect will increase the efficiency of the Guyana Revenue Authority.

The Hon. Minister also spoke about reduced corruption in the GRA. I am wondering whether the Minister is actually saying that the GRA is a corrupt organisation. I hope that is not what the Hon. Minister is saying after being in 19 months plus in Government and passing three multi-billion dollar budgets. Improved efficiency must not allow an increase in fees. It has to reduce processing time; it has to ensure that there is more comfort in our Government; there must be more comfort in the procedures that the Government promotes as part of good governance; there must be increased accountability, and there must be enhanced transparency. All of those things I would expect that the measures put together by this Government will address rather than creating hardships or more hardships for citizens.

As we move forward, I would like to encourage the Hon. Minister of Finance and his administration, including his technical officials to relook at what really systems management in GRA ought to be and how those can be improved without affecting the regular Joe in our society. All of us have to pay this. Every single cent, which is taken away from us, is not really going towards our development right now. It is going to address the budget deficits that are being created by the Government some unnecessary and maybe in some other cases some are needed, but I think that there is enough time for the Hon. Minister to consider all that is before him and to take a humane look at what is before him and also consider a humanitarian position in addressing

the amendments to this Bill that he is proposing. Once again, I would like to wish you a happy and productive New Year. I also wish to share those sentiments with the rest of the National Assembly. Thank you. [Applause]

2.36 p.m.

**Mr. Anamayah:** Let me also take this opportunity to wish you and the entire House a happy and prosperous New Year.

Mr. Speaker, I wish to endorse what my Hon. Colleague has said, dealing directly with what the Hon. Minister has said. The first part of the Bill, on paper, seems like a good thing to remove this requirement for the certificate of compliance to the common man. You would be taking away red tape, reducing the bureaucracy and the hassle that they would have to go through. When you read it with the second part of the Amendment, they will tell you wait. I will take the first part any day. I prefer to go and do my certificate of compliance than pay the additional fee that you have imposed by the other Amendments that are being proposed. It would not enure to the benefits of the citizens of this country. Therefore, as my Friend, the Hon. Mr. Dharamlall, said, we cannot support it. We would support any measure, any Bill or any laws that would bring benefits to our people. This would not do that. I will attempt to show how this is so.

It is a typical case of the Government, as it has been doing throughout its life in this Assembly, giving a little bit with one hand and taking away much more - the *sleight of hand* operation.

Mr. Speaker, if you recall, earlier this year, in January, 2017, the Hon. Minister of Finance already had a look at all these licenses' fees. The fees for the transfer of registration were already increased by 100% in January, 2016, when the Budget was presented. Fast forward to this year: we are now seeing that the Minister was not satisfied with the 100% increase so he has now decided to increase the fees for the transfer of motorcycles, a trailer or any other vehicles. The fee for trailers has gone up by 1100%. How will this benefit the people? It would not.

As my friend said, if you are purchasing or selling a vehicle – a car, a van or a truck - that is below \$1.250 million, you will pay a fee of \$25,000. That is the threshold. When you go over that, you will pay 2% of the value. We, on this side, live in the real world. We are dealing with actual people. Ninety per cent or more of the vehicles sold by the first owners have depreciated

in value. The values have gone down. As a matter of fact, as soon as you take it from the auto dealer and you drive it onto the road, it has already started to depreciate. If that vehicle is sold presently, it attracts zero taxes. You do not have to pay any taxes on it. Now, with this *sleight of hand* operation here, it attracts a tax of \$25,000 if it is below \$1.250 million and 2% if it is over. The common man is not winning. Every year, your vehicle depreciates but you still have to pay if you are doing a transfer. As my friend said, it can only be described as an additional burden on people. That is the only description, an onerous burden.

When a vehicle is to be purchased in this country, you go to your auto dealer and you purchase it. You have already paid your duties and value-added tax (VAT). These taxes have already been worked into the prices. This measure – the proposed Amendment - will result in double or multiple-taxation.

For instance, if you purchase a lorry for \$5 million in January and, six months later, you will sell it, you will sell it for \$4 million. Under the present laws, you will pay zero taxes. With this Amendment, you will pay 2% of the value of \$4 million, which works out to \$80,000. This has to be taken into context now. It is a tax that is not limited; it goes to all vehicles – goods vehicles, articulated vehicles, lorries and tractors, whatever it is; they will be caught under this legislation. I do not know if this is the loophole that the Minister said that he is closing. It was not a loophole. The Hon. Minister said that this is a win-win situation for the common man. I will describe it in many ways but not as a win-win situation. The Hon. Minister would be hard-pressed to sell that to the common man on the public road.

This measure, as I said, has to be put into context. In January, 2016, we had the increase in the licencing fees/transfer fees. Last year, another Budget was presented with a whole raft of increases in fees. We have the ban on used tyres so the vehicles' owners have to purchase only new tyres. This, coupled with all the other increases, will result, as has already resulted, in an increase in the cost of public transportation. That is what this is doing and that is affecting the common man.

The father who has to send two or three children to school is faced with so many challenges now that he has to decide maybe to keep one of them at home because he cannot afford to send them to school and to bear the cost of transportation. Buses do not operate in all areas; they operate in

selected areas. Those are the kinds of decisions that the common man has to make now. By putting this across the board on agriculture tractors, trucks and lorries, you will increase the cost of commodities because the cost will be transferred to end users and they are the customers and the passengers. They will have to bear the brunt of it. Again, this Administration, which is promising the good life, cannot seem to comprehend the disastrous effects that this Bill will have on our people. As we keep saying, they are in *La La Land*, an alternate reality, the bubble. The problem is that nothing gets into this bubble and it seems as if nothing is getting out either. It seems that we will be stuck here, trying to convince them that these measures are far removed from reality and will not enure to the benefit of our people.

It will also reduce the disposable income, as my Friend said, the little spare change that the common man had in his pocket. That is also gone now with all these measures. Cost of living is up; cost of commodities is up; and cost of public transportation is up and this is a win-win situation.

With these few measures that I have outlined, I think that it is quite clear that we, the People's Progressive Party (PPP), cannot support this Amendment. Thank you. *[Applause]*

**Mr. Jordan (replying):** Mr. Speaker, I know that we do not have a national game, as such, but I think cricket will certainly lend itself to that position, if we were to name one. It was the great American baseball player, Lawrence Peter Berra - and baseball is not a very popular sport - who, I believe, was credited with the saying *déjà vu all over again*. I seem to recall this *Chicken Licken*, sky is falling, and poor man is getting poorer argument last year when we presented the various fees. Some people said that they did introspection. I wish that they would notice the difference between fees and taxes.

A friend of mine in Queens, New York said to me that the Government is putting over 100 taxes in place in January. I asked him if that was really so and if he could have named one or two of them. He said no but that is what was reported on the internet and that the boys came here and said that. What I know is that last year January, in the 2016 Budget, we did not put in over 100 taxes. We did justify and indeed this House passed the various licences that were put there. That is the reason we come to this House. We have a debate and, at the end of the debate, we say yay

or nay. As far as I remember, in all cases in the 2016 Budget, where the licences were tabled, the yays had it.

I know that we have a long day today on these Bills and I would not want to waste much time on a Bill that I believe is very innocuous, a Bill that will result in benefits to those who experience the tedious procedure of attempting to transfer title or ownership of a motor vehicle.

I went through something like that and I was revisiting it with the Commissioner General a few days ago. I was extremely happy with this measure and I was the cheerleader that compliance certificates should be removed and, irrespective of one's income tax status, we ought to do a simple trade transaction without the barriers and the inhibitions that we already have to face. If you ask the average common man whether he is in favour of this Bill, I am sure, if he were able to represent himself here rather than have representatives of him here, he would tell us differently.

I was struggling to understand the removal of a certificate of compliance with increased fees of speed boats at Vreed-en-Hoop. We have just confirmed that it is an untruth, bearing the fact that there is no relationship between removing a certificate of compliance and increased fees at Vreed-en-Hoop. I wish some more introspection could have been done during the Christmas holidays.

I do not think that there is much on this Bill. I think that there are more critical Bills coming up. I will save my energies for those. I commend this Bill to this House for passage. Thank you.  
[Applause]

*Question put and carried.*

*Bill read a second time.*

*Assembly in Committee.*

*2.51 p.m.*

*Bill considered and approved.*

*Assembly resumed.*

*Bill reported without amendments, read the third time and passed as printed.*

## **CUSTOMS (AMENDMENT) BILL 2016 – BILL No. 26 of 2016**

A Bill intituled:

“An Act to amend the Customs Act.” [*Minister of Finance*]

**Mr. Jordan:** Mr. Speaker, I rise to move that the Customs (Amendment) Bill 2016 – Bill No. 26 of 2016, published on the 20<sup>th</sup> December, 2016, be now read a second time.

As stated in the Explanatory Memorandum, this Bill seeks to impose an environmental levy at the rate at \$10 per unit on every non-returnable container of any beverage or water. As the House and you, Mr. Speaker, may recall, in my Budget Presentation of 2016, I signalled the reintroduction of “a broad-based, non-discriminatory environmental tax”.

This honourable House will also recall the debate of last year to repeal section 7A of this Customs Act as amended by the Fiscal Enactments (Amendment) Act No. 3 of 1995. That section read as follows:

“7 A. (1) Notwithstanding anything in this Act or in any other written law, there shall be raised, levied and collected a tax in this section referred to as an environmental tax, at the rate of ten dollars on every unit of non-returnable metal, plastic, glass or cardboard container of any alcoholic or non-alcoholic beverage imported into Guyana and every importer of such beverage shall pay such tax to the Comptroller of Customs and Excise at the same time when any customs duties are paid.”

That action and that wording arose out of Rudisa Beverages and Juices N.V. challenging the alleged discriminatory imposition of the environmental tax. Its contention was that it was contrary to Article 87 of the Revised Treaty of Chaguaramas. The Caribbean Court of Justice (CCJ) upheld the arguments of Rudisa Beverages and Juices N.V. and decided the case in the company’s favour, a decision that cost the Government well in excess of \$1 billion in compensation to that company.

I believe that there can be no argument against the Government taking measures to protect the environment. Indeed, a healthy environment is necessary for human and animal life to survive;

drinkable water, breathing air and edible food are some of the resources that are necessary for life to continue. Yet, at the same time, people cannot maintain a desirable standard of living without the consumption of natural resources which cause damage to the environment.

In addition, using natural resources reduces their availability, which can also lead to shortages of building and manufacturing materials, food and water. Human activity that is harmful to the environment can cause public health crises, render areas uninhabitable, and otherwise reduce standards of living. One just has to look at the unsightly evidence of plastic, glass and other containers being disposed of in a haphazard and dangerous manner in Guyana, leading to clogged drains, canals and rivers. These remind us of the damage and dangers posed by this indiscriminate disposal.

When we protect the environment, we are indeed protecting ourselves and our future as well. Therefore, this Bill gives further expression to our green agenda and our considered efforts to protect the environment.

It would be recalled that among the measures proposed and subsequently implemented to protect the environment in Budget 2016 were as follows: one, restriction of the importation of used and/or re-conditioned vehicles; two, a ban on styrofoam used in the packaging of beverage, food and food products; and, three, exemption of all bio-degradable containers used in packaging of food and beverages.

The re-enactment of section 7A of the Customs Act, which this Bill is seeking to do, is yet a necessary step aimed at inducing, promoting and educating about the need to protect and conserve our natural ecosystems and affirm that sustainable management of the natural environment is key to sustain human development.

The new section 7A is compliant with the Treaty of Chaguaramas. The phrase contained in section 7A (1) - “whether imported, locally manufactured, or produced in Guyana” - ensures uniform application and treatment of this measure.

It has been claimed that this tax will result in increased cost to the producer and importer who will most likely pass it on to the consumer. Indeed, I seem to recall Hon. Member Mr. Irfaan Ali, in opening the debate on Budget 2017, predicted that the implementation of this measure will

result in another \$1 billion being taken from the ordinary man and that this will, once again, contribute to the decrease in disposable income. But all of this guessing, second guessing and third guessing and so on were taken before this Bill was circulated in this House. And I am asking now that the Bill has been circulated and my good Friend and his Colleagues and everybody else who were making predictions and so on outside of this Bill, will now, among other things, pay particular attention to section 7A (4) of the Bill which states as follows:

“For those units that are proven to the satisfaction of the Commissioner-General as having been returned, reused, recycled or re-exported, a credit will be allowed towards the next payment due and excess credit shall be carried forward to the next period until the credit has been fully utilized”.

What we are saying here is that the importer, manufacturer or producer is not bearing this cost.

*3.06 p.m.*

No one would be bearing this cost if the particular container is returned, reused, recycled or re-exported. They will get back their money. We are not taking money out of anybody's pocket. We are imposing responsible behaviour to protect our environment. What this tells us is that the importer or manufacturer is not being burdened by any additional cost nor is the consumer because, once the consumer returns the container, he or she gets his \$10 back. Of course, I pass so many \$10 on the road these days, I do not know, the consumer may just as well throw away the container.

Consumers then have two choices: throw the containers in the trash to be crushed or buried in a landfill and, in the process, lose their deposit or return them to the place of origin where, especially in the case of glass bottles, they can be recycled. Recycling these objects means that the materials would be used again, reducing the need for cutting down trees or mining for materials to make cans or glass bottles. Programmes can be developed that pay people to recycle many of these things, including aluminium cans and glass bottles. People can also reuse other things like empty boxes to send things in the mail or empty plastic food containers for storing paperwork or tools. All of this would reduce the need for us to open more landfills, burying garbage and so on. Whether we charge \$10 in this case or by the old Act or we charge \$5, as in the case of the Leader of the Opposition, who said that, once he gets into power again, he would

reduce it to \$5, the onus would be on the consumer to return the bottle and on the importer, producer or manufacturer to show that it has been “returned, reused, recycled or re-exported” so that the credit could be given. Once again, doomsday has been spared.

I thank you. *[Applause]*

**Mr. Nandlall:** Mr. Speaker, thank you very much. Like my Colleagues before me, I want to extend Happy New Year greetings to you and the staff of the Parliament and, of course, every person here.

I also want to take this opportunity to apologise for my late arrival. I had to deal with some floodwaters. Though the Government promised to end flooding in 2017, the place is still under water. *[Interruption]* I like the response I have already evoked.

This Bill has quite a history but, before I deal with the history of the Bill, I want to make a few quick observations. The Minister of Finance, I believe deliberately, omitted to say that this Bill, when compared with its predecessor, the one that was repealed which he read, imposes the \$10 tax on water which was never a tax imposed on water before. Not only are we going to have to pay VAT on water, but we are now taxing the bottle in which the water will be contained. This Government seriously has a problem with water. It is taxing the water and the container in which the water is contained.

Let me quickly deal with the argument that the Minister articulated, a few moments ago, that this would be revenue neutral in the sense that the consumer will not have to pay the \$10 in so far as the \$10 could be recoverable by the consumer. Imagine a parent buying a chubby for a child to go to school and is now being asked to go back to I do not know where or to the Guyana Revenue Authority to collect \$10 for that bottle. The cost that will be expended to recover the \$10 will be greater than the \$10. That argument is simply to mislead people, to give a false sense of hope and security to the less vigilant mind. Mr. Minister of Finance, that argument cannot fly.

The other aspect of the Bill is that this tax, when one looks at Clause 2 onwards and compares them with its predecessor, the predecessor tax was leviable at the point of entry when custom duties would have been leviable. For some strange reason, the Minister has used a complicated device which seeks to permit the Guyana Revenue Authority to levy the tax on goods imported

and not warehoused, and on goods imported and warehoused and removed from warehouse. One of the objectives, obviously, is to tax containers that are already in the country. Businesses that have containers stored in their stock-in-trade and brought into the country long before this law will take effect will now be subject to the tax. [Hon. Member: What is wrong with that?]

Nothing is wrong. I am just telling the businessmen out there that, unsuspectingly and without any consultation whatsoever, goods they have in stock will be taxed by this Government without a word of prior consultation with them. I have a duty to tell the businessmen.

The next thing is that we have to consider the history of this matter. We had this law before and we were sued, as the Hon. Minister rightly said, and taken to the CCJ. [Mr. Greenidge:

Justifiably so.] And the Hon. Carl Greenidge says justifiably so. That may be so. We came to this House and we pleaded with this House to support the imposition of a Bill which sought to impose \$5 - not \$10 - but to apply it to local manufacturers as well as imported goods from the Caribbean. The objection which was raised to the tax was that it was discriminatory in its effect in that it only levied a tax on foreign goods emanating from the Caribbean and that was held to be inconsistent with our treaty obligations under the Treaty of Chaguaramas. We brought a Bill here that would have levelled the playing field for both local manufacturers as well as imported goods. My Hon. Colleagues on that side brought to this House arguments after arguments as to why they could not support the Bill. They said to us that we did not consult with the local manufacturing sector, though we did. But we have not heard a single word from the Minister about holding consultations with the private sector, with the manufacturing sector or with those who are engaged in the importation of goods about this tax which is 100% more than the tax we sought to impose. I want to congratulate, in advance, the Hon. Minister, Mr. Harmon, because, in that debate, he did make a very detailed and researched presentation.

This is what he said on the Customs (Amendment) Bill 2013 – Bill No. 2/2013. I quote from the Hansard:

**“Lt. Col. (Ret’d) Harmon: We held consultations...”**

The Minister of Finance cannot say so now. But when they were in Opposition, they held consultations. In Government, consultation has become an absent factor in the equation.

“We held consultations with private business persons who are not active in the Private Sector Commission and we held consultations with the ordinary Guyanese people who will be affected by this tax. All of them said to us that they have a problem with this. When a government says that it has no problem that the private sector has a problem with the tax; when a government says it has no problem that the people of the country has a problem with the tax, then that government is not listening.”

This is the wise counsel of my learned Friend, sentiments for which I cannot fault him, but congratulate him. Why is this wise counsel not applied when they are in the seat of Government? What consultations were held with the ordinary people outside the formal structure of the Private Sector Commission and with the Private Sector Commission itself before a tax that is double the size of the tax that you consulted on... That is absent.

Mr. Harmon concluded his presentation this way. He went on to make a very important point. He said:

“Even though it is levelling off...”

That is what our tax ought to do - level off between imported goods and manufactured goods.

“Even though it is levelling off, instead of taking \$10 at the point of entry on certain goods coming in, it is spreading out, taking \$5 for containers that have stuff inside of them and \$5 for containers that do not have anything, and it is going to the manufacturers and producers. Even though it is the same \$10 the burden has been shifted...”

The burden has been shifted and divided in two. That is okay.

“Even though it is the same \$10 the burden has been shifted from one section to another, so that persons who now have to pay an additional \$5 are not paying that themselves, they are passing it on to us, the consumers, so that we, who are already overtaxed by Value Added Tax (VAT), and so on, will have to face the burden of additional tax.”

That was in 2013, at a time when we did not have the 100 tax measures that the Minister said somebody told him about in New York. This was the pre-100 tax era. Mr. Harmon was saying to us in the House that we were overtaxed. Imagine we are now burdened, according to the Minister

of Finance, who said his friend from New York told him, with 100 more taxes. Minister Harmon was saying that, prior to that 100 tax, we were overtaxed. One could imagine what the position is now.

In dealing with my plea to the other side at that time, I indicated that, unless we pass the law, we were going to have this humungous judgement granted against the people of Guyana, which we would have to pay *through our noses*. I asked and made impassioned pleas to them to support us but that was Mr. Harmon's wise admonition to me then. I wish to say this: old people say, "*When yuh ears hard, yuh does feel.*" So why are you quarrelling about the judgement. Well, your ears hard so feel it; do not complain about the judgement. Find money and pay it.

I come to my friend, Mr. Ramjattan. He also spoke in the debate.

*3.21 p.m.*

I come to my friend, Mr. Ramjattan. He also spoke in the debate and this is what he said: "When they put \$5 on the manufacturers in Guyana, do you know what the businessmen said to me? They said that it is the consumer that will have to pay more. But they do not want to tell them that it is an implication. No, they do not want to say that; Mr. Ramjattan in his usual inimitable style. The manufacturing class have all indicated to me that this is what the implications are going to be because they do not like to take losses. So the \$5 will go to the consumer. Well, the \$10 will now go the consumer Mr. Ramjattan, and what do you have to say to the consumer? [**Mr. Ramjattan:** Recycle]. The consumers will have to pay more, Mr. Ramjattan is saying. Every school child who wants a little beverage or whatever for their nutrition, will have to pay more now; \$10 more Mr. Ramjattan. You did not tell the parents that during the 2015 campaign? Did you tell them that you will charge them \$10 for little nutrition? No, you did not tell them that.

That was the position of the Government then and it demonstrates the double standard. Sir, I cannot say hypocrisy in this House because you would admonish me. So it speaks to the double standards. When we are in Opposition, we say one thing and when we are in Government, we say another.

The private sector asked the Government, prior to the presentation of the budget, to meet with them and to let them discuss the tax measures. No was the resounding response. After the budget and before these Bills came to the House, the private sector and the labour movement had asked again for the Government to hear them because they had a constituency which they represented. They stated that they represented the Guyanese people and that they were not politicians, and that the Government would not have to be bothered with the People's Progressive Party (PPP), the Government just had to listen to them and work out compromises. Not this Government. The Government has rejected all entreaties and invitations emanating from the private sector and from the labour movement inviting some kind of dialogue. But yet, we are told in New Year's messages that we must work together and that we must work as a cohesive society and that we are changing Ministers to build cohesion. Welcome Dr. Norton, to the Ministry.

The last thing that I want to say is that great moment is being made of the Government's initiative and policy to create the green economy and the greening of the economy. It is no secret that that it is a concept borrowed from the PPP's Administration and we welcome that. We do not have monopoly over concepts and policies and we are happy that the Government is borrowing them. But please, understand that when we had conceived it and designed it, the greening of the economy, we had intended to finance it from external sources. The difference here is that the backs of the Guyanese people are being broken by taxes after taxes to green the economy. That is a material and fundamental departure from our concept of greening the economy. I just thought that I would want to put that on the record.

