

Official Report

PROCEEDINGS AND DEBATES OF THE NATIONAL ASSEMBLY OF THE FIRST SESSION (2012-2013) OF THE TENTH PARLIAMENT OF GUYANA UNDER THE CONSTITUTION OF THE CO-OPERATIVE REPUBLIC OF GUYANA HELD IN THE PARLIAMENT CHAMBER, PUBLIC BUILDINGS, BRICKDAM, GEORGETOWN

38TH Sitting

Thursday, 14TH February, 2013

Assembly convened at 2.28 p.m.

Prayers

[Mdm. Deputy Speaker in the Chair]

ANNOUNCEMENTS BY THE SPEAKER

Mdm. Deputy Speaker: I would just like to take this opportunity to wish everyone a happy Valentine's Day and in keeping with the tone of St. Valentine, I am confident that the session will be a smooth one.

Firstly, leave has been granted to the Hon. Member Mrs. Indranie Chandarpal up to the 22nd February. Secondly, Members of the Assembly Committee are reminded of a meeting of the committee which will be held during the break at 4.00 p.m. in Committee Room No. 2 which is at the bottom of the stairway.

ORAL QUESTIONS WITHOUT NOTICE

Mdm. Deputy Speaker: I would just like to indicate that an oral question was received yesterday by the Speaker from Mr. Joseph Harmon to deal with CCTV. Mrs. Catherine Hughes, prior to this submission of the oral question by Mr. Harmon, submitted written questions and as such the Speaker indicated that because as I said it was sent yesterday, that in those circumstances and because of the serious overlap that he would not permit Mr. Harmon's Oral

Question Without Notice. I am saying this because Mr. Harmon is now being informed as a matter of courtesy. That is why his question cannot be entertained under Oral Questions.

INTRODUCTION OF BILLS

Presentation and First Readings

1. EVIDENCE (AMENDMENT) BILL 2013 – Bill No. 7/2013

A BILL intituled:

“AN ACT to amend the Evidence Act.” [*Minister of Home Affairs*]

2. MOTOR VEHICLES AND ROAD TRAFFIC (AMENDMENT) BILL 2013 – Bill No. 8/2013

A BILL intituled:

“AN ACT to amend the Motor Vehicles and Road Traffic Act.” [*Minister of Home Affairs*]

Mdm. Deputy Speaker: There are two Bills on the Supplementary Paper for first reading. Both are to be moved by the Hon. Minister of Home Affairs. I have indicated that, I, in keeping with the ruling of the House, will not entertain any introduction of any Bills, while I am presiding, by the Hon. Minister of Home Affairs and as a matter of courtesy and, I think, as a matter of right, I have indicated that to the Government and to the Opposition prior to the sitting being commenced.

PUBLIC BUSINESS

GOVERNMENT’S BUSINESS

BILLS – SECOND READING

CUSTOMS (AMENDMENT) BILL 2013 – Bill No. 2/2013

A BILL intituled:

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

Mdm. Deputy Speaker: Hon. Prime Minister, we can now proceed with the second reading of the Customs (Amendment) Bill. Oh, no, it is the Hon. Minister of Finance, sorry. I see that it is in the name of the Hon. Minister of Finance.

Mr. Ramjattan: Mdm. Deputy Speaker, I had spoken to the Hon. Finance Minister yesterday who had indicated what our position was in relation to this bill. We indicated the Alliance For Change's position on it and we also indicated to the Minister that we would like to also have more stakeholders' comments because we did indicate to the Private Sector Commission and the Chamber of Commerce that we would like to have their comments. They have not as yet done so and I will, in the context of not having that, request of the Minister that this be deferred. I hope that he is willing to have it deferred to the next session.

Mr. Greenidge: Mdm. Deputy Speaker, I would just like to say that I would like to second the motion to have the reading of the bill deferred to the next sitting.

Mdm. Deputy Speaker: I do not think that we should quibble on that. He is supporting the proposition put by the Hon. Member Mr. Ramjattan.

Minister of Finance [Dr. Singh]: Thank you very much, Mdm. Deputy Speaker. I have in fact spoken with the Hon. Members Mr. Ramjattan and, indeed, Mr. Greenidge prior to the sitting and I have, I believe, conveyed to them the rationale and basis behind the bill and also the very important reasons why consideration of this bill by the Assembly is in fact a matter of the greatest urgency. I believe that they are empathetic with those arguments that I have outlined to them. That having been said, we have no difficulty with providing an opportunity for another round of consultations. I will say that we have, ourselves, been speaking with the private sector and, in particular, the industry affected or the industry that has the greatest interest in this matter. We have no difficulty at all with, as I said, providing the opportunity for another round of consultations with them and inputs from them and indeed further discussions with my colleagues on that side of the House provided, of course, that we constantly bear in mind the attendant urgency of this matter so I am quite happy to defer the consideration of this Customs (Amendment) Bill 2013 to the next sitting of this House to allow for those consultations and that engagement.

Bill deferred.

TELECOMMUNICATIONS BILL 2012 – Bill No. 18/2012

A BILL intituled:

“AN ACT to provide for the establishment of the Telecommunications Agency and for a regular, coordinated, open and competitive telecommunications sector and for matters incidental thereto or connected therewith.” *[Prime Minister and Minister of Parliamentary Affairs]*

PUBLIC UTILITIES COMMISSION (AMENDMENT) BILL 2012 – Bill No. 17/2012

A BILL intituled:

“AN ACT to amend the Public Utilities Commission Act.” *[Prime Minister and Minister of Parliamentary Affairs]*

Prime Minister and Minister of Parliamentary Affairs [Mr. Hinds]: Mdm. Deputy Speaker, as I have indicated before, the Government and the two main providers of telecommunication services are in a course of discussions with the aim hopefully of reaching some agreements so that the laws, when passed, may not be subject to any course of going to the courts and so on and therefore I beg again that the second reading of the Telecommunications Bill be deferred and that the related Public Utilities Commission (Amendment) Bill be also deferred on this occasion.

Bills deferred.

FIREARMS (AMENDMENT) BILL 2012 – Bill No. 21/2012

A BILL intituled:

“AN ACT to amend the Firearms Act.” *[Minister of Home Affairs]*

Mdm. Deputy Speaker: The next item on the agenda is the Firearms (Amendment) Bill. I have already indicated that I will not allow the Hon. Minister of Finance to be heard in the House pending the... *[Interruption]* What did I say? I am sorry.

Dr. Singh: I am very grateful for an urgent clarification from you on this matter.

Mdm. Deputy Speaker: I will not only urgently clarify; I will completely withdraw, Dr. Singh.

Dr. Singh: I trust that you are not being preemptive.

Mdm. Deputy Speaker: Not at all. Thank you very much for that correction.

Mr. Hinds: Mdm. Deputy Speaker, I heard your position, but I think for the record's sake I should say that the Government does not accept this position being taken by you on this occasion. These two new Bills for first reading and this Bill, in particular, were asterisked for some time. It has been un-asterisked and we have before us an Order Paper which includes the two Bills for first readings and it is our Government's strong view that the matter should have been proceeded with.

Mdm. Deputy Speaker: Thank you very much Hon. Prime Minister. I respect your position, but I do not agree with it. I just want to say that I am not hindering. I am merely carrying out what I understand to be the decision of the majority of the House.

PRIVATE MEMBERS' BUSINESS

MOTIONS

THE APPOINTMENT OF A COMMISSION OF INQUIRY TO INVESTIGATE THE INCIDENCE OF CRIMINAL VIOLENCE FROM 2004 TO 2010 IN GUYANA

WHEREAS, Article 138 (1) of the Constitution of the Republic of Guyana prescribes that no person shall be deprived of his life intentionally save in the execution of the sentence of a court in respect of an offence under the Laws of Guyana of which he has been convicted;

AND WHEREAS in accordance with the Commission of Inquiry Act, Chapter 19:03, "The President may issue a commission appointing one or more commissioners and authorizing such commissioner or commissioners to inquire into any matter in which an inquiry would, in the opinion of the President, be for the public welfare";

AND WHEREAS this country has witnessed a pattern of unlawful killing of undetermined numbers of persons – including assassinations; executions; murders; extra-judicial killings by members of the Guyana Police Force Target Special Squad and other forms of criminal violence in Guyana during a period of 'troubles' on the East Coast and East Bank of Demerara and elsewhere – which were harmful to the public welfare;

AND WHEREAS several of these killings have been of a deliberate and systematic nature – particularly those which occurred at Agricola; Bartica; Buxton; Eccles; Lindo Creek; Lusignan and Bel Air, Bourda and Kitty in Georgetown – which can be classified as massacres and have engendered alarm and despondency among the population;

AND WHEREAS some killings involved members of the Guyana Police Force, the Guyana Defence Force and unidentified criminal gangs in which gangsters were equipped with a variety of electronic ‘eavesdropping’ equipment, weapons and vehicles that were provided with assistance and support by members of the Guyana Police Force;

AND WHEREAS commissions of inquiry and coroners’ inquests have not been conducted into some unnatural deaths and criminal investigation reports by the Guyana Police Force, with regard to the most egregious of these crimes, have often been inconclusive;

AND WHEREAS the National Assembly is the supreme legislative forum of our Republic wherein the people’s elected representatives discuss and determine matters of national interest and which is obliged to consider the grave threats to the public welfare and public security which prevailed during the aforesaid period of the ‘troubles’ and which remain substantially uninvestigated,

“BE IT RESOLVED:

That the National Assembly condemns the killing of citizens of Guyana which occurred during the period of the ‘troubles’ and expresses its concern that commissions of inquiry have not been convened to investigate the unlawful killings, including the assassination of a Minister of the Government in April, 2006, on the East Coast of Demerara;

BE IT FURTHER RESOLVED:

That the National Assembly calls upon the President of Guyana, in accordance with the Commission of Inquiry Act, Chapter 19:03, to appoint a Commission of Inquiry to inquire into the unlawful killing of citizens during the years 2004 to 2010.” [*Brigadier (Ret’d) Granger*]

Leader of the Opposition [Brigadier (Ret’d) Granger]: Thank you, Mdm. Deputy Speaker. I would like to request that the discussion on this matter be deferred again.

Motion deferred

BILLS – SECOND READING

THE CONSTITUTION (AMENDMENT) BILL 2013 – Bill NO. 4 of 2013

A BILL intituled:

AN ACT to amend the Constitution of Guyana in accordance with Article 164 of the Constitution of Guyana.” [Mr. Carl Greenidge]

Mdm. Deputy Speaker: Before you do that could I ask the two Whips if I could be provided with a list of the speakers to enable me to guide us through this second reading? Proceed, Mr. Greenidge, while the Whips make available a copy. Thank you.

Ms. Teixeira: Mdm. Deputy Speaker, the list is prepared and it is being copied for you.

Mdm. Deputy Speaker: Thank you so much. Proceed, Mr. Greenidge.

Mr. Greenidge: Thank you very much, Mdm. Deputy Speaker. This Bill before the House has been the subject of a number of exchanges before when it was laid for the first reading. There were a number of interventions on it, but prior to that you will recall that this House had passed a motion drawing to the attention of the House and calling upon the Government to remedy certain deficiencies which were exhibited in the various arrangements, including the Fiscal Management and Accountability Act (FMMA) as regards the question of the selected or range of commissions.

Let me put the matter another way. The Schedule 3 of article 222A omits, probably by oversight, all but a few selected rights commissions and as a consequence there is some ambiguity over the treatment and the state of independence – financial independence in particular – of these agencies.

Let me remind colleagues that the Constitution of Guyana, let us say, Titles 6 and 7 in particular, list a number of agencies and treat them as deserving of being independent; independent for purposes of carrying out the functions laid out for them. There are a range of agencies here. One will see, for example, if one goes to Subtitle 2 of Title 5 one would see mention being made of

the Ombudsman, one would see mention being made of the Judicature which is under Title 6. If one looks further, one will see the Judicial Service Commission, the Public Service Commission, Teaching Service Commission, Police Service Commission, Ethnic Relations Commission and a variety of others, such as the Human Rights Commission, Public Procurement Commission, et cetera. I mentioned these, so that you can see that these are a range of agencies important for the protection of our fundamental rights. They also include service agencies which, as I indicated in my presentation last year, are important in protecting or putting a veil between Public Servants and the execution of their functions in an independent and impartial manner and the possibility of Government action against them for being so impartial. At the same time putting a veil to ensure that the Public Servants in the execution of their duties are not given space to exercise political prejudices and platform on behalf of Political Parties.

What I am saying is on the one hand these are important entities constitutionally. They are important in the protection of our rights, either as individual citizens or as bodies such as Public Service Employees, policemen and so forth. That establishes the importance of these entities that are in the schedule but if one actually looks at the Third Schedule which arises from article 222A which speaks of: “In order to assure the independence of the entities listed in the Third Schedule...” That is the substance but when one goes not to the Third Schedule one will find that although I have mentioned a variety of bodies to you just now the Third Schedule actually only lists the following:

The Ethnic Relations Commission

Human Rights Commission

The Women and Gender Equality Commission

The Indigenous Peoples Commission

The Rights of the Child Commission

The Judiciary

The Office of the Auditor General

I will just remind you that in the case of the Auditor General this particular Schedule and the strength of the commission of the Constitution was, in essence, undermined by the Office of the Auditor General being treated from 2003 until 2012 as a budgetary agency, which means that it did not enjoy the independence set out for it in the Constitution. I hope that that is clear.

I am saying to you, Mdm. Deputy Speaker, that in addition to the Ethnic Relations Commission and the others that I had just listed, the other Rights Commissions, as it were, that are mentioned in the Titles 5, 6, et cetera, of the Constitution have not been mentioned. What this constitutional amendment seeks to do is to add these entities to Schedule 3 in keeping with their treatment in the body of the Constitution itself. As I indicated before, the omission has no logic. There is not logical basis for a separation between the Office of the Auditor General, for example, and some of the other Commissions here, the Director of Public Prosecution (DPP), for example.

What we have done is to set out in the Schedule under the Bill. The Bill seeks to amend Schedule 3 by adding these agencies that have been omitted from the Schedule. If I might just draw your attention to the ones that include Chambers of the Director of Public Prosecution, the Judicial Service Commission, the Public Service Commission, the Police Service Commission, Teaching Service Commission, Public Service Appellate Tribunal, the Procurement Commission, Office of the Ombudsman and the Guyana Elections Commission. The importance of the independence of these bodies, I hope that we are not going to be spending time arguing today arguing about and therefore I think we can devote our attention to those other aspects of the Bill with which colleagues may perhaps be unclear.

One of the things that I would like to emphasise, and I hope that I do not have to resort to reading the records of meetings, on the last occasion when we considered this Bill – at the first reading – the distinguished Attorney General cited an agreement between the two sides in relation to deferring consideration of this matter to some tripartite committee. I would just like to remind the Attorney General that at the meeting at which I was present and the Leader of the Opposition together with Mr. Carberry who had sent the record or a version of the record of the meeting to their secretary, the situation was clear. The other side did propose that these matters be considered in a tripartite body. They did recognise and I am amused to see the position that the Attorney General takes because at that time it was recognised that there were some problems, some inconsistency in the Schedule 3 and the body of the constitution and at that time both sides

agreed that the matter needed to be corrected. On the part of the Government, the Government's proposal was that we deal with it in a tripartite committee. As you know the tripartite committee has met on a number of occasions and nothing has actually been resolved in that context.

