NATIONAL ASSEMBLY
OF THE PARLIAMENT OF
THE CO-OPERATIVE REPUBLIC
OF GUYANA

OFFICIAL REPORT

PROCEEDINGS AND DEBATES OF THE NATIONAL ASSEMBLY OF THE FIRST SESSION (2020-2024) OF THE TWELFTH PARLIAMENT OF GUYANA UNDER THE CONSTITUTION OF THE CO-OPERATIVE REPUBLIC OF GUYANA HELD IN THE DOME OF THE ARTHUR CHUNG CONFERENCE CENTRE, LILIENDAAL, GREATER GEORGETOWN

82ND Sitting — Friday, 17TH May, 2024

PARLIAMENT OFFICE
HANSARD DIVISION

The Assembly convened at 10.29 a.m.

Prayers

[Mr. Speaker in the Chair]

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Brickdam,
Georgetown.

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(i) MEMBERS OF THE PEOPLE'S PROGRESSIVE PARTY/CIVIC (PPP/C) (38)

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Georgetown.

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+ Hon. Bharrat Jagdeo, M.P., *[Absent]*
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+ Hon. Mohabir Anil Nandlall, M.P.,
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Ministry of Legal Affairs,
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+ Cabinet Member

*** Non-Elected Speaker**

Senior Ministers (16)

+ Hon. Gail Teixeira, M.P.,
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Minister of Parliamentary Affairs and Governance,
Ministry of Parliamentary Affairs and Governance.
Government Chief Whip,
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+ Hon. Hugh H. Todd, M.P.,
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Minister of Foreign Affairs and International Co-operation,
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Ministry of Public Works,
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Kingston,
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+ Hon. Dr. Frank C. S. Anthony, M.P., *[Absent – on leave]*
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Ministry of Health,
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+ Hon. Priya D. Manickchand, M.P.,
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Ministry of Education,
Lot 26 Brickdam,
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+ *Hon. Brindley H.R. Benn, M.P.,
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Ministry of Amerindian Affairs,
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Minister of Labour,
Ministry of Labour,
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Minister of Natural Resources,
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+ Cabinet Member

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Ministry of Culture, Youth and Sports,
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Minister within the Ministry of Public Works,
Ministry of Public Works,
Wight's Lane,
Kingston,
Georgetown.
Hon. Anand Persaud, M.P.,
Minister within the Ministry of Local Government and Regional Development,
Ministry of Local Government and Regional Development,
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Georgetown.

+ Cabinet Member

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Corentyne,
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Hon. Mr. Faizal M. Jaffarally, M.P.,
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*** Non-Elected Minister**

MEMBERS OF THE OPPOSITION (32)

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Hon. Ms. Juretha V. Fernandes, M.P.,
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(ii) <u>A New and United Guyana, Liberty and Justice Party and The New Movement (ANUG, LJP & TNM) (1)</u>

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Clerk of the National Assembly,
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Ms. Hermina Gilgeours,
Deputy Clerk of the National Assembly,
Parliament Office,
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Audio Technician
Mr. Daison Horsham,
Audio Technician

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ANNOUNCEMENTS BY THE SPEAKER

Welcome to Teachers and Students of Marian Academy

Mr. Speaker: Hon. Members, this morning we are joined by teachers: Ms. Fredericks, and Ms. Perreira, and 52 Grade Six students of the Marian Academy. Let us welcome them. These are a very special bunch of children. On Wednesday, when I went to collect a very special child, many of them asked me if they could come in the Dome of the National Assembly. Let us say thanks to the Principal (ag.), Sister, Ms. Shelly Jhetoo, who on very short notice, got the permissions from their parents so they could be here with us today. While we are saying this is the Dome, for us and these students, if you look from the outside, you will see the shape of a diamond. The roof of the Dome is a diamond. In the construction of the Arthur Chung Conference Centre (ACCC) – that diamond is the beacon of prosperity which will shine from our land. That is what it represents. Once again, teachers: Ms Fredericks and Ms. Pereira, thank you for accompanying the children here today.

Encouragement to utilise the Paperless Parliament Booth

Hon. Members, we have the Paperless Parliament 2025 Booth, again, established today. We are encouraging you to visit the booth so that we can migrate more of us onto *paperlessness*. These 50 odd children from the Marian Academy, after observing them for one year, I will tell you that they received their lessons virtually and digitally. They answered their assignments online. While they had big book bags, they did more than half of their work online. I can testify to that. Let us take a lesson from our children. Of all the Members of Parliament (MPs) here, we only had 16 Members signing up and reviewing this Paperless Parliament protocol in the last two sittings. Please, I am encouraging you, before we start sending everything digitally, please, make use of the facility.

PRESENTATIONS OF PAPERS AND REPORTS

The following Paper and Reports were laid:

(1) Agreement No. GY-00009 dated 23rd February, 2024, between the Cooperative Republic of Guyana and the Inter-American Development Bank (IDB) for an amount of US$150,000,000 for the establishment of a Conditional Credit Line for Investment Projects (CCLIP). The CCLIP is to be used for Transforming Guyana's Education Sector. Under the CCLIP, the first individual loan operation has been processed (Loan Contract No. 5809/OC-GY below) in keeping with the Beneficiary's development priorities.

(2) Loan Contract No. 5809/OC-GY dated 23rd February, 2024, between the Cooperative Republic of Guyana and the Inter-American Development Bank (IDB) for an amount of US$90,000,000, to finance the first individual operation for the Support for Educational Recovery and Transformation Program in Guyana. This Project will be financed through the abovementioned Conditional Credit Line Agreement No. GYO0009 dated February 23rd, 2024, and contribute to the development of the required human capital needed to manage and drive economic growth and diversification as outlined in Guyana's National Development Plan.

(3) Amendatory Contract No. 1 Loan Contract No. 4676/BL-GY (Amendatory Contract No. 1) dated 23rd February, 2024, between the Cooperative Republic of Guyana and the Inter-American Development Bank (IDB), to revise Loan Contract No. 4676/BL-GY dated 11th February, 2019, to finance the Original "Energy Matrix Diversification and Institutional Strengthening of the Department of Energy (ESMIDE) Programme.

(4) Dollar Credit Line Agreement dated 15th March, 2024, between the Government of the Cooperative Republic of Guyana and the Export-Import Bank of India for US$23,370,000 to finance the procurement of two Hindustan 228-201 aircrafts from Hindustan Aeronautics Ltd.

(5) Dollar Credit Line Agreement dated 29th February, 2024, between the Government of the Cooperative Republic of Guyana and the Export-Import Bank of India for US$2,500,000 to finance the installation of Solar PhotoVoltaic Power Plant at Cheddi Jagan International Airport, Guyana.

[*Senior Minister in the Office of the President with Responsibility for Finance and the Public Service*]

(1) The Civil Aviation (Rules of the Air) Regulations 2024 – No. 4 of 2024;

(2) The Civil Aviation (Operations) Regulations 2024 – No. 5 of 2024;

(3) The Civil Aviation (Aviation Accident and Serious Incident Investigations) Regulations 2024 – No. 6 of 2024;

(4) The Civil Aviation (Aerodrome and Ground Aids) Regulations 2024 – No. 7 of 2024;

(5) The Civil Aviation (Airworthiness) Regulations 2024 – No. 8 of 2024;

(6) The Civil Aviation (Personnel Licensing) Regulations 2024 – No. 9 of 2024;

(7) The Civil Aviation (Air Navigation Services) Regulations 2024 – No. 10 of 2024; and

(8) The Civil Aviation (General) Regulations 2024 – No. 11 of 2024.

[*Minister of Public Works*]

QUESTIONS ON NOTICE

[For Oral Replies]

Erection of Billboard of Design of Office Complex by the Ministry of Public works in the Houston Area, Mandela/Eccles Interlinked Road

Mr. Speaker: Hon. Members, there is only one question on today's Order Paper. The question is for an oral reply. It is in the name of the Hon. Member, Ms. Ferguson, and it is for the Hon. Minister of Public Works. Hon. Member Ms. Ferguson, you may proceed with your question.

Ms. Ferguson: Thank you, very much, Mr. Speaker. Mr. Speaker, before I move to the question, a pleasant morning to the House. Let me personally welcome the young, future leaders from Marian Academy at this morning's session. I trust you enjoy. Teachers, welcome too.

Mr. Speaker, you would agree with me that this particular question on the Order Paper has been overtaken by time – some six months and 19 days to be practical. I know, last week, my goodly Friend, Bishop Edghill, and I dealt with a few matters that were months on the Order Paper. For the records of the National Assembly, I will still proceed, despite me knowing what is happening on the land currently. Goodly Bishop Edghill, let us go. During the estimation of the 2023 Budget, I suggested to Hon. Minister of Public Works, Bishop Juan Edghill, to erect a billboard depicting the design of the office complex and the Minister made a commitment to erect same.

(1) Could the Hon. Minister inform the National Assembly what has caused the delay in the erection of the billboard displaying the design of the office complex in the Houston Area?

It was the Houston area – now it is 11 kilometres (km) from the Heroes Highway roundabout. Hon. Member, could you proceed? Thank you.

Mr. Speaker: Hon. Minister of Public Works, Bishop Edghill, you have the floor.

Minister of Public Works [Bishop Edghill]: Mr. Speaker, I thank the Hon. Member for her question. Every time we revisit this particular project, a greater level of amusement accompanies it. The Hon. Member, last week, while we were answering questions that she posed, held up a photograph with the billboard.

10.44 a.m.

Then, the Hon. Member returns to the House to ask me where the billboard is. Mr. Speaker, you will remember that nice big photograph on the billboard. No billboard could be found at the site that we had discussed in this House where we were going to build the office complex at Houston, of which I described that land in detail as requested. The billboard can be found where the Hon. Member photographed it, at the new plot of 20 acres in the alignment of the connector road between the Jaguar roundabout to the East Coast/East Bank new highway. Mr. Speaker, I went beyond that at our end of the year press conference. I revealed to the entire nation of the design of the complex, what it would look like and the artist's impression. That was published in several daily newspapers in our country. There is absolutely no lack of information as to what the office complex would look like or where the billboard is directed. Thank you very much, Mr. Speaker. [*Applause*]

Ms. Ferguson: Thank you very much, Mr. Speaker and I thank the Hon. Member for his response. I must make it clear to this honourable House that 'Ferguson' is not to be blamed for the question being asked this morning and the answer being proffered by the Hon. Member. Earlier, I said, firstly, before I put the question, that this particular question has been overtaken by time. Secondly, I said these questions have been on the Order Paper for six months and 19 days. Sir, that is what I said. If you look at when these questions were published, it states "30th October, 2023" . Mr. Minister, long before your "end of year press conference" where the

entire nation saw the design and all sorts of things, these questions were tabled in this National Assembly. It is not the fault of the Hon. Member on this side of the House because if we had met regularly, these questions would have been answered. Do not come grandstanding here, Hon. Minister. With that being said, I will not proceed with the second question because I think the answer has been provided. Thank you very much.

Mr. Speaker: Thank you very much, Hon. Member. I will give the Hon. Minister an opportunity to respond and, then, I will make some comments.

Bishop Edghill: Mr. Speaker, I think it is clear to every member of the Guyanese society that every question that is asked of the Government in this National Assembly, once it appears on the Order Paper at the appropriate time, we answer those questions, whether it be orally or in writing.

Secondly, I am proud to indicate, on this side of the House, of the level and detail of information provided. There is absolutely no lack of transparency and accountability when it comes to our work. We take our roles, as Government and as ministers, very seriously. We think we owe it to the nation to say exactly what we are doing. My Hon. Colleague, the Hon. Senior Minister in the Office of the President with Responsibility for Finance and the Public Service, just tabled in this National Assembly some very, very important documents, spelling out agreements that we have with financial institutions as it relates to the development of Guyana, spelling out what those programmes are and how people will benefit. When it comes to answering questions, it could be no fault of this Member that I am only now answering this question. Whenever the question is put on the Order Paper, the Members answer that question. Mr. Speaker, you may need to assist the Hon. Member with the other aspects of her commentary that I may stay away from. Thank you very much, Sir.

Mr. Speaker: Thank you very much, Hon. Minister. Yes, some of the issues that were raised by the Hon. Member, Ms. Ferguson, have to do with the process and systems that we have for getting these questions on the Order Paper and having them answered. Sometimes, the Chief Whips need to talk to the Clerk of the National Assembly and the Speaker of the National Assembly.

PERSONAL EXPLANATIONS

Ms. Ferguson: Personal Explanation.

Mr. Speaker: Hon. Member, you may go ahead.

Ms. Ferguson: Thank you very much, Mr. Speaker, for acknowledging me.

Mr. Speaker, I stand under this item, 'Personal Explanation', to bring two matters to the attention of the National Assembly that are personal to me. During the debates last week on Thursday and Friday, the Hon. Member, Dr. Ashni Kumar Singh, stood in this National Assembly and exposed a photograph of my personal home and that of my family. It has created a major security risk for myself and my family. [*Interruption*]

Mr. Speaker: Hon. Member, I wanted to hear what the 'Personal Explanation' was. There are some rules governing what are captioned under this particular heading. We will engage with you and any Member with respect to what matters could be raised under 'Personal Explanation'. At this moment, I cannot entertain that issue. The other issue is, under Personal Explanation, courtesy should come to the Speaker of the National Assembly by the Clerk of the National Assembly to say, "I wish to make a personal explanation regarding this", so we can have a ruling, as the Chief Whip for the Opposition did this morning. Thank you very much. You know I always give you special attention, that is why I allowed you to speak. Thank you, Hon. Member.

[*Interruption*]

[*Mr. Speaker hit the gavel*.]

We have the Clerk of the National Assembly on his feet.

REQUESTS FOR LEAVE TO MOVE THE ADJOURNMENT OF THE ASSEMBLY ON DEFINITE MATTERS OF URGENT PUBLIC IMPORTANCE

Hon. Members, we have received notice of a matter that the Hon. Member, Ms. Walton-Desir, wanted to raise. I will not allow her to speak because it is not a matter of Definite Matters of Urgent Public Importance. In fact, I want to say, in the last 24 hours, I received two notices and one was withdrawn. Some of these notices – I could use a very harsh word – questions under these headings need to be discussed internally and with the Clerk of the National Assembly. I can understand the politics of a Member wanting to raise to say he/she brought 50 motions under a heading and the Speaker never allowed one. I understand the politics of that but there are rules that govern this particular heading. The matter has to be urgent, happening within the recent few hours or days. Since that question came to me, I also noticed that particular matter was addressed prior to. I do not want to impute any untoward motive by anyone. Having served as Minister of

Labour, I learnt a bit about the procedure. Instead of going to the highest court in the land, one has to go through the system before one reaches there. I do not think that the particular issue was vented at the level of the first stage of the process.

Ms. Walton-Desir: Good morning, Mr. Speaker, I rise…

Mr. Speaker: Is it on a Point of Order?

Ms. Walton-Desir: I rise to seek clarification, under Standing Order 40 (b). I am assuming that you are speaking to the motion that I had put as it relates to the issue of Venezuela and the escalating situation that is happening daily. You made reference to it not…

Mr. Speaker: Hon. Member, at this stage, we dealt with what we had received last week in terms of this video being circulated and I have made a ruling. Could you please take your seat now? Thank you, please.

Ms. Walton-Desir: Mr. Speaker, I am…

INTRODUCTION OF BILLS AND FIRST READING

Presentation and First Reading

MOTOR VEHICLES AND ROAD TRAFFIC (AMENDMENT) BILL 2024 – BILL No. 9/2024

A Bill intituled:

"AN ACT to amend the Motor Vehicles and Road Traffic Act."

[*Minister of Home Affairs*]

PUBLIC BUSINESS

GOVERNMENT'S BUSINESS

BILLS – Second Readings

SEA AND RIVER DEFENCE BILL 2023 – Bill No. 21/2023

A Bill intituled:

"AN ACT to repeal and replace existing legislation on sea and river defence, to make provision for protection from inundation from the sea or rivers and to provide for the establishment, construction and maintenance of sea and river defences, natural defences and to provide for related matters."

[*Minister of Public Works*]

10.59 a.m.

Bishop Edghill: Mr. Speaker, please allow me to join you in welcoming the teachers and students of the Marian Academy who have graced this august Assembly with their presence today to witness as we participate in today's business.

I rise to move that the Sea and River Defence Bill 2023 be read for a second time today. I want to begin the debate by indicating, lest anyone may have any doubt, that this Bill should be passed without any controversy. I say that because the importance of our sea and river defences is not something that should be tied up in partisan politics. It is a necessity for all the people of Guyana, whether households or persons involved in agriculture, ensuring that, while we develop our oil and gas sector and the development of shore bases and other facilities, things are done in keeping with the law, and also, that we have adequate flood protection systems. All the necessary things that are needed to ensure that we have a society that lives with a sense of security, that one day we will not wake up and discover that we are all gone because of the waters that could invade our land spaces because of how we are located and how we operate.

The second reason why this Bill should be passed without any controversy is because this is something that has been going on for a while and which has moved from one Government in office to another Government in office. The facts will show that, by 2019, with funding from the 11th European Union (EU) European Development Fund (EDF), a consultancy was engaged. I think the name of the Belgian firm was NIRAS. They had a foreign consultant by the name of Mr. Chris Hedley, and a local who joined that consultancy, Ms. Alana Lancaster. They essentially worked on updating what was before two separate pieces of legislation, Chapter 64:01 and Chapter 64:02, bringing those into one legislation, and ensuring that the updated version reflects the realities of our current situation.

So, Members of the A Partnership for National Unity and Alliance For Change (APNU/AFC), who now sit on the Opposition benches, should have absolutely no difficulty with this Bill because, while in Office, they actively participated in getting this process moving. Yours truly today, as the incumbent, took that responsibility of seeing what was started being refined and come to this National Assembly to have this legislation passed. I anticipate no difficulty whatsoever in the passage of this piece of legislation. For the benefit of the nation, for the public record and for the record of the National Assembly, I will take some time to explain the merits of this Bill. The vulnerability of Guyana's coastal territory to flooding necessitates the establishment of effective administrative and

governance frameworks to ensure integrated and sustainable flood management. In this regard, the Government of Guyana, in recognition of the social and economic importance of effective flood management functions and systems in a national context, wishes to introduce a new legislation to strengthen the management of Guyana's sea and river defences. The current legislation in this area dates back to 1883. While it has been updated many times, it is outdated and not adequately aligned with current international standards for sustainable development.

This updated Sea and River Defence Bill 2023, when enacted, will replace the existing legislation, that is, the Sea Defence Acts, Chapter 64:01 and Chapter 64:02, thereby consolidating the existing legislation into a single act. The new legislation will also facilitate the implementation of the national sea and river defence sector policy, which would emphasise the principles of integrated coastal zone management and would widen the scope of strategic monitoring, control and enforcement. Significant enhancements to the institutional framework for coastal flood management will be achieved through the following key adjustments: one, enhancement of the mandate functions and powers of the Sea and River Defence Board; two, the enhancement of a system to define and demarcate flood defences according to technical, social and other criteria rather than by the existing arbitrary definitions; three, it will introduce a system of flood management planning to ensure flood defences are properly identified, designed and maintained, while at the same time enhancing public participation and consultation; and four, there will be the enhancement of the Government's enforcement powers, increasing the penalties for infractions.

The purposes and scopes of the current Sea and River Defence Acts are relatively narrow. They make provisions for the establishment of a Sea and River Defence Board which is in turn charged with the care, maintenance, management and construction of the sea and river defences. It is not intended that the redraft Bill change these scopes significantly. The objective of the redraft is not to rewrite the legislation or to introduce major policy changes, but to update and refine the legislation to meet current and future challenges.

Some key changes that you will see in this Bill that is before us today: one, there is consolidation. The most obvious change is that the two Acts, Chapters 64:01 and 64:02, have been consolidated. This was widely requested among stakeholders and makes sense as there are some areas of commonality or duplication between the two current Acts. Moreover, it allows for the establishment of a single and uniform system for procedural matters relating to flood defences, common institutional arrangements, common personnel responsible for administration and enforcement and common procedures for making regulations.

Two, as we continue to define some of the changes that you will see in the new Bill, for the definitions of sea and river defence, there are two key changes. The first is that the scope of the Act is extended to include 'mangroves and other natural features'. The other is that the previous definition of sea defence is removed, and it is to be replaced by 'a demarcated area or zone'.

There are two reasons for the first. The current definition comprises of a number of factors, including geographical features and other markers that were open to interpretation and susceptible to change over time, which renders the extent of a sea defence uncertain and open to dispute. The second is the criterion of 50 feet landward from the centre of a sea or river dam, et cetera. It is insufficient in many cases and again susceptible to the change or changes over time. Under the Sea and River Defence Bill 2023, following a specific process – and you can examine, in particular flood protection and the plans below – the Sea and River Defence Board can demarcate the specific area of the flood defence as needed and based on technical and social criteria. This means the extent of the defence can be precisely what is required and, also, clearly defined. Note, there are transitional provisions in the Bill which means that, while this comes into law, all existing defences will continue to apply until replaced by the demarcated zone since it may take time to complete this process.

Three, the Sea and River Defence Board is maintained mostly as it is now. The mandate is extended so that it can play a wider role in planning and managing flood defences, and it also has responsibility for new areas in the Bill which will include developing flood protection plans, overseeing enforcement, determining administrative penalties, et cetera. The rules or procedure of the Board are specified in more detail and stronger reporting duties are provided.

11.14 a.m.

Four, the same river defence plans – a specific process is set out for the developing plans as a pre-requisite to developing a sea and river defence. This is designed to ensure that there is a proper and extensive public consultation and relevant criteria, including social criteria are taken into account. We are continuing our advocacy by way of this legislation, that

while we bring improvements and development across Guyana, engaging in consultations with the stakeholders is important.

Five, authorised officers – waterfront protection notices, in the current Acts, which are 64:01 and 64:02, various persons can be authorised to carry out various tasks although not related to enforcement but *via* separate procedures for authorisation. In the Sea and River Defence Bill 2023, which we are coming to the House today with for the Second Reading and hope that it will end at its third reading and passed, it is possible for the Minister to designate, in advance, authorised officers who can exercise a range of inspections, monitoring, assessments and enforcement functions. In each case, the authorised officer can exercise their own discretion to act, but must utilise a waterfront protection notice, which sets out their authority to act and provide safeguards for stakeholders. While we are moving to define enforcement, the Bill also provides safeguards for stakeholders so that there could be no abuse.

Criminal penalties, these are substantially increased in this Bill. Administrative penalties, this Bill introduces a system for issuing administrative penalties for minor offences. These are not tickets, but an offer made to defendants after the review process by the Board. On other matters, generally this Bill seeks to modernise the approaches in the legislation, in particular regarding the balancing of rights and powers. That is, to ensure that the Government has the power it needs to ensure proper and effective flood defences, while balancing the rights of individuals who may be affected. This Bill contains various procedural safeguards and enhanced requirements for public consultations and access to information.

Mr. Speaker, I would now like to draw your attention and the attention of Members of the House to the various sections of the Bill. I will deal more particularly with specific references to changes and adjustments.

Part I sets out Preliminary matters, including definitions used in the Act, what are the key changes and improvements introduced.

Section 2 – where still relevant, definitions from Chapter 64:01 and Chapter 64:02 have been used. In some cases, it has been necessary to amend definitions to widen the scope, for example, to include mangroves in the scope of the legislation or to define new concepts and terms in the Bill, for example sea and river defence zone.

Section 4 – "General duties of cooperation with respect to flood defences", have been introduced. The intention of this provision is to place an onus on public bodies to cooperate with the Sea and River Defence Board in planning, preparing policy and decision-making which can pose flood risks. It identifies examples of the form of cooperation which could be utilised in achieving this objective. It allows the Minister to give direction to the Board with respect to facilitating cooperation between itself and public bodies.

Part II – "Sea and River Defence Board" reestablishes the Board, sets out its core functions and provides for the establishment of a permanent secretariat. The Schedule sets out the rules of the Board in more detail. Key changes and improvements are introduced.

Section 5 - under the current Act, Chapter 64:02, the Board is intended to have separate legal personalities and to perform executive functions. Under the Sea and River Defence Bill 2023, it is intended that the Board be part of the Ministry with no executive functions and no independent financial responsibilities or funding. Notwithstanding this, it is also intended that the Board operates with degree of autonomy from the Ministry and has its own permanent structure within it.

Section 6 – sets out the management, decision and enforcement "Functions of the Board". The Board has expanded responsibilities compared to Chapter 64:02 and also becomes responsible for sea and river defence outside sea defence districts, that is, those currently covered by Chapter 64:01. It gives the Board functions outside of areas that were covered in Chapter 64:01 and Chapter 64:02.

Section 7 – the Bill requires a Secretariat to be established as a permanent structure which is staffed and equipped to support the Board. The staff will be nominated through a nomination by the Board and appointment by the Minister.

Section 8 – clarifies that the Board does not have independent funding and specifically the budget for the Secretariat should be derived from the Ministry. Any employees, including the executive secretary, would be Ministry employees and are paid their salaries from the Ministry. Provision is made for the Board to enter into agreements for funding, for example, with development bank funds for specific purposes. While those purposes are on-going, the funds are kept exclusively for the Board. However, if there are any unused funds after those purposes have been completed, they are to be returned to Central Government.

Section 9 - the Bill seeks to ensure transparency and accountability by reporting on the work and activities of the Board.

Part III of the Bill, flood defences in flood districts. In effect, a re-enactment of the core provisions of Chapter 64:02, and which is designed to replicate the powers of the Board in sea and river districts, key changes and improvements introduced.

Section 12 – apart from maintaining existing districts, the intent of this section is to place a duty on the Board to review and maintain flood defences nationally and to frame the minimum basis for consideration, natural threats, man-made activities, changes, economic, environmental and social factors, changes in land use and requests from Local Government Organs.

Section 13 – the Bill seeks to take a step approach. The first step is to keep under review, the need for new flood defences or improvements to flood defences, as we see in section 12. If it is determined that if new construction is required, the next step is to develop a detailed plan for the construction works and then to consult on that plan or plans before seeking ministerial approvals. The intention of section 13 is to provide a detailed set of criteria to be included in the plan and to provide the Board and its agents with the necessary powers of entry, *et cetera*, to conduct surveys and other enquiries.

Part IV – "Local sea and river defences", in an effort to enhance with is happening, we are effectively re-enacting or we will see a re-enactment of the core provisions of chapter 64:01, save that the procedures for carrying out actions are transferred to the Board and amalgamated with the procedures now also covering Part XII, key changes and improvements that you will see in Part IV.

Section 32 – the serving of waterfront protection notices by authorised officers, if works ordered under this Act are not carried out within a reasonable period of time.

Part V – "Waterfront Development Zones" have been introduced and set out the procedures to be followed in respect of development to waterfront areas.

Part VI – "Information and Public Participation" have been introduced and new provisions added to ensure that information is made accessible to the public and providing a procedure for all consultations required under the Act.

Part VII – "Authorised Officers" – establishes authorised officers repowers to enter land, carry out inspections, order works and take enforcement actions, *et cetera*. This removes the need for officers to be authorised in individual cases.

11.29 a.m.

Key changes and improvements introduced. The Board currently has no enforcement powers. Enforcement powers that might be needed in respect of sea and river defences are dispersed among several other Acts and agencies. The intention of Part VII is to provide hybrid enforcement officers for the purposes of this new legislation. Officers may be appointed solely for the purpose of this Act, or they may be authorised under other Acts, those who are given additional enforcement powers under this Bill.

Part VIII – waterfront protection notices, this creates 'Flood Protection Notices' as the operational procedure for authorised officers to conduct their work and to take enforcement action. The aim is to ensure that the Act and its regulations are complied with and to ensure the protection of people and the environment from flooding. The notice is preferred as a standard approach in regulatory matters.

In Part IX, we deal with 'Offences'. This deals with offences. They are substantially increased in the Act, and separate penalties are specified for people and companies. There are also extended provisions on liability for damage.

Key changes and improvements introduced. In the current Sea and River Defence Act 64.02, the maximum penalty imposed for offences is $30,000, and imprisonment for a period of six months. In this Sea and River Defence Bill that is now before the House, penalties are significantly increased for offences which impact adversely on flood protection systems. The following maximum penalties have been introduced. Maximum general penalty for corporate bodies, $10 million. Maximum general penalties for persons, $1 million. It also includes provisions for government compensation for loss and damage caused as a result of offending activity. This is likely to be a more significant deterrent for large companies.

Part X, 'Administrative Penalties', this adds new provisions on 'Administrative Penalties' as an alternative to prosecution. This part introduces 'Administrative Penalties' as an alternative sanctioning system to court-imposed penalties. The intention is that the Board will have responsibility for assessing and offering these penalties in order to ensure a more efficient and more practical system of sanctioning compared to prosecution, which is rarely used. To protect the rights of accused persons, 'Administrative

Penalties' may be refused, and the right to defend an accusation in court remains.

Part XI, regulations, this provides that the Minister may make regulations to implement the Act. Part XI addresses 'General and Miscellaneous Provisions' and provides for various miscellaneous matters, mostly procedural where it is spelled out.

Part XII, moving from Chapters 64.01 to 64.02 to the new Act, as we anticipate this Bill to be passed today, it provides for transitional provisions, consequential amendments and repeals, and provides for transitional arrangements and consequential changes. This will be completed when the remainder of the text is complete. It will enable current processes to be continued until replaced by new mechanisms in the Bill.

Mr. Speaker, I have highlighted for the Assembly, the intent, the impact and the improvements of what can be obtained by us as a House passing this piece of legislation and allowing it to become law. While I close and invite my Hon. Colleagues to make their contributions to this debate, I am sure, Mr. Speaker, you will agree with me that in the current era of Guyana's development, we have to pay careful attention to what is happening with our sea and river defences. Eventually, sometime, we will see land reclamation as something that will be taking place. We have to address the issues of the blue economy while we have an aggressive, successful and internationally acclaimed green framework in the Low Carbon Development Strategy (LCDS). We are in an evolving environment, and by no means can this Bill be considered perfect for the next hundred years, but it presents us with a framework of what we can use now as a base to get us to the next hundred years. I want to thank you very much, Mr. Speaker, for the time that was afforded me to bring to this House the various explanations on the sections of the Bill. Thank you very much, Sir. [*Applause*]

Ms. Walton-Desir: Before I begin my comments on the Bill before us, I would like to call on the Hon. Member, Mr. Todd, to kindly convene a meeting of the Parliamentary Sectoral Committee on Foreign Relations. I have been writing to you on a number of occasions…

Mr. Speaker: Hon. Member, could you confine your contribution to this Bill? I have received notice here that on 14th May, the Hon. Minister, Hugh Todd, had asked the Clerk of that Committee to convene a meeting on I think it is 3rd June, Hon. Minister?

Minister of Foreign Affairs [Mr. Todd]: That is correct, Mr. Speaker.

Mr. Speaker: Yes, 3rd June. Thank you.

Ms. Walton-Desir: Thank you, Mr. Speaker. I had hoped that given the urgency of the situation, the Hon. Member would have seen it fit to convene a meeting sooner.