Sir, with those few remarks, it is with deep regret that I have to say that we cannot support this Bill.

Thank you. *[Applause]*

**Mr. Gill:** First of all, I would like to wish all the Members of this honourable House a most wonderful, happy and prosperous New Year. The Hon. Member, who just spoke, my friend Mr. Nandlall, has stolen most of my thunder. But I would like to say that, in as much as what my Friend and Colleague, the Hon. Nandlall, just quoted from two of the Opposition Members who, at the time, were in the Opposition and are now Members of the Government, they were direct quotes taken from the debates in 2013 and 2014. It is evident that, even though the PPP had

proposed, during this environment tax, to reduce it from \$10 to \$5 per unit in 2013 and then again in 2014, the A Partnership for National Unity and the Alliance for Change (APNU/AFC), while in Opposition, both argued that this Bill was another tax burden on our local manufacturers, something they adamantly opposed then. What has change is the Government now telling us that the same local manufacturers and the ordinary people who they had consultations with, the same ones that had opposed this Bill in 2013 and again in 2014, are now okay paying this additional tax Or are they so aloof and out of touch with the struggling Guyanese people? Like the Hon. Minister Harmon said, during the debate in 2013, the Government is not listening.

This additional tax is too burdensome on our local manufacturers. It will take away the competitive edge they need to create jobs and to help stimulate the economy. It imposes another bureaucratic record keeping requirements on local manufacturers that would further increase production cost, thereby, increasing the unit cost to consumers, ultimately adding to the already high cost of living. This cannot be the good life that the supporters of this Coalition Government voted for.

During the debate on 10<sup>th</sup> July, 2014, the Leader of the AFC, the Hon. Khemraj Ramjattan, said, “We had indicated to the Government that none of the manufacturers want further taxation.” Notwithstanding the fact that the Government is now trying to not discriminate by saying that, when the overseas people bring in their soft drinks, they will have to pay five dollars just like our manufacturers. Our local manufacturers are saying that they want none of that.

Additionally, that \$5 tax, which this Bill proposes on the Guyanese people, who consume, will have to be passed on to the consumers. School children will now have to pay more for soft drinks, both imported and those manufactured outside of Guyana. Do we want this, knowing very well that this is a further taxation? This is what the Hon. Minister Ramjattan was quoted as saying.

Again, I ask, what has changed? Had the APNU/AFC not stubbornly voted down this Bill in 2013 and 2014, the taxpayers of this country would not have pay Rudisa Beverages & Juices N.V. a cent and imported beverages would have been reduced by \$5 per bottle. Is this Government now employing a double standard by imposing an environment tax on local

manufacturers of \$10 for every non-returnable bottle or can of alcoholic or non-alcoholic beverage, when the very same Member, the Hon. Khemraj Ramjattan, argued in 2014 that the then PPP/C Government should, instead, withdraw the Bill and repeal the \$10 environment tax charged on imported beverages. If that argument had merit then it would certainly make sense to repeal this tax now. After all, as the Minister had said then, a tax is a tax and the Guyanese people are way overtaxed as it is.

Thank you. *[Applause]*

**Mr. Neendkumar:** Mr. Speaker, and like others before me, permit to extend warm New Year's greetings to you and your family as well as to the other Members of this honourable House, the media and everyone else.

In making my contribution to the discourse on this Bill, included on the Order Paper for this Sitting, I wish to highlight from the outset that it is recognisably one of the most contentious instruments of onerous impositions by the Government on our citizens. I would like to tell the Minister of Finance that taxes and fees are moneys that the people have to pay and that we should not split between taxes and fees. The comrades in the diaspora did give a good treat about it.

Comrades, are you telling us that our children must now take the plastic bottles and wrappers in their pocket home and then their parents would have to find transportation and parking fees to go the Guyana Revenue Authority (GRA). I hope that the Commissioner-General is listening to you and that he will have some sympathy with our children. Today, more of our children would not be able to have something to drink.

The proposed legislative elements of this Bill is effectively one of the murder weapons of the 2017 death budget, but my Colleagues and I have only recently provided, *Math Justification for review*. In the budget debates, we, on this side of the House, are convinced that in advancing the interest of our citizenry and country the use of more inclusive and consultative approaches and sound economic planning have to be adopted.

There have been strong outcries from all fractions of society and it was hopeful that someone on the Government side would listen and that some measure of compromise would be forthcoming.

It is, therefore, from this backdrop one should recognise that the tabling of this Bill by the Hon. Minister of Finance is representative of the Government's absolute inflexibility to the outcry of our Guyanese people.

We have Government representatives who now find the *fat cats'* positions, which they occupy, more adept to reversing the arguments they recently preferred on the issues related to this Bill. As Opposition Members in this honourable House, in essence, the characteristic nature of the Hon. Members on the other side flatters to deceive as their take it or leave it position cannot be reasonably supported.

In this respect, I wish to highlight several key issues of relevance that the Government must consider. Please recall that the previous Customs (Amendment) Bill which was brought before this House and had drawn significant condemnation from several Hon. Members on that side. On the occasion, when the subject matter was presented as necessary, a genuine consideration to the people of Guyana, in Bill No. 2 of 2013 and 11 of 2014, respectively, during the Tenth Parliament.

*3.36 p.m.*

In this respect, I wish to highlight several key issues of relevance that the Government must consider regarding this Customs (Amendment) Bill, Bill No. 26 of 2016.

According to the Explanatory Memorandum, it seeks to impose a levy of \$10 per unit on every non-returnable container of any beverage or water, while rendering any person who fails to pay the levy a penalty of \$50,000 on conviction, in accordance with Section 6.

Now the Major and City Council (M&CC) is saying that it is going to increase the penalty for people who litter. If a child drops an icicle plastic bag on the road, what will happen to that child? It is really against our children. This is something that is going to be against our children.

Section 6, which is instructive of the enforceability of the Bill, conflicts with Section 5 (b). Could the Hon. Minister of Finance clarify whether there was an error regarding who has to pay the levy? Is it the manufacturer, producer or any person?

Secondly, Section 4 of the Bill provides broad scope for the Commissioner-General to make arrangements and set conditions for the collection of the levy from local producers. Were there any consultations done with representatives of the local coconut water salespersons or with cottage industry juice producers who bottle and sell these products? If so, what reasonable mechanism could be put in place to collect the taxes from these persons? The Minister of Finance must tell us. I hope that since the Commissioner-General is here, he would guide the Minister accordingly.

It would be recalled that when the People's Progressive Party/Civic (PPP/C) Government sought to address the matter of this contentious Environment tax, which in accordance with the active legislation at the time was reapplied in a discriminatory manner and in conflict with treaty obligations, viable solutions were advanced through Bill No. 2 of 2013 and 11 of 2014, respectively, during the Tenth Parliament.

Our approach – and it was repeated by the Leader of the Opposition in his budget speech – was to levy a \$5 per unit on these disposable containers imported and utilised, locally, for production of consumables. When we get back into office, we will take it back to \$5 per unit. It is because we know that the Government would use its majority.

It had previously drawn significant condemnation from several Members of this honourable House, who claimed that they had done consultation, on the previous occasion, when the subject matter was presented as necessary and genuine considerations to the people of Guyana.

The term 'contentious' is appropriately advanced at this time because of the overwhelming number of arguments which were presented by Members of the now *de facto* Administration and they could be found in the *Hansard*. In fact, when the Hon. Minister of Finance laid in the National Assembly Bill No. 6 of 2015, which repeals the imposition of the Environment tax, it was indeed the overwhelming example of the flattery to deceive the Guyanese people. This is given that, a mere few months later, the very irrational and amusing approach is now being advanced for imposition of a rate of \$10 per unit, doubling what was initially proposed by the PPP/Civic.

I wish to quote the Hon. Member Khemraj Ramjattan, who, on the issue in the Tenth Parliament, said:

“We had a lengthy debate on this matter and even going towards the merits of that Bill, on the last occasion when it was. And I hope that you do not misinterpret the word hustle through, like you are hustling now. The important point about this is that it will be a tax on our manufacturer of \$5 per bottle or whatever, the can or disposable item, you are going to use for the soft drinks and so on.

We had indicated to the Government that none of the manufacturers want further taxation.”

I am quoting what he said, Mr. Speaker.

“Notwithstanding the fact that the Government is now trying to discriminate by saying that when the overseas people bring in their soft drinks they will have to pay the \$5 just like our local manufacturers, our local manufacturers are saying that they would have none of that.”

This is what he said and I would continue:

“Additionally, that \$5 tax, which this Bill is proposing on the Guyanese people who consume, would have to be passed unto the consumers. School children will now have to pay more for soft drinks, both imported and that manufactured inside of Guyana. Do we want this, knowing very well that this is a further taxation?”

It seems as though that the consultations which were done just a little while ago, if there were any, means nothing to this Government. I say this because there are very significant outcries from our citizens all across the country and representatives of the private sector who are still calling for consultations. The rate to be imposed by this represents a no-conscience position exercised by this Coalition Government. This is based on the fact that the impact would be more than doubled in terms of associated cost, which would be passed on to the common man.

Businesses would also face cash flow issues and higher interest costs as invested money that they would pass on to consumers based on moneys locked in goods not yet sold.

Further, the current framework is one in which all commodities are attracting Value Added Tax (VAT) as the last tax to be levied. I would like the Minister of Finance to listen to this part.

Therefore, the inclusion of the environment tax, at the current rate, informs an increased accumulative tax on the same commodity, contributing to the most restrictive position on manufactures and producers in decades. In this simplest form, VAT would be charged on the value, which also includes the environmental levy and other taxes.

Consequent to the foregoing, the Hon. Minister of Finance must explain and provide evidence of the following:

Firstly, was a study done to inform or determine the \$10 rate? Secondly, he must provide evidence of the additional amount of VAT revenue expected to be collected on the basis of this environmental levy. We would like to know how much money the Government is expected to raise.

When the previously defeated Bills were brought to this House for consideration, the arguments made by some of the Hon. Members of the Government, during those debates, clearly demonstrated their will to repay much of the environment taxes which were legitimately collected under the then valid legislation, even though the World Trade Organisation's (WTO's) review, in 2009, had approved concessionary time for Guyana to fix this discriminatory position. They knew it very well at that time. In effect, the Coalition's decision to veto the passing of the Bills, rather than positively address the issues to correct the circumstances which had given rise to the levy as a protectionist measure to some developing local industries, was indeed disappointing.

It was offensive that our Hon. Members on the other side chose to sacrifice country *in lieu* of personal interest and the undermining of the competitive edge of many local businesses. It is really embarrassing.

Further, it is widely known that the risk of not addressing the matter significantly exposed Guyana to sanctions, not to mention our country's international credibility and other penalties. I say this because it is well known that the matter of Rudisa Beverages & Juices N.V. versus the Government of Guyana, which was advanced at the Caribbean Court of Justice (CCJ), was a precedent-setting case and the passing of the Bill, at the time, would have had a bearing on the outcome, at the time, and future cases related to the matter. You will see what will happen.

It is of note, however, that even under these outlined positions, the Hon. Khemraj Ramjattan had additionally, vociferously, informed this House:

“We do not feel, too, that this urgency of the argument about CCJ and commitments have been made with the cogency and the conviction that we think that it ought to be to change our minds. To that extent then, this is not going to get the support because as I said a tax is a tax and this is what this Government loves.”

This is the *Hansard* dated 22<sup>nd</sup> May, 2013.

I only hope that my good Friend ‘Prakash’ – he is still my friend – is listening to what he said and what they are doing now.

The Hon. Member, Joseph Harmon, also concurred with other Members on that side of the House when he previously addressed this matter, while speaking on Bill No. 2 of 2013. I would quote what my friend, Hon. Joseph Harmon, said:

“I was prepared to speak on this amendment from the first time it came up because, as like the Alliance For Change (AFC), we held consultations with the Private Sector Commission and these were consultations held at the office of the Leader of the Opposition. We held consultations with private business persons who are not active in the Private Sector Commission and we held consultations with the ordinary Guyanese people who will be affected by this tax.”

This is the *Hansard* dated 27<sup>th</sup> May, 2013.

Mr. Speaker, you could see the double standard in life.

The over US\$6 million decision of the CCJ against Guyana is now common knowledge. What we also know is that, in the case, Rudisa Beverages & Juices N.V. admitted to under invoicing goods which were shipped to Guyana in order to compete with our local companies when they paid the environment taxes. This position represented false declaration and, by extension, that they owed taxes to the State. I am appalled that the Government paid this company without addressing these matters. Shame on the Attorney-General!

It is equally shameful and more rationally understood that the Hon. Minister of Finance, Mr. Winston Jordan, on behalf of the APNU/AFC Government, now seeks to impose, through this Bill, that taxpayers should be made to upkeep the Consolidated Fund by paying more than double the taxes to replace what they essentially gifted away.

In conclusion, the general situation surrounding this contentious Bill suggests that if consultations were held, they were not sufficient. I agree with my Colleague, Mr. Nandlall, that there is need for more objective positions. It also establishes that the Government is not listening to the people and its own Members, as indicated by the recent aforementioned statement by Mr. Ramjattan and the Hon. Minister, Joseph Harmon. It also demonstrates that either our learnt Members on the other side of the House are perhaps blinded or naïve to the enabling environment required for local manufacturers and producers to be able to compete and would rather contribute to the removal of incentives that can make a difference.

It is my contention that, in the current state, this Bill places a significant burden that would result in the attrition of our local industries. I, therefore, call on the Government to either keep the status of the environment tax repealed or significantly lower the cost per unit before any viable consideration and support is given by this side of the House.

I thank you. *[Applause]*

**Mr. Speaker:** Hon. Members, I could see from your reaction to one another that you are very happy to be together again. May I ask you to let joy be a little restrained so that we can hear what is being done? The next speaker is the Hon. Alister Charlie.

**Mr. Charlie:** A pleasant good afternoon everyone and happy New Year to every one of you. It seems that we are in a very good atmosphere, as was alluded to by the Hon. Speaker. Indeed, I feel the same way.

*3.51 p.m.*

I rise to join with my colleagues on this side of the House to speak on the Custom (Amendment) Bill. It drove me a far way back when I heard the Hon. Minister laugh when he said that a lot of \$10 is thrown on the streets and I assume it is in the capital city. The \$10, which is being thrown at the corner of the streets, this is not so in the hinterland, in our country. We all need the \$10. It

is value to us. Let us calculate \$10 per bottle, three bottle of Chubby drinks per day equals \$30, thirty days per month equals \$600 time 10 months per year equal \$6,000. This is what the Hon. Minister is asking us to add to the cost per child going to school, especially in the hinterland. Remember the removal of the \$10,000 cash grant to every schoolchild under the People's Progressive Party/Civic (PPP/C) administration that this Government disband. This is a tax on the schoolchildren now. As I open my debate speech, I would say that \$10,000 is of value to everyone, including the schoolchildren in the hinterland region and the country as a whole. Coming back to the \$10,000 I can see that the Government's Ministers are walking on the \$10,000 which is most valuable to our people at this time.

The Minister alluded to a lot of aspects when detailing the Bill but what was missing was the consultation process. It is a Government of collection, but where is the consultation? Where were the people when you implemented the \$10? Where were the people's voices? At this time every woman, man, schoolchild, children and the elderly are all very concerned about the Customs (Amendment) Bill, because every consumer will now feel the squeeze in this country with the much more over burden tax on the consumer's back. The PPP/C does not have a problem with an amendment *per se* to remove the elements of discrimination. As this, if it is the crux of the matter, as far as Guyana regional and international trade obligations are concerned. However, it is this very problem that the PPP/C tried by reducing the tax to \$5 but making it applicable to both foreign and local businesses in this country.

The A Partnership for National Unity /Alliance For Change (APNU/AFC) while in Opposition, in their time, vehemently objected to this. This caused Guyanese to now foot a Bill close to Guy\$4 billion. It is therefore hypocritical, bad politics and no sense of concern for the Guyanese people that this Government has now put the tax at \$10 for everyone across Guyana, double what the PPP/C brought in its Bill. This demonstrates this Government vindictiveness instead of putting Guyana first and its citizens.

I ask that this Bill be relooked for everyone to benefit. You promised the good life for everyone. I ask that this Government reconsider this amount.

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

**Bishop Edghill:** I rise to add my voice in this debate as we consider the Custom (Amendment) Bill 2016 - Bill No. 26 /2016. The first thing that I would like to say is to sound with the level of emotions, I am not sure I could get it the way the Hon. Mr. Ramjattan had it while he was in an angle in that corner, “a tax is a tax.” I am not sure I pass the test with the antics, but I am making the point “a tax is a tax.” This measure that is coming by way of this Bill is a tax. This particular issue has some history

The Hon. Member Mr. Nandlall, former Attorney General, spoke to this matter, but I would like to remind the House that in 1995 we enacted legislation in this House where we put in place an Environmental Tax. At that time that tax or levy was only charge to importers who were bringing in to Guyana beverages in containers that were not biodegradable. The local manufactures did not face that levy. The Council for Trade and Economic Development (COTED) of Caribbean Community (CARICOM) deemed us to have been in breach of the Treaty of Chaguaramas. One particular importer of beverages to Guyana took us to court and in 2013 and 2014 the then PPP/C Government sought to get legislation in place to ensure that we comply with the Treaty of Chaguaramas and that we avoid any adverse judgement coming from the Caribbean Court of Justice (CCJ).

I recall that in 2013, when this matter was to be debated, the now Vice President Mr. Greenidge came over to me, across the aisle, and asked that I deferred the second reading of the Bill, since I was asked to be the Minister in charge of the Bill at that time. When he asked for the deferral I listened very attentively to him because Mr. Greenidge knows that, among the many politicians in this country, with all of the disagreements, I admire him for many things. I listened very attentively and Mr. Greenidge, at time, very distinguished gentleman, said, “Your colleague is not here, but I would like to remind you that there was supposed to be some consultations with the private sector which was not concluded. As a matter of a fact there was a consultant, I think, with Mr. Antwone from St. Lucia, if I remembered clearly, who has to do some work and complete this task.” He said that we should wait until all of these processes are completed.

Then he said, secondly, “You know, this tax it is an abuse of the term”. I will come a bit later to his actual speech when he spoke to the matter after I did not defer. He spoke extensively, before we move for the second reading, about the mechanisms that needs to be put in place to accompany this measure and that becomes very important this afternoon because this measure,

which is coming before us, is listed by the Hon. Minister of Finance under “**Measures in Support of Our Green Agenda and Protecting the Environment.**” This measure is listed under that heading .The measure states, at number (x):

“Imposition of an environmental levy of \$10 per unit on the importers and local manufactures products using non-returnable metal, plastic or glass container of any alcoholic or non-alcoholic beverage. The environmental levy with penalties amending the Customs Act, Chapter 82:01 to include a section to impose this levy and, will apply, across the board, on both imports and locally manufactured products, thus ensuring that Guyana complies with the provision of Article 90 of the Revised Treaty of Chaguaramas.”

At that time, because we were at the 22<sup>nd</sup> May, and the Attorney General had to report to the Caribbean Court of Justice on what action Guyana has taken so that there could be an amicable resolution of this matter with Rudisa Beverage Company, I did not take the advice of the Hon. Member and we proceeded with the second reading and debate of this Bill which was defeated in the House for second time. For the Hon. Minister of Finance to start with his last year budget speech could not be considered correct in educating this nation as it relates to the history of this matter.

My honourable colleague Mr. Nandlall indicated to us earlier two things that were fundamentally different with our amendments and the one that is before us today. One, we were not going to charge the environmental levy on water containers.

*4.06 p.m.*

Secondly we were proposing to make the tax revenue neutral by removing the \$10 that was applied to the importers and making it \$5, and that would have applied to local manufacturers as well across the board, thus making the tax non-discriminatory. That there was no attempt to garner more revenue as a result of that measure. What we have here this afternoon is a Bill that while its states that its intent is to help with the greening of the economy, the only thing that this Bill speaks to is the money, higher taxes, the \$10 imposition. I would like to read from the *Hansard*, this is Mr. Greenidge speaking, 22nd May, 2013:

“I am suggesting that whilst we wait for this matter to be properly concluded with the private sector that the Minister takes the opportunity to put in place a proper environmental mechanism. Just in case the Minister is not aware, again, there are a number of mechanisms that are associated with environmental taxes. Apart from the general principles I have stated there are specific programmes throughout the United States that have been applied since the 1970s; there are programmes throughout the European Union and in the rest of Europe from which they can draw. I lived for quite a while in some of these jurisdictions in which there was, first of all, an educational programme so that the public is made aware of the needs of an environmental programme and their role in that exercise.

Second, that mechanisms are in place to encourage the separation of waste, the imports, and activities by the manufacturers so that preference is given to the use of biodegradable containers. As I said, there are a range of mechanisms. I have them here but I am not sure that it is appropriate to detain the House on this at this stage. We can do it if the Minister seeks to bring the Bill at another time and does not take these into account. What I am saying at this stage is that this is not an environmental tax; it is an abuse of the term.”

Here we are, 5<sup>th</sup> of January, 2017, first sitting of the Parliament for the new year and we have this Bill and none of the suggestions, which were being made to the Government at that time, are included as part of this measure. One is left to conclude this is not about the environment, this is about getting more money. This is about getting more money.

In my debate speech, I indicated that I have a view that I believe that governments should really facilitate people making money and not merely making money off of the people. This measure can only be described as the Government’s way of making money off of the people.

