

Official Report

PROCEEDINGS AND DEBATES OF THE NATIONAL ASSEMBLY OF THE FIRST SESSION (2012) 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

21ST Sitting

Wednesday, 13TH June, 2012

The Assembly convened at 2.24 p.m.

Prayers

[Mr. Speaker in the Chair]

ANNOUNCEMENTS BY THE SPEAKER

Apology for the delay to the commencement of sitting

Mr. Speaker: Good afternoon Hon. Members. I wish to apologise for the delay in our start due to two reasons. The first being is that there was a meeting with the Parliamentary Management Committee (PMC) followed by a meeting of the Commonwealth Parliamentary Association (CPA), the Guyana Branch, which ended late. We were also waiting on Mr. Williams to get here. Those meetings ended rather late and the Chief Whips did not have sufficient time, prior to that, to get together to work out the order of speeches this afternoon.

Unavailability of the internet service

Mr. Speaker: Secondly, some of you may have noticed that there is a problem with the internet service. I do not know if some may have noticed, but the Information Technology (IT) officer is momentarily working, feverishly, to get that rectified.

Oversight workshop to be hosted by the Public Accounts Committee

Mr. Speaker: The third announcement I wish to make is that the Public Accounts Committee (PAC), chaired by the Hon. Member Mr. Greenidge, will be holding an oversight workshop for Members of the Public Accounts Committee on the 22nd and 23rd of June, 2012, I believe, at the Regency Hotel. I wish to invite all Members, particularly Members of the oversight and sectoral committees, to attend this workshop. You will receive written invitations, but I have been asked to let you know that the Canadian Comprehensive Audit Foundation will be hosting this workshop in association with the Public Accounts Committee.

Supporting the ‘Pick it up’ of Guyana Campaign

Mr. Speaker: I received a letter on the 5th June from the Ministry of Natural Resources and Environment asking that I support - I now so do - and I am asking all Members to support the Ministry’s ‘Pick it up’ of Guyana Campaign, which is, in observance of World Environment Day 2012 in which the Ministry of Natural Resources and the Environment launching a national environmental enhancement campaign entitled ‘Pick it up’ Guyana, which is to promote increased public involvement in keeping Guyana clean. “We believe public involvement and change attitudes are the key to sustaining this initiative,” the letter writes. I believe that this is a campaign that is worthy of our joint and full support. Even as the rains fell last week we all looked around and were not too pleased with the state of our city. So I urge Members to support this campaign in their personal, business and professional activities where ever they go.

Welcoming of Guests

Mr. Speaker: The fifth announcement for today is to let Members know that I am pleased this afternoon to welcome, as our guests, three persons from the Caribbean People International Collective Inc. (CPIC), Monique Caring Hands Support Centre, which is situated at Lot 18 Norton Street, to be precise. I met with these young ladies last week and they were able to tell me of the good work they are doing, in terms of social work. Dr. Dawn Stewart is the Chief Executive Officer, there present, and founder of CPIC Inc., Monique’s Caring Hands Support Centre. Dr. Stewart is a counsellor and is very much involved in everything that goes on at the centre. Ms. Roslyn Wade is the director and is responsible for the daily activity that goes on at the centre and Ms. Sandra Brandt is the Administrative Assistant and has the task of overseeing all administrative duties. The centre also helps orphans and vulnerable children, and persons

affected and infected with HIV/AIDS among others. So we welcome them and we wish them every success in their work. I certainly was more than impressed and taken aback by the work that they are doing. So thank you very much on behalf of all of us here.

ORAL QUESTIONS WITHOUT NOTICE

PLANS TO EFFECT REPAIRS TO ROAD AT BURMA

Mr. Speaker: Hon. Members, I was asked by the Hon. Member Mr. Felix, earlier this morning, to be allowed the right to ask oral questions. He has been good enough to let me know what those questions are about and I have considered them sufficiently urgent and important to warrant his request.

Mr. Felix: I would like to ask of the Hon. Minister of Public Works, what plans he has to effect repairs to the road at Burma which is causing intolerable suffering to the residents of the area?

Minister of Public Works [Mr. Benn]: I have just heard of this “Oral Question Without Notice” upon entering the National Assembly and you, Mr. Speaker, deemed it as being urgent.

I would like to state, since it is of some interest and raised in National Assembly, that the Ministry of Public Works did, some two months ago, make some temporary repairs to sections of that road. The road is, indeed, under the jurisdiction of the Ministry of Local Government and Regional Development. The road and the issues relating to the road, and its maintenance, are with that Ministry. We are aware that perhaps some different circumstances are leading to the more than rapid deterioration of the road. In the first instance, there is the weather and the late planting of rice and the attendant movement of that rice to that mill. In fact, I believe some rice, in overloaded trucks, is being moved to that mill because of issues at other rice mills. We did make, at the time of our examination and intervention on the road, some six weeks to two months ago, an estimation of what it will take to repair the road and it is in the order of \$80 million.

I want to repeat that the issues, basically relating to this road, are with the Ministry of Local Government and Regional Development. I am aware that the Regional Chairman of Region 5 has some \$9 million at his disposal which he is proceeding to utilise, in spite of the weather and perhaps it is advisedly, to do some repair work to the road to make it as a traffic to some extent.

Mr. Speaker: Is there a supplementary that you wish to ask?

Mr. Felix: No Mr. Speaker.

PUBLIC BUSINESS

PRIVATE MEMBERS' BUSINESS

MOTIONS

THE SERVICE COMMISSIONS

WHEREAS Article 198 of the Constitution establishes the Judicial Service Commission;

AND WHEREAS Article 200 of the Constitution establishes the Public Service Commission;

AND WHEREAS Article 207 of the Constitution establishes the Teaching Service Commission;

AND WHEREAS Article 210 of the Constitution establishes the Police Service Commission;

AND WHEREAS the functions of the abovementioned Service Commissions include appointments to the offices falling under their jurisdiction, the exercise of disciplinary control over the removal from office of appointees to those offices;

AND WHEREAS the ability to act independently is an indispensable requirement in ensuring public confidence in our national institutions in general and the aforesaid Service Commissions in particular;

AND WHEREAS the continued maintenance of the aforesaid Service Commissions in the Schedule of the Budget Agencies seriously compromises their independence in the discharge of their functions,

“BE IT RESOLVED:

That the National Assembly takes steps as early as possible to replace the Schedule with one that does not list the Judicial Service Commission, the Public Service Commission, the Police Service Commission and the Teaching Service Commission as Budget Agencies; and

BE IT FURTHER RESOLVED:

That the National Assembly henceforth treats the Judicial Service Commission, the Public Service Commission, the Police Service Commission and the Teaching Service Commission as autonomous bodies drawing directly from the Consolidated Fund and that this change must be reflected in the Annual Estimates to be submitted by the Minister of Finance for the approval of the National Assembly.” [Mr. Greenidge]

Mr. Greenidge: Mr. Speaker, I rise to speak to the motion, as you have already indicated, on the service commissions. I think that in an effort to perhaps clear the underbrush, as it were, I should begin by making two general points in anticipation or in response to some observations of a general nature that have been made in respect to this and other motions. I would like to indicate that first of all we, that is the A Partnership for National Unity (APNU) certainly, have arrived at no agreement with the People’s Progressive Party (PPP) on the treatment of the issue of service commissions, and that the other issues, which are subject of the motion on the Order Paper, have also not led to any agreement and that is precisely why they are here today. We did raise them during the budget discussions and the tripartite meetings, but in keeping with the Government’s approach to such issues, I think it was in 2002, absolutely nothing of consequence or value has emanated from those exchanges.

On the sole comment of consequence which was raised by the Government as to why it had included these agencies in the schedule, concerning the Fiscal Management and Accountability Act, which, as we have argued, curtailed their economy, it pointed to the absence of the mention of these service commissions in the Constitution itself. The Constitution, as colleagues would be aware, has established four service commissions and their functions are functions which are universally carried out under the Westminster Constitutions. Under the variance of that Constitution the autonomy of these service agencies is guaranteed. It is true, also, that the relevant schedule in the Constitution does not specify these agencies, as one mentioned, as being autonomous. I think it would be stretching logic, to the extreme, to argue that the Constitution does not require them to be independent or autonomous. The way that the Constitution words the position of the agencies, which are on that list, does not preclude others from being autonomous. In other words, it is not worded exclusively. I think in logic one would argue that to say that some things sitting on a table that we now call birds are black does not mean that everything that one sees black is a bird, which means, then, that we are not precluded

from including those or treating those service agencies as though they are autonomous.

Secondly, what I am arguing, in essence, is that the Constitution has no intention of excluding these agencies from that treatment. There is nothing preventing the Government from treating them as autonomous. In fact, it is imperative that they be treated as autonomous because, as I have indicated, in the context of the Westminster Constitution that is how they are treated. In fact, if the Members look at the legislation applicable to the individual service commission - let me take one for example, the Teaching Service Commission – they will notice that the wording is as follows, and this is from part three of the Commission, paragraph eight:

“Save as otherwise provided by this Act in the exercise of its powers under the Act the Commission shall not be subject to the direction or control of any other person or agency.”

In the light of that, the views of the three aggrieved Hon. Members, on the other side of the House, who have lost no time trying to persuade the public that this particular motion is unworthy, let me say that the way that the Acts have been cast these comments and criticisms are mainly diversions.

Let me turn now to the issue of substance. The Westminster or Whitehall model emphasises the importance of neutrality in the public service. In the Commonwealth Caribbean, this is recognised both constitutionally in the creation of the independent Public Service Commission which provides for the appointment, promotions and disciplining of public service officials and the fashioning for rules and regulations governing the activities of public servants in office. Two of the most importance of these is that public servants are proscribed, especially at the highest levels, from political activities, such as office holding in political parties, and the public expression of personal views on Government policies. Secondly, there is the expectation that senior officials will offer the best possible advice on any particular policy to the Minister he or she serves without any form of political bias either towards or against the Government and that they will carry through policies to the best of their competence, once a decision has been reached.

This is the context in which these service commissions have been established. In the light of those obligations on the one side, on the officials', in respect of their behaviour, the Constitution

normally guarantees them *quid pro quo*. They remain anonymous as regards their policies advice. In other words, that policy advice is treated as confidential and their exposure to subsequent criticism, if there is any of the policy, is shielded by the convention that the responsibility for the policy ultimately lies in the hands of the Minister. This, I suppose, that some people may argue, is a counsel of perfection.

In practice, in the region there have been, since the countries have achieved independence, a number of problems associated with the operations and the independence of these service commissions, and I might just single out one set of comments by G.E Mills who is a Jamaican professor well known in the region for his pioneering studies of public service in the Caribbean. He said that:

“In small, highly personalised societies such as those of the Caribbean the political sympathies and loyalties of individuals tend to be widely known. Those who hold public office have a high visibility quotient so that anonymity and confidentiality are virtually impossible. Senior civil servants are over exposed in the political arena. Ministers are virtually, continuously bleeding down their necks and tension and conflict between politicians and civil servants are thereby intensified.”

I cite this just to draw to the attention of the House that in reality there is a certain tension in the positions carried out by the Ministers on one hand and the public servants on the other. For that reason the commissions are cast as independent or autonomous and it is very important that, in the way that their functions are cast, within the laws, foreign from the Constitution, those laws be very consistent with the intent of the Constitution. In fact, the tension, which I have made mention of, has been further heightened by the deliberate politicizations of the public service. I am giving you here the views, which I shared of course, of G.E. Mills and some others who have concerns that these politicizations have been particularly marked in the period of democratic socialism from 1974 to 1980 in Jamaica, in particular, as well as in Guyana. It goes on to add that in Guyana, especially toady. I do not suppose I need to remind you that we have at least two Members of Parliament in this House who are also public servants, who hold public office, and that is undermining, in consistent with the principles that I had set out at the beginning. There are a number of others. I am not going to go into that now.

So the commissions are intending to insulate the public service from undue political interference. The Commonwealth Caribbean countries - the Caribbean Public Service Commission - all have separate Public Service Commissions and the majority have the Police Service Commissions, some have separate Judicial Commissions and Teaching Service Commissions as well. The rationale for the Public Service Commissions, in particular, was, as I had indicated, to protect the public service, to provide public servants with equal opportunity and fair treatment on the basis of merit or at least minimise the incidence of the exercise of patronage. This is very important in the context on the financial side as a reward for support of a political party or of individual politician. In other words, the importance of the public service and the related service commissions is very important if they are to be autonomous from the Government and they are supposed to be staffed by specially appointed Commissioners and supported by a staff of public servants. This was the idea, but as we go through the experience, even in two or three decades, which are most recent, as opposed to those immediately after independence, one finds that a number of problems have occurred in relation to the workings of these commissions. One of those has to do with changes made at the beginning of this millennium and subsequently..., and that has to do with the way in which the commissions were appointed which was, in fact, resulted in these commissions being in effect - dormant.

In addition to that, there is the factor of the Fiscal Management and Accountability Act which I do not think, at this stage, I am going to go through the points that I made the last time when we were looking at the court system and the impact of the powers enshrined in this Act on the financial autonomy of these agencies and *de facto* institutional control of them. I am saying the way that the Fiscal Management and Accountability Act interposes the Minister of Finance between these entities and the Consolidated Fund to the extent to which they have to go, rather than giving automatic access to the Consolidated Fund once a vote is approved, that mechanism, undermines their powers. And to the extent, of course, that the 2003 Act was an Act intended to strengthen financial management, when one understands that intent, but it could not have been the intent to strengthen financial management by undermining the autonomy of constitutional offices, offices which are very important to the working of the Westminster-type system and which are very important to the protection of public servants from caprice and other types of arbitrary behaviour on the part of the executive. That is exactly what we have to deal with today.

Indeed, I think one can add that there is mechanisms that have complemented the 2003 Act such as the, if it is liked, untrammelled extension of contracts in recruiting public servants in spite of the fact that Public Service Commissions, including Teacher Service Commission, and so forth, are not in place or might have called upon agencies not to usurp their powers. We found ourselves in a situation where the public servants are not protected in the way that the Constitution requires, if the Constitution, itself, is not undermined and become unstable by the fact that obligations, in err, on the one side, as regards public servants, but the Government, on the other side, does not respect those obligations in terms of allowing these entities to operate autonomously. So, I am saying that the Fiscal Management and Accountability Act and its elements complement a general framework in which the Government seeks..., especially in the light of the comments made by Dr. Jagan some years ago about what political powers exercised by the party in office, at the moment, as opposed to the powers for sympathies, if it is liked, of the civil servants. We find what has been, in fact, a systematic undermining not merely of the public service, or not merely of the service commissions, but those groups and categories of officials that are meant to protect and to provide a buffer as far as issues such as appointment, dismissals, terms of employment, and so forth are concerned. I would argue that we have found ourselves, therefore, at the end of that exercise, in a situation in which the public service of Guyana, by and large, finds itself exposed to behaviour and practices from which they have no recourse at all.

I would remind the House, at the same time, that in addition to the service commissions, by and large, not being operative, there is the appeal tribunal as well. The tribunal associated with the Public Service Commission, for example, not being operational without the bodies that it is supposed to have. The public servants find themselves where emoluments are the source of much grumbling, where the filling of vacancies directly utilising the recommendations or directly involving the service commissions is bypassed and in which promotional opportunities are.... Officials can find themselves denied promotional opportunities by a variety of institutional devices intended to divert or deny opportunities to the public servants who are qualified to be employed in the public service and to be promoted for the benefit of others who are not so qualified. So, that is the essence of the problem that the Fiscal Management and Accountability Act, by the powers it gives to the Minster over the operations of these entities that are budgeted

agencies, it exposes the public servants and bodies that are meant to oversee their interest. It leaves them vulnerable to the very things that the Constitution was intended to avoid.

Those are the observations of substance that I want to draw to the attention of the House and it is in the light of that that we would like to ask the House if it would look at the resolved clauses of the motion which are as follows that the National Assembly should take steps as early as possible to replace the schedule with one that does not list these service agencies as budget agencies covered by the actions of the Ministry of Finance in the way that they are constrained under the Act, but instead, to allow them as with the other properly constitutional entities, to receive their funding directly from the Consolidated Fund.

As I indicated before, it does not mean that these agencies are supposed to be determining the budgetary allocation that they receive. It does not mean that they are exempted from the rules governing proper financial management. But what it does mean is that they receive a block vote out of the Consolidated Fund. They are entitled to dispose and allocate those funds in a manner consistent with the goals that they set themselves; in a manner that would enable them to carry out their constitutional duties effectively and responsibly.

2.54 p.m.

Bearing in mind, again, Mr. Speaker, that what we had established in looking at the other entities, to the extent, that finances and the apportionment of finances within an agency's budget can be amended by the Minister of Finance and the Ministry of Finance, then it leaves the Minister actually in operation and control of element which includes recruitments; it includes priorities for the agencies, the timing of their work, and so forth, and you can well understand therefore why that element of the resolution clauses calls for the removal of these agencies from the schedule.

We also are proposing that the commissions be formally treated, that is the Judicial Service Commission, the Police Service Commission, the Teaching Service Commission, the Public Service Commission, as autonomous agencies, drawing directly from the Consolidated Fund and that these changes be reflected in the annual estimates to be submitted by the Minister of Finance for approval of the National Assembly on the next occasion on which he presents such estimates.

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

Prime Minister and Minister of Parliamentary Affairs [Mr. Hinds]: We, on this side in the Government, do not contest that these four commissions are to be able to operate independently of any direction. We do not contest that. We too have read the Constitution and we have seen, as referred to in the motion by Hon. Member Mr. Greenidge, those articles where there are established. But, Mr. Speaker, if you look at it closely you would see that where they are established, there in the marginal notes, they speak to certain things. We hold that the issue of their independence is addressed and spoken to in the Constitution, in article 222A. So we hold that article 222A is the one that guides our action. When we looked to the Third Schedule, those four commissions are not listed on it. Other commissions are listed, but it so happens. We are willing to accept that it might have been an oversight at the time that they were not included in schedule three.

We would argue that it would be incorrect for us to take any action here, in this House, which is not fully and properly in accord with what is written in the Constitution. Therefore we hold that to achieve what the Hon. Member wants to achieve, and which we do not vary with, that the proper thing to do is to set about and arrange to have these four commissions entered into schedule three. So we hold that there is nothing wrong being done now. Let me rephrase that. There is nothing being done now that is in violation of the Constitution or any other law. There is nothing being done now that is unlawful.

We fear more that the resolved clauses call on us to do something that might well be improper, if not unlawful. We hold that the solution is so simple, and so direct, that we sent to the Constitution Reform Commission our request, that it speedily sets about to review this matter and make recommendations to us. No doubt, we expect the recommendation would be that these four commissions should be included also in schedule three.

I think this is a very simple matter. I note that the Hon. Member Mr. Greenidge went on to speak broadly about other things which I do believe were not sufficiently germane to the motion that he has put before us, but he took the opportunity to smear or to present a certain view that I think I need to make some comments to.

He particularly went out to talk about the situation of the public servants. I would say that it would well be that we in Guyana, coming to independence, did have a tradition in our country where public servants were independent, where public servants did not express views that in any way would be different from the administration. We came from that period where public servants did not take positions in political parties and, even more, did not put themselves up and coming to the National Assembly. He did say that there are two persons. Just for clarity, in my kind of quick thinking, here I see a doctor on one side of the House and I see a doctor also on the other side of the House, so, maybe, in this matter we may both be guilty to a similar extent in so doing. But I think it is unchallenged that when independence came, up to the time of independence, we had the kind of public servants and public service that Mr. Greenidge referred to as the Westminster model - the Westminster desire. I would have hoped very much that situation may have prevailed in Guyana and would have been, perhaps, with us on to this day.

But let us just quickly recall what happens immediately after, and we may need to say no more than we had a period of paramountcy of the party well declared. I would say, for us, we have great difficulty coming into Government when many of the female members in the public service, if not the majority of the public servants, would have indicated some kind of association, in the past, with the administration of that day. When we came along it was an issue, but I would challenge persons to list the number of people as a percentage of all of the public servants that we changed when we came into Government. I will challenge them to list and put, as a proportion, the number of public servants, particularly senior public servants, that we changed when we came into Government.

There is more to this issue than the question that was put. There is a situation where Westminster was good for a particular time, for a particular period in the development of governance in mankind, as a whole, and it had its great achievements no doubt, but it was beginning to change, even then. All around the world there were different feelings coming about that the public service also needed to be efficient, to be as efficient as the private sector, and therefore the private sector became a model for public service. For example, many people started to question the issue of seniority followed very slavishly. I recall four foresters from Kenya who I went to school with - I encountered them some time later - and we all graduated the same time, as I did, and they went home. They kind of returned home, day after day, and the one who returned last,

maybe two or three days after the first three, early, decided to leave the public service because, no matter what, he was going to be always behind them to the end of his career in life. So he left the public service. So there were issues, as that, coming up and the public service has been evolving.