Mr. Speaker: Hon. Member, if you persist with the current stance that you have, I may have to ask you to consider taking a break for today. You may proceed with your contribution to the Sea and River Defence Bill, please.

Ms. Walton-Desir: Thank you, Mr. Speaker. I assure you that I feel very well. I do not suppose that I would need to take a break for the rest of the day but let me proceed to the Sea and River Defence Bill. Mr. Speaker, as someone who has, from the inception of her being in this House, been crying out about the lack of attention to our Sea and River Defence, both in terms of budgetary allocations and the lack of fore-planning in the infrastructure projects we see along the coast, I was very heartened to see the current Bill being proposed, and I am happy to note as well that the Hon. Member has indicated that this has been work that has been ongoing for some time.

I want to signal from the outset our support for Sea and River Defence legislation, and as the Hon. Member said, this piece of legislation does seek to consolidate the two existing Chapters 64.01 and 64.02. I regret to say, however, that in the circumstances, we want to strongly recommend that this Bill be sent to a special select committee, and I will give you a few of the reasons why. The Hon. Member before me referenced, and correctly so, the importance of us improving the legal infrastructure in this regard. These are some of the concerns I have, however, and they were referenced by the Hon. Member who went before me in terms of the restructuring of the definition of sea defences. If we look at Chapter 64.02, the existing definition of sea defences includes, and I will specifically reference, for example, subsections (a) and (d), which states:

> "any shell bank or reef, mud bank or reef, sand bank or reef, or other natural feature…"

One would recall that the Hon. Member before me referenced the inclusion of natural features, but specifically appeared to confine those to mangroves. Mr. Speaker, what has happened in this instance is that we have restricted the definition of sea defences, and I will read here what it says, sea or river defence means any dam, concrete, stone, timber, wall, groyne or other construction used by the Board, a

proprietor or occupant of land as a protection against flooding from the sea or river defence. A reading of that definition suggests that there is a positive act of construction. However, the previous definition of sea defence notes something that the Hon. Bishop Edghill himself noted, that there are naturally occurring river and sea defences. To the degree that these are now excluded from the present legal framework, it poses a problem for us. It poses a problem for us, because if, for example, we take that out and we do not acknowledge it, because I will repeat for emphasis to my members on the other side, sea defences will now mean, and I will repeat, any dam, concrete, stone, timber, wall, groyne or other construction. Not a naturally occurring feature, but any other construction which suggests based, on the way it is drafted, that it has to be constructed by the Board, a proprietor, or an occupant by land against flooding. Comprehend with me if you must Bishop because this is important.

11.44 a.m.

What I am pointing out to you here is that, in redefining sea defences and clearly, obviously, excluding a shell bank, dam, reef, mud bank, or sand bank, which is defined explicitly in Chapter 64.02; what that results in is, if, for example, this feature is destroyed and it results in inundation from a river or the sea, it does not fall within the ambit of this so as to attract a penalty for the destruction of a naturally occurring sea or river defence. So, someone destroys a dam, for example. Because we have revised and narrowed the definition of a sea defence, we have, therefore, excluded that act, which will result in what we are trying to prevent in the first place, which is inundation from a river or the sea. What I am saying to us is that this requires us to sit very quickly in a Special Select Committee and see how we can close that lacuna, because it is an obvious and glaring one. The other point that I want to make is that there is indeed a reference to…in the Long Title of the Act. It reads:

> "to repeal and replace existing legislation on sea and river defence, to make provision for the protection from inundation from the sea … rivers and to provide for the establishment, construction and maintenance of sea and river defences, natural defences, and to provide for related matters."

So, the Long Title references natural defences, which we understand to be defences that are naturally occurring and not constructed by man. We have some inconsistencies there that we have to close before this is a good and sound piece of legislation. Whilst I understand the Bishop, and I agree that no legislation will be perfect, this is too glaring a lacuna for us to proceed. So, I want to recommend that we take this to a Special Select Committee so we can iron this out and close the necessary gaps. We have to plan now for the environment in which we will live. We have to plan now for the environment of the future. What I want to exhort us in this House is that we do not engage in lazy legislating, but that we include those very important issues that we know and understand are currently and will continue to be a threat to the economic development of our country. To that degree, I want to exhort that there ought to have been a far more… [*Interruption*]

Mr. Speaker, I want to make another point on the need for this legislation to be forward and future-looking, and that is I had hoped to see greater emphasis on the need for climate-resilience measures to be included. We are aware that the flood risk map showed that Guyana's coast is expected to be inundated by 2030. Therefore, any legislation we pass now cannot ignore those realities but must demonstrate that it is cognisant of them and is taking stock of that fact. How do we as a House demonstrate and express that we are cognisant of those facts? We do it by specifically including the very key terms and provisions in legislation we are passing now.

[*Mr. Speaker hit the gavel.*]

I want to bring our attention to Part II of this Bill – Sea and River Defence Board, specifically, clause 6 of the Bill before us. I want to propose that we should really see a demonstration of this House's understanding that climate resilience, which is the ability to anticipate, prepare for and respond to hazardous trends or disturbances related to climate… We need to see that being featured more prominently in this Bill. So, I would have expected that, as a forward-thinking and forward-looking piece of legislation, what we would have seen is…For example, when we talk about the functions of the board, particularly, looking at the proposed clause 6, subsection (d):

> "to prepare sea and river defence plans and cost estimates for construction of sea and river defences."

I had hoped…and there is an opportunity for us to insist as a House, for example, that those plans include and integrate a climate-resilient standard into the design, construction and maintenance of sea and river defence infrastructure. That way, every member of the board and every member of the Ministry understands that if we are going to do this, it has to be forward-thinking. There is no greater way for us to demonstrate a forward-thinking House than to include

forward-thinking provisions in our legislation. There are a number of opportunities here to demonstrate that. For example, in clause 16, the issue of minor construction works needs, to my mind, some type of guidance as to what constitutes that. Who determines what that is? There is not enough, to my mind, in here to provide that level of guidance. We leave it to too much discretion.

I want to make one other observation, and that is in terms of a recommendation which could again be included in the current Bill. That is, whilst the Act, and commendably so, does speak to the issue of flood risks, what it is proposing to do is to identify flood risk zones. The danger of that or the limitation of that is that this is generally after a catastrophe – after people's houses have already been washed away and everything has already been flooded. So, what I want for us to be explicit in including is, that we could not only ensure that these plans provide information as to where we should not carry out certain activities…For example, there are certain places on the coast now where we should not be building flat houses. We should be building houses on stilts because they are in flood risk zones. So, a part of the mandate of this board and a part of these plans has to be identifying those areas along our coast and providing the necessary guidance to our people. For example, building codes and building guidelines could be issued for those flood-prone areas along the coast. So, a hardworking teacher, who really cannot survive on 6.5%, does not take his/her hard-earned money and build a flat house when, in fact, the house should be put on stilts so that it is preserved against the hazards and disasters that may arise. The other advantage of that is that it will provide a very good idea of the safety zones along the entire coast to which we could relocate persons from areas that are considered flood-prone and high flood-risk areas. I am aware that there is extensive, ongoing lidar survey work happening now across the country. This is good. We want to encourage that maybe the scope be expanded to provide the necessary topographical/hydrological information that is needed to make this really robust.

In closing, what I want to say is that in context and in practice, we support any piece of legislation that will see the issue of our sea and river defences being paid the kind of attention that they require. We have been calling for it. While in principle we support it, I believe we have to do some more work to tighten it. Particularly because of the manner in which we amended the definitions, there are two great lacunas present, and we have to close them. On the issue of waterfront development zones, which is the last issue on which I will speak before I take my seat, I am happy to see that it has been included in the present legislation. I would implore, however…because we know where this is heading and we have seen the very good developmental work done at the seawall, *et cetera*. It is aesthetically pleasing, but there is a social issue that underlies that. That is, there are at least 35 individuals who have been earning their livelihoods from selling and providing entertainment, *et cetera*, at the seawalls. So, my exhortation to the House and the Government is, please, as far as we possibly can, integrate these people, integrate these Guyanese citizens, into the plans for future development. For too long, the model of development that this Government has been practising has been leaving the poor and vulnerable completely out and has been making them poorer and more vulnerable. The men and women who were affected by the movement from the seawalls the other day, when you… [**Bishop Edghill:** Nobody was moved.] Mr. Speaker, I want to say something.

Bishop Edghill: Mr. Speaker, I rise on a point of order, 40(b).

Mr. Speaker: Under 40(b), I will have to offer to the current speaker on the floor your point of clarification and she would have to give leave, literally, for you to make that clarification. Hon. Member?

Ms. Walton-Desir: No, Mr. Speaker.

Mr. Speaker: She would not give way. You have a number of other persons coming…

Bishop Edghill: All right, Sir. Thank you. I am sure she is aware that she is not telling the truth.

Ms. Walton-Desir: Mr. Speaker, I was not even allowed to finish before I was accused of not speaking the truth. Let me say this. One of the things that I have is institutional memory. The good Bishop may remember that I worked in the Ministry of Public Works. I recall that the majority of people who have been plying their trades on the seawalls started at the other end. From 2012/2013 thereabouts, we have been consistently relocating those persons. Do you know what? The majority of them are being left behind. When those vendors were relocated, there were people who were promised that when this new development happened, they would have gotten a spot. The new development has happened, and those same people were not offered. Do you know what? Those spots were offered to friends, families, and favourites. So, do not let the Bishop come here to tell me about me not speaking factually.

Minister of Home Affairs [Mr. Benn]: Mr. Speaker?

Mr. Speaker: Hon. Minister Benn.

Mr. Benn: I believe I was the Minister who was involved.

Mr. Speaker: Hon. Minister, on the point of order on which you have risen, again, I will have to…

Mr. Benn: It is a point of clarification.

Ms. Walton-Desir: I do not give leave.

11.59 a.m.

Mr. Speaker: I cannot allow it unless the speaker on the floor yields to you. I am asking her if she will yield.

Mr. Benn: I am asking whether the Hon. Member will yield to me on the question.

Ms. Walton-Desir: I would not yield, Mr. Speaker.

Mr. Speaker: Hon. Member, Mr. Benn, you will have to give your observations to one of your other speakers. Thank you. You may continue, Hon. Member.

Ms. Walton-Desir: Mr. Speaker, my intention was to come up here, point out the lacunas in that Bill, hope that good sense prevailed so we could go to a Special Select Committee, close those lacunas, and bring a sound Bill back to this House. Since these gentlemen on the other side wish to cast aspersions about lying, we are going to talk about them. We are going to talk about the fact that the small man who has been plying their trade out there are constantly being left behind. What we are saying is that this Government must do better. There is empirical evidence to show that there is a woman – and I will not call her name without her permission – who was faithfully promised that if she moved, when these new booths opened, she would have been given one. She has not been given one. Do not come here to tell me about misleading the House; you are misleading the House.

Mr. Speaker: Hon. Member, when you say, "you are misleading", you are speaking to me.

Ms. Walton-Desir: I withdraw. Respectfully, Mr. Speaker, I am speaking to the Hon. Bishop Edghill and Minister Benn. Mr. Speaker, we have to be very clear about the type of development that we want to see. It cannot be a development that continues to leave the poor and hardworking Guyanese behind. People are affected every time we do that. Every time we move them around, they are affected. Why can they not be integrated into the future plans? Do you know what? It continues to make the relationship with those people harder. You told them if they moved, they would have gotten it. They have moved. Yet, it is only the friends, families and favourites who got it. What is the incentive for them to cooperate now? Then, we create a situation where force has to be used, and it erodes the entire morale of the society. My point is, just do it right in the first place and avoid all this back and forth. Do it right in the first place.

Mr. Speaker, as I said, I had intended to come up here and be very calm. Alas, the comments from the other side did not allow me to continue. So, my strong recommendation to us, in concluding, is that we take this Bill to a Special Select Committee. I am committed. The Members on the other side of this House are committed to getting it through as soon as possible. This gap which has been identified cannot be allowed to go forward unclosed. It is too much of a risk. Since we are talking about risk mitigation, let us engage in risk mitigation in this House. Let us take it to the Special Select Committee. Let us have our drafters sit with us, we would remedy what has to be remedied and bring it back to the House in short order. Thank you, Mr. Speaker. [*Applause*]

Mr. Speaker: Thank you very much, Hon. Member. Hon. Members, I think this is a good time to take the suspension for lunch.

Sitting suspended at 12.02 p.m.

Sitting resumed at 2.13 p.m.

Mr. Speaker: Thank you, Hon. Members. Please be seated. Hon. Members, let me thank all of the Hon. Members who took time to speak with the kids from Marian Academy. I now invite the Hon. Member, Mr. Indar, to make his presentation on the Sea and River Defence Bill.

Minister in the Ministry of Public Works [Mr. Indar]: Mr. Speaker, thank you very much for giving me the opportunity to make a few contributions on this very important piece of legislation, the Sea and River Defence Bill of 2023. I cannot, in good conscience, allow some of the remarks that were made by the Hon. Member, Ms. Walton-Desir, to go unanswered. I believe them to be misleading. I believe they are also sending the wrong signal to those who are listening in this House and those who are listening to the live feed coming out of the National Assembly. So, I have to address them. The first thing that I want to address is the claim and assumption that the Government of the day – our Government, my Government – has shown a lack of attention to sea defence. That was what she said. Now, in 2024, a few months ago, we were in this very House. In this very House, was the presentation of the Estimates of

Expenditure by the Hon. Dr. Singh. In those estimates, there was $4.5 billion for capital works and sea defence and $1.76 billion for the maintenance of sea and river defences, totalling $6.26 billion. Now, if sea defence did not grab the attention of our Government, how is it that we allocated such a large sum of money for the development of breaches on the shoreline as well as maintenance of those that are already there? How is it that our Government has put such a large sum of money in the budget that was scrutinised by this very National Assembly?

Sea and river defence: I want to go back to when we took Office in 2020. In 2020, when we took Office, the first thing that I did as a Minister in the Ministry of Public Works was go to a place called Danzig in Mahaicony. When we were there, the place was flooded – 2000 plus acres of land – and farmers up to today cannot even plant back their crops because of the salt water that went onto their lands. There was a breach down there for works that were awarded two years before and not completed under the A Partnership for National Unity/Alliance For Change Government (APNU/AFC). It was under their Government, Mr. Speaker. On the first day that I went into the Ministry, I took my long boots and went out to Danzig/Mahaicony. I could present those pictures from when I was there because I made a public post about it. For us on this side of the House, sea defence is a major part of the infrastructure of the country. River defence is a major part of the infrastructure. In addition to the traditional works that are done on sea and river defence, we now have to understand that the oil and gas sector of the country operates in the maritime sector. It is not land drilling. To support that sector, there needs to be robust legislation in place for sea defences and mechanisms to follow so as to manage and monitor what is going on with our sea defences. So, to say that we do not pay attention is just misleading. The facts are there to prove otherwise. I am sorry that the Member chose not to sit in when her statements are being rebutted.

Mr. Speaker, there is a general theme which is if you want to kill something and make it die a natural death and be forgotten, send it to a committee. Let us form a committee and send it there. Send it to a committee; let it stay there; let it hatch eggs; let it moulter; and all sorts of things so that it does not come to life. That is what the APNU/AFC Member has just put forward to the House – put it to committee. I am sorry to say but I do not agree with that. What the APNU/AFC needs to understand is that it was in Government only a few years ago. It had a chance to bring a Bill such as this. Where is the Bill? Why is it that we have it here now? If you brought the bill, why is it that we have it here now? [**Ms. Ferguson:** You behave as though Guyana started in 2015.] You said that you have always had this at heart; and you have always had your model of development and so. Where was the Bill? Where was the verbiage of the Bill? Where were the pages? Where were they? If you had it, can you present it to the House for deliberation? There was nothing. So, please do not come and say that you have sea defence and the development model at your heart, when you have nothing to show. The definition of sea defence in this Bill, as was raised by the Member…She raised the point that the definition does not include vegetation, planting material, natural formations and so on. What the Hon. Member failed to inform the House is that they did not read the Bill. Let me shed some light on the matter. In the definition on page 9, it states:

> "'sea or river defence' means any dam, concrete, stone, timber wall, groyne or any other construction used by the Board, a proprietor or occupant of land as a protection against flooding from the sea or the river."

That is the definition. What the Member is claiming in this definition excludes certain things because she did not read the Bill or the different parts. They had their chance. Let me explain. This definition takes into consideration the history of people putting sea wall, groynes, rip rap, natural formation, and everything else. It takes into consideration existing infrastructure. I will go to a whole separate part that deals with the offences. On page 41, under Offences, it states:

> "Removal of earth, shell and other materials as offence."

The offence at clause 61 states:

> "Any person who without lawful authority removes any earth, sand, shell, clay, gravel, shingle, mineral substance, plant material or vegetation, or any other matter of thing whatsoever from within a sea and river defence zone commits an offence."

Now, what is a sea and river defence zone? Again, the Member did not read the verbiage in front of her. The sea and river defence zone in this Bill now empowers the Sea and River Defence Board to do an occupational survey. The zone represents the lowest watermark to about 50 to 100 feet inland. Anything in that zone falls within the ambit of this Bill. This includes the planting material, vegetation, shell, gravel, sand, stone, and any other makeup of the earth that forms part of the zone. Those all fall within the ambit of the

Bill. So, it is clear that they did not read and understand the Bill. I wanted to clarify the definition.

She spoke about people on the flood risk areas on the coastland. I do not know if they were born yesterday but I was born in 1980. I know that we call part of Guyana the Low Coastal Plain. It is the Low Coastal Plain. That is what it is. It is a situation which God has given us as a country. We are a low-lying State. Our entire foreshore of over 400 kilometres (km), from point to point, is at the ocean front. So, we are vulnerable, but it does not mean that we cannot build houses. Miami is vulnerable. Tampa is vulnerable. All of those places are vulnerable, but they still build houses. Do we tell our people not to build on the coast now and that everybody should move inland? Is that what we are saying? The argument does not make sense. I reject the thesis proffered by the Hon. Member. The other matter that was raised is that the model of development of the People's Progressive Party/Civic (PPP/C) Government does not include the poor. I take that with great offence, Sir. This is a Member of the APNU/AFC saying to us that our development model does not take the poor into consideration.

2.25 p.m.

Only about two and a half months prior, we were in this very House putting estimates for huge sums of moneys to feed children, to give children cash grants, to help farmers, to help the sick, to help the old aged, to do National Insurance Scheme (NIS) adjustments, to do everything to deal with cost of living adjustments and to do everything to deal with the people of this country so as to uplift their livelihoods. Whether it was infrastructure in the community to bring up the value of their properties, whether it is infrastructure in the community to make them not walk on mud dams but ride bicycles to go to school or take a car and the taxi could reach to their places or whether it is in a community where there are the vulnerable that have to go with ambulance…we have built roads and so the ambulances could go there now to provide services to them and bring them and carry them. You are coming to this House to say that our model of development does not include the poor. I take great offence to it, and I reject it. It is their Government that is guilty of that very thing of which they accused us. Their Government they took the money from the kids; they removed the subsidy from water and electricity; they removed the help to farmers; they taxed pesticides; they taxed herbicides; they taxed fertilisers; they increased land rents; they were the ones who did that and not us. They accuse us of doing what they did themselves. The problem with the younger Members of the APNU/AFC who sit in the National Assembly is that they were not in the Cabinet of the former Government and so they were not there when the decisions were made. It is difficult to come and defend them.

The Hon. Member, Mr. Patterson, was there and he was the head of this Ministry. They did not bring a Sea and River Defence Bill to update the legislation and the regulatory environment. If I am misleading this House and if they could provide a copy of that to this House, then, I will apologize to the House, but I do not think I will have to because they did not do it. The development model of the PPP/C Government that is in Office cares for the poor, cares for the vulnerable, cares for the fatherless, cares for the downtrodden and cares for those who are displaced and oppressed. [**Ms. Ferguson:** (*Inaudible*)] We do not do that.

I want to raise another issue about us not taking vendors into consideration when we do development on the seashore. I want to make it pellucidly clear in this House that no one on the Kingston seawall was removed. Not a single person was removed from the seawall. They were regularised. Everyone was this way, this side, *et cetera*. Containers, permanent structures, concrete or whatever they had were regularised. No one was removed. I want to make it clear to the House and to everyone listening. We did not go and put anyone out of their daily bread, as the Hon. Member put it. [**Ms. Ferguson:** Why were the people on television?] You sent them on television. It must have been you who sent them on the television and you have come here to accuse us of it.

I want to touch on the matter of the vendors…. on the other side of the Kingston Seawall, which is close to the Pegasus Hotel that was redone, and is now a showpiece for visitors and Guyanese who go there. When the place was being developed, Mr. Speaker, you heard all kinds of griping from all sections. Now, there is a beautiful piece of infrastructure there, you are hearing that we displaced vendors. Vendors are there vending in regularised shops, beautified shops. The entire place is clean. There is proper drainage. Where there was mud, there is now proper concrete and nice blocks. What is it? Is it that we do not want development? Is it that we do not want a facade to be made that we can boast and hold regional leaders for lunch, breakfast, *et cetera*? Is it that we do not want this thing? Are we enemies of ourselves in this country? It sounds like we are enemies of ourselves in this country. At least, that is what the Hon. Member on the other side is claiming. Now, every part of this country to which we go, there are issues that were raised with persons vending on roadsides, vending next to markets and vending

in public places. We do not move anyone. At the end of the day, we also have a country to run. When a person goes from where he is living and he goes in front of another man's house or property to vend, is that fair to the other man for someone from far away to come and vend in front of his property? Things like that we must regularise. The issue at Kingston Seawall that she raised is totally misleading to this House and I wanted to correct it.

I had to talk about what she said because it was not facts. Let me go back to this Bill. For sea and river defences, there is a board and a whole team of staff at the Ministry of Public Works, led by Mr. Jermaine Braithwaite and Mr. Kevin Samad, two hardworking engineers, very hard-working engineers. They would, on an annual basis, in consort with proper surveillance of the seafront and the river front, decide where the breaches are occurring, where sedimentation buildup is happening and where vegetation is growing. Then, a yearly programme is developed on how we deal with sea defence breaches and river defence. A programme is advertised in the public and we spend billions of dollars to make sure that the integrity of the shoreline is protected and that has been done. Works are being done on the entire coastline in the islands too – in Wakenaam, Leguan and the whole Essequibo Coast, in Berbice and the whole Mahaica stretch, Mahaicony stretch and all in the riverine side where the waters have to go into the kokers or the sluices. Those are part of this legislation as well. [**Ms. Ferguson:** (*Inaudible*) airstrip.] *Oh, yuh* gone to airstrip, now. *Yuh ain't* able with sea defence anymore.

Mr. Speaker, what is happening currently in the country is that pockets and bits and pieces of persons are taking over sea defences without permission. There must be offences in here to deal with that. People are going just like that and clearing up sea defences. You have to go stop them; you have to go and enforce; you have to take police. We are on the ball with it but there is this issue of people trying to take over sea defences without permission. There must be strong legislation in place to handle those things. You have persons who are squatting on the sea dam too. Machines cannot go to clean the vegetation out of the trench to ensure we have good flow of water when flood time comes because you cannot move and people tend to have kids, *et cetera,* in those houses. There must be a regulative environment for these things. That is what this Bill is doing. To hear that you want to put it in a Special Select Committee…I used diplomatic language by saying that the proposal by the Hon. Member, the thesis that she proffered, I sincerely regret and reject it. It is not for this time. [**Mr. Mahipaul:** (*Inaudible*)] I have a right as a Member of this House, Mr. Mahipaul. Just as she has a right to propose, I have a right to reject. Mr. Speaker, I will close there and say that I commend this piece of legislation to the House for passage. Thank you, Sir. [*Applause*]

Mr. Patterson: Thank you very much, Mr. Speaker. I would say that my presentation is eagerly anticipated by the *fellas* over there. "*Fella*" is a loose word for that *fella*, but yes, Sir.

Sir, from the onset, let me state that we on this side of the House are supportive of the updating of our laws dealing with our sea defence and its regulations. We are supportive of that for sure. Mr. Speaker, we are all aware of the real and present dangers of climate change. Last year, 2023, was the warmest year since global records began since 1850. Sir, last year, the global temperature rose by one degree centigrade. Sir, that is above the average temperature of 14 degrees centigrade. In one year alone, it is recorded at one degree rise in temperature. Sir, in fact, the 10 warmest years in the 174 years since they started keeping records occurred between 2014 and 2023. Sir, climate change is real and present. The 10 warmest years were between 2014 and 2023. I am glad that the Hon. Prime Minister has woken up and he is listening. Sir, I hope that you can gain something from my presentation. You just learned that the 10 warmest years happened between 2014 and 2023. Global sea levels have risen over nine inches in the last 100 years. Sir, in an article that was published last year, "15 cities that could be underwater by 2030", based on global sea level rising, Georgetown, Guyana was listed as the eighth most vulnerable city of the 15 cities. Sir, we, on this side know the importance and the need for our sea and river defence, Sir.

The Hon. Member, Mr. Indar, mentioned it. With the added advent of the oil and gas industry being offshore, we in this House agree that there should be streamlining for this development, planning and fore planning. Sir, if you can recall, I brought a motion here about us doing a plan for the sea development and for the oil and gas sector. It was soundly rejected by the Opposition. They heckled, they laughed and made all sorts of rude remarks. Now, they are coming, and they are using that same argument in support of this Bill. Sir, they are shortsighted but that is no fault of their own. When you are shortsighted, you cannot see anything properly. Sir, against that backdrop, I must say that we are supportive of the modernising of this Bill. Sir, the Hon. Member, Bishop Edghill, mentioned that the drafting of the Sea and River Defence Bill started several years ago. He was honest enough to say it started in 2019, with the consultancy under the 11th European Development Fund (EDF).

Sir, the Hon. Member, Mr. Indar, is obviously mistaken. He probably did not read any of the handing over notes that were there in the Ministry. Sir, this Bill was at the Attorney General's (AG) Chambers in 2020. Sir, the question we should be asking is, why has it taken them four years? The AG is there, he could get up and… why did it take them four years to bring it to this National Assembly? After four years they have brought it, and they are trying to rush it. Sir, all of the heavy lifting was done by us. They had a little bit to do, and it took them four years. I am glad the AG is still an honourable *fella*; he could get up and contradict me if he did not find it and if the Hon. Basil Williams did not leave it there with some post it which stated do this and do that and for him to look into it. Mr. Speaker, before I actually get into my contribution on the Bill – and I am not going to be long. I know the last time I said this… [**Hon. Members:** (*Inaudible*)]

2.40 p.m.

Mr. Speaker: Hon. Member, Ms. Ferguson, your colleague is begging you for some space to make his presentation.

Mr. Patterson: [**An Hon. Member:** She is a bit rowdy today.] No, no, no. I worked with the Hon. Member, Ms. Ferguson, for four years and her contributions and support for me has been unwavering. I do applaud you for continuing the unwavering support. Thank you very much, Ms. Annette Ferguson. The Hon. Member, Mr. Indar, made mention that when he got into office the very first thing that he had to do was to go to an area named Dantzig. [**Mr. Indar:** I will send you a picture.] You do not need to send me a picture. I was there before you, so I know where it is. I am not speaking for Mr. Indar because, maybe, that was the very first time he actually went to a sea defence other than the sea walls, when he was younger and things like that, but that was not to do anything about sea protection.

The area in Dantzig… [**Ms. Teixeira:** How do you (*inaudible*)] We peeped him. My apologies, Sir. I do not normally get distracted, but Mdm. Teixeira can do that to me. The Dantzig area was protected, when we got into office, by an earthen dam and mangroves. That entire coast there does not take two, three, four or five years to erode. They were there for 23 years and they did absolutely nothing. Then, of course, nature being what it is, accretion of the soil and things like that, we had to come and start to do the initial work because, with all of the money they got, they did not consider putting hard infrastructure in the Dantzig area. That is what commenced under us. If they had done… [**An Hon. Member:** (*Inaudible*)] Exactly. The two gentlemen – and I must admit, and I do concur, that they are very hardworking – would have made proposals year in and year out, 'we have to address it and put a hard infrastructure' but, no. The Hon. Minister got up and spoke and he wants the country to applaud them and give them *kudos*. The amount of $4.5 billion was put in the 2024 Budget and that is with the oil. Sir, it is a $1.174 trillion, or something like that, Budget. Our largest budget was $380 billion. Do you know how much we placed for sea defence in 2019, Sir? It was $3 billion. With all the extra money that the Government has at their disposal, all they could find was $1 billion extra. They come here and would like us to give them *kudos* for that extra billion dollars.

There is one other matter which is to *kill a bill*. That is what the Hon. Member said. I did not hear you intervene and tell him that he is incorrect, but you know otherwise. To *kill a bill*, all you would have to do is send it to a committee. The Hon. Member – I know maybe he is busy doing other non-parliamentary matters – was a Member of the Planning and Development Single Windows System Bill. [**Mr. Indar:** (*Inaudible*)] No, the radioactive bill… He was part of the Planning and Development Single Windows System Bill when we met collectively. He got up in the presentation and said he was pleased that we have a *hammered out* Bill that is far more superior than it was when I went in. The same Hon. Member. I do not know about him, but I am not a *walking dead*. I do not know about him. When it went in the committee, it came out in *labba time*, as they would say in Guyana, and it was back. I just wanted to put that on the record. [**Mr. Indar:** (*Inaudible*)] You can say what you want. This Bill looks at combining two bills, and I agree with the mover of the Bill that it is always preferable to have a consolidated bill. This Bill addresses – and I am speaking for the general public because, other than the Prime Minister, I do not think any of them would learn – other than Chapter 64:01 that deals with the Chief Officer and Chapter 64:02 that deals with the Board, it is combining them and we do support that.

As I have always said, when I speak, when I get up, the *Devil is always in the details*. Here are some of the details which we, on this side, would like to bring to the public because the Government's side have already indicated that they have no intentions of sending this to a special select committee. I would like to bring these details to the general public. My colleague, the Hon. Ms. Amanza Walton-Desir, made that request once again. At the end of my presentation, I will also make that request. Let us go to the interpretation. The new Bill interpreted:

> ""sea or river defence" means any dam, concrete, stone, timber, wall, groyne or other construction used by the Board, a proprietor or occupant of land as a protection against flooding from the sea…"

That is excellent, Sir. What the Hon. Member has not told you is what it is replacing, but I will tell you exactly what it is replacing. They have consolidated; and I will go to the explanation with the Sea Defence Board, but I want the people of Guyana to know what is excluded and why and the jeopardies of that. The old Bill goes on to state this, and I will go to subsection (c):

> "(c) all land fifty feet landwards from the centre of any sea or river dam or sea or river wall under paragraph (a)…"

Which I just read:

> "… and all land on the other side of such sea or river dam or sea or river wall in the direction of the sea or river to the toe of such sea or river dam or sea or river wall;
>
> (e) all land fifty feet landward of the crest or top of any reef, bank or natural feature under paragraph (d) hereof, and all land on the other side thereof in the direction of the sea or river as far as the mean high water mark;"

From time immemorial, when the Dutch decided, for whatever reason… and we could question that, why for this great 83,000 square miles they decided to build right on the coast, six feet below sea level. From time immemorial, every single cadastral plan from 1883, I think, or 1838, whichever one, has 50 feet in, landwards, reserved for a sea and river defence. Anyone who grew up in the countryside would know that was a river dam, it was free access, no one could build anything at all on it and no one could claim it because it is enshrined in our laws. It was there to ensure by law, no board, no government-set-up agency, no politically appointed board could transgress that. That is an untouchable space of land. That now has been removed and there was no mention whatsoever about this demarcation. As I said, Sir, every cadastral plan that you see, at the end of the pall, it is 50 feet or more. The entire, what is called the mud flat, mud lands and things like that, were not or could not be used or owned, leased or anything to anyone.