At that time the Government aired the view that since this item pertained to the constitutional changes it was necessary to have a two-thirds majority in order to effect the change. Our own deliberations at the time did not agree with the, if you like, the passage or the transfer of this item from this parliamentary forum to any tripartite body. There was not any such agreement. I have with me the two sets of records written by the two sides that we did not agree on; we did not finalise. To take the Government's rendition of the record and treat it as an agreed upon record is quite unacceptable. Our position was that two parties had enough votes between them to carry the matter if the two-thirds majority was required and we did not have any reason to believe that the third political party would not support it so it was just a question of will. Right now we are arguing that the article 222A is not mentioned specifically in the Constitution, which is under Title 2, where it sets out the procedure for altering this Constitution and amongst the different procedures there is one which is under Article 164 (ii). It mentions "A Bill to alter any of the following provisions of this Constitution..." These are the articles that are mentioned as deserving of two-thirds majority... article 222 is mentioned. There is no mention of article 222A so as far as I understand, and I got it on good advice, article 222 is one article, article 222A is another article and article 222A is not one of the ones mentioned here as requiring two-thirds majority.

It is therefore very simple. Since the Government had indicated in our deliberations on the 23rd March, 2012, that they recognise the inconsistency that is reflected in the Constitution then they should do the decent thing; join us now in ensuring that the principle of independence of these very critical agencies – agencies on which our fundamental rights are based – and their standing be formally enshrined in the Constitution in accordance with the original intention of the Constitution, whatever may have happened in the course of drafting the legislation. This particular piece is very straightforward. It is merely an amendment to reflect a motion passed last year. It is also to reflect the decisions taken by way of the Bill, the first Bill amending the Fiscal Management and Accountability Act, which removed these very agencies from a Schedule which had turned most of them into budgetary agencies; thereby encumbering them and

restricting their independence in a manner inconsistent with article 222A of the Constitution and it is very simple. It ought not to be a controversial matter. I would like to urge the House to join us in ensuring that this constitutional inadequacy or the inadequacy of the drafting is remedied. I thank you very much for your attention. [*Applause*]

Mdm. Deputy Speaker: Thank you very much, Hon. Member. I now invite Hon. Member Ms. Shadick to make her contribution.

Ms. Shadick: Thank you, Mdm. Deputy Speaker. I listened to the Hon. Member, Mr. Greenidge, and I am reminded that this House has 65 Members and I do not think that I heard incorrectly. I did hear him say, and the record should bear me out, that the two parties have the requisite two-third majority votes.

Mdm. Deputy Speaker: I think he was speaking about the People's Progressive Party (PPP) and the A Partnership for National Unity (APNU).

Ms. Shadick: He could have been but he is hoping that the third party joins. I do not think that he was speaking about the APNU and the PPP.

Mdm. Deputy Speaker: Well, Ms. Shadick, I do not think that we should go into what he thinks. I do not think that we should go into what he thinks.

Ms. Shadick: I am just trying to point out that two-thirds of 65 is 43 and not 33 and I was a math teacher so I do not think...

Mdm. Deputy Speaker: Mr. Greenidge, I do not think that you should seek to... No names were called. I got a different interpretation from the Hon. Member so I think that we should just move on.

Ms. Shadick: Mdm. Deputy Speaker, with all due respect, you are the Deputy Speaker sitting as Speaker, you are not part of the debate.

Mdm. Deputy Speaker: I must... Are you saying that...

Ms. Shadick: I am interpreting what the Hon. Member said as I heard it.

Mdm. Deputy Speaker: Yes.

Ms. Shadick: He could not have been assuming that the Government was joining with APNU to form the two-third majority. That would have been way out. There is another thing Mdm. Deputy Speaker.

2.58 p.m.

Article 222 assures the independence by way of making provisions for the remuneration of the President, the Speaker, the Deputy Speaker, the Clerk and Deputy Clerk of the National Assembly, a judge – all of the judges of the Supreme Court - members of the Elections Commission, members of the Judicial Services Commission, members of the Public Service Commission, the Teaching Services Commission, the Police Commission, the Ombudsman, the Director of Public Prosecutions, the Auditor General and the Commissioner of Police. The independence of those persons is assured because their remuneration comes in article 222 and it is provided for that they will be directly drawn from the Consolidated Fund.

Article 222A necessarily has to form a part of article 222 or else it would have been numbered 223 and this was in the deliberate judgement of all those eminent and qualified people, who sat on the Constitutional Reform Commission, whose recommendations came to this House. Their recommendations became part of this revised Constitution in 2001, or 2002. Those people sat and deliberately put in 222A to say that they are making the holders of the offices independent. Nobody can interfere with their independence but article 222A is put to distinguish that the expenditure incurred by the bodies, not all of them, will be met directly from the Consolidated Fund. That is what article 222A did; it established the Third Schedule. Those entities, which are listed in the Third Schedule, are listed there after deliberately being so decided by a set of people, of whom I was not one – the former Speaker, I think, was one of those persons, the then Attorney General and others. They deliberately said that the expenditure of each of the entities, and they listed those entities. After having just seen what is in article 222, all of those things about people who hold the offices of President and members of those Commissions, they deliberately listed only those entities in the Third Schedule.

They had reasons. First, to now come and say blithely that they had forgotten to put in these things I am not buying that. I do not think the citizens of Guyana will buy that because those people had spent a long time deliberating on these things and to say that it is simply a matter of

error or it is a typographical error, so let us just put them in and it should be agreed with, and so on, it is not that simply. My saying that article 222A has to be part of article 222 has implications of what I spoke of from the beginning, that the two parties, together, have the requisite two-third majority to pass this Bill because article 222 is one of the articles, which is listed in article 164, that requires a two-third majority to be altered or changed.

I have no knowledge of what happened or did not happen at a tripartite forum. I am not speaking from inside knowledge about anything else. I always like to go straight to the point and I do not like to waste this House's time. I am standing here to say that, as a Member of the Government side of this House, I totally reject that the Third Schedule and article 222A can be changed by a simple majority, which is what the Opposition benches have. It has to form part of article 222. I totally reject the notion that the Government and the APNU will vote together and then they will have the two-third majority and leave out the AFC, because I always thought that the AFC was tied to APNU. Their navel strings were buried together, so they were tied. I always thought they were one from the way they behave. That is why I will be forgiven when I understood the Hon. Member Mr. Greenidge to say that the two parties had the requisite two-third majority.

I am standing here to say that this Government is not going to frown its nose at the deliberate judgement of the members of the Constitutional Reform Commission, who sat down and drafted article 222A and listed those entities deliberately in the Third Schedule, and say that they forgot have and so we are now going to add in them.

On that basis I totally reject that this Bill should find any favour in this House. [*Applause*]

Mr. B. Williams: This is a simple matter and I rise to support the Hon. Member Mr. Carl Greenidge's proposal to amend this provision to the Schedule in the article 222A by this Bill. It is a simple factual matrix that is involved. Article 222A came some time after article 222, but let me *ab initio* show that before article 222A the architecture in our Constitution was that certain Service Commissions, for example, and other offices were to be independent.

Let us start with the Service Commissions, in article 198, which include the Judicial Services Commission – obviously that has to be independent - Public Service Commission, Teaching Service Commission, Police Service Commission and the Elections Commissions also entered the fray. What were the mechanisms in the Constitution to guarantee that independence? One

was referred to by the Hon. Member Ms. Bibi Shadick dealing with the salaries. Obviously if we want to have judges secure we will have to, more or less, insulate their salaries from interference by the executive. Then the method of appointment overarching will determine independence. If a judge could be appointed in Robb Street then, as you know, there would be no independence. That is why there is the Judicial Services Commission. If a judge were to be appointed at Office of the President, it equally would be the same thing.

In article 226 (1):

“Save as otherwise provided in this Constitution, in the exercise of its functions under this Constitution a Commission shall not be subject to the direction or control of any other person or authority.”

A clear statement, than this, cannot be wanted. It is telling us clearly that the Commissions are independent. Now, which are these Commissions? Let us go to article 226 (7) and it states this:

“In this article, except as otherwise provided or required by the context, the expression “Commission” means the Elections Commissions, the Judicial Service Commission, the Public Service Commission, the Teaching Service Commission or the Police Service Commission...”

This is the state of play which had been obtained in Guyana.

In terms of evolution in the courts, it was felt that decisions of these Commissions ought not to be justiciable in court and, as you know, how the law evolved over time from the case of Evelyn coming down the line. The judiciary said no and that it should be able to review the decisions if they are not made judiciously or if they are made arbitrarily, but the fundamental underpinning was these bodies were to be independent.

What happened? Article 222A happened. What was article 222A? It was not a mistake, Hon. Member Ms. Shadick. It did not just happen like that. Your own Government does not make mistakes such as that. The Third Schedule suddenly appeared by virtue of 222A. Hear what it tells us: “In order to assure the independence of the entities listed in the Third Schedule...” In other words, I just read article 226. Article 198 and the other article, referred to by the Hon. Member Ms. Shadick, which spoke of their independence. Now there is article 222A saying to us

that in order to guarantee or in order to confirm the independence it is to look to the Schedule and the body which is listed in it. Lo and behold, what is there, in the schedule, is the latest Commission in this country – the Rights Commission.

What does that mean? *Exclusio alterius*. If one is saying that one is assured that those are the bodies, which are independent under our Constitution, and does not include those hitherto guaranteed in article 198 and confirmed by article 226 (1) and (7), what are we doing? One might have said, at that time, that it must have been a mistake. Yes, but then, lo and behold, there is some Act called the Fiscal Management and Accountability Act which surfaced. What did one find? It was another Schedule being introduced. What did you find? The entities that were missing from the Third Schedule in the Constitution suddenly appeared in the Schedule of this ordinary piece of legislation though, in parenthesis, I would say an extraordinary piece of legislation.

When all of those Commissions were taken and made into budget agencies then we knew that it was not an error or mistake. We were then reinforced in the view when the Hon. Member Ramjattan confirmed, when he coined that phrase – what is the phrase? - *control freakism*. I personally encountered it in dealing with the elections of 2006 with the Guyana Elections Commission (GECOM) because suddenly the honourable gentleman, Dr. Luncheon, was suddenly the person who had to be looked at to get money for GECOM. There were elections afoot; there were scrutineers to be paid, things had to be bought and at that time we were dealing with biometrics. All of those things were being introduced and everything was dependent on the money coming from the budget agency's head who happened to be Dr. Luncheon. I do know how the independence of GECOM would be guaranteed when we had to look to the piper by the name of Dr. Luncheon. It was a mockery of the guarantee of independence contemplated by the builders of this Constitution who erected that architecture. What it turned out to be was that the Head of the Presidential Secretariat (HPS) could have directed spending on line items. If material was needed to get photographs taken and if it would not be in a hurry no money would be forthcoming. The Government was not releasing the moneys, so we had encountered all of that.

Now there are the Public Service Commission, Police Service Commission and the Judicial Service Commission. For sure the separation of powers, in context, speaks of assuring the independence of the three separate arms of the State so we must guard jealously and zealously

the independence of the judiciary. How that is done when it is subjected to a budget agency? It is not included in the Third Schedule, so we knew for sure that it was not an accident. [Mr. Nandlall: The judiciary is there. Every part of your speech is...] When you were speaking just now you were speaking after me too. You will finally get to speak after me. [Mr. Nandlall: The judiciary is on the Schedule.] We are talking about the Judicial Service Commission. The method of appointing a judge must be relevant to his or her independence. Is it there? It is not. The Hon. Member Madam Shadick also said that this cannot be amended by a simple majority.

Article 164, which deals with altering the Constitution, paragraph (1) speaks of a simple majority; paragraph (2) (a) speaks of a referendum and paragraph (2) (b) speaks of a two-third majority.

Let us see. Look at paragraph (2) (a) and see whether article 222A occurs there; it does not. Look at paragraph (2) (b) and see if it occurs there also – article 222A? It does not. Article 222 is there but article 222A is not there. What it means is that if any article in our Constitution is not included in article 164 (2) (a) or (b) then it could be altered by a simple majority. I do not know what the argument is. One can only look to the provision... [Mr. Nandlall: [...inaudible]] I do not know about the recent Attorney General who does not have the weight of years in our profession to really be making that kind of noise, but he must listen. I do know why he is trying to interrupt me. He does not have the calibre to interrupt me.

I am saying that if it is not in here then it has to be altered by a simple majority. As the saying goes in the law, “not even the devil knoweth what is in a man’s mind”. In the Constitution, for us to know what is in the mind, it must be manifested. It is a simple thing. A Member cannot come to this honourable House, a House that has been hallowed by time... Look at that giant of a silk that is looking at you. He must be turning in his grave to hear how you are mangling this Constitution and you continue with that - you, without the weight of years. Let me say to you... [Mr. Nandlall: Ignorance is bliss, my brother.] We could go all day, as you know. I do not know why you do not sit quietly and learn.

It was not by any error that the Government is showing the independence of entities in the Constitution and it left out those original entities and bodies and institutions that were originally guaranteed, and not only in the 1980 Constitution, but in the independence Constitution and

throughout the Caribbean where there are Westminster type models of Constitution. Those Service Commissions have always been independent and insulated from the murky hands of the executive.

I reiterate that the amendments, which are being proposed and inclusions to the Third Schedule of the Constitution, are well put. The Director of Public Prosecutions (DPP) is guaranteed to be independent. The DPP is not subject to the direction or control of any person, including the Attorney General of this country. He cannot tell the DPP what to do. The DPP is the only agency who can institute proceedings in this country in criminal matters and could stop them and the Attorney General cannot interfere with that process.

How does the Attorney General interfere? If the chamber needs amenities, if the chamber needs other things, there is the arrangement that the Minister of Legal Affairs would be the person to speak in the National Assembly in relation to those things, but that Minister, in doing that act, should not be able to influence the minds of a judge or the DPP. Therefore we are saying, in the words of the Constitution, itself, article 222(A), this: "In order to assure the independence of the entities listed in the Third Schedule..." which includes the Director of Public Prosecutions, the Judicial Service Commission, the Public Service Commission, the Police Service Commission, the Teaching Service Commission, the Public Service Appellate Tribunal, Public Procurement Commission, Office of the Ombudsman and the Guyana Elections Commission, that we have to amend the provision and the Schedule to make these inclusions. I am in total favour and agreement in doing so.

I support this Bill brought by the Hon. Member Mr. Carl Greenidge.

Thank you Mdm. Deputy Speaker. [*Applause*]

Mr. Ramjattan: I rise to support this constitutional amendment on the ground that indeed it will be rectifying a major mistake made in the Third Schedule in not identifying all of those constitutionally provided for institutions which, indeed, were not included therein.

It is important to understand, as we evolve as a nation, the necessity as to how certain institutions, constitutional and non constitutional, came into being and why, as we evolve and amend our Constitution, we must appreciate those changes necessitate constitutional alterations.

A Constitution, of course, as you would know, Mdm. Deputy Speaker, being a lawyer, needs amendments constantly so that it can fulfil that organic role it plays in the context of a society that is progressing, a society that is demanding more transparency and accountability. A Constitution is never written in stone. That is why over the years there were amendments and alterations and major constitutional reform to the extent of what they are today.

It is surprising that we are going to get a rationalisation, which came from Ms. Shadick, that only in their adjudicatory functioning are officers of the Judicature supposed to be independent. Well, I want to say to the Hon. Member that only... [**Mr. Nandlall:** Today is Valentine's Day.] Yes. Happy Valentine's Day to Ms. Shadick... that it is not only in their adjudicatory functioning of that office that was supposed to be independent; it was not only the adjudicatory functioning of the Supreme Court or the Judiciary that was supposed to be independent when we passed this Act in 2001 to give a list of the entities that were supposed to be independent. Never was it done.

I was then a member in this Parliament making the necessary amendments. Of course, not in the Constitutional Reform Commission, as my learned brother, Moses, here was. But it was part and parcel of an agreement in which we were going to make constitutional offices independent of the Executive branch. It was because of the fact that the Executive branch generally seeks control over the purse and the finances it could very well be diluted and looted if we did not make them independent entities for purposes of finances.

