

# 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*

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20<sup>TH</sup> Sitting

Thursday, 10<sup>TH</sup> May, 2012

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*The Assembly convened at 2.08 p.m.*

*Prayers*

*[Mr. Speaker in the Chair]*

## **ANNOUNCEMENTS BY THE SPEAKER**

**Members of Parliament to represent the Assembly at the 37<sup>th</sup> Regional Conference of the Commonwealth Parliamentary Association's Caribbean Americas and the Atlantic Regions Conference 11<sup>th</sup>-18<sup>th</sup> May, 2012 in Kingston, Jamaica.**

**Mr. Speaker:** Good afternoon Hon. Members and welcome. By way of announcement I wish to say that two Members of the Assembly, the Hon. Leader of the Opposition, Brigadier Granger, and the Government's Chief Whip, Ms. Teixeira, will be representing the Assembly at the 37<sup>th</sup> Regional Conference of the Commonwealth Parliamentary Association's Caribbean Americas and the Atlantic Regions Conference. That conference commences on the 11<sup>th</sup> of May and concludes on the 18<sup>th</sup> and will be held in Kingston, Jamaica. Some topics to be covered include, Raising Levels of Integrity amongst Parliamentarians, Robust Debate Vs. Civil and Uncivil Conduct, Parliamentarians who Appear Before the Courts – only recently myself and the Leader and of Opposition were called before the Courts – and Part time Vs. Fulltime Parliament - should we be having more Sittings and so forth? So, I want to say that on behalf of all of us that we wish them well and expect that they will represent Guyana and our Assembly as good Ambassadors

and also that they will return speedily, bringing with them all that they have learnt, the best practices, and sharing them with us.

**Commonwealth Parliamentary Association (CPA) - United Kingdom Branch, and the United Nations Development Programme (UNDP) to host seminar for Members of Parliament from 20<sup>th</sup> - 22<sup>nd</sup> May, 2012.**

**Mr. Speaker:** Secondly, I had reported earlier and previously that the Parliament Office was working feverishly with the Commonwealth Parliamentary Association (CPA) United Kingdom Branch and the United Nations Development Programme (UNDP) to have an induction seminar for Members of Parliament (MPs) in this new and uniquely configured Tenth Parliament. I am happy to report that the seminar will be held from May 20<sup>th</sup> to 22<sup>nd</sup> under the theme “Managing through Partnership”. Members of Parliament, of course, will be properly invited and are expected to fully participate. We are hoping to include other stakeholders from civil society if it is possible. It is with a great sense of gratitude that I also announce that thanks to the Government of Guyana and the UNDP both have kindly and graciously agreed to underwrite the entire cost of the event. So on behalf of the National Assembly I wish to formally and publicly say thank you.

**Students of the President’s College visit Parliament**

**Mr. Speaker:** Thirdly, we are honoured this afternoon to have 26 students with two teachers representing the President’s College. Could you stand please? Thank you very much. We welcome you and offer you our support and wish you every success in your future endeavours.

**The Speaker wishes all those in the National Assembly a “Happy Mother’s Day”**

**Mr. Speaker:** Lastly, I take the opportunity now to say on behalf of all Members of the Assembly and its constituent Members of course to wish all mothers in Guyana a Happy Mother’s Day in advance, including our own MPs, Members of Staff, Members of the Media and also all technical and support staff who are present here.

Thank you, those are my announcements.

**PRESENTATION OF PAPERS AND REPORT**

The following Paper and Report were laid:

- (i) Financial Paper No. 9/2011 – Supplementary Estimates (Current and Capital) totalling \$79,619,478 for period 2011-10-25 to 2011-12-31.
- (ii) Annual Report of the National Industrial and Commercial Investments Limited for the year ended 31<sup>st</sup> December, 2004.

*[Minister of Finance]*

## **QUESTIONS ON NOTICE**

### **Written Replies**

#### **LEGAL AID IN REGION #10**

**Ms. Kisson:** (i) Would the Hon. Minister inform this National Assembly if Legal Aid in Region # 10 receives funding from Government?

(ii) If yes, provide details, and if no, say why?

#### **Minister of Human Services and Social Security [Ms. Webster]:**

- (i) "Legal Aid in Region 8 10 does not currently receive funding from Government.
- (ii) Government commenced funding the operations of the Guyana Legal Aid Clinic (formerly the Georgetown Legal Aid Clinic) in December, 2007 based upon a commitment given to expand Legal Aid services.

Prior to that, Services throughout Guyana — the Georgetown Legal Aid Clinic had received funding from International Donor Partners. The provision of finding for the Guyana Legal Aid Clinic by Government had begun prior to the establishment of the Linden Legal Aid Clinic. When the Centre was established in June, 2009 an approach was made requesting Government's support to fund the operations of the Centre. However, there was no available funding at that time.

Government then sought an alternative mechanism, so that support could be provided, and advocated at UNICEF that finding be provided from Country Funds to support the operations of the Linden Legal Aid Centre. Funding was provided from August, 2008

to August, 2009 to the tune of \$6,764,440 and from December, 2009 to December, 2010- \$6M and during the period April, 2011 to December, 2011 the sum of \$9,060,070 was provided.

In the joint Government of Guyana/UNICEF Workplan resources have been allocated in 2012 for the continued operations of Linden Legal Aid Centre (LLAC). The Administration of the Ministry of Labour, Human Services and Social Security has since requested of the Directors of LLAC that a copy of the Budget proposal for the year 2012 be submitted along with a copy of the audited accounts for the year 2012."

## **2. MORTUARY AT THE WISMAR HOSPITAL**

**Ms Kissoon:** Would the Hon. Minister inform this National Assembly when his Ministry intends to buy/purchase a new unit for the mortuary at the Wismar Hospital?

**Minister of Health [Dr. Ramsaran]:** "There is no budgetary provision in the Budget for 2012 for the purchase of a Mortuary for the Wismar Hospital.

The Ministry of Health (MOH) is in the process of procuring parts for the repairs of both freezing Units at the Wismar Hospital Mortuary. Each unit has six (6) freezing chambers. One unit has been out of service for several months while the second stopped functioning two weeks ago. The Mortuary Units are serviced by a private contracted Refrigeration Technician on a weekly basis.

The repair works will commence on Monday, 7<sup>th</sup> May, 2012 by a Refrigeration Technician who is currently servicing the Bartica Hospital Mortuary on a MOH contract."

## **STATEMENT BY MINISTERS, INCLUDING POLICY STATEMENTS**

**Mr. Speaker:** Hon. Members, the Standing Orders do provide for Ministers, which I in fact encourage, to make statements from time to time. I have received notice that two Ministers will be making statements this afternoon on matters which come under their portfolios. Please proceed Hon. Ministers.

## **FLOODING SITUATION IN REGION 9, UPPER TAKUTU/UPPER ESSEQUIBO**

**Minister of Local Government and Regional Development [Mr. G. Persaud]:** Mr. Speaker, I wish to update this Hon. House on the flooding situation in Region 9. The Regional Disaster Committee held its third meeting as of today. These meetings are chaired by the Regional Chairman. Four committees were formed from the first meeting and they are functioning, that is, the Communications, Logistics, Administration and Shelter Management Committees. Organisations and persons involved are the Programme Managers of Programme one to five, Regional Councillors located within the Lethem Area, Members of the Police Force, the Guyana Defence Force, Rams, Red Cross, Rupununi Chamber of Commerce, the National Democratic Council (NDC), National Agricultural Institute (NARI), Guyana Water Incorporated (GWI) and Lethem Power Company Inc. An office was established at the Region Guest House for monitoring and evaluating the situation. Three addition meetings are scheduled for today, one at 11:00 hrs, 14:00 hrs and 17:00 hrs, as of tomorrow that schedule will be reviewed.

At Lethem, St. Ignatius, and Central Lethem water is rising but not as rapidly as it did on Wednesday evening. In Tabatinga, water is now in the yards of a few homes, especially those homes close to the Tabatinga Creek. It should be noted that if the water continues to rise persons will have to be evacuated. In preparation for that, shelters have already been identified and mechanisms put in place to accommodate persons at Arapaima Primary School, Culvert City Nursery Annex, Christian Brethren Rest House, Caretakers Quarters RGH, Government Quarters R#15, R#28 and Beverly Hills Quarters.

A boat is in place to cross persons as of today at the Lethem/St. Ignatius Bridge. Additional boats will be located at various points in this area to facilitate movement of persons across flooded areas.

Garbage bags, bleach and jayes fluid were given to the Regional Environmental Officer who would have visited persons that are close to the Tabatinga Creek area and have distributed same.

Adequate drugs are available at this time and treatment will be needed for waterborne diseases and cots for shelters would be needed, should the situation continue. The Civil Defence Commission (CDC) Central Body is sourcing these items.

This morning between the hours of 5.30 a.m. and 7.30 a.m. there was heavy rainfall in the Lethem area. This, in addition to the Rio Branco overflowing its banks, has resulted in the continuous rising of the water.

GWI has two pump stations; one is at Culvert City. This area is now flooded. The staff is monitoring this situation and should this rising water level continue, then that pump will be shut down within the next 12 hours. The second pump which is located at Bon Success will continue to supply Lethem and its environment. A standby generator is in place in the event that there are difficulties with the Lethem Power Company and it has to be shut down.