They have come up with this: remove that from the law, enshrine it in our law, and they have empowered the board to come up with a sea defence zone, which means we do not have it legally protected, and anything can be done with the sea defence zone. It can be leased. It now becomes state land. [**Mr. Indar:** (*Inaudible*)] Read your Bill. They can do whatever it is. I am saying this for your viewers. I will give you a real possibility, Sir. The sea defence that the Hon. Member so passionately defended, the sea walls about no one being moved, this board can designate that area – of course, I know that it is a sea defence zone – lease it out all the way up to the sea wall. They could say that it is now the sea defence zone and it is under the control of the Sea Defence Board. [**Mr. Ramjattan:** And the Minister.] Yes. On top of that, we can be denied access. To the general public they could say that is a sea defence zone which they have leased out to Qatar or to Bangladesh or to their friends and family. [**Hon. Members:** (*Inaudible*)] And they can do that because…and they will come and say… I am just letting you know that if you can do it now… They can even allow people to build permanent structures on it. They can deny people the right to get on to it.

As I said before, the reason it was in there was to ensure that what is happening today could never have happened before – 1883. That is the reason why it has been there, longer than us. *The Devil is in the details*. The Hon. Minister will come and tell you that they would not use their powers frivolously and the Board would be comprised of so many persons and deliberate. Our ancestors and early lawmakers preserved that strip of land not only to stop people from building but so that they could get access to it when we have to repair the sea defences and things like that. We knew that we have had cases where persons encumbered our access to go and do repairs. The same Dantzig area we had that too. *The Devil has always been in the details*.

Another issue that neither of the two Ministers reported to the Assembly on was the reason behind… I think it is in the original Act, Chapter 64:02:

> "The Board shall consist of the Chief Officer and not less than fourteen other persons…"

It has now changed to Chief Officer and not more than 14 persons. No one said to us what is the reasoning behind this.

2.55 p.m.

Secondly, in the draft that was in the Attorney General's office when he took office, with the posters from the former Attorney General (AG), in that proposed Act, there was an enshrined clause which said that the male to female gender

make up must be… no less than 33% of the Board must be female. We had enshrined that in law. They have not mentioned that. They have now changed that. It must be representative of… [**An Hon. Member:** (*Inaudible*)] Pardon? [**An Hon. Member:** (*Inaudible*)] Yes, there is a… It says that it must take cognisance of the gender make up. We had enshrined that … That was an agreement we had that 33% of the river and Sea Defence Board must comprise of female representatives. That has gone out. There is no mention about that.

The same Single Window Bill that went to a special select committee – and this is why I am saying we should go to a special select committee – the original draft had the Environmental Protection Agency (EPA) included in it. The Opposition, Mdm. Teixeira was there, the AG was there, and Minister Indar was there, all of us agreed that in these modern times and because of the importance to be placed on environmental protection, that it is inappropriate to put the EPA as part of the application and decision-making process because it has its own Act. In other words, what we said on the Planning and Development Single Window System Bill was, after one goes through all one's building applications, if one has to go to the EPA to get approval, there is a totally separate mechanism and there is no way we should co-mingle them. That was enlightened. The AG was the one who eloquently made the point that the EPA should be excluded. Now, today, we have a Bill that includes the EPA, and not a representative of the EPA but the Executive Director, the *grand pooba* of the EPA must be part Sea and River Defence Board. He would be sitting on the Sea and River Defence Board. What is the word, reprobate or approbate? [**An Hon. Member:** (*Inaudible*)] Yes. He would be sitting on… Obviously, he approves or disapproves. The next day someone sends in an application for waterfront property with an environmental permit. The AG has…[*inaudible*] Mdm. Teixeira has agreed with me that the modern way of thinking, because they have a separate Act and because of the importance to the environment, they should not be included in these boards. That was a position that we had. Of course, norms and matters of right-thinking would exclude them.

The Hon. Minister would get up and say they were there before. Maybe a representative but we are hoping that we have evolved. I am asking the Members on the opposite side to remove the Executive Director of the EPA. That office has already had… [**Bishop Edghill**: Just because you have a problem with it.] Not the individual. When one speaks and people do not listen. We are talking about the Executive Director on the Board, the Sea and River Defence Board. Myopic thinking, myopic listening, Sir. [**An Hon. Member:** (*Inaudible*)] Yes. We are saying that you would put the individual in a conflictual position. If he is in a meeting and the… Sir, why would you do that to an office holder, why would you do that to an important agency as the Environmental Protection Agency? Maybe he would have to do like the former President when the vote was being made for Queens Atlantic. He got up and walked out the room and said, 'he is my best friend, so I do not want to influence you all'. Maybe that is the position you would like to put the Executive Director of the EPA in.

Then, of course, we heard noting of the conflict between the Town and Country Planning Act and this Board, this new Act. This Board will now be empowered to designate areas, waterfront development zones or areas or whatever. Previously, the authority to designate zones or schemes as the Act states, resided with the Central Housing and Planning Authority. [**Mr. McCoy:** After development.] And development... Sir, I will not listen to the unwise. Previously, under the Town and Country Planning Act, there is a regulatory body that deals with zoning, that deals with schemes and that deals with development. How will we resolve the conflict that can possibly arise out of it? Which of these two agencies is supreme? Which one? Because several of the areas that may be considered as waterfront now, or in the future, have already been designated under the Town and Country Planning Act. I am making the case for us to send this Bill to a special select committee so that the real or perceived jeopardies can be addressed.

The 11th European Development Fund (EDF) has ended, where we received money from the European Union (EU). That money went towards our hard sea defence, and we were given targets every year, which we hit every year under the Coalition. It has ended, so we have no funding issue. I presume they may have applied for the 12th EDF but, obviously, I do not think they will get anything because all the loans they are applying for modern societies have been rejected – the Exim Bank – for the gas-to-shore because they know, most of those agencies know, their track record on procurement – poor to terrible.

We would like this Bill to go to a special select committee. It is not a long Bill. We would like it hammered out and we could come, in the words of the Hon. Member Indar, to a 'far superior product than what was done before'. While on my feet… [**An Hon. Member:** (*Inaudible*)] I was just about to respond to the Hon. Member, Ms. Priya Manickchand, but I have always made a point to never address any of the female Members over that side. She

almost made me break it but I… [**Mr. Duncan:** (*Inaudible*)] Yes, but I have been able to catch myself. I was just about to respond to her comment, that she heckled there, but I caught myself just in time. So, please. I say nothing when you speak, and I would hope that you honour me with that. [**Ms. Manickchand**: (*Inaudible*)] Yes, I know. Anyway, no matter what she says, I will not break my thing. As I am here… [**An Hon. Member**: (*Inaudible*)] It is not a threat, it is just a request.

As I am here, I also have to say, on the question of sending the Bill to a special select committee, we on this side of the House have another avenue which we used to try to get information from the Government side so that we could better inform our constituents who ask these questions. That is the issue of Notice Papers. It would be remiss of me not to say now that I have a question since October, 2023, that has not been answered. I think I have six questions in, Sir. They are on the Order Paper. I know my good colleague, Ms. Ferguson, suffered the fact that by the time it gets to the Order Paper, it was dated. I would implore you, not only to send this Bill to a special select committee but to take some time out, I know it is quite busy. I, at one time also suffered with jet lag. If you are flying all around the place, you get jet lag and you may not have the time to address… I suffer from that once in a while. [**Mr. McCoy:** You hiding your bangles.] That is all right. I would hope, Sir, that you take some time and address some of these outstanding matters.

Mr. Speaker, ladies and gentlemen, I would like to close in saying, in final, we do support the Bill, the principles of this Bill, the combining of it; we do support the general tenets in which it is, but we will ask from this side of the House that we send it to a special select committee. I will commit on behalf of my Members, that we will take no more than two weeks to address it. With those few words, thank you very much, ladies and gentlemen. [*Applause*]

Mr. Speaker: Thank you very much, Hon. Member. I wish to assure you that, no suffering from jet lagging in the Chair. The next speaker is the Hon. Member, Mr. Khemraj Ramjattan.

Mr. Ramjattan: Mr. Speaker, I stand here to also request of you and the Government's side, in view of all the arguments put forward, in view of the background information that there was a Bill since 2018, and in view of the fact that there are some changes, very surreptitious I may say, that altered that which was proposed in 2018, coming here which is now going to be, in a way, giving… [**An Hon. Member:** (*Inaudible*)] This is basically what is happening, making the Sea and River Defence Board, a government department now. That is what it is doing. In the old Act and that which we had proffered and proposed, if I may say that, it was largely a board that had powers to be sued and to sue. It was a board that could hold funds. What we see is an exclusion of that now, completely, at least those two aspects of the matter. In clause 8, the Board shall not have its own funds. Why do you not want an expert board, although with its imperfections, not having funds?

The entire structure of this Bill that repeals the two previous ones, gives a lot of the powers to the Minister. *Suh wha wrang wit duh*? We have been doing a number of other Bills such as the Civil Aviation Act and all of that, and which we make, at least, arms-length to the politicisation of their decision-making. That is what we have been doing, the Guyana Forestry Commission, amendments to it or whatever it is. What we have gotten here now, that which have stood the test of time from since 1933, I think it is… [**An Hon. Member:** It was 1833.] It was 1833, sorry. In relation to that time period, and then we had a good length or period when, under the People's Progressive Party/Civic (PPP/C), from 1992, we did not touch this.

3.10 p.m.

All of a sudden… [**Mr. McCoy:** (*Inaudible*)] No, the cunning nature of why you want to touch it was already argued by my friend; I do not want to repeat it here. [**Ms. Walton-Desir:** You are not listening.] You are not listening. He argued that you want to now make that 50 feet your property, and so you are going to use that property by, first of all, designating it under this very section, whereby you can now designate it as property and you are going to deal with the issue as to what you can then do with it by ministerial order, by ministerial directive. We know that properties all around Guyana's boundaries with the sea could very well be, in certain locations, prime properties. We had an Act that states that nothing can happen there. We now have an Act that states, you get the Board to do your mischief – designate it a waterfront area and then the Minister, under the section that he can now do, can say, identify, designate and develop. That is why it is fundamental that all of these aspects of this Bill be sent so that we can really get down to the ground of doing a modern piece of legislation in a select committee, and that is what it is all about.

I want to make the point too that when we had brought in that expert from England, or two experts we brought from

England, to do the basic needs for our Parliament, select committees were given prime roles for the improvement and amelioration of legislation. Go to the select committee, ask the members of the Sea Defence Board to come, state what are some of the defects in the old law, in front of the Government and in front of the Opposition, and then we as a combined united force as it were, we are going to then make the relevant remedies and create what is called the solutions to those defects in the law.

What we had late in December last year, they brought this thing saying that it is a consolidation and then it comes up now for the second reading. We are urging, in view of this because, Mr. Speaker, I want to say that we need a better system than an 1833 system, but not any system will be better, and that is the point that we are trying to make. Not a system that only has the input of an Executive who is going to benefit by virtue of the designation of waterfront areas and all of that. Why? This country must be governed by its Opposition and also its Executive. Especially when it comes to laws that this Parliament must make, at least we must have an input. At the end of the day, you can say whatever you want, and you will have it your way, but at least the records will have it that some of the experts from the Sea Defence Board came and said, why are you taking away our funding? Why are you taking away the fact that we cannot have funds? Why are you taking away that we are a corporate entity, a statutory entity that could sue and be sued? No. You do not want them to get legal personality, you want them to be your puppet.

That is why I say more and more that I am not wrong when I indicate that, *yall cud tek* Marxism-Leninism *outa yuh* party constitution, but you did not take democratic centralism. That, in other words, means *control freakism* and that is being exhibited in this Bill here. That is what is being exhibited here. It has a direct relationship to how you make laws. When you are a centralist, you want complete control. You can have the control, but let it pass through the processes that we selected to put in our Standing Orders, that we selected to put in our Constitution, that we must have select committees as standing committees that are now going to deal with these matters. What then are the Standing Orders all about if we are going to have a provision there to better legislative drafting, better legislative content, and we do not use that tool that we created in the 2001 robust constitutional reform process? This is the trouble. This is the problem that you have with them, and then they will come and say that they are modernising. You do not modernise anything here with the kind of cunning, stealth and *surreptition* that is there. You come with your glib lips and say it is wonderful. [**Mr. Benn:** When you were rigging (*inaudible*)] No, nobody *ent* rig; that is why *yall* in government. It was not rigged. You are talking… In any event, you have rigged this piece of legislation to get waterfront property for your friend and family. That is what you have done. That is what you want.

Mr. Speaker, I am urging, because there are other aspects of this Bill that have tremendous value, and I think that the Hon. Minister mentioned them too. It is fundamental that you do not use what is called a schema for purposes of ensuring control that is total in relation to that strip of land, whether it is on the coast or whether it is in the rivers and all of that. You *gat tuh* much *ah powa hey* now. A lot *ah dem ova deh* probably did not even know about that. I can *bet my bottom dollar* that a lot of them did not even read this Bill, and they come here and they are going to blindly support it like fanatics that, yes, it is a good Bill, because the Minister *seh* it *mudern*. [**Mr. Duncan:** (*Inaudible*)] Yes, because that is what governs them.

I am urging, I can do no better in articulating the points that were made by Hon. Members Ms. Walton-Desir and Mr. David Patterson, that indeed it should go there. We support the modernisation of legislation, but let us have an input. We do not have people who do not know a thing or two about sea defence and so on. We do not have people who do not know a thing or two about how structures that will make it a check and balance on the other institutions. The whole concept of having one agglomerated institution like this has to be because they do not understand checks and balances. It was a sound point made by Hon. Member Mr. David Patterson, which I want to reiterate because I have a note on it here. When you have an institution like the Environmental Protection Agency, that has to give whatever necessary permissions and all of that, you bring them into this Board, this Board now will be forcing the Environmental Protection Agency not to be a check and balance on the Sea Defence Board. It is very important that we get this thing right.

A good democracy, Mr. Speaker, also has good bureaucracy. Good democracies have good bureaucracies. What we have here is a bureaucracy that undermines further democracy. The checks and balances will go, and all because, again, as I have indicated, *control freakism* on the part of those who intellectually authored this. I am not going to go to the gamut of not supporting it, I have spoken on that. Please let us utilise that institution called the Standing Order, a select committee, to get this thing right. Thank you very much. [*Applause*]

Mr. Speaker: Thank you very much, Hon. Member, and now for the Hon. Minister Mr. Zulfikar Mustapha. There was a typo in the speaker's alignment. We should have had the Minister before the Hon. Member Mr. Khemraj Ramjattan. Go ahead, Hon. Minister.

Minister of Agriculture [Mr. Mustapha]: Thank you very much, Mr. Speaker. From the onset, I want to join with my colleagues on this side of the House in recommending this revolutionary piece of legislation to this honourable House. We have heard a number of allegations just now that our Government, and by extension the Minister, wants to control this aspect of sea defence, and that the A Partnership for National Unity/Alliance for Change (APNU/AFC) Government was so interested in our infrastructural development when they were in Office. On 29th November, 2019, the then Director General of the Ministry of the Presidency said that maintenance of sea defences is a strain on Guyana's resources, and they are claiming that they had this kind of interest in maintaining the infrastructure of our country.

Mr. Speaker, also, when we had that erosion at Dantzig, I remember we were in Opposition, and the poor farmers in those communities were trying their utmost to get the attention of the then Government, as usual, missing in action. The Regional Chairman then, had to call on the then Leader of the Opposition and our presidential candidate to go there to meet with the people. We were in Opposition, and we extended help to the farmers in those areas in Region 5. That is the record of this PPP/Civic Government. And it seems that when we are trying to bring development to this country, and we try to put it into legislation, the APNU/AFC Opposition always wants to delay it and take it to a special select committee. They are living in their suspicion because we remember, we are talking about waterfront properties. Who gave up the waterfront property at Mudlot there in Kingston? Who gave up that property? Who sold that property? They are the people talking about… They went and defended it. The matter was in court, and they went and defended it. We are talking and they are living it because of what they did to a number of properties and a number of state properties. We can remember; and I can list them. Places like Millie's Hideout was given to extend favour. We know what happened in 2020 when we had the election. That was the favour Millie's Hideout was given to people with.

This piece of legislation, as I said, will help us to modernise our sea and river defences, and will help us also in the agriculture sector. We have over 400 outlets that form the integration that leads directly into the sea and river defence, and that forms the sea and river defence in our country. As such, this legislation addresses the importance of establishing provisions for the construction and maintenance of sea and river defences, including natural defences. It is therefore important that boards like the National Drainage and Irrigation Authority Board, the mangrove unit of the National Agriculture Research and Extension Institute, and the Sea and River Defence Board continue to work closely together to monitor our foreshores for sediments that transport on these areas that we are working to clear. We heard the importance of maintaining cities that are close to the Atlantic and that are close to the sea and river defences. We here in Guyana, as the Hon. Member Mr. Deodat Indar, alluded to, we are living on the lower coastal plain, five feet almost below the sea level. So, we have to ensure that we protect our sea and river defences, not like when we came into Government in 1992.

3.25 p.m.

If one flies now on the East Coast, places such as Buxton land was eroded almost one mile in. One could see the sluice from out there in the Atlantic. That was the neglect that we came into the Government and reached. In the Kingelly area, it was the same issue when we went there. [**Ms. Teixeira:** (*Inaudible*) no money.] No money was budgeted for the sea and river defences. The entire sea and river defences were in a dilapidated state. We are now bringing this to legislation because we have seen over the years that allocations have increased tremendously. From 1992 to 2015, we have seen the modernisation of the infrastructure in Guyana. Then, from 2015 to 2020, we heard it was a strain on the resources of our country. Once again, we are maintaining and developing our sea defence. As a result, this new Bill is a crucial piece of legislation that will facilitate the repeal and replacement of outdated provisions in the existing legislation of the Sea and River Defence Act Chapters 64:01 and 64:02, which may no longer be effective or relevant in the current context of climate change, rising sea levels and coastal vulnerabilities.

Moreover, this updated legislation also takes into account natural flood protection such as mangroves and aim to enable greater enforcement authority against encroachment. Alongside the anticipation – and we heard the rise in the sea level – by the end of this century we will see the sea level rise or the temperature increase by 4°C (degree Celsius). We have to be prepared to counter that and that is what we are doing. We are bringing legislation to this National Assembly to modernise the infrastructure of our country. Given that a significant portion of our country's agriculture and food

production is situated along the coast, the combination of rising sea levels and intensified rainfall pose a direct threat to our nation's food security. Guyana is now taking the spotlight and we are seeing almost all the major areas in production increasing. For example, we have seen a major increase already in rice production. I am hoping that when the Minister makes his presentation of his half year report, it will be shown in there. We are producing a number of new crops. We are increasing the traditional crops that we have been producing over the centuries. That calls for proper infrastructure.

The Sea and River Defence Bill of 2023 aims to bolster the nation's coastal and riverine areas against flood threats, holding paramount importance from an agricultural perspective. As I said, agriculture stands as the cornerstone of our nation's economy, feeding our population and driving growth. Yet, it is under constant threat from these issues of flooding and climate change. Last year, we have seen Guyana's agriculture production representing, roughly, 23.8% of the country's non-oil Gross Domestic Product (GDP) situated in a low-lying coastal region. Flooding poses a significant risk to land use, productivity and environmental sustainability. As I said, we are seeing the traditional crop increasing and that is why it is important that we protect those areas. I alluded to the Dantzig breach in 2019, which resulted from the erosion of natural mangrove defences which caused millions in damage to farmlands and households. Millions continue to be expended to construct sea defences and restore the lost mangrove habitat. Over 1,000 acres of rice adjacent to the sea defence was flooded in 2019 and have not been cultivated since. This is because of the residual salinity of the land. In 2023, the Government expended $160 million to construct 300 metres of timber breakwater at Dantzig and will invest another $81 million this year to support the restoration of mangroves in Region 5. This is how we operate. We identify; we analyse; and we fix the problem. I am very happy that very shortly farmers will start to replant those lands in Dantzig.

With this Bill, threats of flooded rice land will significantly be reduced, thereby ensuring the stability of rice production for local consumption and export. We have seen also in 2021, one of the most devastating floods in the history of our country. It was compounded by rising sea levels. We had less drainage time to ensure that we drained our land. As a result of that, we are trying to modernise the Drainage and Irrigation (D&I) system to complement and boost the river and sea defence system that we have. Given the critical nexus between our waterway and agriculture, we must act decisively to safeguard it, deploying innovative measures to fortify our riverbanks and sea defences. Investing in a modern Drainage and Irrigation infrastructure to manage the flow of water, especially in times of excessive rainfall, is therefore important. Work has begun on at least two of the three Hope-like canal structures that will bring fasting and lasting relief to the farmers and residents of Region 5. We have started that; and those are mega projects. If we remember when the Hope-like canal was built on the East Coast, many persons at that time alluded to that as a white elephant, but that saved the East Coast and Georgetown from flooding in 2021. We are now repeating that. We will be repeating those structures in three regions of Guyana: Regions 3, 5 and 6. Work has begun in Region 6. We will commence shortly in Regions 5 and 3.

Besides that, we will also purchase or procure 40 Hydroflo pumps this year that will boost the system across this country. When one looks at the expenditure over the years, we have increased expenditure in 2020 from $7.8 billion to $72.3 billion in 2024. The numbers speak for themselves. Our farmers are enjoying the benefits. These investments are the reason one sees increase production in various sub-sectors within the agriculture sector. The last issue… [**Ms. Ferguson:** I know they are enjoying the cash grant though.] I will give you some cash grant. I will call you for some cash grant. …I want to speak on is the mangrove restoration. The updated Sea and River Defence Bill recognises the invaluable role that mangroves and other vegetation play in bolstering our natural defences. The Bill clearly defines construct to encompass the planting, cultivating and development of mangroves and other vegetation for sea and river defence purposes. This Bill lays the groundwork for proactive measures to fortify our coastline. The Bill acknowledges the essential values of our ecosystem and the irreplaceable benefit that they afford, both to our environment and communities. New provisions for addressing damage to sea defence, both hard defences and mangroves, as well as the associated losses to biological value, underscore the holistic approach taken in this Bill. The Bill recognises that protecting our coastline is not merely a matter of infrastructure, but a commitment to preserving the delicate balance of nature. Crucially, the Bill establishes a clear mechanism for accountability and restitution in the face of damage or loss.

While the Government continued to expend billions annually to construct and maintain hard sea defences, continued emphasis is placed on the importance of mangroves in supporting coastal resilience as articulated in the Local Carbon Development Strategy (LCDS) 2030 with over $646 million provided for mangrove restoration and management

over the next five years. We have increased budgetary allocation in this sector tremendously. From 2010 to 2014, under the People's Progressive Party/Civic (PPP/C) Government, we invested $1,025,000,000 to maintain our mangrove system. From 2020 to 2024, we have already invested over $646,885,000 to increase and maintain our mangrove system in this country. We have seen, as I said, a pause from 2015 to 2020, but, once again, we are restoring the natural habitat and the sea defence in our country. As I said, these are strategic planning and we will continue to invest to ensure that we safeguard our country and modernise our infrastructure. This legislation is timely and will provide much-needed protection to our country and the citizens of Guyana. The defence of our seas and rivers transcends mere environmental stewardship. It is a matter of national security and economic imperative. By fortifying our agriculture backbone, enhancing our drainage infrastructure and restoring our mangrove forest, we can chart a course towards a more resilient and prosperous future for generations to come. Let us seize this opportunity.

I want to invite my Colleagues over that side of the House, because they are saying that they support the Bill in one breath, but then they want to take it to a special select committee to delay it again. They had the Bill so long and they never thought it wise… The Hon. Member, Mr. David Patterson, alluded that the Bill was since they were in Government. Probably, they had some input in the Bill. Did those ideas, when they look at the Bill, come out of it? They want to put their ideas but they want to take it to a special select committee. Comrades, the development will not wait on the A Partnership for National Unity/Alliance For Change (APNU/AFC). We are a government who will continue to modernise this country. We are not waiting for the APNU/AFC to go to a special select committee. If they want this country to develop and want to be part of the development, then I am inviting them to get on board and let us move this country together. We must not lament and beat our stomachs and chests and say, take it to a special select committee. They had their time and they should have submitted to my Hon. Colleagues some of the ideas of what they want in this Bill. As I said, let us seize this moment to stand united in a resolve to forge a path towards sustainable development. As I said, this piece of legislation is the legislation that will modernise our infrastructure, especially the sea and river defences. I, therefore, pledge my full support for this Bill put forward for the sea and river defence to be passed in this honourable House. With my Colleagues, I urge that the Bill be read a second time and pass as printed. Thank you, very much. [*Applause*]

Mr. Speaker: Thank you, very much, Hon. Minister of Agriculture. Now for the Hon. Minister of Public works, the Hon. Member, Bishop Juan Edghill.

Bishop Edghill (replying): Thank you, very much, Mr. Speaker. I want to begin my closeout presentation by thanking all the Hon. Members on the Government side of the House for lending support to the Bill as well as to thank the Hon. Members on the Opposition side for lending their support to the Bill, even with the criticisms that have been made. It has been an enjoyable afternoon of debates which started since this morning.

3.40 p.m.

I would like to deal with every major criticism that has been made and put them into perspective. Let us first start with we are supporting the Bill but let it go to a special select committee. I tabled this Bill in this honourable House in December, 2023. As of today's date, it has been five months almost and not one amendment has been proposed. What are we going to the special select committee to do? If the amendments were substantial, material and fatal to the effective governance structure or something of a serious nature, then the Hon. Members should have at least done this nation their duty by making the proposals. The Hon. Member, Ms. Walton-Desir, spoke about lazy legislating. The Hon. Member was referring to the Government that this Bill represent lazy legislating. The fact that there are no amendments and you are asking to go to a special select committee is lazy legislating on the part of the Opposition. There is not one written amendment to put to us for some number of considerations. When one goes to a special select committee, it is to be able to review, have exchanges to modify, improve and so on which have happened in this House before. I did stand here during my opening statements and said, when we came to Office, this Bill, this very same Sea and River Defence Bill that we are debating was already at the Chambers of the Attorney General.

The Hon. Members Mr. Ramjattan and Mr. Patterson were a part of the Cabinet of that Government. As a matter of fact, if there was not a no-confidence motion, and we did not go into that period of a non-functional parliament – where they should have only been performing services as a caretaker Government even though they continued in Government without authority – this Bill would have been passed by their one seat majority at that time. Now, you are coming here to attack your very same work. Mr. Speaker, please, remember that it was not me who said that the Bill was at the Chambers of the Attorney General in 2020. It was the Hon. Member,

Mr. Patterson, who said that. [**Mr. Patterson:** (*Inaudible*)] Yes. You said that it was there in 2020 – Mr. Patterson. I take the Hon. Members very seriously. I sent for the copy of the Bill that was at the Chambers of the Attorney General in 2020 – this was the Sea and River Defence Bill of 2019. I have it in soft copy and I have it in hard copy. I know the word 'hypocrisy' is not a parliamentary word so I would not use it. I am struggling very hard to find a synonym to replace it. The Hon. Member, Mr. Patterson, was the Minister of Public Infrastructure. The Executive Director of the Environmental Protection Agency (EPA) was a member of the appointed Board under his tenure. He is standing here this afternoon to lambaste the participation of the EPA. Come on, let us be honest with Guyana. [**Mr. Ramjattan:** (*Inaudible*)] Yes; he was. Mr. Speaker, I sent you a soft copy that you could make available to the House.

This is the very same Bill – the 2019 Bill – that the Hon. Member, Mr. Patterson, is asking for the EPA to be removed from, when the Hon. Member was Minister, the Director… [**Mr. Nandlall:** It is the Executive Director.] …the Executive Director of the EPA was on the Board and the Bill that he presented included him. [**Mr. Nandlall:** Go to the 14 – the composition.] I will come to that just now. People of Guyana cannot take these Members of the Opposition seriously. We had no difficulty in working with this Bill. Mr. Speaker, do you know why? The consultants who were hired and paid by the European Union (EU) under the 11th European Development Fund (EDF), while the APNU/AFC was in Office... I named the gentleman and lady. were a foreigner from Belgium and a local lady. They consulted widely. I will name every agency who they consulted on this Bill. They consulted with the EPA; the National Drainage and Irrigation Authority (NDIA); the Ministry of Local Government and Regional Development; the Ministry of Natural Resources; the Regional Democratic Councils (RDCs) in the coastal regions, including Region 1; the Private Sector Commission (PSC); the National Agricultural Research and Extension Institute (NAREI); the Ministry of Legal Affairs; Non-Governmental Organisations (NGOs), including the Guyana Red Cross Society; Hinterland communities such as Lethem and Mabaruma; Office of Climate Change (OCC); the Ministry of Public Works; the Ministry of Finance; Maritime Administration Department (MARAD); the Guyana Lands and Surveys Commission (GLSC); the Civil Defence Commission (CDC); and the University of Guyana (UG).

The Bill that they are asking us to send to the special select committee is one which has already enjoyed the inputs of all these agencies. The only persons who would like to see some changes are the Members of the Opposition. Changes are not made to a Bill just by sending it to a special select committee. The Opposition could have come here with amendments. They did not come with any. It is also the Opposition's Bill.

On the issue raised by Ms. Walton-Desir about the seawall development, I will address that. There is also the lack of attention and the lack of budgetary allocation for sea defences. The Hon. Minister, Mr. Mustapha, already dealt with the fact of lack of funding and what it led to. My Colleague, the Hon. Member, Mr. Benn, reminded me that pre-1992, we lost significant pieces of waterfront – Buxton to Lusignan and we had Kingelly to Brahan. The sluices are still out there and the sea defences are way in there. Do you know why? It is because the People's National Congress (PNC) Government of that day did not pay attention to sea and river defences. If you think that is bad, Mr. Patterson stood in this House and spoke about the allocation in 2019. The Hon. Member did not tell us that more than $1.2 billion had to come from the Contingency Fund to deal with the situation that he dealt with at Danzig. It was not part of your original budget; it had to come as a result of a failure and an emergency. Then, you want to lecture us in this House about budgetary allocations. Since we are here and people raised these issues, we have to answer them.