I do not wish to detain this House but in the speeches and in the presentations in the last two debates as it relates to this customs amendment, questions were asked and comments were made about the amount of money that the PPP/C Government would have made as a result of this environmental tax and what the money was used for. Nowhere in the Minister’s presentation, in his budget speech or even in his asking for this second reading and his presentation, did he tell this nation, how much money was being made as a result of the environmental tax. At least he

could tell us how much we got in 2015 and how much we got in 2016. At least he can tell us what the projections are, now that this imposition is being made on local manufacturers, how much money we will get in 2017. Until the Minister could bring those figures to us, I am left to conclude that it is billions of dollars.

I want to move on to say that I would have believed that some of the noble suggestions that were made, there would have been some mechanism or some scheme that is coming alongside this imposition about how we can start with separation of waste, Mr. Greenidge's suggestion. I thought we would have heard about feasibility studies or pre-feasibility studies about the economics of recycling in Guyana. Is it feasible, is it viable? Is it something that is really doable? It is because we have been hearing a lot about recycling, we had a cardboard recycling thing. Then at Haags Bosch, we had all the tyres that were piled up there, and all the rest of it. Why are we not recycling? Is it economical enough for us in Guyana to do recycling with the kinds of investment? Are the quantities enough to facilitate this kind of an investment?

I would have thought that if we are talking about greening of the economy and this measure is being imposed, as the Minister said, an imposition of an environmental levy, that accompanying that imposition would have been some of the noble thinking and suggestions that came from the Hon. Member who is now a Vice President of the Cabinet who has an opportunity to share his thoughts with the entire Cabinet on the way forward. What we have here is numbers and figures, \$10.

I recall that during those debates a suggestion was made that we could take away the tax completely. As a matter of fact, we do not even have to collect the tax, when we brought the suggestion for \$5. It was because the feeling and the view was that the tax was not necessary. The question must be asked: What has changed? In 19 months, what has changed? In 19 months, it is that the same persons who sat on this side, who lectured this House about the imposition of taxes and the burdens on the backs of Guyanese people, that that same Government, will now bring to this House that we are standing here this afternoon to debate a measure that is no matter by what stretch of the imagination or how we try to do *fandangling* - my word, no matter how much we try to do *fandangling* - the bottom line is that \$10 more it will cost on every beverage. It is because a levy of \$10 has to be imposed on every bottle beverage – water, alcohol or non-alcoholic beverage in this country. What has changed?

Well I do not know if it is the amount of voices that the Minister of Finance has to listen to because of the size of the Cabinet. I do not know if, as we have been hearing about consultations, that when we listen here in this House about consultation the Hon. Prime Minister, in answering the Attorney General as it relates to a question, did say that he consulted with himself and the Cabinet. For us consultation while we were in Government was a hallmark of how we operated. Consultations, that now we are in Opposition, we continue to do. I do not want to go back to the *Hansard*, but it was mentioned before, Members, when they opposed this amendment, when it came in 2013, said that they consulted with the private sector. They consulted with people who are not a part of the private sector and they consulted with the Guyanese people.

I call upon the Minister of Finance this afternoon to tell this honourable House, when he consulted with the private sector, where the meeting was held and what were the views offered. I call upon the Minister of Finance to tell this House this afternoon when did he consult with the Guyanese people as it relates to the imposition of this tax and what were the views offered to him. I also want to call upon the Minister of Finance to indicate to this House what his considerations were when he brought this measure, if it was not only about making more money and imposing hardships on the people of Guyana.

We are proposing, just as my honourable friend, because the environment allowed for such discourse, who came over and said, “You know, you should defer this”. Well, the only place that we get to speak is here now and we are saying to the Minister and to the Government perhaps we need to defer this one this afternoon. If it is not about money, defer it. Prove to the people of Guyana you are more concerned about the environment than the bottom line, which is the money, by deferring it. Prove to the people of Guyana that this is not a measure to bring additional hardship and to take moneys out of their pockets. Let us get consultation on the road about the separation of ways, about recycling and about education and developing a culture where we will be able to save the environment. If it is not just about the money, let us defer and let us go to consultation.

I want to close by making this very important point. Maybe it is not a big point but is an important point for you to listen to. Why it is important? This particular Customs (Amendment) Bill came to this House two times before and it was defeated.

4.21 p.m.

It had multiple speakers from the other side. I am appalled that such an important matter that attracted the attention of very senior Members when they were in Opposition... They have now decided to stay silent when there is an imposition of taxes on the Guyanese people. When we were bringing the rate at \$5, they were vocal. Now that the Government is bringing the rate at \$10, they have chosen to sit silently and leave the Minister of Finance alone to carry his own burden.

The question has to be asked, are they ashamed to stand and speak as it relates to their present position or have they now seen the light that, when they exposed us to the judgement of the CCJ, they were not acting in the best interest of Guyana. Answers need to be given.

I did hear a comment just now and that is the point. A culture is being developed in this House where debates are not important, where you do not have to debate a Bill anymore on its merits and demerits to examine what could be changed and the rest of it but the ayes will have it. I want to say that the ayes will continue to have it until the time when the people of Guyana will say to those who say aye that they are saying no.

I would expect the Hon. Minister to answer our concerns. I would expect the Hon. Minister to respond by bringing to us the information as it relates to the amount of moneys that are being made currently and what the expected income is as a result of this new imposition and I expect full disclosure.

Thank you. [*Applause*]

**Mr. Jordan (replying):** Thank you very much. I think that this intervention is timely because I was nodding off. The arguments seem to be going around in circles and it appears as if the debate has now been reduced to something else.

Mr. Speaker, could I deal with the last speaker first and ask whether because the Hon. Member's memory might be failing that is an excuse for some of the things that he said as recent as a few minutes ago.       **[Ms. Teixeira: Is that the best you have? Is that all you have?]**       That is all I have.

*[Mr. Speaker hit the gavel.]*

Relax yourself and shut up.

The Hon. Member seems to have implied that I was only referencing this environmental levy back to my last Budget speech of 2016. I think, if the Hon. Member was listening keenly, he would have heard me say that, in the 2016 Budget, I was giving notice of the reintroduction of the environmental levy. I was at no time implying that it started then. Indeed, we all know the history as was given by the Hon. Members, Mr. Nandlall, Bishop Edghill, Mr. Neendkumar and whoever else would have had the opportunity to stand and give the same history. We all know the history. It is not that we do not know the history. Depending on which side you hear from of who did what and who did not do what, the reality is that the environmental levy presented today is different from the environmental levy that was imposed by the People's Progressive Party/Civic (PPP/C) Government.

The levy that was drafted or the law that was drafted with the approval of the Hon. Member, Anil Nandlall, who was the Attorney General at that time, and he could say yes or no, had in it a clause that the Caribbean Court of Justice said was discriminatory. That cost us, in the Rudisa Beverages & Juices N.V. case, in excess of \$1 billion. If the Hon. Attorney General, SC, present had an opportunity, he would indicate that he is also before the CCJ, arguing cases in defence of additional beverage producers who have taken Guyana to the highest Court because the case was left open for these companies to rush in. Since it is an ongoing case, I cannot say anything more about it.

The reality is that this measure today is different in two ways. One, it is non-discriminatory, being applied across the board. Two, this is not about collecting any taxes. Did you read the measure before you? If every container was returned, then we would get zero. Do you want to know what we budgeted to collect? It is in the Budget speech. It is not being hidden. We have projected to collect, this year, \$1.1 billion.

**Mr. Nandlall:** Mr. Speaker, I rise on a Point of Order.

**Mr. Speaker:** Hon. Member, do you rise on a Point of Order?

**Mr. Nandlall:** Yes, Sir, Standing Order 40(a).

**Mr. Speaker:** Please proceed.

**Mr. Nandlall:** The Hon. Minister said that I drafted some law that contained some imposition that was found to be discriminatory. I never drafted any such law. That law was there 15 years before my time.

**Mr. Speaker:** I thank the Hon. Member. Hon. Minister, please proceed.

**Mr. Jordan:** This measure is different from the previous measure, a Bill or an Act which was in place, as I said, in at least two ways. One, as I said, it is non-discriminatory; it is applied across the board to local manufacturers, local producers and importers. The second is that this is not a measure designed for the Government to add to its coffers. If the local manufacturers, local producers and importers can show that they have reused, recycled, whatever else is in the Bill, they will get it back as a credit.

The Budget for this year states that we are projecting \$1.069 billion. In speaking with the Private Sector Commission and other Private Sector bodies, it is estimated that half of this amount will come from the importers. It has also been suggested that, already, 70% of glass containers are being recycled. Once you pay \$10, at least 70% of that money is going back. It is being suggested that 30% of plastic is recycled. If this measure can result in 100% instead of 70%, we will have free flow of water in the canals. The Ministry of Public Infrastructure, the Mayor and City Council and all the National Democratic Councils (NDCs) would not have to divert moneys to avoid flooding that you see. Every time you clean, you see them again. You will get the impression as if the Hon. Members of the Opposition do not care for the environment. Our argument is if you return the bottles... Banks DIH Ltd right now has that same thing. If you want to buy a Banks Beer, you have to carry a Banks bottle; otherwise, you will pay. Whenever you return the bottle, you get back your money. It is the same thing that we are trying to do here now. You hardly see a Banks bottle in a canal.

The point that we are making is when you ask me how is this an environmental measure, it begs the question whether politics always has to trump rationality and reality? It is not something that I am prepared to follow through slavishly.

You then hear some stuff here that made one wonder and I will please ask the Hon. Minister of Education to listen very carefully. The Hon. Member, Mr. Charlie, is suggesting, for a child, three bottles of Chubby drink per day. Hon. Minister of Education, what is happening to our Breakfast Programme? Is it not reaching the Interior Regions? Three bottles of Chubby drink per day...

**Mr. Speaker:** Hon. Minister.

**Mr. Jordan:** Yes, Sir?

**Mr. Speaker:** Please resume your seat.

**Mr. Jordan:** Sorry.

**Mr. Charlie:** Point of Order - Standing Order 40(a): My calculation alluded to three bottles of Chubby for three children per day.

Mr. Speaker, one Chubby...

**Mr. Speaker:** Hon. Member Mr. Charlie, I heard and understood and I thank you. I believe the Hon. Minister understands too.

Hon. Minister, please proceed.

**Mr. Jordan:** Thank you very much, Mr. Speaker. Thank you, Hon. Member Mr. Charlie.

One bottle of Chubby per day per child, five school days per week which is five bottles of Chubby per day... Hon. Minister Cummings, what is the nutritional value of five bottles of Chubby per week? Is it sugar equals diabetes? I am kindly asking the Hon. Minister, Dr. Roopnaraine, the Hon. Minister, Dr. Cummings, and the new Minister of Public Health, Hon. Volda Lawrence, to please look into this matter. This is more than just a levy matter. This has now become a health issue.

We heard references about withdrawing the measure and that we must educate people about recycling and so on. I can indicate very clearly that, under the previous regime, an environmental loan was taken and part of it had to be used to educate. Indeed, I believe, an educational

programme had started about not littering and all kinds of different things on television and so forth.

Educational programmes are going on every year, whether it is environmental week or whether it is planting a tree. We have all of these educational programmes. Consultations are going on too. While we educate and we consult and so on, those must all be part of a total package that makes the environment a safer and healthier place for us. This is just one part of that package. They are not mutually exclusive; they are part of the whole of making the objective of a healthier and a cleaner environment.

This environmental levy that we are imposing will not do any injustice to local manufacturers and the exporters as long as they recycle, reuse and whatever else.

*4.36 p.m.*

They will get back their credit. So, we are not using this to line our pockets in the Treasury or so on. Once it is used to recycle the environment, the environment will be freer, we will be breathing easier, we will spend less money on unclogging drains and I am sure the Mayor and City Council, in its very tight budget, can use the resources that it, everyday, has to divert to clean drainage and outfalls and so on into some other thing.

Therefore, I see nothing unusual in this Bill once it is properly implemented. And we can say, without fear or favour, that this Bill will be properly implemented to maintain a clean and healthy environment. I commend this Bill to the House. [*Applause*]

*Question put and carried.*

*Bill read a second time.*

*Assembly in Committee.*

*Bill considered and approved.*

*Assembly Resumed.*

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

**Mr. Speaker:** Hon. Members, I would like to propose that we complete these Bills, subject, of course, to your view on it. I propose that we complete the consideration of this Bill – Value Added Tax (Amendment) Bill 2016 - and then proceed to our suspension. But if Members feel that they must have the break now, then, of course, so we will.

**Hon. Members:** Break.

**Mr. Speaker:** The Assembly will be suspended for one hour. We will resume at 5.40 p.m.

*Sitting suspended at 4.42 p.m.*

*Sitting resumed at 5.46 p.m.*

### **VALUE ADDED TAX (AMENDMENT) BILL 2016 – BILL NO. 27 OF 2016**

A Bill intituled:

“An Act to amend the Value Added Tax Act.” [Minister of Finance]

**Mr. Jordan:** Mr. Speaker, I rise to move that the Value Added Tax (Amendment) Bill 2016 – Bill No. 27 of 2016, published on the 20<sup>th</sup> December, 2016, be now read a second time.

This Bill is one of two pieces of legislation before this honourable House in relation to the value added tax and its amendment. This particular Bill No. 27 of 2016 deals with the aspect of enforcement and administration. And when we come to the Order, perhaps either later today or tomorrow, we will deal with the other aspects of the value added tax to do with schedules, the new rates, the threshold and so on.

The short Explanatory Memorandum states:

“This Bill seeks to amend the Value Added Tax Act, Cap 81:05.

The amendment increases the limitation period under the Act from three years to five years.

The Bill increases penalties for offences under the Act.”

It actually does a bit more than this short Explanatory Memorandum seeks to portray. The Bill, in itself, amends several sections. Sections 33, 35 and 65 are amended to reflect a revised statute of limitation.

Presently, the statute of limitation is three years under the VAT Act, and this is one of the several issues that we have with the various Acts that the Guyana Revenue Authority (GRA) has to implement and enforce. For example, the statute of limitation under the Income Tax Act is seven years plus one – the current year plus seven years going back, so that makes roughly eight years that the Commissioner can go back in terms of telling one to submit returns. But in the case of the VAT, the Commissioner is limited to three years to raise any additional assessment.

The lack of resource capability and people knowing this has led somewhat to some abuse by taxpayers both in the non-payment and non-compliance of filing. And that seems to be normal; people would generally take advantage if they see a loophole, not everybody of course. Generally, some people would take advantage when they see loopholes. And the loophole here is that the GRA would have been overwhelmed with this particular tax, in terms of filing, refunds, audits and so forth. So, in that interim of the three years, many people would take the chance and not file and so on, perhaps hoping that GRA will never get around to them. And, of course, if it went on for five years, then GRA was restricted to only the last three years. So, this measure is an attempt to plug, somewhat, a little bit of a loophole while, at the same time, giving GRA a bit more muscle when it comes to implementing VAT. VAT in itself is a very important tax for the economy. At the time when it was put in place in 2007, it replaced a number of taxes. It continues to be an extremely important tax but, over time, it was losing its importance because of the various measures that were put in place to weaken its base and it lacks enforcement and other activities.

This is one of the strengthening measures to give to the Commissioner General and to the Guyana Revenue Authority some muscle now as it relates to asking companies and those who must file a further period of two more years added on to the three. So, the statute of limitation is being amended from three years to five years. This increase in time will enhance the enforcement and compliance efforts of the GRA by allowing for adequate time for review of taxpayers' records and to carry out compliance audits.

Section 37, subsections (1) (d) and (2) (d) is hereby being asked to be amended to reflect a repeal of the refund for non-resident individuals. This particular subsection states that non-residents are now required to pay VAT and then claim refunds that are in excess of \$20,000. However, this refund process is extremely time consuming and it takes months to complete. In many cases, refunds are very small. Actually, the refund is smaller than the bank and remittance charges associated with them. The reason for requesting this repeal is that this amendment will lift the burden that is normally placed on GRA to administer this measure. In fact, GRA, from its records, has found that only about 25 persons per year had been using this particular aspect of the law to request a refund. So, when the cost benefit analysis was looked at for this, it was not worth keeping this particular subsection in the law because not many made use of it and then, when it was made use of, it was a long, tedious process to verify the small refunds that they were requesting.

Section 42, subsections (3) and (4), is being asked to repeal the provisions for extension of time for payment of taxes held in trust. Now, every taxable person is required to lodge a return for each tax period with the Commissioner within 15 days after the end of the period, whether or not tax is payable in respect of that period.

Section 32 of the VAT Act currently allows the Commissioner General to extend the due date for the submission of the return where a good cause is shown, but this does not alter the requirement that the VAT be timely paid.

*5.55 p.m.*

What the Guyana Revenue Authority has found, however, is that businesses use the extension to also delay the payment of the VAT by declaring that the VAT is only payable upon submission of the VAT return.

As you can imagine, Mr. Speaker, with an important tax like this, which gives us a significant part of our revenue, if many businesses were to behave in this manner, not only would the Government be deprived of revenue, but it would also be forced to borrow money, probably its own money from the banking system, to continue its regular activities. This could not be a situation which could be countenanced forever. We are trying to put an end to the abuse of this current system. What we are seeking here is to repeal this section where the Commissioner has

any power to extend the time for the payment of the VAT beyond the time that is presently stated in the law.           **[Mr. Nandlall: Draconian.]**           At least “drac” was a part of it.

Then, Section 51 is amended by inserting a new section to institute garnishment measures to recover outstanding taxes. During November when the Budget was presented, and for a long period thereafter into December, a lot was made about this issue of garnishment. Hon. Member and former Attorney General Mr. Nandlall, I think, took first jump where this was concerned and had letters in a number of newspapers, not least of which was the *Kaieteur News* of Saturday, 3<sup>rd</sup> December, 2016, on page 6. I am not going to quote because I do not have the newspaper here, but the thrust of his missive was that we were seeking to invade the privacy of the bank accounts of persons.           **[Mr. Nandlall: You corrected it.]**           But you did not respond.

Section 102 of the Income Tax Act already provides for garnishment, since 1962. Of course, we know which party was in power in 1962. So clearly, at that time, there was the recognition that this particular measure was important and essential in the armoury of the Commissioner General to ensure that persons who owe taxes, and to whom entreaties were made to pay those taxes, but who refused those entreaties were going to have to be given what we call the big stick method. Garnishment was put in since then. Indeed, further changes were made to the relevant sections in 1996 when the People’s Progressive Party (PPP) was in power again. The PPP knew fully well the power of this particular measure. That amendment No. 13 of 1996 states:

“When the Commissioner has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment of tax under this Act, he may, by registered letter or by letter served personally, require such first-mentioned person to pay the moneys otherwise payable to such second-mentioned person in whole or in part to him on account of the liability of the second-mentioned person under this Act.”

There were other amendments of No. 13 of 1996. Subsection 3 states:

“Where the Commissioner, under this section, has required an employer to pay to him on account of the liability under this Act of an employee or pensioner to whom he pays a pension, as the case may be, moneys otherwise payable by the employer to the employee or pensioner as emoluments, the requirement shall be applicable to all future payments by

the employer to employee or pensioner in respect of emoluments until the liability of the employer or pensioner under this Act is satisfied and shall operate to require payments to the Commissioner out of each payment of emoluments due to the employee or pensioner of such amount as may be stipulated by the Commissioner in the registered or other letter.”

The Act goes on in a very detailed way.

I would want to say there was some precedent on the part of the former Government about taxes generally, the tax pay in Guyana and holding on to some part where we could enforce the tax liability of a taxpayer after every entreaty failed. The Commissioner had some power, of course after due process, which means some relationship with the courts.

I said that the Member took first jump because nobody saw the legislation we were bringing to the House but everybody claimed doomsday was falling. But, thanks to the former Hon. Attorney General and Member of the House for ensuring that I did cover precisely what was meant to be covered in this particular measure.

At Section 73, we are asking that this be amended and renumbered to reflect subsections (1) and (2) to make provisions for penalties for non-compliance where that section of the Act is concerned. Section 73 (c) (2) includes:

“Any person, including a non-resident company, who knowingly or recklessly fails to present books and records when requested by the Commissioner commits an offence and is liable –

(a) in the case of the person, to a fine of twenty five thousand dollars; and

(b) in the case of a non-resident company, to a fine of one million dollars.”

These are the enforcement aspects of the changes that are being made to the VAT Act. As I said, I will do a more detailed work on the VAT when we come to the other aspect of increasing the threshold, reducing the rates and changing the schedule. To avoid duplication, I will stop at this stage and commend this Bill to the House for passage.

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

**Ms. Manickchand:** May it please you, Mr. Speaker. Thank you for allowing me to speak. Let me begin by wishing you and family, the staff of the Parliament, every Member of this honourable House and their families, as well as their staff, a very happy New Year. Hopefully, it is going to be successful for us in this House. I wish every Guyanese a very happy, prosperous and healthy 2017.

I also want to extend congratulations to the Senior Counsels who were recently appointed. I see two in the House today – our Attorney General and Mr. Fung-a-Fat. I congratulate them and all of the other lawyers who were appointed. I am particularly pleased that, for the first time, we have women appointed. I am very disappointed that the appointments were made in controversy because we have so many women who could have been appointed without any controversy. I also would have liked to stand here and congratulate Mr. Ramjattan for being appointed silk because, while his performance in his Ministry might not suggest so, I know him to be, as well as I know my name, a good lawyer, one worthy of the appointment. I would have liked too to congratulate Mr. Anil Nandlall, someone...

**Mr. Speaker:** Hon. Member, you are speaking on the Value Added Tax (Amendment) Bill 2016. Am I right?

**Ms. Manickchand:** Yes, Sir.

**Mr. Speaker:** May I suggest that you proceed in that direction and spare the other excursions?

**Ms. Manickchand:** Your Honour, I really do not think I should be stopped from extending pleasantries to people who are deserving.

**Mr. Speaker:** Hon. Member, I am suggesting that you proceed with what you stood up to do.

**Ms. Manickchand:** What I am saying, Sir, is that I also would have liked to congratulate Mr. Nandlall and to ask Mrs. Hughes to congratulate her husband, Mr. Nigel Hughes, for their appointments. Unfortunately, that has not been done. But I would encourage those persons who have not been appointed, who are deserving and who are known to the country to be deserving, to wear that non-appointment as a badge of honour, as part of the movement that exposes this Government's pettiness and vindictiveness in all of its actions.