Institutions such as the DPP, decisions from it and determinations could be bad depending on how the purse string goes. It is an independent institutions, yes, and it is provided for constitutionally that the DPP shall be independent but this one is also indicating..., and when the discussions were happening as to how we make that institution also financially independent for the purposes of ensuring that if there is a smart Minister of Finance who will dangle the dollar so that a Mr. Ramjattan can be charged for treason, the DPP can then go and do that. That is why the principle, at that point in time, was that we should have financial independence of these institutions so that we can then proceed to ensure independence of thinking and independence of determination of the decision-making of these institutions. The dollar makes certain institution-holders duller and the pressure of sending no dollars to them can certainly make decisions go one way as against the other. It was for that reason that we indicated that, yes, indeed, we have to do away with budget agencies regime with certain institutions of the country.

The concept of budget agency is important here. When an institution is a budget agency, such as Ministries and those other executive organs, not constitutional offices, there can be... What happens with budget agencies is that the Minister of Finance literally asks for a budget and if he does not like the budget he can cut it. He can do a number of things in the budget, because they are budget agencies. Say that he does not like the expenditure on a certain line item, he can effectively cut it, no matter which is the institution. Let us say the Supreme Court, the Chancellor, Mr. Carl Singh, himself, organising for a better judiciary, be it seminars or purchasing of books, if the Minister feels it is not necessary, then it is no. He simply says that the Government does not have moneys for this and it cuts this seminar and spending on the books, and so many things. Quite frankly, that is what happened when it is a budget agency. It can then be..., as was argued when the experts came, I remembered, sometime in 2000, before we had passed these major amendments. They indicated that it was true.

Important significant organs, (such as the Supreme Court, the Auditor General Office, the Director of Public Prosecutions, the Public Service Appellate Tribunal, the Ombudsman, Police Service Commission, the Human Rights Commission, which constitutional offices derive from certain provisions from the Constitution) which was recently formed, if they are not given money they are not going to be in any position to make determinations that might very well be the best for the country, or the citizen or in the national interest.

It was for that reason then that we made provision for almost all of these institutions to be independent. When we say independent we also indicated financial independence. When it came out, the Schedule only had these listed as independent entities – the Ethnic Relations Commission, the Human Rights Commission, Women and Gender Equity Commission, because obviously that was upper most in their minds. All of these Commissions were supposed to be Commissions that were to make decisions and determination upon complaints made to them that that there is ethnic discrimination, and so on. Those were listed. But effectively the Judiciary is also put and the office of the Auditor General.

3.28 p.m.

What I am saying here, by virtue of those latter two being there, when there is the Office of the Auditor General, it shows that indeed the Government made a mistake because the Office of the

Auditor General, if it was not financially independent of the Ministry of Finance, can be a yo-yo of the Minister of Finance. The point is being made then that the Executive literally can control the Auditor General because it controls the purse and that is exactly why the Third Schedule here has the Office of the Auditor General. But what was done in the Fiscal and Management and Accountability Act, which is going to be a consequential Bill that we are going to deal with, was that it was put as a “budget agency”. In that budget agency, every year, now, the Auditor General goes to the Minister of Finance with his budget. He says that he wants twenty-two more officers. The Minister of Finance tells the Auditor General who knows better about the needs of that office, “Look, you only take fifteen”, and the quality and whatever. *[Interruption]*

Listen to me. I am stating the matter as exactly what transpires in budget agencies. **[Mr. Nadir:** It does not.] It does. I have got it even from very high authority within these institutions, that when they send their budgets in... If you want to prove that it does not happen we will ask those budget agencies, such as the Director of Public Prosecutors, what budget they sent in, how much was it altered by thereafter. And this is so even for the Audit Office.

That is why it was a mistake because financial independence is necessary so that the Auditor General can do that which is going to be with credibility and integrity. That was the whole underlining process of why we wanted independent entities made out of these institutions. The Government went into the Fiscal Management and Accountability Act and put them as budget agencies and with that now it can then do what it wants. I have coined a term here - I will repeat it just now - “exercise of *control freakism*”.

This Government over there, loves to control moneys. Not only does it siphoning it off into National Industrial & Commercial Investments Ltd. (NICIL), but then goes and build a hotel with the moneys and by pass the National Assembly, in breach of articles 216, 217 and 218. No. It also has this very slick method about it and it does it in the way of budget agencies. It controls. It is part of *control freakism*. That is what it gets here. Now we are trying to have more transparency and accountability at the level of these institutions. These accountabilities are required for purposes to ensure that our money is better spent and also the institutions, which are created, under the Constitution, can have what is called absolute independence in the thinking of what they are going to do for purposes of determining.

What makes a person very much feel that that person is going to decide this matter in the merits is the fact that nobody is going to cut the budget next time around if a decision is going to be made in this way or in that way. When the Government controls the purse strings, by making it a budget agency, it can control the thinking. Imagine that! The Government controls the Supreme Court then by having... *[Interruption]* It is part of the control that we are talking about. Why did the Government then take the Auditor General out of the list of budget agencies? Obviously, it feels that it is wrong for it being a budget agency. Why it never made the Ethnic Relations Commission a budget agency? The Ethnic Relations Commission was indeed an independent entity. We have a different reason why we did cut the budget on that last occasion. **[Mr. Neendkumar:** You do not have respect for the court?] Of course, we have respect for the court. I am saying that even from the highest quarter of that same court, it has been complained that its budget was mangled and twisted. **[Mr. Neendkumar:** Now you are freaking out.] I am not freaking out. The proof could very well be seen by what budgetary allocations it asked for and how much was granted. That is so accurate. I might very well bring a motion here as to what was sent to the Minister of Finance and what went back with changes.

Now, Mdm. Deputy Speaker, we come to the next question, under article 222A (a), because it was essentially mentioned as a function of economics. I could understand, because the Government did not want to have certain institution holders heading those institutional entities, saying we want \$3 billion for scholarships. No. It was provided for in article 222(A) (a) that yes these must be entities but they just cannot come demanding that they will want as much money as the economy cannot provide for. It is in that same article 222A, paragraph (a). I do not know what the Hon. Member Ms. Shadick was saying, that it is only the office holder.

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

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

(b) each entity shall manage its subvention in such manner as it deems fit for the efficient discharge of its functions,...

This is very important now.

“...subject only to conformity with the financial practices and procedures approved by the National Assembly to ensure accountability; and all revenues shall be paid into the Consolidated Fund;”

Here it is, this same article 222A, stating that although these entities are going to be listed as independent entities, financially, they have to do certain things in relation to those finances in conformity with financial practices and procedures approved by the National Assembly.

This Government, however, has never come to this National Assembly for purposes of ensuring what those financial procedures are, or approved, in relation to these independent entities. What it has done is to avoid that and instead to allow, what is called, a taking away of that which is supposed to be independent for them to become budget agencies in the Fiscal Management and Accountability Act (FMAA). Largely, what we were trying to give, such as, the Office of the Auditor General its independent audit status; the judiciary is supposed to be an independent entity. What is there now, in the FMAA, is that of a budget agency, the Supreme Court. It has not been called the judiciary here but this was passed, although the Constitution states that an independent entity, under the Tenth Schedule, shall be the judiciary. The Government then, this coming after that, said that it will be a budget agency and it was put under the Schedule of budget agencies in the Fiscal Management and Accountability Act, stating the Supreme Court. This is unconstitutional! Now that it is drawn to the attention of the National Assembly we should correct it.

How come the Constitution states that the Supreme Court is an independent entity under the Tenth Schedule and it is put, under budget agency, the Supreme Court? That is why I am saying that it was a mistake. But the mistake is even wider, because in the Constitution, itself, the provision of the Constitution, that gives the DPP, the Ombudsman, the Public Service Appellate Tribunal independent status, meant then that this Third Schedule ought to be a longer Schedule with all of these included and a minus of this Schedule that made all of them budget agencies. We must correct it. We must correct the Constitution by this Constitution Amendment and the

consequential Bill that is coming immediately after this. We must delete them from these budget agencies. That is what we are doing here.

It is not as if we have not made mistakes before in this National Assembly. Only the other day with the Sexual Offense Act we took away the accused right to give a statement after a preliminary inquiry (PI), and what we did? After seeing the mistake, we came here and it was corrected. All of this talk that we cannot correct that which the framers at the reform process had intended and to explicitly stated now that we cannot do that that articles 163 and 164 are preventing that, that it requires a two third-majority and that article 222 is different, it is the same, from 222A (a), is all minor in intentions of the framers of that constitutional reform process, but we must not allow that. We are going to have what is called a flawed Constitution, a flawed institutional regime if we were to allow that to happen.

I am glad that the person, Mr. Carl Greenidge, who brought it, knew a couple of the things about the financial regulations. I, myself, had some problems with it because I did not fully understand then what budgetary agencies were. But there is a certain regime why they are called budgetary agencies as against a special regime called independent entities. What we intended, by independent entities, was that all those constitutional offices... For example, an Ombudsman is appointed and he feels that he has all the powers to do the administrative works, such as to hear complaints and then make remedies, but then his money is cut when he starts making remedies against the Executive branch. The Government cuts the budget for him. What does the Government do? It is knocking off the independence of the institution in determining matters, in making decisions and that is what we are talking about here, all of these, and then the Government pulls the purse string one way, it gets its decision one way. That is what we tried to avoid in that constitutional reform process by stating we shall now create in article 222A, what we called independent entities.

It was obviously overlooked or it was a deliberately sinister by virtue of only this list and when we did this one here, of course, the PPP, at that point in time, had the majority so it could have done it. It did it but it obviously was overlooked by those sharper minds. I will concede that the question was asked of me, of Mr. *Kowlessar*, and he said well it was okay - "Fine, that is all right" - but now that we see it is as the Constitution of America, a slave meant property. That was just property and then there was the evolution of the society, it was wrong and then it could

not be property. We are saying, for the accountability, that that evolutionary of this country independent entities must be more than that which is included here - it should be.

The DPP must be financial independent. Why is it only the Office of the Auditor General must be independent? Why is it only the Indigenous Peoples' Commission which must be independent? Why is it not the Police Service Commission? That is the argument. Is it not clearly the situation that we wanted them to have financial independence? Of course, because all these institutions, which we had in mind, were institutions that were going to determine matters generally against the Executive branch? This Executive does not like to be scrutinised, or to be searched, or to be in any way supervised. And so it wants to retain the status quo, and it will use all the mangled arguments that only in an adjudicatory function they are independent. No! The best adjudicatory functioning will happen when there is the best financial independence of the judges. That is why inherent in the Judges' status are their salaries, the security of tenure, and so on. That is what we were trying to do here - give financial independence.

I want to indicate that we will not be dealing in principles and we will be largely archduke *unprincipledom* if we were to stand here and say that is not what the constitutional reform process had in mind. If we by certain sinister motive or stealth had done wrong, then in the national interest, it is especially important, at this point in time, that we correct that wrong. We must appreciate that we have made mistakes and those mistakes were remedied here. All this talk that we must not do it, in the context of what is happening here, is, again, absolutely a mistake. Do not allow it to happen. Let us get on.

Sound financial practice is what is also going to govern these independent entities. We cannot have the argument that says the Minister of Finance will come and say that Mr. Carl Singh used to have \$1.8 billion for the Judiciary, but this year, because it is given independence status and the budget must be passed, he is asking for \$10 billion. [Mr. Hinds: What is the constraint?] The constraint is that the financial practices based on the National Assembly... Bring out the National Assembly's agreement and that is what the Minister of Finance is not reading. So the Chancellor cannot come here and say he wants \$10 billion. We could and will stop it. Listen again, Mr. Prime Minister.

“...each entity shall manage its subvention in such manner as it deems fit for the efficient discharge of its functions, subject only to conformity with financial practices and procedures approved by the National Assembly to ensure accountability;”

If Mr. Carl Singh were to come here - I will use his name, learned Chancellor - and ask for \$10 billion and when we look at his budget last year, his budget last year was \$1.2 billion. We must question him. “Why would it be this \$8.8 billion, this massive increase, Mr. Chancellor?” Then the Chancellor will have to state the reasons. And if he does not state the reasons this National Assembly could say let it go back to \$1.2 billion. That is what the Constitution provides. It will be largely ludicrous for the Minister and the Attorney General to say that the Judicature has to be a budget agency controlled by the Minister of Finance. Independent entities are controlled by this National Assembly. When it is a budget agency the Minister could do what he wants - the Minister could cut it; the Minister could avoid payments for a line item; the Minister could do whatever - the virement, or whatever it is called in that institution, and put under lubricants and oil - take the money and do something else and all of that.

Once, however, it is an independent entity the Minister does not have that power and that is the reason why we have this amendment. It is important then that we understand the concept of budget agency as against independent entity. The reason why we want certain institutions to function better and the functionality of these institutions will be better if we give them the independent status that this constitutional amendment seeks.

It is also remedying an error that we made because the error obviously was made. The Auditor General is in the independent entity and also a budget agency. As we know, by Order 20 of 2012, the Minister of Finance knowing that this was a mistake, in relation to the Auditor General, passed the Order to delete it as a budget agency. Why then did he do that? He did that obviously because it is a contradiction in terms. It could not have been an independent entity and also a budget agency. It indeed was corrected. If it was corrected that means that the list was wrong. We were saying that there must be more there to the extent of all those other institutions - Ombudsman, Public Service Appellate Tribunal, and so on. For purposes of remedying it, then, this amendment does just that.

We will support this and we hope that the Government now sees the light as to why it should be supported.

Thank you very much. [*Applause*]

Attorney General and Minister of Legal Affairs [Mr. Nandlall]: Mdm. Deputy Speaker, may I ask whether you would consider that we break before I begin my presentation? My watch is showing that it is ten minutes to four o'clock.

Mdm. Deputy Speaker: Well we could, but I will be guided by the House. There is an application by the Hon. Attorney General, are we amenable? Yes. In the spirit of Valentine's Day Hon. Members, we will take the adjournment now. Hon. Attorney General, we will resume at ten minutes to five o'clock.

Mr. Nandlall: As it pleases you, Mdm. Deputy Speaker.

Mdm. Deputy Speaker: The House stands adjourned.

Sitting adjourned at 3.50 p.m.

Sitting resumed at 5.13 p.m.

Mr. Speaker in Chair.

Mr. Speaker: I would like to thank the Hon. Mdm. Deputy Speaker for presiding in my absence, as I had to be in Linden.

Mr. Lumumba: Mr. Speaker, on a Point of Order, can I speak?

Mr. Speaker: Pardon.

Mr. Lumumba: Can I speak?

Mr. Speaker: Is it if you can speak?

Mr. Lumumba: The earlier speaker said a certain person cannot... I do not know if I am allowed to speak. I am asking your permission. Can I speak?

Mr. Speaker: I do not know. I will have to get the *Hansard* to see exactly what happened.

Mr. Lumumba: All right Sir.

Mr. Speaker: Hon. Members, I am told that, at the time the suspension was taken, the Hon. Attorney General was addressing the House and so I invite him to continue to do so.

Mr. Nandlall: I did not start Sir. Thank you very much Sir, for inviting me to speak on the Bill which is before the House. Sir, a lot has been said by the speakers who preceded me. A number of accusations have been levelled against the Government. Many legal arguments have been advanced justifying or seeking to justify the propriety of the Bill which is before this House. Therefore I will attempt very briefly to deal with the arguments which have been raised.