In 2015, the APNU/AFC's budget for total capital and maintenance was $977,240,076, which is less than one billion. In 2016, the total budgetary allocation for capital and maintenance was $2,443,786,000. In 2017, the total allocation for capital and maintenance of the APNU/AFC Government was $1,757,830,000. [**Mr. Ramjattan:** They raised the *lil* taxes during that period.] In 2018, the total budgetary allocation for sea and river defences of the APNU/AFC Government was $1,870,000,000. I heard an Hon. Member telling us that we raised taxes during this period. The Hon. Member forgot who was in Government. In 2019, the people of Guyana must be reminded that the APNU/AFC's total allocation for capital as well as maintenance was $3.8118 billion of which more than $1.2 billion was contingencies. The total of the entire five years is $10,856,876,000. Let us now discuss what the Hon. Member, Ms. Walton-Desir, said while our innocent schoolchildren were sitting in this august Assembly earlier today – the lack of allocation. The nation will now hear the truth of the PPP/C's record. In 2020, it was $2,613,365,000 – that was with an emergency budget. In 2021, it was $5,220,649,933. In 2022, it was $5,472,390,000. In 2023, it was $5,400,000,000. In 2024, it is $6,260,000,000. The total

to date is $24 billion in four years versus $10 billion in five years. Then, you want to come here and lecture us about starving the sea and river defences of financial allocations. Take that argument elsewhere; not in this House; take it elsewhere.

3.55 p.m.

The Hon. Member, Ms. Amanza Walton-Desir, told this House, in the presence of our innocent schoolchildren, that we removed people from the seawalls. I stood on a Point of Clarification. [**Ms. Ferguson:** (*Inaudible*)] Yes. The reason a speaker on his/her feet will deny is because the speaker cannot stand to authenticate his/her facts. Whenever one is sure about his/her facts, one gives way because he/she could come back and rebut what was said. When one fails to give way, one of the reasons failing to give way is because one would like to say what he/she was saying unchallenged but it is going to be challenged now. In our politics of today, I noticed that everything that happens – even when it is principle, when we are operating to elevate standards, when we are seeking to bring about development – the one argument that a group of people, assembled as their lounging path, is 'racism' and they play to the race card.

I would like for Guyana to hear me and hear me well. There are 52 vendors who have been given permission by the Sea and River Defense Board to ply their trade on the seawall between Kitty and Camp Street. Not one of them was removed. Mr. Speaker, I would like to give you the ethnic breakdown. From the 52 vendors one is a Latino/Venezuela – Guyanese connection person who came back home, one is an Indian and all of the others are Afro-Guyanese. This is the racism that the People's Progressive Party/Civic (PPP/C) is guilty of. Sometimes we fail to put these facts on the table. It is because we fail to put these facts on the table, a group of persons could jump on *Facebook*, invite legislators of this House, people who are paid by taxpayers' money to represent people and they continue to peddle this racism because there is no other argument that they could make. [**Dr. Singh:** None.] None whatsoever. Today, I am dealing with a specific thing that was said between someone who looked through a particular lens and misled this National Assembly, today. I call upon Ms. Amanza Walton-Desir…

Mr. Speaker: Imputing, misleading, Hon. Minister, you are going [*inaudible*].

Bishop Edghill: Statements that are challenged by the facts; statements that are challenged by the facts. I would like for the Hon. Member to produce one vendor who has a permit from the Sea and River Defence Board that is not plying his/her trade on the seawall. There is not one. [**Dr. Singh:** (*Inaudible*) aviation and never did a day of work.] I do not want to get into that issue today. That issue was very well ventilated before about who was overpaid and who did not go to work.

Secondly, these vendors who were given permission – all of them – agreed that they will vend in a caravan or a space not more than 100 square feet (sq ft). They will be in caravans that have wheels and are moveable. They would have to clean up after each vending activity. Whatever they put out there must be aesthetically pleasing. It was not a Shanty Town arrangement that we gave permission for. I will say to this National Assembly and all of those who would like to use the racism argument, you could go to the seawall and even though their permit was for 10x10 ft, there are containers out there which are 20x8 ft. They are still there because we are prepared to work with them to keep them in order. Even though they are in breach, we did not lift those containers and took them away; we put them in line.

Let me tell you what we did, Mr. Speaker. There was supposed to be no vending between the roundabout and the 1823 Monument, buy some of the persons who were given permit moved from where they were and went into that area. That entire seawall, where vending is permitted, have pickets and markers. Every person with a permit knows that if he/she is six, this is your space; number 17, that is your space; and number 38, that is your space. All the Sea and River Defence Board did through its agents was to pick up everyone and put them in their correct space. Vendors are not supposed to vend 15 feet away from the edge road but some of them were all the way to the edge of the road. All we did was lift them up, took them 15 feet in. We measured and they were there. There were some of them who actually cooperated to make sure that they took out their glass cases and anything that could have been damaged and everyone came in line. Before that, we started destroying the latrines that were there. We destroyed more than 20 pit latrines. There were people who were actually sleeping and living there, which was not part of the agreement. People would write letters, go to international agencies, go on the television and *Facebook* live where they cannot really prove anything. Sometimes, I think, we, the PPP/C, Government of Guyana, are not as aggressive in addressing this racism issue as we should address it but, today, we are putting that to rest here in this National Assembly that not one Afro-Guyanese was displaced from vending on the seawall. The Hon. Member must do the decent thing and let the nation know that she was wrong. [**Dr. Singh:** You are calling on her to

do the decent thing.] Yes, the decent thing if that is possible.

Mr. Speaker, there is some confusion about the composition of the board. The Bill that I sent to you has the exact language as the Bill that Mr. Patterson, former Minister of Public Infrastructure, sent to the Attorney General Chambers. It has the same wording with the Executive Director of the Environmental Protection Agency (EPA) on the board on the composition. I would like to read Part II of the Sea and River Defence Board. Mr. Speaker, you cannot blame me for the lack of a Member's ability to comprehend. I could try my best; I could try my best to make it pellucid but if the Hon. Member is unable or incapable to understand, I cannot be held responsible. Part (II) of the Act states:

> "(1) There shall be a Sea and River Defence Board established in accordance with this Part of Schedule 1."

Hon. Member Mr. Patterson, listen. It states:

> "(2) The Board shall consist of the *ex officio* members, or their representatives, listed in paragraph 2(2)(a) of the Schedule 1…"

This is the schedule.

[*The Hon. Member displayed a document.*]

Paragraph 2. (2)(a) of the SHCEDULE 1 states:

> "at least five members, or their respective nominees, from other government bodies –"

That is what that states; it continues to state:

> "…and not less than seven and no more than fourteen other persons appointed by the Minister in accordance with paragraph (2)(2)(b) of Schedule I."

[**Mr. Patterson:** (*Inaudible*) other.] Oh boy. Mr. Speaker, if there are 14 others plus five, how could it be only 14? I will move on because we have difficulties here. The issue about women and the representation of women on the board were raised. I heard the noises in the House about "in this day and age, one-third is not there, modern, *et cetera*." The *Cabinet Papers* will tell us about the appointing of boards because all boards are appointed and approved by Cabinet. We could make a comparison. This issue about one-third representatives of women was an issue that was raised with the European Union (EU) as a condition of its funding in the 11th European Defence Fund (EDF). The 11th EDF is completed. We are in Government. We have no European Union to say, 'in order to get the money, we have to put so many women'. We have insured that the board has more than one-third of women. The board that they had did not meet that criteria and they come here today…

Mr. Patterson: Mr. Chair, Standing Order 40 (a), Sir. The Hon. Member just said that the reason you do not give way, it is because you cannot rebut. Sir, I would like to make a Point of Order. Sir, of course…

Mr. Speaker: Give me a one second to go back to…

Bishop Edghill: Yes, 40 (a) is a Point of Order that the Hon. Member is raising.

Mr. Speaker: Yes, I know what it is but I want to read it. Standing Order 40 states:

> "Subject to these Standing Orders, no Member shall interrupt another Member except: -
>
> (a) by rising on a Point of Order, when the Member speaking shall resume his or her seat and the Member interrupting shall simply direct attention to the point which he or she desires to bring to notice and submit it to the Speaker or Chairperson for decision…"

Tell me, what is the point that you want to bring to my attention?

Mr. Patterson: The Hon. Member just made a statement that the previous board did not comprise of 33% of women. Sir, that is incorrect. If the Hon. Member would permit me, Sir, could I…?

Mr. Speaker: If you are saying that the Hon. Member is incorrect, I will permit you.

Mr. Patterson: Sir, if you would permit me, I would list the members of the board right now.

Mr. Speaker: Go ahead.

Mr. Patterson: Sir, the internet here is a bit slow.

Mr. Speaker: Hon. Member, I do not think you are ready so let us do not detain the House.

Bishop Edghill: That is the point I am making, Mr. Speaker.

Mr. Speaker: Hon. Minister, please, go ahead.

Bishop Edghill: Come on, man, we cannot do this sort of grandstanding here. If Members noticed, I stood back graciously as against what your Members did because I was prepared to deal with it. We are talking here about and Sea and River Defence Board, which is a statutory body. I want

us to compare that with a Constitutional Commission that is established to the review of our Constitution. The Constitution is the supreme law of the land. I will like the Hon. Members of the House, if that consideration was not embraced, how many Members who are females came – otherwise, if we do not know who they are – from the Opposition to comprise that august constitutional reform body. The Hon. Members should check their computers to see because they are coming here to argue about the Sea and River Defence Board. [*Interruption*]

4.10 p.m.

Mr. Speaker, I want to say it very loud and clear to our professional women who serve in various Government agencies and who have served on the Sea and River Defence Boards of 2020, 2021, 2022, 2023 and now 2024, and continue to do so with distinction, we salute the women who have been appointed by the People's Progressive Party/Civic (PPP/C) Government to serve on this Board. You know, there is a… [**Ms. Ferguson:** Tone down, Bishop.] Yes, whenever the truth is coming out, 'tone down'. Nobody is going to tell me how loud I should speak in this House because I am going to speak the truth. Mr. Mahipaul has a *penchant* for seeking to distract so that the people of Guyana will not hear the truth, but you are dealing with the wrong person, Sir. The truth will always come out. The Hon. Member, Mr. Patterson, the former Minister of Public Infrastructure, who supervised the consultancy and all the rest of it, to put this Bill… Had it not been for the no-confidence motion, this Bill would have been passed by the A Partnership for National Unity/Alliance For Change (APNU/AFC). This is because he said it was their Bill. He came to the House this afternoon and listen to what the gentleman told us. He told us that we have changed the legislative architecture so that we could take away people's lands and make it State lands.

Part XII of the Bill that I sent to you soft copy… [**Mr. Nandlall:** The 2019 Bill.] The 2019 Bill, that is what he was planning to do. I have a copy here now, Mr. Speaker, that I could refer it to the Hon. Member so that we could read it together. I have a copy here for him so we could read it together. There is a transitional provision which I spoke about in my opening presentation, and I will read Part XII:

> "PART XII
>
> TRANSITIONAL PROVISIONS, CONSEQUENTIAL AMENDMENTS AND REPEALS
>
> 83. (1) Any sea or river defence in existence under either of the Acts listed in section 85 immediately prior to the commencement of this Act remains in force and has effect as if it had been made under a corresponding provision of this Act."

Everything remains in force.

> "(2) For the purposes of Part III, the geographic limits of existing sea and river defences, as defined under section 2 of the Sea Defence Act, comprise a '"sea or river defence zone."'

This section does not affect or modify the title of any lands at the time of entry into force of this Act. Did you read the Bill? If you read the Bill, you would not have said what you said, Mr. Patterson. We are driving fear in people using the forum of the National Assembly where you are supposed to have the privilege, to driving fear in the hearts of people that somehow this Government is coming to take away their lands because they are somewhere near to a sea and river defence, when it is not so. If they are saying that is what we are doing, the very same thing is what you were planning to do, and it is not the case. The 50 feet remains.

We have had a long day so far and there are things that I could continue to say, but I would not yield to the temptation of frivolous matters. I have sought to expound on matters that I will raise and of a consequential nature and bring to this National Assembly, one – no case has been made out for this Bill to go to a special select committee. Raising a comment is not making a case. The Hon. Member, Mr. Ramjattan, knows that any lawyer could make a statement but then they still have to make a case in order to get the decision in their favour. Even if the Government was prepared to listen to your case, to say maybe like you said, 'two weeks to a special select committee'. There is no case. You want me, as the presenter of this Bill to the National Assembly, to come here and say let us send it to a special select committee, when a case for that has not been made and not even a single amendment has been proposed.

I have also highlighted to you and the nation that this Bill went through a wide consultation process. I have answered the issues about the PPP/C Government's record of supporting the protection and the construction of our sea and river defences and I have compared that to the record of the previous Government. I have addressed the issue of the misinformation about what took place on the seawall. While I am dealing with this, the Hon. Member did not only refer to the 52 who are vending between Camp Street and Vlissengen Road but went to the development that is now at

the Kingston Bandstand area. Never before has the Kingston Seawalls ever looked the way it is looking; never before had our children have a designated play park to play in safety at the Kingston Seawall; never before was there a police outpost to protect people while they are there; never before was there a hotspot that you could get free wi-fi; and never before was the cleanliness of the environment like that, right down to the round house behind the Pegasus Hotel in the area of the Marriott Hotel which has been done over.

Mr. Speaker, just to let you know who occupies the current spaces because the Hon. Member said something that is dangerous – 'friends, families and favourites'. Well let me tell you about the friends of the PPP/C. There is an Afro-`centric shop run by Afro Guyanese where you could go and get your cook-up rice. There is an Indo-centric shop run by an Indian where you could go and get your curries. There is an Indigenous shop run by Indigenous people where you could go and get your Indigenous food. To the Hon. Member, Mr. Patterson, the gentleman who was vending, not on the sea defences on the southern side, he went to the northern side on the beach where he was selling the mojitos and the piña coladas and so on, we moved that gentleman out of the danger of the sea and gave him there. The pop-up bar is now at that location. I will tell you that sometimes we suffer because we do not always tell the whole story, but when people raise issues like this, we do not *blow on trumpet*. It gives us an opportunity to deal with these matters.

I do not want to detain the House. This Bill is good for Guyana. I do not believe that the Opposition should oppose for opposing sake. I know you have to say something for your constituency to see that you are doing something. When you come to this House, especially with matters like these, you must be reasonable, you must be rational, and you must also speak the truth. I commend this Bill to the National Assembly, and I ask that it be read a second time. Thank you, Mr. Speaker.

Mr. Patterson: Mr. Speaker, if I may?

Mr. Speaker: Thank you very much. Hon. Member, Mr. Patterson, you have the floor.

Mr. Patterson: Thank you very much. With your leave, Sir, Standing Order 40(b). I did not want to interrupt the Hon. Member.

Mr. Speaker: Well, you have to interrupt when he is speaking if you want to elucidate.

Mr. Patterson: Standing Order 40(a), you had asked, and you had given me permission to read.

Mr. Speaker: I would not give you permission now because I would be out of order. If you have that information, you can submit it and then we can go back. Thank you.

Mr. Patterson: Sir, I will submit it to the House.

Mr. Speaker: Thank you very much. Hon. Members, this concludes the contributions on the second reading of the Sea and River Defence Bill 2023.

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.

4.25 p.m.

ARBITRATION BILL 2023 – BILL NO. 18 OF 2023

> "A Bill intituled:
>
> AN ACT to facilitate domestic and international arbitrations by encouraging the use of arbitration as a method of resolving disputes; and for connected purposes".

[*Attorney General and Minister of Legal Affairs*]

Attorney General and Minister of Legal Affairs [Mr. Nandlall]: Often times I have made reference to the intent of our Government to change the statutory and legal architecture of our country as our country transforms into one of the most modern and fastest growing economies in this hemisphere. We have repeatedly brought Bills to this House, designed to meet the exigencies of those changes. Today, like the Bill we just debated, which addressed the important issue of our river and sea defence, today I present, for Second Reading, a Bill of equal magnitude. It is now an undoubted fact that Guyana is the fastest growing economy in this hemisphere. As a result, there is an astronomical increase, an expansion, in almost every sphere in national life, likewise, there is an explosion of commercial activities and an expansion of in the commercial and legal sectors that is unprecedented.

Since 2020, we have begun the overhaul of our entire legislative and institutional tapestry in order to accommodate, facilitate and foster these transformational changes. This Bill is part of that changing architecture. In this ever-expanding commercial environment, contracts are executed on a daily basis, both at the level of the State, as well as in the private sector, involving billions of dollars in commercial undertakings. These contracts are with both local companies, as well as international corporate giants. They are modern, sophisticated and commercially efficacious. Invariably, they provide, as modern contracts do, for the resolution of disputes which may arise between parties to the contracts. In contemporary commerce, litigation has long been relegated to an option of last resort. Arbitration has replaced it as the most preferred method of settling commercial disputes. Unsurprisingly, almost every contract of the type to which I am referring, contains what is called an arbitration clause. That is, a clause by which the parties agree to settle their disputes through arbitration. We have an Arbitration Act in Guyana. It was enacted in 1916 and is the 1889 Arbitration Act of the United Kingdom (UK). It is therefore 135 years. It was only amended twice – in 1927 and in 1931, almost 100 years ago. Without doubt, our statutory arbitral framework is one of the oldest in this part of the world. Naturally, it is completely anachronistic, ancient and unsuitable to meet the demands of today's commercial environment.

In this regard, we are lagging behind the rest of the Caribbean. The Cayman Islands, the British Virgin Islands, Jamaica, the Bahamas, Barbados, Bermuda, Trinidad and Tobago and every other Caribbean territory have modern arbitration statutes. In the circumstances, we have to update our laws, not only to provide for the modern legal mechanism to settle disputes by arbitration but also and, perhaps, of greater importance, to make Guyana an attractive destination to be chosen as the seat for arbitrations, arising not only from contracts executed in Guyana but an arbitration centre for the Caribbean and, perhaps, even South America. The arbitration industry is a multi-million-dollar industry and has the potential of creating many jobs, most importantly, high paying jobs. This Bill seeks to satisfy all those requirements. Currently, as I stand here, I can refer to already, in the public domain, reference being made of a potential dispute between the Government and ExxonMobil in relation to cost oil being referred to an arbitration. There is some sort of dispute between two operating oil giants in Guyana and reference has already been made that it may be referred to arbitration.

We have on-going in Washington, the Parking Meter dispute and that is at arbitration. When the APNU/AFC was in Government, they sold rice farmers' rice to Panama, to the tune of US$7.5 million and never collected payment for that sale. We, in Government, had to refer that matter to an arbitration in Paris. Fortunately, that matter was settled. It was published in the newspaper as well, that in the Gas-to-Shore Project some dispute has arisen or is likely to arise between the contractors. Reference has been made that it will be referred arbitration. I gave those examples so that Members of the House can relate, immediately, to the need for a modern arbitration architecture in our country. As I have indicated our arbitration network is over 100 years old.

There are certain key features of arbitration that make it stand out as the preferred mode of settling commercial disputes. I have tried to chronicle them very briefly. Arbitration is consensual. That is the first thing. The parties must agree that, should a dispute arise, it would be resolved through arbitration and not by another mechanism. Hence, the relevance and importance of the arbitration clause.

Secondly, the parties have the freedom to choose their own arbitrator or arbitrators, as the case may be.

Thirdly, the arbitration, if the parties wish, can be a confidential process with no disclosures of the proceedings.

Fourthly, the decision of the arbitral tribunal is final and binding upon the parties in the same way that a court order is binding. The procedural and evidential rules of arbitration are far more relaxed and simpler than a litigation. Also, arbitration is a far more expedient, efficient and flexible process and is not subject to elongated processes of appeals and challenges. There are very narrow grounds upon which you can challenge an arbitration. Those reasons aggregate in today's world to make arbitration a far more attractive option than litigation, where the parties lose control of the process, and the process becomes the subject of the judiciary. Here, the parties have greater control. They know who the arbitrators are. They can regulate their own processes and they have a whole host of flexibilities that a litigation process does not offer.

This Bill has a particular history and I want to share the history of this Bill with this House. The Bill commenced with it being a Caribbean Community (CARICOM) model arbitration Bill. The Caribbean Region has obviously seen the need to modernise the arbitration regulatory framework in the region, in particular, because we are moving now in the corporate component of the Single Market and Economy. There is a need, recognised by the Heads, for us to have

harmonised legislation, in particular, in the commercial arena. That is why, in addition to a common model legislation and arbitration, we are working on a common model legislation in company law, in bankruptcy and insolvency, in trademark, in partnership and in many other similar commercial undertakings. This is a CARICOM model that we commenced with. The CARICOM model embraced the United Nations Commission on International Trade Law (UNCITRAL) rules regarding arbitration. Anyone *au fait* with commercial arbitration would know that once the Bill or the Arbitration Act is patterned against or is predicated upon, the UNCITRAL rules, they know that jurisdiction has what is considered to be the gold standard in terms of arbitral or arbitration legislation. That was adopted by the CARICOM model, and we inherited that.

Then, at the level of CARICOM, they looked at various arbitration legislation existing in the region, and outside of the region, especially where there are blocks, like the European Union (EU), *et cetera*, and when there is a need to have a common arbitration regulatory framework. They looked at countries such as Singapore, France and Switzerland. These are considered the arbitration capital of the world. The CARICOM model borrowed from those jurisdictions, as they prepared the common Bill which they have passed around in the rest of the region. Trinidad was the first country to implement and enact the CARICOM model Bill and that was done last year. We could have followed suit last year and promulgate our Bill, but we went on a different course because we wanted a superior Bill. I say so with the greatest of respect to the CARICOM model, as it is a very good model. We began first, a consultation exercise in Guyana. We consulted widely with various stakeholders, organisations, including the Guyana Bar Association, the Private Sector Commission (PSC) and the Judiciary and we enlisted their input.

[*Mr. Speaker left the Chair.*]

[*Mr. Mahipaul, Presiding Member, assumed the Chair.*]

4.40 p.m.

Then we hired a consultant, Professor Justice Courtney Abel, who did a workshop titled: *Guyana, the Next Arbitration Hub: The Journey Begins*. That workshop was held jointly with the Attorney General Chambers, and we invited participation from across the Caribbean. We also received a lot of inputs from that exercise. Then, Mr. Speaker, as we went along in these different incarnations of consultations, we amended and adjusted the Bill accordingly. We then established a unit within the Ministry of Legal Affairs, headed by yours truly. It had on it the Deputy Solicitor General, the Deputy Chief Parliamentary Counsel, a member of the Private Sector, a member of the Berbice Bar Association, and a member of the Guyana Bar Association, and we went through another examination of the Bill. The Bill was then passed to the Law Reform Commission for their input as well.

Finally, we engaged two international law firms that have extensive practice in the area of commercial arbitration internationally. The two law firms are Gibson, Dunn & Crutcher LLP International Law Firm, and Arnold & Porter, based in the United States (US) and the United Kingdom. They reviewed the Bill in its entirety and sent back to us a report containing their recommendations. We examined that report, we distilled the recommendations, and many of them are incorporated in the Bill. Then we began a capacity-building exercise because we want this law to kick off immediately because there is a great demand for it. We started training, so we held a series of training workshops. For example, lawyers from Gibson, Dunn, & Crutcher LLP International Law Firm, having studied the Bill, came to Guyana and held seminars. I remember going to one at the Grand Coastal Hotel, where we invited lawyers from the Private Sector, we invited businessmen from the Private Sector who were interested, members of the Bar, I believe the Judiciary was there, the Attorney General Chambers attended, and we had a workshop there.

Then, through the Improved Access to Justice in the Caribbean Project (IMPACT Justice), we held another training session titled: *Drafting Arbitration Clauses: a Practical Workshop*. This workshop was open to young attorneys at law and other interested persons 40 years and under. It was widely attended, again, and experts from across the Caribbean administered the training programme.

In May, 2022 and in June, 2022, another workshop was held under the title: *Roadmap to implementation of a New Arbitration Law for Guyana and other CARICOM countries*. This was a workshop arranged again by the Attorney General Chambers in collaboration with IMPACT Justice. We had about four professors from the Caribbean; from the University of Ottawa, we had Calvin Hamilton of Arbitration International; and the President of the Chartered Institute of Arbitrator (Caribbean branch) (Ciarb), Mr. Miles Weekes. They conducted that training session.

In March, 2023, 30 lawyers again benefited from another workshop in relation to arbitration generally with particular emphasis on the Bill.

Mr. Speaker, not only is the Bill comprehensive, but the preparation that was engaged in before the Bill was brought here was also an embracing one in terms of getting the widest possible input from experts in the field, as well as building capacity in Guyana, so that when the Bill is implemented, we will have a cadre of persons who are acquainted with arbitration specifically and are acquainted with the Bill itself. I have also asked the Department of Law of the University of Guyana to put arbitration as a core course in the Bachelor of Laws (LLB) programme at the University of Guyana, because arbitration is here to stay. The Bill is a very involved Bill. It has a large number of clauses, and it would be impossible for me to go through it clause by clause. So, what I have done is simply to summarise the various parts of the Bill to just identify and highlight the key elements.

Part I of the Bill provides for the object and scope of the application of the Bill. The main objectives of the Bill are to encourage the use and facilitation of arbitration when solving disputes, obtain fair and speedy resolutions of disputes, and recognise and enforce arbitral awards. This part stipulates that the law will apply to domestic and international arbitration, where the seat of arbitration is in Guyana. This part also provides that the court shall not intervene in arbitration proceedings, except as provided by the Act. Additionally, this part provides that certain functions relating to arbitration assistance and supervision shall be performed by the appointing authority. For the purpose of the Act, an appointing authority includes a person, the court, an international organisation or an arbitration centre. These fundamental functions include intervening and resolving issues such as where the parties are unable to agree on the appointment of an arbitrator, an arbitrator is challenged, or an arbitrator fails to act.

I want to pause here to explain the international flavour that runs thematically through this Bill, because it is intended. This Bill creates a very flexible environment, so it allows for parties to go to arbitration by themselves. It allows for the court, during the course of a case, to refer a matter to arbitration if the contract that is the subject of the litigation has an arbitration clause. Then it also allows for an arbitration or a company offering arbitration service any part of the world to come to Guyana to locate and offer that service. That flexible infrastructure is a key part of the Bill. For example, as I have said, I have cited two examples, but there are many. If you read the contracts that we are signing every day in Guyana, all the contracts have an arbitration clause and it refers the arbitration to London, Brussels, Paris, New York, Washington. Why? I mean, those are metropolitan centres, but all the arbitration is governed by the Arbitration Act and the conduct of the parties. We can have that done in Guyana if we have the same framework and this Bill creates such a framework.

Mr. Speaker, you may be aware, and Members of the House would know, obviously, of the oil spill in the Gulf of Mexico. That was British Petroleum (BP) – that horrible disaster. It involved an arbitration or resulted in an arbitration involving hundreds of millions of US dollars. That arbitration was done in Nassau, Bahamas. Nassau, Bahamas can fit several times in Georgetown, Guyana. If we have the type of infrastructure here, the regulatory framework here, the edifice, the services, we may have to import personnel, and that is why we have begun the training process. Eventually, we will be able to build capacity here, but in the meanwhile, we have the freedom, the arrangements necessary and the framework requisite for the biggest arbitration centre to come here, occupy a building and render its service. That is what this Bill does. In the short term, it tries to make Guyana self-sufficient in arbitration and then, in the long term, it intends to make Guyana an attractive arbitration destination.

Part II of the Bill governs arbitration agreements. An arbitration agreement shall be in writing and can be in the form of an arbitration clause. This part allows the court, where an action is brought in a matter which is the subject of an arbitration agreement, to refer the parties to arbitration, unless the court finds that the agreement is null and void, inoperative or incapable of being performed. Moreover, this part provides that the court may by order refer a matter, other than a criminal one, to arbitration, if necessary, irrespective of whether the parties consent. Further, this part provides that it is not incompatible with an arbitration agreement for a party to request, before or during arbitral proceedings from a court, an interim measure of protection and for a court to grant such measure. You may have an arbitration, Sir, and one party may need an injunction or some form of interim protection which the arbitration centre may not be able to grant. In that event, there is flexibility again. One of the parties to the arbitration can go to the court and get an interim order to protect whatever the *status quo* is until the hearing and determination of the arbitration. Sir, that type of flexibility runs throughout the Bill in a common way.

Part III of the Bill deals with the composition of the arbitration tribunal. The parties have the freedom, as I said, to choose the number of arbitrators and where there is no agreement, the number of arbitrators shall be three. The parties are empowered to determine the procedure for the

appointment of an arbitrator. Additionally, where the parties to the agreement fail to appoint an arbitrator within 30 days of receipt of a request to do so, the appointing authority shall appoint the arbitrator. This part lists the grounds for challenge of a person's ability to be impartial and an independent arbitrator. Obviously, you have a mechanism by which one of the parties can challenge an arbitrator on limited grounds. That is why you cannot have spurious challenges. The grounds are actually limited, and even strong evidence has to be produced to support challenges, so you do not have frivolous and vexatious objections raised to a particular arbitrator.

Part IV of the Bill provides for the jurisdiction of the arbitral tribunal.

> "An arbitral tribunal may rule on its own jurisdiction…"

This part also provides for the parties to make pleas concerning the jurisdiction of the arbitral tribunal and sets out the process for raising such a plea. The arbitral tribunal can continue with proceedings while the pleas on lack of jurisdiction are pending. Mr. Speaker, obviously any tribunal must first satisfy itself of its jurisdiction and there are provisions in the Bill that would allow any person to the arbitration, of course, to challenge the jurisdiction of the arbitration so that the arbitration cannot act outside of the authority conferred upon it, either by the act or the parties by their agreement.

4.55 p.m.

This Bill also contemplates and provides for mediation even within arbitration. This is another component of the flexibility to which I am referring. So, it is contemplated, and experience has shown that even in an arbitration itself, as informal, comparatively, as it is with litigation, and despite the parties having the flexibility and the discretion which they have, there are sometimes going to be impasse that could affect the arbitration from continuing. This Bill provides for a breakout. Put the arbitration on pause, and go to a mediation, an even softer approach, an even more flexible approach, and an even more informal approach, to ensure that the particular issue that is causing some deadlock is resolved. So, mediation is part and parcel of the arbitration process.

Part VI speaks to interim measures and preliminary orders. I already made mention of the fact that if during an arbitration, despite all the powers that the arbitration commission and the arbitration tribunal may have, in the event that they do not have that repertoire of power that is particularly required, or that remedial power that is particularly required to address something that may have arisen, they can go to the court. But they do have, under the Act, a repertoire of remedial powers that will allow them to grant such orders as they see fit in the circumstances to meet the justice of the particular cause. Part VI provides for interim measures and preliminary orders. This part empowers the arbitrary tribunal to grant interim measures and sets out the conditions under which the interim measure may be granted. One of these conditions is that the requesting party shall satisfy the tribunal that the harm not adequately reparable by an award for damages is likely to result if the measure is not ordered. It is the same injunction test. If one is going to suffer irreparable harm or damage, and the damage that he/she will suffer will not be compensated in the final analysis or in the final decision of the arbitration tribunal, then he/she would have demonstrated a case for an interim stop measure to whatever it is that he/she is claiming is causing the harm. It is a very similar test for interim injunctions. The Bill confers that statutory power on the arbitral tribunal to grant such orders as it sees fit.