**Mr. Speaker:** When we do this, we cannot be surprised about the length of time we spend.

**Ms. Manickchand:** This Bill that we are expected to speak about this afternoon comes amidst a Budget that caused much worry in this country. Much can be said about the Ministers of the Government - adverse things. But many of the Ministers of the Government I know to be people who are relatively grounded with the population, with their constituencies. I would find great difficulty if the Ministers and Parliamentarians – I must recognise Parliamentarians behind there – could say honestly to this House or to themselves in a mirror that they spoke to constituencies, their supporters and their non-supporters, who did not express grave worry about the measures announced in this Budget. I was not around but I do recall a few years ago Dr. Ashni Singh, the then Hon. Minister of Finance, detailing to this House, through records that he had been quoting from, newspapers and articles, what the atmosphere was like around Budgets of old, Budgets presented by the People's National Congress (PNC) Government. It was always of people being terrified; going to the market and stocking up; being worried about what would happen, what prices would go up. *[Interruption]*

*[Mr. Speaker hits the gavel.]*

**Mr. Speaker:** Hon. Member Ms. Manickchand, I must request you to stay with what we are talking about.

**Ms. Manickchand:** Sir, sometimes I am a truly flattered. I have to stop myself from blushing. I really thought Your Honour's gavel was related to the interruption that was coming from the other side. That it was meant for me flatters me.

We are speaking on a Bill that emerges from the Budget presentation and it speaks directly to the impact that the policies outlined in that Budget presentation will bring to the people of this country. If I am prevented from speaking on that impact, respectfully, Your Honour would be curtailing what my representatives, what my constituents, have asked me to come here and say.

Your Honour, Budgets of old used to bring fear into this country. That is documented in records of our nation. Then came a time when, under the PPP/C Government, budgets were anticipated.

*[Interruption]*

*[Mr. Speaker hit the gavel.]*

**Mr. Speaker:** Hon. Members, I think there is another place where that can be disputed but here we will not do that. Please proceed.

*6.10 p.m.*

**Ms. Manickchand:** Then came budgets where the people of this country looked forward to what would be announced. Ten thousand dollars for every school child; school feeding for every child from Nursery to Grade Two; exercise books for every child in the system; free health care; more money to reduce the impact of Human Immunodeficiency Virus (HIV) in our country; more money for the people of the hinterland regions - a new Ministry for them, new staffing that would look after them directly. That is what people came to expect of budgets in this country.

I think that this particular budget not only caused worry, but it caused shock across this nation and people are still worried and concerned about the measures that have been announced and which we are now seeking to pass in these various pieces of legislation across the country. Your Honour, this particular Bill fits in with the other kinds of action that we have seen from the Government and that is what is worrying about the Valued Added Tax (Amendment) Bill No. 27 of 2016.

There are some amendments which were brought in this Bill that I could support, but I would say so with caution. Let me address those directly. The amendments that relate to not giving the refund to persons who visit the country, which are the amendments to sections 37 and 42, I could, in principle, say that because of the reasons given by the Minister that very few people use this refund, that the red tape is so heavy to get the refund and that it is a pressure on our already pressurised GRA, that we could, maybe for now... I would not have repealed it completely. I would have suspended it. This is because we have heard from the Minister with responsibility for Tourism and we have heard from broader policies about all these people are coming back to this beautiful country led by these wizards and brilliant Government Ministers in the country. People would come back to this country and when they do, we should have this. When that starts getting realised, if ever, the Government's vision should be that it has this and that it allowed for this to happen, like other countries do. For example, where at the airport a person fills out his/her tax, drop their bills in a box and then they get their refund. So, I think, if indeed, the Government's statements to the nation that it expects, because of its great governance, people will come back,

to repeal this completely as visionless. I would recommend a suspension of this until the influx into Guyana becomes a reality.

Sir, I am a little concerned about the amendments in sections 33, 35 and 65. Those amendments specifically extend the limitation period. So when the GRA finds that a VAT payer has not done something, they have extended the time from three years to five years, by which they could take action against the person. This is worrying for me. I would have said that, as a nation because we need our taxes, we need the GRA to be able to function and we would all like that, but I would say that we should strengthen the GRA to be able to do what it has to do within the time that it was originally given and not have a taxpayer have something hang over his/her head for a longer period of time because governance is inefficient. Instead of extending the time to give the Government something, it just could not get its act together to do, why not clean up and enhance the resources at the GRA to allow that body to bring their causes and actions in the time that was originally announced.

This sure means a lazy piece of amendment. It states that the Government knows that it cannot function, it refuses to even try and so it will just give itself five years to go after a person, if it is deemed to be necessary to go after that person.

Sir, those are my minor concerns, but I have two major concerns on this Bill and they relates to the amendments proposed to sections 51 and 45 (1).

In my view, section 51 epitomises what we have seen in the country. Section 51, seeks to allow the GRA to access bank accounts without a court order or any other process, except it appears a letter to get moneys that are deemed to be owed to them. We are happy that we have moved to a position where, at least, this is going to be pursuant to a court order, that is, the moneys owed to GRA is going to be determined by a court, but it is concerning. Any other civil action in this country, when there is a judgement, there is then a process before levy proceedings could happen or a process before one could recover on that judgement. This proposed amendment, section 51, is going against every other process we know. It does not state that the Guyana Revenue Authority or anyone is going to go to court and get an order to go into someone's bank account, the process to which this country has become accustomed, and be able to take this money. It is just going to go.

So it states very clearly:

“Where judgement is granted against the taxpayer in favour of the Guyana Revenue Authority and the taxpayer is a customer with a bank, trust, company, credit union or other financial institution, the Commissioner shall by demand or notice require the bank, trust company, credit union or other financial institutions to remit the amount payable to the Guyana Revenue Authority as a debt to the State.”

They are not going to court, they are not going to enforce the judgement that they got, like we do in this nation for every other civil judgement. They are just going to go and pick this up.

We speak of a Commissioner and we on this side of the House would like to be very clear that we are not speaking of a person we are speaking of an office. When we pass laws, we must pass laws that address all the peculiarities that can be confronted by the people of a country.

So no office should be invested with the kind of power that is going to be given by section 51. Section 45 (1), particularly, the amendment proposed really worries me. The Bill states in one line that by” deleting the ‘proviso’ and substituting the ‘colon’ for a ‘full stop’”. Let me tell this House and the people of this country, through your Honour what the proviso is. Section 45, in the Principal Act state:

“Where the Commissioner has reasonable grounds to believe that a person may leave Guyana without paying all tax due under this Act, the Commissioner may issue a certificate to the Chief Immigration Officer, containing particulars of the tax due and request that the Chief Immigration Officer take the necessary steps to prevent the person from leaving Guyana until the person makes— (a) payment in full; or (b) an arrangement satisfactory to the Commissioner for the payment of the tax. Provided that the Commissioner cannot proceed under this subsection unless he has obtained an Order of the Court...”

Perfectly normal. This one line amendment seeks to remove this proviso. So now the Commissioner is going to sit in his office and decide, with the help of his/her staff I am assuming, that a person owes taxes. Then, without a court order, say to the Chief Immigration Officer that the person cannot travel.

Sir, that is extremely worrying. It is removing a proviso before that was there which stated that one must first go to the court and state that, for example, John Doe, Mary Jane or Khemraj Ramjattan owes x amount in taxes and that we are afraid that the person is going to fly out of this country and not come back and pay us. Could an order be issued to stop him from moving? In which case, the court would hear the person, hear whether that person was likely to come back, look at the investments that person has in the country and determine whether that person would travel anywhere. This amendment is saying that the Government is not going to the Court. A person is going to decide whether someone could travel. Why is that worrying? Sir, again, we are speaking of an office. I happen to vaguely know the present Commissioner and I would be surprised if he acted arbitrarily under this clause. But we are speaking of an office forever, a change to the law forever and of a Government who has created an environment where people's houses are searched at five o'clock in the morning, where we are at the one year anniversary of a young officer, his wife and a truck driver who died on the road because of an illegal chase that was ordered by the Government of this country. Two children – babies - have been orphaned. The least the Government can do is be sorry about that. When many of you were at home when that young officer was ordered to do something and he followed orders. He is now dead because of it and the orders were illegal.

We are working in an environment where a man travelling out of this country can be held by somebody, brought back to Georgetown, have his jewellery seized and not returned because somebody determines that the bangle on his hand was more than he was supposed to be wearing at the time and a lawsuit has been filed against that action.

This is worrying. What is the problem with going to a court to ask the court to say... the GRA has lawyers and they are going to be collecting a lot of taxes now on all this VAT and hundreds of other taxes that are coming to the country? They can hire more lawyers and they can go to the court and ask for this order. Over the last two years, we have not been given any reason to trust that a provision like this is not going to be misused. In this House, we should never pass laws that are so draconian. We should always endeavour to give the citizens a hearing before the fundamental rights that they have under our Constitution can be infringed or interfered with. Every one of us in this House, every citizen, every person from Black Bush Polder, Linden and Lethem, who has a visa and can travel or those who can travel without a visa, should be able to

travel without interference, except by order of a court. Where the court heard them, heard the action, heard the application to stop them from moving and travelling freely and possibly heard the person that it was going to affect.

Why should we question in this House, with a Government that has been frequently been breaching people's rights, openly, without hesitation? Why is it that we have come here with this one line amendment, where, if read by the press or by the public, people will not really understand that the Government was removing the proviso, forcing the GRA and the Government of Guyana to go to court before they can stop a citizen from travelling. Sir, this afternoon I am asking if the Government has good intentions and what it is interested in is empowering the authority and collecting taxes that are due, to leave this proviso in. Let us pass this Bill with an amendment that removes section 45 (1) amendment that the Government is proposing to pass this Bill by taking that amendment out.

6.25 p.m.

Sir, the other very worrying provision is that under the amendments in Section 73, we are now going to see much larger penalties for persons who have been deemed to have not paid.

If, indeed, as was said, this is a Bill to allow for the collection of taxes in a more efficient manner and we restate our objection to governing only by the collection of taxes, by the refusal to use any kind of brain power to innovate around how we can bring income into this country and, by, perhaps, the inability to do that. We restate our position on that. This budget exposes the Government's manner of governing, it exposes its intention that it is going to be lazy on how it could earn for Guyana and that it is just going to tax and overtax every single citizen and call that growth next year. That is what this budget has done.

As much as we object to those tax measures, if this Bill is only to advance the collection of taxes, then show us your *bona fides* by removing this proposed amendment to Section 45, where it is going to have the Government being able to say, without recourse to a court, that a citizen cannot travel, in contravention of his or her fundamental right to freedom of movement. Remove this proviso and show us that you are genuine; that you are not dictatorial; and that you do not mean to use this to keep citizens who speak against you in line. Show us your *bona fides*.

I thank you Sir. *[Applause]*

**Mr. Nandlall:** I want to begin where the learned and Hon. Colleague, Ms. Manickchand, left off. I want to begin by reminding the Hon. Minister of two sentences which he spoke in his budget presentation at pages 22 and 24. He said this:

“The Constitution of the Co-operative Republic of Guyana is the bedrock of governance and serves to secure the fundamental rights and establish the rule of law for all Guyanese.”

Then, he pledged his Administration’s commitment to that Constitution.

At page 24, he made this other seminal point:

“Mr. Speaker, the Government continues to place the highest priority on the maintenance of a strong justice system, given its role in upholding our civil liberties and maintaining the rule of law.”

Here it is that we have a one-liner in an amendment. I do not want to say it is hidden, but, on its face, it appears very innocuous but it has devastating consequences for the citizenry of this country. It is expressed in merely 12 words this way:

“by deleting the proviso and substituting for the colon a full stop”

The innocent reader, the press, as Ms. Manickchand said, would never understand what this means. So, it is my duty to explain it. The freedom to enter and leave Guyana is guaranteed to every person as a fundamental right and freedom by the supreme law of the land – the Constitution. It is captured in Article 148 (1) of the Constitution and it reads as follows:

“No person shall be deprived of his or her freedom of movement, that is to say, the right to move freely throughout Guyana, the right to reside in any part of Guyana, the right to enter Guyana, the right to leave Guyana and immunity from expulsion from Guyana.”

That is the fundamental right that we have, as given us by the Constitution.

In Ghani against Jones, a reported case, 1971 Queen’s Bench Division, pages 613 and 709, Lord Denning said:

“A man’s liberty of movement is regarded so highly by the laws of England that it is not to be hindered or prevented, except on the surest grounds.”

It must be emphasised that England has no constitution or a Bill of Rights. Therefore, those sentiments of Lord Denning must apply to countries like Guyana with written constitutions and containing a Bill of rights with even greater force. Indeed, in terms of relationship between any other law and the Constitution, Article 8 of the Constitution provides:

“This Constitution is the supreme law of Guyana and, if any other law is inconsistent with it, that other law shall, to the extent of the inconsistency, be void.”

This, for the purpose of the Constitution, is one of the other laws that I am referring to.

Article 8, therefore, imposes an inescapable obligation on those seeking to promulgate laws to ensure that those laws do not conflict with the Constitution. In short, all Bills must conform to the litmus test of constitutionality. If not, they will suffer the faith of being rendered unconstitutional and void. It is Trite law that the judiciary is imbued with the constitutional mandate and authority to strike down such laws when called upon to do so.

Section 45 (1) of the Value Added Tax Act, Chapter 81:05 provides:

“Where the Commissioner has reasonable grounds to believe that a person may leave Guyana without paying all tax due under this Act...”

I emphasise ‘all tax’ because I am going to come back to it.

“...the Commissioner may issue a certificate to the Chief Immigration Officer containing particulars of the tax due and request that the Chief Immigration Officer take the necessary steps to prevent the person from leaving Guyana until that person makes -

(a) payment in full; or

(b) an arrangement satisfactory to the Commissioner for the payment of the tax provided that the Commissioner cannot proceed under this subsection unless he has obtained an Order of the Court in respect of the tax due.”

That is the proviso that is being removed. Among the amendments which the Bill seeks to effect is the following:

“by deleting the proviso and substituting for the colon a full stop”.

In that one liner, containing a dozen words, the Commissioner-General will be empowered to prevent a person from leaving Guyana without notifying him, without affording him a hearing and, obviously, without obtaining a Court Order as well, if that person owes VAT.

It is my respectful view that this provision in the Bill is inconsistent with a person’s right to leave Guyana, as is guaranteed by Article 148 (1) of the Constitution and, accordingly, is unconstitutional.

Why would a Government want to remove a resort to the courts for an order to stop a person from leaving the country? Why would a Government want to stop a person from travelling without notifying him? Why would a Government want to take away a constitutional right of a person to leave Guyana without offering him a hearing, in accordance with the rules of natural justice and due process? Why would a Government want to reside such vast powers in any officer of State without any checks and balances, when such powers can be so easily abused, misused and exercised arbitrarily and with capris? I doubt that anyone in the Government can or will proffer any sensible answer to these questions. That is why, with each passing day, I am becoming more convinced that we are sliding into authoritarianism with alarming rapidity.

Those of us old enough know that we have traversed this path before. That is why the signs are so easy to recognise. What is regrettable, however, is that some of those who were victims of the authoritarianism have now metamorphosed into the authoritarians.

In 1979, Dr. Clive Thomas’ passport was taken from him, for no justifiable reason, by the Commissioner of Police, thereby preventing him from leaving the country. He was forced to approach the High Court in High Court Proceedings No. 2557 of 1979. His lawyers would have advanced the same arguments which I am articulating here. They were successful. His passport was returned to him and he was permitted to travel.

In 1980, Mr. Eusi Kwayana was blacklisted from leaving the country. He filed a legal challenge in the High Court...

[Mr. Speaker hit the gavel.]

**Mr. Speaker:** Mr. Nandlall, do we need to go through this catalogue to make the point that you have made?

**Mr. Nandlall:** Yes, Sir.

**Mr. Speaker:** You are mentioning persons who are not here.

**Mr. Nandlall:** I am citing cases.

**Mr. Speaker:** Hon. Member, you will listen to me and then you will speak. I will not speak over your voice. If I am speaking, then do me the courtesy of listening. Would you resume your seat? Persons are not here, even to support what you are saying. I do not know that that is something which you would want to prolong. Please be warned as to my concern with that. Please proceed.

**Mr. Nandlall:** Might I assure you, Sir, that these are public record and I am quoting the number of the proceedings. I can present copies of them to you and to everybody in this House, Sir.

I was speaking about Mr. Eusi Kwayana who was blacklisted. He filed High Court Action No. 265 of 1980. Again, he was successful. Similarly, in 1980, Dr. Rupert Roopnaraine was blocked from leaving the country. The reason given was that, although certain criminal charges filed against him were dismissed, the State had appealed and that dismissal and the pending appeal barred him from leaving the country. High Court Judge Mr. Justice Prem Persaud swiftly rejected those arguments and affirmed Dr. Roopnaraine's constitutional right to leave the country. See *Roopnaraine vs. Barker*, 30 WIR, page 181.

From the above examples, it is clear that preventing citizens from leaving the country is a familiar weapon used by this Administration, in a previous incarnation. It is now back *en vogue*.

Anyone who has an acquaintance with how the VAT system is administered would know that, at any given time, persons authorised to collect VAT, on behalf of the Guyana Revenue Authority for onward transmission to that agency, will owe VAT to the GRA. This is so because the VAT collection is not transmitted instantly to the GRA; it is done at periodic intervals. When this Bill becomes law, the Commissioner-General can prevent any of these persons from leaving the

country. Tens of thousands of persons' right to travel overseas will therefore be exposed to the whims and fancies of the Commissioner-General.

I must emphasise that the exercise of this power does not have to await the hearing and determination of any objections, which may be filed under the laws, nor does it have to await any final assessment of taxes owed. All that is required is for the person to owe VAT and that is it. The Commissioner has the power to block the person from leaving the country. No civilised legal system will countenance such concentration of power in the hands of a single individual exercisable without due process.

*6.40 p.m.*

In Trinidad and Tobago such a power was declared unconstitutional. In 1986, the Court of Appeal of Trinidad and Tobago ruled that a person is not liable to pay income tax until he has been assessed and if he is prevented to leave the country before the assessment he is deprived of his freedom of movement." See the Attorney General of Trinidad and Tobago again Husain, 42 West Indian Report (WIR), page 328.

We have the position where this large concentration of power is being reposed in the Commissioner-General. The Hon. Minister of Finance will stand and counter me by saying such a power resides in the Income Tax Act. I will answer that argument this way:

- Firstly, the Income Tax Act deals with final assessment. The power to block from travelling is after a person has been assessed and it is a final assessment. There is a vast difference between that and the position under the value added tax (VAT) Act as per this Bill.

As I said, you are collecting VAT on behalf of the GRA. At any given time, the way the system is administered, once you are in that relationship, you will owe VAT and you will be exposed to the exercise of this power.

- Secondly, the Income Tax Act is a 1920 legislation. It is a pre-constitutional legislation and those of us who are familiar with constitutional law will know that the Constitution was saved. The Constitution saved pre-existing laws and said essentially that though they conflict with the Constitution they are not going to be unconstitutional.

**[Mr. Williams:** Why do you say that?] The Attorney General does not understand why I am saying that. I will quote from the Constitution Act itself, page 7, section 7, states... *[Interruption from Government Members.]* I am being abused and you are not saying anything, Mr. Speaker. Are you not hearing what they are saying to me? I am speaking for the record and for the people of this country who are witnessing as I am trying to protect their rights I am being ridiculed by those in Government and by those who wants to take away their rights. Section 7 of the Constitution Act states this:

“Subject to the provisions of this Act, the existing laws shall continue in force on and after the appointed day as if they had been made in pursuance of the Constitution...”

It saves existing laws to continue in force as if there were passed under the Constitution and they must be construed with modification. Then article 152 of the Constitution states:

“Except in proceeding commenced before the exploration of a period of six months from the commencement of this Constitution, with respect to a law made under.... the Constitution... nothing contained or done under the authority of any written law shall be held to be inconsistent with...”

...the existing rights.

What this mean in simple language that the law that existed before the Constitution comes into force are allowed to be inconsistent with the Constitution. Therefore they cannot be rendered unconstitutional. They are saved and that is why the provision is called savings of existing laws. What we have here is a Bill of 2017... **[Mr. Williams:** It was irrelevant.] A Senior Counsel is saying that it was irrelevant. A Bill of 2017, which is post to the Constitution, is being passed that is inconsistent with the constitution and that makes it unconstitutional.

In addition, we have the issue of garnishment. I want to commend the Hon. Minister of Finance for inserting in the amendment the term judgement. When the Minister first spoke about this measure in his budget speech, there was no reference to judgement. He was speaking about outstanding taxes which he intends to recover from people’s bank account. That was what the nation was told by the Minister. Hence, the expression of concerns by yours truly to which the Minister adverted attention and I thank him for correcting that because he was going to invade

people's account or authorised invasion of accounts merely for the payment of outstanding taxes owed. Now he has changed that and the Bill now requires judgement to be obtained.

As my learned friend was explaining and Your Honour would full well know that, but for the benefit of the non-lawyers in this House, judgements are executed in a particular manner. Once you submit yourself to the legal system then you have to be governed by the rules of that legal system. We all know how judgements are enforced. The Bill speaks about garnishment. We know how garnishment is done.

Garnishment is not done by a letter sent to the judgement to a person who owes money to the judgement debtor by the judgement creditor. It is not done that way. The judgement, creditor is required to go to court and obtain what is called an order *nisi* directed to the person who has custody of the money and tell that person to come and show cause to a judge why you should not be ordered to give that money to me because the person who you are keeping the money for owes me. That is how it is done. For the benefit of my learned friends, I walked with a copy of a garnishee proceedings. I walked with a copy of how garnishee is done. You cannot write a letter to somebody and called it garnishment. Garnishment is a term of art. It is a procedure. Lord Denning in one case said that you just cannot take a technical name and call it something and then it becomes that. It is a term of art. It has peculiar features. It is a procedure. You are required to go to court.