There are a number of trucks, tanks and volunteers which have been identified and collaborative efforts have been made with the various stakeholders and championed by the Red Cross to provide water supply to villagers if necessary. We have already started the evacuation of some families: two families from the St. Ignatius area have been moved to higher ground and three other families have been transported to homes of their relatives as requested by them.

We have dispatched an aluminium boat to Katunarib and this will assist with persons crossing the Waradapao area.

A pilot from the RAMS aircraft groupings will be flying from Georgetown today to assist in aerial view of the flood areas across the Region.

Reports received from road users indicate that some of the bridges pose a threat to heavy vehicles. The Ministry of Public Works has been informed and is accessing the situation. We have had some difficulties at a few bridges: the Lethem/St. Ignatius/Mocomoco bridges are in a situation where water is overflowing. Quite a few of the approaches are inundated. As for the Kumu Bridge, the water is overflowing the approach and a boat will soon be provided to assist the movement. At Manari Small Bridge, the approach was washed away. A contractor by the name of Roger King has commenced emergency works in that area.

As for the situation in Sand Creek, 11 households have been evacuated and of this morning, the water was receding the Rupununi River.

In the Karasabai area, this morning, light rains continue in the area. The four bridges leading into the Karasabai area are under water and part of the newly constructed road was washed away.

However, there were no damages to agricultural crops and livestock at this time in the villages – no flooding. Basic food supplies are adequate in the villages except for the village shop at Yurongperu Village. There have been no outbreak of illness reported throughout that sub district and basic medical supplies are adequate in the health post and in the sub district. No damages to houses and buildings in those villages were reported. Thank you, Mr. Speaker.

**Mr. Speaker:** Thank you Mr. Minister. Hon. Members no debate is permitted on a statement, but I wish to say that we wish the Minister and the team that has been put together well and to say, if and when you do have an investigatory team going into the Region, it may be wise to consider having some colleagues from the Opposition benches join you so as to show that there is of course unanimous support and concern for the plight of the people of Region 9. The situation does seem quite dire and threatening.

**Mr. G. Persaud:** Thank you Mr. Speaker. I hear you and I can assure you that all Guyanese are involved in those Hinterland areas and that they are a part of the Regional Disaster Committee.

**Mr. Speaker:** Very well, thank you. I believe that there is another statement to be made by the Minister of Agriculture, Dr. Ramsammy.

#### **MAY-JUNE RAINY SEASON**

**Minister of Agriculture [Dr. Ramsammy]:** Thank you. Mr. Speaker, I just wanted to add to the statement that was made by the Hon. Member Ganga Persaud. Guyana is presently experiencing the effects of the May/June rains. The Ministry of Agriculture Hydrometeorological Service is predicting that the months: May, June and July are expected to be very wet. The overall rainfall averages are expected to be the long term normal for this period. These models come the modelling of the Inter-tropical Convergence Zone models and the El Nino Sudden Oscillation (ENSO) models.

In May, it is predicted that there will be just over 275 millimetres of rain, but we are cautioning that some areas will be experiencing much more than that. For example, the Region 6 and Region 10 areas, certain parts, in the last week have exceeded those monthly averages. We expect 20 rain days in May. In June we also expect 20 rain days with just over 306 millimetres.

In July, which we expect to be the wettest of the three months, we expect 337 millimetres of rain with 22 rainy days.

We also want to advise that the rainy period during this season will coincide with very high tides. Over the last few days, in fact, Guyana has been experiencing some very high levels of rainfall in Regions 2, 3, 4, 5, 6, 9 and 10. This has led to some flooding outside of what the Hon. Minister just talked about in Region 9, it led to some flash flooding in Regions 5, 6, 9 and 10. A number of areas have been affected in Region 5; No. 27 and the upper reaches of Mahaicony and Abary Creeks have experienced some flooding. In Region 6; Albion, Port Mourant, Whim, Eversham, Alness, Tain, Manchester, Yakasari, Joanna in Black Bush Polder and Glasgow on the East Bank of Berbice have all experienced flooding. In Region 10; West Watooka, Danjou, Christianburg and Poker Street experienced flooding. High water levels are presently reported in Canals Polder, Ruby Back, Parika Back and parts of Windsor Castle in Region 3, also Enterprise, Hope, Greenfield and Lusignan in Region 4. Whilst there are many villages in these Regions, the two most affected Regions were Regions 6 and 10.

In Region 6, the National Drainage and Irrigation Authority (NDIA) implemented a programme that has begun to bring relief. I am encouraged by the fact that all the residential communities water has gone down with some residual amounts remaining in certain communities like Tain and Whim. Under the programme we did excavation work. Five additional mobile pumps were deployed in these areas. Work has also been going on where 150,000 feet of canals are being cleared in 26 Community Development Councils (CDCs) areas in Region 10, working with the Region 10 Administration, the Regional Democratic Council (RDC) and NDC to ensure that we prevent further flooding.

The NDIA is doing clearing work in the Cacatara and Hymara Creeks in Region 10. Finally, the East Demerara Water Conservancy and the Boerasirie Conservancy remain at manageable levels and presently, we are discharging from the East Demerara Water Conservancy at the western end through the Kofi and Five Doors. We will continue to monitor the situation in all ten Regions. Teams of the Ministry of Agriculture are presently in Region 6, 10 and 9. Thank you, Mr. Speaker.

## **PUBLIC BUSINESS**

## **GOVERNMENT BUSINESS**

**Mr. Speaker:** Hon. Members we will proceed to consider a motion in the name of the Hon. Minister of Foreign Affairs on Guyana's Ratification of the CARIFORUM European Union Economic Partnership Agreement.

## **MOTIONS**

### **GUYANA'S RATIFICATION OF THE CARIFORUM-EUROPEAN UNION ECONOMIC PARTNERSHIP AGREEMENT (EPA)**

WHEREAS the ACP-EU Partnership Agreement (the Cotonou Partnership Agreement) signed in June 2000 between the ACP Group of States of the one part and the European Union (EU) Member States of the other part, required the two sides to negotiate Regional WTO-compatible trade agreements to replace the non-reciprocal preferential trade arrangements under the Cotonou Partnership Agreement, with effect from January 1, 2008;

AND WHEREAS the CARIFORUM States of the one part (CARIFORUM) and the European Union and its Member States of the other part (EU), pursuant to the provisions of the Cotonou Partnership Agreement, negotiated the CARIFORUM-EU Economic Partnership Agreement (the Agreement) between April, 2004 and December, 2007;

AND WHEREAS the Cooperative Republic of Guyana, a CARIFORUM Member State and a Party to the Agreement, signed onto the Agreement on October 20, 2008;

AND WHEREAS the Government of Guyana, in accordance with Article 243 of the Agreement, formally notified the General Secretariat of the EU Council on October 22, 2008 of its provisional application of the Agreement, pending entry into force;

AND WHEREAS the Government of Guyana, pursuant to its provisional application of the Agreement, implemented the agreed Schedule of Tariff Liberalization with effect from January, 2011, following its presentation to the National Assembly in January, 2011;

AND WHEREAS the Government of Guyana is desirous of taking the further step to ratify the Agreement, pursuant to its laws and in accordance with the aforementioned Article 243,

“BE IT RESOLVED:

That the National Assembly hereby agrees for the General Secretariat of the European Union Council being informed of Guyana’s intention to ratify the Agreement and for Guyana to formally ratify the said agreement.” [*Minister of Foreign Affairs*]

**Minister of Foreign Affairs [Mrs. Rodrigues-Birkett]:** Mr. Speaker, I rise to move this motion standing in my name regarding the ratification of the CARIFORUM European Union Economic Partnership Agreement. You will recall that negotiations for a new trading regime with the EU began in April 2004 and concluded on December 16<sup>th</sup> 2007. The Economic Partnership Agreement (EPA) replaces the trade provisions of the Cotonou Agreement which was signed in 2000 in which the European community granted the ACP countries non-reciprocal market access to Europe on more favourable terms than those enjoyed by goods of other countries. Guyana benefited from that special access arrangement, especially for its rice, sugar and rum among other products. However, the trading arrangements under Cotonou came to an end in December 2007 and there was a commitment by the EU to introduce a WTO compatible agreement after December 31<sup>st</sup> 2007. As such, this EPA is a reciprocal trade arrangement which replaces the non-reciprocal one of Cotonou agreement.

You will recall that prior to its signing the EPA generated robust debate in many circles. My own Government had serious issues with the agreement and we made known our positions. Indeed, apart from the more fundamental issues that have been adequately ventilated prior to our signing the agreement, we were concerned that there was not a provision in the agreement for review. We were very pleased that Guyana’s request to have a five-yearly review was accepted by the European Union almost in the final hours of the conclusion of that agreement. We are happy that a joint declaration was made and this is what it states:

“A comprehensive review of the agreement shall be undertaken not later than five years after the date of signature and at a subsequent five-yearly interval in order to determine the impact of the agreement, including the costs and consequences of implementation. We undertake to amend its provisions and adjust their application as necessary”

That being said, Guyana, together with the sister CARIFORUM countries signed the CARIFORUM-EU EPA in October 2008. I think Haiti signed a little bit later. In terms of the

overall situation, I would like to touch briefly on what exists at present. As you are aware, the ACP (African, Caribbean and Pacific) did not negotiate as one group, it was divided into six negotiating groups, Eastern Africa, Western Africa, Southern Africa, Central Africa, the Pacific and CARIFORUM which comprise the fourteen CARICOM countries plus the Dominican Republic. The CARIFORUM Region remains the only one to have completed a comprehensive EPA with the EU as of now.