> "A request for an interim measure coupled with an application for a preliminary order preventing the frustration of the purpose of the interim measure may be made without notice to the other party."

So, there is a provision for an *ex parte* application to be made. This part also:

> "…provides for the recognition and enforcement of an interim measure, requiring the party seeking the recognition and enforcement to notify the Court of any modification, suspension or termination of the interim measure."

So, if one gets the measure there and he/she has difficulty enforcing it – remember, this is a tribunal, it does not have the plenitude of power and resources that the High Court would have through its systems of marshals, *et cetera* – he/she could take that interim measure, go to the court and ask the assistance of the court to enforce it. All of that flexibility is in the Bill. This part also provides that:

> "The Court shall have the same powers to enforce interim measures in arbitration … as it has in relation to proceedings in Court."

So, if one goes and registers that interim measure and there is a breach, he/she can go back to the court. If the arbitration tribunal does not have the power to enforce the order, he/she

has a resort to the court. So, one straddles and gets the best of both worlds. He/she has the court to enforce all his/her orders, to correct all of the deficiencies and inadequacies that the tribunal may have, and he/she has the coercive power of the court. So, if an interim order is granted and it is being violated and the arbitration centre does not have the power to enforce it, one can go to the court and get the whole repertoire of contempt of court redress available to him/her.

Part VII of the Bill provides for the conduct of the arbitral proceedings, and it sets out all of the procedures. The parties shall:

> "…be treated with equality and be given a full opportunity to present their case."

This is obvious. The parties have:

> "…the liberty to agree on the procedures to be followed by the arbitral tribunal in conducting the proceedings."

I spoke about the freedom to regulate oneself; the parties have that.

> "To this end, the parties also have the liberty to adopt the UNCITRAL Arbitration Rules."

One can see that the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules are attached.at the back of the Bill. As I said, those rules are considered the gold standard. So, if the Act is anyhow deemed by any party to be inadequate, then one has the UNCITRAL Arbitration Rules there to supplement it. The UNCITRAL Arbitration Rules have been enacted since 1985. It has served the commercial world with distinction since. The parties will also decide:

> "…the place of arbitration. However, where there is no agreement as to a place of the arbitration, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties."

So, that is why I am saying that persons can choose Guyana. We have given that latitudinal freedom in the law. Additionally, this part provides for:

> "Consolidation may occur when the Court believes that a common question of law or fact arises in … all of the arbitrary proceedings, or where the rights of the relief claimed … the proceedings are in respect of or arise out of the same transaction or series of transactions."

Lawyers will know about this power. It is a power to consolidate a number of different proceedings so that one can have them disposed of conveniently and with efficiency. The Bill confers upon the arbitration tribunal the same repertoire of powers. A lot of powers that a court has in the conduct of litigation are conferred upon the arbitration tribunal by the Bill.

Part VIII of the Bill deals with award and termination. It provides for:

> "…the making of an award and the termination of the proceedings."

Here, this part sets out the power to make the orders that are being prayed for, *et cetera*, and how the judgment will be delivered, or the decision will be delivered, *et cetera*. It deals with incidental issues such as costs. Again, where there is any deficiency, the Bill allows the parties to rely upon and enforce the UNCITRAL Arbitration Rules. It provides, importantly, for interests and how interest, for example, is to be calculated either by compound interest, simple interest, *et cetera*. So, the tribunal is vested with all of those powers that the court would have in making a decision and in granting consequential orders.

Then, Part IX deals with recourse against the award. As I said, any award made by any tribunal must have some ground upon which one can challenge it. I refer to the limited number of grounds here, but it is provided that an award can be challenged. If an illegality occurs, if one party commits some illegality in the course of it, or it is subsequently found that one of the arbitrators misbehaved in the decision by accepting a bribe from one of the parties, obviously, that must be a basis for setting aside an award.

> "An award may be set aside in certain instances, for example, where proof is furnished that a party to the arbitration agreement was under some incapacity, or where the agreement is not valid under the law. Setting aside may also occur where the Court finds that the subject matter of the dispute is incapable of being settled under arbitration laws in Guyana."

So, if the issue could not have been arbitrated in Guyana, then, obviously, that is a ground for setting aside the award. These are the three grounds. Fraud is, I believe, a fourth one.

Then, Part X deals with recognition and enforcement of awards. Obviously, one gets an award and goes through a

long process to get an award so that he/she can be able to have it recognised and enforced appropriately. The Bill deals with that. It covers the recognition and enforcement of an award. An award shall be recognised as binding and shall be enforceable. The award may be refused only where information provided that a party to the arbitration agreement was under some capacity, *et cetera*. Obviously, one can go to many jurisdictions in the world and have that award registered as an order of that court, wherever he/she wants to enforce it, once it is recognised as a valid award.

Part XI deals with miscellaneous provisions of the Bill. I will not go through all of that. This Bill is an historic intervention in a very important area. It adds a very important adjunct to our legal system. That adjunct is a modern way of settling disputes outside of the court system. We have another Bill, which we will be debating later this afternoon, which deals with pre-bargaining. That is another form of settling disputes in the criminal justice system. Here it is in the civil justice system. I say that to you, Mr. Speaker, so that you have a clear picture of the magnitude of the modernisation that is taking place in our legal and regulatory architecture. Why are we doing all of this? It is because we have an economy and a country that is developing at an amazing pace. We have companies that are huge and are considered corporate giants. They have a lot of resources at their disposal. Our country and its people can benefit from those resources. So, we have to keep… Whatever their business is, they must not come here to only benefit from our resources, but if ever a dispute arises, we must not give them the opportunity of exporting the resolution of those disputes to another country and we have all of the facilities here. At the end of the day, buildings are going to be rented, our people are going to be employed, and our lawyers will eventually become skilled and experienced arbitrators. When the foreigners come, they stay here, *et cetera*, and as I said, arbitration is a multimillion-dollar commercial exercise. Ask any company that has gone to arbitration or any person who has functioned as an arbitrator. It is a very remunerative undertaking for all involved.

So, Mr. Speaker, this is not a Bill to which I anticipate any opposition. I invite my friends on that side to give this Bill their full support. Thank you very much, Mr. Speaker. [*Applause*]

5.10 p.m.

Mr. Forde: Good afternoon, Mr. Speaker. There is no doubt…and I join the Attorney General in agreeing that there is certainly a need to review the Arbitration Act as it currently exists. The Attorney General quite rightly pointed out that the current Arbitration Act is old and, in many respects, out of date with what is actually needed for a vibrant and growing economy. We all agree that arbitration as a process and mechanism forms part of the alternative dispute resolution (ADR) system. Having regard to what the Attorney General said and the very importance that this Bill will play in the life of Guyana as a political economy, I am concerned that there are a few things to which he did not pay sufficient attention.

I concede that this Bill – and I have to accept what the Attorney General said at his word – did indeed come out as a result of a number of processes. The fact that the Attorney General saw it fit to point out, for example, the role of ExxonMobil in Guyana, conflicts potentially with the Government of Guyana and the gas-to-shore project; the potential need or possibility to engage in arbitration, and the fact that these are billions of dollars…What I want to focus on is the role of the current proposed Arbitration Bill in the context of what this means for Guyanese and transparency. I am particularly concerned that, notwithstanding that the Bill has that sort of pedigree supporting it, the proposed clause 64 in the marginal note states:

> "Arbitral proceedings shall be private and confidential."

Clause 64 reads:

> "(1) Arbitral proceedings should be private and confidential.
>
> (2) Disclosure by the arbitral tribunal or a party of confidential information relating to the arbitration shall be actionable as a breach of an obligation of confidence unless the disclosure-
>
> (a) is authorised, expressly or impliedly, by the parties or can reasonably be considered as having been so authorised;
>
> (b) is required by the arbitral tribunal or is otherwise made to assist or enable the arbitral tribunal to conduct the arbitration;
>
> (c) is required-
>
> (i) in order to comply with any enactment or rule of law;
>
> (ii) for the proper performance of the disclosure's public functions; or

(iii) in order to enable any public body … to perform public function properly;"

It continues down to the end. Mr. Speaker, my concern is that as currently framed and enacted, it seeks to restrict the public's interest in arbitration in relation to the Government and State entities. I believe that should be considered. As a matter of fact, this is one of the criticisms which has been brought to the fore in the Republic of Trinidad and Tobago – in its very Parliament – when this Bill came up. It seems to be something that has been an oversight in terms of the impact it could have on Government and State entities. It is okay and it is generally acceptable that insofar as arbitration exists between private parties, such a clause is a normal one. In the context of state and Government entities, the requirement for confidentiality as drafted, seeks to reduce transparency, which will be necessary in relation to these issues. Ultimately, at the end of the day, in the context and conduct of the Government, it will be the people's moneys and resources which will be the subject of these arbitration proceedings.

There are two other areas which I would like to look at. The Attorney General, again, said that this Bill flowed from wide consultation and from the involvement of legislation from the well-known arbitration centres in the world. Because of a recent litigation in which I was involved, which dealt with a Guyanese company and a foreign entity, having regard to a vessel, when I looked at the Arbitration Act, I found that it was indeed defective in a particular way. I thought that in relation to the sort of reform that we sought to deal with that, we should have provided this particular provision. Hon. Attorney General, it exists – and it is subject for you to review – in the Arbitration Act of Singapore. In section 6 of the Arbitration Act of Singapore there is a specific provision for the stay of legal proceedings. That was one of the issues that existed in the litigation. We could not find any specific provision in the old Arbitration Act which dealt with this issue, and it materially impacted the course of the litigation. I would ask the Attorney General to consider it. What this does is allow any party, after an appearance in court and after delivering any plead, to apply to the court for a stay of proceedings in relation to that matter. It allows the arbitration proceedings to proceed in the context of the litigation remaining in court and remaining subsequently to be resolved.

There is then section 7 which deals with the issue of what happens…and this was particularly my situation where the property was a ship, it was arrested, and we needed to deal with those issues in the context of legislation. There is no specific provision – and I searched for it; it is quite a voluminous Bill. I remain subject to the Attorney General pointing it out to me if I missed it – in the context of the stay of legal proceedings and what that ultimately could mean for the very sort of complex litigation issues which are likely to arise, having regard to the trajectory of the country.

The other particular area that I would like to draw the National Assembly's attention to is in the very Act out of Singapore which the learned Attorney General spoke about. In the Arbitration Act from Singapore, this is in section 16, it deals with the failure or impossibility to act. It states when the court can remove an arbitrator. I do not see these provisions in our Bill. One of the features of the proposed Bill, which we are seeking to consider today, deliberate on, and ultimately pass, is to reduce the involvement of the court. I can see the value of that – to seek to reduce court intervention. These two areas that I pointed out, I believe, are critical ones that the Bill should include – the possibility for the court to be vested with the authority to deal with these issues. I believe that this Bill represents a significant forward step in relation to the role that arbitration can play in our country, and I support the Bill. Thank you very much, Mr. Speaker. [*Applause*]

Minister of Tourism, Industry and Commerce [Ms. Walrond]: Mr. Speaker, I rise to support the Arbitration Bill No. 18 of 2023. This Bill is indeed dynamic, visionary, timely, and aligns with Guyana's trajectory of growth and development.

Arbitration is not a new phenomenon, but a longstanding practice in the global business landscape. In the United Kingdom (UK), for instance, the Law Commission reports a minimum of 5,000 arbitrations annually in England and Wales. Similarly, Singapore, renowned as a favoured seat for international arbitration, oversees a comparable number of arbitrations each year. In the United States of America (USA), as well, an estimated 6,000 arbitrations take place annually. The global business landscape is rapidly changing. Industrialised nations worldwide are forging stronger trade ties with developing countries such as our fast-growing economy with plentiful oil resources. The complex web of international transactions creates a pressing need for efficient mechanisms to resolve disputes that inevitably arise between contracting parties from different countries. Various factors, including international conflicts like the Russia/Ukraine war, increased global trade and variances in laws and business customs, have contributed to a rise in disputes spanning diverse sectors. Businesses are increasingly turning to

arbitration as a vital mechanism for the amicable resolution of these inevitable challenges.

Further, Guyana has emerged as an attractive business hub. Apart from becoming a globally recognised player in oil production, we have streamlined our business processes, introduced numerous incentives, and fostered an environment conducive to business growth. Consequently, we have witnessed a surge in investors, many of whom have forged profitable partnerships with local entities. Like many relationships, even with the best intentions and clearly defined outcomes, discord raises its head for a multiplicity of reasons. Our companies must therefore embrace the realities and necessities of doing business globally. One fundamental pillar within this architectural business and development structure is having an established and trusted arbitration framework.

When foreign and local investors show interest in our country, they carefully evaluate the associated risks. Lower risks lead to greater investor confidence. Therefore, a prudent investor will thoroughly assess government policies to ensure that a favourable business environment and supportive laws are in place. This is the basis of this discourse today. Enacting alternative dispute resolution laws in Guyana will create a superior business-enabling environment and make for a quantum leap forward. This will contribute to us earning a reputation as a country with best practices in international business. This Bill replicates the Model Law on International Commercial Arbitration, as the Hon. Attorney General has already mentioned. The primary objective in drafting this legislation is to create solid and reassuring guidelines for investors while ensuring consistency and compliance with the highest international standards.

Traditionally, the courts have been the primary venue for settling international, commercial disputes. However, this approach comes with significant drawbacks. The lengthy delay for final determination of the matters, coupled with costly, complex procedures, could be taxing and disruptive to businesses and their employees. This may, in many cases, lead to decreased profits. Furthermore, enforcing judgments from foreign courts can be challenging, adding another layer of uncertainty and risk to the process. In international trade, the timely resolution of disputes is crucial for maintaining smooth business relationships and uninterrupted trade flows. The arbitration medium as an alternative form of dispute resolution outside of the courts is increasingly being seen as an attractive option in commercial contracts. In fact, such a contract is now rarely written without reference to a choice of arbitration when disputes arise. Permit me, Sir, to provide context by elaborating on the concept and benefits of arbitration. Arbitration is a process that allows an independent tribunal, chosen by the parties involved, to hear and decide a dispute. This approach offers several advantages over traditional litigation.

Arbitration tribunals are typically composed of neutral experts specialising in international commerce. This ensures a fair and impartial hearing for both parties, such as they would obtain in the courts. However, arbitration proceedings are generally faster and less expensive than litigation. This makes for a more efficient and streamlined dispute-resolution process. As I alluded to earlier in my presentation, this Bill aligns with international business standards. For example, businesses that enter into contracts have the option under clause 8, subsection (2) to include a clause or a separate agreement provision for resolving disputes through arbitration. Consequently, this provision allows businesses to have greater control over resolving disputes arising from their contracts. By opting for arbitration, businesses may elect to avoid expensive litigation in the court system and design a dispute resolution process tailored to their specific needs.

Clause 11 of the arbitration process is a significant provision that has made arbitration increasingly popular in resolving commercial disputes in the international business community. This clause empowers businesses to actively participate in selecting arbitrators for their disputes.

5.25 p.m.

It allows businesses to select arbitrators with industry knowledge or expertise directly relevant to the dispute. Furthermore, businesses can choose a single arbitrator for less complicated disputes or a three-person panel for more complex cases, which allows for a more streamlined and cost-effective process. Direct involvement in arbitrator selection, as enabled by clause 11, can foster a sense of trust and confidence in the arbitration process for the businesses involved in the dispute. When parties have a say in choosing who will hear their dispute, they may be more likely to accept and embrace the judgment. It is important to note that while clause 8 allows for participation in choosing arbitrators, it also establishes a default setting. For instance, if the parties cannot agree on the number of arbitrators, the process will proceed with three arbitrators. Clause 12(3) (a) provides that in the panel of three arbitrators, each party would choose one arbitrator, and then the two arbitrators would choose the third arbitrator.

[*Mr. Speaker assumed the Chair*.]

The Final and Binding Decision clause, clause 47 (5), is a critical provision in arbitration that has a final and binding effect on the arbitrators' decisions. It is an effective tool for achieving cost-efficient, swift, and enforceable dispute resolution, promoting certainty and facilitating smoother business operations. It is an essential feature of arbitration that enables businesses to resolve their disputes promptly and cost-effectively. The Final and Binding Decision clause is particularly beneficial because final and binding arbitration awards will be enforced in Guyana and internationally. This provision provides businesses with a powerful tool to ensure compliance with the decision, even if the other party is located overseas. It also gives businesses the confidence they need to engage in international business transactions, knowing they will have access to an effective dispute resolution mechanism if a dispute arises. It is important to note that the arbitral award can only be set aside in very limited circumstances. Clause 56 (1) provides:

> "Recourse to a court against an award that may be made by an application for setting aside in accordance with subsections (2) and (3).
>
> An award may be set aside by the Court only where-
>
> (a) the party making the application furnishes proof that
>
> (i) a party to the arbitration agreement referred to in section 8 was under some incapacity; (ii) the agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the laws of Guyana;
>
> (iii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his or her case;
>
> (iv) subject to subsection (3), the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or contains decisions on matters beyond the scope of the submission to arbitration; or
>
> (v) the composition of the Arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Act from which the parties cannot derogate…"

Sir, this is the subsection that deals with setting aside. It could be set aside under subsection (b) where:

> "(b) the Court finds that:
>
> (i) the subject matter of the dispute is not capable of settlement by arbitration under the laws of Guyana, or
>
> (ii) the award is in conflict with the public policy of Guyana."

It is worth mentioning that:

> "Further to subsection (2)(a)(iv), if the decision on matters submitted to arbitration can be separated from those not submitted, only that part of the award which contains decisions on matters not submitted to arbitration may be set aside."

Therefore, parties should ensure that their arbitration agreement is clear and comprehensive to avoid any potential challenges to the enforceability of the award. Arbitration proceedings are confidential and private; this comprehensive Bill also emphasises this point.

Clause 64(1) specifies that even in the rare case where a court reviews an arbitral award, court proceedings are not to be held in open court unless a party to the proceedings requests it or the court deems it necessary to do so. This is advantageous for businesses wishing to keep their commercially sensitive information confidential during hearings. Furthermore, the Bill creates a cause for action for a breach of confidentiality by any party involved in the proceedings. Clause 64 (2) states:

> "Disclosure by the arbitral tribunal or a party of confidential information relating to the arbitration shall be actionable as breach of an obligation of confidence…"

This can be subject to legal action. On the point of protecting sensitive information, arbitration safeguards sensitive commercial information, such as trade secrets, proprietary technologies or customer data, from being exposed to competitors who could exploit it for their gain. The reality is that business disputes can often involve embarrassing details or allegations that can harm a company's reputation. Keeping the arbitration confidential shields them from public scrutiny and negative media attention, allowing for a more focused resolution without fear of reputational damage. Additionally, confidentiality in arbitration can encourage a more honest exchange of information between the parties

involved since businesses may be more willing to disclose relevant details without the fear of public exposure.

Mr. Speaker, in relation to the impact on the business sector, I turn to the impact of this legislation on the local business sector. The overarching benefit is that the Arbitration Bill will create a more business-friendly environment in Guyana by encouraging investment, facilitating international trade, and mitigating risks associated with potential non-compliance. Small and Medium Enterprises (SMEs) are the backbone of Guyana's economy, driving innovation and job creation. However, venturing into international trade can be daunting for SMEs due to limited resources and unfamiliarity with complex legal systems. The proposed Arbitration Bill emerges as a powerful solution, offering many benefits for resolving international and domestic commercial disputes. Guyana, as a developing country, is actively seeking Foreign Direct Investment (FDI) to drive its economic growth. We are in fact seeing significant growth in FDIs, demonstrating that Guyana has become an attractive destination for foreign investors. However, attracting FDIs requires more than just opening up markets. To attract foreign investment, Guyana must provide a robust and dependable dispute resolution mechanism that aligns with international best practices. This is especially important as international commercial contracts are becoming increasingly complex, often spanning borders and requiring reliable and adaptable resolution methods.

This Bill offers a compelling solution for Guyana in this regard. For investors, arbitration is seen as a risk mitigation strategy. The Bill provides statutory assurances on key aspects such as enforcement of rights, access to justice, and due process. This predictability and adherence to international best practices fosters a sense of security for investors, making Guyana a more attractive destination for FDIs. This Bill also streamlines the dispute resolution process, which is a critical advantage for SMEs. Unlike rigid court proceedings, arbitration allows SMEs to tailor the dispute resolution to their specific needs. This includes selecting the language, location of the hearing, and the rules of evidence. This level of control empowers SMEs to participate on a more level playing field with larger corporations, and even choose arbitrators with a deep understanding of their business and industry. By embracing arbitration, Guyana can empower its SMEs to navigate the complexities of international trade with greater confidence and efficiency. This will foster a more vibrant business environment, attracting foreign investment and ultimately contributing significantly to the nation's growth. The reality is that arbitration is vital in an interconnected network of businesses, including the legal, banking, insurance, and trade sectors, where they mutually support each other.

The Arbitration Bill, therefore, presents a win-win situation for SMEs and Guyana's economic future. I reiterate that the Bill puts local businesses on equal footing with international counterparts and allows for greater respectability and comfort when negotiating international contracts. It must also be noted that by adopting the Arbitration Bill, Guyana will become eligible for selection as a seat of arbitration. This means that contracting parties can choose our country as the seat for arbitration proceedings. Earlier in my presentation, I referenced the substantial number of arbitration proceedings in the United Kingdom (UK). I wish to emphasise that these arbitrations contribute at least £2.5 billion to the UK economy, solely from arbitrator and legal fees. Therefore, apart from the direct, positive impact on local business and broadening the scope for international business, this Bill presents a revenue-generating opportunity for the nation.

In conclusion, Mr. Speaker, international arbitration has proven to be a highly effective method for settling disputes in the global marketplace. Its efficiency and predictability contribute significantly to market integration, ultimately safeguarding and improving the effectiveness of international business transactions. In essence, modernised arbitration legislation, much like this Bill, catalyses smoother international trade, propelling us further into a truly globalised economic landscape. By approving this Bill, we are sending a clear message that Guyana is open for business and committed to a modern and efficient legal system. Our approval of this Bill also reaffirms to the local private sector that their Government continues to work in their best interest by enacting business-friendly laws geared towards expanding our economy. I, therefore, urge all to support this critical, visionary and progressive legislative framework. Thank you, Sir. [*Applause*]

Ms. Chandan-Edmond: Hon. Speaker and colleagues, I rise today in support of the Arbitration Bill 2023 that was proposed by the Government of Guyana. This Bill, marked as Bill No. 18 of 2023, represents a significant step towards enhancing our legal framework and promoting alternative dispute resolution mechanisms in our country. I firmly believe that this Bill is crucial for fostering a more efficient and effective justice system in Guyana.

This pivotal piece of legislation holds the potential to transform our approach to ADR. In a world where conflicts are unavoidable, this Bill is a beacon of hope and a pillar of

hope, providing a modernised, efficient and impartial framework for resolving disputes. Before I proceed to deal with the contents of the Bill, Mr. Speaker, let me go on record to once again congratulate the Hon. Attorney General for his consistent, continued and dedicated effort to transform a sector that is very close to my heart. This Bill underscores four basic yet, important pillars – the importance of ADR, enhancing investors' confidence in Guyana, promoting access to justice and safeguarding judicial independence – each of which I will speak about in a bit. The introduction of this Bill reflects a commitment to the modernisation of our legal system and to align it with international best practices. The ADR mechanism, such as arbitration, offers numerous advantages over traditional litigation processes. They are known for being faster, more cost-effective, and less adversarial than courtroom proceedings. By promoting arbitration as a preferred method for resolving disputes, we are not only reducing the burden on our courts, but also providing parties with a more flexible and tailored approach to resolving their conflicts.

Arbitration awards are usually final and binding, providing certainty and closure to the parties involved. This finality could help to avoid the prolonged legal battles and promote settlement. Arbitration awards are often easier to enforce internationally than court judgment. Thanks to the New York Convention which facilitates recognition and enforcement of arbitration awards in 160 countries.

5.40 p.m.

Enhancing investor's confidence: One of the key benefits of enacting the Arbitration Bill is its potential to enhance investor's confidence in Guyana. Foreign investors often look at jurisdictions that offer a robust legal framework for resolving disputes quickly and fairly. So, by establishing a clear legislative framework for arbitration, we are indeed sending a very strong and clear message to the international community that Guyana is committed to providing a stable and predictable business environment. This in turn can attract more foreign direct investment to our country, spurring economic growth and creating job opportunities for our citizens. This is important to us as a people, as our country is now being sought out by investors from both far and wide. Our laws must not only be certain, but our laws need to be modern and, as I have just said, it must be in keeping with international best practices.

One of the key features of this Bill is its emphasis on confidentiality, which is dealt with in clauses 65 and 66 of the Bill. Unlike courtroom proceedings, which are often conducted in a public form, arbitration offers a private and confidential environment where parties can without restriction discuss their grievances, their complaints, and explore potential solutions without fear of public scrutiny. This confidentiality not only protects the interests and the reputations of the parties involved, but also encourages open and honest communication facilitating the resolution process. Clause 66 details the process on how and what is made public. I will now deal with promoting access to justice. Access to justice is a fundamental right that every citizen should be able to exercise without unnecessary barriers. This Bill plays a pivotal role in promoting access to justice by offering parties the alternative avenue for resolving their disputes outside of the traditional court system. This is particularly important for marginalised communities and individuals, who may face challenges navigating complex legal procedures. By empowering individuals and businesses to resolve their conflicts through arbitration, we are allowing access to justice and ensuring that everyone has equal standing before the law.

Clause 31 details the equal treatment of all parties which is particularly important where there is an imbalance between the parties. From selecting arbitrators to determining the procedural rules, parties have the flexibility to design a dispute resolution mechanism that best suits their interests and objectives, which is dealt with and is also addressed by clause 32 of the Bill. This autonomy not only augments the efficiency and effectiveness of the arbitration process, but it also encourages a sense of ownership and empowerment among the parties involved. Moreover, the Arbitration Bill seeks to enhance the enforceability of arbitral awards, both domestically and internationally by providing clear and robust mechanisms aptly dealt with in clauses 57 and 58. So this Bill, in essence, inspires confidence in the arbitration process and encourages parties to choose arbitration as their preferred method of dispute resolution. As I have said earlier, this contributes to the growth and the development of a robust and a spirited arbitration system, positioning our country as a favourable destination for domestic and international arbitration proceedings.

I will now deal with safeguarding judicial independence. At this juncture, it is essential to emphasise that this Bill does not undermine the role of our judiciary, and that seems to have been a concern. Rather, it complements it by providing an additional tool for resolving disputes efficiently. This Bill includes provisions that safeguard judicial independence and ensure that arbitrators act impartially and fairly when adjudicating disputes. It is by upholding these principles that we are reinforcing the integrity of our legal system and

maintaining public trust in the administration of justice. In as much as this Bill is pivotal, there are several disadvantages which I will just list, but in this case here, the advantages outweigh the disadvantages. There is a disadvantage of costs. Arbitration proceedings can be expensive, and while the act may provide mechanism for cost allocation, parties still incur significant expenses related to arbitrator's fees, legal representation and administrative costs. This is more so in cases where there is an imbalance and inequality amongst the party. There is also limited public accountability, limited remedies, and there is a potential for bias.

While arbitrators are expected to be impartial, concerns about bias or conflict of interest may arise particularly if parties perceive the arbitration process as favouring certain stakeholders or lacking sufficient safeguards against undue influence. I am suggesting, Hon. Attorney General, that this Act should state eligibility criteria for arbitrators, since we run the risk of every Jane and questionable John being appointed an arbitrator. A capable arbitrator is one that satisfies the eligibility criteria which is equally important as having a neutral and impartial arbitrator to ensure a fair and unbiased resolution of disputes, particularly in cases involving parties from different jurisdictions or parties with unequal bargaining power. I was particularly pleased to hear the Attorney General mention a course at the University of Guyana to target arbitrators. As I said, there are a few disadvantages but, in this case, the advantages outweigh the disadvantages. This Bill is particularly important for us at this current juncture.

In conclusion, I urge all Members of the House to lend their support to the Arbitration Bill. This legislation represents a progressive step towards strengthening our legal framework, enhancing investor's confidence, promoting access to justice, and safeguarding judicial independence. By embracing alternative dispute resolution mechanisms such as arbitration, we are paving the way for a more efficient and equitable justice system in Guyana. I thank you. [*Applause*]

Mr. Datadin: Good afternoon, Mr. Speaker. Mr. Speaker, let me say at the outset that I fully support the Arbitration Bill 2023, Bill No. 18/2023. This Bill marks a landmark piece of legislation for Guyana. It represents a fundamental change in the legal landscape of Guyana; a most welcome change, I may humbly submit. This Bill introduces, or rather replaces, the old Arbitration Act that we have in Guyana, which was passed in 1916, and had only benefited from two amendments in 1927 and, I believe, in 1931. The Hon. Attorney General should be congratulated for this landmark improvement in our legal landscape, and it represents a continuation of a change and improvement in the legislative framework of Guyana to meet the obvious needs of a growing economy.

The Bill is interesting for many reasons, and we have heard from all the speakers before me about it. In essence, as most of the attorneys in the chamber will say, this Bill is based on the United Nations Commission on International Trade Law (UNCITRAL) model. What that means is, immediately upon its passage there would be a critical aspect satisfied, and that is, there would be a substantial body of literature that would be immediately available to anyone who would have to apply the rules which are in the schedule, the regulations which are passed with this Bill. Anyone would immediately have available to them a substantial amount of literature to assist them with the interpretation and the implementation of the Act. Whenever there is change, especially legislative change of this nature, persons are often nervous because all of the sections and all of the parts of the legislation which replaces the existing legislation would have to be pronounced upon again by a court. In this case, we are quite lucky. The UNCITRAL model, as the Hon. Attorney General said, is widely recognised as the gold standard. That would mean that there is substantial literature and learning about the various provisions which form the UNCITRAL model law, and which make up the regulations which are in the schedule.

Arbitrations have existed for centuries. The Hon. Attorney General has outlined a few, but I am sure every Guyanese citizen would remember or knows of, or could not remember but would know of, the Arbitral Award of the 3rd October, 1899. That was an Arbitration Tribunal established to resolve the territorial dispute. Simply put, arbitration will function in parallel with the court system. It is an alternative dispute resolution mechanism that, in the context of the legislation, enhances the court process that already exists. It is known, and it is a notorious fact, that the court system in Guyana is overburdened and, as a result, it may not move as quickly as it ought to. Arbitration is a popular and comfortable method by which commercial disputes, especially, can be resolved. Time is money, so the quicker the disputes are resolved in the commercial sector, the more money is saved. There would be, and the legislation establishes, a framework that not only would the Act have effect, but the Act would provide a framework for established arbitration centres to operate in Guyana and provide their services. This would mean that we would benefit from centres that are providing services for arbitration worldwide and that have the experience of providing those services to come and operate in Guyana.

That, as the Hon. Minister Walrond outlined, is a billion-dollar industry.

5.55 p.m.