I think, maybe, in New Zealand, quite early, took some of the most radical steps. I think the Permanent Secretaries there are appointed by the Prime Minister, or the group in power, and in any case they also have a limitation on the period of time that they are Permanent Secretaries. They have actually referred to as Chief Executive Officers (CEOs) for the Ministry. There is the general feeling that after a term, or a term and a half, one would have probably lost all the zeal in oneself, and so there is a limitation on them. Things have been evolving. We have had our particular situation here in Guyana. So what the Hon. Member Mr. Greenidge went on to present certainly is worthy of our consideration, but I rather doubt it should be considered at this time and on this particularly simple motion that he has brought here.

I would say, just to answer some of the allegations that he has been making,... The position of our party has been, ever since in the 1950s and the 1960s, and certainly since we have come along, that, maybe, we do not speak enough in great flowery terms, but we deliver in cash. I would like to stress again that public servants in this country of Guyana, since we came into Government in 1992, have had a period of steady improvements in the real income levels that, maybe, if it is to be matched at all, it will only match with the 1957 to 1964 period, certainly not in the 1964 to 1992 period. We delivered the good; we arranged for the delivery of the good. Maybe, we should give a bit more to flowery speaking and such like. Maybe, we should give a bit more to that, but we have delivered the goods.

That was a diversion; but I think it was a necessary diversion and it only in response to some of the points that the Hon. Member Mr. Greenidge was making. I return to what I considered the main thrust of this motion, and our position is that we do accept that there should be considerations, urgent considerations, and most likely favourably considerations, that these four commissions should be listed on the schedule three and therefore we recommend - I will move some amendments; there are amendments standing in my name - that we call on the Constitutional Reform Commission to consider this matter and make the appropriate

recommendation to this National Assembly. I would have no doubt that such recommendations would receive the kind of support that such constitutional amendments would require.

We did some work also on this matter. Whilst schedule three lists the commissions that should received this treatment for independence, to effect their independence, we still have an issue as to how it should be done in practice; how it should be operationalised perhaps. We looked at the Audit Act of 2004. I think it is known to many of us that the Act, section 40 of the Audit Act of 2004 of Guyana, provides guidance on how the Office of the Auditor General may draw directly from the Consolidated Fund. Government would consider that a similar approach would be considered for these service commissions.

Let me at least acknowledge one thing that I agree with, I concur with, that the Hon. Member Mr. Greenidge said. He did say that, or at least I understood him to say, independence, and particularly financial independence, could not mean that the service commissions, in their own deliberate judgement and discretion, determine the quantum of money that they would get. Although I think he rather lamented that, with the need to have discussions with the Minister of Finance on the overall quantity of money, some amount of limitation inevitably arise, some amount of limitation and constraints, but these are all the facts of life. As we live, we would all like to do very many things. I am not certain that I would like to get a Mercedes-Benz, but many people may like to; but we are constrained by the money that we have. [Mr. Rohee: It is not a Mercedes-Benz; it is a Porsche.] It is a Porsche. This is a fact of life: something that we could not readily escape.

What we do say though is that let us focus on increasing on our wealth. In fact, I know my colleague, the Minister of Finance, would have much preferred spending this afternoon on matters that would lead to the increase of wealth of our country. That is what he would have preferred and he feels very badly, as many of us here, to come this afternoon and go through a number of motions which, maybe we wrongly feel, are intended to smear - throw mud all around, as much mud all around, and see where it might stick and catch. We might have preferred to have spent the afternoon working on arrangements that would bring more growth to our country and more income, and more money, so that we have more money to pay the public servants, and so on.

There is an example in our own section 40 of the Audit Act of 2004, and in our neighbouring country, Trinidad, which faces the same questions. I have been advised here by my officers, who prepared it, that articles 110, 120, 122 and 124 of the Constitution of the Republic of Trinidad and Tobago provide for the establishment of these same commissions - Judicial and Legal Service Commission, Public Service Commission, Police Service Commission, Teaching Service Commission - and there is a Service Commission Department which is an executive agency, as oppose to a budget agency, and it spells out how the budgets are prepared, approved and administered in Trinidad and Tobago. So we have work to do and we are willing to get on with that work.

I think we have circulated the amendments that I intend to move. I think they are quite obvious. We proposed an amendment to the sixth WHEREAS CLAUSE.

Amend the sixth AND WHEREAS clause as follows:

After the words “AND WHEREAS” insert the words “Article 222A of the Guyana Constitution does not include in Schedule III, the services commissions, and therefore their placement on the Schedule of the Budget Agencies in the FM and A Act is not unlawful”

Delete the words “the continued maintenance of the aforesaid Service Commissions in the Schedule of the Budget Agencies seriously compromised the independence in the discharge of their functions,” after the words of the sixth AND WHEREAS clause.

Add a new and seventh AND WHEREAS clause which reads as follows:

AND WHEREAS during the April Budget 2012 talks between the Government of Guyana and the Leader of the Opposition and the A.P.N.U, agreement was reached that certain entities not included under Schedule III of the Article 222A of the Constitution, including the service commissions, would require constitutional reform.

Add a new BE IT RESOLVED clause to read as follows:

BE IT RESOLVED that this House refer this matter to Parliamentary Standing Committee on Constitutional Reform.

Delete the original BE IT RESOLVED and BE IT FURTHER RESOLVED clauses.

In fact, this WHEREAS clause which, as presented, states:

“AND WHEREAS the continued maintenance of the aforesaid Service Commissions in the Schedule of Budget Agencies seriously compromises their independence in the discharge of their functions,”

We think that is unnecessary. Our position is that it is the accurate thing to do, at this time, because that is what is in the Constitution, as it is currently written. So we are making a change. We propose to say differently.

“AND WHEREAS Article 222 A of the Guyana Constitution does not include in Schedule III, the services commissions, and therefore their placement on the Schedule of Budget Agencies in the FM and A Act is not unlawful.”

I notice that Mr. Greenidge challenged our new seventh WHEREAS clause which reads:

“AND WHEREAS during the April Budget 2012 talks between the Government of Guyana and the Leader of the Opposition and the A.P.N.U, agreement was reached that certain entities not included under Schedule III of the Article 222A of the Constitution, including the service commissions, would require constitutional reform.”

I guess that in the nature of such discussion there is a certain amount of tentativeness and testing, and so on. I have signed this and I do maintain that this is my understanding of the discussion. There was discussion. I take it that the Hon. Member is also being earnest and using his best recall when he said that he did not think that agreement was reached to do it. I think agreement was reached, at least it was discussed. I think that was our sentiment that we will proceed to review this matter by way of the Constitutional Reform Commission. [Ms. Teixeira: It is the Committee.] It is the Committee.

So there is our final “BE IT RESOLVED that this House refer this matter to the Parliamentary Standing Committee on Constitutional Reform” and we proposed that the other “BE IT RESOLVED and be IT FURTHER RESOLVED clauses” be deleted. We proposed this because

we think that these clauses, in calling upon us to do certain things that are not explicitly provided for in the Constitution, are at least improper, if not illegal.

We recognise a need for reform here and we intend to support it. We hope that our proposed amendments would find favour with the House.

I thank you. [*Applause*]

Mr. Speaker: Just to note that I did not, Hon. Prime Minister, detect any hint of any mud throwing when Mr. Greenidge spoke, and I am happy that you have endorse the view.

Mr. Ramjattan: I am very happy to hear the Hon. Prime Minister indicated that as a matter of principle they have absolutely no objection to these constitutional bodies which had at their entire intent and propose to independently do the work of ensuring the appointment, disciplining and dismissal of members within the Judicial Service Commission, the Police Service Commission, the Teaching Service Commission and the Public Service Commission. I am rather happy and feel that it is a good spirit indeed that he even went on further to indicate that there is precedent in Trinidad and Tobago as to how we can operationalise the administrative independence of these constitutional bodies.

What this motion seeks to do is to ensure, what I feel was obviously an error in not placing them in, that these four constitutional bodies are placed in that schedule of our Constitution of article 222A. That is the Third Schedule. But there is absolutely nothing which prevents or prohibits the administrative financial independence of these bodies from coming into existence, notwithstanding the fact that they are not in the Third Schedule. The Third Schedule, indeed, states very explicitly that the entities should be the Ethnic Relations Commission, Human Rights Commission, Rights of the Child Commission, Judicial Service Commission and the Office of the Auditor General. It does not have these four constitutional commissions. But to give administrative independence requires, what is called, an independence of its financing. The fact that the Hon. Prime Minister indicated this is so, it logically means then that we ought to give it at, this National Assembly, this legislative branch, teeth to that independence.

No where does this motion states that there have been violations of the Constitution. We are not saying that here. This is not stating anything to that effect. What is being sought to be resolved is

that this National Assembly henceforth treats these commissions as autonomous bodies just as those which are explicitly stated in the Third Schedule and to effectively, without having it stated in our Constitution, in the schedule, state that indeed they are autonomous administratively. That is basically what it is. Now if we are in agreement that no political authority or the executive branch must direct and control these bodies, what then is wrong with the logical step of giving them administrative independence?

3.24 p.m.

Nothing is wrong! A Constitution that is silent on it does not necessarily mean that it prevents it from happening. Because of that vacuum created by its non-statement in Schedule Three we must now give it meaning by ensuring that we operationalise it. I want to say that there is some criticism that it has not been done and what it has caused is that there can be people who are big time politicians, and I see one right in front of me, the Hon. Member, Mr. Ganga Persaud. He used to be in the Public Service Commission. **[Member: Chairman.]** And he is still Chairman, I think. It could not be. What I am saying here is that there can be people who innately or politically head these Service Commissions. Inherent in that is a bias *[Interruption]* Moreover, apart from the appointments being politicised, I want to make it clear that sometimes, what is called the people that are supposed to come under the regime of a public service or a police service commission, and take for example Mr. Ramnarine recently, the Police Service Commission did not go to his assistance. So people are being interfered with by the politicians like the Minister of Home Affairs and they do not have those people who are supposed to be, in every respect, immunised or insulated from these statements by the politicians, just remain dumb. Why do they remain dumb? It is because they do not have the administrative independence that this motion seeks to give them. So because they probably feel that they are not going to get in next year's budget if they come out and support, say a David Ramnarine; they will not get enough moneys for them to run their Commission, so they just remain silent. Although they might be proper men and women who can have a judicatory independence, they are somewhat neutralised by administrative non-independence. That is what this is all about. I am urging then because it is not as if we do not have, what we would call, the precedent in and around. I am very happy that the Prime Minister indicated that Trinidad has it. We also have a series of what can be a system to operationalise in the Audit Act in relation to the Auditor General. But we still have these

constitutional bodies which were supposed to be independent from the control of the Executive being budget agencies. If we want to see them having that administrative independence, they should come out from the list of budget agencies just like the Supreme Court, the Auditor General's Office and such like. I feel that there is no need to delay the process by saying, "Let us go now to the Constitutional Reform Committee of the Parliament." A constitutional amendment is not needed to give teeth to what is called an administratively independent operationalising of a body like this.

I then, on behalf of the Alliance For Change, indicate that, as stated in the motion, there is tremendous support for it and there is no need to delay the process, frustrate this exercise and operationalisation through the process as mentioned by the Hon. Speaker. I support the motion as is.

Thank you very much. [*Applause*]

Dr. Roopnarine: Thank you Mr. Speaker. I must say, listening to the Hon. Prime Minister in relation to his warm support for the idea of the financial autonomy of the Commissions, that the Hon. Member would have been much more convincing had he come to the House today with a small constitutional amendment indicating that we should insert these Commissions on the Third Schedule. That would have been a simple enough thing to would have been done and, in such a case, we would not have needed to have such a long and tiresome debate.

The fact of the matter is that as things presently stand, we believe that the autonomy and independence of these Commissions are intended by the Constitution. I do not want to take up a whole lot of the time of this Hon. House to belabour this point, but the Constitution of the Co-operative Republic of Guyana is very strong on this; it is very strong on the independence and autonomy of the Commissions. I am happy to see that my friend, the Hon. Attorney General, has a copy of Professor James' book sitting on his desk and I want to refer us to chapter 9 where he talks specifically about the constitutional office holders institutions. And what he says is:

“These bodies and institutions established or provided for in the Constitution...

This is paragraph one, Mr. Attorney General.

“...that were assigned constitutional duties and functions but are not instrumentalities of the Executive or the Legislature...”

He goes on to talk about the concept. He said:

“The concept embraces those persons, institutions and offices that are subject to the constitutional requirement expressed in various forms, that they are to remain free from outside control or direction and are functionally independent of both Executive and Parliament.”

Professor James goes on to identify four categories of the constitutional office holders. The first category he deals with is those bodies which have investigative power to guard against the abuse of power or mismanagement, and he cites the Ombudsman and the Auditor General in this first category. The second category is what he calls institutions of political neutrality which include the Elections Commission and the Director of Public Prosecutions and the third category which is what concerns us here this afternoon, has to do with the judicial offices, judges and the Service Commissions. And what is he saying? He says:

“The third category, comprising judicial officers, judges and the service commissions, emphasises the need for ensuring the integrity of the processes and services, in particular the avoidance of Executive or other political influence in the execution of their constitutionally assigned functions.”

To ensure this independence and autonomy, there is, of course our own Constitution and I want to say that the Constitution, I wish to emphasise, is very strong on this principle and that is why we believe that any action that undermines the independence and autonomy or which has the possibility or potential to undermine the independence and autonomy should be corrected or resisted.

The point that he makes, and I want to turn to the Constitution which states explicitly in Article 226 (1) – The Powers and procedure of Commissions:

“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.”

It could not be more explicit, and Article 226 goes on, in section (7), to state:

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

As I said, this protection of these Commissions in our Constitution is very strong and there are other ways, for instance, in guaranteeing that the emoluments and pensions of members of the Commission be drawn directly from the Consolidated Fund in Article 213 (4). I wish to refer to Article 212FF to re-emphasise the point about insulating the Commissions from Executive influence. What does Article 212FF (d) tell us? It states:

“...the operating procedures and mechanisms for choosing the members of a commission are such as would minimise the influence of the Executive and maximise public perception of impartiality in the operations of the commission;”

I do not know how much more explicit our Constitution can be. And why is it so important? I mentioned the point which is in Article 213 (4) where it states:

“Any benefit to which this article applies (not being a benefit that is a charge upon some other public funds of Guyana) shall be a charge upon the Consolidated Fund.”

This is to do with emoluments and pensions. And why is it so important to insulate these offices from direction and control of the Executive? It is important because of the powers that the Commissions have. Article 201 (1) talks about the power to make appointments to public offices, to exercise disciplinary control over persons holding or acting in such offices and it repeats it for each of the Commissions. And it is for those reasons that the Constitution seeks to insulate these Commissions from any kind of Executive control or direction.

There are even special restrictions that are placed on constitutional office holders and these restrictions have to do with what Professor James terms special restrictions and I refer the Hon. Attorney General to page 119 of Professor James’ book. He says:

“The notions of autonomy and independence of the constitutional office holder is reflected in provisions which impose special restrictions on his or her holding a public office simultaneously with his or her constitutional office, what the Privy Council is calling a quarantine period, that is making the candidate ineligible for appointment if he or she had served in a public office within three years prior to the proposed appointment and imposing a further three year band on his or her eligibility for a public service appointment after his term on the Commission.”

And he points out:

“This is not uniformly applied in Guyana because there are only two Commissions.”

In terms of the disciplinary procedures also, when one looks at the procedures for the removal of a commissioner, all of which comes under Article 225 (2), again the Constitution goes to great lengths to ensure that when it comes to the disciplining of a member of a commission, there is a very elaborate procedure as we know – the establishment of a tribunal, the submission of a report and so on – so that there can be no arbitrariness or capriciousness in the removal of a member of the commission. I am pointing out these things to say how strong the Constitution is on the question of autonomy and independence.

On the question of funding, which is where we are, I refer you to page 123 of Professor James’ book. What does he say here?

“The overreliance of these offices on the Executive for financial resources is thought to be one of the main stumbling blocks to their effectiveness. The concept of a constitutional office implies adequate funding in order to carry out constitutional functions.”

And one might extend Chief Justice Hyatali’s warnings about a dependent judiciary to these institutions. There is a need, therefore, to enforce the constitutional requirements on funding and such like. I think it is for that kind of reason that, for instance, the Constitution of India, in Article 322 states:

“The expenses of the Union or a State Public Service Commission, including any salaries, allowances and pensions payable to or in respect of the members or staff of the

Commission, shall be charged on the Consolidated Fund of India or, as the case may be, the Consolidated Fund of the State.”

My own view is that the Constitution Reform Commission of 1999 took a giant step forward in establishing the parliamentary instrument that was designed to put distance between the Executive and the Service Commissions and that is why we have the very salutary Article 119 C which sets out the manner in which members of commissions are to be appointed. Article 119 C states:

“There shall be a standing committee of the National Assembly which shall have responsibility for initiating or otherwise taking such action or addressing such matters as may be entrusted to the Committee by the National Assembly in respect of functions required to be discharged by the Assembly under the Constitution in relation to the appointment of a member of a Commission established under the Constitution.”

This Article 119 C, as I said, I believe, is a very far-seeing recommendation that found its way into the Constitution because what it sought to do was to, again, enhance the autonomy and independence, and this was repeated in Article 198 (2) (b) which sets out, in effect, the manner in which the Commissions will be appointed by the appointive committee.

Hon. Members, what we see, as I said, in the Constitution is a very systematic set of provisions that seek to insulate the Commissions from any kind of Executive direction or control. And my question simply is this: why after all of these carefully crafted provisions designed to ensure the autonomy and independence of the Service Commissions is all this care and precaution swept away by reducing them to budget agencies? It is, I believe, to turn giants into dwarfs, a trick worthy of Mandrake the Magician. This is what we are dealing with. I believe that the motion that urges the removal from the schedule of the FMA, I urge that we support the motion so that we can return these Commissions to their rightful place as towering pillars upholding the edifice of the democracy.

I do believe that we have no great difficulty should the Hon. Prime Minister feel so moved to bring a constitutional amendment to this House. Should he bring this constitutional amendment, please do not send it to any select committees. Bring the constitutional amendment and I can

assure you of the full support of this side of the House to ensure that the Service Commissions remain as the Constitution intended, insulated from Executive control and direction.

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

Minister of Local Government [Mr. G. Persaud]: Thank you Mr. Speaker. I rise to make my contributions to the motion moved by the Hon. Member, Mr. Greenidge, in which the Hon. Member is seeking to remove the Service Commissions, namely the Judicial Service Commission, the Public Service Commission, the Teaching Service Commission and the Police Service Commission, from the Schedule of budget agencies.

The Hon. Member, in his motion, has advanced the following reasons for this motion:

“Having these Commissions listed in the schedule of budget agencies seriously compromises their independence.”

I am certain that the Hon. Member can provide empirical data and/or evidence to this House in support of this statement, the reason particularly stating that the independence of these four Service Commissions are compromised or are limited. I am certain that that is a simple request because the Hon. Member is a responsible Member of this House.

Secondly, often in this House we are reminded of the benefits that can be derived from consultation and a consultative approach to problem solving. Hence, I am convinced that any consultative approach has inherent values. I am certain, here again, that the Hon. Member, Mr. Greenidge, before he would have brought this motion to this House, would have engaged the Judicial Service Commission, the Teaching Service Commission, the Police Service Commission and the Public Service Commission in getting from them whether this reason that he has advanced here, that their independence is interfered with, holds any element of concern or, to say the least, facts. To do otherwise, I think, is irresponsible. I agree with the Hon. Prime Minister. This House’s time could have been better spent on issues of the parliamentary agenda and the developmental nature of Guyana.

I do not want to think that the Hon. Member, Mr. Greenidge, would have brought this motion to this House based on his own opinion and his own views and, maybe, influenced too by his previous experience when he was resident and a Member of this Guyana’s Parliament. I hate to

think that this Hon. Member would have done that. And so I guess that he can provide us, too, with some evidence of consultation so that we can understand that the Hon. Member, Mr. Greenidge, is representing the cause and a real and true cause of the Service Commissions as stated in this motion. Unless that happens, this House might be led into passing a motion that will not bring any benefits to the working of the Service Commissions. [Mr. Ramjattan: You bring the evidence that they are running real well. Go and bring the evidence that they are perfect.] I did not bring a motion! My good friend, as usual, always misinformed, woke up from his dream world.

The Hon. Member, Mr. Ramjattan, referred to me as Chairman of the Public Service Commission in present tense. It shows how little knowledge my good comrade has with regards to the constitutional provision which established the Public Service Commission. Here is an Hon. Member who would have just spoken on this motion saying blah, blah, blah about the Public Service Commission and the Service Commissions. Article 200 of our Constitution clearly states how the Public Service Commission should be comprised. It also delineates very clearly how the members of the Commissions are selected. I cannot understand how a Minister of the Government can still be acknowledged by my good friend, in present tense, as Chairman of the Public Service Commission unless his intention was to further seek to take my character to his level.

Mr. Speaker: Hon. Minister, I think we were going well. I have no idea where your character is and where his is, so one may actually be helping the other. I do not know, but let us refrain from going in that direction please. Keep it honourable and above the belt.

Mr. G. Persaud: Thank you, Mr. Speaker. I am just carried away by the little...

Mr. Speaker: Let us not get carried away.

Mr. G. Persaud: I am going with the flow Mr. Speaker.