I should note that in 2007 the EU put in place a Council Regulation No. 1528 of 2007 which allowed ACP countries to have duty and quota free access to the EU market until full EPAs have been concluded and implemented. In 2011, that is last year, the EU put forward a proposal to amend that regulation for ACP countries which have agreed and initialled full or interim EPAs with the EU but had not yet signed or ratified these agreements. This new proposal which was adopted in September last year seeks to remove seventeen of the 36 countries from the list. However, if any of these seventeen countries proceed to take steps towards ratifying their interim EPAs or agree to full regional EPA by the first of January 2014 they will continue to benefit from the trade preferences under the 2007 regulation.

With effective lobbying and solidarity within the ACP group, the date has been pushed back to 2016. Of course I must say that the CARIFORUM group of which Guyana is a part is not affected because we have concluded a full EPA. However, the ACP solidarity was necessary and it is my firm view that this show perhaps that we should have gone together as one group, but that is water under the bridge now.

All ACP groups have reengaged in dialogue with the EU and there has been some progress in recent times Seashells, Mauritius, Madagascar and Zimbabwe have ratified EPAs. In terms of Guyana, the PPP/Civic Government takes very seriously the agreements to which we are partyed. As such, since the signature of the EPA we immediately shifted our focus to implementation, not only in terms of complying with the necessary legal and administrative requirements, but more importantly, to look at how we can derive the promised benefits of the agreement.

It should be noted that the EPA was enforced as of January 2008 and that was in keeping with the WTO requirement to introduce this agreement after December 31<sup>st</sup> 2007 where the EU committed to have such an agreement introduced. However, CARIFORUM negotiated a three-

year moratorium from January 1<sup>st</sup> 2008 to December 31<sup>st</sup> 2010 before entry into force of its faced tariff liberalisation commitments under the EPA from 1<sup>st</sup> of January 2011.

You will recall that my colleague the Hon. Member, Dr. Ashni Singh, came to the National Assembly with our Tariff Liberalisation Schedule and on January 15<sup>th</sup> 2011, we implemented the EPA Tariff Schedule for goods.

*2.38 p.m.*

As far as I am aware we were the first country to do so thus demonstrating, as I said earlier, our commitment to implementing agreements once we have signed it, and also taking a leadership role in CARIFORUM.

Our Customs Act was appropriately amended and Guyana fulfilled the requisite obligations. We would have spoken about this before but since there are new parliamentarians, I think it is important that I mention what the tariff liberalisation schedule is all about - what we actually negotiated. We negotiated that schedule with a view to safeguarding regional production capacity, revenue sensitivity and employment by way of our tariff exclusions and gradual phase-in treatment of a 25-year period that is from 2008 to 2033.

In terms of our tariff treatment of goods, first, there are products excluded from liberalisation, seventeen percent of imports from the EU. I should say tariff lines are excluded from liberalisation. These excluded products account for almost half of the duties and imports from the EU and include sensitive agricultural products such as milk, sugar, some vegetables, rice, most fish and meat products, most beverages, and a variety of non-agricultural products. This is intended to provide some breathing space and ensure that, in the medium to long term, local production of these products will not be displaced by imports from Europe. Almost all the products Guyana exports to other CARICOM members are also excluded from liberalisation by the region. This will ensure that these exports, again, will not be replaced by imports from Europe.

Secondly, of products that are fully liberalised, 60% of all imports or tariffs lines were liberalised immediately in January 2011. And thirdly, there are products that will be fully liberalised during a phased-out period over five to 25 years.

Let me say that based on the trade data from 2004, when the EPA negotiations commenced between CARIFORUM and the EU, to 2010, the last year of the three-year moratorium period, import trade with the EU played a minor role in Guyana. In 2011, our first year of EPA implementation, we have not witnessed any change in our trade with Europe. This must be seen in the context that it is not our largest trading partner, as I had mentioned too in the debate. Overall imports from the EU accounts for approximately 9% of total imports, while exports account for approximately 43% of our total exports.

An important aspect of the negotiation process leading up to the conclusion of the EPA was the necessary private/public sector consultations at the national and regional levels in CARIFORUM. Those wide ranging consultations were important for us to have not only public awareness, but, more importantly, political and technical input from civil society on what was a critical public policy issue. The need for civil society's input and public participation is now even more critical in this implementation process. Given the limited resources not only of Guyana but of all our states and other bodies that have jurisdiction over trade related issues such as sanitary and phyto-sanitary measures, technical barriers to trade, customs competition policy and so on, the Ministry of Foreign Affairs will be relying on the cooperation and support of other Ministries and Agencies in this process. I should say, too, that at the regional level our Heads of Government, at an early stage following the conclusion of the negotiations, mandated the establishment of an appropriate technical unit in the Caribbean forum in the CARICOM secretariat to oversee the implementation of the EPA.

We recognise that the benefits of the Economic Partnership Agreement will not be realised with mere signing and ratification. We - and when I say we I refer to the public and the private sector, the non-state actors - will have to pursue trade opportunities with the European Union aggressively. It is not insignificant that we are a group of fifteen countries - fourteen from CARICOM and the Dominican Republic together with a population of just about 16 million of which nine million come from Haiti - having an agreement based on reciprocity with the largest trading block of 27 countries with a combined population of about 500 million people. Some would say there is no competition and the task is daunting. We, therefore, have to work very hard to increase and improve our productivity, and we are hopeful that the European Union will continue to support us as we make this transition. Much has happened since the signing of this

agreement. Indeed, we had the financial and economic crisis that, needless to say, did not exempt any of us that signed the EPA, with some feeling the effects more than others, so much so that a few states even asked for the tariff liberalisation to be delayed.

That notwithstanding, if this motion is successful today, and I see no reason for it not to be, Guyana will be joining Antigua and Barbuda, Belize, Dominica and the Dominican Republic, as they have already ratified the agreement. Ten European Union member states have also ratified the agreement. More than that, I think Guyana will also once again be playing a leadership role in meeting our obligations under the EPA. With that I, therefore, humbly ask for the support of all the Members of this House so that we can complete this process of ratifying the agreement.

Thank you. [*Applause*]

*Motion proposed*

**Deputy Speaker [Mrs. Backer]:** Mr. Speaker, I want to assure the Hon. Minister up front that A Partnership for National Unity (APNU) has absolutely no hesitation in supporting this motion. But I must disappoint my friend, the Hon. Attorney General, who would want me to sit having said that, and to detain you if I will for a few minutes.

Even as I rise to support the motion I just want to make a few points, some are outside of the motion proper but we think they are very relevant and worth mentioning . The first thing is that as stated during the budget debate APNU believes very passionately that on large national issues there should be consultation more or less from the inception, or closely following the inception of major economic decisions that will affect all our peoples. While we accept that there was some amount of consultation by the Government prior to the Government of Guyana signing onto the agreements on 20<sup>th</sup> October, 2008, we believe that those consultations were neither early enough, were not deep enough, nor were they wide enough. One has to only pause very briefly to recall that on Friday 5<sup>th</sup> September just perhaps six weeks before the EPA was signed, Guyana had national consultation at the Convention Centre. At that meeting the then President of Guyana was in fact making statements that led many people to believe, indeed, he himself said that he was not sure, that Guyana was going to sign. There was this mad flurry, so to speak, about whether to sign or not to sign.

While in the same way we believe consultation is necessary, we also do not believe there is much merit in going back into the past as some would want to do - in fact sometimes going back decades. We think it is not insignificant to remind Guyanese that in 2008 in Jamaica, our then President was making statements like the agreement is anti-development; he was unhappy; he was only going to sign because he was being compelled to sign what is regarded as a bad agreement to save our agriculture products. [*Interruption*] No it was not amended to save our agriculture products. We are saying, Sir, that we need to remember that. In fact, I think it would be safe to say that one person who was then a Minister of the Government is no longer a Minister. That may have been because he took different positions to what the President was saying. So much so that on 15<sup>th</sup> October, 2008 when 13 CARIFORUM members signed the agreement in Barbados Guyana did not sign. Guyana signed after all the flurry of, “we are not going to sign because it is a bad agreement”, “we are being held hostage...” In fact, the Hon. Minister Rodrigues-Birkett was in Accra in Ghana on 2<sup>nd</sup> October, 2008 where she read a message – I do not know how readily she read it, but as a very good and loyal soldier – from our then President which spoke about the anti- developmental character and propensity to be inimical to Caribbean integration. On 15<sup>th</sup> October, 2008 when 13 CARIFORUM members signed in Barbados Guyana was conspicuously absent, and five days after we took the trouble to sign the same agreement all the way in Brussels. But as I said we do not want to dwell in the past. [**Mr. Neendkumar:** It was amended.] I do not know if my friend even knows what an agreement means. But I have already said that we will support the motion. The reality is that we have signed as the Hon. Minister said, very graciously, and we agree with her completely that having signed we need to maximise the advantages contain therein. We were particularly happy during the Minister’s brief presentation to hear her speak about Government taking agreements very seriously and by implication also their obligations. So we are very lucky that we have here as a Member in the National Assembly Mr. Carl Greenidge who was involved in the mechanics and actual preparation of EPA which was eventually signed by everyone including this Government.