This impersonal or personal relationship that the Commissioner-General wants to have with the banks of this country whereby he can write the bank and state that Mr. Harmon owes me money by this judgement, give me all of the money. No! The law says otherwise. When the legal system becomes a burden... The legal system is becoming a burden here. That is why they take out the requirement to go to the legal system. Why go and ask a judge to stop Mr. Ali from travelling? We are in Government. We have all the power. If he owes us, he must pay. He is not entitled to due process. We can stop him at the airport. That is the kind of approach and that is the approach that sees the Commissioner-General being empowered to write a bank and state to give my money to the GRA because I owe tax, and I am not heard and the bank is not heard either. The letter is a command.

My friend does not understand that when you get a possession order from a magistrate's court to get a tenant out you have to get a possession order. Even when you get the possession order you have to go for ejectment warrant. You cannot just throw him out like that. The ejectment warrant requires you to give the tenant a hearing again. All these are safeguards in the system. The garnishee law carries the same safeguards. [An Hon. Member: We are expediting it.]

Yes. We are expediting it. That is the word. It is at the expense of due process, at the expense of natural justice, at the expense of the Constitution, and sacrifice the rights and freedom of the Guyanese people. I am glad that you said that you are expediting it. You are slaughtering the rights and freedom of the Guyanese people. We are for the collection of taxes. We know that it is taxes that must fund the state, but taxes must be collected lawfully, not unlawfully. Due process must be embarked upon and must be observed if we want to retain the rule. That is why we believe that we can stay in office and cancel leases and that is why we believe we can invade premises and throw tenants out. That is why we believe these things. It is expediencies my learned friend calls it. We believe in due process; we believe in the rule of law. We believe in the constitutional rights, and freedom of Guyanese people and that is why we cannot support this Bill. [Applause]

**Mr. Jordan (replying):** For the first time perhaps the legislative and judicial branches are fused because what we have been exposed to just now, I do not know I am not a lawyer. I was trying to get the arguments interpreted by my learned friend next door. What he suggested to me is that perhaps you could do two things, blow as hot as our learned friend or, quite rightly, stay far from it, but I will attempt to do both.

From what I am hearing, there are two broad issues relating to Section 45 (1) and section 51. I think the rest were either here or there but these are the two. We have had slightly different interpretation from one Hon. Member and then another one from the other Member. I want to get to the bone of contention. The bone of contention is: Who are we really going after? Are we going after Hon. Member Manickchand whose taxes are up to date? Are we going after Hon. Member Harmon whose taxes are up to date? Indeed, are we going after any person whose taxes are up to date? No Sir! We are going after all the people, the crooks who owe taxes and find every legal loophole and all the high priced lawyers to cover up all these legal loopholes.

Guess what; as we got all the high priced lawyers defending all those looking for a loophole and all those who do not want to pay the taxes. All of us who pay our taxes, because it comes out right there at our pay packets, are forced to pay more and are forced to carry those who can build on the backs of us their fancy places, their mansions, and take holidays and go wherever they want to go with our money. The burdened taxpayers in this country have asked us to say, “enough is enough.” We will strengthen the arm of the Guyana Revenue Authority.

6.55 p.m.

We will strengthen even further the Commissioner-General to ensure he goes after all those who are cheating their taxes.

My friend, Hon. Member Anil Nandlall, is quoting the Constitution, and we have no problem with that. We do not want to deprive any person of his or her liberty and his or her freedom to travel. We are not going after the ordinary person who is going there and who is a model citizen and who has done everything. Once again, we are targeting those who are cheating their taxes. Even the Constitution has a proviso. The Constitution, at article 148 (3) (h), states:

“for the imposition of restrictions on the right of any person to leave Guyana that are reasonably required in order to secure the fulfilment of any obligations...”

**Mr. Speaker:** Hon. Minister, would you resume your seat? Hon. Member Ms. Teixeira, you rise on a Point of Order.

**Ms. Teixeira:** Yes. Thank you Mr. Speaker, Standing Order 40(a). Are we still discussing the VAT Bill? [*Interruption*]

**Mr. Speaker:** Hon. Member Ms. Teixeira, is there a Point of Order? What you ought to do is to quote the section...

**Ms. Teixeira:** I said Standing Order 40 (a), Sir.

**Mr. Speaker:** ... and then you state and then you resume your seat.

**Ms. Teixeira:** I did not get a chance. They made all that noise I did not get a chance to say my statement, all the uproar.

**Mr. Speaker:** Hon. Member Ms. Teixeira, I am waiting for the point that you are making.

**Ms. Teixeira:** The Point of Order is, I believe, Sir, we are talking about the VAT Bill, that amendment Bill and that the Hon. Member seems to be out of order because he is talking about income taxes and other taxes which are irrelevant.

**Mr. Speaker:** Hon. Minister, please.

**Mr. Jordan:** Thank you Mr. Speaker. The interruption shall not move me. The Hon. Member Nandlall quoted extracts of the Constitution to buttress his argument about freedom of movement, but I am indicating what he failed to go on and quote was article 148(3)(h). It states:

“for the imposition of restrictions on the right of any person to leave Guyana that are reasonably required in order to secure the fulfilment of any obligations imposed on that person by law.”

We will always have freedoms that are circumscribed by some proviso of this nature, even in the Constitution. What we are saying is that at section 45(1), by dropping the proviso that is there...Let us be very careful. The VAT Act is a later Act relative to the Income Tax Act. In the Income Tax Act as was referred to by Hon. Member Nandlall at section 71(7) of that Act, this is what it states:

“Notwithstanding anything in this Act, where the Commissioner-General is of the opinion that any person is about to or is likely to leave Guyana without making arrangements to the satisfaction of the Commissioner-General, when required by the Commissioner-General to do so, for the payment of all income tax that is or may become payable by that person under this Act on his income accruing in or derived from Guyana or elsewhere up to and including the year in which he proposes to leave Guyana, the Commissioner-General may issue a direction to the Commissioner of Police or Chief Immigration Officer, or both, to prevent such person from leaving without paying the taxes or furnishing security to the satisfaction of the Commissioner-General for the payment thereof.”

This is also in the amendment in 1996. This here does not require any court intervention and so what we are saying are two things. What we are saying here in relation to this section is that we

are doing two things. One, we are making both Acts uniform by having more or less the same lack of a proviso. In allowing the Commissioner-General and the GRA to enforce against those who owe taxes and who are about to run, to make it easier for him to get to the Commissioner of Police or the Chief Immigration Officer without having to go to court to do that. That is what we are trying to do here. We are not stopping the Hon. Leader of the Opposition from leaving Guyana or the Hon. Leader of the House. We are stopping those who owe taxes.

Let us be very clear in the case of the value added tax: unlike the income tax, it is money collected on behalf of the Government. This is not your money. It is to be collected and passed over immediately to the Government or within a certain period to the Government. Why should the value added tax collected on behalf of the Government become an issue? Why should it become an issue? Why should the businessmen be using taxes collected on behalf of the Government for cash flow? This particular incident is alarming in this country because many people who have paid National Insurance Scheme (NIS) who have paid pay as you earn (PAYE) and all these taxes are now finding themselves in trouble when they turn up at NIS to find out their payments have not been payable. ...*[Interruption]*

**Mr. Speaker:** Hon. Members, one speaker at a time. A speaker is on the floor and we should be listening to the speaker. If we do not wish to listen to the speaker, we do not have to drown him out, we can of course leave the room. We must have some semblance of order at least in this House. Please proceed, Hon. Minister.

**Mr. Jordan:** I think it is a travesty in this House for people to be seen to be defending tax dodgers and tax cheats when we are attempting to strengthen the hand of the Guyana Revenue Authority to collect what is due and owing to the Government. If the Commissioner and the Guyana Revenue Authority can do so, just think what it will mean to us in terms of paying lower taxes or having higher thresholds or having better development in this country. We cannot, as a House, be seen to be leaning on the side of tax dodgers and tax cheats. We cannot. Therefore this particular section I wish to reiterate to the general public and those who are listening to us out there and for the far reaches from Pakaraimas right down to our coast that we are not going after you who are paying your taxes; we are going after the tax dodgers and tax cheats, collecting our taxes and using it as cash flow.

In respect of the other subsection, section 45 (1), I think this has been adequately dealt with. The word 'judgement' is in there and I do not have to go through all these long legal arguments about it, judgement connotes something coming from the court. My belief is that once the Commissioner-General has gone through due process and obtained a judgement he must be free and unfettered in imposing that judgement. Deleting the proviso at section 45 (1) does not in any way remove any impositions from the Commissioner-General. Indeed, section 41(1) speaks to -

“Where the Commissioner has reasonable grounds to believe that the person may leave Guyana without paying all tax due under this Act, the Commissioner may issue a certificate to the Chief Immigration Officer containing particulars of the tax due and request that the Chief Immigration Officer take the necessary steps to prevent the person from leaving Guyana until the person makes -

(a) payment in full; or

(b) An arrangement satisfactory to the Commissioner for the payment of the tax.”

That is where the full stop will go now and the proviso will come out. Article 45 (2) will also remain. At 45 (2), it states:

“A copy of the certificate issued under subsection (1) shall be served by the Commissioner on the person named in the certificate if it is practicable to do so.”

He still has an obligation to serve the certificate that is given to the Chief Immigration Officer on the person who owes the taxes. He is not freed of obligations of due process. It is still there. Once again we are saved. For the third time for the night we have been saved from doomsday.

*Question put and carried.*

*Bill read a second time.*

*Assembly in Committee.*

*Bill considered and approved.*

*Assembly resumed.*

7.10 p.m.

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

## **CAPITAL GAINS TAX (AMENDMENT) BILL 2016**

A Bill intituled:

“An Act to amend the Capital Gains Tax Act” [*Minister of Finance*]

**Mr. Jordan:** I rise to move that the Capital Gains Tax (Amendment) Bill 2016 – Bill No. 28 of 2016, published on 20<sup>th</sup> December, 2016, be now read a second time.

Mr. Speaker, I hope that this would be the most non-contentious of the Bills for tonight. It has a very short insertion at Section 2 of the Principal Act. It is to be amended by substituting the words “1<sup>st</sup> January, 1991” for “1<sup>st</sup> January, 2011”.

What we are also seeking to do is to make the market valuation at 1<sup>st</sup> January, 2011 the same as that in the Property Tax Act, Chapter 80:01.

A capital gains tax is a tax that persons are required to pay on the net chargeable gain made from the sale or disposal of assets when such assets are held for less than 25 years. The capital gain is the amount by which the consideration received for the change of ownership of an asset exceeds its cost of acquisition or its value at the time it was acquired or its market value at 1<sup>st</sup> January, 1991, whichever is later. For example, if lands were purchased on 31<sup>st</sup> December, 1998, valued at \$20,000, then the valuation at 1<sup>st</sup> January, 1991 would not be applicable but the valuation at 1<sup>st</sup> January, 2011, however, would roughly be about \$100,000. If one were to sell that land on 31<sup>st</sup> August, 2016 for \$200,000, then, before this Amendment, the capital gains tax would be the \$200,000 that it was sold at minus the \$20,000 that it was valued at in 1998 which would be \$180,000. You would have had to pay 20% on that, which would be \$36,000. However, after this Amendment would have been approved, for that same property that was sold at 31<sup>st</sup> August, 2016 for \$200,000, the capital gains tax would be the \$200,000 that you sold it for minus \$100,000. This means you would be paying 20% on \$100,000 or \$20,000. Immediately, as a result of this quick, one-line change, as my Hon. Friend would have said, you would have saved

\$16,000. If you multiply a real value of \$200,000 to about \$20 million, you could understand and appreciate the savings that we are putting in your pockets as a result of this change.

As we said, as the sky is clearing after the long rainfall and so on, you will begin to understand that it is not about picking anybody's pocket, but it is actually about putting money into peoples' pockets. I commend this measure to the House. *[Applause]*

**Mr. Neendkumar:** Mr. Speaker, I rise to make my brief contribution to the discourse on the Capital Gains Tax (Amendment) Bill 2016 – Bill No. 28 of 2016, included on the Order Paper for this Sitting of the National Assembly.

It is of note that the Amendment seeks to bring in line the Property Tax Act, the date of consideration for the purpose of taxation, the relevant market value of collateral classified to be impacted by the proposed effective date of 1<sup>st</sup> January, 2011.

In the Explanatory Memorandum, the Bill seeks to amend Section 2 of the Act by substituting for the relevant market value as of “1<sup>st</sup> January, 1991” and the market value of “1<sup>st</sup> January, 2011” as the Property Tax Act, Chapter 80:01.

Market value is very subjective. The market value for Tom Jones, we are afraid, as we move into a dictatorship, will not be for Harry Persaud and Mohamed. The fear of paramountcy of the party... We have the confidence of the Commissioner General now but when the Commissioner General will have to work with political paramountcy... As we see, the Alliance For Change (AFC) is now liquidated and, with the one-party state that we are moving into, we want to know what will happen.

Already, the rice farmers who were fooled at the 2015 Elections are studying what will be the cost for their plots when they will be forced to sell. The cane farmers at West Demerara are already complaining bitterly about what will happen.

From my research on this matter, it is recognised that, in accordance with Sections 5 and 6 of the Principal Act, there is a link between the imposition of capital gains taxes and property taxes. It has been common practice to have the *[inaudible]* position for the two Acts of legislation updated in ten-year spans. The exact reason for this practice is uncertain and the previous administrator of the Act in the past may have, in his considered opinion, not made

recommendations for a change to the framework for consideration. This aside, it is also relevant that we recognise that the updating of the date will lead to more absolute consideration of market values, leading to increased tax collection.

While we, on this side of the House, are not opposed to improved, transparent tax policies, it is in this House that we are required to consider practices that represent the interest of the country and our citizens. We have to know that and we want to know that because we are very suspicious of discretions as things get worse and everything devalues. What will be the devaluation price that we will have to pay? The opportunity cost will have to be discussed in this issue.

The assumption of increased capital assets' disposal in an environment characterised by the removal of tax incentives outlined in the 2016 and 2017 Budgets is rational. Additionally, the presumption of increased revenues from the Amendment to consider a more up-to-date market value is anticipated. It is rational, therefore, that this House is informed of the projected revenue impact of this measure. The Hon. Minister of Finance must tell us the projected revenue impact. If there were any reasonable analysis done, he must also tell us about that. Is there a hidden agenda of the Government to drag out more revenue from our already overtaxed citizens? We want to know that because we are very suspicious. If not, why was there not a review of the applicable rate to reflect the revenue-neutral position?

Over the years, the rate of 20% levied on the amount by which the consideration received for the change of ownership of an asset exceeds the cost of its real value at the time of acquisition or its market value at 1<sup>st</sup> January, 1991, whatever the latter.

Given that Guyanese who finds it necessary to dispose of capital assets will be driven to do so under the current budget measures, it is my considered view that a decreased rate should be applied. Notwithstanding Sections 6 and 7 of the Principal Act, which establish the basis for assessment of the tax and the period for assessment, these Sections referred, in a general sense, to the capital gain of any person for the year immediately preceding the year of assessment. The relevance of the 2011 date is, therefore, not clear and requires some explanation contextually.

Could the Hon. Minister of Finance say why the dates for both Property Tax and the Capital Gains Tax Acts were not brought up to date using the 2016 timeline? Could the Hon. Minister of

Finance explain what considerations were made in easing the burden on Guyanese forced to dispose of properties under these onerous measures of Budget 2017?

On behalf of all citizens, the proposed impact of this Amendment should be made public in the interest of transparency. I also wish to recommend, based on the projected increase in values, a lowered rate to 15% regarding this tax imposition.

We must not continue to tax people to give Ministers fat cat salaries. As such, it is difficult for us to support this because you are taxing our people, tax after tax, to pay fat cat salaries to Ministers. Thank you. [*Applause*]

**Mr. Anamayah:** Thank you, Mr. Speaker. I rise to make my presentation. I must endorse what my Hon. Colleague has said. I must commend him for a very technical presentation and, like him, I am also suspicious; this brings suspicion to us on this side of the House. On paper, it seems like the Government is trying to do something good for the people. Where is the backlash? What is really up their sleeves? I fully share the sentiments of my Friend when, in his presentation, he said that there must be something amiss.

I see this Amendment as a recognition on the part of the Administration, an acknowledgement by it, that the real estate industry has completely crashed. It is in a comatose state and this could be seen as a measure to revive it, to increase commercial activities and to encourage people to sell their properties and to encourage people to buy.

*7.25 p.m.*

I invite the Hon. Minister to take a drive from Georgetown to Corriverton and observe how many “For Sale” signs there are on several properties. Do that continuously for a month and you will see that the signs are still there but more are added. So, the real estate market and industry is dead. People are not buying properties and that means that they are not investing. One buys for purposes of home ownership, to set up businesses and to do investments, and those are not happening.

If this is meant to stimulate that industry, well it is a commendable effort. But why stop at 2011, as my Friend said? Bring it up to 2014. If one looks at the rationale in the Explanatory Memorandum – 2014, 2015 or 2016 – and the Budget Speech, the Property Tax Act, which this

is aimed to be synchronised with, was passed in 2014. So, there was a three-year span – 2011 to 2014. We are now in 2017, so do not stop at 2011. Update it properly; bring it up to 2014, 2015 or 2016, then real benefits are transferred to people.

I also support the call of my Friend to have the capital gains lowered from 20% to perhaps 15% or treat the various tax brackets in our country differently. There is a scale that can be used. This is done in other jurisdictions. In other parts of the world, more progressive economies like Hong Kong, Singapore, Egypt and Belgium, there is no capital gains tax at all. And that is because the capital gains tax is seen as a disincentive to investments. So, if you are bold enough, Mr. Minister, do away with it completely, and that will help our ailing economy and help to take our economy off the life support that it is presently on.

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

**Mr. Jordan (replying):** Thank you, Mr. Speaker, and I thank the two speakers from the Opposition for their contributions to this Capital Gains Tax (Amendment) Bill 2016. There are only about one or two points I think I wish to speak to because I think, generally, we can safely say that this is a measure that is intended to put moneys back into people's pockets and that, in some respect, the tax law was a bit unkind to those who were involved in selling or otherwise disposing or changing hands of their property over the period up until now.

My family had an experience which I had related to the Commissioner General. A property was bought for \$1.5 million in 1995 but was valued at \$5 million at the beginning of 2015. My mother was gifting this property to her surviving children. We then had to go and find 20% of \$3.5 million, which was an extreme strain seeing that no money was being passed but just being gifted. We had to pay 20% of \$3.5 million. Now, where would poor people like us find \$700,000? But we had to, even though it was gifted; capital gains tax still had to be paid. So, I accept that this is really a good move. We would have benefited significantly and it is a pity that we cannot make it retroactive so that we can get back some money. But there is no hidden agenda. There is no spy or James Bond type activity going on here. This is as straight as one can get it. It is a valuation that can bring it into line with the Property Tax Act, a valuation that is at 1<sup>st</sup> January, 2011.

I heard the last Hon. Member, Mr. Anamayah, suggesting a lowering of the tax from 20% to maybe 15%. Well, I am so happy that no other speaker got up because perhaps another speaker may say lower it from 20% to 10% and then another one would say lower it from 20% to zero. Indeed, I think the speaker said he did not say lower it to zero but he did make mention of no capital gains tax in certain jurisdictions. Sometimes one worries when these things come in a vacuum because jurisdictions that perhaps have no capital gains tax may have other kinds of taxes and so on. Bahamas, I think, at one time, had no income tax but, when one looks at the service taxes and a multiple of taxes and so forth, one would wish that he or she had to pay income tax instead and lower those. I think, eventually, Bahamas went to an income tax and now it also has VAT. So, it is difficult to compare across jurisdictions unless there is likeness in almost every other tax regime.

What we are doing is we have a number of our taxes hovering around the 20% margin. Later on, I think we will be talking about the Tributors' tax coming up to the 20% margin. The withholding tax is at 20%. And we also heard of the Private Sector talking about bringing down the individual income tax to 20%. So, 20% seems to be some kind of a magic number that we should be aiming at. So, I feel comfortable in stating that the capital gains tax at 20%, insofar as is retained, should stay around there and hopefully, in the scheme of things, as we continue to review taxes and reform them, perhaps we can change the valuation to even later than 1<sup>st</sup> January, 2011. But, as I said, those are all part of the objectives that we are seeking to do in broadening the base, reducing tax rates, *et cetera*.

I do not see much dissent, if any at all, in this Bill and I commend it to the House for passage.

*Question put and carried.*

*Bill read a second time.*

*Assembly in Committee.*

*Bill considered and approved.*

*Assembly resumed.*

*Bill reported without amendments, read the third time and passed as printed.*

**Mr. Speaker:** Hon. Members, it is now the hour when we should take a short suspension. I propose that we do that now and return here at 8.00 p.m.

Hon. Members, before we rise, I wish to take this opportunity to recognise the presence, among us, of Mr. John Fung-A-Fat, Senior Counsel. Mr. Fung-A-Fat was one of the nine Senior Counsel recently invested with that honour. We wish to express our admiration and appreciation for the work he does as Deputy Chief Parliamentary Counsel.

Thank you.

*Sitting suspended at 7.37 p.m.*

*Sitting resumed at 8.16 p.m.*

## **CORPORATION TAX (AMENDMENT) BILL 2016**

A Bill intituled:

“An Act to amend the Corporation Tax Act.” [*Minister of Finance*]

**Mr. Jordan:** Mr. Speaker, I rise to move that the Corporation Tax (Amendment) Bill 2016 – Bill No. 29 of 2016, published on the 20<sup>th</sup> December, 2016, be now read a second time.