This Bill is predicated upon a theme which seeks to give autonomy to certain institutions in our country. Some of them are created by the Constitution; some have their origin in individual statutory provisions. We, on this side, have been accused of fighting against the movement of conferring autonomy and independence upon these tribunals, but any examination of the laws of this country, the Constitution of this country and our record in Government, will show beyond any shadow of rational doubt that our record has been one of the devolving power away from central Government and reposing it in authorities right across the public sector of this country. We have chosen statutory mechanisms to do so and we have passed a series of legislation creating such statutory bodies.

Only a few sittings ago, we created an entity that is called the Deeds and Commercial Registry Authority where we removed control from a Minister, the Minister of Legal Affairs and we reposed it in a board that is going to be comprised of representatives of various entities, including the private sector, the Guyana Bar Association and other stakeholders.

Sir, there is also a whole plethora of statutory agencies and I will just list a few - the National Agriculture and Research Institute, the Guyana Development Livestock Authority, the Guyana Revenue Authority, the Guyana Lands and Survey Commission, the Guyana Energy Agency. That is just to name a few where there has been the transfer of power from central Government, from the executive, and they have been placed into semi-autonomous agencies which are controlled, all of them, by a board. We have also used the mechanism of the Public Corporation's Act to establish a number of public corporations. Two immediately come to my mind, the Georgetown Public Hospital Corporation and the New Guyana Marketing Corporation.

Those are two public corporations that used to fall under the administrative control of central Government and they have been removed from that strata and architecture. They have been placed in their own province, being controlled by a board and given statutory autonomy and independence.

The argument cannot be intelligently advanced, that this is a Government that seeks to control. Our record shows exactly the opposite of that. Take for example, my friend Mr. Ramjattan, who is not here, he is still enjoying liquid refreshments...

Mr. Speaker: I will have them bring Mr. Ramjattan.

Mr. Nandlall: They may seriously have to bring him, Sir.

Mr. Speaker: No. As I indicated on the last occasion when, immediately after,... Mr. Bond sought to leave I invited him to remain to hear arguments from Mr. Nadir because I think in a debate that is the way it should be. It is something Mr. Ramkarran was very keen to point out when I was a Member, so we are inviting Mr. Ramjattan to come, at least for the first fifteen minutes of your presentation. I do not know what will happen after that.

Mr. Nandlall: I prefer your earlier linguistic formulation, Mr. Speaker that you will bring him. That may be more appropriate in the circumstance.

Mr. Speaker: It is to invite him.

Ms. Ally: Are you waiting until the Member comes?

Mr. Nandlall: Yes. The Speaker has sent to bring him.

Mr. Speaker: I suggest that you proceed.

Mr. Nandlall: Arguments were advanced that we are attempting to cut staff at the Audit Office. Well it is public knowledge that we managed to get a number of office holders of that office confirmed, courtesy of young Mr. Trevor Williams when he did not show up at a Public Accounts Committee. We are staffing these agencies and yet we are being accused of holding back staff and starving these agencies of resources.

5.23 p.m.

We now come to the Judiciary. A lot has been said about the Judiciary. The impression which has been conveyed here, unfortunately, is that we have a Judiciary that makes decisions based upon the pull of the string of the purse. That was a point that was candidly canvassed in this Assembly. I wish to apologise to the Judiciary on behalf of this Assembly. We were told that judges make decisions based upon the moneys that are waived to them. That is what our Judiciary was reduced to in this Assembly. The great judges, former Chancellor Stoby, the Luckhoos, Chancellor J O F Haynes, Chancellor Massiah, Chancellor Crane and Chancellor Bernard, all operated under the current architecture. The argument here is that they all ruled based upon the moneys given to them by the Minister of Finance. That is the substratum of the argument. It is an onslaught on the integrity and dignity of the Judiciary.

We have, at least, under this Administration...

Mr. T. Williams: Mr. Speaker, a Point of Order, I think, in the absence of Mr. Ramjattan, who was misrepresented by the Hon. Attorney General, he made an example saying that the purse can influence; he did not say that the Judiciary in Guyana and judges are influenced by the purse.

Mr. Nandlall: Sir, the press is here and the public gallery is there; I do not have to go back and forth. Everyone heard what Mr. Ramjattan said.

Mr. Speaker: Very well. The Hansard Department, before the evening is out, will clarify it. We will proceed with the debate.

Mr. Nandlall: I am happy. In fact, when he was speaking, I asked that the press record his speech. We will show it on television. We are not in doubt.

Mr. Speaker: Are you managing the press core from your chair?

Mr. Nandlall: No, I invited the press.

Mr. Speaker: What is going on here?

Mr. Nandlall: Getting back, with your permission, to the debate, the judicial independence... We have a track record, in this Administration, of being absolutely committed to the concept of judicial independence as recognised and embraced by our Constitution. It is under this Government that the Constitution was changed to entrench and secure, further, the appointment

of persons to the highest offices of the Judiciary by making it only possible with the agreement of the Leader of the Opposition. This Administration did that.

It is our Administration which added the Caribbean Court of Justice to our judicial hierarchical structure to make it the highest Court of the Land to strengthen our Judiciary, institutionally.

It is our Government that recently passed new rules which will govern the Judicial Service Commission. They were passed right in this Parliament in our continuous effort to entrench the independence of the Judiciary.

My friend was speaking about the Director of Public Prosecutions (DPP) being manipulated. The DPP exercised her independence quite recently when she advised that a sitting Commissioner of Police, under this Administration, be charged with a criminal offence. That is an example of independence at work.

Mr. Speaker: Hon. Attorney General (AG), by your argument, it could also mean that up until recently, or before recently, she was not. So, you need to clarify that.

Mr. Nandlall: No, I did not say that. I am giving an example of a matter, quite recently, of some public notoriety where the DPP gave another demonstration that she exercises the powers of her office independently and fearlessly. [**Mr. Ramjattan:** Strengthen it with financial independence.] I will deal with the finance independence just now.

We do not have the unfortunate history, in pursuant of a policy of party paramountcy, to fly a party flag in the Court of Appeal of our country. We do not have that sordid history and record; the other side has that record. [**Member:** Which side?] The People's National Congress (PNC) has that record. Therefore, when you speak about independence of the Judiciary, you must not forget what we had to rescue the Judiciary from. We had to rescue the Judiciary from that. The party flag was flown higher than the Guyana flag.

I come now, Sir, to article 222A, which I do not think has been read, or I do not think has been understood. Article 222A states:

“In order to assure the independence of the entities listed in the Third Schedule -

(a) The expenditure of each of the entities shall be financed as a direct charge on the Consolidated Fund...”

I pause there. That position obtains. [Mr. Greenidge: Where?] It is funded as a direct charge on the Consolidated Fund, and this gentleman is asking me where. [Mr. Ramjattan: It is a budget agency.] It is funded as a direct charge on the Consolidated Fund. I continue:

“... determined as a lump sum by way of an annual subvention approved by the National Assembly...”

I pause again, that obtains currently. At the beginning of every financial year, the Minister of Finance comes here and brings a lump sum to be approved by the National Assembly. This National Assembly attempted to cut it the last time and the Chief Justice knocked it down. I am going to deal with that just now. I continue:

“...after a review and approval of the entity’s annual budget as part of the process of the determination of the national budget;”

That is what takes place currently; the determination of the National Budget is done by the Minister of Finance. He takes the budget of these agencies and he takes it into account in determining the National Budget which is presented to the National Assembly. What is so difficult to understand? This is the simplest of English Language, and there is a linguist on your side.

I am going through this line by line. Sub-paragraph (b) states:

“each entity...”

So, we speak of the Judiciary or the Ethnic Relations Tribunal.

“Each entity shall manage its subvention...”

When it is received and goes in the National Estimates and is approved by the National Assembly, it goes to the agencies.

“Each entity shall manage its subvention in such manner as it deems fit for the efficient discharge of its functions...”

That happens.

“...subject only to conformity with the financial practices and procedures approved by the National Assembly to ensure accountability...”

Such as are contained when this National Assembly promulgated the Financial Management and Accountability Act. What more can I say?

“...and all revenues shall be paid into the Consolidated Fund;”

Which part of this simple English Language that I have read do you not understand? Raise your hand and I will explain again.

[Members of the combined Opposition raised their hands.]

Sir, I now turn to buttress what I have said. It is not my problem if I am not understood. That is a disability of the less endowed. God, in all his omniscience, did not endow us equally, Sir. That is not my fault.

I have, in my hand, for the record of the Assembly, the ruling of the Hon. Chief Justice in the matter of 216W of 2012. It was the Attorney General against Raphael Trotman, David Granger and Dr. Ashni K. Singh. This is the Budget cuts judgement of the Chief Justice. The Chief Justice dealt with article 222 of the Constitution because one of the entities which were cut, unlawfully, by this Assembly was the Ethnic Relations Commission. Therefore, the question of article 222 came up for interpretation. *[Interruption]*

The Chief Justice, after reciting...

Mr. Speaker: Hon. Members, allow the Minister to speak please.

Mr. Nandlall: The Chief Justice, after reciting the expressed provision, article 222, the Chief Justice said this on page 20:

“Here there is no question...” *[Interruption]*

Sir, may I be protected?

Mr. Speaker: Protected. Hon. Members, allow the Hon. Attorney General to continue. Many Members have approved me today, and before today, about the possibility of an early rising because of the nature of the day and all of that. So we can go on until tomorrow or we can allow us to proceed. Go ahead Mr. Nandlall.

Mr. Nandlall: Speaking of the Ethnic Relations Commission being one of the scheduled entities as per 222A, the Chief Justice says this at page 20 of his judgement:

“Here there is no question of approving any estimate of expenditure prepared by the Minister of Finance.”

So all this argument of coming here for approval, the Chief Justice is saying no, that does not have to happen. [Mr. Ramjattan: Yes, well he is wrong.] Now you are hearing that the Chief Justice was wrong. Just now it was Anil Nandlall who was wrong. Now the Chief Justice is wrong. “What is under review by the National Assembly is not any estimate prepared by the Minister, but the entity’s annual budget for the purpose of determining what lump sum is necessary to meet the expenditure of that entity for the financial year.” The Chief Justice said.

Here the National Assembly makes a lump sum determination based on the review and approval of the entity’s own budget. The doctrine of separation of power is not infracted or infringed. This is the ruling of the Chief Justice.

“One of the entities listed in the Third Schedule to the Constitution is the Ethnic Relations Commission. Therefore, it behoved the National Assembly to have determined a lump sum by way of an annual subvention based on a review and approval of the annual budget of the said Commission to cover its expenditure. It is difficult to see how the National Assembly could have performed its Constitutional duty in making a determination that the sum of \$1 was a lump sum sufficient.”

That is why he ruled that they were wrong. That is the problem I have; when the Court pronounces on the propriety of the conduct of this Assembly, they are saying over there, candidly, that the Chief Justice was wrong. They will do it again.

“A dollar was a lump sum sufficient to meet the expenditure of the Commission for the financial year based on the review and approval of the Commission’s annual budget,

particularly having regard to the fact that the Constitution itself has imposed a multiplicity of functions on it and expressly provides for its establishment of a Secretariat. Such a determination [that is of one dollar by the bright people here] was no more than a purported determination which was not in consonant with the proper performance of the National Assembly's constitutional duty. It was a consequent nullity that the failure to perform its duties in consonant with Article 222A [the same one all the time] cannot operate to preclude the annual expenditure of the Commission from being a direct charge on the Consolidated Fund as mandated by Article 222A."

That is it from the Court. So, Sir, what you have here is everything that has been said on that side regarding the legality of article 222 in its current construct and the way it is being administered currently, the Chief Justice has lent the Judiciary's imprimatur to it in an express ruling. This is a final and conclusive settlement of the laws of our country.

The lawyers who appeared here...I will read it for the Assembly.

Mr. B. Williams: Sir, on a Point of Order, Mr. Nandlall was in Court on Monday when he went to reopen this matter...

Mr. Nandlall: That is not a Point of Order, Sir. Please protect me.

Mr. Speaker: Okay.

Mr. B. Williams: The Hon. Chief Justice indicated that he would be continuing in that same action, 216W. In other words, it is not true for him to say...

Mr. Nandlall: That is not true; this is the budget cut case.

Mr. Speaker: Hon. Members, very well. What is the action number on that one? We have too many I think.

Mr. Nandlall: This one is 216 of 2012.

Mr. Speaker: And the other one I think is 94...

Mr. Nandlall: The other one was filed this year.

Mr. Speaker: 94 of 2012 was filed in... [*Interruption*]

Mr. Nandlall: The lawyers who appeared for the National Assembly were as follows: Rex McKay - Senior Counsel, Sase Narine - Senior Counsel, Mr. Basil Williams, Mrs. Debra Backer, Mr. Robert Corbin, Mr. Joseph Harmon, Mrs. Bettina Glasford, Mr. James Bond, C. M. L. John - all of them appearing.

Mrs. Backer: Mr. Speaker, on a Point of Order, I think the AG should be invited... [*Interruption by the Attorney General*]

Mr. Speaker: Hon. Attorney General, I am hearing a Point of Order. I would like to hear the Point of Order please.

Mrs. Backer: I was just inviting the AG to reconsider. He indicated that these people, and then he called a long list of names, appeared for the National Assembly.

Mr. Nandlall: For the second named defendant, my apologies. [**Mr. B. Williams:** Who was that?] Mr. David Granger.

Mrs. Backer: Please withdraw that incorrect...

Mr. Nandlall: I withdraw it. For the Speaker, the lawyers were Mr. Khemraj Ramjattan, Mr. Nigel Hughes, Mr. Christopher Ram and Mr. Roysdale Ford. That is the record. I do not want anybody to believe that the defendants were not represented. They all were there so they are well aware, or they should be aware, of the ruling of the Court. There is no question about the propriety of article 222 in its present construct. Nothing is wrong with it! It has been interpreted and upheld by the Chief Justice of Guyana.

The other point that I would like to make is that my Friends, by some inexplicable mental process have convinced themselves that they can amend article 222A by a simple majority. They have convinced themselves so. There are several doctrines which I would like remind my Friends of which are known to lawyers, but I intend to remind them of them. One of the more important of these doctrines is the entrenchment mechanism which inheres in our Constitution. I will read, briefly, what Rosary, Ballantine, *Commonwealth Caribbean Law and Legal Systems* says on the matter under the caption 'Entrenchment Of Constitutional Provisions', page 114:

“All the Constitutions in the Commonwealth Caribbean contain provisions for entrenchment, whereby certain of their provisions may not be altered except by a special majority of Parliament or, in some cases, a referendum. This confirms the special nature of constitution, placing it in a different category to that of ordinary legislation.”

In *Hinds vs. the Queen*, a case coming out of Jamaica, the Privy Council said, of the significance of entrenchment... I am quoting from the judgment.

“The purpose served by this machinery for entrenching is to ensure that those provisions which were regarded as important safeguard by the political parties should not be altered without mature consideration by Parliament and the consent of a larger portion of its Members than the bare majority required for ordinary laws.”

What this Bill seeks to do is to alter the Constitution. Therefore, every provision in this document enjoys a security of tenure, so to speak, in varying levels, depending on the significance of the particular article. Our Constitution, in that matrix, is no different. That entrenching mechanism manifests itself in our Article 164.

Article 164 of the Constitution is one of the most powerful articles in this Constitution. Article 164’s side note reads “Procedure for altering this Constitution”. This Constitution cannot be amended other than going through the door of article 164. It cannot! If one looks at article 164, it has several provisions. It lists the provisions that can be changed by a bare majority. Secondly, it lists those provisions which cannot be changed by bare majority. It lists the provisions which can be changed only by two-thirds majority and it lists...

Mr. Speaker: Hon. Attorney General, your time is up. Someone needs to ask for an extension.

Mr. Hinds: Mr. Speaker, I beg that the Hon. Member be given another fifteen minutes to continue his presentation.