But I want to mention another aspect. Before I go to that I did start by stating why we feel consultation from a very early stage is necessary both wide and deep. At the meeting in October, 2007 in Jamaica the lead minister was then the Hon. Prime of Barbados, Mr. Owen Arthur, and there were a number of Heads of State including our own then Head of State, President Jagdeo.

Why consultation is so necessary is that from October 2007 to now the then Hon. Prime Minister of Jamaica, Mr. Bruce Golding, has been replaced by the Hon. Portia Simpson Miller; the Barbados Prime Minister, who as I have already said was the lead Minister for CARICOM and CARIFORUM, the Hon. Owen Arthur, has since been replaced by the Hon. Freundel Stuart; Guyana's own President, Mr. Jagdeo, has been replaced by President Ramotar; Dr. Henry Jeffrey has been replaced. I do not know fortuitously or what, but he was not a head of state. The Belizean Prime Minister who was then the Hon. Said Musa has been replaced by Prime Minister Dean Barrow; and I could go on. But the point that I am making is that EPA has no expiry date; it may outlive us all. That is why it is so necessary when any country, whoever is in government, is about to enter these lifelong agreements, if you will, it is absolutely necessary for continuity that all are involved. So when at the next elections APNU is over there and the PPP/C is over here - I am not sure where the AFC will be - but I do not want to move them out... **[Government Member: Throw them out.]** I will never throw them out. **[Mr. Nandlall: They are not at GECOM.]** They are not at GECOM but they are in the National Assembly. The point is that we all want to be involved so there is a buy-in as I like to call it. Like I said governments may change but our major economic planks and pillars, our major foreign policies, our major agriculture policies, whatever it is, will remain consistent because there is ownership of these major developmental planks.

Going back very briefly to the governments, their undertakings, and commitments, Articles 165 to 182 of EPA – and I am very happy that the Government has, let me be gracious, everyone now has copies of EPA. I think that is very, very good. I do not know if it is the little tooth fairy that put it, but Articles 165 to 182 deals with public procurement. In those articles there is a call for the establishment of public procurement so there can be transparency, and people will know what is going on in terms of government contracts and so forth.

This matter, as we know, is in our own Constitution which preceded the EPA and can be found in Article 211W and onward. I just want very briefly to remind everyone in the House that the APNU is very happy to hear the Hon. Minister, who is a person of high integrity, say that her Government takes their agreement seriously. As such, we think that we can be very confident that very soon we will see the establishment of the Public Procurement Commission, not merely

because EPA said so but because our own Constitution, which is the supreme law, says so. I just want to read Article 212 W(1)1 of the Constitution:

“There shall be a Public Procurement Commission (this is the Constitution) the purpose of which is to monitor public procurement and the procedure therefore in order to ensure that the procurement of goods, services and execution of works, are conducted in a fair, equitable, transparent, competitive, and cost effective manner, according to law and such policy guidelines as may be determined by the National Assembly.

We support the motion. My colleague, Mr. Greendige, will speak a bit more on EPA. I just want to say, in closing, that we want to encourage very much that we ensure that EPA becomes a living agreement and one, as the Hon. Minister said, that we can benefit from.

I notice from the Kaieteur Newspapers today that there is a meeting to be convened tomorrow in Dominica where senior members of the EU and senior members of CARIFORUM will be meeting to move EPA forward. We wish them success because their success is our success. With those few words, I reiterate APNU’s support for this timely motion.

Thank you. [*Applause*]

**Mr. Ramjattan:** Mr. Speaker, I rise also like my good friend, Hon. Member Deborah Backer, who spoke previous to me, to support this motion. I want to say that sometime in 2008 the flip-flopping in relation to support for this treaty by the Government of the then day caused me to write an article that was well received, I understand . “*Mr. President is it scrutiny you are afraid of.*” Many should remember that article. What this treaty with the European nations contained largely were some of the points mentioned by Hon. Member Mrs. Backer, It included a whole host of procurement requirements that will have to be reciprocated by the territories that are going to be signatories. The treaty has a lot to do with encouraging the tourism sector with certain requirements; it has to do with helping Guyana with telecommunication services, science and technology; all were in there. It was a brand new regime as against what Cotonou had provided for. To that extent, when we had our Excellency, Mr. Jagdeo, going all over the territories condemning it as anti-development, we had to ask the question and we did. We are very happy today that he signed it to begin with, and, today we are going to ratify it in our National Assembly.

Treaty making is always the function of the executive branch of the government. It is always going to be that branch of government that must negotiate and so on. But I wish, in view of Article 13 of our Constitution which talks about inclusiveness in our democracy, that we must bring these matters to our National Assembly, and create public awareness for our young children to understand what we are going to do, the necessity for a new regime. All of that was not done in 2008 and prior to that because, as I indicated, we were flip-flopping. There was flip-flopping so much so that a certain Minister Henry Jeffery lost his job as a result of this. [Ms. Shadick: How you know that?] How I know that? He said so in an article. He said it was because of the difference with the matter of the EPA that he has to resign. So it is important that we bring that little history to the National Assembly.

I want to indicate, especially to Mr. Neendkumar, that the Government takes the approach to start making him aware even of the sports benefit we can get out of this agreement. We must take advantages of the terms and articles herein that can make Guyana a better economy. For those reasons I want to state that we must not, our foreign relations must be informed by our national interest and not the foibles of only certain leaders. We have to end ambivalence and uncertainty in these relations and must not appear to flip-flop.

Thank you very much. [*Applause*]

**Dr. Ramsammy:** I stand to add my support to this motion to ratify the CARIFORUM/EU Economic Partnership Agreement. As the Minister of Foreign Affairs said we signed this in October, 2008. We also, in this National Assembly, approved the schedule of tariff liberalisation that the Minister spoke about which has excluded 17% of the commodities out of Europe into our country from this trade liberalisation.

Earlier I heard the Hon. Member Deborah Backer talking about the presentation in the House today of the text of the agreement. In fact, these texts were available to everyone not only in the Parliament but around the world. It is on the Guyana Government website, it is on the CARICOM website, it is on the EU website; it is everywhere. So this is not a secret document. Every student of the Economic Partnership Agreement has been perusing it and talking about it. In fact, I agree with the Member that there are positive things about this agreement and we can take advantage of those.

The Hon. Member Khemraj Ramjattan should know that whilst there are many positive things in this agreement there are serious dangers. We must never talk about partnership with the EU and us as if it is a partnership or agreement between equals. It is not. In fact, we have to sign. It was not as if everybody was comfortable with the agreement. No country in the Caribbean was comfortable with the agreement. It was either we agree with the EPA or we would have been forced to go to the general listed system of preference (GSP) which would have been more disadvantageous. So there were reservations and his Excellency the then President Bharrat Jagdeo was bold enough to talk about the unequalness. He knew and stated in his address during the consultancy that we would have to sign because even with what existed then in EPA it would have been better than falling back to GSP. There were other prominent people in our country who agreed with the President. Mr. Winston Murray stood up there and said he had some problems, but he too was bold enough to talk about the reservations on this. Professor Clive Thomas, Professor Givon and Sir Shridath Ramphal wrote extensively about reservations on this.

*3.08 p.m.*

So the reservation that His Excellency talked about was not flip flopping, he recognised that we had and we all recognised, but we knew that we had to sign. We were trying to see... [Mrs. Backer: ...grandstanding...] No, it was not grandstanding. It was that we had to see if there was something better. Listen, the fact of the matter is that next year we are going to have the first review of the CARIFORUM/EU/Economic Partnership Agreement. Had we not expressed our reservation and be as vociferous as we were, we would not have had that clause inserted in the Economic Partnership Agreement (EPA).

In fact with the EPA there is still concern around the region on how it could impact on the single market and integration in the Caribbean. That is still a concern of every Prime Minister, President, all Foreign Affairs Ministers and all the academics of the Caribbean. There is still that reservation and the fact that we were able to insert a clause into the agreement and the Treaty of Chaguaramus not being superseded by this agreement is testimony to the leadership that we provide.

This is an agreement that we must take advantage of the opportunities that exist. Yes, it is not a panacea, a one-sided thing of only good things to us, there are dangers. We as countries that are

entering into an agreement with a partner that is not our equal, by far is not our equal, we must be cognisant of these dangers.

The non-liberalised products that we have been able to get into the agreement and I believe the Caribbean people, including the Hon. Member, Mr.Greenidge, did a good job in ensuring that we excluded some of the product. The Minister of Foreign Affairs talked about the products such as sugar, some of the fruits and vegetables that we are excluding from liberalisation.

There are the technical barriers to trade that are still preserved in the EPA. There are technical barriers, regulations and standards which we will have to struggle meeting. And yes, Guyana has an advantage over some other African, Caribbean and Pacific (ACP) countries because we have exported wood, sugar, rice, rum and bananas from other Caribbean countries, so we have some experience in meeting these standards. But still there are mighty mountains; overwhelming challenges to meet these technical barriers of trade and it will take a lot of capacity and investment to develop the capacity to overcome these technical barriers to trade. This is something we have to work on.