When I served as Chairman of the Public Service Commission, by being appointed as Chairman of the Public Service Commission, I had the privilege of serving as a member of the Judicial Service Commission as well the Police Service Commission. During that five-year period, I was fortunate to work with these three Commissions under the present system of budgetary

allocations and the budgetary process, and I am unaware of any concerns expressed either openly or privately at any meetings of those Commissions with regards to the budgetary process.

The budget in itself for these Commissions, except for the Judicial Service Commission which does not have a full functioning secretariat or did not have at that time, had allocations placed under a statutory head and they are still being placed there, just like our Parliament allocation where provisions are placed under a statutory head and then there are allocations made under line items as per programmes. Therefore, all expenses relative to the chairperson and members of all those Commissions are covered under the statutory allocations, just as I repeated in the National Assembly.

3.54 p.m.

Listening to the Hon. Member Mr. Greenidge when he stated that such a situation compromises the public servants and cause them to move from non-partisan to partisan was a very unfortunate statement. That statement sought to discredit the hardworking public servants in this country and is speaking about an era which does not exist now but in which the Hon. Member was a Member of Parliament. So history seemed to have missed a gap. I say it is very unfortunate that when we as Members of Parliament seek to protect Guyanese, and seek to address issues in the interest of Guyanese, we use the opportunities to pull down Guyanese, based on our own feelings and misguided thinking, and not based on facts. So it was so unfortunate that that statement had to be made here of our public servants.

The Hon. Member Mr. Ramjattan spoke about administrative independence in these service commissions and he referred to the members of the commissions. The members of the commission are not administrators; their roles and functions are clearly stated in the Constitution. So I do not know, but the Hon. Member seems to be very far removed from the way these commissions are working. I have been working with those commissions. I am speaking from experience; I was there; I am not peripheral. I recognise what we speak of in terms of independence, and about removing seeming muzzles from public servants. We have to be very careful if we are really serious. Or do we intend to muzzle people? Do we have their interest at heart when we say that we want to allow them to have... [Mrs. Backer: Which motion you speaking on?] This very one. I am speaking based on what the Hon. Members Mr.

Greenidge and Mr. Ramjattan would have spoken on. I will maintain that line. My good colleagues have shared with us the legal parameters. I am dealing with the administrative parameters which these Hon. Gentlemen would have shared.

I wish to say that we are making a storm in a teacup because we have not been presented with any evidence of a substantial nature here that anyone's independence at the service commission's level has been interfered with. So I will call it a storm in a teacup unless the Members on the opposite side of this House can provide empirical data and information to support the motion moved by the Hon. Member Mr. Greenidge. I wish to urge all the Members in this House that support can only be given to this motion if the amendment as proposed by the Hon. Prime Minister is accepted. For the motion as presented, I urge our Members of Parliament; do not give support to the motion as presented unless the amendment as proposed by the Prime Minister is accepted.

Thank you Mr. Speaker. [*Applause*]

Mr. Speaker: Thank you Hon. Member.

Hon. Members, we will have the Hon. Leader of the Opposition's presentation and then we will take the break given the fact that we did start beyond the scheduled time of 2.00 p.m. Thank you.

Leader of the Opposition [Brigadier (Ret'd) Granger]: Mr. Speaker, colleagues, it is my fate to follow a former Chairman of the Public Service Commission (PSC), the Judicial Service Commission (JSC) and the Police Service Commission. I think the Hon. Member omitted to mention that he is also a former member of the Guyana Defence Force Commissions Board.

There is abundant evidence of cohabitation coming out of the fact that, on several occasions, Members of the Cabinet sitting on the eastern side of the House have ended up as chairpersons of so-called independent and autonomous commissions. Similarly, people who have been members of commissions have ended up as Ministers of the Cabinet. So, when we are looking for evidence of cohabitation, right here in this House I think there is abundant empirical evidence.

Over the past years, also, we have had situations in which senior public servants, permanent secretaries even, would resign from the service in October, campaign in November and be reappointed in December. Effective government can only be achieved by an efficient public

service, an efficient police service, an efficient teaching service and an efficient judiciary. These cannot be achieved by bypassing these services. But the greatest damage has been done over the last twenty years through attempts to circumvent the public services and their practices which have been enshrined in our Constitution. I can refer to no better source or authority than Dr. Bertram Collins who was on the Commission of Inquiry into the Public Service of Guyana. He is the brother of Mr. Rudy Collins as you know. Dr. Collins' report, published since 1969, states:

“Political leaders since 1961...”

And you may recall, Mr. Speaker, it was in 1961 that Guyana earned its internal self-governing Constitution. It is in 1961 that the People's Progressive Party formed the administration of this country.

Dr. Collins writes:

“Political leaders since 1961 seem to have taken more than the normal interest in the careers and opportunities of individual public servants. Public servants have often shown themselves not to be politically impartial. The worst consequences, however, of this political uncertainty has been a distrust in many minds about the application of the merit system. Many individual public servants no longer feel that their careers depend on merit alone, but fear they can be victims, or hope they will be beneficiaries of political favour. This strikes at the heart of the ideal of an efficient public service serving loyally the government of the day and all of the people of the country.”

These four service commissions are watchdogs of responsibility. They are responsible for safeguarding the integrity, the impartiality and the independence of the four services. But we have seen - and this is why we must go beyond the mere financial and administrative provisions - we have seen particularly over the last 13 years, since the end of that 8-week public service strike, the proliferation of contract employees; persons employed without advertising, without scrutiny and, without, perhaps, needing to obey the code of the public service. We have seen political advisers in disguise, permanent secretaries moving from political platforms to boardrooms; we have seen cronyism, people who are exempt from the tight qualifications imposed in the recruitment process in the conventional public service.

The three core values from all four services - the police, the public service, the judiciary and the teaching service - are impartiality, that is fairness to the discharge of their functions to the entire public; integrity, that is honesty in his or her work; and independence, that is freedom from executive control, freedom from fear and, of course, freedom to enjoy financial autonomy which this motion seeks to ensure. The core values mean that public servants must be able to retain the respect of the public while they enjoy the trust of their Ministers.

The PPP's record, particularly over the last 13 years, has been that there has been no pretence at impartiality. We have, as I said earlier, situations where former Ministers from the eastern side of this House have become chairpersons... (**Government Member:** Five years after.) Less than five years; and you check Mr. George Fung-On ...have become chairpersons of so-called impartial and independent commissions. We have seen the growth of cronyism, particularly in the army of advisers that have sprung up in certain ministries and, particularly in the Office of the President. We have seen the growth of contract employees, a device to undermine the Guyana Public Service Union which ended up undermining the integrity of the public service itself. Damage comes when judges, when teachers, when police officers, when public servants, are no longer professionals and when they become subject to the dictates of the Executive. We see damage when commissions can no longer convince public servants that they can advance by their qualifications and their performance, but need to be politically subservient to the administration.

We see in Guyana a situation in which there is a web of unelected commissions. We see that the main arms of the state can actually be run not by the legislative body such as this noble House, not even by the Executive, but by a string of unelected commissions; commissions which are not responsible directly to this House, which cannot be controlled by the National Assembly, and which the public cannot scrutinise. Those commissions, if they have no autonomy, make nonsense of democracy. Unless they are given financial freedom by this House they will remain beholden to the Executive and the Executive alone.

Effective governance demands that these institutions, these commissions, be given the administrative freedom, and the financial freedom which this motion seeks to entrench. The four services are essential to good government. The four service commissions are essential to the independent functioning of those services. This motion is essential to safeguarding the

independence, the integrity, and impartiality of those commissions. That is what this debate is all about. The cornerstone of our Constitution is the impartiality of our public services, the judicial service, the teaching service, the public service and the police service. What is the alternative? The alternative is rule by political appointees. The alternative is services based on loyalty to the political administration, services derived from ethnicity, perhaps, or family connections, but not on the industry, not on education, not on qualifications. If it is the latter we want in this country I ask that we support this motion. If it is that we want independent commissions which can function impartially and which can preserve the integrity of our public servants, I ask this Hon. House to support the motion advanced by my colleague Mr. Carl Greenidge.

Thank you. [*Applause*]

Mr. Speaker: Hon. Members, I believe on that note we can take the suspension. We stand suspended for one hour and resume at exactly 5.10 p.m.

Sitting suspended at 4.10 p.m.

Sitting resumed at 5.16 p.m.

Mr. Speaker: At the time we took the suspension we had just heard from the Hon. Leader of the Opposition and wish to invite the Hon. Chief Whip and Member Ms. Teixeira to address us.

Before I do, I inadvertently forgot to announce earlier that tomorrow's session is likely to start late because there is the opening of the Tipperary Hall in Buxton and several Members will be absent. I know every effort will be made to return here. But I believe that we may run somewhat late. So please anticipate a delay in tomorrow's start. I believe we will start on or about 3.00p.m. Thank you.

Ms. Teixeira: Mr. Speaker, I have studied Mr. Greenidge's motion, I have read it over and over again, and I have listened to the debate carefully in terms of the presentations. One particular clause in the motion states:

“WHEREAS the continued maintenance of the aforesaid Service Commissions in the schedule of the budget agencies seriously compromises their independence in the discharge of their functions,”

Not one speaker of this House that stood to defend this motion has in anyway stated in what way the service commissions are compromised in the discharge of their functions by their being listed in the schedule as budget agencies. As you can see from the Prime Minister's amendment to the motion, we take seriously the discussions held at the inter-parliamentary political party dialogue, what is sometimes called in the press the tri-partite dialogue.

But as you may know, Mr. Speaker, and I am sure Members of the House also, one of the issues raised by the Opposition had to deal with constitutional bodies including the service commissions. During the discussions on Sunday 22nd April at which Mr. Granger, Dr. Roopnarine, Mr. Greenidge, Mr. Harmon and Mr. Carberry were present - I would forgive Mr. Ramjattan as he was not present for the AFC – we, the government, had explained that these matters required constitutional amendments, and that constitutional amendments were not majority decisions but, in fact, two-thirds majority. And, therefore, these matters would require consensus in the House or some agreement before we went in this direction. The Government offered that these matters should go to the Parliamentary Constitution Reform Committee (CRC) which is headed by no other person than Mr. Granger, Leader of the Opposition.

I am not aware that a meeting has been convened by the CRC; it could be because I am not a member. But to try to say, as did Dr. Roopnarine, that the Prime Minister could have brought a bill here while we had made an agreement as a group of parties that we were going to take a particular course, and Mr. Greenidge's motion actually predates that decision – his was 5th April and the meeting was 22nd April. Certainly, having that understanding there was no nay, no negative in the discussion, nobody saying, 'no, we do not agree with that'. There was that silence, and sometimes one believes in meetings that silence, a smile, a nod, a shake hand, is a non-verbal way of communicating or saying one has no objection. This motion, despite all I just mentioned comes on the floor and, therefore, takes over what was an understanding, if not an agreement, at the meetings on 22nd April, during the budget talks. But this motion attempts to deal with an issue that is a constitutional matter.

The Fiscal Management and Accountability Act (FMAA) deals with the bodies described as budget agencies and states that it includes the Police, Public, and Teaching Service Commissions. The whole argument is that we need to discuss impartially. What do we mean by autonomy, independence and impartiality? What do these words mean?

In the constitutional reform process, a number of Members in this House, in particular Dr. Roopnarine and Mr. Nagamootoo, were Members of that Commission. I sat on the Human Rights Task Force and not on the oversight body or anything like that. But the focus of the constitutional reform commission was how to ensure the independence of the service commissions, for example, was the challenge in the appointment, because previously the service commissions were appointed basically by the President and, therefore, they were thought to be the President's men. The model that was designed in the constitution reform process; the model that was adopted by this House in the Eighth Parliament, which has become part of the constitutional provisions, tried to find a formula that would make sure there was transparency in the way in which the service commissions were created. So the first aspect to do with impartiality, that the persons who were selected were persons who had gone through a process, this Parliament went further, in keeping with the Constitution, by creating a resolution that had a consensually agreed-on mechanism of how the process would take place in the Committee of Appointment for commissions. It put teeth or substance into the constitutional model that was being proposed. So the mandate of the Constitution on the service commissions focused on the National Assembly's parliamentary committee, a special committee named in the Constitution that would say to the President, "here are the nominees to the service commission, including the rights commissions".

Second, it included the model where the Leader of the Opposition and the President had to agree on a name. The examples are in the Judicial Service Commission, Article 198(2)(a), meaningful consultation; Article 200(1)(a), also meaningful consultation, and Article 210(1)(a) also dealing with the three service commissions. They all talk about meaningful consultation. There is only one commission where the President has a nominee in addition to the one with the Leader of the Opposition. In fact, in the Police Service Commission the President has no nominee in his own right, although in the Oversight Committee documents it shows that that exact model for the Judicial, Public, and Police Commissions was to be replicated between the three commissions. In fact, in the drafting and bringing the matters to Parliament for adoption the nominee of the President was omitted. In the Police Service Commission, which for any government is a sensitive body, the President, and by extension the Government, has no nominee. The Teaching Service Commission was never included under the service commissions that are in the constitutional articles in terms of the appointment by the Committee of Appointment. The

Teaching Service Commission was completely separate. The Leader of the Opposition and the President would sit down and agree to “x” number of names, and names would come from the trade union body, etcetera. That is how it is done. The first emphasis was how to get an assurance that the hand of the Executive, in the selection of the members, was taken out. That has been done and upheld from 2003 to now.

Furthermore, another component was built in, that the Committee of Appointment had to consult civil society on the nominees that came to the Committee of Appointment. So for those who never sat on the Committee of Appointment - Deputy Speaker, Mrs. Backer, is not here; but Mrs. Holder, God rest her soul, was an active Member in that body - we had to come to the Parliament with a list of entities we were going to consult on the Public Service Commission, the Judicial Service Commission, and the Police Service Commission. This House said, “Yes, go ahead and consult those entities”. Those entities then submitted their names and the Committee when there was more than the amount of names required, in terms of what the Constitution advised us we could name, we then sometimes made agreements or voted. Those matters came to the House. So the one leg or pillar to do with independence, autonomy, impartiality, fairness, comes from the process of the selection.

Secondly, there has never been, as far as I know, a complaint by the service commissions that they are being denied money; denied what they want and so forth.

Thirdly, I have listened to the speakers, in the Oversight Committee Report of 2000, page 40-45, section 9.1.32(2) it states an interesting thing, that with particular reference to commissions of a protective nature as opposed to those of an appointive nature, for example, the Judicial Service Commission, a common secretariat for like position should be considered. It goes on to talk in the next paragraph about commissions being established, developing procedures, mechanisms etcetera, to ensure, to minimise, undue influence by the Executive and the consequent public participation of partisanship in their functioning. So there is a difference between the different commissions that have been addressed in the Constitution.

But, lo and behold, for this Parliament one of the commissions that is a protective commission, not an appointive commission, in the Constitution, is the Ethnic Relations Commission, a constitutional rights commission, and is immunised in the Constitution from the Executive and it

is protected in terms of autonomy under various articles of the Constitution. And it is included in the Third Schedule of the Constitution.

5.29 p.m.

Here we have a Parliament in the Budget Debate that takes a body that fulfils all the mandates of the Constitution, is already on the Third Schedule, is already protected, already immunised, already an agency that is not a Budget agency and is collecting its money separately as is the Women and Gender Equality Commission and the Rights of a Child, then suddenly by a vote in the Parliament it is wiped out to a dollar.

This is where the contradictions lie. We talk with “forked” tongue. Here you are saying in this House to the public that if we take these Service Commissions and remove them as budget agencies and amend the Constitution and put them on the Third Schedule they will be immunised and protected and autonomous from interference from anybody, the Executive and the Legislature. Lo and behold, a month ago, this House by majority vote reversed your own positions that you have espoused in this House today.

This is regrettable that we are behaving in this manner. I have heard people talk about members of the House who are public service members. When I first came to this House in 1992 there were Members on the Opposition’s side who were doctors, lawyers, and public service employees. Nobody could complain on the Opposition’s side by the fact that they were public servants, that when they were arguing with me as the Minister of Health, because I was the Minister and there were doctors on that side who were arguing against me. Did they feel, one day, any oppression or anything that would hurt them as public servants and professionals? I am talking about my personal experience.

Today, Ms. Vanessa Kisson is a teacher, and Ms. Dawn Hastings, Ms. Marcello, Dr. George Norton are all members of the health sector, I believe. Ms. Kisson is teaching. Ms. Ally, my dear Chief Whip colleague over on the other side, whom I have been getting along with and having a good battle but enjoying each other’s company, I believe from time to time. Ms. Ally was a Principal in the teaching service and a teaching service member for a decade or more and you are Member of this House. Did you feel any retribution as a teacher for all of that?

On our side we have Dr. Vishwa Mahadeo... [*Interruption*] Well you talked too late; you are retired now. You should have made your complaint when you were there rabble-rousing. You were never stopped when you went and picket outside. You were never in anyway victimised as some people have said in this House today.

We must be careful with what we do, and we have to deal with things in a much more judicious way. We are to be careful. I have heard talk about “cronyism” and “diktats of the Executive” and “subservient to the Administration” and all these things. I have heard a phrase of which I am quite titillated, because I will ask the person what he means by it, “advisors in disguise”, because I am one advisor who is not in disguise. I am not one of those new terms that come around. In fact I am on pay, but that is a different issue.

The issue is that in this motion you are talking about service commissions that are operating and have been appointed by this Parliament, the names of which have gone to the President, the President has appointed them and they have been meeting. Ultimately when we look at the issue... There was a debate in the House in the Ninth Parliament... Is it the Commission that is supposed to be impartial or the Commissioner that is supposed to be impartial? Is there a difference between the two? Ultimately the issue was that the Commission in its actions and deliberations is fair, even-handed and balanced. It did not matter who you placed on it, but that in their efforts they upheld the Constitution. People can uphold the Constitution; I firmly believe it, despite what their political affiliates may be.

The Inter-American Convention Against Corruption pays a lot of attention in the review of countries in relation to the Public Service, the hiring, promotion, disciplining, et cetera. At no point in the Inter American Commission’s reviews of countries who have ratified, like Guyana, have they ever raised the issue of where these agencies are in the Budget. Their main focus in terms of transparency and accountability is in the way in which these commissions are established, whether they have resources or whether they are being starved for resource, what are the procedures, the system, the manuals, the mechanisms by which they operate, do they advertise for the jobs, is it based on meritocracy, is it based on need et cetera.

The public service rules are all these issues that guide us. I do not know how countries like Grenada and Montserrat with tiny populations, with sometimes only one gene bank and

everybody is related to each other somehow, that in Guyana with 770,000 people, if we try to delink everybody it will be impossible. All you have to do is look at the death announcement on CN Sharma or whoever is putting it on, and you would suddenly see people who you have known for a long time and who they are related to in the village and their second, third and fourth cousin who you knew. You will find out who are reputed husbands and wives, how a man who you thought had three children has ten. This is the society we live in. We cannot be in such a way to not recognise that this country has to be able to use what it has to the best that it has and the belief that the people that we work with are going to be generated by the best intentions, regardless of where they come from.

When the Trade Unions and the Public Service Union would give you “x”-amount of people, the different unions gives you different names. It is not the Committee of Appointment’s responsibility to say whether that is an A Partnership for National Unity (APNU) guy, a (inaudible) guy, or a PPP guy. We are not interested in that, and we should not be interested in that. In the Committee we are dealing with civil society nominations. So, we cannot have our cake and eat it.

You keep changing the goal post all the time. When we sat and said let us find a way to make sure the process was transparent and it could be subjected to scrutiny, we agreed to that. I ask Mr. Greenidge when he closes off to explain to me the point I have made.

Here was the Ethnic Relations Commission on the Third Schedule, an independent body taking from the Consolidated Fund, whose autonomy has been slashed to smithereens by this National Assembly and given one dollar. Where is the autonomy, when a body can be beheaded and unable to carry out their constitutional mandate? Where is the autonomy? You tell us in your motion that this has to do with autonomy. The cake is in the eating.

You all took a body that fulfils all the things you are talking about which you want for the service commissions. We could say very clearly... I do not care if you can count a hundred, you did it once, that is enough. What flows through my mind, Mr. Speaker, goes down this route as Mr. Greenidge’s motion asks us to – what guarantee do we have, assuming we complete the Constitutional Amendment 2/3 and all these things to put them on the schedule. Assuming we do all of that, what guarantee do we have that the Opposition when the times comes around will not

reduce those budgets to a dollar. The greatest threat to the autonomy of these bodies is on that side of the House, not this side of the House!

It has been a long debate, and I would just like to emphasise before I sit down, that the public out there reads in the papers about the plenaries and the talks and the honour that should be all of ours. The public expects us to be honourable men and women, they expect that, and so they should. When we sit at the IPPD and we say that this is a constitutional issue and it is from April 5th that this motion has sat on the House. It had to wait until the Budget was over. We came to decision on April 22nd. Today is now June 13th. It appears and it makes me wonder that maybe these things we talk about in the parliamentary party talks is of no consequence, because, ultimately, whatever we agree or do not agree to, motions come to this House that premeditates and tries to ramrod a decision in anticipation of what discussions were before that. I call on you to be honourable. We are honourable people.