Question put, and agreed to.

Mr. Nandlall: Yes, Sir, it lists the provisions which can only be altered by way of a referendum. This is basic Constitutional law. Article 164, itself, obviously will receive the highest form of entrenchment. Therefore, Article 164 can only be changed by a referendum. [**Mr. B. Williams:**

Where is that?] I have to read everything. Article 164 (2) (a) states, “this article...” and it continues to list all the articles. “This Article” meaning 164 and it lists all those articles. You have to read it and you will see. [Mr. B. Williams: Show us where article 222A is entrenched.] I am going to get to that. I just received a 15-minute extension; time is on my side. Do not hurry me. I am doing you a favour. [Mr. Ramjattan: You are wasting your time.] You are very spirited Mr. Ramjattan!

Article 164 can only be changed by a referendum. I ask for Dr. Rupert Roopnarine to lend me his ear because he was part of the process. In 2001, when we, as political parties in this National Assembly, embarked upon the reform of our Constitution and established a Constitutional Reform Commission, we did not receive a referendum to do so. We, together in this Assembly, could only have mustered a two-thirds majority. That was recognised from the beginning of the process.

Therefore, it was also recognised that there are several articles here that could have been changed, and there are several articles which enjoyed two-thirds majority which were actually changed. Since you could not alter article 164 but by a referendum, you had a predicament because you were adding provisions to the Constitution. How do you deal with it? You cannot expand article 164 without a referendum. So they were presented with a conundrum. [Interruption by Mr. Williams] You cannot see it Mr. B. Williams. Do not try to.

Mr. Speaker: Hon Member Mr. B. Williams, allow the Member to debate. You cannot compel him of what he should tell you.

Mr. B. Williams: No, but I can ask him...

Mr. Speaker: No, you cannot tell him what he must tell you. Allow him to debate. If that is not your style, you will get your chance.

5.53 p.m.

Mr. Nandlall: Thank you very much, Sir. I went back to the precursor, the 1980 Constitution, and I will use this to demonstrate the point. The 1980 Constitution only has 232 articles. Therefore article 164 in this Constitution... [Interruption] ...stops at article 232. No one could add Article 233 without changing Article 164. What the Constitution Reform Commission had to

do was to engage in the novel resort of using letters to increase numbers. To get to article 149, to expand fundamental rights to include rights of child, right to work, they had to add article 149 (i), (j), (k), (l), (m). But it was still article 149 because one could not add article 150 unless one changes article 164; one cannot change it. So article 222A was simply added because one could not go to article 223; article 164 would have to be changed and there was no referendum to do so. The point therefore is that article 222 still remains an article that carries a two-thirds majority. Article 222(A) cannot be a new article. It obviously is a part and parcel of article 222. It is as simple as that. Any court will uphold that reasoning.

Sir, all this talk about changing... I heard my friend Mr. Williams saying it is simple. Yes, it is simple to those who do not have the appreciation of its complexity. It is simple if one does not appreciate it. And I invite my friends, I invite Members of the other side to consult with the Constitutional Reform notes; they are available. There are two thick volumes; the Clerk has it. **[Mrs. Backer: You quote from it.]** No, I am not going to educate you more than I am doing. Therefore, it is a constitutional mockery to believe one can just cut something from somewhere and add it to the Constitution. The Constitution is the most supreme law of the land. If we can just add something to it tomorrow then it will mean nothing. We cannot even do that to ordinary legislation much less the more supreme organ. Article 222(A) is such an important addition to the Constitution because it entrenches autonomy to so many important agencies including those that my friend has referred to, the DPP, the Judiciary, and all the constitutional commissions. Do you think the framers of the Constitution are so shortsighted they will leave this unprotected so that one can just add to it the next day? One has to give Dr. Roopnarine greater credit. One has to give Dr. Deryck Bernard greater credit. One has to give Mr. Haslyn Parris greater credit; Mr. Ramkarran; Mr. Nagamootoo is a contributor – but I think he left to go and study.

Sir, we are big people in this Parliament. We cannot think that this matter is so simple that Mr. Greenidge who is not a lawyer – and I say that with the greatest respect to him – can cut a piece from some place and add it to the Constitution. **[Dr. Singh: Basil was his adviser.]** Then he needs another one.

In terms of the security of tenure, my friend Mr. Ramjattan accused us of trying to interfere with the offices of judges, with their remuneration, waving money to them and so on when article 222, the substantive article itself, says that one cannot alter these office holders' remuneration

package to their detriment; that is already here in the Constitution. How can Dr. Singh dangle money to them? [*Interruption*] We have to have respect, integrity...

Mr. Speaker: Hon. Members could we allow the Minister to make his presentation rather than try to engage him in a dialogue. This is a debate not a gaff. Allow him to make his presentation so we can hear and finish.

Mr. Nandlall: I want to refer to another case. I am happy they are distracting me. I am remembering all that I have to say. The case I want to refer to is the Independent Jamaican Council for Human Rights vs. Marshall Burnett and another, reported in West Indian Law Report, Volume 65 at page 268. This is a case that went all the way to the Privy Council. It dealt with when the occasion arose to join the Caribbean Court of Justice (CCJ), of course all CARICOM territories were required to sign onto a treaty to establish the CCJ and to pass municipal legislation within their respective territories to alter their constitutional and legal architecture to accommodate the CCJ as their highest court. Some had to abolish the appeals to Privy Council. In our case, we did not have to do so because we had done that before, so we simply had to add a provision to our Constitution, which we did in the 2001 process to bring in the CCJ as our final court of appeal.

In Jamaica, they complied with all the legal requirements. They passed three pieces of legislation to achieve this objective. The lawyers, Dr. Lloyd Barnett and a whole host of Queens Counsel members, appeared and conceded to the Privy Council that there was nothing wrong with the legislation; they did not conflict with any provision of the Constitution singularly or cumulatively. So the Privy Council then asked what is the complaint The lawyers said that the combination of the legislation undermines the whole structure upon which their Constitution rests because the Constitution inherently and expressly guaranteed independence of the judiciary, and the CCJ Treaty allowed the establishment of the CCJ as part of the court system of Jamaica by ordinary legislation; and it could have been done. However, it would have collided with the substrata and foundation of the protection which the Constitution gave holistically to the entire institution of the judiciary. Therefore, the spirit of that independence was defeated, not expressed provisions, the spirit was defeated. The Privy Council ruled all those legislation were null and void in the case.

Here there is a worst case scenario. There is a provision of the Constitution itself which is being changed by not going through the proper mechanism to change it. The Constitution says you must do so by a two thirds majority. [**Mrs. Backer:** Where?] Article 222 which must include article 222(A)... I just explained why; that is why I went into that historical explanation as to why. So this journey we are embarking upon is one that is going to lead to a constitutional dilemma. Once again I will have to advise His Excellency to withhold his assent from this legislation.

Thank you very much. [*Applause*]

Mr. Greenidge (replying): Mr. Speaker, I have listened with a great deal of sadness to the presentation of our colleague. It was also at times highly amusing. I hope you will forgive us for having interrupted so many times because at a number of points he seemed more intended to humour us than to inform us.

May I start by linking the last set of observations made by the distinguished Attorney General with that of the Hon. Member Ms. Shadick? She spoke to the question of the numbering of these articles and sought, as he did, to explain that article 222 somehow was integrally related to 222(A) and therefore it was part of article 222. I believe it might help if I were to do two things. First of all, to say as regards article 222 in the version of the Constitution I am looking at there are subtitles in the margins at the left hand side. The subtitles explain the subject on the right hand side. If you look at article 222 in the version I think everyone is using, which the Clerk has made available to us, on page 223 you will find article 222(1) has on the left hand side the title, "Remuneration of holders of certain offices." It has four subsections. If it were the intent of any person, whatever their names, to extend the discussion of the remuneration of holders of certain offices they would have had done it. Another subsection called 222(5) would be logical to follow from article 222(4). It has to be obvious that a discussion of the remuneration of holders of certain offices is not the same as something termed in this constitution on the left hand side as "Overarching clause on financial autonomy." What does the two have to do with each other? I do not understand what we are being told. These are the people that pride themselves with being distinguished members of a profession. I am sorry, I am not a member of that profession; I do not regard it as a failure on my part not to have been, but I can at least understand English. And the terminology here is clear. Nothing stopped the drafters of this document from calling the article

222 subsection 5, if it were meant to be a continuation or part thereof. If they wanted they could have called it article 223 but if they did call it 223 there would have been consequences in terms of all the other articles having to be adjusted upwards. Clearly they were seeking to save themselves the trouble.

In these days computers facilitate most of the work. But even with a computer when one has to insert something in order to avoid the problem of the reproducing of entire documents this is the process - one adds a clause here 222(A). That is the explanation which underlies the logic of the numbering. This has nothing to do with the fact that they are of the same subject. So, please, allow us at least the intelligence for them not to be playing with us in relation to this matter.

The point is this: the issues captured here under article 222 are issues that are separate and also severable. In other words the issues identified can be broken down into a number of elements, and one of those elements in this case cannot be the overarching issues. Article 222A is specific to a new set of issues. The issue here concerns the question of the independence of the entities listed. That is what it is about. It does not have to do with the payment of the judge. It has to do with the question of independence. *[Interruption]* Since you raised the matter Hon. Attorney General let me just explain something to you. The issues that the Attorney General raised Mr. Speaker are really for the next Bill. The details he raised are for the next Bill. And I will show you in the next Bill that he does not know what he is speaking about. He cited the distinguished Chief Justice as saying this House has no right to touch block votes, and the ERC is cited as a block vote. Mr. Speaker, I invite you again to look at article 222(A) which makes reference to block votes and also the full Third Schedule. The Third Schedule lists a number of agencies and even where the agencies are listed as having block votes they cannot be found in the Estimates as having any block votes. The ERC is the only one of these entities which is listed as having a block vote. What is he really saying? The ERC appears in the Estimates under Subsidies to Local Organisations and it has a single figure associated with it. Article 222(A) says the entities shall be financed as a direct charge on the Consolidated Fund. It also goes on to say approved and so forth. But it is a block vote, a single sum. Where is the block vote for the DPP? Where is the block vote for the Judiciary? Where is the block vote for the Director of Public Prosecutions? There is no block vote. *[Noisy Interruption]*

Mr. Speaker: Dr. Singh, allow Mr. Greenidge to speak, please.

Mr. Greenidge: Mr. Speaker, I have already explained to the distinguished Minister of Finance that in his own Fiscal Management and Accountability Act he lists a number of entities. The entities conflict with the provisions of the Constitution. He has to look in the Constitution to find mention of the entities that are supposed to be independent. It is with respect to their independence that they are to be treated and provided with block votes. That is the point. So I do not know how many times we have to repeat it.

Mr. Speaker, as a well known professional in the Judiciary, are you aware that the DPP is part of the Judiciary? Is it or is it not a part of the Judiciary? It is an entity listed here as being independent. You have taken from your entire judicial service a judiciary but you have the DPP separate. *[Interruption]* Yes, but it is not treated in the same way. In other works there is no block vote for it. So that is why it is listed.

Let me also make mention of the point which the distinguished member who is not here at the moment also expanded on extensively. I in my presentation made reference to an agreement, supposedly, which was actually mentioned by Mdm. Teixeira. I had mentioned that. We went through that the last time. I will make reference to it in passing again. That reference is to a set of minutes prepared on behalf of the PPP/C side by Mdm. Teixeira and sent for the approval for the APNU side dated 30th March. It is in that set of minutes which arose out of a discussion of this very point recognising that this anomaly in the Constitution needed to be changed that the PPP/C side had said let us discuss and settle this matter within the Tripartite Committee. Here somebody is arising on the other side claiming that I had said it was the AFC and the APNU that had discussions. I said no such thing. I said the two parties that were involved in those discussions could muster a two-thirds majority and I went on to say I would assume that the third party which was not party to those discussions would have been agreeable to the changes meaning that it ought not to have problem for us. It is in those circumstances that I find it rather ironic that the PPP/C now should be seeking to deny the importance of this item and the need to modify it. All I was saying at the time is that the PPP/C fashioned one set of minutes and they sent it us for approval; we did not approve it. We sent an alternative formulation. But, yet, the PPP/C's formulation was being suggested by the Attorney General that those were the agreed minutes. That is the point I was making. So let us not get diverted by comments which are ill informed because the member was not present at the exchanges.

Mr. Speaker: Ms. Teixeira, I was asking whether you wish to make a Point of Order.

Ms. Teixeira: Yes, I do. I was waiting politely

Mr. Speaker: Please, what is the Point of Order?

Ms. Teixeira: I would not go into the details of which of the many records the Hon. Member is referring to. However, the issue of the constitutional commissions - the Judicial, Police, Public - for example in April 2012 talks the issue was... [**Ms. Backer:** What is the Point of Order?] I am on a Point of Elucidation on a Point of Order. That is to do with the fact that we agreed that these issues would have to go to the Constitution Reform Committee because we were talking about Constitution reform, but that these matters would be most appropriately discussed and debated at the level of the Constitution Reform Committee of the Parliament. And it was pointed out that the Leader of the Opposition chaired that body. There was a press release that was supposed to be issued on the morning of 23rd April... [**Mr. Greenidge:** Which was never agreed?] [**Mrs. Backer:** Who agreed to that?] Nobody must speak in this House except you.

Mr. Speaker: Once second Mr. Greenidge. Hon. Members I have heard what purported to be a Point of Order. I do not recognise it as such, but the point has been clarified. What we have is a difference of opinion. If there are two sets of minutes no amount of Points of Order will clarify and bring a narrowing to the facts. There are two sets of minutes, two sets of understandings of what transpired and that is fair, so I will allow Mr. Greenidge to continue.

Mr. Greenidge: Thank you very much Mr. Speaker, I will add nothing to that because it is obviously Solomonic. May I continue by saying that we had an extensive number of comments in relation to the necessity to separate the uncertainty about finances from the standing of these constitutional bodies. In other words, if you hold them hostage to the manner in which their subventions are determined then their independence is undermined. I heard a number of sometimes quite amusing portrayals of this particular challenge. The issue I think that is of importance here is not whether the Government has had any history of devolution of power - and that is another area that can take us the rest of the night to discuss or certainly cannot be proved in the time available to us. What I want to say is that under the current framework, which is supposed to provide the Judiciary with such independence, we had a former Attorney General and a former Justice of the High Court complaining to the press that the President was using his

powers to deny them payment because they were not taking decisions in keeping with his wishes. So do not come to tell us about independence of the Judiciary and that anybody is casting aspersions on the Judiciary. The aspersions have to do with the way that the Judiciary and constitutional bodies are being managed and the attempts to manipulate them to give decisions that the Government finds acceptable; both of them. So do not let us go in that direction.

Mr. Speaker: One second. Mr. Greenidge. I recall that former Justice Jainarine Singh may have written about his pension, but I am not aware of an Attorney General. Be that as it may, I would ask that you at some time in the near future provide the actual newspaper articles to which you refer because those are very strong and potentially damning statements. But I know there has been something stated in the newspapers. So I am asking you at some time in the near future to provide them please.

Mr. Nandlall: Sir, I may, in any event the Attorney General does not have to decide anything. So why would the president have anything to do withholding in terms of getting...

Mr. Speaker: He is speaking in the context of the management of the judicial architecture, if I am to borrow the word being bandied about this afternoon.

Mr. Nandlall: But he is not the Judiciary.

Mr. Speaker: Let us be very careful because these are very, very strong statements. I know something was written but I ask that sometime in the near future we could have, for the benefit of all the Members, the newspaper reports. I know something was written in the newspapers but let us not go to saying there were deliberate attempts to manipulate or... I do not know if Justice Jainarine Singh said so, I cannot recall, but we will get them later. Thank you.