There are other barriers, the Special Preferential Sugar (SPS) barrier and the sanitary and phytosanitary barriers that we have to overcome. These are some of the things that we have to work on. Many of our countries have not yet been able to implement those SPSs and it prevents us from exporting. Guyana is working on these and, for example, I hope to, very shortly, bring to this National Assembly, a Food Safety Bill that will set in motion some stronger initiatives and to meet these SPSs. Not only to export to Europe, but also for providing high quality and safe food for our own people and within the regional markets, but in that respect it takes a lot of investments and training.

Guyana has been working with Pan American Health Organisation (PAHO), World Health Organisation (WHO), with CARIFORUM that has now been established and based in Trinidad, with the Caribbean Agriculture Health and Food Safety Agency (CAFSA) based in Paramaribo, Suriname to build these sanitary and phytosanitary standards. Our pesticide lab that has been established will allow us by being able to measure for pesticide residues and so forth to meet many of these standards. It is a struggle, it calls for lots of investments and it will take time.

So, whilst the opportunity for our products to enter the liberalised market in Europe exists, being able to take advantage will take time and will also take investment and these are some of the things that cause the reservations in the first place. It was not just wild grandstanding, you might call that grandstanding, but these are some of the struggles that we have to go through, and I know the Hon. Member Mr.Greenidge will stand up and say yes it was grandstanding and these things and so on. But I can tell you though, as Minister of Health then and now Minister of Agriculture that we have been struggling with these SPSs barriers, not just us, but in Africa \$70 billion a year of earnings are excluded because of the SPSs barriers that exist. When one looks at it by more than 5000 times the limit of Aflatoxins in peanuts have been established as part of this SPS, so that even if we do all the things necessary, we will never enter that market. And you take a few billion dollars being given as aid and then you exclude at the worth of \$70 billion, it is not always what you see on paper, and these are the reservations that we are talking about.

So it is not flip flop and you know we can accuse one President or other people, but as a citizen of this country and given the fact that I read everything I can get my hand on and study everything, even before all of that, from Cotonou days in 2000, reading these things and because of speaking at the poverty level at WHO and so on, these are the struggles that countries have to reduce poverty. We know that we have had some preferences historically from the Europeans, sugar and things like that and the prices and so on and the tariff free, quota free access to that market by poor countries and so on do pose challenges for us. The fact of the matter is that sugar and the exports of sugar to Europe still represent a considerable foreign exchange earner. It is a source of employment and it is a provider of rural livelihood. Sugar is important to us, then, today and it will be so twenty years from now.

The sugar protocol with its allocated quota and preferential price has been a critical element in our development story. But I do not know, some people call it the preference, I never called it a preference and I do not want to go into that. But this was a treaty signed, I think Mr. Greenidge and others know, in 1975 and it was supposed to be unending. This unfortunately was a preferential arrangement that neither party could have abrogated, but one of the reservations in fact of signing the EPA, is that in signing the EPA, it is also a denunciation of the arrangement, a denunciation of that treaty and the sugar arrangement by the Economic Partnership Agreement.

So it is not flip flop, it is genuine reservation, however we express it and every citizen in this country have that reservation... **[Interruption]** Yes all of us should have had.

In the new arrangement the agreement saw the reforms of the European sugar production and marketing arrangement, for example, as one of the reforms in this European sugar arrangement is that there is a 36% reduction in the sugar price. Do you know what that cost us? It was approximately US\$42 million on an annual basis. That is a reservation we should all have, it is not flip flopping, it is a reservation and the way it was we may have to go along, it is something that we have to put on the table as a genuine reservation and concern and that is what we had to do.

I do not want to make this a long story, but the truth is that the private sector for example and the National Competitiveness Council - we developed a National Competitive Strategy and a council and a lot of things have happened over the years. We have had 27 policy areas, 243 actions to be implemented, I am not going to go through all of this, but there are areas of trade transactions, competition and consumer protection, tax policy and administration, investment and export promotion, access to finance, business development services and institutional reforms. We have made progress in all of that, I can take each one of these and begin to talk about all of the areas that we have made progress in.

As a country we cannot escape the Economic Partnership Agreement, it is there and in a relationship, an equal partnership arrangement, we have to view the economic partnership agreement from the perspective of the opportunities that exist and to explore those opportunities and do the best. But we also have to be cognisant of the dangers that lurk and we have to begin to avoid those... **[Interruption]** **[Mr. Ramjattan:** This is flip flop...] You can call it flip flop, but we must go and tell the people that US\$42 million a year loss is a flip flop and not a concern. You must go and tell them that.

**Mr. Speaker:** Hon. Members we were going well. The Minister is about to wind-up, allow him to finish. He was going well and now you are trying to wind him up. Please complete, Sir.

**Dr. Ramsammy:** We, at least on this side of the House, will speak for our producers, our manufacturers, et cetera, that there are technical barriers and the SPS which represents in the immediate future, constraints for us to enter a market that says you are free, but you cannot come

in unless you do this and so on. We are part of this agreement and we ask that this House ratify the agreement, as signed by the Government of Guyana as part of CARIFORUM. [Applause]

**Mr. Greenidge:** Thank you very much Mr. Speaker... [Interruption] [Mr. Seeraj: Preparing for the long haul] [Mrs. Backer: At least an hour] I need your protection here, Mr. Speaker.

**Mr. Speaker:** You are protected, proceed.

**Mr. Greenidge:** Thank you very much, Sir. May I start by extending my sympathy to our colleague, Dr. Ramsammy, who seems to have taken a very close interest in things associated with EPA and its predecessor Contonu and Lome and who has concluded in a manner that I think left a lot of us worried as to where he was really going.

I think it needs to be said from the very beginning that we need to avoid terminology that will cause confusion rather than enlighten. First of all, we are in an era, in the international trade arena in which countries such as the Caribbean that may have suffered handicaps in the past and which has been treated in the framework of preferential agreements can no longer depend on the international community to provide them with those special concessions.

I think you need to be reminded also that the Caribbean, as was the ACP, was party to an agreement with the European Union under the various Lome Agreements – [inaudible] and then Contonou, in which it agreed that it would seek to move away from dependence on preferences and participation in agreements that discriminated against other developing countries, that is the reality. That is the reality. You cannot sign an agreement about that and then weep about it afterwards, which is what we do and gets us into trouble, internationally.

Let me just point to the implication of one of these issues. If you are a party to an international agreement that says you will not be discriminating against other developing countries, but yet you go into the international arena and seek to preserve for yourself, privileges which discriminate against those, then you will find yourself in the difficulties that we found ourselves with Uruguay, Columbia and other third world partners, Brazil included, fighting us down in those international arenas for abrogating the very principles that we have embraced. Do you

understand what I am saying? First of all, therefore, the issue is to understand to what we have committed ourselves.

We also signed in 1995 under the Mauritius Agreement, an agreement that said we would, having got a waiver, a second waiver and a third waiver for Lome move away from that framework. That is the background to the difficulties we are encountering with sugar and bananas in particular. It explains why many of the developing countries who should be our partners have been unwilling to support us in these international agreements. The relevance of this is that, even if the European Union were prepared to fight our case in the international arenas, such as WTO, bear in mind they lost three cases against third world countries on behalf of the ACP countries, sugar and bananas producers and their taxpayers were not inclined to have their taxes used to pay fines to the WTO for failing to honour agreements that were signed more than once.

So that is a background that we have to deal with as a reality and therefore I think that observations that seeks to justify positions taken by our spokesmen, I do not think we need to dwell too long on this, which seems to be positions fighting on behalf of the other world. When they were in fact just grandstanding, needs to be avoided, because that is exactly what they are. We ended up in a situation where in this very country, the first ACP Heads of Government, the first Caribbean Heads of Government meeting I attended after leaving Belgium, I was privileged to hear the President of this country tell off the other heads of Government saying, “Why are you insisting on sending back our agencies to get more money when Mandison himself told us that no more money was available. You are giving them a basket to fetch water.” Within two months of that statement and persuading the other heads to write to the European Union asking to give concessions on services, in return for the concessions that they have given on goods, he was saying to all those who would listen that we were badly treated, we did not know we were negotiating services and a variety of other things. So I think the problem of being a victim here is one that we should try and avoid.

The negotiators who looked at this agreement that is before us, which we are happy to support, had a number of objectives. Let me mention them very quickly because I think they are important in understanding, I want to also say something about funding because I think financing

is important in relations to the point raised by our colleague Dr. Ramsammy and then to identify some of the areas of opportunity, if I might do those very quickly.

The objectives that the negotiators tried to satisfy were first of all to try and minimise the negative impact of liberalisation, because liberalisation as many of the critics have pointed out can have disadvantages. Indeed, many of them suggested and if they were right, by now we would have been in complete turmoil, that as soon as the agreement was signed you would have wide spread unemployment and excess production and so forth. That did not happen because the negotiators took into account and the EU also did not have an interest in some of these things happenings so that was the first objective.