We have another case of it coming up with the parliamentary motion of the Hon. Member Mr. Ramjattan, and I hope he will do the honourable thing. Because, the parliamentary issue that is in his motion is on one of the subcommittees of the Parliament/Constitution Subcommittee. We started some work, certainly not as intense as we would like. All of a sudden out of the blue, Mr. Ramjattan's motion comes speeding pass, thrown into the House and will be debated. We cannot keep shifting the goal post. You either decide that what we are going to do is that we are going to go through the procedures at the sub committee. What really are you worried about? You head the Constitutional Reform Committee; you have the majority of members in all the Committees.

The dilemma is this. A motion coming to this House, calling on the House to do what it is doing is not a legislative instrument. It is not binding, and it would not be binding because it cannot be binding. It is a motion. What you need to do is a constitutional amendment. Therefore, either this is grandstanding or this is an attempt to go on record and say that the Government is not doing anything. The point is that regardless of what you say this matter can only be addressed by constitutional amendment. Here is the dilemma; two-thirds majority is needed. That means we have to work at it. I have been in this Parliament long enough to know when we worked together as Opposition and Government, and we brought constitutional amendments into this House after the 2003 constitution reform process. We were able to bring it with a two-thirds majority. There were long discussions and long meetings with crafting language and getting the 'I-s' dotted and

the 'T-s' crossed. Some sitting in this House know very well what I am talking about. The will to do it is what is important.

Mr. Greenidge's motion is amended by the Government to uphold what were the discussions between the APNU and the Government on April 22nd. If you reject it, you are rejecting a lot of things. Always remember that unless we get the two-thirds majority, as the experience of the Government when we were in the Committee of Appointment and we agreed to the list of entities for the Ethnic Relations Commission (ERC) in 2007. We had unanimous approval in the Committee of Appointment. Nobody was missing or absent. We brought the list of entities for the ERC in 2007. When it came to the House, in the midst of the debate the Opposition raised an issue of a particular wording which we agreed to remove and which we did. When it went to the vote the two-thirds was lost. We must not as I say, throw the baby and the bathwater out all the time. [Mrs. Backer: Depends on who the baby is.] No, you never throw out a baby.

This motion I believe is misdirected and written for the politics of the moment. The politics of the moment in terms of expediency and opportunism will judge everyone. For this motion I appeal to Mr. Greenidge that it is misdirected. It has no legal status; it will achieve nothing. In fact it is wrong. The amendment we brought, we uphold, and we ask the APNU in particular, not the AFC because they were not present, so they can pretend to be free agents in this House today, but we call on the APNU, particularly those who were present on that Sunday where we had a discussion on this issue and where the issue of these matters going to the Parliamentary Constitutional Reform Committee for discussion and consideration with the intent of coming forward with recommendations will be upheld. Thank you very much. [Applause]

Mr. Greenidge (replying): Thank you very much Mr. Speaker. I would first of all like to say that initially when I heard the presentations of our colleagues on the other side I was quite heartened. I heard words that suggested a certain empathy between the two sides of the House. I took the trouble to jot down some of the phrases. I see the desirability of these service commissions in the Constitution. I see the proposal being worthy of consideration and so forth.

As we arrived at the presentation delivered by Madam Teixeira, I realised that it is like football, a case with the Prime Minister Versus the rest. You have our friend the Hon. Minister G. Persaud over here giving us a presentation that sought to unilaterally impose not only terms but positions.

I heard for the first time that there was a proposal for partitioning. I did not speak to that. I spoke about partisan, but never mind, we would not break a lance over those. The point is that judging from the presentations from the other side, notwithstanding, even if you do not call it grandstanding on the part of some, the issue between us is narrow. What the debate is actually turning on is really the instrumentality, whether you are going to do it in the most expeditious and obvious way or whether you are going to take it via the slow boat to China as it were.

Why do I say this? I say this just to remind our colleagues, after the learned presentation made by Madam Teixeira concerning legality and unconstitutionality. Let me just remind you of something. The Auditor General's Office was placed as a budget agency under the Fiscal Management and Accountability Act in direct contravention of the Constitution which requires that it be accessible to the Consolidated Fund directly. They put it there in 2003. This PPP Government put the Auditor General's Office under the Fiscal Management and Accountability Act and no Constitutional measures were involved. There was no constitutional issue raised in that regard. Having included it illegally or unconstitutionally in the Fiscal Management and Accountability Act we find that this year in response to a motion submitted by this side of the House, it has been removed from the midst on the schedule of the Fiscal Management and Accountability Act and no constitutional change was involved. What is it we are saying? It is smoke and mirrors we are playing with.

You included it in the schedule of the Fiscal Management and Accountability Act and no constitutional change was required. You took it off of the Fiscal Management and Accountability Act and no constitutional change was involved. It is absolute poppycock. We are being assumed to be illiterate; that is the assumption. If you can breach the Constitution without calling a change in the Constitution, or if you can take it out of the Fiscal Management and Accountability Act without any Constitutional change being required, then we can take the Commissions off of the schedule. You have just taken the Auditor General's Office off of the schedule and it did not require a constitutional act. The Auditor General is sitting there looking serene; he never told them that it required a constitutional act. They took it off and it did not require a constitutional act, so this does not require a constitutional act.

Let me tell you something else. Mr. Speaker, may I just remind our colleagues, since they are so keen to hammer this case of the ERC. The ERC in our view is a constitutional office in the same

way as the service commissions. Look at what the Government has done with the ERC. The ERC has not been scheduled to get funds directly from the Consolidated Fund. In fact it is in a place that the Auditor General criticises the Government for. We are being told things here without the persons fully understanding what was being said.

Could I refer you colleagues to the Estimates of 2012? In the Estimates of 2012 on page 386 has under the title “Details of Subsidies and Contributions to Local Organisations” – this is a constitutional body you are talking about. Listen to what we are being told about the import of the ERC and yet it is treated here in the Estimates as a local agency in the same standing as a whole set of Non-Governmental organisations (NGOs) and Non-State Actor.

Ms. Teixeira: Mr. Speaker.

Mr. Speaker: Is it a Point of Order?

Ms. Teixeira: Yes, I believe Mr. Greenidge is beginning his discourse on the Audit Office motion. I do not think we have finished the one the Service Commission.

Mr. Greenidge: Mr. Speaker, I believe that we have all been regaled, if you do not mind the expression, by the Hon. Whip’s familiarity with the ERC and so forth. I am speaking to the ERC. I am saying that the ERC is treated by the Minister as a NGO or Non-State Actor and not as the Constitution requires, might I remind you that these entities that are constitutional offices be given direct access to the Consolidated Fund. If you go to the substance of the Estimates under the Current, you will then find a subvention under Local... [Ms. Shadick: This is a subvention agency] I understand the difficulty that the comrades are having. I am referring to the Estimates and the modality of treatment. I am saying, if I might reiterate, that the change that is required simply requires that the Minister exercise his powers as provided for in the Act to amend the schedule just as he did with the Auditor General’s Department. That is power that the Minister has and it can be done.

May I say also that as grateful as we were for the background which Madam Teixeira provided us and the Hon. Prime Minister’s explanation that some of the reasons for the unusual, unconventional and in some eyes unacceptable treatment provided to these Commissions lays in the new challenges posed by developments since the 1960’s. Both of them had said that.

Madam Teixeira just referred to the challenges of the new appointment mechanism. I have no difficulty with that. In fact in my notes I did make mention of it that the appointment mechanism, and in fact it even has the House looking at the exchanges and the reports of the Constitutional Reform Committee. You will see extensive criticism of both this House in the appointment of its representatives as well as the political party. I have no difficulty with that; that is really not the issue. The issue is that the consequence of that is that these service commissions as a consequence suffer from either not being established or when they are running they face a variety of operational difficulties. I am saying that one of the most important of the operational difficulties inclusion upon the capacity of the head of these institutions to run them properly in timely fashion and to do the things they are supposed to do originates in the Fiscal Management and Accountability Act.

Therefore, what it seems is that we have common ground as to the causes of things, common ground as to the impact to some extent – I will come back to that in a minute. What I am saying to you colleagues is that at two levels these measures have an impact. One is one the way that the Commissions themselves work and the other is on the rights of workers in whose defence these Commissions were established. For their rights to be protected the Commissions have to be independent financially. So, we also see, if I might just remind you, that is not a singular occurrence of the application of the Fiscal Management and Accountability Act to the service commissions. You have no Human Right Commission in place, no Ombudsman as well as the absence of these Commissions which pertains to the rights of the individuals. The sighting of the Audit Act and the Audit Act of Trinidad and Tobago is really quite irrelevant here. As regards the argument that we are making, we are saying that a lump sum payment should be made out of the Consolidated Fund to these entities.

5.59 p.m.

Since we were regaled by the experience in Trinidad, let me just draw to your attention two types of reactions and consequence that one can see in relation to the operations of the Trinidad Public Service Commission, Teaching Service Commission and so forth. I am going to follow in the footsteps of the previous two speakers – the Prime Minister and the last speaker – who gave us the benefit of their understanding of what happened there.

Let me, first of all, say to you that in the report to the Constitutional Reform Committee there was extensive criticism of the difficulties faced by people within the Public Service as a result of the pressures, financial and otherwise, of the Government on these entities. I just make reference to two cases, just to make my point. In relation to a case where the Secretary of the Public Service Commission writes to the Permanent Secretary indicating that the proposed firing of an employee or public servant was not in keeping with the rules and that letter was followed by a reaction by the Government and the Secretary was fired.

In the case of Trinidad and Tobago where a recent controversy has arisen between Ministers Dr. Goopesingh and Mr. Devant Maharaj, it is interesting...

Mr. Speaker: Mr. Greenidge, sorry, going back to the first example, is that a local...

Mr. Greenidge: That is a local case, Mr. Speaker.

Mr. Speaker: I am concerned about statements being made and left in a bald way.

Mr. Greenidge: Do you need the names of the persons involved? I would...

Mr. Speaker: I would only ask that you have the documentation, and I know you do, to support what you have stated.

Mr. Greenidge: Yes. I made mention of a report to the Constitutional Reform Committee and it is actually available for everyone to look at.

Mr. Speaker: Thank you very much.

Mr. Greenidge: As regards the Trinidad and Tobago case, as I was saying, the issues are rather different. It is not a question of their autonomy. The conflicts that have arisen between the Commission and the Ministers actually are that that particular standoff which occurred not so long ago does not turn upon anything as notorious as our own cases, that is the removal of persons for having different opinions or for being an obstacle, but, in fact, for the failure of the Commissions to carry out their duties. In other words they failed. The Ministers are calling upon them to act expeditiously to make their appointments, to make their recommendations and to take their decisions. One can always go and find another country which one thinks makes one's case, but, unless one looks at these examples in their entirety, the analogies or parallels that are

being drawn are not very helpful; they are self-serving. Just as I could find a contrast which our colleagues on the other side found inconvenient, the examples that they cited did not find favour on this side.

Perhaps I should close with a comment both in response to the Hon. Mdm. Teixeira and the Hon. Minister Ganga Persaud which said that in no case did the presentations make reference to the adverse impact... [Mr. G. Persaud: We need evidence.] ...yes, you called for data and evidence and I am saying to you, Mr. Speaker, as I was explaining before, some of this exercise we went through in relation to the courts. The issues are exactly the same and what I am saying to my colleagues is, in relation to the Financial Management and Administration Act, the constitutional offices are subject to a number of interventions that the Minister of Finance, himself, can make apart from the allocation of a block sum. There is no block sum involved. He can change the elements of the total. There is a device in this called drawing rights which the budgetary agencies have. The Minister may (let me just read you the passage since I am being accused of being too general) - in relation to the drawing rights of budgetary agencies the act says:

“An official shall not do any of the following, except as authorised by a valid drawing right...”

Then there are a whole set of things. Then it says in section 4:

“The Minister may at any time revoke or amend the drawing rights...”

This is not consistent with the passage in the Constitution. This is not consistent. The implications of this type of power that can be removed arbitrarily without the need for an explanation is that it gives the Minister discretion to grant privileges and to withdraw them without warning or the need to justify.

The effect of the schedule therefore is to make the Auditor and the Audit Office subject to the influence, if not the whims and fancies of the relevant Minister. That is precisely what the Act specific to the Service Commissions, prohibits. So, if my colleagues follow the relevant passage in the Act they will see what the point was that was being made here. What I am saying is the change that we are urging is a change that does not require any constitutional action, but if the

other side is willing to join us in that we can have the two-third majority since they are agreeable in principle to the elements. It can be done right here and the matter can be resolved.

I urge, in the light of all of these points, the possibility of the change, the non-necessity of constitutional change as such, as well as the fact that the other side has already included and excluded a particular entity from the Financial Management and Accountability Act, notwithstanding the Constitution, that the motion be commended to you for your fulsome support. Thank you very much. [*Applause*]

Mr. Speaker: Thank you, Hon. Member. I thank you for reminding me that the Hon. Prime Minister had proposed amendments so I will proceed to put the amendments and the amendments are contained in a letter received by us at the Parliament Office on 10th May, 2012. In the first instance that we amend the sixth WHEREAS clause as follows:

“After the words “AND WHEREAS” insert...”

‘ “Article 222A of the Guyana Constitution does not include in schedule III, the Services Commissions, and therefore their placement under Schedule of Budget Agencies in the FM and A Act is not unlawful”;

Amendment put and negatived.

Mr. Speaker: I proceed to put the second proposed amendment in the name of the Hon. Prime Minister.

“Delete the words:”

‘ “the continued maintenance of the aforesaid Service Commissions in the Schedule of the Budget Agencies seriously compromises their independence in the discharge of their functions,” after the words of the “sixth AND WHEREAS clause.” ’

Amendment put and negatived.

Mr. Speaker: There is a third proposed amendment and that is:

“Add a new and seventh WHEREAS clause which should read as follows:”

‘ “AND WHEREAS during the April Budget of 2012 talks between the Government of Guyana and the Leader of the Opposition and the APNU, agreement was reached that certain entities not included under Schedule III of the Article 222A of the Constitution, including the Service Commissions, would require constitutional reform.” ’

Mr. Hinds: Division.

Mr. Speaker: A division has been called for this amendment. There are two more amendments to go.

Assembly divided: Noes 33, Ayes 31, as follows:

Noes

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

Ayes

Mr. Jaffarally

Mr. Damon

Dr. Persaud

Rev. Dr. Gilbert

Dr. Mahadeo

Mr. Seeraj

Mr. Neendkumar

Mr. Lumumba

Mr. Chand

Ms. Shadick

Mrs. Chandarpal

Mr. Nadir

Ms. Teixeira

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

Brigadier (Ret'd) Granger

Amendment put and negatived

Bishop Edghill

Mr. Whittaker

Mr. Baksh

Mrs. Campbell-Sukhai

Ms. Webster

Mr. G. Persaud

Ms. Manickchand

Mr. Benn

Dr. Anthony

Mr. Ali

Dr. Westford

Mr. R. Persaud

Dr. Singh

Mrs. Rodrigues-Birkett

Mr. Nandlall

Dr. Ramsammy

Mr. Rohee

Mr. Hinds

Mr. Speaker: Hon. Prime Minister, it therefore means that the new RESOLVED clause that you wish to include, as you sought to delete one and have the new one put in its place – to use the Hon. Attorney General’s word – it is “axiomatic”, I believe, that new RESOLVED clause...

[**Mr. Hinds:** Why is it that way?] Because you said that if the old one is removed by your amendment the new one will then be... If the old one is not carried I do not see how we can go onto your proposed new one, but if you wish to put it...

Mr. Hinds: What did we vote on just now?

Mr. Speaker: We voted to delete.

[Interruption]

Mr. Hinds: I need to go through it because I do not think it is right. Mr. Speaker, I do not follow it.

Mr. Speaker: I would say out of an abundance of caution I would put the last proposed amendment which is:

“BE IT RESOLVED that this House refer this matter to the Parliamentary Standing Committee on Constitutional Reform.”

Mr. Hinds: Division.

Mr. Speaker: It seems to me that the “Noes” have it but a division has been called. We did say that whenever a division was going to be sought we would, out of an abundance of caution... I do not know if the Member would make it here. Let us proceed.

Assembly divided: Noes 33, Ayes 31, as follows:

Noes

Mr. T. Williams

Ms. Marcello

Dr. Ramayya

Ayes

Mr. Jaffarally

Mr. Damon

Dr. Persaud

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

Ms. Kissoon

Mr. Trotman

Ms. Selman

Mr. Allicock

Ms. Wade

Mr. Felix

Ms. Hastings

Mr. Scott

Rev. Dr. Gilbert

Dr. Mahadeo

Mr. Seeraj

Mr. Neendkumar

Mr. Lumumba

Mr. Chand

Ms. Shadick

Mrs. Chandarpal

Mr. Nadir

Ms. Teixeira

Bishop Edghill

Mr. Whittaker

Mr. Baksh

Mrs. Campbell-Sukhai

Ms. Webster

Mr. G. Persaud

Ms. Manickchand

Mr. Benn

Dr. Anthony

Mr. Ali

Dr. Westford

Lt Col (Ret'd) Harmon

Mr. R. Persaud

Mr. Greenidge

Dr. Singh

Mrs. Backer

Mrs. Rodrigues-Birkett

Dr. Norton

Mr. Nandlall

Mrs. Lawrence

Dr. Ramsammy

Mr. B. Williams

Mr. Rohee

Ms. Ally

Mr. Hinds

Dr. Roopnarine

Brigadier (Ret'd) Granger

Amendment put and negatived

Mr. Speaker: There being no other amendment, I now wish to put the motion... Sorry, Sir, is there one more?

Mr. Hinds: Yes, the last line was "delete the original BE IT RESOLVED and BE IT FURTHER RESOLVED clauses."

Mr. Speaker: Did I not just put that? There is one more.

"Delete the original BE IT RESOLVED and BE IT FURTHER RESOLVED clauses."

Amendment put and negatived.

Question put.

Motion carried.

OFFICE OF THE AUDITOR GENERAL

WHEREAS the Office of the Auditor General is a Constitutional Office;

AND WHEREAS Part 2 of the Audit Act (No. 5 of 2004) provides that the Auditor General shall be the external auditor of the public accounts of Guyana and in the discharge of his function shall have complete discretion;

AND WHEREAS the said Part 2 of the aforesaid Act provides that the Auditor General shall act independently in the discharge of his functions;

AND WHEREAS the said Part 2 of the aforesaid Act provides that there shall be an Audit Office comprising the Auditor General and the officers and employees appointed thereto;

AND WHEREAS the Office of the Auditor General and Audit Office are being treated as a Budget Agency by virtue of the Schedule to the Financial Management and Accountability Act 2003, which seriously calls into question the autonomy and independence of the Office;

AND WHEREAS the National Assembly is obliged to ensure that the autonomy and independence of the Auditor General and Audit Office are maintained,

“BE IT RESOLVED:

That the National Assembly removes the Audit Office from the Schedule of Budget Agencies and restore it to its rightful place as an autonomous agency drawing directly on the Consolidated Fund and that these changes be reflected in the Annual Estimates to be submitted by the Minister of Finance for the approval of this.” [*Mr. Greenidge*]

Mr. Greenidge: Thank you very much, Mr. Speaker. I am happy to rise to address this motion standing against my name.

This motion, as drafted, is very narrow in its intent. It is really intended to highlight the measures taken by the Government which have had the effect of undermining key provisions in Constitution, notwithstanding the Government’s constant claims to be democratic. In that sense, the motion points to behaviour wider than that affecting the Audit Office and it is in that sense it is linked to the other motions that we examined earlier this afternoon and those we addressed on the previous occasion.

As the preamble to the motion indicates, the Audit Office under an Auditor General is required to conduct annual audited accounts, financial transactions or operations and financial statements

of Central Government Ministries and departments, Local Government Agencies and so on. The Auditor General is also required to certify the annual financial statements submitted by these agencies and present to the House and the other relevant authorities the annual reports on these audits. The point is that in carrying out such work the Auditor General and the Office should not be constrained or unnecessarily influenced by other actors and officials. We have seen the consequence of them being constrained. Do I need to mention any names?

In this regard it is quite remarkable that the Government should have passed an Act in 2003 under the very noses of the multilateral agencies which... *[Interruption]* Okay, thank you very much. I have heard and am acting on the advice. I am proceeding.

The fact that this was a deliberate act and not any type of accident is given credence by the fact that it has taken this motion – this particular motion before us now – together with public criticism to embarrass the Government into removing from that Schedule the Office of the Auditor General. The statute was on the books unamended for 9 years, notwithstanding the constitutional... *[Interruption]*

Mr. Speaker: Hon. Members, please allow Mr. Greenidge to make his presentation to move his motion.

Mr. Greenidge: I thank you very much for your protection, Mr. Speaker. As far as the problems are concerned – those problems were outlined on a previous occasion and again today – we are saying, in essence, that the power to go behind the block vote and to exercise influence on the Auditor General and his programme of work is what constituted the problem for us. In the light of that we have had some of our most distinguished Public Servants as Auditor Generals. Even those that this Government, the PPP Government, sought it fit to eulogise, which President Jagdeo, whose virtues he was singing last year, we find the Government and its actions have resulted in those persons demitting office under circumstances that are less than sweet.