This Bill seeks to achieve three objectives: one, to lower the present corporation tax for non-commercial companies, those engaged in manufacturing, from its present 30% to 27.5%; two, it seeks to introduce a dual rate for companies that are engaged in commercial and non-commercial activities, with the non-commercial activity of the company being taxed at the rate of 27.5% and the commercial activity continuing to be taxed at the rate of 40%; three, it seeks to make the 2% minimum tax or the rate of 40%, whichever is lower.

*8.18 p.m.*

That is:

“(1) Where for any year of assessment the corporation tax payable by a commercial company is less than two percent of the turnover of the commercial company in the year of income immediately preceding the year of assessment, then notwithstanding anything

contained in sections 4 and 10, and subject to this section, for the aforesaid year of assessment there shall be levied on, and paid by the commercial company a corporation tax (in this Act referred to as “minimum tax”) at the rate of two percent of the turnover of the commercial company in such year of income:

Provided that when proven to the satisfaction of the Commissioner-General that the rate of two percent of the turnover of the commercial company or of a company engaging in commercial activities, exceeds the rate of tax under section 10(b), the corporation tax payable shall be limited to the corporation tax assessed and payable under section 10(b).”

If I may, I would quickly explain what some of these changes would mean. In terms of non-commercial companies, as indicated, these are now being taxed at 30% of their chargeable profit. We are now seeking to reduce the rate to 27.5%. I hope that is a good thing and would not be subject to any suspicion or hidden agenda.

The proposed amendment to the Corporation Tax Act, Chapter 81:03 also seeks to bring relief to those companies which are engaged in both commercial and non-commercial activities. It allows for two business streams, whereas there is one business stream now. A company which has 75% or more of its income earned from trading goods which are not manufactured, the entire activity is subject to the fixed rate of 40% of its chargeable profits. In this dual stream that we are seeking to put in place, the manufacturing part of the business would be taxed at a lower rate of 27.5% and the non-manufacturing part will continue to be subject to a rate of 40%.

It is of interest to note that the last time the corporation tax on manufacturing or what we call non-commercial activities was reduced was in the year 2012 when it was reduced from 35% to 30%. For a stretch of about four years, the tax had remained at 30%. The rate of 35% had remained unchanged since 1993 when, in fact, it was raised from 25% to 35%. This change and reduction we are seeking here must be seen in that light. We are close to the 1993 rate of 25% when we would have passed this Amendment we seek today of 27.5% for manufacturing.

How do we compare with the rest of the Caribbean? We are still higher than some of our Caribbean neighbours. For example, Barbados is 15% and Trinidad is 25%, but we are lower than Jamaica at 33.5%. Again, as I said, I have a little issue trying to compare these rates because the regimes over these countries could vary. They may have a different allowance, a different

depreciation schedule and so on. At a quick glance, we could suggest that Barbados and Trinidad are below us, but we are still doing better in the case of Jamaica which is above us.

As we could see right away, this reduction to 27.5%, in effect, means that the Guyana Revenue Authority and, consequently, the Government giving up roughly \$600 million in taxes, is a way of giving back an incentive to the manufacturing sector. It is a way of improving the manufacturing sector's cash flow so that it could engage in retooling and other developmental activities to help it to become more competitive and allow it to do more manufacturing and export rather than follow the attractiveness of retail and distribution.

As I was indicating before, the reason it is difficult to compare rates across countries alone is because, in some of those countries, dividends and distributions are taxed, while, in the case of Guyana, dividends and distributions are free of tax for Guyanese residents, thereby allowing for higher disposable income to the shareholders. I could attest to this somewhat. If someone is a shareholder in a certain bank in Guyana, the dividend is appreciated and, in addition, the dividend is free of income tax.

The reduction in the corporate rate will also favourably compare to the present income tax rate because the present income tax rate is 28% and the effective tax rate, which is the rate when one combines the new rates of 40% and 28%, at the highest level works out to be 26.7%. This rate of 27.5%, which we are proposing for the corporation tax for non-commercial activities, compares closely with the effective tax rate on individual income tax and, certainly, the actual individual income tax rate at the lower end of 28%. This will encourage more people to go into manufacturing rather than come out of manufacturing and seek to become sole traders because the income tax regime was more favourable to individuals and self-employed than it was to manufacturing where risks and overheads tend to be higher.

Sometimes we hear a complaint by the manufacturing sector, the Private Sector Commission, the Guyana Manufacturing and Services Association Limited and others. I read an article last week Sunday by one Mr. Louis Holder where, again, it seemed to be indicating that manufacturing was being given, in local parlance, a raw deal, and that a lot more should be done for manufacturing. I can indicate that, in addition to the lowering of the tax rate, there are some other benefits enjoyed as of now by the manufacturing sector. I wish to indicate that some of these benefits

were inherited from the last regime and some we have put in place when we came into power in May, 2015.

A number of these manufacturing companies benefit from duty free concessions under the Customs Act, where little or no duty is charged on their imported raw materials. These companies benefit from the Investment Development Agreements which are usually signed between Go-Invest and the Ministry of Finance. The manufacturers benefit from duty free concessions on machinery. Further, under the Income Tax in Aid of Industry Act, several concessions are allowed to the manufacturing sector, such as tax holidays for businesses involved in new economic activities of a development and risk bearing nature, which demonstratively creates new employment in Regions 1, 7, 8, 9 and 10, and also in the field of non-traditional agricultural development, information and communication technology, petroleum exploration, mineral exploration, textile production, tourist facility, renewable sources of energy and value-added wood processing, just to name a few. All such manufacturing activities are subject to various forms of concessions in addition to the initial allowances to facilitate early write-off of assets using the manufacturing process. I put this out there to counter specious arguments which seem to be made that we are not doing enough for the manufacturing sector. The sector is constantly under review. It enjoys a gamut of benefits and concessions. Once again, we are showing our faith in the manufacturing sector by allowing for further reduction in the corporation tax rates so as to spur them on.

I do not know why, but the manufacturing sector has always lagged and its contribution to the gross domestic product, except in 1970 or maybe the early 1980s, has depended largely on rice and sugar milling. When those two key manufacturing activities are set aside, the rest of the manufacturing sector has borne little evidence that the concessions we tend to give and which are available to the manufacturing sector do bring about a return which makes it viable. I am not sure why our manufacturing sector has not taken off from where it was in the 1970s, for example, when a range of products using local raw materials and skills were produced in this country.

In terms of the minimum tax, the 2% minimum tax was introduced back in 1994 by the last Government. It was to allow for tax on companies which engaged in commercial activities and, for years, were continually declaring losses, yet remaining in business and never going bankrupt. The rationale was that the then Commissioner did not believe there was such altruism in

companies and, perhaps, was successful in getting the Government to put in this minimum tax which was to force companies to file and then claim refunds, if applicable. Over the years, certain well-established companies and businesses have actually suffered from this rule. Sometimes pills that are meant to make you well – as Dr. Cummings would say – have their intended or unintended side effects. It is a question of managing those side effects. Apparently, over time, some well-established companies with this 2% minimum tax have complained bitterly that it has affected cash flow. Where cash flow is affected, then, obviously, expansion and so on will be affected. Businesses suffered from this rule since the 2% they were forced to pay exceeded the corporate tax payable on their taxable profits. They were actually paying the tax on their taxable profits plus some premium, being the difference between the total minimum tax and the tax assessed on the profits. Technically, this would have been illegal, but, under the minimum tax, it would have had to be paid.

The change in the law now is to correct an obvious anomaly because the 2% minimum tax was not meant to be a punitive measure. It was meant to be a measure that was going to force companies to do the honourable thing and file a return in the first place and then file the true taxes. Like I said, it had its unintended consequences. This Government, for a tax that has been there since 1994 and has burdened many businesses for the last 22 years, saw it fit, on examination, to correct this patent anomaly.

*8.33 p.m.*

So what we are doing is to streamline the tax regime by being fair and consistent in the imposition of taxes, thus easing the burdens on these companies, improving their cash flow position, giving them more opportunities to expand their businesses and, in the process, allowing them to become competitive. In a sense, we are trying to create a level playing field. But, again, as I said, sometimes when things are done there would be unintended consequences, so we are recognising this. While the law will be clear, companies would continue to be subject to the 2% minimum tax, so we are not getting rid of the 2% minimum tax, but the companies must prove to the satisfaction of the Commissioner-General that the 2% tax paid exceeds the corporation tax payable on their chargeable profits at the corporate rate of 40% or 45%.

So, essentially once companies could prove that the 2% is greater than the assessed taxes on their chargeable profit, at 40% or 45% depending on what kind of commercial company it is, whether a bank or a regular commercial company, then the difference will be refunded or used to set off against other tax liabilities that the company may have. If it less, the company would, obviously, have to pay the difference to the Commissioner-General, essentially. In many ways, the minimum tax now becomes like an advanced tax, pending finalisation of the tax assessed on the chargeable income.

Those are the reasons why we want to bring this measure into force. So the benefits, in terms of this measure, obviously, the manufacturing and the non-commercial companies will benefit and they represent, approximately, 76% of the companies in Guyana, contributing, approximately, 35% of corporate tax revenue. They will essentially benefit from this 2.5% points reduction in the corporation tax. As I said, thereby providing additional cash flow for the companies that can be used for investments in new plants and equipment; it could be used for the distribution of dividends, thereby providing a higher after tax income on investments to the shareholders.

The introduction of the amendment of the minimum tax from the higher of the 2% of turnover or 40% of chargeable income, limited to the corporation tax payable, they would obviously benefit commercial companies, especially small and start-up companies which initially experienced low chargeable income, resulting from high overheads and operating expenses in the early stages of their existence.

So, if these commercial companies paid the 2% minimum tax, which, in many cases, was higher than the 40%, this sometimes took several years to recover, thus, denying these companies of the essential cash flow needed for their survival. On the one hand, the manufacturing and commercial companies were benefitting from the reduction and on the other hand commercial companies were benefitting from this differentiation of the 2% minimum tax or 40% of chargeable income.

We can see benefits in terms of tighter control and tax administration of companies engaged in both commercial and non-commercial activities by the introduction of the dual taxing system. Hopefully, this would create less avenues for manipulation of income to meet the 75% rule in determining commercial and non-commercial activities.

Mr. Speaker, essentially, these are the benefits to be gained from these measures and I will like to commend this Bill for passage by the House.

Thank you Sir. *[Applause]*

**Mr. Ali:** Mr. Speaker, it gives me great honour to speak on this amendment which may look very simple on the surface and may seem to be one that is non-contentious. However, the Minister of Finance alluded to a very important fact and that is that these measures have generated a number of public criticisms and commentary in relation to the net effect of the measure. The amendment becomes complex when we examine, in totality, the net effect of what is proposed, and when we examine the net effect of what is proposed, a lot of the things that the Hon. Minister of Finance hope would be achieved as a result of this amendment, will, in actual fact, not be realised.

I commend the Hon. Minister in our common understanding that the manufacturing sector needs to be elevated, needs some energies and a lot of support from Government, if we are to grow and expand the manufacturing sector. The Hon. Minister pointed to the fact, that in his estimation, this Bill would aid the manufacturing sector. He asked the rhetorical question, do we know why the manufacturing sector has not advanced the way we all would like it to advance? Through the Speaker, to the Hon. Minister, we do not have to look very far for the answer to this question. All the international indicators point to two hindrances to the manufacturing sector. One is the cost of energy and two is the operational cost. We heard the solution to one of the greatest hindrance to the manufacturing sector before us and that is our ability to harness the benefits of hydro-power. We have a project that is alive and critical, if we are to reduce cost for the manufacturing sector and become competitive in the global arena. I urge the Government and the Hon. Minister, in an accelerated manner and in national interest, to embark on the journey of realising electricity *via* the Amaila Falls Hydropower Project (AFHP). This is at our disposal and this is perhaps the single most significant transformative project that can allow the manufacturing sector to blossom and to grow.

The second issue relates to the operation cost for businesses in the manufacturing sector. As I said earlier, we would only appreciate the complexity of the amendment or we would only be able to analyse whether there is a net benefit in this amendment, when we understand the

measures in the 2017 Budget, in its totality. For example, the Hon. Minister of Finance pointed to the Customs Act, but take for example the issue of increased fees for custom services and let me give a few examples on page 107 of the Hon. Minister of Finance's Budget Speech:

“Reporting and clearing of coastal vessels, in 2017 would increase by 300%; reporting and clearing of inward and outward foreign vessels, inclusive of steam ships increased by 300%; permit to ship stores increased by a 100%; seals increased by 75%; international vessels travelling within port with import cargo increased by 300%; carriage coastwise of cargo by aircraft or ship for foreign planes increased by 300%; customs admin charges increased by a 1000%; application for custom broker's licence increased by 2000%; yearly licence for custom brokers increased by 400%.”

When one looks at the totality, these are the increases that the manufacturing, commercial and non-commercial sectors would have to absorb. When they absorb these additional expenses, they will ultimately pass it on to the consumer. So it is a chain effect and every one along that chain would suffer. This is because the overall net effect of the measures brings no benefit to the manufacturing sector or the ordinary Guyanese out there.

For a matter of fact, if one had listened as the Hon. Minister had said that this measure would stimulate the manufacturing sector, there are electricity charges that will now attract VAT. The same companies that the Hon. Minister was referring to, that will benefit, would now have to pay an additional 15% every month on their light bills.

This has to also take into consideration the projection for oil prices because the projection for oil prices shows that there is not a lowering of the prices. As a matter of fact, at the pumps, at the gas station, there are now increased prices there. That too would not assist the manufacturing sector this year. The Hon. Minister did not announce an adjustment in the tax rate to accommodate the manufacturing sector or the ordinary Guyanese, to cushion off the effect of the rising fuel prices. Instead the rise is passed on to the consumer. There is no adjustment in the taxes. So if one looks, for example, at the commercial and industrial customers of the Guyana Power and Light (GPL) Company, there are more than 15,300 commercial and industrial customers of GPL. Their consumption would be far in excess of \$10,000, Minister. If one looks

at a generous estimate, this will cost the corporation approximately \$752 million, additionally. So when that is net off, the manufacturing sector would be far worst off after 2017 Budget.

Then to add insult to injury, they will now also have to pay a 14% VAT on water and that will affect the same number of companies. Let us take one example, the poultry industry, especially the large businesses that are in processing, depend primarily on water and electricity. One of the poultry processing companies uses approximately one megawatt of electricity every month. This increase is going to drive up their operational and manufacturing costs and what are they going to do?

*8.48 p.m.*

The only thing that they could do to absorb this cost is to pass it on to the consumers. Ultimately, it is the consumers who would suffer in this process.

When one adds the total additional cost that industries would have to face as a result of the measures of Budget 2017, it amounts to over \$4 billion. When one adds the total benefits that these measures would bring, it amounts to \$800 billion. That is a difference of approximately \$3.2 billion in net effect. The manufacturing sector would be worse off in the totality of the measures in the 2017 Budget to the tune of approximately \$3.2 billion.

Let us use another example – the environmental levy. One would see that, for soft drinks alone, there would be an additional cost of \$571 million; for water, it would be \$285 million. That alone is \$1 billion.

I want to say to the Hon. Minister that it is not correct to say that this amendment will bring benefits to the manufacturing sector. It would, indeed, take away from the manufacturing sector, make our manufacturing less competitive and increase the operational cost of the manufacturing sector. For example, the National Milling Company (NAMILCO) would have estimated that its cost would be driven up by approximately \$200 million. How is it going to remain competitive in an environment where manufacturing cost is reducing, globally, for the commodity that it is producing?

It is my humble submission that these amendments, when taken in the totality of the measures in Budget 2017, would bring no benefit to the manufacturing sector. It would take them to a position as a net loser, when one takes everything in totality.

The Hon. Minister said that this measure would increase dividends for shareholders. I humbly beg to disagree. It is because if one looks at the additional cost, as a result of the measures in Budget 2017, there would be a definite shrinking of the profit line of manufacturing and commercial businesses. If there is a shrinking of the profit line, then profits, after tax for shareholders, would also shrink. But the greater effect of this shrink would be the opportunity loss in terms of expansion since resources that would have been earmarked for expansion and creating new jobs would now have to be paid towards VAT on electricity and water and all of the new additional charges that I would have outlined.

This amendment, also, would increase the cost of doing business and this must be of concern to the Hon. Minister of Business. It is because the private sector has raised very serious issues in relation to these amendments and the changes that they would bring about in terms of their accounts preparation and the separation of accounts. At a minimum, businesses should be given at least six to eight months to adjust their systems to cater for amendments like these.

This amendment would result in increased accounting complexities as segmentation of revenue and expenditure would be necessary. It would be a significant burden on small business that may not have resources to acquire such technical accounting skills. It would contribute to small businesses taking longer to formalise as corporations.

We should be helping the small businesses. We should be providing the technical assistance to help small businesses to adjust their systems so that they could move towards corporation status. But this amendment would be a hindrance to that graduation of small businesses. It would make the tax code more complex and suitable for companies that could afford qualified accountants. Hence, it would make doing business harder.

If we are to look at page 15 of the KPMG Report on the 2017 Budget, the Report states, in relation to this measure and the amendment:

“However, the imposition of a dual tax rate on companies who carry on both commercial and non-commercial activities may prove cumbersome in its administration. Companies would now be forced to split their accounting books and records and operations.”

These are the challenges that this amendment would bring to the small businesses, corporations and businesses as a whole.

Let us take an example of a private hospital that would now have to account for medical services separately from its pharmacy sales and prescription drugs, the latter deemed training activities. A private school would have to separate tuition fees and its sales from materials and textbooks. A contractor would have to separate income from the supply of materials, trading, commercial income from provision of his service. A mechanic shop that is incorporated would have to account separately for sales of spares and labour for repair services. A rice miller would have to separate the income from manufacturing rice and the sales of spares, fertilizers to farmers, *et cetera*. These are some of the complexities that might seem simple to those policymakers and those senior officials who are tasked with administering the system, but they are not as simple for the small and medium sized businesses that are out there. They are very complex for them and the Government has to provide the institutional framework and strengthening if it is to enable them to mature to deal with such complexities in the tax system.

It is my humble contention that this amendment would do nothing for the manufacturing sector. As I outlined, the manufacturing sector will suffer a net loss and the consumers and ordinary people would be the hardest hit as a result of this amendment; and the complexities in the accounting system that it would bring would affect small and medium sized businesses tremendously.

It is my hope that the Hon. Minister would re-examine this issue and before we move to such an amendment, he would provide the necessary institutional capacity building and he would make the adjustment as a result of the VAT on electricity and water and the thousands of percentage increase in service charges. When we take all of that into consideration, we should make the adjustment in terms of the corporation tax to compensate for what is happening in the other areas. With these few words, I thank you, Mr. Speaker. *[Applause]*

**Mr. Jordan (replying):** I thank my Hon. Friend and Member, Mr. Ali, for his contribution. At first, and I still think at this time, I was wondering whether my Hon. Friend was speaking to the Corporation Tax (Amendment) Bill or another piece of legislation that is before this honourable House, most likely the VAT Regulations Order. So, I am going to pass on this aspect of the rebuttal and wait until that legislation is brought before the House and then I would make my rebuttal to some of the points he had raised, since I did not see their suitability and applicability to this Bill.

However, he did make two or three points that might have been germane to this. In terms of the cost of electricity, obviously, we knew that the Amaila Falls Hydropower Project would have been mentioned. It has been mentioned at every turn in this House and outside of this House. I will not be dealing with this any further, beyond the statement that the Government has put out and the recent end-of-year press conference, which was given by the Hon. Minister of Public Infrastructure, in which this matter was adequately dealt with. It is no sense in beating the horse, it is not dead, but there is no sense in beating it any further. Let us await the developments, as were outlined by the Hon. Minister of Public Infrastructure.

The Hon. Member said that we must speak about the net effect that the measures in the budget bring to the manufacturing sector. But I would like, tonight, as I have done, and I would restate, to speak about: The reduction in the corporation tax to the manufacturing sector, the fact that we are putting more moneys into the cash flow and the pockets, so to speak, of the manufacturing sector, it acting as a stimulus to that sector and the fact is that the sector is now able to do a lot more with what we are giving to it. The commercial sector now has a minimum tax of 2% or the 40%, whichever is lower. Again, that would put money, in the case where the minimum tax would have been higher than the 40 or 45%, on the profits.

There was the question of the splitting of activities. I also read the PWC Report on the Budget. It thought it was a pretty good report and certain reviewers in Guyana could take a page out of the PWC's book, where objective reviewing is concerned. As the Hon. Member rightly read out, the PWC Report pointed that it may cause some difficulties. They too are not certain, but they are hedging their bets.

A challenge, Mr. Speaker, as you would have told us from time to time, should not necessarily be seen as a constraint or an inhibitor, but it should also be seen as exactly that - a challenge to overcome. It should never be a reason why we should not do something. It should be what it says, a challenge to overcome so that we can get to that point where we wish to be. If we just sit and throw up our hands and say, "Oh, this is going to be a big challenge to businesses; do not let us put it in" when a greater good lies ahead. By splitting their activities, they stand to benefit. Also, the Government stands to benefit because, hopefully, they would not have to manipulate their accounts. Technology has overcome a lot of these challenges. One can go and buy all sorts of packs. It is a cost that could be written off as an expense. There is accelerated depreciation and all of these things that are available to companies, especially manufacturing companies. So, do not let us use that as some kind of red herring as to why a measure, which would prove to be beneficial to companies, manufacturing or otherwise, should not be implemented.

*9.03 p.m.*

The Hon. Member spoke about NAMILCO and quoted a figure of \$200 million, and so on. I do not know when last you spoke to National Milling Company (NAMILCO), but I suspect if you were to go and talk to the company tomorrow it may tell you a different story. Always be careful of what you are quoting, when you are quoting and how dated or outdated it might be. [Mr. Ali: You must update us.] I do not have to update you because I did not make a reference, but I suggest you go and talk to them and find out what the true story might be as of today.