Secondly, to maximise market access in goods, goods in particular are mentioned; to retain the preferences and minimise preference erosion as far as possible; and to improve access to services. If the other areas, namely of protecting the bananas, sugar and other products into the European Market can be regarded as the defensive strategy, then the offensive one wants to try and craft a space in the European Union for the services that maybe Guyana does not feel that it can, but the rest of the Caribbean believe that they can do. I will like to make the example that even in Guyana where we have not in recent years regarded ourselves as outstanding exporters of music, we are starting to produce a variety of performers, mostly females I noticed, whether it is Shelly G, Tameka Marshall or the others, who have been making waves and this can generate a lot of income for us as it does for Jamaica and Barbados in recent times and even St. Lucia. We need to make arrangements to be able to capitalise on the export of such services, on the export of the complimentary services going with them, those persons who provide bookings and who move the instruments and so forth, we need to take advantage of those things. So that was one of the charges the negotiators had and for that reasons they regarded it as very unfortunate that Guyana should have been saying publicly and it is not only the President, but Mr. Luncheon who was nowhere near the negotiations, claiming that they never give instructions and they were not aware that services were to be part of the negotiations.

The other goals were to encourage investments that are environmentally friendly, to enhance competitiveness and diversification through and I emphasise through innovation, which means that you cannot continue to expect to access international markets by selling sugar in its raw form based upon cheap labour. You have to take the product, whether it is the plant or the

produce and bring innovative techniques to bear on it. So new products; new uses can be put to the same product and so that productivity in the sector can improve. That was one of our charges and I will come back to that in a second.

To protect and stimulate small and medium size enterprises, to promote regional integration, economic cooperation and good governance. The EU's old user agreements tend to include those. To conclude a modern trade agreement, to keep subjects manageable, I am afraid we did not succeed in that at all, and to secure additional funding for capacity building, integration support and EPA implementation and I say that specifically looking at our colleague, Dr. Ramsammy, because it is true with the points he was raising about the supply side, enhancing the supply side, dealing with sanitary and phytosanitary barriers are costly both in terms of finances and in terms of human resources.

But I would hasten to add that he needs to continue reading the document, because in the document he will find that there is provision for financial and technical assistance to enhance our own capacity to overcome those barriers and so instead of complaining we need to go and search through the document to find what avenues it has.

The Essentials of EPA in return for securing access for the at-used industries, traditional exports, we built into the agreement as symmetry so that those, between ourselves and the EU, we had unequal burdens, they took the greater burden of liberalisation than we did. Within the region also, liberalisation was asymmetrical, the Dominican Republic has liberalised almost 95% of its goods that it receives from the European Union, whereas on average in the rest of the region, it was 18% that is 86%. So there was symmetry in the fashioning of the agreement and also, we as was mentioned earlier, excluded some 493 items, in other words 13% of all the imports. If you remember that we started off with over 25% of our imports from the European Union coming in free of duty anyway, then you would have to recognise that this liberalisation was never a complete liberation as some of the analysis was alleging.

The other important feature of the agreement was that we sought and obtained from the European Unions, concessions in the area of services in particular and the agreement itself has some characteristics that are rather unusual. First of all you have moratoria on tariff liberalisation, it commenced in 2011. Duties on petroleum, spares were also to be phased out

over seven to ten years. The commitments of the EU were and again for the benefit of our colleagues, to assist with technological developments, Small and Medium Enterprises (SMEs) and to help us to learn market requirements in the EU, which are very complicated, again I agree with Dr. Ramsammy, but in so far as there are provisions for enabling us to use the EU's assistance to capitalise on getting around the different language groupings and different administrative groupings, we need to bear that in mind.

Also to assist, the EU is obligated to assist us with Special Preferential Sugar (SPS) obligations and if you think that is theory let me just remind you that under the Cotonou Agreement itself, the EU has provided such assistance to Caribbean countries and I remember in particular one of the most notable and perhaps most valuable cases pertained to Namibia, where the EU facilitated their ability to export fish products to the European Union and then there is the question of special and differential treatment for those countries that believe that they are specially disadvantaged, that is also built into the agreement.

Before I end I want to make reference to the question of the... [Mr. Benn: ...Inaudible]  
You ought to speak for yourself as well. May I also say that in relation to the agreement, the issue of funding looms very large as you may recall the question of development, a development chapter, was a big issue where persons within the region and elsewhere were calling for a chapter to be included in the agreement. Such a chapter was included and it made provision for a variety of forms of assistance, there were three dimensions in the development agreement that were worth noting; the structure that is the product coverage and the time frame for the tariff reductions that was one dimension; secondly, the programmes and mechanisms that were intended to address the supply side constraints that is most important again, it applies to the points that were being made just now; and thirdly, there are five elements in the chapter which deals specifically with the discharge of the region's commitments to other regions.

In relations to funding, there are a variety of windows and I cannot go through all of these but I think it is very important also that we look at the agreement in its entirety.

3. 38 p.m.

The Cotonou Agreement has funding for the African, Caribbean and Pacific Group of States (ACP), including the Caribbean, under the regional indicative programmes and the national

indicative programmes, but there are also elements specific to the Economic Partnership Agreement (EPA), and in relation to the aid for trade dimension, the European Union (EU) has made a specific contribution to that exercise in order to enhance our own capacity to take advantage of that particular area.

I would like to close by saying a few words about the areas of opportunity that need to be borne in mind, in relation to this agreement, because one of our biggest problems is that, in this region, although we have been the ones that have signed complete EPA agreements, Caribbean countries, the English speakers, which led the race along these lines, have actually been lethargic in taking advantage of the agreements. It is recognised that there are disadvantages; the disadvantages have to be taken anyway; but countries need to recognise that since they have made that sacrifice they might as well do what is necessary to take full advantage of the agreement, and we have not done that.

I would like to draw the House's attention to the scope that the agreement provides for regional funds to establish operations within the EU and to have joint ventures. I make reference specifically to FP7, which is an innovation programme under which the EU has something as of €2 billion of funds that will support joint ventures which will generate either new processes or new products, which products or processes can be applicable in either market; the only requirement is that they be of a joint venture. The EU has also agreed to open services beyond its global commitments, and that is more than it has done for other partners with which it has signed, including Asia. Our private sector seems particularly interested in the creative industries. I mentioned music just now, but the private sector in the region has drawn the negotiator's attention to the fact that it is especially interested in creative industries and entertainment within that category and, surprisingly, audiovisual services. Concerning audiovisual services, I might say, within Trinidad and Tobago there are two small firms which have been doing very well in this area and the agreement seems, in their eyes, to open opportunities for them.

In the areas of garments, knitted and non-knitted fabrics, smoking tobacco, cigars, and so forth, there are also opportunities and the international trade environment, which we are facing at the moment, does offer opportunities that we can take.

I am making these points just to draw to our colleague's attention the fact that, again, an agreement have been signed, you have to bear the burdens of the agreement. You need to recognise that there are advantages which can be had. You need to gear yourself to take the advantage. It does not have to do with selling somebody else's product; it has to do with you recognising that you have a burden to carry and you need to lighten that burden, take advantage of the opportunities that the burden carries, almost as collateral damage. Therefore, that is the point I want to make.

The other aspect of this has to do with our own capacity to negotiate. The European Union has provided a range of instruments that I have mentioned. In truth, however, at our own negotiating sessions with the European Union in the standing arrangements – there is now, for example, a meeting taking place in the Dominican Republic – we need to ensure that we speak to it to ensure that it provides resources consistent with our needs and that it provides them at a pace and in a form that is, again, consistent with our needs. If that happens, each country, and CARICOM, has to sit down and look carefully at its needs as well as the instruments that the EU makes available, so that what is fashioned in the end is consistent with our own needs and requirements.

I thank you very much, Mr. Speaker, and will have pleasure in supporting the motion.  
*[Applause]*

**Mrs. Rodrigues-Birkett (replying):** I would like to thank the speakers, my colleagues, who have supported the motion before us.

I want to make a few comments based on some of what was said by the Hon. Members on the other side. Firstly, I would like to refer to the Hon. Member Mrs. Deborah Backer. She spoke about the several articles in the EPA relating to public procurement. I think that we are all aware that the Procurement Commission has been the subject of discussion in the talks between the Opposition and the Government, and I am advised that the parties have to submit names and this commission should be established by the end of June, 2012. There is some homework to be done on that side as well and I am sure that the articles she referred to would have further meaning.

Let me say that, yes, it is no secret that there were serious issues, and so on. The big issue I think for us was that the agreement we were negotiating was one of reciprocity when there are two very unequal sides. We would have preferred the proportionality among the unequal sides. That

was one of the issues that we had. In every agreement there will be opportunities and we recognise that. How we are able to maximise those opportunities, we must consider. Let me say this, that after we signed that agreement we saw some things happened, but I believe that we can sort those things out with the EU, and this is why the review clause is important. For instance, some of our countries in Caribbean Forum (CARIFORUM) which did not require visas to enter some European countries were told that they are now required to get visas. Now if it is a partnership agreement, then one would imagine, if we have to get the very cultural industries that the Hon. Member Mr. Greenidge and Hon. Member Mrs. Backer referred to - if we are going to get our artistes out there - we only need to speak to some of our artistes and ask them how easy it is to get into some of those places. These are some of the non-tariff bars that we have to deal with but I think, in discussions, and so on, that we would be able to deal with some of these issues.

I would also like to say that the reason I mentioned that we signed the agreement in 2008 and how the other negotiating groups, together with our solidarity in CARIFORUM, were able to get that date pushed to 2016... I say no more. Because we knew what took place in 2008 and we have to be very careful sometimes when we speak of these things.