Mr. Greenidge: Thank you Mr. Speaker, I will most certainly find the articles. I am referring to the complaint by former Attorney General Doodnauth Singh and Justice Jainarine Singh and it was they who explained the reasons for the moneys being withheld. I am not providing any explanation other than the ones provided by the distinguished gentlemen themselves.

As regards the question of autonomy, I just want to remind the House once more that the article 222(A) is, as a colleague of mine would say, pellucidly clear as regards the obligations of the Government in relation to the provisions it should make in relation to these agencies. Article

222(A) speaks to the expenditure of each of the entities being financed as a direct charge on the Consolidated Fund, determined as a lump sum, that is, annually the amount in question will be shown as a lump sum and it has to be approved by the Assembly after a review of the entities annual budget. As I already pointed out – and I will leave that for the next stage.

If you turn to the Estimates you will find that these agencies are cast as budget agencies and the significance of budget agencies is as follows. If you look at section 22(2) of the Fiscal Management and Accountability Act budgetary agents are subject to a range of requirements, and those requirements include being answerable to the Finance Secretary for all matters falling under the purview of the Finance Secretary. In other words the head of the Judiciary, the Director of Public Prosecutions, the Head of the Appellate Tribunal can be summoned and quizzed by the Finance Secretary about their work, notwithstanding the fact that the Financial Secretary's responsibilities are supposed to be financial. It does not say not all financial matters, it says, they are subject to a range of requirements, including being answerable to the Financial Secretary for all matters falling in the purview of the person who is responsible for the agencies.

6.23 p.m.

As far as I am concerned, for the office holder, that is inconsistent with the Constitutional obligation for these entities to be independent.

They placing them under the Fiscal Management and Accountability Act, again, also have this significance, it enables the Minister. The Minister may for any entity, set out in these financial estimates, except for entities associated with what are called Statutory Expenses and if anyone is unsure as to what that means, can I refer them to Page XV of the estimates themselves. At the front, in the introduction, the meaning of those terms is clear. It means that for Statutory Expenditures you cannot modify them; they do not come here for approval. Statutory Expenditures, it does not apply to anything else in the Estimates. Debt for example and a number of the items cast under the Ministry of Finance cannot be modified.

If you go to the back of the Estimates Part IV, you will see them set out in greater detail; those areas, we cannot modify. So when the Hon. Attorney General speaks to the capacity of this House, to modify anything, he must not conclude Statutory Expenditures with other expenditures because budgetary agencies are subject to the following.

The Minister of Finance receives the submission of a budgetary agency; he and his officers may modify them in accordance with any criterion set by him or his Cabinet. When the moneys have been approved, he may also not disburse them, depending upon his estimate or his view of exigencies, so he need not disburse the moneys although they have been approved. That cannot be consistent with an article that says, these agencies are supposed to be a direct charge on the Consolidated Fund, determined as a lump sum, etc after review and approval of the entity's annual budget as part of the process of determination.

In fact, there should be a third category... [Dr. Singh: Go to the next paragraph.] I do not have a problem with the next paragraph. No one disputes the next paragraph. When we were doing the motion, just to remind the distinguish Minister, I made reference to that because you, Mr. Speaker asked, can the agency then submit any amount it wants, spend it as it likes and is not accountable to anybody. We do not have to go to the next paragraph. The next paragraph is clear, we are not seeking to amend it and so there is no need to discuss it. I am talking about the consequence of not making proper provision for Constitutional agencies, which stands between statutory bodies, statutory expenditures that cannot be touched and expenditures that are classed as budget agencies; in between the two you have a category. This House has to approve the request of the Judiciary and the others that is what the Constitution says. We must therefore allow a process whereby the request is made, the House itself sees the request, approves the request or modifies it and then when it has approved it the agency must know that these are the amounts they are going to get and nobody can change it. It will be a lump sum; a single sum, determined by this House. That is all that this Act seeks to establish, so let us not be confused; let us not be misled; let us not be told that it is doing anything other than that.

Constitutionally, we are required to deal and make provision for a special category. The current arrangements do not make such provision. We are calling upon the House to do what the Minister was instructed to do by the motions we passed last year. We would not have had any need to come back to this and waste the House's time tonight if he had done his job. Thank you, Mr. Speaker.

Mr. Speaker: Hon. Members, thank you for what obviously was a very intriguing and involved debate. The Bill and I have to doubt the one that comes after it will continue to raise grave

questions as to the Constitution. I would have preferred there was unanimity on Bills that are seeking to amend our Constitution.

Only last week or I think two weeks ago, in Trinidad and Tobago, where the Government moved to name a new President, even though it was of the opinion that the person named was resident for the purposes of the Constitution in Trinidad and Tobago, they still sought three legal opinions, including one from our very own, Dr. Ramsahoye. I think that put the nation at ease that one; it was not just the opinion of Government.

The learned Attorney General has raised arguments, they are his opinions, but it would have been eminently better if the nation and the House had the benefit of other opinions legal or otherwise to support his arguments, but at last there were none that have been brought.

With that said I would like to put the question.

Question put

Mr. Speaker: The noes seem to be...

Ms. Ally: Division!

Mr. Speaker: I hear a request for a division by Ms. Amna Ally. Mr. Clerk, the bells please, before you start.

Division

Assembly divided: Ayes 33, Noes 28, as follows:

Ayes

Mr. T. Williams

Ms. Marcello

Dr. Ramayya

Mrs. Garrido-Lowe

Mrs. Hughes

Noes

Mr. Jaffarally

Mr. Damon

Dr. Persaud

Rev. Dr. Gilbert

Dr. Mahadeo

Mr. Nagamootoo

Mr. Ramjattan

Ms. Ferguson

Mr. Morian

Mr. Allen

Mr. Jones

Mr. Adams

Ms. Baveghems

Mr. Sharma

Mr. Bulkan

Mr. Bond

Ms. Kissoon

Mr. Trotman

Ms. Selman

Mr. Allicock

Ms. Wade

Mr. Felix

Ms. Hastings

Mr. Scott

Lt. Col. (Ret'd) Harmon

Mr. Greenidge

Mr. Neendkumar

Mr. Lumumba

Mr. Chand

Ms. Shadick

Mr. Nadir

Ms. Teixeira

Bishop Edghill

Mr. Whittaker

Mr. Baksh

Mrs. Sukhai

Ms. Webster

Mr. G. Persaud

Mr. Benn

Dr. Anthony

Mr. Ali

Dr. Ramsaran

Dr. Westford

Mr. R. Persaud

Dr. Singh

Mrs. Rodrigues-Birkett

Mr. Nandlall

Mrs. Backer

Mr. Rohee

Dr. Norton

Mr. Hinds

Mrs. Lawrence

Mr. B. Williams

Ms. Ally

Dr. Roopnarine

Brigadier (Ret'd) Granger

Motion carried.

Question put and carried

Bill read a second time

Assembly in Committee

Mr. Chairman: It is not a humongous Bill. There are two clauses, but again because of the sharp divisions, I will deal with them one at a time.

Clause 1

Mr. Speaker: I must confess that I am not certain. I will put the question again.

Question put

Mr. Chairman: Mr. Isaacs, was there something different in the menu this afternoon or something? Hon. Members, given the seriousness of what we are doing and the new ground that we are covering with our Constitutional Amendment Bill, I am asking the Clerk to take a Division of the House even though it has not been requested because I think history will either absorb or judge us harshly in the future. [*Interruption*]

Hon. Members, there is something strange happening tonight. In the midst of a very serious Bill, there is still a lot of mirth and that is why I am trying to find out if it was something that

happened during the break that has us or whether if it is because it is Valentine Day or what, but this is a serious matter. I would like the Clerk to be able to conduct his task without interference, interruption or distraction. Thank you.

Division

Assembly divided: Ayes 33, Noes 28, as follows:

Ayes

Mr. T. Williams

Ms. Marcello

Dr. Ramayya

Mrs. Garrido-Lowe

Mrs. Hughes

Mr. Nagamootoo

Mr. Ramjattan

Ms. Ferguson

Mr. Morian

Mr. Allen

Mr. Jones

Mr. Adams

Ms. Baveghems

Mr. Sharma

Mr. Bulkan

Mr. Bond

Noes

Mr. Jaffarally

Mr. Damon

Dr. Persaud

Rev. Dr. Gilbert

Dr. Mahadeo

Mr. Neendkumar

Mr. Lumumba

Mr. Chand

Ms. Shadick

Mr. Nadir

Ms. Teixeira

Bishop Edghill

Mr. Whittaker

Mr. Baksh

Mrs. Sukhai

Ms. Webster

Ms. Kissoon

Mr. G. Persaud

Mr. Trotman

Mr. Benn

Ms. Selman

Dr. Anthony

Mr. Allicock

Mr. Ali

Ms. Wade

Dr. Ramsaran

Mr. Felix

Dr. Westford

Ms. Hastings

Mr. R. Persaud

Mr. Scott

Dr. Singh

Lt. Col. (Ret'd) Harmon

Mrs. Rodrigues-Birkett

Mr. Greenidge

Mr. Nandlall

Mrs. Backer

Mr. Rohee

Dr. Norton

Mr. Hinds

Mrs. Lawrence

Mr. B. Williams

Ms. Ally

Dr. Roopnarine

Brigadier (Ret'd) Granger

Motion carried.

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

Clause 2

Clause 2 agreed to and ordered to stand part of the Bill.

Assembly resumed.

Mr. Speaker: I invite Mr. Greenidge, who is becoming quite an expert at this, to report.

Mr. Greenidge: Thank you very much Mr. Speaker. I beg to move that the Constitution Amendment Bill, Bill No. 4 of 2013...

Mr. Speaker: It was considered in Committee, clause by clause.

Mr. Greenidge: Yes and approved without amendment.

Mr. Speaker: Hon. Members, the motion is that the Bill be now read the third time and passed as printed. A division is called.

Division

Assembly divided: Ayes 33, Noes 28, as follows:

Ayes

Mr. T. Williams

Ms. Marcello

Dr. Ramayya

Mrs. Garrido-Lowe

Mrs. Hughes

Mr. Nagamootoo

Mr. Ramjattan

Ms. Ferguson

Mr. Morian

Mr. Allen

Mr. Jones

Noes

Mr. Jaffarally

Mr. Damon

Dr. Persaud

Rev. Dr. Gilbert

Dr. Mahadeo

Mr. Neendkumar

Mr. Lumumba

Mr. Chand

Ms. Shadick

Mr. Nadir

Ms. Teixeira

Mr. Adams

Ms. Baveghems

Mr. Sharma

Mr. Bulkan

Mr. Bond

Ms. Kissoon

Mr. Trotman

Ms. Selman

Mr. Allicock

Ms. Wade

Mr. Felix

Ms. Hastings

Mr. Scott

Lt. Col. (Ret'd) Harmon

Mr. Greenidge

Mrs. Backer

Dr. Norton

Mrs. Lawrence

Mr. B. Williams

Ms. Ally

Dr. Roopnarine

Bishop Edghill

Mr. Whittaker

Mr. Baksh

Mrs. Sukhai

Ms. Webster

Mr. G. Persaud

Mr. Benn

Dr. Anthony

Mr. Ali

Dr. Ramsaran

Dr. Westford

Mr. R. Persaud

Dr. Singh

Mrs. Rodrigues-Birkett

Mr. Nandlall

Mr. Rohee

Mr. Hinds

Brigadier (Ret'd) Granger

Motion carried.

Question put and carried

Bill reported without amendment read the third time and passed as printed.

**THE FISCAL MANAGEMENT AND ACCOUNTABILITY (AMENDMENT) BILL 2013
– Bill No. 5 of 2013**

A BILL intituled:

“AN ACT to amend the Fiscal Management and Accountability Act 2003.” *[Mr. Carl Greenidge]*

Mr. Speaker: Hon. Members, we move without delay to the second Bill to be considered, the Fiscal Management and Accountability (Amendment) Bill, Bill No. 5 of 2013. It is 6.40 p.m. so we will commence and then take the suspension. We have a motion that has ten Members to speak on it. I do not know whether it proposed to go ahead with that tonight, but we will discuss it during the suspension. Mr. Greenidge, I invite you to start the debate.

Mr. Greenidge; Thank you very much Mr. Speaker. I have pleasure in turning to this item, the Fiscal Management and Accountability (Amendment) Bill, 2013. At this stage I do not plan to speak for very long for two reasons: one is, we had a motion which called upon the Government to do the things that are set out here. We subsequently discussed the Constitutional Amendment Bill on two occasions and even in an attempt to stop this from going forward we had a discussion. A good deal of the background has already been discussed and what I would like to do, if colleagues agree, is to simply draw to your attention the mechanics. What it is that the Bill is trying to do? To some extent I try to point to this a little earlier.

The idea is that since the Constitution has set out for independent entities a certain mode of treatment, what we had gone to do is, we had gone to the Fiscal Management and Accountability Act, which itself is the culprit as regards the Constitution and the treatment of Constitutional agencies and sought to amend it so that the required financial characteristics be reflected in the estimates for example, when they are being prepared.

In essence, what one seeks to do in the initial instance is to ensure that four Constitutional agencies since there will be an official named as the head of that agency, that official will have the responsibility for ensuring that estimates are prepared – well that is normal, but now you remove the responsibility from if it were under the Office of the President or way before. That official has the responsibility of transmitting the request for funding through the National Assembly. It comes therefore, directly to the National Assembly rather than via Ministries because these entities are not supervised. These are Constitutional agencies and therefore, they report direct to the House. Their estimates comes to the House, the House considers those estimates along with advise from the Minister of Finance who would receive at the same time a copy of the request and the House would consider the recommendation of the Minister of Finance and as required by the legislation, which specifically says that the House will consider the matter ... [*Interruption*] we will ensure that the National Assembly... [*Interruption*]

Mr. Speaker: Obviously, I am not hearing Mr. Greenidge any longer, please.

Mr. Greenidge: Mr. Speaker, I do not know why men are getting so excited because the Constitution is being subverted and we are only remedying it.

Paragraph 222 A, says specifically, for ten years the Constitution has been undermined. [**Dr. Singh:** You destroyed it for how many years.] And yet you are here to tell the story, so it could not have damaged you that much.

The requirement is that the annual subvention, approved by the National Assembly, after review. So it comes to the National Assembly, specifically for review and approval, then it is incorporated in the National Budget. It is, if you like, a modification of the existing process so that it comes to the National Assembly; the National Assembly must know what the request is. In the preparations of their submissions the agencies will have received guidelines from the Ministry of Finance, as set out in the Fiscal Management and Accountability Act. So, if the guidelines from the Ministry of Finance say that you are working within budget increases of 2% or what have you, they will have to live within that or if they have an exemption they will come and justify it in front of the House. The single exception is that, in the case of the Public Accounts Committee, the Public Accounts Committee has the specific responsibility for the

Office of the Auditor General and it will therefore come to the House through the Public Accounts Committee.

The explanation I am offering you reflects the channel by which the information arrives. It then sets out where it is reflected in the Estimates. In other words, in the Estimates, instead of the estimates which currently are prepared at the moment... *[Interruption]* Dr. Singh, if you have a complaint about it you can tell me you know. Lt. Col. Harmon does not want to take that exercise on. I can look after myself.

The Estimates as you see them right now have four constitutional agencies, a whole number of pages with the elements of budget set out here, which could be modified by the Ministry of Finance. What we are saying is that they should be reflected, not as you will find them for example in the current estimates, GECOM for example, page 70, plus Parliament Office, Teaching Service Commission, etc., but that they be shown as is the ERC. If you look in that part of the table that deals with details of Subsidies and Contributions to Local Organisation, there is a single block vote and that is what we will approve, after consideration of the details. If you look at the back of the Estimates you will see Statutory Expenditures and in the case of these agencies, section 4, at the back of the Estimates, you will see Statutory Agencies. In future, these Constitutional bodies will go at the back, alongside those to be treated in a manner similar to Constitutional agencies. Not exactly the same because they can be modified by us. So that is the intention and I think all the other details are really quite self evident.