I think a Bill, again, that brings tremendous benefits to a sector that has been lagging, a sector that is crying out for help, we have heard its pleas and this is another step in trying to help, their pleas for help by reducing the rate from 30% to 27.5%. We can shout aloud again this is not the be-all and end-all. We have stated very clearly as we expand the economy, and as we expand the tax base, all taxpayers could expect a lighter burden as we seek to reduce taxes as our ultimate goal.

With these few words, I commend this Bill to the House for passage.

*Question put and carried.*

*Bill read a second time.*

*Assembly in Committee.*

### **Clause 1**

**Mr. Jordan:** There is an amendment that I had circulated.

**Mr. Chairman:** Hon. Minister, you are quite correct. The amendment proposed is in respect to clause 1 (a). It seems to me that clause 1(a) is susceptible of treatment as clause 1 (a) rather than as part of clause 1.

**Mr. Jordan:** I propose to insert immediately after clause 1 the following as clause 1 (A) -

“Amendment of section 2 of the Principal Act.

1A. Section 2 of the Principal Act is amended by the insertion of the following definition in the appropriate alphabetical order -

“Commercial activity” means an activity carried out by a company trading in goods not manufactured by it, and includes an activity of a commission agency, a telecommunications company, a body corporate licensed to carry on banking in Guyana, and an insurance company carrying on in Guyana insurance business, other than long-term insurance, as define in section 2 of the Insurance Act;

“Non-commercial activity” means anything not covered in the definition of “commercial activity”;

*Clause 1, as amended, agreed to and ordered to stand part of the Bill.*

### **Clause 2**

**Ms. Teixeira:** I thought that you were going to go to clause 1 (2) where the date is January 1<sup>st</sup> 2017 but the Bill has not passed and it cannot be retroactive. Therefore I would like to make an amendment that the date be amended to July 2017 or any other date after the Bill comes into effect, because it cannot come into effect before it is passed.

**Mr. Chairman:** Hon. Minister, is there a comment that you would wish to make on this?

**Mr. Jordan:** Yes. Ordinarily the Hon. Member may be correct but this is a Bill that benefits but it does not add cost or loss to somebody. The assessment year of the Guyana Revenue Authority is 1<sup>st</sup> January to 31<sup>st</sup> December. This covers the assessment year. The company is gaining from the 27.5%. It is just as when we said that when we come to the Income Tax Bill the individual will gain, in that that individual will get back what he or she would have been paying from January. This is correct by saying January 1<sup>st</sup>, because it is benefiting the corporation and soon it will be benefiting the individual when we come to the Income Tax Bill. In this case this can happen because it is a benefit to the company.

**Ms. Teixeira:** I have heard the Hon. Minister, however, this is not to do with the content of the Bill. It is to do with the fact that we cannot pass a law in this House that is retroactive to a date ante. It is not a question whether it is a benefit or loss; he is wrong. It is an issue that this House cannot pass a law that is retroactive to January 1<sup>st</sup>. If the Minister wants to put that, the date would come into commencement at the time of the assenting of it or another date, but it cannot be January 1<sup>st</sup> 2017. Today is January 5<sup>th</sup> and, therefore, you cannot do that with the Bills that are brought before the House. It has nothing to do with a benefit, and so forth. Were I to take up on his argument and the fiscal year or the calendar year...

**Mr. Chairman:** Hon. Member, it is a Point of Order and I take the point.

**Ms. Teixeira:** No. It is not a Point of Order. I am making an amendment.

**Mr. Chairman:** Are you making an amendment?

**Ms. Teixeira:** Yes. It is not a Point of Order. I am saying that clause 1 (2) is incorrect and it needs to be corrected. My proposal is to delete January 1, 2017 and replace it with another date and a date after, I am proposing a date out of the top of my head nothing constructed July 2017, but if the Minister says that it would be February 1<sup>st</sup> that is his choice, but it cannot be January 1<sup>st</sup> 2017.

**Mr. Chairman:** You would have noticed, Hon. Members, that I was consulting with the Deputy Chief Parliamentary Counsel and he is quite clear. I do not want to use the word adamant, but he did sound that way. My knowledge of Mr. Fung-A-Fat is not one where he pounds the desk, but he is very clear that this does no harm, that, in fact, it has been used before, and there are several

examples of it. I am advised it was passed by this House in the same context. This is a benefit being given and in that context it does not offend the principle which was my concern and I suspect the concern of Ms. Teixeira also. Hon. Member Ms. Teixeira, if you wish to withdraw that amendment it would be very helpful, but if you wish to stand on it, then we will have to resolve the matter in the usual way.

**Ms. Teixeira:** Mr. Speaker, I bow to the Senior Counsel, except I want to remind this House Standing Order 92 (1)(2)(c) has to do with laws, Bills, subsidy legislation. Were it to talk about negative resolution, it states:

“which purports to have retroactive effect although the law under which you have made does not, in terms gives the Minister such power.”

Therefore I still would bow to the Hon. Member advice, but I still believe a taxation matter, this matter, should not be retroactive. It should come into effect. It may have happened in this House before. I do not know if it was on a financial Bill. I am saying on this matter, taxation matter, the Government should be cautious and not have a retroactive matter. Standing Order 92(2)(d) seems to give some credence to the fact that the Bill should not be retroactive, particularly to do with financial matters.

**Mr. Chairman:** I thank the Hon. Member for her comment. I take it from what she said by saying that she bows to the superior knowledge and appreciation of these matters of the Senior Counsel. In fact, she is withdrawing here amendment. If I am correct, in that then the matter will stand as it is, and there would be no other, unless there is another question on it.

*Clauses 2 and 3 agreed to and ordered to stand part of the Bill*

*9.18 p.m.*

*Assembly resumed.*

*Bill reported with amendments, read the third time and passed as amended.*

**INCOME TAX (IN AID OF INDUSTRY) (AMENDMENT) BILL 2016 – BILL NO. 30/2016**

A BILL intituled:

“AN ACT to amend the Income Tax (In Aid of Industry) Act.” [*Minister of Finance*]

**Mr. Jordan:** I rise to move that the Income Tax (In Aid of Industry) (Amendment) Bill 2016 - Bill No. 30 of 2016, published on 2016/12/20 be now read a second time.

I believe once, again, this is another one of our hopefully non-contentious Bills insofar as it seeks to give... [An Hon. Member: You are mistaken.] Well, we will be mistaken. It seeks to give a practical understanding to some of the measures in the budget as it relates to greening the economy and providing incentives for those who wish to bring a greener economy closer to reality. In that regard, the Bill seeks to amend the Act to empower the Minister to grant exemptions from corporation tax for companies that provide wind and solar energy, water treatment facilities or waste disposal facilities.

It was Mr. Fareed Bushehri who was the Regional Officer of the United Nations Environmental Programme, in a paper that is called “Green Economy in the Arab Region” dated February 2012, outlined concisely the following working definitions of what we call now a green economy and has offered some useful review and benefits and methods of establishing a green economy. Among the definitions he has talked about is that a green economy is a system of economic activities related to the production, distribution and consumption of goods and services that result in improved human well-being over the long term while not exposing future generations to significant environmental risk and ecological scarcities. It could also refer to a low carbon economy. Part of a green economy is obviously measured by the carbon level of economic activities. “Green growth”, which is another term used in our budget speech this year, is gross domestic product (GDP) growth that is subject to green conditions as well as focusing on green sectors as new growth engines to grow the economy. Of course, there are green jobs, jobs in the green sectors also known as green collar jobs, and so forth. Green economy policies can help countries such as us to attain economic and social gains on several fronts. Example, the deployment of cleaner energy technologies and improved access to energy services, improved resource efficiency through investments in cleaner production approaches, increased food security through the use of more sustainable agricultural methods and access to emerging new markets for green goods and services. Then, of course, we also have improvements in resource

efficiency and diversifying the energy mix. This can help reduce import bills and protect a country from price volatility in energy markets while reducing the environmental footprint and associated health cost of economic activity. This short outline of the green economy, green growth, green jobs, and so forth, puts this Bill somewhat into perspective.

We talked about here at clause 2A(1)(a) providing exemptions from corporation tax for activities that provide wind and solar energy. As you know, our first solar farm will be in Mabaruma. It is on its way. The land has been identified, the money has been voted by this honourable House and we should be seeing our first wind farm powering communities in Mabaruma. That demonstration should be positive in a number of other areas in the hinterland that are expected to benefit from this. We have also been pursuing a wind project that is an active project. Hopefully we can see some seven to ten megawatts of power being generated from wind energy and being sold to the grid, all in an effort to provide cleaner energy and reduce carbon footprint as a result of reducing our import bill and the energy required to be generated by the Guyana Power and Light (GPL).

The Bill also provides that clause 2A(1)(b) for the provision of water treatment and water recycling facilities so if we see VAT on bills in excess of \$10,000 being as a means of conserving, we are saying that we are going to provide tax relief for any activity involved in a private venture that will provide water treatment and water recycling facilities. Guyana may be blessed with a lot of water - I often see it tumbling down the Kaieteur Falls - but it does not mean that we can just pick it up and have it piped to our houses and have it. All these activities come at a cost, but we are encouraging the private sector to get involved in recycling activities. Earlier we talked about recycling trash and bottles, and so on, and reducing the trash that ends up in the canals. Here we are talking about recycling water. Rather than having it waste and running back into the trenches we can use it for all kinds of activities, cleaning the water and using it back for agriculture, for irrigation purposes and so on.

At clause 2A(1)(c), we talk about the provision of waste disposal and recycling facilities for plastic items. Again, this is in keeping with the earlier Bill that has been passed by this honourable House particularly the recycling of plastic facilities. Now I have seen technology on television and I have read in magazines and so on fantastic things that are being done about recycling especially plastics into various other activities. I have also seen it being done with

recycling used tyres that are now being used, I believe to build roads, as something is being to them and then they come out as something that you can put on roads. I think the possibilities are endless and it is for us as a Government to encourage the private sector to go in this direction even as we also point the direction, in terms of our spending and our investment in these green activities.

I believe this green Bill, Bill No. 30 of 2016, in which we are seeking to provide generous incentives to those who are willing to go green, those who are willing to go clean, in terms of energy use and water recycling, we are prepared to give some generous incentives and, therefore, I ask that this Bill be passed without amendment. [*Applause*]

**Mr. Dharamlall:** I support every effort to make Guyana productive or businesses competitive and our citizens comfortable and prosperous. I believe strongly that businesses need incentives to enhance their competitiveness, viability and sustainability. I believe it is our duty to ensure that the private sector, including the arms of manufacturing, the corporate and the commercial, to benefit from tax incentives and specifically to what we are discussing on this matter Bill No. 30. We can argue though on many fronts on this matter, memories of an economic boom experienced in Guyana under successive PPP/C Governments, since 1992, seem more and more remote each day that this Government may now have as it towers over taxpayers and the poor of this country.

What we have before us in this country is that thousands of jobs have been lost; thousands of jobs are under threat. The case in point would be the thousands of jobs which are lost in our sugar industry and the thousands of jobs and business opportunities that are going to be lost as a result of the fallout of what is taking place through Government's action in the sugar industry. Businesses are closing daily; vendors are at a loss for customers; wages are being reduced to offset business losses; parents are at the wits' end to provide a comfortable life for their children; schools are having troubling times; the health sector is in a free fall; our Amerindian brothers and sisters are having permanent discomfort to eke out a daily living. The economy is in the final stages of a meltdown and I spoke about this in my budget speech late last year. It is my belief that to camouflage the nightmare imposed on us in Guyana, the Government in an effort to hoodwink, and I hope that is an okay word, Mr. Speaker, Guyanese people...

9.33 p.m.

**Mr. Speaker:** Hon. Member, if you paused to ask that question, perhaps you should not use it.

**Mr. Dharamlall:** I am sorry.

**Mr. Speaker:** You should avoid the Speaker's intervention in a matter like this. Would you start again, please, and remove that word?

**Mr. Dharamlall:** In an effort by this Government to camouflage the nightmare imposed on us in Guyana...

**Mr. Speaker:** Hon. Member, the word "camouflage" should not be used.

**Mr. Dharamlall:** Sorry, Mr. Speaker.

**Mr. Speaker:** I know that you are not challenged in English so please try.

**Mr. Dharamlall:** In an effort to disguise an economy that is nightmarish...

**Mr. Speaker:** You cannot help it.

**Mr. Dharamlall:** ...the Government is imposing, on our Guyanese people, an incentive which appears to spur economic development. My worry about what is before us is that these incentives seem specific to income generated, as stated in the Bill, from the provision of wind and solar energy, water treatment and water recycling facilities, waste disposal and recycling facilities for plastic items.

There are not many companies or businesses in Guyana with this type of investment or money to be made from these types of investments. I am sure, as a matter of public accountability and transparency, that the citizens of Guyana would like to know who the principals of these businesses are or the prospective principles of these businesses are and their relations to members of the Government's high command.

Mr. Speaker, I am not certain if you are aware but I was in the Members of Parliament (MPs') Lounge sometime late last year and one of the bigger investors in the Solar Farm was there. I am not certain what they were doing there but I saw them shaking hands and meeting with Members

of Parliament. I am not certain if you gave permission for that or whether that was ethical but I find it very unethical and I find it very disturbing that a potential investor in one of these projects is hobnobbing with Parliamentarians in the MPs' Lounge. I find this terrible in a sense that it smacks of cronyism and, as you are aware, cronyism is one of the highest forms of corruption anywhere in the world, including Guyana. I am wondering whether that was one of the reasons for this tax incentive or if that is the genesis of what is before us this evening.

Unfortunately, too, I think, based on my reading of what obtains in this Bill, it is for a selected few or for a special interest group. I think that the benefits will not redound to the citizens of this country. I would, therefore, like an explanation from the Hon. Minister and from the GRA on how the benefits will be quantified and how they will be passed on quantitatively to our citizens, especially in the areas where these investments are going to be executed.

We have before us, in effect, another burden on our taxpayers. Every tax incentive that is given to an investor and, in this case, a "special" investor, is a burden on our taxpayers because we have to carry that investment. We need answers as to how many jobs will be accrued. The Hon. Minister specifically said that these are now green jobs or green coloured jobs. How will our cost of living be reduced? How will the operating costs of spin-off industries benefit? What type of spin-off industries will be created and what are the sustainability plans of the specific businesses benefitting from the exemption? I would hope that the execution of this exemption is not at the *whims and fancies* of Hon Minister Jordan. Mr. Speaker, I have something else to say but I think that you will stop me.

The Hon. Minister also needs to tell us the cost of this tax incentive to this economy. It has to have a value and put before us so that the citizens of Guyana will know what the selected few are going to be benefitting from.

My worry also is that the Government is foregoing a tremendous positive investment, the Amaila Falls Hydro Project. It is a transformative investment, an investment that is going to take us to the cutting edge of competition, an investment that is going to take this country to levels that we have never seen before. I would like to ask the Hon. Minister why he is foregoing this investment, an investment that is missing and losing opportunities to genuinely create wealth and, as the Hon. Minister said, thousands of green jobs, and to enhance a wider tax revenue base

as a result of the industries that would have been created. That is something that the Hon. Minister needs to respond to. I hope that we would be convinced as much as possible.

As you are aware, Mr. Speaker, the recent 48-page *Norconsult Report* vindicated the position of the People's Progressive Party/Civic (PPP/C) on its investment on the Amaila Falls Hydro Project. I read it page by page, word for word. I am curious whether this that is before us is a smokescreen to shadow-box the Amaila Falls Hydro Project.

I am hard-pressed to support the Amendments as they are. I would like to support an amendment that calls for a competitive bidding process under the Procurement Act, especially for Government contracts before the Hon. Minister acts on the exemption.

As you are aware, Mr. Speaker, the provision of electricity, despite its generation, is a public good that is produced for private benefits. Similarly, the utility of water and recycling of plastic and waste disposal are also public goods. I do not doubt their importance is a necessity. I am, however, worried about the implementation. The exemption from corporate tax with respect to income tax in its present form makes for the Authority to be described as a "benign dictator".

The amendment of the People's Progressive Party takes away from the subjectivity imposed by the Hon. Minister and allows for greater transparency. It allows for real investment in good governance and I am certain that it will prevent cronyism and other forms of corruption which seem to be the culture of governance in Guyana today. Thank you very much. [*Applause*]

**Bishop Edghill:** I rise to make my contribution to the debate on Bill No. 30 of 2016, Income Tax (In Aid of Industry) (Amendment) Bill 2016.

The intent of this Amendment, when you read it, at a first glance, may appear to be something that is laudable and should be encouraged but a closer examination would cause you to have a number of questions. My contribution would basically be about raising those questions and we are hoping that we would be able to get some answers in the rebuttal, if we are to have meaningful debates on these matters.

Section 2 of the Principal Act, Chapter 81:02, which is being amended, addresses the issue of tax holidays with a view of seeking to encourage the establishment and the development of

industries, particularly with a view of diversifying and encouraging non-existent industries to come on board.

This Amendment is expanding Section 2 by adding a Section 2A with the various provisions which speak to the issue that the Hon. Minister raised, quite rightly, about measures to encourage a green economy.

Before I examine the three provisions, I want to indicate that I would have hoped that, with the introduction of such a Bill, a more definitive position on what can really catapult our manufacturing sector and the development of industries in Guyana would have been addressed, which is our dream for cheap, reliable, renewable and clean electricity. This is the bugbear.

A little earlier, we debated the Customs (Amendment) Bill and we did refer to a court case with the company, Rudisa Beverages and Juices N.V., which we ended up having to settle. That company was able to produce its products in a foreign jurisdiction, ship to Guyana, pay the discriminatory tax and still sell its products cheaper than competitors in Guyana. The simple reason was the cost of electricity. This Bill is being debated tonight in an environment... I will point out, shortly, that, even with the establishment of wind and solar, you still have to establish redundant power supply which engages fossil fuel. It is not exclusive.

I would have thought that, tonight, we would have at least heard that this dream that has been there forever in our country...

*9.48 p.m.*

It was no secret because I believe when former President at that time, Mr. Bharrat Jagdeo, spoke about the need for Amaila Hydroelectricity Programme, he indicated that it was not an original idea of his. He even gave credit to the fact that this was something that former President Forbes Burnham had spoken about as a way of really bringing our country to a level of having this dream and seeing our country move forward.

We believe that hydroelectricity is not the end all, but it is the major factor to help us in this green economy and seeing things move in a green manner. Solar and wind are just small components and there is an Inter-American Development Bank (IDB) Energy Mix Study that is in the bosom of the Minister of Public Infrastructure. And I would have wished that he would

have shared some information on what the recommendations of the IDB Energy Mix Study were, and where does wind and solar play in the scheme of things as part of the introduction of this incentive schema and how it will help the economy. We do not know about that. [Hon.

**Member:** Do not worry; you will get it.] After the Bill is passed.

What is more troubling and, perhaps, the Minister will clarify - and maybe I am wrong but I would like to be told the truth – is that the Minister, in his Budget speech, and for the purpose of ensuring that there is no misunderstanding, I will read exactly what he said:

“(i) Tax exemptions on the importation of items for wind and solar energy investments. In addition, a one-off tax holiday of 2 years for corporation tax for companies involved exclusively in such importation”;

“Tax exemptions for investment in, and construction of, water treatment and water recycling facilities. In addition, a one-off tax holiday of 2 years for corporation tax for companies involved exclusively in such importation;”

So, the question arises. I would have thought that solar and wind – this incentive schema – would be applied in a thriving, fair and competitive environment where a business is engaged, let us say, for example, Banks D’Aguiars Industries and Holdings (DIH) Ltd, a manufacturer that is presently, probably, using fossil fuel, maybe as an original supply with the Guyana Power and Light Inc. as backup because of the constant blackouts... If Banks DIH Ltd. moves towards solar or wind supply, that would not be its exclusive business. What will Banks DIH Ltd. have to do? Will it have to form a subsidiary company that provides energy through wind and solar and then sell it to itself? What does “exclusively” means? Is this an open door for a select group of people who are lined up to enter the market to sell electricity to special people or to the GPL grid? How would this aid businesses that are already established? How would this help the poultry farmer if he decides that he would like to go ‘green’ but his main business is poultry and he would like to import and set up a system that provides for his establishment? Clarity is needed on such matters. What do we mean by this term of being “exclusive”?

Why did we only restrict it to wind and solar? Green energy initiatives are beyond wind and solar. What about the people who live in parts of our country where they could make use of other forms of ‘green’ energy supply using not only hydro, but water because there are artificial ways

of using water to turn turbines to create electricity outside of hydro. So, why is it only limited to wind and solar?

For provision (b), the provision of water treatment and water recycling facilities, for the sake of clarity, could the Hon. Minister explain to this House if this is opening the way for private investors to start providing treated water to private households in competition to the Guyana Water Inc.? This needs to be clarified. We have housing development; we have new areas that are being opened up and, with this provision, as is, clarity needs to be given. When we talk about water treatment and water recycling facilities, what do we mean? There was a pilot project funded by the IDB and the Hon. Minister, Mr. Bulkan, should have those studies in his Ministry, the Ministry of Communities, to deal with waste-water in Guyana. Could we be advised about how we are progressing as it relates to this particular initiative?

At provision (c) of this proposed Amendment, the provision of waste disposal and recycling facilities for plastic items, we need clarity. Are we going to have a regime where investors are going to be allowed to open private sanitary landfill facilities across the country? Are we going to have a situation where one can invest in recycling but only limited to plastic? Why only plastic? The Minister, in his opening remarks, said that he had read in magazines about things like tires but Guyana does not only have a plastic problem; it has a can and bottle problem. We would expect that the Hon. Minister would respond to the issue of limiting this incentive schema only to plastic.

If the Minister travels around Guyana, particularly in the gold mining and the lumber or forestry areas, he will discover that the issue is not only plastic because, when the owners buy their products...