If the Hon. Member on the other side is unaware of what is been happening in Guyana, I think it is most unfortunate. I also want to say that the import of the changes that are proposed here will mean that in future the practice of this Government of ignoring the Reports of the Auditor General... *[Interruption]*

Mr. Speaker: Mr. Greenidge, I urge you not to allow yourself to be distracted. Please allow the Member to speak.

Mr. Greenidge: I am tempted to refer our colleagues to the 2010 Auditor General's Report...
[**Ms. Shadick:** Well we have not looked at that as yet.] ...but it has been laid - which makes reference to what one commentator observed as serial abuse, for example, of the Contingencies Fund and the continuous ignoring of the recommendations by the House.

Mr. Speaker, what I should like to take the opportunity to do is to commend the Government for doing the right thing at last. I am reminded of Winston Churchill's reaction when he was told that the United States had taken certain steps in the course of the Second World War saying that one can always depend, although we cannot use that term in this case, upon the Government to do the right thing after they have tried everything else. That is what has happened here. We can commend them for that. In the light of that I would like to invite the House to withdraw the motion. Thank you very much.

Mr. Speaker: You would like to invite the House to...?

Mr. Greenidge: To note that I would like to withdraw the motion.

Mr. Speaker: Are you formally withdrawing the motion? [*Interruption*] Order! Hon. Members, I think that we were all taken by surprise. I certainly am as I have been given a long list of persons to speak and I would have appreciated the courtesy of being notified that the motion would not have proceeded. That is not to say, that a Member does not have the right to withdraw his or her motion at the time. I must say that I wish to commend you, Sir, for your dignified stand and that there is nothing to explain but I must stay that... [*Interruption*] If in fact the Member feels that the terms of his motion have been met he has done the proper thing, which I wish to commend him for, by withdrawing it. I so thank you and I so recognise that you have done the right and proper thing.

The motion was withdrawn.

NATIONAL ASSETS

WHEREAS in their recent reports on transparency and corruption the international community, including the World Economic Forum, Transparency International and the International Bank for Reconstruction and Development (IBRD) have rated Guyana poorly;

AND WHEREAS Guyanese are concerned about the widely reported acts of lawlessness in the guardianship of our national resources and assets as well as the lack of transparency and accountability associated with the disposal of those assets,

“BE IT RESOLVED:

That this National Assembly requests the responsible Ministers of Government to:

- (a) Provide the National Assembly with a report in keeping with the law, on the disposal by sale or otherwise of all state lands, including the terms on which they were disposed of and the criteria used, which took place: Further between the date of announcement (Sunday, 9th October, 2011) of the National and Regional Elections and 31st December, 2011 and between 1st January, 2000 and 9th October, 2011;
- (b) Make financial provision for the urgent commissioning of an independent financial audit of the operations of the National Industrial Commercial

BE IT FURTHER RESOLVED:

That the relevant Ministers of Government provide the National Assembly as early as possible with:

- (a) A detailed report on the disposal by sale or otherwise of all state assets entrusted to NICIL and the Privatisation Unit, the terms on which they were disposed of and the criteria used;
- (b) The outstanding bi-annual reports and annual audited accounts required of NICIL and the Privatisation Unit under the relevant legislation;
- (c) The handing over report from the former Executive Director of NICIL (and Head of the Privatisation Unit and), Winston Brassington, if applicable at this time;

- (d) A report on the disposal by sale or otherwise of all other state assets, including the terms on which they were disposed of and the criteria used;

BE IT FURTHER RESOLVED:

That a report on all the fiscal concessions, including duty free concessions, granted in response to specific requests or as part of contracts awarded by the Tender Board and the criteria on which these awards were based be placed before the National Assembly for review;

BE IT FURTHER RESOLVED:

That the relevant Minister shall lay in the National Assembly for review and where applicable, for ratification, for ratification, all international agreements, (including mining agreements involving the award of state lands and fiscal concessions), signed by the Government since 1st January, 2000; and

BE IT FURTHER RESOLVED:

That all the aforesaid are done on or before the 1st June, 2012.” [*Mr. Greenidge*]

Mr. Greenidge: Thank you very much, Mr. Speaker. I rise to address this issue of National Assets standing in my name and I am just trying to get my documents together. Mr. Speaker, you will be aware that the issues we face in relation to development turns very critically, upon the management of our resources. The resources of Guyana are quite extensive, we like to tell the world, and yet in reality the economic performance that we have experienced over the last 15 years have been less than sterling; it is not matched by the resources that we are so proud to boast of. [**Ms. Shadick:** Why did you not go back to 1990?]

6.29 p.m.

Mr. Speaker: Ms. Shadick, I believe that you are listed as one of the Members who will be speaking to this motion. I look forward to hearing...

Ms. Shadick: No Sir. I am sorry.

Mr. Speaker: Well, I hope that you do. Proceed, Mr. Greenidge. I wish that you would have less interruption from the Hon. Member.

Mr. Greenidge: Mr. Speaker, I reconfirm my comment, that is, that the economic experience over the last fifty years does not match the quality or quantity of resources that the country has. It is unfortunate that our colleagues, on the other side, find it inconvenient to admit to what is obvious to the rest of the world.

The problem of the management of the national assets is what we are seeking to address here. In relation to these national assets, the request is that...The assets of land, properties and financial resources are the subject of much debate outside of this House. Most recently, we would have seen in the case of National Industrial & Commercial Investment Ltd. (NICIL), for example, the debate first triggered by the actions, presumably, taken on the basis of the advice of the distinguished Attorney General, in the courts. The Member asked about the debates. That is where it started. It went to a different level during the course of the 2011 National and Regional Elections, to the point where we found ourselves with a public servant, paid from the public purse, attacking Members of Parliament, in public, ostensibly with attempts to refute what was, obviously, a set of political statements, rather than attempting to answer the questions that were being raised about the disposal of financial assets and financial resources.

The National Assembly is, in this motion, being asked... Since there is so much controversy over what volume of resources is available, what volume of resources was made available to NICIL and what it did with those resources, we are, in this motion, calling upon the Government to have the relevant Ministers report, in keeping with the law, on the disposal and sale, or otherwise, of a range of assets – these assets that are in our patrimony. Assets which the Government, in the form of the President as well as his identified Ministers, has an obligation to manage with a degree of transparency, without the order of corruption, and in the national interest. The debates out there suggest that this has not been happening.

We have been told, on a number of occasions, that estimates of the amounts of resources available to some of these entities, and NICIL, in particular, are not correct. We need not spend time in public debating whether the estimates are correct or not. What the Government has an obligation to do is to bring to this House the resources in question. Of the lands available to the Government and for which it has disposed of, we would like to know the criteria informing the disposal of those assets; the basis upon which they were priced – whether it be Guyana Telephone and Telegraph Company (GT&T) shares or whether it be land in which the

Government provided itself with resources when, in fact, those resources were meant to be managed on behalf of the people.

We are asking, specifically, in the first resolved clause that between specific dates, that is, 9th October and 31st December, of last year, and between 1st January, 2000 and 9th December, of last year, that the relevant Ministers bring to the House reports on all of the assets in question which have been disposed of.

Because of the degree of acrimony, the unsatisfactory explanations given by an official who, when the election was completed, announced to the public that he was resigning and going out of the country...When he discovered that the People's Progressive Party Civic (PPP/C) had won the presidency, he suddenly found it difficult to leave his seat and is being paid, apparently, as a consultant, but still is carrying on the operations of the most important agency which controls the disposal of national assets.

The volume of resources directed to NICIL and the extent to which it has disposed of those resources really has no parallel in our recent history. **[Mr. Neendkumar: You set up NICIL].** It is a very significant proportion of the national resources and, therefore, what we are asking...If colleagues wish, I am happy to explain the circumstances under which NICIL was established. So I will come back to that in a minute.

Let me, if I may, Mr. Speaker, explain what it is that we are seeking. In the light of the failure of NICIL to adhere to the obligations that are associated with the special status, it has been given as an agency managing extra budgetary funds, we call upon the House for arrangements to be made for an independent financial audit of the operations of this National Industrial Commercial Investment Limited, as well as the Privatisation Unit.

Let me just make one point clear, Mr. Speaker, if I may. Notwithstanding what the Government has been saying, and its – I do not know whether he is self-appointed - other spokesman, Mr. Brassington, has been saying, the reports that NICIL should have been providing to this House have not been provided. The last report laid in this House was in 2006, and that was only recently laid. It was laid in 2006; it is now 2012 and, in between whiles, a considerable volume of resources has been passed to NICIL and, apparently, passed out of NICIL. Some of those resources have been passed to Members even on the other side of this House. What we are

saying is to let the Ministers, who are responsible, indicate what has actually been done with the resources at their disposal - land, financial resources, and other resources which NICIL controls.

The Government is responsible for the disposal of those assets and we are asking, whether they were disposed of by sale, or otherwise, that they specifically be handled by NICIL. I am making two points just to make it clear. The overall assets of land, properties, and so forth, pertaining to residential, mining concessions, have to be reported on. That is at the general level. The stock of assets, we need a report on for the periods that have been stated. For those specifically handled by NICIL, we would like, also, in addition to a special audit, a detailed report on the sale, or otherwise, of the assets entrusted to it and the Privatisation Unit, as well as the terms under which they were disposed of and the criteria that they used.

I wish to remind the House that the Fiscal Management and Accountability Act (FMAA) specifically obliges NICIL to provide biannual reports and annual audited accounts. What reports have been provided, as far as I am aware, are consolidated reports. The individual entity has not been exempted from providing its report, notwithstanding the fact that NICIL, as whole, must report. So whether it is Guyana Oil Company (GUYOIL) or Guyana National Printers Limited (GNPL) or any of the others, it is obliged to report, and NICIL and the Privatisation Unit are also obliged to report, and the Minister of Finance is, in that case, is the one who is supposed to lay the reports, as he has done with the ones that are already laid to in the House. It is also in the case that if, indeed, the head of NICIL has resigned, then I think that we should require from the Minister, given the controversy, a handing over report so that we will know exactly what he was doing with the resources and the criteria that were used.

May I go on to say that in addition to NICIL, there are a number of resources emanating from the exercise of the powers of the Minister of Finance, and some of his colleagues, and these pertain to fiscal concessions. I have in my own presentations, in the past, drawn attention to what appeared to be an extensive number of entities operating, having brought in, under arrangement that are not always clear, whether it is vehicles, equipment, and so forth, on a duty-free basis. The World Bank and others, in working with the Government of Guyana on the improvement to the financial management, had called upon the Government to reduce the number of fiscal concessions, the extent and the scope of fiscal concessions, that it had been exercising. It appears that having done that initially, it has gone back to the old situation of extensive fiscal

concessions. But, in any case, even if it has not done so, the criteria – the basis upon which these concessions are granted – need to be set out for us in writing so that we can know who and upon the basis of which they have been granted.

I urge that this matter is taken seriously, because the management of the fiscal system cannot remain defensible if it turns upon friendships and whims and fancies, rather than on transparent and defensible criteria. **[Mr. Ganga Persaud: Are you drawing on experience?]** Yes. I am drawing on experience. I have had experience in Guyana and elsewhere. I am happy to bring that for your benefit. What I am saying is that the fiscal concessions and the basis on which they are granted should also be reported on.

The other element of the motion pertains to the agreements that have been signed with international agencies and the private sector. I am speaking here of the various agreements, mining agreements and otherwise. Before my colleagues jump in to misrepresent what has been said, let me just confirm that I am speaking of mining agreements involving the award of state lands and fiscal concessions which would have been signed by the Government since 2001.

These are the list of actions that we call upon the Government to address and to provide us with it in good time, so that we, as a House, can arrive at a reasoned position regarding the disposal of the assets for which the Government and its agencies have been given charge.

I would like to commend these actions to the House and invite my colleagues to react.

Mr. Hinds: I have had different emotions on this motion brought by the Hon. Member.

In the previous motion, which he withdrew, I think he spoke about it being a piece with the others. To some extent, these motions, coming together, seem, to me, to want to paint a certain picture of this Government. On the other hand, some of his presentations seem to suggest a desire to understand and to learn of things that are happening. My comment immediately to that is that much of what the Hon. Member has been asking for, in this motion in particular, has been presented, for time to time, in this House. I have mixed emotions on the purpose and intent of this motion. I promise you, Mr. Speaker, Hon. Members, that I will take it that this is an earnest motion and this is not a motion, as I said earlier, all aimed at throwing as much mud as could be thrown, hoping that some sort of mud sticks and, maybe, that a number of our citizenry are left

confused about what is happening in Guyana and, in particular, what is happening, in this instance, with our national assets.

I think that we need to cast our minds back a bit, again. I know that the Hon. Member did speak about our experiences over the last fifty years not matching our expectations. I say that in this period that we have been in Government... We have to recall that we came into Government following a period when the ideological position of the state owning all enterprises, all economic activities, was prevailing. We saw a change in that ideological position, at least in practise. I do not think it was ever said so in plain words and explicitly, but in practise there was that change after 1987-1989 and we saw the beginnings of privatisation of the many Government-owned enterprises that had been nationalised, starting in the 1970s.

If we talk about things being hidden and opaque, not transparent, we should go back to that period and recall what was happening then. We need to refresh our minds. It is in that circumstance that we came into Government and we immediately promulgated our Privatisation Policy Framework Paper and that has been our guide. As far as humanly possible, we have been adhering to this framework paper for the privatisation of enterprises that were owned by the Government. I think it would be good for us all to review this paper which has been a public document, issued by the Minister of Finance since June, 1993. It has a statement of policy, objectives; the guidelines for privatisation are laid out; the modes of privatisation are laid out. The institutional framework, the regulatory framework, enterprise selection and prioritisation, enterprise eligible for privatisation, timetable for privatisation, rules of competitive bidding, organisational chart of privatisation process, functions of the Privatisation Unit, public corporations divested from 1989 to 1992, corporations with Government participation, are listed in here.

From the very first, we turned the page on the actions of Government in regard of these things which the Hon. Member has placed before us. We introduced a new page in Guyana in these matters with this paper.

Similarly, Sir, we have presented here another document, which has been publicly available since July, 2008, which lists the privatisation programme, from 1993 to 2008. This is a summary of all of the privatisation transactions and actions from 1993 to 2008. I can say, Sir, that there is a

follow on being prepared, even at this time. It is in draft form and we hope that before the end of this year it will be available and would be made public. In this document, publicly available since 2008, we have listed and reported on privatisation, since 1993 to 2008.

Listed here are Guyana Timbers Limited and Guyana Telecommunication Corporation (GTC). These are ones that we came and met. Then there are some that we did - Demerara Distillers Ltd. (DDL), Seals and Packaging Industries Limited (SAPIL), Forte Crest Guyana, Guyana Bank for Trade and Industry (GBTI), Guyana Pharmaceutical Corporation (GPC), Guyana National Engineering Corporation (GNEC), Guyana Stores Ltd. (GSL), Guyana Oil Company (GUYOIL), Guyana Stockfeeds Ltd., (GFSL), National Edible Oil Company Ltd. (NEOCOL), Hope Coconut Estate, Guyana National Printers Ltd., (GNPL), Guyana National Corporative Bank (GNCB) and Guyana Agricultural and Industrial Development Bank (GAIBANK). There is a good summary here.

There has been questioning about fiscal incentives that are provided. This is an area that, admittedly, our people seem to have mixed positions from time to time. But, first of all, let me say that there are two documents here – *The Fiscal Incentive Institutional Framework for Investment in Guyana* which lays out the fiscal incentives. It states the laws on which these are based. **[Mr. B. Williams:** You are saying that, to say what, Prime Minister?] I am saying it to show that the questions raised by the Hon. Member Mr. Greenidge, in his motion, are adequately answered, presented and available. They are adequately available to persons who want to find out about these things. That is what I am saying.

There is also the *Guyana Revenue Authority Investment and Exemption Guide* which also speaks to the same sorts of things. An importance difference, there is, from before 1992 to now, is that these are available. They are provided to all persons, local and foreign, who want to pursue investments in Guyana and so they know what to expect. They know what they should get and they know what other people should get. They expect that they would get what is listed in here. We now have an open, transparent system. At least, much more open than before 1992.

There were some questions raised about our natural resources. I happen to have been in that area, particularly bauxite, but associated with other things too, both before I came into this honourable House and since I came into it, and it appears to me that our natural resources are not, as many of

our people seem to be thinking, and many people seem to be advocating, golden eggs out there and it is to just put one's hand out and pick them up. In fact, if anything at all, we should know that we have been badly burnt by many of the enterprises which we nationalised from the 1970s. In fact, in my view, our natural resources, if they were in so much of great bounty, would have been developed rapidly already. The fact is that they give us an opportunity to work and earn an income and it is very challenging and very demanding work, also.

I want to respond, too, to issues that I have experienced. Reference was made to World Bank, International Monetary Fund (IMF) and various bodies which came along, and I would say this, in the early days of the 1990s - I am saying this, too, particularly with respect to issues of incentives - many of those institutions, their people, would have come along and they would have said that our country was not getting the rates of investments that it should have been getting. People are not going into mining, forestry and various sectors as rapidly as we think they should. They had suggested that our incentives were not good enough and not attractive enough. It seems logical. If people are not coming to Guyana and they are going elsewhere, our incentives are not logical enough. In fact, there was even a study and when it came out it stated that in the area of gold, in particular, our systems of incentives and total attraction were probably...Only, maybe, the United States of America had a more difficult system than us, particularly in its environmental approvals, and so on. We were more difficult and more demanding, particularly in royalty, than nearly every other country, similarly for petroleum. Do you know what?

6.59 p.m.

In the last year ago or so when there was much more exuberance, I would say, in the search for petroleum off our coast, many of those same people came around again, another time, and they said that maybe too much incentives were being given. I guess my face betrayed my thoughts and one person went on to say, "Well, we know you had agreements, and contracts, and those things are sacred, they are not to be touched, but maybe if we re-read them for you, now, we may find that you do not have to give as much as you think you had to give before." I put this to this honourable House because this is a situation in which we must place much of what the honourable Member had asked about and, maybe, even much of the criticism that comes to us over time. On the one hand, that we are giving away too much incentive and that we are playing

favourites, but we could not play favourites when the incentives, which people must expect, are laid out plainly in a number of places. We could not play a favourite in such a situation.

Our position is that much of what is in this motion of the honourable Member is ill-advised and wrongly pursued. There are much better ways; much of the information is out there, and is available, and more than that there is in place now, a Parliamentary Sectoral Committee which has been dedicated to addressing just these questions. The Committee on Economic Services is designed on purpose, particularly, to answer these questions. Where there is not enough detail available in the public then the Committee on Economic Services is there to address those questions. I had asked, maybe too late, the Parliament Office here to prepare some lists of information that has been available, some of which have been laid in the House and a number of which have been available in the *Gazette* - no need to lay those in the House. There are some lists here and this is only a partial listing of many of the items that the Hon. Member has called for in his motion.

I do not want to detain this House much longer. I could speak much more on it, but I think that I have spoken to the thrust of this motion. There is adequate reporting; there is an adequate means in the form of the Committee on Economic Services for more information to be had. Generally, though, this is a broad- brush motion. There is, for example, in the “BE IT RESOLVED” clause, part (a), “Provide the National Assembly with a report in keeping with the law...” and this is a very broad statement here. We have worked at it; we have the listing; we have thought about the laws which would apply, and we have a listing for the laws which we think would apply; and we think that we are quite largely in compliance with the various laws that would apply. There is, in one motion here, a requirement for a biannual report and I have noticed that the honourable Member did refer to it, again, in his address. Here we would have some differences. Our studies suggest, to us, that the biannual reporting mechanism is required particularly for financial-type institutions. We do not know immediately which enterprise the Government owns, right now, falls within that law and for which the biannual reporting would be required.

On review, and after my other colleagues would have spoken in much more detail, on a number of areas of this motion, I would like to encourage the Hon. Member to think again and, maybe for second time, withdraw this motion today.

I thank you. [*Applause*]

Mr. Speaker: Hon. Members, I think this would be a good time to take the suspension. It is five minutes after seven o' clock. I notice that the Chamber is starting to get a bit hot and humid, and maybe during the recess we could take a look at the air conditioners. We will take the suspension for half an hour and then resume at twenty-five minutes to eight o' clock.

Sitting suspended at 7.06 p.m.

Sitting resumed at 7.44 p.m.

Mr. Scott: I heard the Prime Minister in his presentation in which he was boasting about the fact that the party or the Government is no longer socialist but has moved onto the level of privatisation. Private businesses, which are privatised, one may know that they have the practice of transparency and timely reports. This motion, which we have here, deals with not having timely reports and that is why we are asking that it now takes place. So, the Prime Minister's position about timeliness or similarity between privatisation and private enterprises and this Government's reports is not really in sync.

Under the ex-President Jagdeo and in the early months of the new President, the PPP Government called the Opposition many names. It called the Opposition Members malicious exaggerators and all other kinds of names. Now that the Parliament has more oversight over the nation's monitoring of Government's spending and economic behaviour the *chickens are coming home to roost*. From NICIL to National Communications Network (NCN), we now seem to have substantive evidence of corruption and there is more to follow. Leaders who were tasked with the responsibility of managing the resources of a nation are required to do so with transparency, full accountability and honesty. It is the trust of an entire nation that they are dealing with. To use their acquired skills to enrich their families, friends and themselves, it is to engage in economic sabotage of an entire country. For every dollar stolen a child dies.