I would like to make reference to one other element. You will see in section 81, the recommendation here is that they also be specifically required, as with the statutory bodies to submit annual reports and audited financial statements under section 80. Instead of the concerned Minister being identified here it will be the official who is charged with overseeing the Constitutional agencies. So these are elements of tidiness.

Finally, may I say that if you will have a look at section 85A of the Fiscal Management and Accountability Act, you will see reference to the question of public officials, who may cause lost or inappropriately spent resources under their control. Originally, officials could be surcharged or fined for such behaviour. The definition of the word "Official" has however been modified since 2003, to exclude Ministers.

6.53 p.m.

We are proposing here that Ministers be reincorporated into that arrangement so that ‘official’ will be redefined to include Ministers. That I think is only right because if one is saying that if an official spends money illegally or loses the state’s resources, causes it to be lost, then that official is subject to being fined and jailed, one has under the Fiscal Management and Accountability Act a very powerful instrument which allows the Minister to actually instruct the public official and what we are saying here is he should be liable for his own actions as well. It cannot be fair for public officials to take instructions to do something illegal and only they will be subject to the law.

What we are saying here is Ministers are not above the law and in a time when we are concerned about the question of financial probity it is only fitting and proper that they be captured. It was there before. Thank you very much, Mr. Speaker. *[Applause]*

Mr. Speaker: Hon. Members, I believe that we will take the break. Mr. Greenidge... I was saying that we will take the break, but just for clarification...

Mr. Greenidge: Yes, Mr. Speaker.

Mr. Speaker: He has finished.

Mr. Greenidge: I have finished. **[Mr. Benn:** ...on his time.]

Mr. Speaker: I am the Speaker and I will decide what I am doing. Thank you. When we return we will have Mr. Nadir commence, after the break. Mr. Greenidge, is there a specific agency or agencies that use this formula that you are proposing now? Are there any constitutionally independent agencies functioning that use this formula?

Mr. Greenidge: Mr. Speaker, there are many de facto agencies which receive... **[Mr. Nadir:** You are talking about de jure.]

Mr. Speaker: I am asking... Mr. Nadir, you will get a chance to speak.

Mr. Greenidge: Our colleagues are having difficulty with the language. I am saying that there are many de facto autonomous agencies meaning that they receive subventions directly from the treasury. There are a number of them.

Mr. Speaker: That is because this House has voted for that provision and it goes straight...

Mr. Greenidge: These are not agencies now. In those cases they are not constitutional agencies in the sense that they do not fall under the definition of 212 (a) but what I am answer to is... You asked whether other agencies have a process. That part of the process that I am identifying for you in relation to other financial agencies for example is that they are recipients of moneys directly. We have a number of them but in this particular case what we are seeking to do is to bring them under the purview of the Parliament. That is the specific question. One cannot have...

[**Mr. Neendkumar:** Answer the question.]

Mr. Speaker: Hon. Members, this is for my edification. I may not be as bright as many of you are but this is for me. I have asked a question. Mr. Greenidge had only spoken for about ten minutes so as mover of the motion he has another half of an hour if he really wants so this is... Proceed, Mr. Greenidge.

Mr. Greenidge: Thank you, Mr. Speaker. Mr. Speaker, I am quite happy to answer your questions or anybody else's, providing if they are like yours and can make sense. What I am saying is that the constitution sets out a framework. In the case of the ERC, for example, only half of the framework is in place. The ERC has a block vote. There are many entities which are not constitutional agencies but we have given them block votes. The Constitution requires the House to review and determine how much they get and that is what I am trying to ensure happens. It is in keeping with our Constitution.

You will recall, Mr. Speaker... let me just remind you, since you have an interest in this matter, that when the motion came to the House you, in a number of questions, which have become, I think, your hallmark, asked whether there are arrangements in place elsewhere because I had mentioned the United States. I do not know whether you recall and I remember saying to you that in the case of the Judiciary of the United States the request for moneys goes directly from the Judiciary to the President. The President, himself, is not allowed to amend it. He simply transmits it to the House and the House then discusses and approves a sum. When that sum is

approved it has to be disbursed by the treasury. The President and his Secretary of State cannot amend it after it will have been approved. In this particular case the Constitution is very specific. It says that these agencies and the money they receive are to be approved by the House, the legislature. That is what it says here. [*Interruption*] It says nothing of the sort.

Mr. Speaker: Okay, thank you.

Mr. Greenidge: Thank you.

Mr. Speaker: Hon. Members, we will take the suspension for half of an hour and resume. Thank you very much.

Assembly suspended at 6.58 p.m.

Assembly resumed at 7.49 p.m.

Mr. Speaker: Thank you, Hon. Members. Please be seated. Sorry for the late recommencement. We will now have the Hon. Member, Mr. Nadir, speak but just to say that we have this Bill and a motion and I would like us to end as near as possible to 10.00 p.m. and not... I do not see us being able to complete this motion tonight, quite frankly because it will take us until about 3.00 a.m. tomorrow so let us exercise some discretion, some pragmatism and embrace the spirit of the day and leave this chamber earlier than intended or planned. Proceed, Mr. Nadir.

Mr. Nadir: Thank you, Mr. Speaker. Let me join in those earlier wishes which were conveyed by the Clerk on your behalf to the ladies in the House for a happy Valentine's Day.

What we had just seen, first with the Constitution (Amendment) Bill and now with this amendment to the Fiscal Management and Accountability Act, is what I consider the Opposition seeing ghosts and bogeys where none exist and tinkering with sacred traditions that have been set out over centuries based on positions of rationalism and pragmatism – a word you just used. It is not that Governments are allowed to present budgets and have... I should not say "Governments" but the 'executive' which should present budgets and have exclusivity where budget and money matters are concerned alone. It is because we need that in order to ensure that where the execution of the policies of the executive of the day is concerned, and for the good order and development of a country, the management of the purse is the sacred preserve. In order

to preserve this unity, the focus of direction and not distraction one needs the executive at the helm.

The amendment that we just had, by itself, is innocuous – neither here nor there – but here we have, with the amendment here the devil in the details. One has to listen very carefully to the Hon. Member that last spoke because many times he says the intension of the Bills and the motions that he proposes, when he would make a presentation, is one thing but the written word that he is moving is another. I mentioned this because when we looked at the President’s pension there were some glaring examples that necessitated amendments. For example there is the issue of a person being convicted before they could be stripped of power and not charged. When one looks at that while he said one thing he totally ignored such amendments. Hence, when he was making the presentation, though brief, he made a significant statement and that is with respect to clause 4 of the Bill and he said that the Finance Minister will still have the powers to give directions to the budget agencies on amounts and so forth; he said so. That is not in the law. If I am the head of a budget agency with these powers, and the Finance Minister comes to me saying “You shall prepare a budget within these guidelines” I will say to him “The guidelines I will use is what will give me the resources to do an effective job for the nation”. Hence this clause 4 of this Bill reduces the Finance Minister to the level of a consultant and discussion only on the format.

Though I am not a linguist nor am I a lawyer and I may not understand English as well as most people but for me format means the structure in which you put the budget, not the content of these line items. When one listens to the Hon. Carl Greenidge pontificate that we are going to have the Finance Minister giving guidelines which shall be observed is, I think, far from reality because when giving examples in terms of the deficiencies of Bill and motions which he had brought as have been put to him there has been no amendment.

I want to go back to this issue of the sanctity of budget matters and the preserve of the executive when it comes to financial matters. We come from this Westminster tradition... [*Interruption*] Thanks for the promotion. ...this Westminster system and in 1709 the House of Commons and the executive had this similar confrontation and so as far back as 1713, the Standing Orders in Britain were written to ensure that the executive has the preserve over presenting budgets.

Today the literature will tell you that it is almost universal that the presentation of budget and finance issues are the sole preserve of the Executive and over the past 50 years some countries have been tinkering with this. Some countries have been tinkering with it over the past 50 years. For example, France's third republic that ran, I think, from 1870 to 1940. In that republic, the National Assembly in France had the power to put together the budget. That third republic ended in chaos because it was summarised as the irresponsible spending of moneys, which almost caused the collapse. In this fifth republic in France here again it is reverted back to the executive in terms of the preparation of budgets; the executive.

Mr. Speaker, you asked a question of the person who spoke before me and said, "Give me examples where this occurs where an agency an entity within Guyana has the preserve of presenting a budget, sending it to the Clerk and it must be included in the National Budget". None exists; not even the Public Accounts Committee. The Public Accounts Committee will approve a submission that goes to the Finance Minister. The Finance Minister includes that and takes that to the Cabinet. Universally, around the world, the preparation of budget is done by the Finance Minister or the President or the Cabinet as a whole and every time our Finance Minister stands here on any matter of money he will say, according to "so and so" I signify that Cabinet has given approval. We are going to have to change a host of laws to say "the Clerk of the National Assembly". I want to warn the issue of this irresponsible nature of money and also the issue of the management of that money is of concern and must be of concern to the Executive. I also want to say that while the Hon. Member, Mr. Greenidge, could not give one instant he spoke of de facto but there is no agency that goes through this process in our country, none! You speak of de facto but even in the de facto there is a process but he is prone to making statements here that are far withdrawn from reality and he made two of them; far from reality.

He said that a sitting judge upon retirement did not get his benefits from this Government. I want him to name that judge that was retired that did not get the benefits and I will resign. A person who acts in a position and does not go through the process of confirmation is not necessarily entitled to all of the benefits according to our laws.

He also made another statement that the Former Attorney General, Mr. Doonauth Singh, also did not get his money, implying that this Government, via some process of victimisation or vexation at the Former Attorney General did not want to pay him his money. Every single Public Servant,

as a matter of policy, who retires has to do a statement of affairs and make certain clearances, their income tax and any liability that they have, to the Consolidated Fund. All of us have to do that. As far as I understand it, my good friend, the Former Attorney General, probably did not want to go through the long drawn out process and it is a long drawn out process so he correctly challenged the policy which is not necessarily the law. That is why when we came to the President's benefits; while the Government was giving Mrs. Hoyte and Mr. Hoyte and Former Presidents and their spouses certain provisions we ended up having to come here to codify them in the law because, if challenged, the policy will have to be thrown out of the window. That is why we had to come back and codify them in the law.

Again, I find departure from what is de jure rather than de facto because we have to govern also by the laws. He also went on to use another example which, again, he is ill informed about and I am surprised, very surprised, because he said that the United States Supreme Court sends its budget to the Congress and then he backtracked and said "via the President". Let me tell him something. It still exists under the statutes in America that Congress has the preserve over the budget and taxation. Congress still has the preserve over expenditure and taxation but in 1921, because government has become so complex, do you know what Congress did? They had a congressional committee that dealt with the budget but it became onerous on the Congress and in 1921 the Congress deferred to the executive, the President, to send a budget to Congress.

I did not say that the Supreme Court or the special commissions that deal with humanity and treating people in a humane way will send their budgets directly to the Congress. Congress in itself, noting the wisdom of having the executive which had a mandate from the people to prepare and present a budget for approval... The issue of budgets being cut by the National Assembly I think has been dealt with and I know that the Attorney General is coming, so to speak, on that.

What this amendment to the FMAA does is make radical departures from a time-tested principle that the executive is best placed to deal with budgetary and money matters.

I sat here and listened to all of the learned people argue over Article 222A of the Constitution... [Mr. B. Williams: ...and you did not understand.] Yes. [Mr. Ramjattan: Lord Denning] A great man and M'Naghten too. Most of the Opposition Members that spoke to 222 neglected the

last part of that paragraph and the last part of that paragraph that deals with the agencies under Schedule 3 speaks to the issue of the National Budget Process. There is only one National Budget Process and that is that process coordinated by the Minister of Finance; only one. That is that process coordinated by the Hon. Minister of Finance.

Everyone understands this issue of guarding against interference of certain agencies that ought to exercise their independence. Government is based on the three arms of the state –this here, the legislature, the executive and the judiciary – and there are some constitutional office holders that support oversight and we also what those to have independence. I have not seen the literature as yet that money has a direct correlation to influence. Do you know what has a direct correlation to influence? They are people’s upbringing and their commitment to decency and doing the right things; being professional. If there were proven cases that there was interference by the executive or by the legislature in the judiciary and in some of these agencies and as widespread as under previous regimes that the former speaker to this motion had, one would be very concerned. There is not instance and the one case were we have an elongated process of approving a budget of a constitutional agency, the Audit Office, we are still, in spite of some sections of our society who are trying to say that there is undue influence being exerted, we are still to hear of people complaining.

That is why there is a sacred convention when it comes to budgets and in our Westminster system when a budget fails governments do the right thing and resign because that is the ultimate test – the will of the people. I know, Mr. Speaker, that you have been very encouraged to get us to sit down and talk about how we can execute our duties to the nation in a responsible way where we have a minority Government. I have heard you over the past 13 months talk to this issue and have seen several proposals and making some that we expose ourselves to some of these things. The one that you have been talking to was the Canadian experience and we saw what happened eventually after two minority Governments, by Mr. Steven Harper, Prime Minister. The issue of money matters... I remember being in Canada at one time when Prime Minister Trudeau presented a budget and there was an indication that the Senate at that time was sounding some worries that they would not pass the budget and as was done in England the process was intimidated that they would bypass the Senate and leave budget matters directly to the executive and the legislature.

This issue of the FMAA amendments that we have before us seeks to put these agencies outside of a national process of preparation of budgets and the managing of our finances that have been tested by time and by man and so far what we have extant here in our country has proven to be the best. We are fiddling, if we continue to approve amendments like these, not only with the constitutional issues, but we are going to be fiddling with the financial architecture of the nation that can lead us to confusion and chaos. Apparently some of us in the National Assembly are not aware of that. If they are aware of that I say that they are guilty of taking this country down a road that we are never going to recover from.

These sound principles that have been tested reinforce my commitment and my resolve that this Bill should not go forward in the National Assembly and, ever further, should not be part of a parliamentary approval process. Thank you very much. [*Applause*]

Mr. Sharma: Thank you, Mr. Speaker. The Hon. Member, Mr. Nadir, alluded to a number of areas of concern to me and I would like to go through this particular Bill in relation to the various sections but this particular Bill that we are dealing here with, Bill 5 of 2013, has a direct relation to the Bill that this House just passed, Bill 4 of 2013. Before I get into the Bill I just want to clarify or make some statements in relation to interference by the administration and it was said that the administration may have interfered in the Judiciary by affecting a payment of a judge's benefits and the Hon. Member offered his resignation if this could be proven; however, that fact that one has persons in the Judiciary and they are not appointed or they are not confirmed is in direct interference with the Judiciary so I hope that the Hon. Attorney General and Minister of Legal Affairs will be bringing an amendment to address such issues in which the Judiciary would operate as such that the Judicial Service Commission appoints a judge, recommends the appointment to the President and within a certain time the President shall appoint.

8.13 p.m.

If there are cases where there are judges and they are not confirmed then it is inference, because the judge will be fearful of his decision because his pension and gratuity will depend on it, so it is interference.

In relation to clause 2 of Bill 5 of 2013, it sought to enforce the protection of constitutional agencies and it sought to amend section 54 of the Fiscal Management and Accountability Act because section it states this:

“The Minister may, at any time, suspend the making of any payment or any expenditure of public moneys, other than statutory expenditures, if, in the opinion of the Minister, the financial exigencies of the public interest so require.”