**Mr. Speaker:** Hon. Member, may I ask you to resume your seat?

Hon. Prime Minister, we will take a motion for the continuation of our work to allow us to, at least, conclude the present matter that we are involved with.

**SUSPENSION OF STANDING ORDER NO. 10(1)**

**First Vice-President and Prime Minister [Mr. Nagamootoo]:** Mr. Speaker, I move that this House continues its Sitting until the conclusion of the current matter before it, that is, Bill No. 30 of 2016, Income Tax (In Aid of Industry) (Amendment) Bill 2016.

*Question put and agreed to.*

*Standing Order suspended.*

**Mr. Speaker:** We will continue our business until the conclusion of our consideration of Bill No. 30 of 2016. Please proceed.

**Bishop Edghill:** Thank you very much, Mr. Speaker.

At provision (c) of this amendment, we are proposing that the same measure goes beyond just mere plastic to recycling of all non-biodegradable materials because, if the intent is the greening of our country, to ensure the proper disposal of our waste and to ensure that we do not have these impromptu dumpsites that exist not only on the coastland, but also in the hinterland; if we are going to do measures, we should do it in a manner that would benefit all.

I would have expected the Minister, in his presentation of this Bill, to address a number of issues that he did not do in his opening. So, I would ask that he would want to do it if we are really having a debate. For the benefit of this House, could the Minister tell us, while corporations will benefit, how will individual traders benefit from this measure? The second thing that I would want the Minister to let us know is what is the present system that is in place – an obstacle? And what is really responsible for the design of this initiative? What do we have in place currently? Is it an obstacle?

*10.03 p.m.*

Is it preventing us from going green? Could we know what is responsible for this initiative?

I am interested in hearing from the Minister and the people of Guyana are interested in hearing from the Minister how this measure would attract foreign direct investment and how it would bring about green jobs. This is a measure in aid of industry for the development and establishment and, in some cases, the expansion of industry where, ultimately, jobs will be created. We would like to hear how that would happen.

We would like to suggest that, if this incentive is really to encourage investment, both foreign and local, there should be a level playing field. So, before this Amendment is put, I would like to register my support for an amendment which ensures that, if any of these companies are to benefit from this measure, the competitive bidding route of public procurement should be followed so that a mere investment agreement and a sole-source established person must not be the *rule of thumb* for supplying clean energy to the national grid. We must be able to get the best price. *[Interruption]*

*[Mr. Speaker hit the gavel.]*

Thank you, Sir. I think this debate was open for many speakers.

**Mr. Speaker:** Hon. Member, please go ahead.

**Bishop Edghill:** I am going ahead, Sir, but I am just indicating that...

**Mr. Speaker:** Let us spare each other the asides at this time. We are beyond 10.00 p.m.

**Bishop Edghill:** We will be happy to hear from the Minister what would be the cost benefit he anticipates from this initiative. Could we also get some more information on the short to medium-term development objective of this initiative? I did say, in my opening remarks, that, on the surface, it looks like a good initiative, but there are a number of issues which need to be addressed.

Finally, I want to address this issue of wind and solar and what could be best described as redundancy power when there is a shortfall. All the studies are available where wind and solar is used. If an investor comes into Guyana and goes to Hope Beach with a wind farm that provides three or five megawatts of electricity, along with that investment, the GPL or the supplier would have to put in a redundancy power supply for if there is a shortfall. There is a cost that is attached to such an investment. When we go to Mabaruma, which is good, and we put down the solar farm, we still have to think about the shortfall and how we will address that initiative.

**[Mr. Patterson:** When Amaila Falls runs dry, where will we get it from?]                      You had your chance to speak but you refused to.

We will be happy to hear if this Amendment is really to aid industry. We are strongly recommending that there should be a thriving and fair business environment which does not benefit special interests or a selected few, but the benefits would be available to all the people of Guyana. We look forward to hearing the responses from the Hon. Minister on these matters.

Thank you very much. *[Applause]*

**Mr. Nandlall:** Sir, I want to thank my Colleagues, the Hon. Mr. Nigel Dharamlall and the Hon. Bishop Juan Edghill, for very detailed presentations. They have alerted my mind to issues that I really did not contemplate. My contribution will be a mere addition to what they have said.

I want to begin by saying that, insofar as this Bill seeks to grant concessions and encourages the types of endeavours which it embraces by granting tax exemptions, we support it. We have always supported the grant of concessions to the business community. In fact, we take great issue with the abolition of a number of concessions which existed under our Government but which came to an abrupt end when this Government assumed office.

A few moments ago, speaking on a different Bill, the Hon. Minister of Finance bemoaned the fact that our manufacturing sector never assumed the potential he believes it has and he was wondering aloud, why. We believe, on this side, that sufficient encouragement, sufficient incentives and sufficient assistance are not being given to our manufacturing sector. Though it is coming from this Government in a piecemeal fashion, we welcome it insofar as it comes.

Our responsibility is to oversee and scrutinise. Therefore, in keeping with that mandate, one has to question the inconsistency in the approach by this Government. The Government lauds, pursues and embraces the concept of the greening of the economy. It embraces our Low Carbon Development Strategy but, yet, it did not support the mother of all greening projects which is the Amaila Falls Hydropower Project. That Project is the mother of all greening projects. It was voted down when there was the opportunity to support it in the National Assembly. That is why one must question the sincerity of the sentiments we hear being expressed now and the *bona fides* with which they are being uttered because, as I said, the singularly most transformative green project in our country – and it still remains – was not supported at the time when it required support.

**[Mr. Nagamootoo:** Where was the technical study?]                      Let me answer the Hon. Prime Minister. The technical study has come out and has vindicated us. I want

to put that on the record. The Norwegian study has come out and a prejudiced and jaundiced excerpt from it emanated from certain quarters. But when one reads the document itself and one removes the nuances and the prejudicial excerpts which have been taken from it, one sees that the Norwegians endorsed the project. **[Bishop Edghill: Thirty times it says so.]** In the document itself, the Project was endorsed 30 times, I am told. It was opined to be a very good Project. We will put that matter to rest. The public has read it and it was accurately reported in the main part of the press. I know there are a few press outfits that pedalled the view that the Government wanted, but the record is there.

Significantly, although this Bill grants concessions, one has to question why the concessions are so narrow. The Hon. Member, Bishop Edghill, spoke to the fact that only wind and solar energies are addressed in this Bill. There are rice factories in this country which are producing their own electricity using paddy husk and shells. I know that for a fact. Why are we not extending the facilities which are going to be extended here to that kind of initiative? I can name the rice mills I am speaking about. We know that the Skeldon Factory is producing electricity from bagasse. Why is it that we are not extending these facilities to those types of activities which generate electricity through a method that can be described as greening and caught in the embrace of an environmentally friendly endeavour? **[Mr. Ramjattan]:** What were you all doing?]

*[Mr. Speaker hit the gavel.]*

Mr. Ramjattan wants the floor, Sir; I will accede to him. Would you call on him, Sir?

**Mr. Speaker:** Hon. Member, the Speaker determines who speaks.

**Mr. Nandlall:** Very well, Sir. I am always a very loyal...

**Mr. Speaker:** Not even the Member who is speaking determines that, unless I give him the floor.

**Mr. Nandlall:** Could you indicate that to him, Sir?

**Mr. Speaker:** Please proceed, Hon. Member.

**Mr. Nandlall:** Thank you very much, Sir. We question that and ask the Minister to consider expanding this Bill beyond wind and solar.

Guyana has been identified and certified, if I may use that word, to have the singular most potent potential in hydro to produce electricity more than any other territory in the western hemisphere. We have been identified with that potential. We have the best potential to generate electricity by the method of hydro and this Bill does not recognise that. That is why the sentiments expressed by my Colleagues who spoke before me, sentiments of suspicion, bear some merit.

*10.18 p.m.*

It is as if this Bill is crafted and directed to certain investors. I would be in dereliction of my duty, if I do not draw that to the attention of the Guyanese people. Why are we a country that is so endowed with a potential...

**Mr. Speaker:** Hon. Member, let me interrupt you, to remind you of the provisions of Standing Order 41 (6):

“No Member shall impute improper motives to any Member of the National Assembly.”

I know it has been liberally thrown around tonight and before. But I issue the warning to Members, that they should remember this Standing Order and try to operate within the confines of that.

**Mr. Nandlall:** I am not...

**Mr. Speaker:** Hon. Member, I do not require a response. You simply proceed with your presentation.

**Mr. Nandlall:** So I reiterate that this Bill seems to be targeting a particular grouping of persons focused on a particular activity and that detracts from the benefits that it purports to confer. We know of a particular investor, a company, that has expressed an interest in providing energy by wind farm and we know the association of that company with the Government. The Hon. Member, Nigel Dharamlall, spoke about persons being seen in the lounge and one must wonder and I would, again, be in dereliction of my duty if I do not subject that to scrutiny, to ensure that one category of persons is not given an advantage over others. We are asking for the playing field to be levelled.

We are told that the Bill is supposed to incentivise certain activities. But it is only confined to corporations. The rice mills, to which I made reference some moments ago, are sole traders. Why are they not captured? Not only is the form of activity which generates electricity in an environmentally friendly way not captured by the Bill, but also these persons are not captured by the Bill because this Bill only grants an exemption from corporation tax. Therefore, only corporations can benefit.

We are saying that if the Government is serious about encouraging these types of activities, then it must extend it to everyone, companies and non-companies, sole traders, credit unions, *et cetera*.

We have various forms of ownerships and businesses known to the law. Why is only one category being recognised for the conferment of benefit? That is why we said that this Bill is too narrow in its embrace and in the number of things that it encompasses. [*Interruption*]

Sir, because of our apprehensions and because of the recent tendency to avoid the Procurement Act and the newly found tendency to hand out contracts, we are moving an amendment which intends to bring the operation, if it is a Government or State undertaking, within the ambit of the Procurement Act, in terms of calling for and subjecting the process to a competitive bidding process one, as provided for under the Procurement Act. I cannot see on what basis one would want to object to competitive bidding and the Government has an opportunity to demonstrate to the people of this country where it stands on the issue of competitive bidding for the procurement of services and goods. The Opposition is giving the Government an opportunity. We know that the Procurement Act is there, we also know that it is being ignored and millions of dollars are being paid out in rent services – I do not see the Hon. Dr. Norton here and in D’urban Park projects. Millions of dollars and not a single one of those transactions was subject of the Procurement Act. There was no competitive bidding whatsoever. Since Mr. Ramjattan, Mr. Greenidge and my Hon. Friends Lt. (Ret’d) Col. Harmon and Mr. Nagamootoo, have all championed the cause of public procurement and competitive bidding, I am sure that they will have no difficulty, whatsoever, in supporting this minor amendment which seeks only to subject any company, that wants to benefit from these exemptions, to a public procurement competitive bidding exercise.

So the ball is now in the Government's court. Let it demonstrate, at this late hour, to the people of Guyana where they stand on the question of competitive bidding and fairness in the procurement process. Let them express their disagreement and rejection of cronyism and non-transparency.

Thank you very much Sir. *[Applause]*

**Mr. Jordan (replying):** Mr. Speaker, I thank the Hon. Members of the Opposition for their contributions to the debate on this Bill. I suspect a lot of grazing had taken place where this Bill is concerned because, when we sat to put together these concessions, never in our wildest dreams did we believe that they would have brought forth the reactions that we have heard over the last couple of minutes, if not an hour. I mean the Procurement Act?

This is a Bill that seeks to give incentives to corporations not individuals because we are speaking here of a Corporation Act, industry in aid. I do not believe that we have gone so low, in terms of English Language in this country, as not to be able to interpret the difference between a corporation and an individual. The provision of wind and solar energies, the provision of water treatment and water recycling facilities and the provision of waste disposal and recycling facilities for plastic items, to me that is as clear as a new-born day. I do not intend to rebut the things which I have heard about the Procurement Act.

This is not a Bill that is dealing with the Amaila Falls Hydropower Project, I have indicated this already. The Amaila Falls Hydropower Project has its time and place and we have had lots of debates on that in this House. I am not going to turn this Bill or any of these Bills which I have put to this House into the Amaila Falls Hydropower Project or Norconsult Report and so on. I repeat that the existing standing Government has given its review of the Norconsult Report, our Minister of Public Infrastructure, in his end of year report, has given his comments and those are the Government's views on this matter. As we go forward, those views will continue to evolve. And as we have indicated in our 2017 budget speech, we are on a path of greening our economy, using a complete mix of measures, processes, sources and so on.

The Amaila Falls Hydropower Project is on the table, but even in the report, where there are all ifs and if one does this or that or if one finds this person, maybe this will happen and so on. It is not a report that anybody could feel is definitive in the way people want. But one can read it

because this Government has made the report available. We do not have to hide anything, we want all the stakeholders to be involved and we want all the independent engineers and so on to take a look at the report and to tell us, if on the basis of that report, they will ask this Government to sink its resources into a falls or into a project with all the ifs, buts, maybes and so on, as that report has suggested.

We have embarked on a course that will put us on a green economy and will allow us to reduce our carbon footprint progressively, overtime, using different sources of energy. In this Bill, we are speaking to solar and wind. There is some insinuation about somebody who was meeting in the Members' of Parliament (MPs) lounge and so on. The budget came out on the 28<sup>th</sup> November, 2016 and the Norconsult Report was after the 28<sup>th</sup> November, 2016, so we did not know what was in that report. We could not have in mind what they were saying in relation to this report. What we are saying and we are saying it again, is that, what is here and available to every soul who is willing to take up these incentives to help Guyana push its green growth agenda. It is not with the intention of any individual or any form or anyone. They will all come, look at the incentive and say whether it is good enough for them. They will come and sign investing in development agreements and they will get involved in providing waste water resources, recycling and even the Puran Bros. and Cevons Waste Management companies and others could move towards waste disposal, setting up recycling facilities and so forth. It is this here. Rome was not built in a day. *[Interruption]*

*10.33 p.m.*

*[Mr. Speaker hit the gavel.]*

**Mr. Speaker:** Hon. Member, Ms. Teixeira, there is a limit beyond which I would not permit you to go. I must ask you to allow the speaker to conclude what he is saying. As leader of your group, you should set an example. You are not doing that now. Please proceed, Minister.

**Mr. Jordan:** Rome was not built in a day and so Guyana cannot be built in a day. We have to start someplace. This is a start. No Bill can encompass every single thing that we would like. Down the road, as we advance, process and develop, these Bills can come back and the adjustments can be made. As we feel comfortable in administering these incentives, more can be added, the pool can be expanded and everybody will benefit.

This is a simple Bill with three simple clauses that seek to exempt companies, not individuals. Individuals are already benefiting from duty-free imports of these solar and wind equipment. If they want to benefit additionally from corporation tax, then it is clear that they have to form themselves into a company and incorporate themselves to make certain that they benefit from this tax holiday.

Mr. Speaker, I commend this Bill to this House for passage.

Thank you very much.

*Question put and carried.*

*Bill read a second time.*

*Assembly in Committee.*

*Clause 1 agreed to and ordered to stand part of the Bill.*

## **Clause 2**

**Mr. Chairman:** There is an amendment to clause 2 (A) (2).

**Mr. Nandlall:** Sir, I rise to present an amendment to amend the Income Tax (In Aid of Industry) (Amendment) Bill 2016, Bill No. 30 of 2016.

**Mr. Chairman:** Hon. Member, Mr. Nandlall, you would notice that the last two words of the second line and the first two words of the third line could benefit from a slight amendment. The two words, “this section” are repeated in the third line.

**Mr. Nandlall:** Yes, Sir.

**Mr. Chairman:** Thank you. We take it that you would tell this Committee the appropriate words.

**Mr. Nandlall:** Should I read the entire amendment, Sir?

**Mr. Chairman:** Please do.

**Mr. Nandlall:**

“The Income Tax (In Aid of Industry) (Amendment) Bill 2016 is hereby amended by the deletion of the full stop at the end of clause 2 (A) (2), the substitution thereof of a colon, and the addition of the following proviso:

‘Provided that where the undertaking is a government or state undertaking, a company shall only qualify to benefit from an exemption under this section if that company participated in an open tendering process in accordance with and in the manner contemplated by the Procurement Act, Chapter 73:05, Laws of Guyana to provide the particular service or services which generate(s) the income from which corporation tax is exempted under this section’.

**Mr. Chairman:** Is there a seconder for the amendment?

**Mr. Ali:** I wish to second the amendment by the Hon. Anil Nandlall.

*Amendment put and negatived.*

*Clause 2 as printed, agreed to and ordered to stand part of the Bill.*

*Assembly resumed.*

*Bill reported without amendments, read the third time and passed as printed.*

**Mr. Speaker:** Hon. Members, that brings to an end the extent to which, today, we can consider the various matters before us in relation to the budget.

Before I invite the adjournment, there are a few matters which I wish to bring to the attention of Hon. Members.

Firstly, I am bound to tell Hon. Members that it is my wish that we conclude our business every night at 10 o’clock. I would seek your cooperation to that end. Tonight should be the only night that we get to this stage in our efforts.

Secondly, I must remark that quite a number of Members who spoke tonight repeated themselves and repeated what was said by other Members. It did not appear to me that that assisted our discussions here. I bring that to your attention because I hope that you would try to avoid that in succeeding debates. *[Interruption]*

*[Mr. Speaker hit the gavel.]*

**Mr. Speaker:** Hon. Members, at this stage, we should not let it break down.

Thirdly, the debate, as I am given to understand, on second reading matters focuses on the general merits and principles of the Bill. Members have wandered into excursions of all kinds. The Speaker has allowed it, but I now bring it to the attention of Members that that is a requirement for a debate on second reading.

Fourthly, Hon. Members, I had requested information concerning commitments which were given by Hon. Ministers during the consideration of the Estimates of Expenditure. There were 157 such requests made by Members who had asked questions and who had addressed questions and issues to Ministers. Of those 157 requests, 80 responses have so far been received. Responses were also received...

Is there a Member who has better information than I am giving here?

*10.48 p.m.*

The Ministry of Social Protection and Region 6 also gave information but they have additional information outstanding. What I would urge Members who have got unsatisfied request to kindly ensure that we can have those answers to the request in the shortest possible time to assist our work.

**Bishop Edghill:** Could I seek some clarification, Sir? When a question is asked of a Minister and a response is given, is it now the practice of the House that only the Member who asked the question receives the answer or the answer comes to all Members of the House? I have not received 80 responses.

**Mr. Speaker:** I must tell you I do not know at what stage is the dissemination. This notification to me is dated 5<sup>th</sup> January 2017. I requested an updated information and I have got it. Hon. Mr. Ali, you are posed in that way. Is this the way you would sit in the House?

**Mr. Ali:** I could not see you because the Serjeant-at-Arms is standing here. I want to see you when you speak, but I cannot see you.

**Mr. Speaker:** Would the Serjeant-at-Arms take himself to a place where he does not obscure the vision of others. In answer to your question, I do not know at what stage the distribution of the answers is. I am given to understand that the practice has been the Member who asked...  
[*Interruption*] Hon. Members, will allow me to conclude saying what I am saying. We cannot have this. I will not have this. We will await the Speaker's conclusion of the comments and then other Members are free to speak. I have been given to understand that the practice, which has been followed, is that the Member, who had made the enquiry, that is the Member to whom information is given. I did indicate to the Clerk of the National Assembly that the question is a matter of concern to the House and, as a consequence the information should be given to every Member of the House. I have learnt that that step had been taken in consequence of the enormous cost attendant upon providing information. I do believe that we should endeavour to keep all Members aware of what takes place, so the answer should be given to all.

Hon. Member Ms. Teixeira, do you wish to have the floor?

**Ms. Teixeira:** Yes Sir. The first thing, the practice in this House, up to 2014, is that any question the answer was circulated to all the Members. I do not know about now, but that was what it was and that is why the person, asking the question, asked the question and that the response be given to the Clerk of the National Assembly for sharing in the House. That has always been the practice up to 2015.

Secondly, in relation to the debate itself, we, as Members of Parliament, are elected as to represent....

**Mr. Speaker:** Hon. Member Ms. Teixeira, are you speaking to something that the Speaker has commented on?

**Ms. Teixeira:** Yes. It is the second issue.

**Mr. Speaker:** Hon. Member Ms. Teixeira I will allow you and then you may have to sit before finishing, but please proceed.

**Ms. Teixeira:** Mr. Speaker I show respect generally to people. I am a big woman. I am not five years old. I do not mind taking my seat, Sir.

**Mr. Speaker:** Then please do that.

**Ms. Teixeira:** I am not five years old. I am a politician for 30-odd years.

**Mr. Speaker:** Hon. Member, please take your seat.

**Mr. Ali:** I rise to address an issue that you have alluded to earlier.

**Mr. Speaker:** What is that, Hon. Member?

**Mr. Ali:** That is the content of the debates that occur in this House.

**Mr. Speaker:** Is the context of the debate?

**Mr. Ali:** It is the content of the debates.

**Mr. Speaker:** I will listen to the Hon. Member.

**Mr. Ali:** Thank you very much Mr. Speaker. It is our view on this side of the House that the content of our presentations are relevant to the information that is required by the populace out there. It is relevant to the issues that are at hand and we believe strong on this side that our presentations, which we would have made in all the debates, are relevant and direct to the subject at hand and we are not guilty in any way of moving away from any issue that is before this House.

**Mr. Speaker:** Hon. Member, I thank you but I will suggest that you bear in mind what I did say today.

## **ADJOURNMENT**

**Mr. Nagamootoo:** Mr. Speaker, I move that this House be adjourned until Friday 6<sup>th</sup> January at 2p.m.

**Mr. Speaker:** The House is adjourned until 2 p.m., tomorrow, Friday 6<sup>th</sup> January. Hon. Members, are you leaving before the Speaker has left the Chamber?

*Adjourned accordingly at 10.56 p.m.*