Countries around the world deal with corruption in different ways. China deals with vagabonds and anti-nationalists by executing them. We recall the businessmen and the businesswomen who sold the contaminated milk; they were executed. *Kaieteur News* reported, in its 8th of June, 2012 edition, of a similar sentence that was carried out on a functionary who had taken bribes. In

Bangladesh, an ex-Prime Minister's son was jailed for bribery. Other countries have effective anti-corruption measures that derail temptation through very effective anti-corruption measures. One of the editorials I read stated: "Corruption occurs in all countries, rich or poor, but thrives in environments where checks on those entrusted in powers are loose." Civil society is poorly represented and poverty is entrenched, and inequalities are vast. We, in Guyana, have not yet prosecuted anyone for economic crimes although our international rating for corruption and lack of transparency is indeed poor. Our laws require much vigour and speed of prosecution.

Transparency International has listed Guyana at one hundred and thirty-four out of one hundred and eighty-three countries in a survey for corruption. In this survey our score is 2.5 out of ten - a definite "F". A father watches a child die because he cannot afford to pay for overpriced drugs. A mother sees her malnourished child wasted away before her eyes because she can only look at the goods in the grocery but cannot afford to buy. At some point they make the connection between their suffering and the lavish swimming pool lifestyle of those who are incorrigibly corrupt. This is when the rule of law takes on a different connotation as happened in Biafra during Nigeria's civil war, when Government Ministers fled.

Ms. Teixeira: Mr. Speaker, on a Point of Order, under Standing Order 41, I think Mr. Scott has a right to his opinion, but that is not the motion he is speaking to. The motion is on "National Assets" and not on what he thinks is corruption. Maybe it is for another motion that is being drafted by Mr. Greenidge to come later on, but it is not this motion.

Mr. Speaker: Hon. Member Mr. Scott, I did note the content of the motion and the resolved clauses and, I believe, that while they did not specifically mention corruption, it is an inescapable feature. However, I would ask you to speak to the motion before us. You may need to focus on the motion and the resolved clauses a bit more.

Mr. Scott: I would like to point out, at this point of time, that number two of the WHEREAS clause, Mr. Greenidge addressed "...lack of transparency and accountability associated with the disposal of assets". If we were to use another word for lack of accountability for the disposal of assets, we can very well end up with the use of the word "corruption." What I am showing, Sir, is not necessarily a waiver in the motion; it is just that I was showing where people have transgressed in Biafra and where societies had undergone changes because of the transgression

of Government. I am merely building on..., and if perhaps, Sir, you would allow me two seconds to finish the point I was making I think even Madam Teixeira would understand. [Mr. Benn: Biafra was a session.] I was not finished with Biafra, so if Madam Teixeira would... [Mr. Benn: It is my object to the use of Biafra.] Well, then you have to stand up.

Mr. Speaker: What is that? Sorry. There is a speaker who is sitting and I have ruled that you can proceed. I do not know that any Member has the right to object to you speaking, but I do wish you to proceed...

Mr. Scott: Okay Sir. As it has happened also in Latin America where oligarchs stole their way to eighty per cent of the resources of land, the bottom ten per cent of those countries, as Cuba, Nicaragua and Peru, turned into revolutionary countries to ascertain the rights of the dispossessed to a fair share of the pie. This is the point; we do not want that to happen here, Sir. We want fairness of distribution and that is the point I was trying to make. That is why today this motion seeks to bring some measures of accountability and redress, and, if adopted, will engage the people in the process of not only accounting for the assets, but also begin the reclamation of misappropriated assets, and in this process we will see justice served to all.

NICIL and the Privatisation Unit are the agencies that control the vesting of the state's assets which have been privatised and that will, in the future, still be privatised. They, on our behalf, have various levels of interest in a number of state businesses, for example, GUYOIL, NCN and others. They are the stewards of the people. These assets are owned by the people of Guyana. It is our contention that all assets, in whatever form they take, that are being managed by NICIL, must have regular reports made to this National Assembly. We are here for that reason.

NICIL was incorporated in 1991, with the Government of Guyana being the sole owner. NICIL and the Privatisation Unit are the vesting authority that works on our behalf. Billions of dollars are channelled through their accounts for onward transmission to be deposited into the Consolidated Fund. It is therefore clear that these assets, moneys and concessions, are received, invested and retained on behalf of the people of Guyana. Since ownership belongs to the people, it is the legal responsibility of those tasked with the management of this entity to submit full annual reports and accounts to the people's representatives in the National Assembly, according

to the law. In this year 2012, such reports were last submitted for 2004. I am told, unofficially, that reports of 2006 will soon be submitted. I have not seen them.

What, Sir, can be responsible for this gross dereliction of duty by responsible leaders? Why there is no statements to the National Assembly about the absent of reports from 2007 to 2012? Can such arrogance, and contempt for Guyanese, exceed itself? Is the Minister of Finance satisfied with this stage of non-compliance when section 48 of the Public Corporation Act requires NCIL to keep its accounts to its satisfaction and that these accounts must be audited? It is this neglect for timely audits that has allowed functionaries of NCN to be engaged in rascality and internal...

Mr. Speaker: Hon. Member, I would ask you to withdraw that ...

Mr. Scott: ...alleged rascality.

Mr. Speaker: I would ask that you withdraw it. I do not think there have been any findings or fact on any of ...

Mr. Scott: I would withdraw that part, Sir. It is for this lack of timely reporting and investigation that has caused us to have to look twice at the workings of NCN. An internal investigation into the missing funds now dominates the front pages of the press. Some middle level functionaries are sent on leave, but we are weary of internal investigations at this eleven hour. We need an independent investigation into the apparent financial irregularities there. This further highlights the need for timely audits. We fear that the cancer of corruption will be revealed by the corporations that operate under the aegis of NICIL. In such an environment of non-accountability of the country's assets, would you be surprised, Sir, that the sale of land at Ruimveldt, Linden and at GuySuCo locations was executed without the publishing of sales prices? We in the National Assembly, and by extension the people, need to know the official valuation for each plot of land and why the sales prices were not placed into the people's account, into the Consolidated Fund, as required by article 216 of the Constitution of the Republic of Guyana.

Where, Sir, are these huge sums hidden? A full report is now demanded. NICIL has not given us up to date accounting for its stewardship, but, yet, it proposes to invest \$4 billion in the questionable Marriot Hotel project. How can it spend so freely, but is tardy in reporting to the

owners of the state of this company? We are demanding a full report on the disposal of all the state's assets, the terms of disposal and the criteria used. We are further supporting the call for the urgent commissioning of an independent forensic audit of all the operations of NICIL and the Privatisation Unit. All contracts awarded by the tender board are to be placed before this Assembly for review as demanded by this motion.

Sir, the citizens are demanding a full account from these managers and we promised all Guyanese that we would go after these assets, whatever and wherever they are sequestered. I urge therefore, with this aim in mind, full support for this motion.

I thank you. [*Applause*]

Minister of Housing and Water [Mr. Ali]: After listening to the Hon. Member Mr. Scott, I am reminded of a famous saying, "Like this man born with *caal*." [**Hon. Member (Opposition):** It is caul.] It is not an English word; it is *caal*. You are not countryman as me. Now that I have engaged the Opposition I would wish to proceed.

I can understand the genesis of this motion, as the author of this motion presided over a very dark blanket in the era of the economic and social development of this country. I can also understand why the mover of this motion is so concerned about National Assets, because in 1992 there was a flight of the assets. It was famously reported that one man moved with an entire bus park. The buses were branded "Food for the Poor." When we talk about National Assets, I can still hear, ringing in my head, the honourable Moses Nagamootoo standing, in 1992, in 1993, and saying, "Where has the barge gone, the lost barge?" I can recall the famous photograph taken, about the hydro project, that asset could not have been found. I know many poor Guyanese are still looking for the assets in Globe Trust. Where has Globe Trust gone? So, indeed, the author of the motion is moving from a very good genesis. He understands the historical context in which the motion is moved and I think he is trying to help us to correct history; I will try to assist him down that road.

Prior to October, 1992 - let me remind this honourable House and by extension our brothers and sisters out there - NICIL was operated by the State Planning Secretariat, under the direct hand of the then Minister of Finance and there was, not a body, not a board, a figurehead there, and this is an undisputed fact. So, all the assets that went on flight must be accounted for by the sole hand

that administered NICIL at that time. We must ensure that the history is so written that those that had a direct hand in administering the injustice of taking away the assets from our people, also, are held accountable to the people of this country. We are going to ensure that that level of accountability, as is required by this Government, must also go back to test what was there and where we have come from.

To understand the genesis too, let us look at the premise from which the motion is derived. I am quoting directly from the motion:

“WHEREAS in their recent reports on transparency and corruption the international community including...”

It is including a number of agencies.

“...rated Guyana poorly;

AND WHEREAS Guyanese are concerned about the widely...”

8. 06 p.m.

There is no pointing to any direct report; there is no pointing to any direct statistical fact; there is no pointing to any analytically intelligent position. There is basically a pointing from a perception - a basis of perception.

But let me take this opportunity to point to facts, and to point to independent positions. I will start, because it is important for us to have a general understanding of the issue of accountability and transparency, by pointing to the *Guyana and the IDB: Partners For Progress* report. The copy is online; the copy is available in any public space.

Let us look at what is stated on the issue of transformation, accountability and transparency, page 12:

“The 1992 elections signaled a return to democracy. The People’s Progressive Party (PPP) won the majority votes after 28 years in opposition, and Dr. Cheddi Jagan was elected president. The new Government embraced market economy policies. One USAID assessment asserted that these policies had resulted in the highest rate of economic

growth in the hemisphere, sharply reduced inflation, increased exports, contributed to greater foreign investment, and allowed for more productive diversification. These achievements emerged from a combination of bilateral support...”

And policy reforms.

Then, if you go to page 40 of the same report, it states:

“According to the standardised index...”

And it is known what the standardised index is. The standardised index measures a number of pillars of development and growth.

“...Guyana moved up from ranking at about 96 percent of the total sample group in 2008 to 78 percent in 2010...”

It was from ninety-six per cent to seventy-eight per cent, an improvement of nineteen per cent.

“Its absolute scores improve by 9.1 percent. The results show higher improvements, not only in the pillars more relevant to Guyana’s stage of development (first four pillars) but also important advances in the fifth and ninth pillars, preparing the country for the next development stage.”

However, since the last elections we have seen consistent efforts by the Members of the Opposition to stymie our progress in accelerating growth and development on the ninth, tenth and eleventh pillars.

Let us be responsible. I can understand the howling, but let me say this that perhaps sometimes we need to review the value for money we get. There is one consultant, sitting on the opposite side of this House, who was paid G\$309,000 per day. Is that conscientious?

I will continue. International Development Association (IDA) at work, Guyana Poverty Reduction on Public Management Operation, September, 2008 had this to say, on more transparent and efficient public financial management and procurement. This is what it states:

“An assessment by the World Bank, Inter-American Development Bank and the European Union Fund found that management of public finances in Guyana improved considerably in the last five years.”

It part, as a result of the Poverty Reduction on Public Management Operation (PRPMO) [Mr. Nagamootoo: Call the name.] I would not call the name but who the cap fits let them wear it.

“New laws and regulations were enacted to address systemic financial management weaknesses and close loopholes. A new Audit Act was enacted, giving the Auditor General the powers to carry out effective and independent audits. The Lottery Fund was audited. Public procurement regulations and standard bidding documents were introduced for use by National and Regional Tender Boards. PRPMO supported the launching of the first phase of the fiduciary oversight strengthening programme.”

These are the developments. These are the advancements in transparency and accountability that we must talk more about. Indeed Guyana, we, as a people, and as a Government, have advanced forward and improved tremendously the transparency and accountability of this country. So the genesis, the premise, on which the motion was written, is wrong.

Let us look at the history of NICIL. National assets are assets of a permanent value belonging to a country. While the national assets of Guyana were managed directly by the Government in 1990, NICIL was established as the primary agent of Government mandated to manage assets. Let us make sure we understand this. NICIL was established under the Companies Act and further institutionalised via the laying of the Privatisation Policy Framework Paper, 1993 to the National Assembly. This document here was laid in the National Assembly by this Government and it was accepted here, in this National Assembly. So when we speak about criteria, guidelines governing the sale of national assets and governing the privatisation process, it was all in here - the guidelines governing privatisation that was laid in the National Assembly. So it is unfair to try to create an impression that there was no basis, or that there was no public discourse, or that there was no acceptance on a document that outlines very clearly the rules, procedures, guidelines and principles governing the privatisation process of this country.

Furthermore, this document went further to identify the companies which will be privatised and those which will not be privatised. Mr. Speaker, if you look at the institutional arrangement governing privatisation in Guyana... This here, I would ask for it to be disputed. We have to be fair and honest; it is part of our oath.

There was a presentation in the Office of the President of which the Opposition was invited to discuss matters of the hydroelectricity – the Amaila Falls Hydropower Project. The Members turned up. Mr. Brassington made a presentation. At the end of the presentation the Hon. Member Mr. Ramjattan got up, went over to Mr. Brassington, shook his hands and congratulated him, and told him that he was satisfied with the information that was provided. Yet, this same Hon. Member went out in the public to say that the Amaila Falls Hydropower Project is...
[**Mr. Ramjattan:** Absolutely. You were not there by the way.] Are you denying it?
[*Interruption*]

Mr. Speaker: Hon. Members, can I have some order please? Mr. Ramjattan, I would allow you on a point of clarification under Standing Order 39, if you wish.

Mr. Ramjattan: I did congratulate Mr. Brassington for his presentation and said I will wait until the IDB finally make its call on the project. The IDB still has problems with it.

Ms. Ally: Lie!

Mr. Speaker: Okay, Hon. Members, I am preparing a glossary to add to the unparliamentary terms. “Lie” is one of them. So let us not use that word against another Member, please.

An Hon. Member: Were you there?

Mr. Ali: Figure it out. This is a case of dancing two different dances, one on the inside and one on the outside. The only problem is that he is dancing to the same tune. We have outlined here, in the document that was made public, the institutional arrangement for privatisation in Guyana. We do not need a motion to deal with this. These are documents that already exist. Any good researcher would have known this, would have tried to understand what documents - the data, the content - exist out there before drafting a motion. But this motion is what the Hon. Member Ms. Gail Teixeira described as “playing politics is pure politics”.

I now wish to outline thirteen points that speak directly to the issue of accountability and transparency in NICIL and in the disposal of assets. Let me make it very clear that the assets are publicly advertised. There is a clear bidding process. NICIL/Privatisation Unit was formed in July, 1990 by the PNC Government. The formation documents provided very wide powers. The directors have discretion over dividends. Let us understand the genesis. Directors have powers over the dividends, powers of the company, including what NICIL currently does, and more. The Privatisation Unit was formed in 1993 in accordance with the Privatisation Policy Framework White Paper that was laid in the National Assembly. The framework provided the base for transparent privatisation programme. According section 160 of the Companies Act of 1991, NICIL as a parent company, is required to prepare consolidated accounts or group of accounts. From 2002, NICIL, in discussion with the Auditor General, identified that consolidated accounts were required. NICIL set about this process with assistance, from whom? It was from Ram and Mc Rae.

Under section 22 of the Audit Act of 2004, the Auditor General is required to audit the accounts of NICIL as an entity, in which a majority interest rest with the state. NICIL has generally submitted in a timely basis its accounts for audit, that is, within four months of the end of each year. NICIL, as a company, has its audit completed up the end of 2010. Management letters have been issued up to the end of 2010. The year 2011 audit is currently on the way and is expected to be completed within a few weeks.

Mr. Greenidge: Mr. Speaker, on a Point of Order. The last presentation that the Minister of Finance made on this matter made reference to 2006. It is a 2006 Report we received here. If indeed NICIL prepared these...

Minister of Education [Ms. Manickchand]: What is the Point of Order?

Mr. Greenidge: The Point of Order is that it is inaccurate and it would appear to be a fabrication, of what it is more.

Mr. Speaker: Hon. Member, I will not uphold that Point of Order, because if one Member made a statement and another Member made another statement, that is a matter that is contradictory, and which can be used in your rebuttal to show and to point out that contradiction and it could be

clarified later. But I cannot stop a Member from making a statement as to a date and something has been done if that is his knowledge.

Mr. Greenidge: Mr. Speaker, it is the case of whether or not accounts were prepared and presented are matters of fact. They are not opinions, and the authority on this matter is the Minister of Finance. He has the responsibility for NICIL.

Mr. Speaker: Point is taken, but the point I am making is this: that if the Minister has made a statement and another Member made a statement that was not in consonant with what the Minister has said then it does raise a contraction, but I am in no position to rule that he is inaccurate or that the Minister is accurate. The Minister may have made a statement, but can you verify that the Minister of Finance's statement is a correct one? We cannot.

Mr. Greenidge: Can he therefore give us the source of that document and when it was laid?

Mr. Speaker: That I believe that I can allow. Hon. Minister, I would allow that question as to the source.

Mr. Ali: My source is my research with NICIL. [*Interruption*]

Mr. Greenidge: There is the letter as the transmitting the report, Mr. Speaker.

Mr. Speaker: I see three Members on their feet at the same time; I may have to rise too. Please be seated Mr. Greenidge. I am still speaking.

I have ruled that I will not uphold the Point of Order. A question may be put by any Member to the responsible Minister, on a later date, to find out and to ascertain whether or not what the Minister is saying is accurate or inaccurate. If it is his belief, based on his research, that the statements he is making are true and correct and he is prepared to stand by them - that is his belief - I would not rule that he is inaccurate or that his facts are wrong simply because another Minister, whether he or she is the subject and responsible Minister, has said otherwise and so I invite the Hon. Minister to proceed, but I would ask that, at some stage, the Minister of Finance, as an Hon. Member of this House, does provide a clarification. I will not prevent the Member from proceeding. Proceed Hon. Member.

Mr. Ali: We, on this side of this House, are not in the business of misrepresentation. We are not in that business. What we are presenting here is nothing but the facts - nothing but the hard facts. But, as you know, Mr. Speaker, the rush was filled with political venom so it could not have stopped to ascertain what the facts were. Let me repeat what I had to say. NICIL, as a company, has its audit completed up to the end of 2010. Management letters have been issued to the end of 2010. NICIL, Mr. Speaker...

Mr. Speaker: Hon. Minister, I will ask you now, your source is...

Mr. Ali: My research is with NICIL.

Mr. Speaker: Your source is...

Mr. Ali: NICIL.

Mr. Speaker: Is it the company or an officer of the company?

Mr. Ali: Mr. Speaker, I can assure you that the man who is responsible will confirm this.

Mr. Speaker: Very well. Proceed.

Minister of Finance [Dr. Singh]: Mr. Speaker, if I may, with your permission.

Mr. Speaker: Thank you.

Dr. Singh: This matter really is an extremely simple one. I am surprised that it would generate the level of consternation and confusion that it has, on that side of the House. I will say first of all that my colleague, the Minister of Housing and Water, was absolutely correct in his information. What he has said was in no way inconsistent with the fact that the latest annual report tabled in the National Assembly was the one referred to by the Hon. Member Mr. Greenidge. There is a difference between NICIL the company and NICIL the holding company or the group of companies that comprises NICIL.

The annual report for NICIL, because it is a holding company, includes consolidated accounts which will essentially comprise the aggregation of the accounts of all of the subsidiaries of NICIL, and for the annual report to be completed the consolidate accounts of the group have to

be completed and the annual report, in relation to those consolidated accounts, would have to be completed as well and then, of course, be brought to the National Assembly.

What the Hon. Member said was that NICIL, the company, has had its audits completed up to 2010 and that is a fact. But for the consolidated accounts to be completed everyone of NICIL subsidiaries has to be audited as well and then those accounts, consolidated on the consolidated accounts, will be audited. That is a fact. Anybody who is vaguely familiar with either the Companies Act, as it relates to holding companies, or groups of companies, or with the accounting arrangements that govern holding companies would be familiar with these facts.

Mr. Speaker: Thank you Sir.

Dr. Singh: So those, Mr. Speaker, are the facts.

Mr. Speaker: Mr. Greenidge, would you wish to, in legal parlance we would call it a kind of *voir dire* that is about to take place here, make a quick statement of clarification for your part before I ask the Minister to proceed? If you do not want to, you do not have to Sir. It is if you wish.

Mr. Greenidge: Mr. Speaker, as far as I am concerned, I do not have any difficulty with the explanation the Minister of Finance has given. He has given that explanation before, as regards the report. I object, however, to a Minister purportedly speaking on the Minister of Finance's behalf, using the same term to refer to two different entities in a bid to misrepresent the reality.

Mr. Speaker: That is a very strong statement you make, that he is. As I said, in rebuttal, you may point out those inconsistencies if you wish, but I do not think that I can stop the Minister from proceeding. Proceed Hon. Minister.