In the context of how it works, arbitration contemplates, one trial, one hearing, which would make it faster. This means the appellate process, that is part of our judicial system of going from the High Court to the Court of Appeal and possibly onwards to the Caribbean Court of Justice (CCJ), that process is really to be determined at one forum. The obvious advantage with being able to select arbitrators is that in many commercial disputes there may be specialised areas of dispute that relate to things such as surveying, engineering, and various other aspects of the dispute, which a lawyer and even a judge might not be so *au fait* with, and it would be best and most suitable to all parties concerned, that the adjudicators and the presenters are persons who are suitably qualified with the knowledge. The autonomy and flexibility are obvious advantages. With arbitration, the parties would have a right to choose the arbitrator. They could decide on the rules that would govern the arbitration. Most importantly, they could set the timeline within which the arbitration ought to be completed. This would allow the parties to the dispute to tailor the resolution process in such a way that it does not cause undue harm or disrupt their business to an extent that they would think would be unmanageable.

One of the important aspects of arbitration, which in many cases is identified, is confidentiality. There are a lot of disputes and a lot of the commercial disputes, especially in the commercial sector, where the information itself that would be required to resolve the dispute is sensitive, it may be confidential, it may be subject to patents, copyrights, and other issues for which disclosure would prove harmful. It is in fact a reason why, in some instances, the parties to a dispute do not approach the courts. The principle, that is, of confidentiality, is enshrined in this Act and it is specifically provided for. It would allow, without more, a statutory underpinning for the parties to an arbitration to keep their information secure and private.

Arbitration would allow the adjudication tribunal to be appointed by a person or persons from anywhere that they are selected from. You are able to select a person to the tribunal. Especially in developing countries and small countries like ours, large corporations and companies are apprehensive about the dispute mechanism that exists in the country, mainly based on not being familiar with the system or not being able to navigate the system because of procedural rules. This could be removed because the resolution would effectively take place in a more neutral and impartial forum, meaning the rules of procedure, where you need to know that if you file proceedings for example, in the High Court, there must be personal service – what amounts to personal service. It must be done within a specific amount of time. If it is not done within that time, you may find yourself disadvantaged and out of court, as was the case in the recent petition that had been brought. These rules, which persons who do not practice in Guyana or are not familiar with our civil procedure rules and other rules that apply to our court system, could be missed. It would be a disadvantage to a litigant or a party to a dispute in such circumstances. Arbitration allows you to not create your own rules but adopt rules and procedures where both sides of the dispute are therefore on equal footing. They would both know in advance that these are the rules, and these are the procedures.

As the Hon. Attorney General pointed out, there is the additional advantage that if speed or expediency is required, an approach to the court for temporary or interim orders are required to preserve the status quo, that too is accommodated. It is attractive especially where you would have cross-border disputes withs companies that are based outside of Guyana and companies that are based in Guyana especially. Now, choice of forum is always an issue and can be an argument that drags on for a considerable amount of time. The parties in these circumstances would have a very robust statutory network upon which they can rely to establish. The Arbitration Bill offers numerous benefits to the parties involved in disputes. It promotes autonomy, it promotes flexibility, and it promotes efficiency in the dispute resolution process. Additionally, it cannot be underestimated that complicated commercial disputes benefit from specialist adjudicatures, and it is a notorious fact that they take too long in the court system. There are examples in our history such as with the telephone companies and resolution of complicated issues about exchanges, equipment and what is being used. Judges are not trained in that manner and it may be a little bit more difficult for them to appreciate the difficulties that go on.

Overall, the Arbitration Bill functioning in parallel, in conjunction with our judicial system, brings to bear, to Guyana, a modern and updated dispute resolution system where we have the courts and we have arbitrations – we have an arbitration centre; we have the experience of arbitration centres that would come to Guyana. With those few words, Mr. Speaker, I fully support the Arbitration Bill, Bill No. 18/2023. [*Applause*]

Mr. Ramjattan: Mr. Speaker, let me at the forefront of my address indicate my support for this Bill and the tremendous implications it has for traders, merchants, capitalists, the entire works for a country that is seeing dizzying rates of increase in its growth and development, all because of course, signing that oil agreement in 2016. With the explosion, almost a nuclear explosion, of economic activities in Guyana, it has seen so many additional businesses coming from afar, regionally and also internationally. These businesses, when they do come to a territory like Guyana – I like to use the term, Jurassic Park in its qualitative levels of contracts and sometimes property rights and all of that – will now push our administrators, and of course the Opposition too, into ensuring that there are certain legal regimes to make that attraction of even more businessmen and entrepreneurs and all of those that will come to Guyana.

Knowing that there will be disputes, once there is trade and commerce, we must also provide the institutions that will ensure that they resolve those property rights and also enforce contracts especially. It is a profit-loving world that we live in. In view of that, we must be prepared to set up and modernise, if we have already gotten certain institutions, this is but one. I think that it is a wonderful introduction into our legal foundation and infrastructure because it goes a far way. When I did the comparisons with other countries, I could see that, indeed, it is a development that is going to take us places. Courts are not the only institutions for the resolution of especially civil disputes. They are cumbersome, as we know; and has been said by the Hon. Attorney General, they are lengthy and they are expensive sometimes. We have to start modulating our transition into other institutions like arbitration. The courts in Guyana have found it very necessary to talk about alternative dispute resolution. What the court does there is also to take away on to another institution that which makes it frustrating sometimes because of the heavy caseloads that are brought on to it. This has an added attraction, in that it is going to release from the court case load a whole set of time, hard work and complicated matters which could now be resolved by this alternative resolution dispute mechanism.

There are advantages, and I do not want to be too long. Let me just quickly state them: the time to resolve disputes would be, in my view, less costs in time and money and aggravation; less strain on all the players in court; more use of specialists being decision-makes; and of course, as mentioned by the Hon. Attorney General, flexibility in how they go about resolving. Sometimes, in the court, you simply have to be very formalistic in rules of evidence, rules of procedure and all of that, so they can reflect a lot more consensus between the parties. I have spoken to some lawyers and some of them screamed saying that this thing has some scepticism. They want to know what it is and so on. They have indicated that when one starts dealing with arbitrators, they can have sloppy, biased, and sometimes decisions might not be based on law. I have to say that the kind of second-class justice they say will come out of any arbitration must be dismissed. That is a criticism that ought to be dismissed. I must say that there is a little more formidable one, and that has to do with the inequality of parties to arbitration.

6.10 p.m.

There can be contracts by big companies with small Guyanese companies, and then there is an arbitration clause, and they have to pay some arbitration team out of New York because they generally go that way. In the agreement it is sometimes buried, a very complex standard of contract drafted by a very superior party. They have a lot of business sophistication and the other party, especially the Guyanese one at this time, will not be that knowledgeable. But, of course, as we go along in this evolutionary process incrementally, it will necessitate our Attorney General and Minister of Legal Affairs, probably, at that point in time, dealing with these issues. There can be no perfect legislation at that one moment in history. This is but as perfect as it can get, in my opinion, but still there will be remedial action taken, as we proceed, so as to ensure that we do have an alternative dispute resolution that is not going to be just for the powerful and straining the efforts of the weak.

Mr. Speaker, I want to say that, more or less, what an Arbitration Act, a modern one, should have, this one has. It has been pointed out by so many speakers before me. I need not repeat them, although I had made a little note that I wanted to talk on them. I want to say that it is very important that these proceedings that we are going to have at the arbitral level do bring about a legal culture in Guyana that will mean the sanctity of contracts and it will mean also property rights. I have a book here and it is not (*inaudible*), it is *The Law-Growth Nexus, The Rule of Law and Economic Development* by a very famous Professor, Kenneth Dam. He indicates that without the rule of law there cannot be economic development. And the rule of law requires not only generally what we would want to think of it, but also the creation of institutions. This one is so welcome. I believe that it will be an important point in our history that Acts like these are going to create now that culture where our young people, instead of being forced to cut cane, will have an intergenerational ambition to want to be arbitrators, to want

to be the staff members or steno-typists and all of that. That is why I welcome these kinds of institution building. It is going to take us out of that Jurassic Park, as it were, and carry us further. It is in that context I want to congratulate the Hon. Attorney General for bringing it here.

Institutions are what matters in a democracy, institutions are what matters in economic growth, and I think that we have gone the gamut here for modernising; and modernism will mean too that we have now to start cultivating that culture in relation to people being like in Singapore, like what Lee Kuan Yew did. They must be trustworthy, they must be with integrity, they must not be corrupt. So if we have a local set of arbitrators, there must be a code of conduct that can come with it; that could come later on in relation to our arbitrators, local ones, so that we can manage to attract an appeal from Brazil, the region, people coming here. I remember when I was a law school student in the Republic of Trinidad and Tobago (Trinidad) there were a couple of powerful arbitration centres in and around Port of Spain. We can now start having that here. However, we will need that shaping. The law always shapes culture, and I think we are going to force the shaping of the culture here, that we become very much commercial, we become with integrity, we become judges as it were, the judicial type, in an arrangement that will see the fructification of a Bill like this.

It is on that score then that we must start being visionaries as to what and where our economy is going to take us, what institutions we are going to build to maintain it, but also what culture we are going to create out of our young people so that they can maintain these institutions so that we can be the powerful nation that we want to be. Thank you very much. [*Applause*]

Mr. Nandlall [replying]: Thank you very much, Sir. I want to begin by conveying my deepest gratitude to the Members on the other side for their overwhelming support for this Bill, and I also want to thank Members on my side who spoke in support of the Bill as well.

Mr. Speaker, the Bill has been heralded, rightly so, as groundbreaking and as fundamental to the future of commercial settlement of disputes or the settlement of commercial disputes in our country. It has been recognised as not interfering with our court system, but operating side by side with it, and when there is a need for collaboration there is space and facility for that collaboration between the arbitration and the court system. A couple of points, however, were raised, which I want to address, and I will begin to do so. The Hon. Member Ms. Chandan-Edmond spoke about the qualifications of the arbitrator; Hon. Member Mr. Khemraj Ramjattan spoke about conduct; and the Hon. Member Mr. Roysdale Forde spoke about two or three issues which I will deal with in due course.

Arbitration has certain inalienable attributes and characteristics that have made it the attractive medium of resolution of disputes that it is. Some of the objections, unfortunately raised, strike at the very heart of those attributes and characteristics. Though the speakers praised the very attributes, they proffer criticisms that refer to the very attributes that they are praising. All the Members spoke about the flexibility of the arbitration, the freedom that the parties have, the regulatory latitude and procedural relaxation that parties to an arbitration enjoy, the ability to choose their arbitrator, that great choice that they do not have in the conventional litigious environment. It is those very amalgam of attributes and characteristics that allows the parties to choose their own arbitrators and to choose who are qualified to be arbitrators. So from the time you start to interfere with that freedom, then you are going to get yourself into problems. You are going to deviate from the fundamental pillars upon which arbitration is built.

It must be assumed that parties who are going to execute a written contract containing an arbitration clause, or would engage in conduct or an undertaking that may require settlement by arbitration, are going to be persons who are capable of making a decision to choose an arbitrator who is competent to discharge that task. I do not see it any other way. Competent in the sense, it does not have to be a lawyer, it does not have to be a judge. If the dispute is one of an engineering type, then an engineer may be a suitable person. From the moment you start to list qualifications, you start to hit at the very core of that freedom that arbitration as a concept and as a process confers upon those who desire to use it. That is why Arbitration Acts across the globe, if you look at the UNCITRAL model, the gold standard since 1985 that has gone through many modifications, there is no list of qualifications for arbitrators. That is part of the flexibility, that is part of the inalienable commendable attribute of arbitration as a process of settling disputes.

The Hon. Member Mr. Ramjattan spoke about the disparity of the affordability of the parties. Parties in any dispute may not have equal financial wherewithal. It happens in the conventional legal system; poor persons may not even be able to afford to approach the legal system. When they approach the legal system, they can only afford a particular calibre of legal representation whereas other persons who are better financially endowed would have a different quality of

representation. That is life, you cannot legislate to change that; but the parties decide consensually who the arbitrators are going to be. At least they have that choice, and the question of costs is also agreed upon in respect of the arbitration even before it commences. Normally the costs are going to be shared equally or they can agree that the successful party, the losing party, sorry, bears the cost of the entire arbitration. That is the flexibility again that you have. You do not have that in litigation. In litigation, the principle is the costs follow the event, you lose, you pay. In an arbitration environment, you have greater flexibility. The Hon. Member, Mr. Forde, spoke about the failure of the Act to provide for a remedy to go to the court to stay arbitration proceedings.

6.25 p.m.

Now, that is a valid point. It does exist in the Act of Singapore, but it is also absent in many leading jurisdictions in the world that are considered established arbitration centres. Why? It is because of the very freedom that I am speaking about. People are attracted to arbitration. They become so attracted, but not being attracted to the legal process because of all the ills that afflict that system: the length of time, the uncontrollable nature of the system, the subject of appeals, *et cetera*. That is why they prefer a system that is separated and extrinsic from that. They chose arbitration, which is a mechanism that was not be interfered with by that. It is a conscious decision because when they go here, they had two centuries of litigation and they do not want that anymore. They do not want the publicity. They do not want the lack of control. They do not want the delay. They do not want that adversarial environment. It would be of little value…

Mr. Forde: Mr. Speaker?

Mr. Speaker: Hon. Member, Mr. Forde, you have the floor.

Mr. Forde: I stand on Standing Order 40(a). I did not want to interrupt the Hon. Attorney General (AG), but I did not say what he said. My point was not in relation to staying in arbitration proceedings. The point I made was staying the court proceedings in order to permit arbitration proceedings. I specifically refer to Section X, but what the Hon. Member said was the reverse; attributing that to me.

Mr. Nandlall: Very well; I will address that too.

Mr. Speaker: Hon. Member, go ahead.

Mr. Nandlall: I will address that too. There is that and I will give you the natural corollary to that. There are persons who prefer this because they do not want unnecessary court interventions. My Friend seems to be saying that when one goes to court nothing is stopping the court process to go to arbitration. Every court has the power to regulate its own process. If a court determines to refer a matter to arbitration, most naturally, that court will consider staying the process that is before the court. I cannot imagine that the court will continue hearing the matter and then refers it to arbitration. That is why that is so unusual and perhaps illogical. I thought that my Friend was making the reverse point because that point makes very little sense. I cannot imagine that a court, being vested in all the powers that a court has, will not be able to stay a matter before the court if the matter goes to arbitration. Obviously, once a case is made out… Let us assume that the court does not take the matter to arbitration, but the parties agree to it, obviously a court will *stay its hands*. Courts do not operate in collision course in terms of the determination of a matter. I do not accept that as even a valid point. The reverse was a better argument.

The Hon. Member also spoke about public disclosures. Now, again, I go back to the fundamental attributes of arbitration. I want to credit the Hon. Member, Ms. Geeta Chandan-Edmond, because she recognised the confidentiality that attends arbitration proceedings from the floor. We have an arbitration proceeding going on at the International Centre for Settlement of Investment Disputes (ICSID) Arbitration Centre in Washington, DC. It is the parking meter matter. Now, that is, obviously, a public case involving a government. Guyana is being sued in that arbitration proceedings. The word ‘sued’ is being used very loosely there. It is not open to the public. It is not a public proceeding in the way that there is a public proceeding in the court. That is the very core and innate characteristic of arbitration proceedings. I look back at the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules and there is no public element in the arbitration proceedings. Of course, the parties are free to make the proceedings public but the Bill does not prohibit disclosures because Clause 64 that the Hon. Member referred to begins with the statement:

> “Arbitral proceedings shall be private and confidential.”

That is the general principle of arbitrary proceedings being captured but that is not the end of the Section. The Section goes on to half of the next page and deals with situations where disclosures can be made public. Among the grounds listed there or if there is something, “… in the public interest;”. Also, if it is necessary in the interests of justice; or

in order to enable public body or to perform public functions. There is a whole list of exceptions. A matter of public interest… My Friend gave a particular example, 'any potential arbitration between the government and ExxonMobil'. Obviously, that in my view, would immediately qualify as a matter of public interest. By law, it does not have to be in-camera. There are provisions in the Bill. I spoke, repeatedly, about the flexible nature of the Bill. Whilst it maintains the sacrosanct principle of confidentiality, it has in it the ability to disseminate and to make its process public if the situation so demands.

Mr. Forde also spoke about inactions in the arbitration process, but that is specifically provided for at clause 15 of our Bill. The Hon. Member cited Section 16 of an Act of Singapore. Section 16 of the Act of Singapore largely captures at clause 15 of our Bill. It speaks to when there is a failure of the arbitrator to act, when there is a disqualification or there is some impossibility that renders it impossible for the arbitrator to act. There is a whole series of provisions here that would address such an eventuality. As I said, this Bill went through a very rigorous examination and inspection. It spent almost six months with those international law firms. They interrogated it. The report was a big report that we got back. That is why I say that this Bill is flexible; it is modern; and it is what we need in Guyana. I thank the Hon. Members for their contributions. Mr. Speaker, I think that is what I will have to say at this point in time, Sir.

Mr. Speaker: Thank you, very much, Hon. Attorney General. As they say, when the *elephants engage, the ants should take note*. It is Senior Counsel (SC) to SC.

Question put and carried.

Bill read a second time.

Assembly in Committee.

Mr. Chairman: Hon. Members, the Arbitration Bill 2023, Bill No. 18/ 2023 has 43 articles. Note there is a change in this Bill – there are not clauses but articles. It has one annexe. Let us revisit the proposal. I am seeing articles one to 43. Auditor General, you may want to help us here.

Mr. Nandlall: Sir, Clauses 1 to 75… page 61 [*inaudible*]

Mr. Chairman: The AG is perfectly correct. There are clauses one to 75, along with a schedule that has articles one to 45. Am I wrong, AG? It is along with an annexe.

Mr. Nandlall: You are correct now.

Mr. Chairman: I think this is a situation where we are all correct.

Assembly resumed.

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

6.40 p.m.

Mr. Speaker: Thank you. Hon. Members, before we proceed further, we have some matters to address. Hon. Minister of Parliamentary Affairs and Governance, you have the floor.

Suspension of Standing Order No. 95 (2)

BE IT RESOLVED:

"That Standing Orders No. 95(2) be suspended to enable the Committee of Selection to nominate Members to the Special Select Committee on the National Intelligence and Security Agency Bill 2023 – Bill No. 5 of 2023 which was referred to a Special Select Committee on 10th May, 2023."

[*Minister of Parliamentary Affairs and Governance and Government Chief Whip*]

Minister of Parliamentary Affairs and Governance and Government Chief Whip [Ms. Teixeira]: That is the first matter.

Mr. Speaker: Thank you, Hon. Member.

Ms. Teixeira: This is just to say to the House – this matter was agreed to between the two Chief Whips so we would be able to correct this omission. Secondly, this is in relation to Standing Order No. 10 (1) – to do with the hours of sitting.

Suspension of Standing Order No. 10 (1)

BE IT RESOLVED:

"That Standing Order No.10 (1) be suspended to enable this sitting of the National Assembly to continue with its business beyond 8.00 p.m."

[*Minister of Parliamentary Affairs and Governance and Government Chief Whip*]

I hereby ask that we are allowed to finish our business today, pass the hour of 8.00 p.m. This is Standing Order No. 10, just to make sure that my Friend, Ms. Ferguson does not go into conniptions. Is that a parliamentary word? I believe that the word 'conniption' is not unparliamentary. We hope to be

able to finish up to the Defence (Amendment) Bill and after that close. It depends on how many speakers you have.

Mr. Speaker: Thank you very much, Hon. Minister.

Ms. Teixeira: Thank you very much, Mr. Speaker for allowing me.

Mr. Speaker: Thank you, Hon. Minister. Hon. Members, we will put the first suspension of Standing Order 95(2) which is to allow the Committee of Selection to meet to nominate the Members of the Special Select Committee to the National Intelligence and Security Agency (NISA) Bill.

Question put and agreed to.

Standing Order suspended.

The second suspension is for Standing Order No. 10 (1) so we can proceed beyond 10.00 p.m. to conclude our business for today.

Question put and agreed to.

Standing Order suspended.

The Members of the Committee of Selection, please stand by. We will take the suspension now and then we will convene that special select committee.

Sitting suspended at 6.43 p.m.

Sitting resumed at 7.53 p.m.

Thank you. Hon. Members, please be seated. Hon. Members, we now move to the Criminal Procedure (Plea Discussion, Plea Agreement and Assistance Agreement) Bill 2023 – Bill No.19/2023, published on 11th December, 2023. I now call on the Hon. Attorney General and Minister of Legal Affairs, Senior Counsel, Mr. Nandlall, to move the second reading.

CRIMINAL PROCEDURE (PLEA DISCUSSION, PLEA AGREEMENT AND ASSISTANCE AGREEMENT) BILL 2023 - Bill No.19/2023

A Bill intituled:

"An Act to establish a system of plea discussions and plea agreements in criminal procedure and for matters connected thereto."

[*Attorney General and Minister of Legal Affairs*]

Mr. Nandlall: Thank you very much, Sir. This is yet another crucial legislative intervention, as part of our Government's effort to modernise the illegal architecture of Guyana. It is an output of the Inter-American Development Bank (IDB) funded support for criminal justice. One of the core objectives of this programme is to ensure greater efficiency in our criminal justice system. This Bill seeks to achieve that objective. As the Arbitration Bill, it seeks to reintroduce into our legal system this time in the criminal justice sector, one of the modern features of legal systems across the globe. Again, as the Arbitration Bill, it is another form of alternative resolution. This time, it is in relation to criminal cases without the resort to a full blown trial. In short, it allows the prosecution, the defence and the victim to determine criminal cases. However, it safeguards certain sacred principles and concepts to ensure that there is justice in the end to protect the defendants' interest, the victims' interest and the public's interest; maintain the principles of public morality; while at the same time ensure that criminal conduct is fairly and justly penalised.

Plea bargaining, once fully implemented, will drastically reduce the workload in our criminal justice system. It will allow for scarce judicial resources to be spent on cases that are deserving trials. Most importantly, it will save billions of dollars of public funds, and bring much needed speed and efficiency in the disposal of criminal cases. The Caribbean Court of Justice (CCJ), our apex court, when it visited Guyana last year – both in meeting with me privately and the legal profession publicly – called for a number of modern and innovative measures to be implemented in our criminal justice system. A modern plea bargaining legislation was one of them. We are answering that call tonight. The Bill seeks to repeal and replace the Criminal Procedure (Plea Bargaining and Plea Agreement) Act Chapter 10:09, laws of Guyana which was enacted for the purpose of establishing a system of plea discussions and plea agreements in criminal procedure. The Criminal Procedure (Plea Discussion, Plea Agreement and Assistance Agreement) Bill 19/2023 addresses the gaps in the current legal framework. It seeks to protect the rights of individuals and ensure that offenders are properly prosecuted.

The new plea bargaining system in Guyana will adhere to established standards and practices in the United States of America (USA) and the United Kingdom (UK). Other jurisdictions such as the Republic of Trinidad and Tobago have been in drawing on what is considered the best practice of plea bargaining regimes of the United States and the United Kingdom. This is evidenced by the introduction of the Republic of Trinidad and Tobago's most recent plea bargaining legislation – Criminal Procedure (Plea Discussion, Plea Agreement and Assistance Agreement) Act – No.12 of 2017 in Trinidad and Tobago. It is well established and accepted that the most prolific plea

bargaining in common law jurisdiction occurs in the various states of the United States of America, both at the federal and state levels. Recent studies maintained that plea bargaining in the United States continue to work effectively as a tool in the criminal justice system, with more than 95% of all settled criminal cases being resolved due to plea bargaining. Anyone watching American television, especially the law series such as *Suits*, *Law and Order* and *CSI, et cetera* would quickly discern the important role of plea bargaining and the prevalence that it plays in that legal system. One expert opines as follows:

> "Plea bargaining is an incredibly effective tool for increasing efficiency in the criminal justice system, as without it, judges and lawyers would be flooded with caseloads, rendering them incapable of doing their jobs effectively."

That is the position with our criminal justice system – an extraordinarily heavy workload both on the system and on the human resource available. Plea bargaining, as you may know, Sir, was once considered repugnant in the United Kingdom. In fact, at common law, one could possibly have been charged with perverting the course of justice for engaging in what we know as plea bargaining; that is now history. The plea bargaining system is now entrenched in the United Kingdom. In its present form, it is regarded as being a fair and efficient system. The system in the UK seeks to enhance the administration of justice while seeking to place considerable emphasis on rehabilitation and restorative justice principles. It is now also a permanent feature in the criminal justice system across the Caribbean. In February, 2020, Chief Justice, Ivor Archie of the Republic of Trinidad and Tobago speaking on the country's legislation, posited as follows: *Now plea bargaining agreements, as I am sure you know, are just one part of the overall strategy in the criminal justice system to improve efficiency and reduce backlogs while ensuring the protection of individual rights and rehabilitation of offenders. It is our belief that the legislation, as it now stands, will effectively achieve that balance. Plea agreements avoid trials, the re-traumatisation of victims and allow for a harmonious approach to the admission of guilt for the promise of a reduced sentence. If we are to imagine a world where there are no unreasonably lengthy trials that span years and years, where by the time of the conclusion, the defendant may have already served his/her sentence and more but imagine instead, an amicable discussion between attorneys on either side of the fence with the aim of seeking both the interest of administrating justice and considering the impact on the defendant and the victim. Such is the promise of plea bargaining agreements that is codified in the legislation.*

In order to guarantee fairness, transparency and adherence to the principles of freedom of choice, it is essential that certain key elements are present during plea discussions and/or agreements and the subsequently plea hearing process. Additionally, these measures are necessary to ensure that the public interest is respected and the appropriate sentences are imposed on criminal offenders. One principle is that the accused should not be forced or pressured into pleading guilty. The agreement and subsequent plea must be made willingly and with full knowledge, which means the accused must always be informed of his/her rights and given the chance to consult with an Attorney-at-Law.

The second requirement is that the prosecution must possess knowledge of and take into account all pertinent factors when choosing whether to participate in plea negotiations. The third requirement is that the prosecution must possess knowledge of the potential course of action to which the accused may consent.

The fourth requirement is that the judge must consistently investigate and confirm that the negotiation agreements and plea are the outcome of well-informed process, where the accused is fully cognisant of the rights and has been given ample time to obtain legal counsel.

The fifth requirement is that the procedures for plea bargaining hearings must be unambiguous and all parties must be afforded a fair opportunity to present their arguments.

The sixth principle entails granting each party the right to withdraw from the process and the agreement under justifiable circumstances. If it can be demonstrated that a plea was acquired in an inappropriate manner, such as fraud or serious misrepresentation, then the plea should be invalidated. Both the prosecution and the accused should have the right to appeal in two specific circumstances: (a) where the court rejects a plea bargain; and (b) when a sentence is imposed in breach of a plea agreement.

8.04 p.m.

That is the limited scope of challenge that is available in the plea bargaining system. As I stated, we enacted a Plea Bargaining and Plea Agreement Act, Chapter 10:09, in 2008. It never yielded the success that we anticipated for many reasons. In my view, it had a very fundamental structural deficiency, in that it only allowed for plea bargaining to take place after a charge is instituted. This Bill allows for plea

bargaining, as I will demonstrate, to take place even before a charge. The Act was also deficient in the concentration of responsibilities rather than centring the responsibilities within the remit of the Director of Public Prosecutions (DPP), who is in charge of all prosecutions in the country, the Act centres the powers in the judiciary. I believe that was a fatal flaw. There are other limitations that afflicted that law and a combination of all of them rendered the Act underutilised to a large extent. In fact, as I stand here, I could hardly recall a case where the Act was used. All of that was taken into account. We looked at plea bargaining legislation across the Caribbean; we examined the position in the United States of America (USA); we examined the position in the United Kingdom (UK); and, of course, we examined our local law. Having studied all of the various models out there, we drew from all of them and crafted this Bill.

The Bill before this House, today, seeks to transform the criminal law system by modernising the existing legal framework of plea bargaining in Guyana. The purpose of the Bill is to ensure a prosecutor and an accused person which includes a person suspected of committing a criminal offence and a defendant in proceedings before the court, for criminal proceedings, whether on his own or represented by an Attorney-at-Law to engage in pre-decisions aimed at arriving at a plea agreement. Under a plea agreement, the accused agrees to plead guilty to a specified offence or undertakes to perform any other obligation contained in the plea agreement in exchange for the Prosecutor's undertaking to take a particular course of action.

Sir, I will pause here to give you an example that all of us may be able to relate to. Sir, you will recall the Lusignan massacre case. In that case, the DPP did not have this Bill at her disposal and was unable before charging to strike a plea deal with one of the accused persons. A deal was eventually struck but after that person was charged. My learned friend, Mr. Khemraj Ramjattan, would know that once a person is accused, even if the person testifies, his/her evidence lacks certain legal credibility because one has an interest to serve, and there are so many things that the jury will have to be specifically redirected to treat the person's evidence with extreme circumspection and care. That is all because one was charged and one is now moving from a co-accused to a principal witness for the State. Here, this Bill allows the DPP, even before instituting charges, at the level of the investigation, to begin to work out a plea deal. The DPP takes one of the cases where there is not an eyewitness and now has the ability not to be able to charge all of them. The DPP could use one of them as a stage witness, strike a plea deal with that one and make that one a principal State witness against the others. That is the type of flexibility that this Bill allows. It enables the acceleration of trials, the alleviation of congestions in the criminal justice system, the inclusion of victims in the decision-making process and the preservation of judicial discretion throughout all stages of the process.

The Bill is quite a big Bill, as expected. I will summarise the main tenets of the Bill. Clause 2 provides for the interpretation of certain terms used in the Bill which includes improper inducement, victim and relative. Under the current law, there were very narrow definitions. In this Bill, we have expanded those definitions. Experience has shown that prosecutors have been known to overcharge or engage in charge bargaining, simply to coerce the accused to plea to a lesser charge. They have also been known to threaten an accused person to charge him with a more serious offence, which is not grounded in evidence or to charge a family member if the accused does not plead guilty or threaten an accused who they intend to seek severe sentence if he goes to trial. These matters have not been addressed in the definitions provided in the current legislation but they are provided for in this Bill. They are all offences and are protected against, so that there is not a prosecutor who takes advantage of the defence.

Section II of the current legislation, for example, defines… I will not go into all of that. I will attempt to go through the definitions of the current Bill and the extant law to show how the current Bill is wider in its ambit and amplitude. Therefore, it is a far more modern and progressive Bill than the current state of the law.

Part II of the Bill provides for certain procedural matters relating to plea discussions. The procedure is contained in clauses five to 12. This part required plea discussions to be held and a plea agreement or assistant agreement to be concluded at any time before the conviction, including before charges are instituted. Additionally, before entering a plea discussion or reaching a plea agreement, a prosecutor is required to acquire the written authorisation of the Director of Public Prosecutions. This is done so that there are not rogue prosecutions going on. The Director of Public Prosecutions must authorise the plea deals or even the commencement of the negotiations.