That is why the mover of this Bill is saying that section 54 has to be amended. It is important to amend section 54 because the Minister, at will, could say that he would not release funds for this particular expenditure. This is important because if we do not amend this there could have interference. Members of this House may remember, in relation to GECOM, in which the previous Bill, Bill 4 of 2013, is trying to protect GECOM, in this sense, in that in 2009 GECOM was in a situation where the landlord locked out GECOM’s officers. The Chief Elections Officer turned up to work at 7 a.m. and found that the doors were padlocked and had chains and concrete columns were put ..., so that no vehicles could have parked. That was as a result of the Ministry of Works having a difficulty with the landlord because the landlord was occupying a land...

Mr. Speaker: Mr. Sharma, do you have that in empirical form?

Mr. Sharma: This is general knowledge; it is what happened.

Mr. Speaker: No. It may be street knowledge. A lot of things are spoken about...

Mr. Sharma: No. That was well known. I was at GECOM...

Mr. Speaker: I do not know, but it is a very strong statement to make. Unless you can support it to say that the Ministry did what it did because it had a problem with a piece of land, and all of that,... I do not know, but I really would not be able to allow you to make such a strong definitive statement in the absence of anything that...

Mr. Sharma: I worked with GECOM.

Mr. Speaker: Well, I do not know...

Mr. Sharma: And I could ask the officers of GECOM to present the evidence.

Mr. Speaker: I do not know. I will not allow that.

Mr. Sharma: I am just indicating the way that the administration could interfere and how it could use the purse string. I do not know if I am allowed to just explain what happened here...

Minister of Public Works [Mr. Benn]: Withdraw it.

Mr. Speaker: There is no need to withdraw it. I am just saying that you have made a statement and, perhaps, just move on from it. There is no need to clarify it or anything. I am just advising you not to go...

Mr. Sharma: That is the example of the executive utilising...

Mr. Benn: Mr. Speaker, I was hoping that the Hon. Member would withdraw the statement.

Mr. Bulkan: He was not asked to withdraw it. He was asked to move on.

Mr. Benn: Mr. Speaker, on a point of clarification. The matter the Hon. Member referred to related to the Ministry taking action in repossessing a building in which the persons who owned the GECOM's building squatted and they were renting another building to GECOM. It was completely a separate issue and it was proper action which was taken by the Ministry. It was not followed up in any court.

There was indeed a situation..., and much later, in fact, the staff of GECOM were locked in the building by that gentleman...

Mr. Speaker: But that is a different matter.

Mr. Benn: That is a completely different matter and irrelevant to the issue.

Mr. Speaker: Thank you. We welcome your clarification. Mr. Sharma, I invite you to move on.

Mr. Sharma: Mr. Speaker, I will move on, but let me just make this point. It is to forget about the Ministry of Public Works because it had a direct impact on the Ministry of Finance. The Ministry of Finance decided to withhold the releases to GECOM for it to pay the rent.

Dr. Singh: With your permission, Sir. I am, in general, trying to not interrupt my good friend, young Mr. Sharma, but having failed in his efforts to cast aspersions on the Ministry of Works he

has now moved on to try to cherry-pick another Ministry. I urge you to use your good office to ask the Hon. Member to desist from casting aspersions on one Ministry after another and to move on to make the point that he is trying to make.

Mr. Speaker: I did not have my undivided attention, Mr. Sharma. What is the point you were making?

Mr. Sharma: I am giving evidence that those who control the purse string, the executive, will prevent the independence of these various entities...

Mr. Speaker: In giving evidence, what was your exhibit?

Mr. Sharma: The evidence that I am giving is my personal knowledge of what transpired.

Mr. Speaker: Mr. Sharma, we all can speak of instances where we feel that something has happened.

Mr. Sharma: It was public knowledge, reported in all of the newspapers.

Mr. Speaker: I do not know, but I am asking you to continue the debate.

Mr.: Sharma: Let me go for another example. Another example was when GECOM was preparing for an exercise, called the claims and objection exercise, for preparation for the Local Government Elections. GECOM went ahead, after receiving a very handsome sum, for the preparation of the Local Government Elections and, thereafter, going three months into the activity, funds were withheld to pay scrutineers and the persons who had to prepare food, and so forth. A year later they were paid because they had to prepare for General and Regional Elections for 2011. This is evidence to show the importance of Mr. Carl Greenidge putting this particular section here to protect constitutional agencies. That is the point that I wanted to make.

Dr. Singh: Mr. Speaker, may I, Sir, with your permission? I do not wish for us to get drawn into a debate about whether a particular institution was accounting properly from the funds that it was given.

The Ministry of Finance has a responsibility to ensure compliance with financial regulations before funds are released. The Hon. Member is introducing some spurious story here based on

speculations and based on his own interpretation of events. May I ask, again, with your permission - he is a young Member of Parliament who deserves our encouragement - to urge the Member to stop infusing this debate with speculation and speculative references?

Mr. Speaker: Quite frankly, I happen to know a few scrutineers, personally, who claimed that they were not paid and so I do not know. All I am saying is that the reference... Whatever may have been the reason, I found it to be innocuous, quite frankly.

Mr. Sharma, the point is that I do not think that it has been an accusation that money was deliberately withheld to pervert...

Minister of Public Service [Dr. Westford]: That is what he said.

Mr. Speaker: He has not said so. He said that here is a situation where scrutineers did not get pay for one year. I think he was saying that if GECOM had access to its moneys they would have been paid promptly. Whether or not the accounting principles were being impugned, we do not know. All that he is saying is that if GECOM had money in hand it would have paid the scrutineers. He is not saying it was deliberately withheld...

Dr. Singh: And with your permission, Sir, I am saying that there is an agreed number of scrutineers; they are paid on agreed rate. Once that rate is applied to the number of scrutineers and the Ministry of Finance releases those funds to GECOM it is quite conceivable...

Mr. Speaker: Okay, Dr. Singh...

Dr. Singh: ... that the non-payment...

Mr. Speaker: Thank you.

Dr. Singh: With your permission, may I finish the point that I was making?

Mr. Speaker: Dr. Singh, we are really now... you are listed as one of the speakers. I would ask that you, perhaps, make a note. You will be given ample time to respond. Mr. Sharma really is giving instances, which are in his opinion. If I find that he is transgressing I will inform him, but, as I said, these are, for the most part, innocuous. No person has been named. The one about the Ministry of Public Works taking action because of a piece of land, I felt that one warranted an

intervention by the Speaker. This one about scrutineers not being paid, there is no accusations as to why they were not paid. It is just a statement that if GECOM had moneys in hand they would have been paid. Let us proceed.

Mr. Sharma, I think we get what you are saying. What is going to happen is that if you have fifteen of such exhibits to lay you are going to find an objection to all fifteen.

Hon. Members (Opposition Members): No.

Mr. Speaker: I still have conduct of this debate and so all of those who are urging Mr. Sharma to say what he wants, I could still say to him to move on. I am saying, to Mr. Sharma, move on.

Mr. Sharma: This Bill, which was passed recently, Bill No.4 of 2013, is welcomed. I am sure that GECOM shall welcome this because this is what it needs so long and here the Opposition is presenting the Bill for it.

As I mentioned, section 54 of the Principal Act is important because it does not just offer protection for GECOM, it offers protection for a number of agencies which are omitted from the Third Schedule of the Constitution, that is, the Public and Police Service Commissions, the Teaching Service Commission, the Guyana Elections Commission, the Director of Public Prosecutions, Office of the Ombudsman and the Public Service Appellate Tribunal. I am sure that those agencies would be very happy for this move tonight.

Let me move on to another section of Bill No. 5 of 2013, clause 3, which inserted section 80 (b). At section 80 (b) I think the Hon. Member Carl Greenidge looked at the agency - in the first line he just mentioned agency - but should mention constitutional agency because there is no interpretation of agency.

I move on to clause 3 subsection (2). I do not see any problem with the Minister of Finance confirming with this particular section. This particular section speaks about the process in which the Minister of Finance should follow in carrying out these recommendations of this Bill. This Bill puts forward, in clause 4 it proposes, that these agencies are now created and this is how they have to be operated. I understand the Minister of Finance's unwillingness to support this Bill because I believe he was very instrumental in the Fiscal Management and Accountability Act, itself, as a budget director. I am saying to the Minister of Finance that clause 3 subsection

(2) should pose no difficulty and the reason it should pose no difficulty is because of the fact that in the Fiscal Management and Accountability Act there is section 12 and that section speaks about a timetable which states this:

“The Minister shall, not later than one hundred and eighty days prior to the commencement of each fiscal year, establish a timetable for the preparation of the annual budget proposal pertaining to the next ensuing fiscal year.”

The Minister should have no difficulty with this particular section that is proposed by the Hon. Member Carl Greenidge because he will have to produce a timetable and it will encompass the recommendation. It is in the Bill now that the annual budget proposal shall be presented to the Clerk and Members, and also himself. The Minister has an opportunity here to include this new aspect for these new agencies in this timetable. I do not see a difficulty and the Minister will speak and I would like him to say that we have difficulty because I am telling him that there is no difficulty.

Clause 3 (3), there is no difficulty here too. I do not see the problem that the Minister would have.

Clauses 4 and 5, there is also no difficulty.

In terms of clause 6, there is no difficulty because... I do not want to go into the particulars, but it is not consistent with article 222A. If the Minister shall want to say that there is a difficulty, there is no difficulty because it is consistent with the constitution of this country.

Clause 7 is consistent with the article 222A (a).

Clause 8 is consistent with article 222A (a).

There is no difficulty I could see here that the Minister of Finance shall refuse to implement any of these recommendations of this Bill. It would be interesting to me, in relation to what the Minister will object.

Mr. Speaker, you did ask the question earlier that if this system, which will actually be required to take place between Bill 4 and Bill 5, existed anywhere in the world. It existed here in the form of the Audit Office. The Audit Office has a similar situation here, Mr. Speaker. It is because the

Members, on that side, do not want to listen; they do not want to see how it exists here. The Audit Office was a budget agency. It was protected in the Constitution then the Minister of Finance used section 82 of his Fiscal Management and Accountability Act to remove it and treated it in the manner in which the Hon. Member Carl Greenidge is saying how these entities should be treated. It exists that such an entity was taken out from a budget agency and treated in that way.

Mr. Speaker: How is the budget for the Audit Office formulated, presented and financed?

Mr. Sharma: Well, the Audit Office prepares the budget and it comes to the level of the Public Accounts Committee which will deliberate and pass it on to the Minister of Finance, but he will see what was presented. In fact, what happens with the Auditor General's Office is that it did not benefit from the recommendations that the system is recommending now, which was the system that the Government should have followed. This is the correct system, Mr. Speaker, and the Hon. Attorney General is speaking and interpreting article 222A of the Constitution wrongly, as I would interpret it differently.

First of all, article 222A is an independent article... *[Interruption]*

Mr. Speaker: Members, this is important. I need to hear the Hon. Member. It is very important, of what he is saying. Hon. Attorney General, please take note.

Mr. Sharma: Yes. I think he should listen carefully. Article 222A, as this side of the House is saying, is an independent article because it is captioned with a capital letter "A". It did not go as article 222 (1), (2), (3), (4), (5) and (6). It is not a subsection. It goes with a capital letter "A". The framers did not put a common letter "a". It is the indication to the argument that the Hon. Minister Mr. Nandlall did put up a situation where there was a difficulty but, indeed, what happened was that there was a loophole. I do not know because I was not there in 2001, but there was a loophole and they thought that they were going to expand the Constitution by using the capital letter "A".

Article 222A is a separate article and this is what it states... If it is read as how the Hon. Attorney General read it Members are not going to get what it is saying. It has to be read in this way and what it sought to do was to expressly say that the entities are independent.

“In order to assure the independence of the entities listed in the Third Schedule -

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

It states a review and an approval. The Hon. Attorney General is saying that the Minister of Finance shall be reviewed and approved. No. It is here. It is speaking about it is here, that it shall be approved. This is where the misinterpretation arrived because it did not speak about the entire budget; it spoke about one agency. The entities annual budget one by one....It was speaking about this National Assembly shall review and approve.

This is the argument that the Hon. Member Mr. Nandlall is saying that it is the Minister that is responsible for this which is not correct. It is the National Assembly and the National Assembly should be allowed to do its work and deal with such matters.

Thank you. [*Applause*]

Minister within the Ministry of Finance [Bishop Edghill]: I rise to express my views on why Bill No. 5 of 2013 should not be supported by the National Assembly.

I have been listening very carefully to the debate that is being advanced both on the previous Bill and on this one and there seems to be a view, which is being expressed, that the only thing that can undermine the independence of a constitutional body or a statutory body is financial consideration. It seems to be that view.

I rise to speak this evening as a person who would have headed a constitutional agency. I can speak about my experience there. I can say, Mr. Speaker, that whilst I can stand here tonight without fear of contradiction that as Chairman of the Ethnic Relations Commission my independence was never compromised because of financial considerations. I can tell you I cannot stand here and say....

Mr. Speaker: As a lawyer, I can tell you... You said that it was never compromised because of financial constraints...

Bishop Edghill: ...or any other.

Mr. Speaker: Because you are leaving the door open, so you have to close...

Bishop Edghill: It is "or any other."

Mr. Speaker: Thank you.

8.43 p.m.

Bishop Edghill: Mr. Speaker, I will give and make available to this National Assembly a process that I believe is only reasonable because in the explanatory memorandum ...

Ms. Kissoon: You are a thief, you.

Bishop Edghill: ...as it relates to this Bill...

Mr. Speaker: One second Bishop, what is going on? Could we stop this about thief? Let us stop it please. This is atrocious. It has to stop. There is a disdain that once one person is speaking the other one is... We are all equally elected and have a right to be here.

Ms. Teixeira: Mr. Speaker, this is happening over and over on the floor. As you know, people are being accused of a thief and of murder, and all sorts of thing, and it goes unchecked in this place.

Mr. Speaker: Let us conduct ourselves as honourable men and women, ladies and gentlemen in the House. Thank you.

Bishop Edghill: May I continue, Mr. Speaker? Thank you very much, Sir. I think this National Assembly needs to be very careful in the message that we are sending out there to our public officials. The describing of people, who are seemingly dancing to the purse strings of the Minister of Finance, is not a good signal that we are sending to our public officials. For example, Sir, when it comes to managing the affairs of the State it is clear what the Constitution states, the executive has the responsibility of preparing estimates, bringing them to the National Assembly, the National Assembly considers them, approves or disapproves and at the end of that process these agencies are given their moneys to conduct their affairs. The process that has been for

years, and we can research, is that after these appropriations are made the responsible Accounting Officers will begin to draw down on the moneys appropriated.

Now, I am sitting here, Sir, and I am trying to imagine how we are going to actualise this proposal that is being made, that the amendment is asking for, all of these entities, which will be listed, to receive lump sums. We do not collect all of our taxes on the first month of the year, or the second month of the year, or the third month of the year, or the fourth month of the year. That engagement with the Ministry of Finance is to allow for prudent fiscal management. Serious consideration has to be made about how moneys are disbursed in keeping with the programmes that are to be executed to ensure we do not have a cash flow situation. That is a simple straightforward process of proper management of the affairs of the country.

The proposal, which is made here by the Hon. Member in this Bill, creates some confusion in my mind and this confusion seems to suggest that somewhere we will always have a situation that we are in. For example... [*Interruption*]

Mr. Speaker: Hon. Members, if this does not stop, I am going to rise and I will go home - I am serious - and bring this session to an end tonight because I cannot hear the Minister. There is just either singing, comments, insults, it is... Let us go. It seems to be a joke.

Mr. Speaker rose.

Adjourned accordingly at 8.50 p.m.