Mr. Ali: Mr. Speaker, my representation is a perfect representation of the reality. I wish to also take away this myth that reports are not submitted. During the last two years the Minister of Finance, who we are very proud of, has laid in the National Assembly over eighty-five sets of accounts related to NICIL, its subsidiaries, representing over fifty-nine per cent of the number of eligible years. Are they going to deny this too? Annual general meetings are held once the consolidated group accounts audits have been completed. Further, the myth that proceeds are not

transferred to the treasury...Between 1994 and 2011 proceeds totalling over \$12 billion were transferred to the treasury.

During 1994 to 2001, NICIL paid over \$2.3 billion to the treasury in dividends. During 2002 to 2011, NICIL paid over \$9.1 billion to the treasury in dividends. Further, during the last ten years, NICIL has paid its own expenses - made payment to the Mayor and City Council (M&CC), over \$363.8 million of taxes, covered the former operation of the former bauxite company, and financed the development of the public-private partnership. Those were some of the accomplishments of NICIL. Never before, in the history of our country has there been this level of respect, this level of seriousness, as it relates to Government accountability, transparency and accounting. That is also an undisputed fact. But there is still a lot more to be done.

The modernisation process of the financial sector still requires a lot of work, but I am confident that under the strong and committed hands of Dr. Ashni Singh lies the integrity, dignity and commitment to get this done.

Thank you. [*Applause*]

8.36 p.m.

Mr. Ramjattan: Thank you very much Mr. Speaker. The rancour just exhibited here revealed to me that there are certain things that, obviously, the Members of the other side do not want to bring to the fore, as requested by this motion.

Let me say, basically, what this motion is all about. What this motion is all about is to ensure that the Privatisation Unit, the company called the National Investment and Commercial Guyana Limited (NICIL), which is very much topical today, and certain other streams of revenue which streams very many members of our public - reporters and people out there - have been questioning through letters and complaints. All of those they would like to see in black and white in the form of that which we are asking here – in detailed reports to their disposals. It would be in a tradition that we thought that the Government would want to live by to say simply, “If you want the books, here are the books.” But we are going back to a period and we are saying that the origins of NICIL, the origins of this and that...and not delving directly and focussing on what we

have to focus on and that is the reports in relation to the sale of our assets. They are all stated in black and white here in the motion. The first BE IT RESOLVED clause:

“Provide the National Assembly with a report, in keeping with the law, on the disposal by sale or otherwise of all state lands...”

Please, if you did sell state lands to whosoever, it would be easily there documented unless the archival records are kept like in some communities that are very corrupt where we cannot find them. But indeed, if you are saying that there is nothing wrong and there is no corruption then you clearly can show us the books. Which piece of 700-acre land you sold to this person, what the price was, if it were tendered out and we can have that. That is all the motion is asking for. What we are seeking here is accountability that you so much spout, including the terms on which the assets were disposed and the criteria used. What is wrong with that? There is nothing wrong with that. And we are also indicating that we want to see between the dates 2000 to 2011 and it is important because of the fact that there are so many suspicions out there hanging in the air that if you do not want to do it, we in the National Assembly here are going to ask you to please provide a report.

What is so bad about Members of Parliament representing their constituency, a constituency which has been asking for this information, not getting it from the “Brassingtons” of the world asking here now the Ministers involved?

The second BE IT RESOLVED clause:

“Make financial provisions for the urgent commissioning of an independent financial audit...”

What we are saying here is that yes there can be what is called a giving of the books, but not with the proper auditing. You are saying that based on your research from NICIL that you have right up to 2010. We are saying that we want an independent financial audit that can be done in relation to all of these matters that we are asking for. There is nothing wrong about that! When there are the answers and the very hostile and antagonistic approach from Members of the Government just like a suspect under question, people get even more suspicious. That is what is happening here. Not only now do we believe that it can be cleared up by the explanations we are

seeking, but now we are getting more and more suspicious that there might be cover-ups involved. And we know it might all be very clear if the Government presents a report. The whole thing can be satisfactorily done.

The “BE IT FURTHER RESOLVED clause” has that the relevant Minister is to provide, as early as possible, a detailed report of the disposal or the sale of state assets. We did not know anything about ANSA McAL buying some land in Canje. [Mr. Nandlall: That is because it did not buy any!] Or whatever it paid for. We did not know that there was some million hectares of land going to some Indian firm. We had to read that from the Indian Times as published by the Kaieteur News. And we understand that we got a couple million US dollars. You did not come clean. So what makes you feel that when you say you are quoting from a book written by Brassington and NICIL that we are going to believe it? Then you went and sold some other things and we got the reports in the newspaper.

As we have understood, the Privatisation Unit is in some of these transactions. The Guyana Telephone and Telegraph Company Ltd. (GT&T) shared what the arrangements were – US\$25 million we understand it was sold for. Has the transaction been completed? All of these things...and if you want to live the Cheddi Jagan tradition as even Dr. Henry Jeffery said in an article, he would have said, “Show them the books!” But you do not want to show us the books. Why are you hiding the books?

We also have what we want here which is another revenue stream. That revenue stream, which I had made mention about in my budget speech, has to do, and it is here, with all the concessions and exemptions granted to each and every contractor. We understand that when a contractor gets some bit of road to make, he gets a whole set of exemptions and concessions for bulldozers and so on. We understand that that also is literally moneys that we could have otherwise gotten into the Treasury had the contractors paid up their duties and whatever other taxes. That is a stream of revenue so we are asking here for us to get all the computations of the waivers. These waivers can come into the billions of dollars and, moreover, we are going to know who gets what because the suspicion also is that there is a cabal or an oligarch, as the word is now going around, or what I called recently at a university debate, the sultanate, the favourites, the nepotism that goes with it. So that is what we want. Please give us the information. When there was a

contract given for Amaila Falls Road to a Fip Motilall, what were the exemptions he got? What is wrong with us asking the question and you now cumulatively doing that?

We also want to know a couple of things...

Mr. Benn: Mr. Speaker, the Hon. Member is suggesting, in his assertion with respect to the Fip Motilall contract on the Amaila Road, that he does not have the contract and that he is unaware of the concessions which were granted in that contract as in all the other contracts he has been provided with.

Mr. Speaker: The Minister is correct. I think you had asked for that and a number of other contracts to be provided and they were provided.

Mr. Ramjattan: That is true but he never gave the one for feasibilities. [An Hon. Member: The management contract.] He did not give the management contract and all of that. But whatever it is he gave me, it means then that he can do the complete report and give me. If he wants to say that that is duplication, then fine. But we want also information on the Pradovilles No. 2 and the lands that are being given away for Ministers and Presidents to buy and at what price. We want that. What is wrong with that? Was it given at a value that was really the market value? So when we are asking these questions, they are legitimate and we feel that the Government has an obligation to the Opposition to ensure that these are compiled as asked for here. That is all we are asking for. [Mr. Benn: We will show you.] If that is so then fine. We are going to get it. I am going to take my seat. Please provide it before the 1st July, 2012. Mr. Speaker, they have made a commitment that they are going to provide all of that.

Mr. Speaker: Who has? Is it Minister Benn?

Mr. Ramjattan: I just want to close by saying that in view of the Minister saying that...

Mr. Speaker: Which Minister is it?

Mr. Ramjattan: The one who is called Mr. Benn.

That is all we are asking for. Show us the books.

[Both Mr. Nandlall and Ms. Selman rose.]

Attorney General and Minister of Legal Affairs [Mr. Nandlall]: Thank you very much Mr. Speaker.

Mr. Speaker: One moment, Mr. Nandlall and Ms. Selman. Please be seated. I have been provided with a list, by the Chief Whips, which has Mr. Nandlall followed by Ms. Selman. I do not know if there is another list out there, but I will go with the one I have been provided with.

Ms. Ally: My list does not have Mr. Nandlall to speak. It has Dr. Ashni Singh.

Mr. Speaker: I will recognise Mr. Nandlall who my eye caught first and then Ms. Selman can go after.

Mr. Nandlall: I will be very brief, Mr. Speaker.

What this motion illustrates and what this debate is demonstrating is that Members of this Hon. House are not utilising the facilities which we have struggled hard to establish in this House and they are not utilising the reports and other documents that are brought here at taxpayers' expense. Millions of dollars are spent annually in the preparation of reports. We have restructured the entire parliamentary structure to allow for questions to be asked. We have established sectoral committees with oversight capabilities to request from sector Ministers, information, all of which could have been requested by utilising the existing facilities which are available at our disposal in this Parliament and yet another mechanism was chosen, an additional mechanism of filing a motion to request information which most of is available and has been provided.

The motion begins with the WHEREAS clause citing certain reports:

“WHEREAS in their recent reports on transparency and corruption the international community, including the World Economic Forum, Transparency International and the International Bank for Reconstruction and Development (IBRD) have rated Guyana poorly;”

A year is not cited so a person who wants to seriously debate this motion cannot go and identify the opening line of the motion in order to verify the veracity and the authenticity of this declaration which is made. We are doing the public's business here and we have to do it with certain standards. We have to respect each other. And the fact that a Member is coming here with

these grand declarations, citing - I can say with caprice now - reports to suit one's convenience but denying the other side which may have to reply to the report an opportunity of examining from whence the statements have come... And that is why the first WHEREAS clause ought not to be taken seriously.

Let us go to the second WHEREAS clause:

“AND WHEREAS Guyanese are concerned about the widely reported acts of lawlessness in the guardianship of our national resources and assets as well as the lack of transparency and accountability associated with the disposal of those assets,”

What is the source? Where have the Guyanese people expressed these views? I can say that the Guyanese people are concerned with “x”, “y” and “z” and move this whole Parliament on a motion to investigate. The vagueness, I think, is disrespectful to Your Honour as well as to the entire Assembly. And then it says:

“BE IT RESOLVED:

That this National Assembly requests the responsible Ministers of Government to:

- (a) Provide the National Assembly with a report in keeping with the law, on the disposal by sale or otherwise of all state lands, including the terms on which they were disposed of and the criteria used, which took place: Further between the date of announcement (Sunday, 9th October, 2011) of the National and Regional Elections and 31st December, 2011 and between 1st January, 2000 and 9th October, 2011;”

Which law? Not a single piece of legislation is cited. No particular Minister is identified. Must the entire Government go on this wild goose chase to search for documents and transactions? We do not know which law holds us accountable. Later on in the motion, I realised, there is some focus on NICIL, but, that aside, when one reads this WHEREAS clause by itself, it does not identify a Minister. It does not tell us what type of state assets we are dealing with. It does not tell us how far we should go back. Should we go back to when Mr. Greenidge was the Minister of Finance? So this is the type of vagaries and ambivalence that is affecting this type of motion. I will ask for a greater degree of diligence. I am supposed to speak on this and I do not know where to look. I do not know which law the Hon. Member is speaking about. There is no piece of

law in this country that deals with the disposal of state assets – none! It is a wild goose chase. Bring it in accordance with the law. Which law?

Then it states:

“(b) Make financial provision for the urgent commissioning of an independent financial audit of the operations of the National Industrial Commercial Investment Limited (NICIL) and the Privatisation Unit;”

These are bodies that are already being audited by the Auditor General and we heard, at length, how independent and how autonomous the Auditor General’s Office is. And today we gave it greater autonomy. Only today we heard how independent the Audit Office is and it is in place granted when my friend was the Minister of Finance, there was a great gap from 1983 to about 1991 where he did not produce to this Assembly an Auditor General’s report relating to the years that he was the Minister of Finance. So I could understand that. But we have moved on from that. We have moved on from that Mr. Greenidge. We corrected your lapses; we corrected your dereliction from duty and we have an Auditor General in place and we have ensured that the Auditor General audits every single state-run agency and every single agency that receives public funding, and the Auditor General, at the end of that process, produces a report which is laid here and then transmitted for intimate scrutiny at the Public Accounts Committee charged with the specific responsibility of examining, with microscopic detail, every single transaction. So are we going to burden the taxpayers of this country with another independent audit? Who is supposed to do this other independent audit? **[Members: Christopher Ram.]** Christopher Ram – let the record reflect – was also a consultant who worked with NICIL during 2003 and 2004 and he is my source. Christopher Ram is my source. He was also engaged.

As the Hon. Minister of Finance said and the Minister of Housing and Water explained, NICIL is an umbrella body with many companies, and there are various auditors, extrinsic of the government services, who are retained on a regular basis to audit various companies within the NICIL umbrella. Those accounts are then submitted in a consolidated way and they are audited by the Auditor General. I am not an accountant, but I know that because it is there and I have read it and I hope that my friends on that side will read it. As I said, Mr. Greenidge was away and for that reason alone I will excuse him. He came back with a nicely driven car, but, that

aside, he was away. But I cannot excuse Mr. Ramjattan because he has been on this side for most of the years and then he migrated to that side. [Dr. Ramsammy: He migrated without a car.] And there is a story about him and cars too but I will not deal with that here.

The motion continues:

“BE IT FURTHER RESOLVED:

That the relevant Ministers of Government provide the National Assembly as early as possible with:

- (a) A detailed report on the disposal by sale or otherwise of all state assets entrusted to NICIL and the Privatisation Unit, the terms on which they were disposed of and the criteria used;”

There is only one Minister who has responsibility in respect of NICIL and that is the Minister of Finance. So why is this motion calling on the entire Government to provide information about NICIL when it is a notorious fact that the Minister of Finance wields executive responsibility and parliamentary responsibility for NICIL? There again, a simple thing like that Mr. Greenidge could not have been more cautious about so as to correct. [Mr. Nagamootoo: Tell us where the billions of dollars went.] I will reply to you, Mr. Nagamootoo. I have a cheque in my pocket made payable to you by NICIL so I will deal with that just now. That will explain how many millions went. Relax.

Mr. Nagamootoo: May I enquire Sir, the amount of that cheque from Mr. Nandlall? He said he has a cheque for me.

Mr. Speaker: Are you clarifying quantum or...?

Mr. Nagamootoo: Yes. I will like to find out the quantum of that cheque from NICIL. I cannot wait to hear.

Mr. Speaker: It is good that we can have some...

Mr. Nandlall: I will not produce the cheque, Sir.

Mr. Speaker: You will not. The last Member to produce a cheque was the Minister of Home Affairs. So I thought you had something like that or a counterfoil.

Mr. Nandlall: Sir, I may employ the second step that the Minister of Home Affairs resorted to. He published the cheque in the newspaper. I prefer to use that route.

Mr. Ramjattan, at length, belaboured the point that he wants to know the basis upon which these assets were disposed, the mechanism which was used, and the policy which informed the process. My colleagues who spoke before me have explained that there is a privatisation policy framework document which was produced since 1993 and laid before this National Assembly. Mr. Ramjattan was a Member of this Assembly. Mr. Asgar Ally laid it. Mr. Nagamootoo was the Minister of Information at the time and yet the Members of the other side spoke as though this document does not exist.

Minister Irfaan Ali explained, at length, what obtained before and there was... This document is a direct product of the PPP/C 1992 Manifesto. We told the people, in 1992, that Mr. Greenidge was running a process that would not continue. It was a process whereby two rice mills – one at Black Bush Polder and one at Cane Grove – were sold by the Confidential Secretary to President Hugué Desmond Hoyte. Some state assets were sold through the State Planning Secretariat and some were sold through an agency at the Ministry of Finance. So there were about five different agencies dealing with the dissipation and sale of assets - no known procedure, no known policy, no criteria, no methodology. Nobody knew on what basis they were sold. And Mr. Nagamootoo and Mr. Ramjattan were on this side when we committed to the people of this country that we will craft a policy that will forever guide this Administration in relation to privatisation of state assets and this is the document that we have been using since 1992.

The document states the policy. It speaks to the objectives of the policy. It sets out the guidelines for privatisation. It speaks to the modes of privatisation. It speaks to the institutional and regulatory framework and it lists, as a preliminary list of assets, the first set of assets which the Government had intended, at the time, to privatise. And then NICIL followed up with another document. We are hearing what happened since. Utilising the policy outlined in this document, NICIL has been doing the privatisation business.

In 2008, the Executive Director of NICIL, at a symposium held at the Pegasus Hotel, to which Members of this Assembly, at the time, were invited, as well as the press, this document was launched.

9.06 p.m.

This document lists first of all every single transaction entered into by NICIL from 1993 to 2008. It identifies the property; it tells you how it was sold, whether by public tender, it tells the date the tender was received, it tells the date it was approved, it tells the price that it was sold for. All this information is public information. So, why is it that you come here and you convey to the press and the people of this country that you have no access to this document? All you have to do is read.

In anticipation and in preparation of this motion, as I was preparing, I was informed that there is another document similar to this which will bring us up to date from 2008 to 2011 of all the transactions entered into by NICIL, how it was done, when the bid was advertised, in which newspaper it was advertised, the date that it was advertised. All of that information again will be produced from 2008 to 2011. What else do you want? All you have to do is to read. I cannot force them to read, Mr. Speaker, I cannot!

This document is in the library of the Parliament. Dr. Ashni Singh gave an explanation and Mr. Irfaan Ali gave an explanation.

Mr. Speaker: Hon. Attorney General, you will do well to direct your arguments to me.

Mr. Nandlall: Sir, if I am holding up the documents in my hand and they are disputing its existence, much less if I am to say something.

Mr. Greenidge: Mr. Speaker, I crave you indulgence. It is quite entertaining at times to listen to our colleagues engage in these sorts of histrionics. The point that I think is being misrepresented here is that we are not asking for information specific or only pre-2004. The law requires these agencies to submit within six months of the end of year, the documentation. He is not answering to that, but rather telling us about documents produced in 2004 and elsewhere.

Mr. Nandlall: Sir, my friend wants to amend his motion. Your honour you will notice that I am going paragraph by paragraph. I did not write this; he wrote this. He cannot stand now and try to amend it. All I am doing is going through paragraph by paragraph that which he has...
[Interruption] Sir, he is disturbing me now, please.

Mr. Greenidge: I would happily leave the distinguished attorney general without disturbing him if he were to have read the document before he looked at it. He is reading to it now....

Mr. Speaker: Mr. Greenidge, we have to have a specific point of order. You have the right of reply. What is the point of the order? Allow the member to put his Point of Order.

Mr. Greenidge: I believe there is only one Speaker, Mr. Chairman. The dates for which the cover should apply are clearly specified in the document.

Mr. Speaker: As I said, Members should be given some latitude in their presentations. There is a right of reply inherent in the mover of the motion. Proceed Mr. Nandlall.

Mr. Nandlall: Sir, my friend's motion then continues with a resolve clause. It says:

“BE IT RESOLVED that a report on all the fiscal concessions...”

since Noah was a little boy,

“...including duty free concessions granted in response to specific requests or as parts of contracts awarded by Tender Board and the criteria on which these awards were based to be placed before the National Assembly for review.”

Let me deal with the first part of that RESOLVED clause. My friend knows that there are Sectoral Committees. These Committees have great power scrutiny under the Constitution. He can simply request if there is particular contract to which he wishes to make reference, and he wants the details, I doubt whether any Minister of the Government will have any difficulty in providing specific information. This motion asks for every contract. How are we going to comply with this request? With due deference to the National Assembly, this task is an impossible one.

My friends ought to know by now that I am very junior in the Parliament; they are much senior than I am. They know that most of these contracts are funded through monies from financial agencies. These agencies, their contracts, have certain standard stipulations, some of them relate to duty free concession. They are standard thing. Then, the procurement, the way the contracts are awarded, we know that that is governed by the Procurement Tender and Administration Act. That Act is administered by public servants. There is a bidding process. The bid is opened to public for review. All those things are there, copies of the contracts and the bid documents can be accessed by any member of this National Assembly, more so by members of the public if they wish. They are all on the websites, I am being told.

Again, this aspect of the motion is wholly unnecessary and is really moving this Parliament in a futile exercise. Then, we have there that we must bring all these thousands of documents and dump them in the National Assembly for review. Review to what end? The National Assembly, as far as I am aware, has no power of review. Review has a particular connotation in my view. There are Sectoral Committees that have powers of review and they deal with sector by sector. Those bodies are established independently by the Constitution. Yes, they constitute Members of this Assembly, but they have their own Constitutional existence, and they have a special and specific constitutional mandate of scrutiny over Government's business.

This National Assembly in an effort to review, if we accept my friend's invitation, would be stepping into unchartered waters; it has no power. If my friend could stand up and point to the Constitution or point to the Standing Orders which says that this National Assembly has a power of review over contracts I will take my seat. It is now where, and we cannot imbue this Assembly sir, it is a creature of the Constitution, and we must ensure... [Mr. Ramjattan: We make the laws here] Yes, you make the laws here and that is why you should behave in accordance with the law. You cannot make the law and then violate the very law which you have made. You have to set the example to ensure that you demonstrate to the Nation that the laws that you are passing, you have the willingness and capabilities of obeying them first before you expect the ordinary man in the streets to obey.

Therefore, I humbly submit, that this National Assembly has no power to review any contracts. In any event, this request in this RESOLVED clause is so vague that it is impossible to satisfy. All contracts and all concessions, we are talking about millions of contracts. So, the entire

motion suffers from the various inconsistencies and deficiencies which I have identified. The problem is compounded by all of this. This motion was tabled before. All of this must be done before the first of June. Let us assume it is the first of July. You do not tell us what to bring, but you give us a mandate and a restriction. We must do it within so and so time. Do what? And who must do it? This is directed to all the members of the Government and all Ministers.