A further objective of the Bill is to make it illegal and utilise inappropriate inducements in order to persuade an accused person or suspect to take part in a plea discussion. This part also provides certain safeguards for the accused person. A prosecutor's primary duty is to seek justice, not merely to

convict. Therefore, the Bill seeks to prohibit a prosecutor from participating in plea discussions in certain circumstances. For example, a plea discussion requires an accused to plead guilty to an offence that is not disclosed by the evidence inadequately reflects the gravity of the provable conduct of the accused. When one goes to negotiate or to do plea bargaining, one has to plea bargain in relation to the offence that is disclosed on the evidence in the file. One does not use a heavy hand as the authors in the textbooks' state. One negotiates only in relation to the provable offence and one does not exaggerate the offence in order to get the accused to come down to a better deal. In other words, a person goes into a store and the man jacks the price up, as soon as he sees the person, but gives the person a discount when he/she buys the product, the discount may be less than what he was selling the product for in any event. The same principle is captured here.

This part also prohibits a prosecutor from initiating plea discussions with an unrepresented accused person or suspect. Unless the prosecutor informs the accused person or suspect of certain rights, including the right to be represented by an Attorney-at-Law. Every prosecutor has a duty to provide the suspect or accused person with a written summary of the evidence against the suspect or the accused person in circumstances where plea discussions are initiated, both before charges are laid as well as after charges are laid.

The final clause of Part II sets out the procedure to be followed by the Judge or Magistrate upon the first appearance of the accused in the court. That clause sets out a statutory right for an accused person to be informed of his right to enter plea discussions with the prosecutor and to be represented by an Attorney-at-Law. One has to advice the man of his right to be represented by an Attorney-at-Law. If he waives that right that is a matter for him but one is duty bound as a prosecutor to inform him of that right. The implicit in that is to allow him the opportunity to retain and instruct a lawyer of his choice, which is a right guaranteed by the Constitution anyhow.

Part III of the Bill provides for victim impact statements as contained in clauses 13 and 18. This plea bargaining agreement that the Bill seeks to legislate ensures that the victim plays a serious role in the entire process. The victim is obviously the most affected party by the criminal conduct. Unlike in the conventional criminal trial, apart from the victim's evidence, the victim's interest is not really taken into account thereafter. It is only the evidence and the nature of the offence. Here, the victim is allowed to play a part and the impact that the offence had on the victim is a factor that is taken into account when the process unfolds.

Prior to finalising any plea bargain with an accused individual, the prosecutor is obliged to solicit the input of the victim or a relative of the victim if the victim is not accessible. The victim may be dead, so resort is had to a relative. In order to effectively combat crime, it is crucial to uphold public confidence and ensure that agreements are not made without considering the victim's perspective. Modern legislation requires a prosecutor to seek and obtain a victim impact statement from the victim or relative even before a plea agreement is concluded.

Part III of the legislation in the Republic of Trinidad and Tobago, for instance, outlines a thorough approach regarding victim impact statement and involvement of a victim or his/her relative in plea discussions, agreement and court process that follow including the sentencing of the accused if the plea is accepted.

Section (8) (1) of Guyana's current law obliges the prosecutor to consult with and obtain the view of the victim or relative of the victim before concluding a plea bargaining. However, the term 'relative' is narrowly construed to mean the spouse, including a reputed spouse, parent, stepparent, child and stepchild of the victim. In the absence of these people, there is no allowance for any other relative to be consulted.

Additionally, section 11 (1) of the current law states that the court shall, in open court, seek the views of the victim or relatives of the victim before recording the terms of the agreement and passing sentence. Section 11 (2) stipulates that where the court considers it prudent to do so, the court may retire to chambers to hear the views of the victim or relative as the case may be. This is done in the presence of the accused or his Attorney-at-Law, if any.

8.19 p.m.

The current methods of plea bargaining and sentencing demonstrate that the parameters outlined in the current Act are restricted and fail to offer a sufficient opportunity for achieving restorative justice objectives. It is for this reason that the victim impact statement model was adopted in the Bill for the purpose of expressly allowing the victim or relative to set out the impact which the offence has had on him or her.

Part III of the Bill imposes a duty on the prosecutor to inform the victim of his or her right to provide a victim impact statement. It requires a victim to provide a victim

impact statement explaining the physical or emotional harm, financial loss, or other impact the offence has had on the victim. Additionally, this Part allows for the particulars of the Victim Impact Statement.

Clause 14 is restrictive as it restricts the content of a victim impact statement. According to clause 14:

> "14. A victim impact statement shall not include –
>
> (a) a restatement of the… offence…"

That is obviously not necessary:

> "(b) criticisms about the accused person; or…"

That is not necessary:

> "(c) the victim's opinion about the type or severity of the sentence to be imposed."

That is not the prerogative of the victim. Clause 15 of the Bill makes provision:

> "…for relatives of the victim to provide a victim impact statement in circumstances where the victim has died, is ill, or is otherwise incapacitated, or cannot be found."

This Part further provides for the procedures to be followed in circumstances where an impact statement is being provided by a victim who is a child. It also seeks to make provision for a duly authorised representative of a business that has been the victim of a crime to provide a victim impact statement on behalf of the business.

The final clause of this Part sets out the duties of the prosecutor in respect of the victim impact statement and the victim. The prosecutor is required to ensure that a victim impact statement complies with the requirements of clause 14. If the statement is contrary to section 14, the prosecutor must remove that material from the victim impact statement before filing it in court. The prosecutor is required to serve the victim impact statement on the accused person or his attorney at law before it is filed in the court.

Part IV of the Bill provides a procedure to be followed in respect of plea bargaining, plea agreements, and plea agreement hearings. This part consists of clauses 19 to 27. Clauses 19 and 20 provide for the form and filing of plea agreements for a represented person and an unrepresented person, respectively.

Clause 19 of the Bill provides for circumstances where, "(1) A plea agreement is concluded between a prosecutor and an attorney-at-law for an accused person or suspect…" and provides a list of documents which shall accompany the plea agreement and which must be filed with the Clerk of the Court or Registrar, as the case may be.

Clause 20 of the Bill provides for circumstances where, "A plea agreement is concluded between a prosecutor and an unrepresented accused person or suspect…" and provides a list of documents which shall accompany the plea agreement which must be filed with a Clerk of Court or Registrar, as the case may be.

Clause 21 provides the procedure to be followed upon the filing of a plea agreement. It requires a plea agreement hearing to be held within 28 days of the date that plea agreement is filed. I spoke about the speed, and you see it here, there is no long delay. Once the plea agreement is filed, within 28 days we must have a prehearing. It is important to note that if a matter is not set down before the court for a prehearing within 28 days, the prosecutor, the attorney-at-law for the accused person, or the accused person may make an application orally or in writing to have the matter set down for a plea agreement hearing. Here is another mechanism that is established which allows either the prosecutor, the accused, or the accused or the lawyers to push the process along.

Clause 22 of the Bill provides that where a plea agreement is filed before the commencement or during the conduct of committal proceedings but before an accused is committed to stand trial in the High Court, the Magistrate shall, *inter alia*, cease conduct of the committal proceedings If the proceedings have commenced and order the plea agreement hearing be transferred to the High Court for determination. Where the matter is transferred, the Magistrate may grant bail to the accused person pursuant to the Bail Act of 2022. If you are doing a preliminary inquiry in the Magistrate's Court and the parties decide that they want to enter into a plea deal, the Magistrate is to stop the Preliminary Inquiry (PI) immediately and transfer the matter over to the High Court for the plea deal to be sealed.

Clause 23 of the Bill imposes a duty on the Director of Public Prosecutions (DPP) to prefer and file an indictment within a specified time frame, in circumstances where a plea agreement is filed before the commencement or conclusion of committal proceedings." Here again, there is no delay. The DPP, once the plea agreement is filed and the magistrate aborts the PI, must prefer the indictment within a specified time.

Clause 24 of the Bill provides the procedure to be followed at a plea agreement hearing. The prosecutor is required to disclose certain information to the Court and the Court is required to make certain enquiries of the accused at the plea agreement hearing. This Part further sets out the procedure when a plea agreement is accepted and, if the accused person withdraws from the plea agreement or assistance agreement, if the court accepts the plea agreement, the accused person shall then plead to the charge.

Part V of the Bill provides the 'General and Miscellaneous Provisions and contains clauses 28 to 38. This Part provides that an accused person or the DPP may appeal to the Court of Appeal where the court has rejected a plea agreement. So, if the two parties have agreed to plea and the court rejects that plea agreement, that is a ground of appeal.

Clauses 30 and 31 provide the grounds upon which an accused may withdraw from a plea agreement and the grounds upon which the DPP may seek leave of the Court of Appeal to have a plea agreement or conviction set aside. Additionally, clause 33 of the Bill provides that:

> "(a) an offer to enter into a plea agreement or a statement made in connection with the offer;
>
> (b) a statement made during plea discussions or a plea agreement hearing; or
>
> (c) a plea agreement or a guilty plea, which is later withdrawn."

It is not admissible in any civil or criminal proceedings against the accused person. If there is a breakdown of the plea agreement or the plea discussion or even if the plea agreement is later set aside and this accused person now has to go to face a trial, none of the things they discussed in that plea agreement, the guilty plea, nothing of that type, is admissible in a court simply because it would obviously prejudice the fair trial of that person. Further, this part provides for the sealing of records, the minister's power to amend schedules and make regulations, *et cetera*, under the Bill. Of course, the Bill repeals the current Criminal Procedure (Plea Bargaining and Plea Agreement) Act, Chapter 10:09.

So, Sir, in a nutshell, those are the essential elements of the plea-bargaining Bill that is before us. It is new to Guyana, but it is something that is extant throughout the Caribbean, throughout the Commonwealth, well entrenched in the United States of America (USA) and the United Kingdom. We have moved from a position where, 40 years ago, if the DPP were to try to strike such a deal with an accused person, or *vice versa*, an accused person approaching the DPP to try to negotiate something of this type, it would have amounted to perverting the course of justice. It would have amounted to interfering with the course of justice. So far, the law has moved whereby the parties, that is, the State, the accused person and the victim can now sit at a table and work out an appropriate plea arrangement that would protect the victim's interest, protect the State's interest, maintain the aversion that society has against criminal conduct, ensure an appropriate sanction is imposed, while, at the same time, delivering justice in the end.

There is one amendment, Sir, if you will permit me to speak on. This amendment is to remove from the plea-bargaining process, properties which may have been acquired by criminal conduct, from the proceeds of crime, *et cetera* – those properties shall not be – or properties that have been forfeited as being, coming from proceeds of crime or being used in a criminal process, *et cetera*. Those properties or their forfeiture shall not be the subject of plea bargaining. If we seized a property, and we have now revamped our law in that regard, we are now going to do a lot of forfeiture in criminal proceedings once we get a conviction. We have never done that historically, but we have now revamped the law and we have a wide *repertoire* of statutory powers that can be activated to go after properties acquired from crime.

This Criminal Procedure (Plea Discussion Plea Agreement and Assistance Agreement) Bill excepts that. It does not allow for plea bargaining to take place in relation to properties that either have been the subject of forfeiture proceedings or are likely to be the subject of forfeiture proceedings, on the ground that they were acquired through criminal enterprises, or they were acquired as proceeds from crime. So, Mr. Speaker, that is the Criminal Procedure (Plea Discussion, Plea Agreement and Assistance Agreement) Bill 2023 which I commend to this House. Thank you very much, Sir. [*Applause*]

Ms. Chandan-Edmond: Hon. Speaker, Members of the House, I rise today to express my full support for The Criminal Procedure (Plea Discussion, Plea Agreement and Assistance Agreement) Bill of 2023.The AG has spoken extensively and exhaustively on this Bill, the clauses, its sections, and the procedure, hence, my remarks would be very limited.

This Bill presented by the Government of Guyana on 8th December, 2023, marks yet another significant step forward in our criminal justice system. The fact that even the Opposition stands in support of this Bill, is an important

indicator and testament to its importance and its potential to positively impact our society and the justice system. This Bill represents a comprehensive approach to enhancing our criminal justice system. It introduces mechanisms such as plea discussions, and we heard about this from the Hon. Attorney General. There are mechanisms on the plea agreements and assistance agreements that can streamline legal proceedings, promote efficiency, and ensure swifter justice delivery. These provisions are crucial in addressing the backlog of cases in our courts at improving access to justice for all citizens.

Mr. Speaker, like I have said, my presentation will be very brief. I will briefly touch on core points of this Bill as it seeks to promote efficiency in legal proceedings, enhance access to justice, reduce case backlogs, and protect the rights of the accused. I will speak on these points in turn. Promoting efficiency in legal proceedings – one of the key benefits of this Bill is its focus on promoting efficiency in legal proceedings. By allowing plea discussions and agreement, we can reduce the time and resources spent on lengthy trials.

8.34 p.m.

This not only benefits the accused by potentially leading to reduced sentences but can also ease the burden on our already over-burdened court system. Swift resolution of cases is essential for maintaining public trust in our Judicial system. The introduction of assistance agreement under this Bill is a significant step towards enhancing access to justice for all individuals, especially those who may be economically disadvantaged or marginalised. One can say that by providing avenues for legal assistance and support, we are ensuring that everyone has the fair chance at defending themselves in court. This provision aligns with the principles of fairness and equality before the law. It is important to note that the current backlog of cases in courts is a pressing issue that undermines the effectiveness of our justice system. This Bill of 2023 offers a practical solution to this problem by incentivising early resolution through plea agreements.

This Bill will present a new approach and it will encourage parties to reach mutually accepted outcomes outside of lengthy trials. Like I have said, this will significantly reduce case backlog and ensure timely justice delivery. It is important to emphasise that while promoting efficiency and expediency in legal proceedings is crucial, it should never come at the cost of compromising the rights of accused persons. The provisions outlined in this Bill are designed to safeguard the rights of individuals throughout the legal process. I must commend you for that, Hon. AG. From my vantage point, I believe that there is the need for adequate safeguards to be put in place to ensure that any agreements reached are fair, voluntary and are based on informed consent.

In conclusion, this Bill represents a progressive step towards reforming our Criminal Justice System. One can reasonably conclude that by introducing mechanisms that promote efficiency, enhanced access to justice, reduce case backlogs and protect the rights of accused persons, this Bill has the potential to bring about positive changes in Guyana's legal landscape. I urge all Members of the House to support this Bill wholeheartedly, for the betterment of our country and the legal system. Thank you. [*Applause*]

Minister of Local Government and Regional Development [Ms. Parag]: From the onset, I wish to congratulate my learned Colleague, the Hon. Attorney General and Minister of Legal Affairs, and his team for working assiduously to update and reform our laws. Everything that the Government has done in the last four years, were aimed at modernising all aspects of life in Guyana, from infrastructure and health care to education and social services. To better accommodate all of these developments, our legislative framework must evolve accordingly.

The Criminal Procedure (Plea Discussion/Plea Agreement and Assistance Agreement) Bill 2023 forms part of those efforts, representing critical progress in our justice system and, importantly, one that prioritises efficiency, fairness and rehabilitation. Introducing plea discussions and agreements in criminal proceedings, in both summary and indictable matters, would go a long way in expediting cases and clearing the substantial backlog that has burdened our courts for far too long. This is not something that has not been said by the Hon. Attorney General (AG) or from my Colleague on the other side, Ms. Geeta Chandan-Edmond, Hon. Member. It is good that we have had the perspective from our AG, as well as from a former Magistrate of the Judiciary. I am happy, understandably so, that the Hon. Member is supporting this Bill because this Bill is definitely one of those Bills that will modernise our legal framework in the context of criminal law.

Also, as an attorney who practiced mainly in criminal law, when I came out, the Hon. AG would have also been a practicing attorney in the criminal field at that time. We understood that, at that point, even if one practiced for a bit

in the Magistrates' Court or in the High Court in the criminal area or criminal law, one would have encountered at least one case where he/she would have had a victim, as well as a defendant or an accused person wanting to have a plea bargaining or have that kind of agreement. Of course, also practicing, we would know that matters languish in the courts, especially in the Magistrates' Court, at a PI level and at that preliminary trial for years. You have delays. This is not something that is here to criticise the Judiciary, but it is a fact. Everyone who is a lawyer and has practiced in the Magistrates' Court would know that we have had lengthy delays with matters. Some were for adjournments and some for other reasons, but there are PIs going on for years and years. At some point, the accused wants to plead guilty, or a victim does not want to go to court anymore, so you will have a situation where, if there was a Bill like this that works, it would bring efficiency to that system.

Added to that, plea agreements also accommodate – plea agreements provide victims with a degree of certainty and predictability, regarding the outcome of the particular case. Instead of facing the uncertainty of trail proceedings and potential acquittals, victims can be assured that the accused has admitted guilt and has accepted responsibility for their actions, although there is no duress, and this particular Bill ensures that there is no duress and that there is no inducement for someone to plead guilty. Added to that, plea agreements also accommodate compensation, whereby an accused having admitted guilt agrees to compensate the victim or those they leave behind, for whatever losses or harm they would have suffered as a result of the crime. This can help victims recover financially and address the practical consequences of the offence. The implementation of plea discussions does not benefit one party. It is rooted in fairness. Once passed, these laws will enable prosecutors and defence attorneys to negotiate mutually beneficial agreements promptly, all the while bypassing lengthy trials and exhausting court proceedings.

One of the primary benefits for accused individuals is the opportunity to receive reduced sentences through plea agreements. By admitting guilt and cooperating with authorities, defendants would make themselves eligible for more lenient treatment, including shorter prison terms or alternative sentence options. Introducing plea agreements would also incentivise guilty parties to take responsibility for their actions. This modern addition to our legislative framework, encourages accountability for even criminals and it facilitates the faster start of their rehabilitation. The enactment of such plea bargain legislation would be essential for us to not only combat crimes and hold perpetrators accountable, but also boost cooperation with law enforcement. It may even enable us to dismantle criminal networks, hold perpetrators accountable and prevent the possible occurrence of future crimes. It is essential to recognise that plea discussions are voluntary and require the approval of the court. In the case of this Bill, it specifies the need for approval from the Director of Public Prosecutions.

This Bill is comprehensive, Mr. Speaker. It addresses all details and eventualities that may stem from plea bargain matters, including the transfer of proceedings to the High Court and duties of the DPP regarding indictment filings. It also allows to the Court of Appeal for rejected plea agreements by both accused persons and the DPP. It provides grounds for withdrawal from plea agreements and for seeking leave to set aside agreements, convictions or sentences. It establishes restrictions on the admissibility of withdrawn plea agreements as evidence. It also empowers courts to seal records of plea discussions or agreements. I wish to remind my Colleague on the other side that this Bill, and I do not think at this point I have to remind you because it seems as if you are in support of this Bill, would ensure that what we had before as a Plea Bargaining Act, the AG spoke of having gaps in this particular Act, has widened its scope to ensure that we have the efficiency that we need. Just neighbouring to us, Brazil is one of the South American countries known for having comprehensive legislation regarding plea discussions, plea agreements and assistance agreements within its criminal procedure system, also Trinidad and Tobago.

Plea bargaining has become increasingly common in that country's legal practice, that is, Brazil, allowing defendants to admit guilt in exchange for reduced sentences or other concessions. In Brazil, these mechanisms have been instrumental in expediting cases, reducing court backlogs and securing convictions in complex criminal investigations. Even looking at Brazil still, Brazil's experience with plea bargaining serves as an example of how such legislation can contribute to the efficiency and effectiveness of the Criminal Justice System, while promoting accountability and cooperation among defendants and law enforcement authorities. Such a piece of legislation, as has been laid before this House, will undoubtedly serve us well. I encourage all Members of the House, who is coming after on the other side, to support this Bill because I believe it will serve the justice system well with efficiency. Thank you. [*Applause*]

Mr. Ramjattan: I want to preamble my remarks this evening with a statement that plea bargaining came about

consequent upon reconciling the law in the books with law in action. That is with some profound meaning for especially criminal law practitioners. It is kind of a sounding board as to why in English law, which is the law we received here in Guyana, it was largely a perversity to deal with plea bargaining years gone by. What the pragmatism of the players, namely prosecutors, defence counsels, the Judge and also an important player, the victim, did over the years was to make sure that which was regarded as perverting the course of justice, was narrowed to the point that we want expedition in trials, we want so many other advantages in a criminal justice system, and also because of certain things of law in action.

One of which is like, for the prosecution, the prospect of a full-blown trial may not be attractive to a prosecutor, where it is not confident it will successfully discharge the burden of proof. Like when a confession is taken, and they feel that it will be thrown out or when there is an absence of witnesses or witnesses behaving hostile. They start having second thoughts as to whether they should go to trial. They themselves create this culture that if we could accept a plea and reduce the sentence, the case will finish, and another one is ticked off. Similarly, for the defence counsel, defence lawyers may not be confident they could pull this case that is now going to trial. They are busy.

8.49 p.m.

Sometimes the fees they are paid may not allow them to devote as much time for the complete defence and because they may have been told by their clients that they are guilty so they develop an occupational culture that their clients do not deserve the expenditure of a full-blown trial and the time wasting as they would say. That again constitutes law in action as against law in the books. Judges too look for ways to manage their caseload which confronts them, greater and greater in a rising crime situation. How do we do it? They decided well fine, this thing is not no perversity, this thing is not perverting, we want to be pragmatists, we want to do it expeditiously and with all the fairness around the place so that at least things could get done. That is what happened in a case called Turner. I was in the Director of Public Prosecutions (DPP's) Chambers as a young practising prosecutor when I think it was Mr. Ian Chang who indicated that something came up a couple of years ago and so on, Judges confronted this problem and then they started making rulings that plea bargaining ought to come on stream. Then we had some very important cases like that, R v Kain, where Lord Widgery indicated that yes, indeed, we should proceed with plea bargaining.

Then we had the Royal Commission on Criminal Justice in 1993 started recommending plea discussions. Plea discussions used to, at that point, in time be called sentence canvas, where you are canvassing a sentence from the Judge, and you are literally asking the prosecutor to talk to the Judge, and if one pleaded guilty he/she could have gotten a little breakdown or whatever. In the 1994 Criminal Justice and Public Order Act of England, it was then recognised by statute. Now I agree, being one who was very much, in my earlier years, in the criminal law practice, that, indeed, this ought to have come a very long time ago, but we never really took the guidance and accepted pleas like that before. I want to say too, and I say this from experience that we have a culture here in Guyana that, notwithstanding you make all the laws for people to plead guilty or to plea bargain, they sometimes do not want to. They tell you (the clients) 'I did not do it' and you have a situation whereby, although the evidence is so heavy against them, cogent and compelling, they say no. Then they tell the lawyer, 'Well is *nah duh wuh meh tek yuh fuh* to get me off. They do not hear.

I am happy that it has come, and it has come with a tremendous number of safeguards. The safeguards are as best as we could possibly put because, as the Hon. Minister of Legal Affairs and Attorney General said, he watched the models of other countries. We just heard that the Brazil model was looked at and so on. The work put in obviously meant that this is very modern and, as compared to the one that we had in 2010, this is obviously a major revision, a major transformation of that. I have some underlying concerns and please Mr. Attorney General take them in good stead because they are important and it is not from my experience alone, it also comes from textbooks that were written. One such being *The Handbook of the Criminal Justice Process* by Michael McConville and Geoffrey Wilson from Oxford. These underlying concerns, they were very elaborate about them, but I want, with my little experience and so on, to just tell you what they are. When you start with this culture now of, 'Boy if you plead guilty, one-third of the sentence will come off'. That is what basically it is in our courts now – one-third. So, if you plead guilty and you are supposed to get a 20-year sentence, one-third automatically will come off if you…

The point they are trying to make, and I know of, is this, it has a retrograde culture coming from the police thereafter. What will happen later in the court where the plea bargain is struck, has a profound influence on what happens at the police stage of the process. Routine case processing in court through guilty pleas reinforces the actions and expectations of the police who are, because of the comparative lack of

court scrutiny that you would normally have in a trial, encourage and engage in all manner of things now not reaching the very high standard of evidence gathering that will make the case literally against the suspect or the defendant. What studies have shown, and as quoted by McConville, is that it led to the police bringing cases before the court without respect to the sufficiency of evidence thereafter, this is because one just got a little bit of evidence and says, 'well the man will plead guilty', and so that high sufficiency was not there.

They also do that without regard as to whether any social objective may be achieved by the prosecution. Now there is always a social objective like when O.J. Simpson – what was his name? OJ. When we all saw what a trial is, how a powerful prosecution, how a powerful defence council was operating, it had an impact and a social value. We all saw a trial on television. We see trials if we go into the court of trials and so on. So, there is a social objective to be achieved when there is a trial going on, but now it can have this retrograde police culture of just… Many arrests are currently undertaken in circumstances where arresting officers do not consider the evidence or arrest to be sufficient to find a charge. I had an example of that recently, Sir. The sugar workers, thirty-one or twenty-one of them, they were just dragged in because they were peacefully protesting, and all kinds of cybercrimes were brought against them because they felt that these poor people were now going to go into the court, and they were going to plead guilty.

We have to understand that this is a major concern when there is an arrangement that dangles before you, a plea-bargaining scenario whereby you now want or expect… The expectation is that they will plead guilty *mon* just write up a couple of statements and so on. As stated by Michael McConville, the predictable result is an unthoughtful unreflective arrest process built around police rather than justice priorities. The hallmarks of which are commonly the mass arrests, the dragnets of neighbourhoods and so on, especially for low-level crimes. That is a big concern. It can realise now a police culture of just having the basic tenuous set of evidence and they just want you to charge, expecting that there might be… and that is very important.

Now there is a second concern. I have three. I will finish just now, Mr. Attorney General. The underlying rationale of plea bargaining also raises questions relating to sentencing based on principles. We have been, over the years, trying as best as possible to get sentencing principles in the form of a codified document. We have not probably managed to start implementing them. That is a very difficult thing at the moment. What it does, as the author says here, a systemic difficulty with plea bargain is that it may shift the offender from one offence category and, therefore, one sentence category to another – robbery to theft, burglary to theft, rape to indecent assault. When this happens as, it could happen in our Act because you want to plea bargain, the Judge, far from being able to address the accused's conduct in choosing a sentence, is actually prevented from doing so because the sentence must be based on the offence to which the accused had pleaded guilty rather than what he had actually committed. There is no technicality about, that it is a practical difficulty that we prosecutors have found but, of course, this is another concern.

Then finally, if I may just relate it, it is the risk of the innocent. Defendants often change their pleas not because they have come to face the fact of a trial but rather because they have succumbed to pressure which they see as coercive and unfair from sometimes even their own lawyers. Is it really free and voluntarily entered when they now go and say, alright I will plea bargain'? By writing a signature to the forms at the back here I could understand it because it is true, we should have those forms signed up. Do they necessarily invoke voluntariness? You see the pressure to plead guilty because the promise of a lighter sentence in plea bargaining has the potential effects on some defendants. Come to think of it, like in the fair trial; come to think of it as to whether that now becomes a fair trial. We have a fair trial constitutional right. Is it really fair? It is arguable that plea bargaining offends against the right to a fair trial… [**Mr. Nandlall:** Do we have to go into all these things] No well… That is it, I mean I know you would not want to go into it, but I am at least, for the record, doing that which I think ought to be. [**Mr. Nandlall:** I will have to answer you for the record.] No, well whatever. You are going say what you want but just understand it. Do not accept it. You will never accept it.

It is arguable that plea bargaining offends against the right to a fair trial set out in Article 144 of our constitution because it acts to discourage defendants from going to trial by the threat of a more severe punishment, if they do so and are convicted. Reduced sentence as a general policy for guilty pleas has a chilling effect on the decision-making of the defendants and which can violate that right to a fair trial as I said. I want to make the argument a little clearer, compare it with a confession statement, if you dangle whilst investigating and trying to get a confession statement from somebody that look, 'I promise that you will get a lesser charge as against a more serious one, if you give a statement'. That confession is involuntary. When you now

start this plea-bargaining thing and you start saying, 'well you are going to get one-third less, boss, plea'. It starts in the decision-making processes of the defendant and so it could be that notwithstanding what I regard truly as a movement upwards we might still not be there. It could still be, with a tremendous amount of unfairness.

9.04 p.m.

So, being a pragmatist myself, notwithstanding these concerns, I will wholly support the Bill but ask that, as we move along, we scrutinise our police force to the extent of making them not reduce the sufficiency of the evidence that is required and try as best as possible not to get retrograde in that process. Also, we should try as best to make the process fair to defendants, accused and suspects, even more from what we have here. Thank you very much, Mr. Speaker. [*Applause*]

Mr. Datadin: Good evening, Mr. Speaker. Allow me to say, at the outset, that I fully support Bill No. 19 of 2023 – the Criminal Procedure (Plea Discussion, Plea Agreement and Assistance Agreement) Bill of 2023.

Mr. Speaker, the landscape is changing right before our eyes. This is a significant change in the legal landscape in Guyana. Those of us who are engaged in the court system and those who have seen it work will know that this might very well be the most significant advancement and change to the criminal justice system that has happened in decades. Respectfully, Mr. Speaker, permit me to congratulate the Attorney General for bringing to this House legislation which will have an enormous impact on the judicial system in Guyana.

Mr. Speaker, permit me to digress just briefly. I understood the Hon. Member, Mr. Ramjattan, to have said that he supported the Bill. I am very afraid of what he would have said if he did not support the Bill. It is quite alarming that the Hon. Member, Mr. Ramjattan, presupposes that the Bill is intended to make up for lazy lawyering, lazy judges and magistrates, and to fill in the gaps where there might be no evidence. That is definitely not what this Bill is about. What the Bill seeks to do is save judicial time. That would mean saving judicial resources. It will yield a result that would be a result akin to what would have happened in any event. It would just happen quicker and at a lower cost. There are numerous advantages to having a plea-bargaining bill. In Guyana, the magistrate's courts are overloaded. The high courts are overloaded. There is simply so much if one has to go through a trial. You have to get witnesses there. You have to have the time to take the evidence. You have to have the prosecutor with his witnesses and the defence. It is a process that is time consuming. In a small country like ours, it is, at times, debilitating. Criminal trials will take too long, far too long in some instances. So, what this would do, respectfully, is alleviate the backlog. It allows for the disposal of proceedings in a manner that is quicker and more efficient.

We have to remember how the process works. The process works, firstly, by the consent of the Office of the Director of Public Prosecutions (DPP). The DPP has to consent to this happening. The accused person or the defendant or the person who is charged or about to be charged is given the right to an attorney. He is given a statement of the evidence that exists against him and that, of necessity…The only interpretation that can be given to that is it must be what is admissible evidence against that person. There is a further safeguard. Having had the discussion about what takes place, the next thing that happens is it goes to a court, and a judicial officer has to adjudicate upon the file, meaning what is said to be the evidence, what is the response, what is the proposed plea, and what will be the proposed sentence. The court, as is very clear in the legislation, could reject it. If, for any reason, the court thinks that it is inappropriate or not sufficient or not satisfactory, the court can do so. It must give its reasons for doing so, and the rejection by the court is appealable. There are layers that are built-in that ensures that, although you are moving quicker, going faster and the process is more efficient, you are not sacrificing justice, and not sacrificing the rights of the accused, the rights of the State, of course, and the rights of the victim.