I want to, in particular, comment on something the Hon. Member Mr. Ramjattan said. He said that our negotiation should be based on national interest and not on the formidable of one person or foreign leaders. He was speaking in relation to our former President, President Jagdeo. Let me say that I was proud then and I am proud now of the position President Jagdeo took. The Hon. Member Mrs. Backer referred to the summit in Accra, Ghana, which I attended. Let me say that it was mere weeks before the agreement was finalised and, yes, it was not a comfortable situation to be in without the remainder of your CARIFORUM colleagues on your side, but I was very happy that the entire remainder of the ACP was on Guyana's side. We can go back to those speeches made by the representatives of Nigeria, South Africa, Mauritius and all the others. It was there that the European Union accepted that there would be a joint declaration on the five-year review. It was not a visit, Hon. Member Mrs. Backer, in vain. We were very pleased that we were able to achieve that not only on behalf of CARIFORUM but the other negotiating groups are saying that this very provision must be, in any EPA that they could conclude.

Let me say that we have learned many things from that process, CARICOM in particular. We have learned that we must pay our own negotiators. We must not let the people who we are negotiating with pay our negotiators. We are now negotiating with Canada and we have taken that decision, because there were times when one could not differentiate from who is paying and who was negotiating. I must say that I saw some of that here today too. Let me say that one Minister is no longer here, but there is also a negotiator who is no longer there.

Notwithstanding the points that were made, we have all agreed that we are going to look at the EPA – look at the opportunities – look at ways that we could make use of those opportunities, bearing in mind some of the peculiarities and the dangers that exist. We are committed, on this side of the House, to continuing this dialogue with the EU. Let me say that there were countries which were against us, at the World Trade Organization (WTO). Perhaps at another time, maybe when we have got our act together and established the Committee on Foreign Relations we would be able to discuss why it is important that Guyana is now part of the Latin America and Caribbean Economic System (SELA) – the Latin American Caribbean group, because if we were discussing with some of those countries a bit more...

How could we explain then that we have a partial scope agreement with Brazil which is nonreciprocal in nature and other CARICOM countries can access that agreement through the one which we signed with Brazil? I am sure we could have been able to discuss with some of these countries – the Brazils, the Uruguays, the Ecuadors, and so on – on issues such as bananas, as some of our countries had to deal with, but now these things are being discussed. Let me say, as we speak, CARICOM is part of a SELA subcommittee dealing with tariffs for Latin America and the Caribbean. I think that it is important that here it is that a group of developing countries are dealing with issues that affect us and not having another set of countries being allowed to divide us.

I think that this is real progress. That being said, I ask for the support of the National Assembly to ratify this motion.

**Mr. Speaker:** Thank you Hon. Minister. This has been an interesting debate on an interesting subject.

*Question put, and agreed to.*

*Motion carried.*

**Mr. Speaker:** Hon. Minister of Foreign Affairs, I am pleased to report that the House has approved your motion. Thank you.

I am conferring with the Clerk as to whether to take the suspension, but before I do I have received information that the very close uncle of the Minister of Housing and Water has passed and so, in his absence, I wish to express to him and members of the family our sincerest and deepest condolences.

Rather than us ending on that sombre note, I also wish to note that, for the first, Mrs. Backer did refer to the Minister of Foreign Affairs as being a person of high integrity. I think that that should be noted for the records. We are making progress after the budget debates.

Hon. Members, I think that we can take the suspension. I remind you that there are students from President College here and some of you may wish to interface with them, as I am sure they have an interest in matters, political and parliamentary. The suspension is taken.

*Sitting suspended at 3.53 p.m.*

*Sitting resumed at 5.03 p.m.*

**Mr. Speaker:** Hon. Members, before the Clerk proceeds I just want to make the comment that it seems that the Government side has been depleted. During the recess it has been brought to my attention that the father of the Hon. Member Mr. Seeraj also passed away and the funeral was last week. I regret that I did not know. I would have made a special effort to attend. As we have done in the past, and more recently for the Hon. Minister, Mr. Mohamed Irfaan Ali, I would like to extend to our colleague Member, Mr. Seeraj, and to his entire family our condolences and I had asked the Clerk to ensure that the office follows up with a card or something of that sort. Thank you Hon. Members for brining that information to my attention.

## **PRIVATE MEMBERS' BUSINESS**

### **MOTIONS**

## **HANSARD FOR THE PERIOD JANUARY, 1985 TO DECEMBER, 1992**

WHEREAS being cognisant of the importance of having the records of the National Assembly including debates, carefully maintained, secure and always available in the form of the Hansard, the official documents of the Parliament of Guyana;

AND WHEREAS being conscious that the Official Reports (Hansard) for the period January, 1985 to December, 1992 are the records of the decisions pertaining to the management and debates over the Economic Recovery Programme and other critical decisions in the management of the political economy of Guyana;

AND WHEREAS being concerned that the Official Reports (Hansard) covering the above mentioned period are not available,

“BE IT RESOLVED:

That action be taken by this House to submit the full records of the National Assembly for the period January, 1985 to December, 1992 as early as possible or within two (2) months of this motion being published on Notice Paper; and

BE IT FURTHER RESOLVED:

That if these documents cannot be found or have been destroyed that the Speaker is to institute an inquiry into the said disappearance or destruction of those records and report the findings to the National Assembly within one month after the tabling of this motion.” [*Mr. Greenidge*]

**Mr. Speaker:** Hon. Members, on this good Thursday we have four motions in the name of the Hon. Member Mr. Greenidge. I have seen this afternoon, coming quite late, some amendments which have been proposed. I would like to ensure that every Member has copies of those amendments and that they have been circulated and have been seen, because I would like to ensure - they are properly tabled – that we all have notice. Have Members seen the amendments? Very well.

**Mr. Greenidge:** I rise to speak to the motion in my name concerning the unavailability of a considerable number of the transcripts of our proceedings. As it were, I was in the course of doing some work, by way of private research, and came to use the library, downstairs, and discovered that all of the documents were not there. In spite of the best efforts of the staff, the

quest to find the missing document turned out to be fruitless. Let me take the opportunity at this point to say that in a subsequent discussion with the office I am informed that the actual documents that are missing, as of now, are those of 1988 to 1992, for the entire years in question.

**Mr. Speaker:** Mr. Greenidge, are you saying that you are amending your motion? Are you satisfied that...?

**Mr. Greenidge:** I have not seen them, but I took the word of the office. In substance, nothing has changed. There are a number of years missing and the intent of the motion is to have the House put in place arrangements to find the documents or to reconstitute them, if that is possible. That is it, in essence. [*Interruption*]

**Mr. Speaker:** Allow Mr. Greenidge to make his presentation, please.

**Mr. Greenidge:** Those documents are a very important part of our history. Let me say, first of all, that the explanations which have been rendered to us have, to me, been less than convincing. The initial set of explanations, when I spoke to various officials, was that they believed that the documents might have been stored somewhere over the refectory, or somewhere else, and they may have been wet, and they therefore might have been lost at that time. I think that at the time of the parliamentary briefing, at the beginning of these sessions, the Clerk informed us, after enquiring with his colleagues, that the documents had been, probably, sent to the printer, and the printer had not been paid, and, as a consequence, they had not been returned. That also sounds rather astonishing to me. It is, I think, necessary to ascertain who the printer was and whether, in fact, the printer acknowledges having receipt of the documents and making arrangements to return them.

I believe that, in the last analysis, the Speaker of the House, at the time, has the responsibility for ensuring that those records are complete. I would be grateful therefore if you could see your way towards having the Clerk and his team undertake a thorough search for the documents, in the first instance, and, in the event of them still being unable to find them, instituting an inquiry into their disappearance or destruction and to make recommendations for their reconstitution.

[**Mr. Neendkumar:** Go and ask Mr. Sase Narain.] I am glad that you are aware as to when they disappeared. You can contribute to the inquiry.

For those who do not know... [*Interruption*]

**Mr. Speaker:** Hon. Members, allow Mr. Greenidge to make his presentation, please. We all have ample opportunity to speak to this motion. Mr. Greenidge, I apologise for having to interrupt you, but I cannot even hear you.

**Mr. Greenidge:** Thank you Mr. Speaker. I understand your discomfort and I accept the apology.

In spite of the fact, Hon. Attorney General, that Dr. Jagan might have been in the House, his speeches never disappeared from this House, so you might like to bear that in mind. These documents are a very important part of our history.

For the benefit of the two Ministers, including the Attorney General, who seemed to feel, at various points, when I had asked about this matter before, that they had the answer by waving about speeches that I made. The *Hansard* is not the speeches that would have been found from individual Ministers. It is a full record of the transcripts that the House had been engaged in – the activities over time. In fact, this nation’s parliamentary records – I think we should be proud of this – go back quite a long way. The Court of Policy documents are documents that historians have worked with over the years and, I gather, as regards the modern *Hansard*, we seem to have records dating from November, 1928, and that is very good. It is unfortunate that with such a store of information we should have a gap arising from either carelessness or accident.

What I am saying is that those records constitute an important record of our history, our trials, our successes and our frustrations. Even, if it can be recalled, the period of 1929, when the first set of records would have been in place, those were of great significance, was the time of the first political party in this country, with some of the first national political rulers. It would be important to ensure that those records are complete.