Yet, everything that I have said, all the documents that I have referred to and all the information which I say is available, Mr. Ramjattan continues to heckle me to say that I do not want to produce the document and that I am dodging. What is it you want? What else do you want? [Mr. Nagamootoo: Covering up.] And the other one is saying about covering up. NICIL's lawyer is speaking about covering up. NICIL's attorney at law is speaking about covering up. That is a breach. Sir, lawyers have certain fiduciary duties to their clients. You cannot receive monies as legal fees from NICIL and accuse NICIL of covering up. You cannot do that.

Mr. Nagamootoo: A Point of Order. The learned Attorney General...

Mr. Speaker: You can impute under a Point of Order and clarification.

Mr. Nagamootoo: ...he has named me under receiving money from NICIL in this debate. I am entitled to an explanation since what has said could be very misleading. First he had said that he has a cheque in his pocket for me and now he has followed that up by saying that I am on NICIL's payroll. Because that could be misleading, I ask you honour to crave your indulgence either for him to explain or withdraw those remarks, or will ask for permission to give an explanation. In fact I have been retained by NICIL on two projects for which the Hon. Members knows. He is trying to impute, one of them has made very glaring statements here, Mr. Irfaan Ali, that I have charged \$2,500 at the Ministry for each conveyance processed... [*Interruption*] ... to have their transport. This Minister rose and tried to insinuate...

Mr. Speaker: Mr. Nagamootoo, one minute please. Hon. Members, firstly, statements have been elicited from heckling. Secondly, Mr. Nandlall did not say you Mr. Nagamootoo, he the other one is saying. What I will however allow at the end of Mr. Nandlall's presentation is for you Mr. Nagamootoo, as I have done in the past for Mr. Greenidge, to make a statement. I would like the Minister to complete his presentation. At the end of his presentation I will permit you a few minutes to give a clarification on your position. I will not allow Minister Irfaan Ali to rebut

anything, but I will caution you, Mr. Nagamootoo, not to impute or infer any kind of irregularity on the part of any other Minister. I will give you that opportunity at the end.

Mr. Nagamootoo: I am grateful for your ruling, Mr. Speaker.

Mr. Speaker: If we were to tone the heckling down we will not get that crosstalk. That was really a barb thrown after the heckling continued.

Mr. Nandlall: Sir, I did say that Mr. Nagamootoo did legal work for NICIL. He was a lawyer for NICIL and did legal work for NICIL. That is a statement, and I do not wish to rescind from that. He was a lawyer and was paid by NICIL. We are dealing with the accountability of NICIL's funds, so that should be part of the debate. That is all I said.

In conclusion, I humbly submit that this motion is unmeritorious; it should not have been brought here and it constitutes an abuse of the Parliamentary process. Thank you very much. [*Applause*]

Mr. Nagamootoo: I thank you most kindly, Mr. Speaker, to allow me.

Mr. Speaker: Mr. Nagamootoo, keep it very brief.

Mr. Nagamootoo: I take exception to what the Hon. Attorney General had said in this House in relation to my professional work as an attorney for an agency which happens to be NICIL on two occasions and on two occasions alone.

Firstly, I take great exception that as the leader of the Bar, the Hon. Attorney General, has bordered on rather contentious ground or breaching ethics in the profession of this honourable House to be speaking to other Members of the profession in what is basically innuendos that is made of wrongdoing.

I want to say that within the time you have given me, very quickly that I have set a very groundbreaking record in doing what many lawyers could not have gotten to do from the Government's side. The relocation of people on the West Berbice to make way for the Berbice Bridge – I had set a standard and I will tell this House now because I am proud – I have asked the Government, and I will say it, for US \$150, thirty thousand dollars equivalent then for every transaction involving the removal and compensation of homeowners. I refuse to charge the homeowner any money for the work I did, which is what they wanted me to do, but proceeded to

give them a reasonable compensation for removing them to an alternative house lot with transportation, roads, water and telephone. I insisted on those conditionalities.

I have not taken a cent from the people. Secondly, the same formula of relocating people was done for the Hope Canal. I did negotiate with the farmers to make way for the Hope Canal. I applied the same formula of asking the Government to pay me the fees based on every transaction, at a minimum of US \$150 per transaction, and not the US \$500 and US \$1500 which Mr. Nandlall and his friends are working for when they do work for the Government. I charge \$2500 per transaction of conveyance to help the people of Berbice to be given transports. That is record; that is the truth, and I am proud of it. An insinuation or innuendo that I have done something wrong, I throw it back in the face of Mr. Nandlall.

Mr. Speaker: One second Mr. Benn. Mr. Nagamootoo, you sought and I gave leave for you to clarify your position vis-à-vis NICIL and not for you to go into any other excursion into the legal or professional fees of any other Member of the House. So, all references to what others charge or may charge, I do not know, I will remove from the record. Because, your point of clarification under Standing Order No.38 was to refer only to your relationship with NICIL which you did. Thank you.

Mr. Benn: Mr. Speaker, I will just like to clarify.

Mr. Speaker: This is taking us nowhere, Mr. Benn.

Mr. Benn: Mr. Speaker, I will like to clarify that the arrangements for the relocation of persons with respect to the Berbice River Bridge...

Mr. Speaker: Mr. Benn, I do not believe that it is a matter which arises out of this exchange.

Mr. Benn: It arises out of the exchange.

Mr. Speaker: That may be your opinion, but my opinion is that it does not. I rule that it does not. Ms. Teixeira, did you want a point of order also?

Ms. Teixeira: Mr. Speaker, I would just like to remind the assembly of Standing Order 107 that talk about employment of members in professional capacity. I think that Members should keep an understanding of that in mind.

Mr. Speaker: Very well. That is another matter that we could bring to the Parliamentary Management Committee or the Committee of Privileges. Ms. Africo Selman, please proceed. Hon. Members we are concluding at ten o'clock. Any unfinished business will be carried over until tomorrow. Proceed.

Ms. Selman: Thank you Mr. Speaker. I rise to make my contribution on the motion under the caption "National Assets", standing in the name of the Hon. Member Mr. Carl Greenidge. Before I do, permit me to refer the Hon. Member, the Attorney General, to the first Resolve clause of the motion, which identifies the period for review. I wish to read:

"Provide the National Assembly with a report in keeping with the law, on the disposal by sale or otherwise of all state lands, including the terms on which they were disposed of and the criteria used, which took place: Further between the date of announcement (Sunday, 9th October 2011) of the National and Regional Elections and 31st December, 2011 and between 1st January, 2000 and 9th October, 2011;"

...end of that Resolve clause. The period as identified would therefore be, Hon. Attorney General, January 1st, 2000 to December 31st, 2011 with specific emphasis on the distribution which took place between the date of the announcement of the National and Regional Elections 2011, that is Sunday October 9th 2011 and up to December 31st 2011.

The motion is not only about NICIL as the Government may want us to believe as adumbrated by the Hon. Minister of Housing, Mr. Irfaan Ali. The motion addresses the criteria for the disposal of land, shares, security and concessions. National assets are the property belonging to the Nation. Public property is any property that is controlled by a state or by a whole community.

Guyana's national assets are not the private property of the Government. Therefore, if the Guyana's Government intends to negotiate investment deals with interested parties on behalf of the people of Guyana, then the Guyanese people must be informed of such impending transactions or as soon as possible after they are completed. At a minimum, the Government must be willing to provide the duly elected representatives of the people of Guyana with a detailed report on the disposal by sale or otherwise of all state assets entrusted to NICIL and the privatisation unit, the terms on which they were disposed of and the criteria used, a report on the

disposal by sale or otherwise of all other state assets including the terms on which they were disposed of.

We would recall that it was reported in the Kaieteur Newspapers dated 5th December 2011 that, and I wish to quote, “Guyana has dropped even lower on the latest Report of Transparency International Corruptions Perceptions Index.” In 2010 Guyana was ranked 116 out of a total of 178 countries assessed. In 2011 Guyana ranked 134. The index scores 183 countries and territories, from zero, that is, highly corrupt to ten which is very clean based on the perceived level of perceived levels of public sector corruption. It uses data from seventeen surveys that look at factors such as enforcement of anti-corruption laws, access to information and conflicts of interest.

According to Transparency International, corruption continues to plague too many countries around the world. The latest report shows some governments failing to protect citizens from corruption, be it abuse of public resources, bribery or secretive decision making. Transparency International has warrant that protests around the world often fuelled by corruption and the economic instability clearly show that citizens feel their leaders in public institutions are neither transparent nor accountable. Over the past months, the ruling PPP/C has come under severe fire over perceived corruption in the award of contracts and difficulty in the media access to information. Most recently a major US \$1 million plus deal to upgrade Guyana’s airport was signed with a Chinese company in Jamaica, but only came to light after media reports from that country.

In addition, the media reported that the Government sold its 20% share in Guyana Telephone and Telegraph Company (GT&T), whether or not this was a sound business decision by the Government, Guyanese will never know because it was done in secret. Such was the level of secrecy that the CEO of GT&T was on record in the media expressing his surprise on the revelation of this transaction. As a consequence, Guyanese are concerned about the widely reported acts of lawlessness in the guardianship of our national resources and assets as well as the lack of transparency and accountability associated with the disposal of those assets.

A Partnership for National Unity (APNU) therefore calls on the Government to provide a report on all the fiscal concessions, including duty free concessions, granted in response to specific

requests or as parts of contracts awarded by the Tender Board and the criteria on which these awards were based be placed before the National Assembly for review and that the relevant Minister lay in the National Assembly for review and where applicable for ratification of all international agreements including mining agreements involving the award of state lands and fiscal concessions signed by the Government since January 1st 2000.

We hope that the Government will see that it is in their best interest, if they want to avoid criticism, to protect themselves by giving full disclosure of all transactions involving the people's property. In this regard therefore, I hope the Government will see the wisdom in supporting this motion. Thank you. [*Applause*]

Dr. Singh: Mr. Speaker, I rise to make my contribution to the debate on this motion under the heading "National Assets" moved by the Hon. Member Mr. Carl Greenidge. Let me say at the onset that I associate myself with the comments made by my colleagues on this side of the House who have spoken before me and in particular those made most recently by the Hon. Attorney General in identifying the motion as fundamentally flawed without basis that is reasonable in describing the motion as unreasonable in its expectations and what it seeks to achieve and on a whole in rejecting the motion.

9.36p.m.

There are a number of premises on which this motion could be rejected. In fact, if one were to start from the beginning, from the very first "WHEREAS clause", the motion engages in the vague speculation that the Opposition has now become so well known for. Indeed I believe it was my colleague the Hon. Minister of Housing who addressed this matter and pointed out that the motion, with no specificity whatsoever, randomly identifies two or three international agencies and makes the vague statement that these agencies, in unidentified recent reports, have rated Guyana poorly. I could take the position that this is unworthy of response because there is no specificity, there is no reference to a particular report, there is no effort whatsoever to actually identify which report is being referred to and what the particular report in question is saying. I could instead point out that if one wants to make reference to international reports then one must not be selective and identify only a report issued by one particular agency and ignore the plethora of other reports issued by several credible international agencies which have spoken of Guyana

in glowing and positive terms. I make the point that Minister Ali made, and that is the Hon. Member Mr. Greenidge did not even afford us the courtesy of a single specific reference. If one wanted to cite other references there is an abundance of alternatives, an abundance of reports issued by international agencies which all point to the credibility and soundness of the efforts made by this Government at managing the fiscal operations of Guyana. I have only to turn to Article 4 of the International Monetary Fund, Consultation for 2009. There are several references that I can select, but if I am just to select one paragraph I would quote as follows:

“Directors – this executive directors of the IMF – noted that Guyana has weathered the global crisis well, sustaining a solid macro economic performance, supported by prudent policies. Directors commended the authority’s commitment to further entrench macro-economic stability and fiscal sustainability while promoting long term growth and development to improve the country’s standard of living and reduce poverty.

I would quote further:

“Directors supported the authority’s commitment to maintain prudent policies and to continue to implement structural reforms in safeguarding fiscal sustainability.”

The International Monetary Fund is the agency charged with annual macro-economic surveillance of all its member countries.

I could equally turn to the Inter-American Development Bank (IDB). Minister Ali made reference to their report and gave several examples but I will cite quotations he did not. This is the IDB speaking on the occasion of the Bank’s fiftieth anniversary in a publication entitled, ‘*Guyana and the IDB Partners for Progress*’, Chapter 4, ‘*Fostering A Better Business Climate*’, under the caption ‘*Improving Governance Fiscal and Financial Reform*’. This is what the IDB has to say:

“Over the last few years a vast programme of reforms was implemented to help the nation attain much needed fiscal sustainability. The reforms reworked tax policies and administration, modernized public financial management, and expanded the capacity of the audit office and the National Assembly committee on Economic Services to oversee

fiscal and fiduciary matters. The programme was further aimed at transparency; the reforms often simplified outdated and unnecessary complex procedures...” etcetera.

In fact an entire section of this report is devoted to describing the outstanding achievements of the Government of Guyana in strengthening public financial management. These are reports that are identified. Not some vague reference, not some attempt to paint with a broad brush hoping that if a generalisation is made somehow people would be deceived into believing it. These are specific documents which are publicly available, issued by credible international agencies that speak very clearly to the responsibility demonstrated by this Government in strengthening management of public money.

In fact, if one were really to be honest one would arrive at the inescapable conclusion that the public financial management landscape has been completely transformed over the past ten years or so. Gone are the days when this National Assembly and the people of Guyana languished without a report from the Ministry of Finance or the Auditor General about the management of public money. Gone are those days! The Hon. Member Mr. Greenidge should know better than to come and to cast aspersions and make insinuations about the management of public assets when he presided over the management of Guyana’s economy and up to now has not said to the people of Guyana why audited public accounts were not produced and tabled in this National Assembly for the period from 1983 to 1992. Yet Mr. Greenidge comes to this House, conveniently ignores that period over which he presided, and conveniently ignores in his request for information his own tenure.

Let me explain the implications of the absence of audited accounts. For that period this House and the people of Guyana were not even told how much was collected in revenue, how much was incurred on expenditure. Today, all manner of detail is expected and requested, and indeed is provided. And we have no difficulty with that. In fact our tract record as it relates to the provision of information to this Hon. House is outstanding. If one looks at the vast volumes of documentation tabled in this House, the vast volumes provided in answers to questions, the vast reams and reams of documentation and hours of testimony provided before sectoral committees, Guyana is now living in a new era of openness, if we are to be honest. There has never been a time in the history of this country when more information about the public affairs and about management of the economy, and management of our country, has been placed in the public

domain. That is something that can be quantified. One merely has to look at the Minutes of the National Assembly, one merely has to look at the records of the National Assembly with respect to documents tabled and one would see that recent Parliaments – the Eighth and Ninth – and now the Tenth Parliament have recorded a level of public disclosure that is completely and totally unprecedented in our country. That is something we must be proud of as a country.

If one were to look at the legislative accomplishments – the 2001 Constitution considerably strengthened Parliament’s oversight over the Executive; expanded the mandate of the Public Accounts Committee; established standing sectoral committees to exercise oversight over government activities; enhanced the independence of the Auditor General’s Office; established commissions for the protection of fundamental rights; and the list goes on. If one were to look at further legislative accomplishments there is the same Fiscal Management and Accountability Act which is so often referred to, the Public Procurement Act of 2003 and the Audit Act of 2004. These are legislative achievements of this Government – historic accomplishments. If one were to look at the implementation of technology to improve the effectiveness of public financial management there has been the computerising of the public expenditure management function, and the computerising of the tax administration function to ensure accuracy and timelier processing. All of these are accomplishments of which we should be proud as a country. If we want to have a frank and honest exchange in this National Assembly, and if the Opposition is sincere about an objective debate on any matter, they have to stop pretending that these achievements did not happen.

This motion is therefore, first of all, founded upon a false premise and that is the speculation and innuendo about transparency and lack of openness. In fact, I will go further and say that I find it extremely alarming that Members of the Opposition seem to believe that it is somehow acceptable to engage in, what I would describe as, the politics of innuendo and insinuation and intimidation.

I would say it is nothing short of vulgar the assault on NICIL, and the assault on its Executive Director. I will say it in this National Assembly for parliamentary record, that it is nothing short of vulgar the assault on the integrity of a public figure - not a politician - with no shred of evidence, no basis whatsoever, and no reference to which law is broken by the entity. It is a well known fact that NICIL is established under the Companies Act, is governed by the Companies

Act, complies with the Companies Act, yet, the Opposition, and in particular the Alliance for Change, seems to think it is acceptable - Mr. Ramjattan himself has been doing this – to generate and fuel speculation on the basis of innuendo. This is a generated controversy, fabricated, and plucked out of thin air, solely for the purposes of capturing headlines. Well, I should not say solely for the purposes of capturing the headlines because I believe there is another aim, and I will speak about what that aim is.

There can be no denying that the achievements of NICIL have been outstanding under the executive directorship of Mr. Winston Brassington. There can be no denying. We should be proud as a country that NICIL, as the entity charged with management of public assets and in particular public equity investments, with local in house expertise were able to structure a complex transaction whereby US\$40 million of private capital was utilised for investment in a public infrastructure project, the Berbice River Bridge. That is not something to be ashamed of, that is not something to besmirch, and that is not something to criticise. If we are serious about some kind of new politics, as the Opposition likes to say that it is, then we must be bold enough to come out and say we believe this is a good thing and those who were responsible for its achievement are to be commended. There can be no doubt that the Berbice River Bridge is a project that has transformed this country. Speak to the investors, speak to the commuters...

[**Mr. Ramjattan:** Transfer 34 million to Clico.] So what caused Clico's collapse in Trinidad, and in Barbados? Was it the Berbice River Bridge? Stop misleading the people of Guyana. What caused Clico in Trinidad to collapse? What caused Clico in the Bahamas and Suriname to collapse? Was it the Berbice River Bridge? Stop misleading the people of Guyana Mr. Ramjattan. [**Mr. Ramjattan:** *Inaudible*] So did all the Clico subsidiaries in the Caribbean. But it is exactly this kind of innuendo and insinuation... Mr. Ramjattan wants this country to believe that Clico Trinidad, Clico Suriname, Clico Jamaica and Clico Barbados all collapsed because of the Berbice River Bridge. Utter nonsense! But this is what I call the politics of insinuation and innuendo which Mr. Ramjattan is...

Mr. Greenidge: Mr. Speaker, is it not the fact that the amounts were lost?

Mr. Speaker: One second, both gentlemen. Hon. Prime Minister could you move a motion that we go beyond 10.00pm to conclude the business of the House.

Mr. Hinds: I would like to move a motion that the House continue beyond 10.00p.m. to conclude this motion.

Motion put and negatived.

Mr. Speaker: It appears the Noes have it. We will stop at 10.00p.m.

Dr. Singh: So Mr. Speaker this flawed premise makes this motion completely unacceptable. There are a number of other provisions in this motion that I will submit to you which make this motion completely unacceptable to this House. I note, for example, that the motion seeks to make financial provisions available for the commissioning of an independent audit. It is a well known fact that this entity is audited by the Auditor General. The Auditor General is the auditor of the public sector by law. It is a well known convention that the Auditor General audits public entities, and only where the Auditor General sees it fit to contract another auditor he does so under the law. But I would go further and say there is a well known constitutional provision, and a well known Standing Order which is derived from the Constitution, that says no bill and no motion shall be proceeded upon by this National Assembly if it seeks to provide for the imposing of a charge on the Consolidated Fund or any other public fund or for the payment, issue or withdrawal from the Consolidated Fund or any other public fund of Guyana. Article 171(2) of the Constitution states no motion or bill shall be proceeded upon except with the recommendation or consent of the Cabinet signified by a Minister. This motion has not received the benefit of Cabinet consideration but yet the motion seeks, contrary to the Constitution, and contrary to Standing Order No. 25... [*Interruption*] The Constitution at Article 171(2) says “no bill or motion shall be proceeded upon...” and there is another Standing Order which says “no bill or motion shall be proceeded upon if it provides for expenditure to be incurred.” This is what this motion seeks to do making the motion unacceptable. Then those on that side of the House and particularly my friends in the corner from which most of the noise is emanating ... I hear one of my colleagues say empty noises. Yet our friends in the corners of the House like to speak about compliance with the law. It is the Constitution, the supreme law of the land that says that this clause is unacceptable in this motion. But they have no difficulty with that. When violation of the law suits their fancy, their convenience, they have no difficulty with it. That is not responsible leadership, it is instead lawlessness.

Mr. Speaker: It is that witching hour. Are you going to wrap up or adjourn until tomorrow?

Dr. Singh: Mr. Speaker, I am quite happy to continue at the next sitting.

Mr. Speaker: The Standing Order says we conclude at 10.00p.m. unless there is a motion to extend the business beyond 10.00p.m. That motion was put but it was not carried and, therefore, I am duty bound and obliged to conclude the business of the House at this time. Any business that is incomplete will continue tomorrow. Tomorrow being Thursday Government's business will take precedence and then we will continue the debate on the motion of the Opposition.

We will convene at 3.00p.m. tomorrow, Thursday 14th June, 2012.

Mr. Hinds: Mr. Speaker, I move the motion that the House be adjourned until tomorrow at 3.00p.m.

Assembly adjourned accordingly at 10.01p.m.