The cost efficiency is significant. Litigation, especially prolonged litigation, is not only expensive, but it is a tremendous burden on the judicial system itself. It means the judicial time is spent. Magistrates, prosecutors, police, and court orderlies are all engaged in a continuous process of what is required for the court. So, any process that can sensibly and safely reduce that should be embraced. The cost is not only to the defendant. The defendant, in many cases, or the person about to be charged will also have to give up his/her time to be in court. Sometimes, he/she is in court, and it is adjourned to another date. He/she will have to be in court again, and then, it is adjourned to another date. The process is so lengthy.

Now, it is part of our law and the fabric of our judicial system in criminal cases that persons are given whatever statements exist against them before the trial starts. This just permits that process to move forward, so that they can see what the evidence is. Then, there is the statement the prosecutor is obliged to give to that person. There is, of course, a critical part which is the empowerment of victims,

which means that in this process that is being efficiently done, the plea bargaining does not happen without input from the victims or, as the Hon. Attorney General said, if necessary, the victims' family or representatives. Now, that is critical if one wants there to be confidence in the judicial system. You cannot say you are not going to do a trial, you are going to accept a plea and the State sits down with the defence and come up with a plea bargain and the victim has no say; the victim did not have any contribution or any say in what the end result was. There would be no confidence in the judicial system. Victims themselves have rights. They are entitled to be a part of the system. They are entitled to have their say about the impact of the crime and the loss that they may have suffered.

Another part of it is that from the legislative framework, we can now incentivise, by a legal framework, rehabilitation. An important part of rehabilitation, we all know, is the admission of guilt – the admission of the position of what it is. Now, if the defendant or the person, the subject of the plea bargain, is made aware of all that there is and what he would likely face, that would be an opportunity for him to say what he would negotiate his position to, but there would have to be some admission. If there is no admission and if there is an absolute denial, then there is no room for a plea bargain because there is nothing for the judge or the magistrate to sentence upon.

Prosecutorial efficiency is critical. Our system is an adversarial system, as we all know, with prosecutors and defendants. In many cases, the workload of a prosecutor in a court is to do all of those cases that come through the door. Defence might be different. One might do one or two in that court. So, prosecutors have the burden of carrying the brunt of the judicial system at the criminal bar. It also means that the DPP and the officers in the DPP have to account for or arrange themselves to be able to account for and advise on many more files. It is easier if the court's time can be reduced and the time spent with witnesses can be reduced so as to engage in some of the matters, it would be worthwhile to pursue a course that is fair to all parties, that all parties are satisfied with, and it will save time.

Judicial fairness is imperative. It is provided explicitly in the Bill because at the end of the negotiated position and at the end of the so-called bargain between the person and the prosecution, a judicial officer must endorse it. That judicial officer, of necessity, must examine what is before him and must look in all proportions at what is the evidence versus what is the plea and what is the proposed sentence that the defendant, accused or person, who is a suspect, would face. A judicial officer is duty-bound to examine that and to determine whether it offends the public conscience or whether it is a matter that should not be resolved in this way. With those few words, I do support, wholeheartedly, the Criminal Procedure (Plea Discussion, Plea Arrangement and Assistance Agreement) Bill 2023. Thank you. [*Applause*]

Mr. Nandlall (replying): Thank you very much, Sir. I will be as brief as I possibly can. I want to extend my gratitude to all Hon. Members of the House who spoke on this Bill and in support of it. My learned friend, the Hon. Member, Mr. Khemraj Ramjattan, has raised some concerns which I want to briefly address. Mr. Ramjattan, I believe that your information is dated. I know that you referred to some texts. They must have been written some time ago because those were the original set of problems which were identified with pre-bargaining. As it evolved from the case of Professor Turner that you cited, the academics wrote about it, but it has graduated a long time from that. This Bill benefits from that. So, let me tell you quickly what I am speaking about.

9.19 p.m.

He supported the Bill and he wanted to register some concerns. So, improper inducement, for example, is in the Bill. One of your concerns is that the police would do sloppy work, because the case is not going to trial, they may be settled, that sloppy work may not be detected, and an accused person may be dupped into pleading into an agreement and accepting a conviction which a trial may not have yielded. That is the sum total of what you said.

Well, there is a large definition in the Bill that speaks to improper inducement. I took my time, I thought, in explaining that the prosecutor, first of all, must give the accused a summary of the statement of the offence and the evidence in support – both for the prosecution and that which may be helpful to the defence. All of that must be given to the accused person. The accused person, as I said, must have a lawyer or at least must be informed of his right to have a lawyer. If he chooses not to, that is a matter for him. Once he has that lawyer, the lawyer will go through the evidence and the statements and ought to be able to be able to know what charges or charge should be proffered in the first place, if one has not been. This speaks to even before charges are instituted. So, you have a gauge. Then, it is whether the charge can be proven. That would easily be established on the evidence. The Bill prohibits a prosecution from even offering a plea deal that is falsified, that is exaggerated and that is not reflective of the provable offence disclosed on the evidence. So, with that type of safeguard,

tell me how that eventuality of yours will play out. It cannot; it would be extremely remote. That is the first issue.

First of all, you raised an issue about sentencing. Permit me to inform you that we have sentencing guidelines that are now almost completed under this same support for the criminal justice system. The delay came from the Judiciary. We hired consultants on the part of the Government, but the Executive cannot impose something like sentencing guidelines on the Judiciary. They have to actually execute it. We took about two years before we got full judicial cooperation. We have gotten that now and that document is now being concluded and will be gazetted as subsidiary legislation. Now, that will address your sentencing concerns generally. So, you will not have one judge sentencing someone for 110 years and another judge sentencing, on like circumstances, for 10 years. So, we will have consistency and uniformity in sentencing.

The truth of plea bargaining is that it does enable an accused person to benefit from a lesser sentence. If it is that it is rape, and it is moved to sexual assault or if it is that it is attempted murder and it moves to… [**Mr. Ramjattan:** Is it grievous?] It is not grievous; it is the one higher. It is the one that carries flogging – felonious wounding. So, there is attempted murder, and the next category is felonious wounding. So, if the man is charged with attempted murder and he strikes a guilty plea and says that he will take a sentence for felonious wounding, that is not bad. The difference between attempted murder and felonious wounding is three to four years. That is what the plea deal does. That is what has made it attractive, rather than to stay in the system and spend that same three or four years going to court and the trial may not finish. He goes early; he gets three years off; he accepts liability; he accepts guilt; the state saves millions of dollars on a trial; and everybody goes home happy. So, it speaks specifically to that. I was speaking about the prosecutor's duty to disclose. I will read clause 11.

> "(1) If plea discussions are initiated before charges are laid, the prosecutor shall inform the suspect of the allegations against him or her and provide the suspect or his or her attorney-at-law with a written summary of the relevant evidence against him or her including any evidence in the possession of the State which materially weakens the case for the prosecution or assists the case for the suspect."

You will get the file. You will get the statements. Those may have been early issues that arose as criticisms, but the modern legislation has taken care of them. I have a whole report there that deals with the other issue about whether you are weakening… In fact, the Americans had to deal with that in the Supreme Court of the United States (SCOTUS) – that a very proficient and efficient system of plea bargaining can weaken the administration of justice because there are persons who just commit crimes and plead guilty all the time. That question was frontally addressed by the Supreme Court of the United States by a special panel of judges. There is a very long judgment, but it came down with the position that the state benefits, the accused benefits, the public interest is served, and public morals are not corrupted by the sentence. Once it is done and justice, in the end, is served, why not? Which constitutional principle does it undermine? They rejected those arguments. That is why I am saying to you that you may have been referring to authorities that are quite dated. We have moved on, and this Bill benefits from the most modern position on the matter. Sir, I think that I have adequately addressed my friend's concern. He is nodding energetically and in agreement with me and so I will take that as his concurrence. Sir, I ask that the Bill be read a second time. Thank you.

Question put and carried.

Bill read a second time.

Assembly in Committee.

Mr. Chairman: Hon. Members, we have one amendment tabled by the Hon. Attorney General that is before us. Attorney General, is that clause 8?

Mr. Nandlall: Yes, Sir.

Clauses 1 to 7

Clauses I to 7 agreed to and ordered to stand part of the Bill.

Clause 8

Mr. Chairman: Hon. Attorney General, we are at clause 8; you can introduce the amendment now.

Mr. Nandlall: Sir, I move that the amendment that has been circulated be effected, that is to say –

1. Renumber existing clause 8 as subsection (1); and

2. Insert the following as subsection (2)-

   "(2) A prosecutor shall not initiate or participate in a plea discussion or conclude a plea agreement where -

(a) the accused person or suspect;

(b) any person or company that holds assets or an interest in the assets, on behalf of the accused person or suspect; or

(c) any property held by the accused person or suspect, may be precluded from being the subject of a pecuniary penalty order, forfeiture order or civil forfeiture order, as the case may be."

Amendment put and carried.

Clause 8, as amended, agreed to and ordered to stand part of the Bill.

Clauses 9 to 38

Clauses 9 to 38 agreed to and ordered to stand part of the Bill.

Schedule

Schedule agreed to and ordered to stand part of the Bill.

Assembly resumed.

Bill reported with amendment, read a third time and passed as amended.

9.34 p.m.

DEFENCE (AMENDMENT) BILL 2024 – Bill No. 5/2024

A BILL intituled:

"AN ACT to amend the Defence Act."

[*Prime Minister*]

Prime Minister [Brigadier (Ret'd) Phillips]: Mr. Speaker, I speak on behalf of the Attorney General and Secretary to the Defence Board and I move the second reading of the Bill, Defence (Amendment) Bill 2024 – Bill No. 5/2024, published on 3rd May, 2024. In the Defence Act, Chapter 15:01,"Chief of Staff" means the officer appointed by the President, under section 169, to have command of the Force. The term Chief of Staff as head of the military is now virtually unused internationally and has been relegated to an appointment in a subordinate unit to the head of the military. For most militaries, the head is now called Chief of Defence Staff (CDS), Chief of Defence or Commander of Defence Force.

The name 'Chief of Defence Staff' is now more recognised across the regions and throughout the Commonwealth of nations. In our own Caribbean region, Jamaica's Defence Force has a Chief of Defence Staff; Trinidad and Tobago's Defence Force has a Chief of Defence Staff; and Barbados is in the process of adopting its change to that term. The change in nomenclature holds the potential to strengthen our nation's defence structure and align it with modern approaches to military leadership worldwide. It is consistent and acceptable and equally applicable to the Guyana Defence Force (GDF). Notably, there has been frequent and constant clarifications on the appointment of Chief of Staff at various forums attended by the Chief of Staff of the Guyana Defence Force as the appointment now refers to, as I mentioned before, someone appointed in a subordinate unit, for example, a division or Army Corps Headquarters. With such a structure, for each branch of the military, a Chief of Staff is appointed to oversee day-to-day administrative and operational functions. They exercise executive management authority as delegated by the Chief of Defence Staff. With such observation and in an attempt to align our military with what currently obtains, the decision to make our head of the military the Chief of Defence Staff is recommended. To effect this change, I propose an amendment to section 9 (2) of the Defence Act, Chapter 15:01. Currently, the section outlines that,

> "The responsibility of the Defence Board shall not extend to the operational use of the Force, for which use responsibility shall be vested in the Chief of Staff subject to the general or special directions of the Minister."

I propose amending this to read:

> 'the responsibility of the Defence Board shall not extend to the operational use of the Force, for which use responsibility shall be vested in the Chief of Defence Staff subject to the general or special directions of the Minister.'

Mr. Speaker, in effect, what we are doing is simply adding one word to what existed before, the word "Defence". We move from Chief of Staff to Chief of Defence Staff. All duties outlined for the Chief of Staff, who will now become the designated "Chief of Defence Staff", remains the same and intact, in keeping with Defence Act, Chapter 15:01. If the Chief of Staff is to go overseas to represent Guyana now, and he places his title as Chief of Staff, he will have a different reception than if he travels overseas as Chief of Defence Staff. This is because, as I said before, it is widely

known that the Chief of Defence Staff is the most senior officer of a national army or national defence force. My understanding is that there are other speakers who are in support or, perhaps, contrary to what is presented here to me... I will take my leave now, Mr. Speaker. [*Applause*]

Ms. Walton- Desir: Thank you, Mr. Speaker. I am happy to assure the Hon. Prime Minster that we are in support of the amendment. The change that was proposed is a simple but significant one. It is one that will certainly bring us up to date as far as the rest of the world is concerned.

As the Hon. Prime Minister did note, a number of Caribbean countries have already taken the step of redesignation. We are attempting, as it were, to keep ourselves up to date with what is happening. Substantively, while it is a small change, it does represent a significant shift in the structure and strategy of the military. Our view is that it could be advantageous for a number of reasons, among which is a unified command structure… [**Hon. Member:** (*Inaudible*)] Yes, sir. I am a military child; I understand the army. As I was saying, a unified command structure in that this connotes a more centralised structure where the focus is on coordinating the different branches of military as well as it lends very well to strategic coordination. The CDS, as we will call him, will have a broader strategic role than that of the Chief of Staff. It will not only include the management in the various branches, but also, the strategic planning and direction across the military and defence establishment and that, of course, lends itself to enhanced efficiency in our defence operations. Given the climate that we are in, it is important that we are able to adapt to modern threats. With the ever-evolving nature of warfare and an increased emphasis on asymmetrical threats – cyber warfare and all the other non-traditional challenges that we see emerging – a Chief of Defence Staff will undoubtedly be better positioned to address these complex and multifaceted threats.

Mr. Speaker, as I said before, this adoption will certainly align us with international standards and facilitate cooperation. Particularly now that we are relying so much on allies, the interoperability with our allies would be greatly aided by this. I want to commend the Administration for quite properly piloting this amendment, which I hope will not be merely cosmetic, but would really lend itself to a complete restructuring of the branches of the force. It will certainly make planning and administration better. I want to make an observation here. More important than this issue of restructuring and the accompaniment of staff structure is the issue of army culture. We know that the Guyana Defence Force (GDF) was established in 1965 and it really has, over the course of its existence, exemplified the values of professionalism and respect, which are fundamental pillars of our military culture. Mr. Speaker, form and discipline are very tangible expressions of these values. This is why I am very concerned that, from a morale perspective, notwithstanding all the negative social media commentary and ridicule that is currently being heaped upon our fighting men and women, there continues to be a deafening silence, both from the highest office in this land and from the defence headquarters, with respect to those unsavoury, if not uncouth images that we saw emerging on social media a few days ago in which we saw key members of the GDF high command being hand fed in what appeared, very concerningly, to be some kind of ritualistic séance.

Mr. Speaker, there is silence from those two quarters. Silence in this House is not an option. Whilst our men and women in uniform, because of their training and their ethos, are probably required to *bear their chafe* in deference to their profession, we will speak. We have to understand…I hear the Hon. Members on the other side talking about it being a birthday. That explanation tells me that they simply do not get it. They simply do not understand the implications of those types of images for the morale and reputation of our men and women who are serving in uniform, particularly given the juncture at which we are.

I noticed the Hon. Prime Minister is sitting there quietly while his colleagues are making all the noise. It is because he understands what it is that I am saying. He understands how disturbing those images are. Mr. Speaker, what they do not understand and what they will never understand is this act of feeding someone cake barehanded, this symbolic intimacy and informality is inimical to the military culture. That is why they are over there making a lot of noise. It is beyond their comprehension what military culture requires, Mr. Speaker. Beyond the implications for national security, those images display a serious disregard for protocol and decorum, but they will make noise about it because they will never be able to understand. While our soldiers have to be mentally preparing themselves for the times that we are in and to psychologically and physically defend our territorial integrity, those literal hand-to-mouth images of the commanders that are expected to command our troops making the rounds in cyber space is a problem, and they demean and undermine not only morale but the authority of those in command of our military. That is what they will never be able to understand.

9.49 p.m.

Do you know what is painful for me, Mr. Speaker? As I said earlier, I am a military child. I am the child of a military officer. Do you know what is bothersome? Those very disquieting images are forever now in cyberspace with all of the unsavoury comments attacking our men and women in uniform. It will always be there, and it will not be removed. It is a problem. The fact that the Members on the other side cannot comprehend that it is a problem means that we in this country are in serious trouble. Those images are now indelibly written into the military folklore and there is nothing that we can do about it. Some of the crassest comments our men and women in uniform have had to be subjected to, simply because they do not understand the importance of military form and of military discipline. Veterans from all over the world are calling, 'Member of Parliament (MP), what is going on really? This is not the military that we know'. They are looking for answers. They are searching and they continue to hope that this vital element of command is still in place, but nothing has been forthcoming – not an explanation, not an apology has been forthcoming.

Do you know what is deeply concerning about this? I am glad the Hon. Members on the other side could say, '*oh*, it was a birthday and they were feeding cake'. It confirms that this was done in a controlled environment. It was in a controlled environment. We know, whoever it was that took those photos, it happened in a controlled environment. Why were those images allowed to be published given the effect that they have had? Who allowed and okayed it to be published? It is a problem for me, and it is deeply troubling for me, as I said, because I was brought up by a father that was a proud military officer. Who authorised those images to be leaked? What was the motivation for doing that? Could you not understand the effect it would have on our military men and women? It was leaked. It is out there. What was the motivation for doing it? Why would you put our military men and women in such a position? It is unacceptable, completely unacceptable.

Do you know what that does? It blurs a very important line, and that line has to be maintained. That line between civilian and military operation must be maintained. It has to be maintained. An apolitical military is a cornerstone of a democratic society. When we see images like that, which wittingly or unwittingly call into question the ability of our military to remain apolitical, we have to be concerned. The fact that the Members on the other side could be making noise, I will repeat, is simply because they do not understand. They do not understand how deleterious those images are. So, they can sit there, they can talk and they can heckle. We cannot blur the lines. There has to remain a realm of separation and distinction. I will hasten to say that no Commander-in-Chief must put his military in that position. None. I want us to understand that the fallout from this cake-feeding fiasco must serve as a reminder, particularly to us who are in the political class; it must serve as a cautionary tale. Let me be very clear… [**Hon. Members:** (*Inaudible*)]

Mr. Speaker: Hon. Members, please allow… I cannot hear the Hon. Member's presentation.

Ms. Walton-Desir: Mr. Speaker, I am making the point that the fallout from this cake-feeding fiasco must be a cautionary tale to us, particularly us in the political class; and I do not care which party we are from. It has to be a cautionary tale. Do not tinker with our military. Do not tinker with our Disciplined Forces. Guyanese were treated to images of men and women, particularly men who were a part of the Presidential Guard, dressed up in red whilst executing their duties. Do you think that those men woke up and said, you know what, all of us will wear red shirts and attend the congress? An order had to be given. We have to stop putting our Disciplined Forces in those compromising positions. It is affecting their morale; it is affecting their ability to police; and it is affecting the national security of our nation. [**Ms. Manickchand:** Always about form, never about substance.]

Mr. Speaker: Hon. Member…

Ms. Manickchand: I am heckling.

Mr. Speaker: Hon. Minister Manickchand, you know better than that.

Ms. Manickchand: I did not know that my microphone (mic) was on, Sir. I am heckling.

Mr. Speaker: You know better than that.

Ms. Walton-Desir: Do you know what, Mr. Speaker? The truth hurts.

Mr. Speaker: This is total disrespect from the Hon. Minister of Education. Even if your mic was on, you did not have the right to shout in it. Come on. Hon. Member, please, but stick to the issue. You are talking about the culture.

Ms. Walton-Desir: Absolutely, Sir. Mr. Speaker, I appreciate your protection. Thank you. [**Hon. Members:** (*Inaudible*)]

[*Mr. Speaker hit the gavel.*]

Mr. Speaker, I will say this again because it bears repeating: An apolitical military is important for our democracy. An apolitical military…

Mr. Speaker: Hon. Members on the Government's side, if you want to suspend for a few minutes to shout your lungs out in the courtyard, please, tell me and I will suspend for a few minutes. We have time. Hon. Member, please continue.

Ms. Walton-Desir: Thank you, Mr. Speaker. [**Hon. Members:** (*Inaudible*)]

Mr. Speaker: Hon. Members, this is a good time to take a suspension. Thank you.

Ms. Teixeira: Mr. Speaker, I am getting up at a Point of Order. That is quite an Order. I am not shouting.

Sitting suspended at 9.57 p.m.

Sitting resumed at 10.07 p.m.

Mr. Speaker: Hon. Members, please be seated. Hon. Member, Ms. Amanza Walton-Desir, you may continue.

Ms. Walton-Desir: Mr. Speaker, you have to guide me on how this works. Do I start over?

Mr. Speaker: Yes, you can start over except do not repeat yourself.

Ms. Walton-Desir: I could think of several ways to say what I just said. Mr. Speaker…

Mr. Speaker: I can think of several ways of stopping you.

Ms. Walton-Desir: To stop me. I understand, Sir. I was just about to conclude when our House was unfortunately disrupted. I feel very strongly, as I said, given my particular background, about this issue. I heard the Hon. Members during the break scoffing at the fact that I am saying the military should be apolitical and telling us about the 60s, 70s, 80s and 90s. I want to be very clear about something. None of us here in this House were there at that time. None of us here in this House had a say at that time. We have a say today, and I say do not tinker with our military, do not tinker with our disciplined forces, because we are going down a slippery slope. Guyana has the honour of being one of the few countries in this hemisphere that has never suffered from a military *coup* or any such thing. That is a legacy that has to be protected and celebrated. This is why this is troubling, and I think I have made my point.

I want to close by saying that the apolitical military is important. It is very, very important. Mr. Speaker, we have control over what we do here now, so we will begin to do the right things. We will do the right things and we will do it the right way. This attitude that the People's Progressive Party/Civic (PPP/C) has about referring to 30 and 40 years ago and continue to do wrong, does not augur well for the people of Guyana. They are saying it was wrong then but they are doing it now and attempting to justify their wrongdoing.

I will end by saying that, as I have said, we support the move to redesignate. We want to urge that it not just be a change in title, but it has to be a change in approach. It has to be a change where, from today, we see every attempt being made to uphold and to buttress the morale of our men and women in uniform because the times that we are in demand a highly motivated force, demand a force that the morale is at its highest. We are talking about our territorial integrity and our sovereignty. I shudder to think what those images could do in the hands of an adversary. So, let us get our act together, let us not tinker with our military, let us not tinker with our disciplined forces, let us do everything we can to support our men and women in uniform. Thank you, Mr. Speaker. [*Applause*]

Mr. Speaker: Thank you very much, Hon. Member. Hon. Minister of Parliamentary Affairs and Governance and Government Chief Whip, you have the floor.

Ms. Teixeira: Mr. Speaker, thank you for allowing me to speak. This Bill is a simple one. Regrettably, it has been used to attack the Commander-in-Chief of our country, the Government of our country, and vicariously also to attack the head of the army, the chief of the defence. It is unfortunate the Hon. Member chose to use an occasion when the Commander-in-Chief at his birthday had a private meeting, in a private room, away from the public eye, with heads of the army in a private setting. How the matter came out is information that needs to be examined. However, it was not at a public forum. It was a very private room in the Office of the President.

The Hon. Member talks about culture, but the Guyana Defence Force (GDF) has a history and a culture. At this time the army of Guyana is better equipped, more disciplined and more trained than ever before in its history. The army is treated with pride and has been congratulated over and over, publicly, and recognised by this Government as no other government in this country. Unlike the past, this army was used as a political tool to take away the legitimate rights of the voters of this country. You can come here with a bleeding heart and talk about the soldiers today having

been fed with cake in a private room at the President's private thing. Yet, this young lady has no indignation for the army of our country that was used from 1968 to 1992 to take away the votes of the Guyanese people and to keep her party in government against the will of the people. There is no indignation about that. You see, Mr. Speaker, the problem with the other side is they do not like history and they do not like to be reminded of it. It is because of what happened in the past that held back the development of our army, kept our army under control politically, when the People's National Congress's (PNC's) flag flew at Camp Ayanganna and every single camp station across this country.

10.14 p.m.

Where was the Hon. Member's indignation when in 2016, December, President Granger's Government removed the one-month bonus for every soldier, policeman, fireman, and prison officer in this country, and denied them that from 2016 to 2020? Where was the indignation? I do not recall anyone on the PNC side… No, they all said that the President was right, the Cabinet was right, the budget was right to take away this thing. Presidents of this country at Christmas time go to Camp Ayanganna. They are given to drink, whatever it is, some concoction, out of a potty, some people call it 'tencel'. It is photographed. Is there any indignation or lessening of the President's position because he is drinking out of a potty? I do not know what the concoction is, but every year there are photographs of this. It is a tradition of the army that is carried on.

What I think is at the root is that the Hon. Member does not like the fact that the army of today is not the army of yesterday. It is not the army of yesterday. This is in fact, a professional army, an army of honour; an honour of men whom I have met; and I have known many of them, for the last couple of years, who have risen in the army and deserve to rise in the army. They have served. The army officers of our country today are not the army officers of the past. These are professionals, they are nationalists, they are patriots, they want to protect their country and they do so with pride. Do you know what was funny? I thought that the Hon. Member also as usual, when she speaks, her balance is lost, unfortunately. When the President went to the borders and slept in the tents with the GDF soldiers, in a time of a threat, no other President of this country has ever gotten into their pyjamas, gotten into a sleeping bag, and slept in a hammock and slept with the men. I will tell you something, Ms. Amanza Walton-Desir, Hon. Member, the soldiers of this country, whether they were there in the tent with the President or not, they know he is a man of the people and he is their man. He is their man.

Mr. Speaker, the Hon. Member has used this occasion to, as usual, try to score cheap points, cheap political points, because it… How Mr. Granger used to say it, that when we bought foreign plantain chips it used to stick like a craw in his throat. What stuck like a craw in the Hon. Member's throat is in fact that the army today is not political, and it is standing by the Government of the day, in accordance with the Constitution of our country. I could go on to speak many things, a long history. Many books have been written about how the men and women in the Disciplined Services were treated – who lost their jobs, who did not get to be promoted. I was on the commissioning board from 2008 to 2015. We saw what happened after 2020, where the honourable soldiers of this country, officers who had served, were superseded over and over again not by a commissioning board but by direct intervention from the top level. The commissioning board was put back in place by President Ali and has been functioning since.

When the Hon. Member speaks, culture has to do with integrity. Unfortunately, to try to create a situation out of nothing… because the indignation of the soldiers of this country, when they were told to go and steal ballot boxes, they did it in 1968, 1973, 1978, 1980, 1985, and on the eve of 1992 they were told to do it and they did not. There are good men and women who have served this army for all these years. There are good men and women there today and they are recognised and acknowledged. Do not come here with this low-level kind of attempt to dramatise… [**An Hon. Member:** Low life (*Inaudible*)] I did not say low life, I said low level. This attempt to be smart, attempt to be disingenuous, and in fact it is blown up as a target, an attempt to discredit, to be vulgar in this House… The target of all she said was not the soldiers and her bleeding heart for the soldiers of this country, it was to attack the person whose birthday it was and that was the President, the Commander-in-Chief.

This Bill is a simple one. It is one that should not be a problem. The dramatising of the Hon. Member should not cloud the fact that we are a country, we are a people, and we are a Government that recognise our soldiers, our army, the head of our army, with great pride. In the last three years we have seen an army grow up with pride, with the way they carry themselves, the way they do their work professionally, and that they are recognised in different parts of the region for the quality of work that they do. The fact that they have been armed and prepared and defending our borders and

protecting us, and not stealing ballot boxes, is an honour and what the army should have been doing from the very beginning.

I wanted to respond to some of the points that were made. I can quote many books that have been written. Father Morrison who spoke about how the army was used in the Elections. I could speak about a book also by Mr. Seelall Persaud, about what they did to him because they did not know whether he was a PPP/C supporter or not, but he was deemed to be the politically incorrect colour. There is also the fact that when the presidential candidate in 2015 was announced for the PNC and the APNU/AFC, it was stated that the former head of the army, Mr. Granger, presidential candidate, had in fact been a card bearing member of the PNC for 40 years; a card bearing member and he was the ideological advisor or ideological… of the GDF, specifically appointed. That was to bring the army into PNC into one whole. The army and the PNC are not one whole now. You thought you controlled everything, and you do not.

The thing is, Mr. Speaker, we have a young President who engages with the army in a way that has never happened before. Unlike former President Granger, who was so *stiff and upper lipped* that he only dealt with the Officers and not with the men in the field, the difference with President Ali is that he engages with the soldiers on the ground as well as the Officers. He is not a man of the Officers only, as was Mr. Granger and certain other previous heads of the army. I wish to say that the Hon. Member's contribution was totally unnecessary, unacceptable, and irrelevant to the motion and the Bill on the floor. Thank you. [*Applause*]

Mr. Ramjattan: I just want to say that I support the Bill fully. Thank you very much. I did speak to the Prime Minister and asked whether the word 'defence' comes in here because we did not want the Chief-of-Staff to go on the offence. He said no, that there were some other reasons. I support it fully. Thank you very much. [*Applause*]

Brigadier (Ret'd) Phillips [replying]: Mr. Speaker, I stand to thank the Members on the Opposition side for supporting this Bill, perhaps the simplest of Bills. It is a Bill requesting to add one word and it caused a lot of stir, a lot of confusion. A lot of the confusion is based on perception. I wish to mention that, as a Retired Chief of Staff, the Guyana Defence Force is a professional army. I wish to also mention and put on record, and perhaps this will blow up *Facebook* tonight, the same Guyana Defence Force, from its formation to 1992, struggled with being apolitical. I could say more but I will leave it for my book, because many people are writing books now. I ask that we read the Bill a second time. Thank you, Mr. Speaker.

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, I understand that the remaining Bills will be deferred. Hon. Minister of Parliamentary Affairs, yes?

Ms. Teixeira: [*Inaudible*]

Mr. Speaker: Thank you.

[*The remaining Bills were deferred.*]

10.29 p.m.

Hon. Members, before we adjourn, there was an issue of the composition of the Sea Defence Board. The Hon. Member, Mr. Patterson, said it was 331/3%. He actually did submit the Cabinet Paper and it was 40%. I have circulated that to the Hon. Member Bishop Edghill, so we have corrected that.

Bishop Edghill: Mr. Speaker.

Mr. Speaker: Hon. Member Bishop Edghill.

Bishop Edghill: I will gladly withdraw my earlier statement. I will not contend with the Cabinet Paper, but I will tell you, the evidence of the minutes and attendance at meetings bore a different story. I did not have the Cabinet Paper, so I withdraw.

Mr. Speaker: Thank you very much for your graciousness, Hon. Member Bishop Edghill. Hon. Members as we proceed through the weekend let us join Hon. Minister Ms. Campbell-Sukhai on 21st May in remembrance of the Mahdia fire victims. It is the first occasion after a year. We have an engagement on 23rd May, so for those of you who are involved in that engagement, we are inviting everyone to come out on 23rd May. Let me take this opportunity on behalf of all of you to wish ourselves Happy Independence, and to our supporting staff and their families a Happy Independence. Hon. Prime Minister.

ADJOURNMENT

BE IT RESOLVED:

"That the Assembly do now adjourn to a date to be fixed."

Brigadier (Ret'd) Phillips: Mr. Speaker, I move the adjournment of the Assembly to a date to be fixed.

Motion put and agreed to.

Mr. Speaker: To a date to be fixed.

Adjourned accordingly at 10.31 p.m.