In the words of the British Speaker in the House of Commons, who in addressing the editors of *Hansard*, said that, above all, “the *Hansard* is the chronicle of history and such is its importance to those who share our constitutional background.” In the English House of Commons, Betty Boothroyd, who you may know, I think, her fame spread far beyond the United Kingdom, in a 1996 conference spoke the following words to the editors, saying that:

“Behind change lies an unchangeable requirement on you all, the challenge and responsibility to maintain your traditional standards of accuracy and impartiality. This is crucial because accuracy and impartiality are the hallmarks of Hansard and whatever changes come along parliamentarians, all of us, look to you to hold fast those guiding principles.”

The “you” are those who are charged with safeguarding, protecting and producing these documents.

When I delivered the third Desmond Hoyte Memorial Lecture I had cause to mention the case in the Ministry of Foreign Affairs, in which a driver was able to retrieve from a pile of documents two scorched documents, one of which was the volume of the law journals of British Guiana. The staff member who took it to Mr. Desmond Hoyte reported that there seemed to be an exercise to destroy all of the records that the new Government had laid hands on in that particular set of institutions. [Ms. Teixeira: In 1992 the fire was on in Office of the President (OP).] Mr. Speaker, the fire in question was in 1994. Given the importance of the issue, I would prefer not to have to speculate on the cause of the disappearance of those documents and the real reason. Suffice it for me to note that it is not the first time sections of the post-1964 records have disappeared, and I would urge that we make arrangements to ensure that they can be quickly found or replaced.

I think we have to mature with time and this is an important sign that we can deal with these challenges that face us. In the light of that I would like to urge that Members on the other side embrace the motion. [Applause]

**Minister of Culture, Youth and Sport [Dr. Anthony]:** I would like to make a brief intervention on the Hon. Member Carl Greenidge’s motion titled “Hansard for the period January, 1985 to December, 1992”. Like the Hon. Member Mr. Greenidge, we on the Government side of this House understand the importance of having *Hansard* since it gives us an insight into the thinking and decision making of our legislators. It also serves as an important primary source for historians and other researchers. The *Hansard* is, no doubt, very valuable records and we should have it properly catalogued and maintained for anyone who would like to use copies of it. However, this is easier said than done and I think the Hon. Member Mr.

Greenidge just stated how far back our parliamentary records should go. In fact, my little research on the subject would have shown that from the Dutch period, sometime between 1718 and 1803, we should also have records. Then there are the records of the British period - the initial period when the British were still using the policies by the Dutch – and that goes from 1803 to 1928. Then there was the later British period which was from 1928 to 1966 and, of course, we then have the post-colonial records, from 1966 to the present.

*5.18 p.m.*

Looking back over that period, there are many gaps in our record keeping. It is not just our parliamentary records, but also the national records. In fact, a former President of Guyana... **[Mr. Ramjattan:** You cannot even find who it is.] I will call his name... but at the time he was Vice President of Economic Planning and Finance, Mr. Hugh Desmond Hoyte, on the occasion of the formal opening of the National Archives, at Main Street, Georgetown on Saturday 17<sup>th</sup> March, 1981, had on that occasion to remark:

“I have always been pained at the distressing condition of our National Archives and the constant threat of damage or destruction to which our valuable and historical documents have been exposed. Because of the absence of satisfactory facility, it has been impossible for our archivists to examine, classify and catalogue these documents in any systematic way. Their accessibility to scholars and other interested persons has, therefore, been limited and the rich mind of historical information has remained virtually unexplored. As we seek to create a nation, proud of its past and confident in its future, we cannot continue to treat our irreplaceable legacy with nonchalance.”

These were the words of the late President. It is not only these national records that are in the archive, and it is not since then that we have recognised that there is a problem with our record keeping. But while some steps would have been taken at the national level, the issue of parliamentary records continues to be problem, and this was documented by the former Clerk of the National Assembly, Mr. Frank Narain, who in a document... I think, in the last Parliament, Members of Parliament were given a copy of this folder. In this folder, he pointed out, on page 160, what were the conditions of the documents which were contained, here, in the Parliament Office. In fact, it was only in 1953 that the collection of documents started in this National

Assembly, and at the time – these are his words - he said that there was a small room where these records were placed. “The records of legislature had been increasing, have kept increasing, and it reached a stage, a long time ago, where there was no longer any further shelf space available. Records, other documents, and files had to be placed and left on tables, chairs, and even on the floor. No additional space was forthcoming.”

When one goes on to read what he said here, on page 160, he then said that in 1992 he approached the then President, Dr. Jagan and asked whether the Parliament Office could have further accommodation to house these material. The President had acceded to a request and in a letter dated 16<sup>th</sup> December, 1992, informed Mr. Frank Narain that it was agreed to make the Public Buildings available for parliamentary matters only and placed it under the administration of Mr. Frank A. Narain, Clerk of the National Assembly.

So we have moved from a situation where a lot of our parliamentary documents were contained in a room, not properly catalogued, and in 1992, we worked to start establishing a parliamentary library. He further went on, because he has documented the process of setting up the parliamentary library, and here he said that in 1992, the United States Agency for International Development (USAID) was approached and it gave assistance. It hired the National Democratic Institute, a non-governmental organisation, based in the USA, to assist with putting together our parliamentary library. It brought in international experts to work with the parliamentary staff and, later on, there was also the benefit of local people who worked in the library. One of those local persons who assisted with the development of our parliamentary library was a person who had held the office of Deputy Librarian at the University of Guyana (UG). She worked here as a consultant and helped put together this library.

We have been going through stages, and I think it is very important that we understand the context. Basically, the documents, which were here, were collected, many of them were tied in bundles and left in a room and it was very difficult to retrieve the information, from how it was placed in the room, in any timely manner. Of course, it was not properly categorised. After it was put in the library and tried to document it, I still feel that there were a number of documents which were not properly categorised or catalogued.

I recall that when this House passed Resolution No. 46, in the Ninth Parliament, to recognise Dr. Cheddi Jagan, one of the things that we committed to, in that resolution, was to prepare a special edition of the *Hansard* containing a collection of his speeches, spanning his tenure in the National Assembly from 1947 to August, 1992. To put together this collection – to pull all of these speeches together – was, indeed, a very herculean task. While this resolution was passed in 2007, it was only this year that we were able to present seven volumes of those speeches. Even in those volumes that were done, some of the older colleagues, on the People’s Progressive Party side, have said to me that very important dates and occasions were missed. I am sure that there might be records out there that are not yet categorised or catalogued and we have to look for those records. It is a work in progress.

Apart from this...and I heard the Hon. Member Mr. Greenidge in his presentation say that while Dr. Jagan had this long tenure in the National Assembly none of his speeches was missing. I want to say to him that of the seven volumes that were done, actually, from the years 1947 to 1987 were only able to be done. Dr. Jagan was in this National Assembly until 1992. It was because we did not have some of those records available to us.

I know in the motion one of the things that Mr. Greenidge has said is that...In the “Be It Further Resolved” clause, he is asking for an inquiry into the said disappearance or destruction of those records and to report the findings. These are indeed strong words and any wilfully destroying or disappearing of public records should be met with the full force of the law. However, I am not convinced that there is any wilful or deliberate attempt to disappear or to destroy these records, in the Parliament Office. On the other hand, I think that because of our lax record keeping and poor cataloguing, the records might not be readily available. I was made to understand, quite recently, from the Parliament Office, that it has closed the library, searched – it probably did a very vigorous search – and found stacks of additional material that were not previously categorised. Those include records from the years 1988, 1989 and 1990. I, myself, would like to get more details on those records because they might help us to complete the final volume of Dr. Cheddi Jagan’s speeches. Maybe the Hon. Member Mr. Greenidge would also find the record that he is looking for.

In addition, most recently, based on resolutions passed in this National Assembly, the staff of this Parliament Office was engaged in compiling *Hansard* pertaining to former Presidents -

LFS Burnham, which dates back from - there are periods - May 1953 to December 1953 and September 1957 to 1980; there is Hugh Desmond Hoyte's records here, in the National Assembly, from January 1969 to 1985 and then from the period 1992 to 2002; and there is Mrs. Janet Jagan's period, in the National Assembly, from May to December 1953, from September 1957 to July 1961 and then from 1973 to October 1997.

Here, again, now that some additional documents are available, we would really like to see...because those that we have been working on did not contain some of those later years and I am sure that once we get them available we will have completeness of the speeches that we are trying to publish.

Mr. Speaker, we, in this country, do not have a perfect archival system, and this Parliament Office does not have a perfect system. But I certainly recognise the efforts of yourself and the staff, because anytime I request information, whatever is available, they try to provide it. Archiving is a very special field and we need to improve the system that we currently have in this Parliament Office. I would have preferred a more comprehensive review of our parliamentary records, going back to 1718, and, in such a review, for us to examine our current parliamentary record holdings and to do a catalogue of what we have and what we do not have, so that we can search and get into other archives, especially for the colonial period, so that we can retrieve those and have them as part of our records here. The current state of the record must also be documented. It should be checked to see if the conditions under which these documents are stored are the optimum. After the compilation of such a review, what we should do, when we know what we do not have, is to take active steps, especially for the colonial period, in getting those records here. We must also take active measures to preserve the original documents and we must make copies of those documents and put them in formats that researchers can access, such as microfilms. They should be presented in a user-friendly format. I am sure that all of us, who would like to read more about our history, once it is presented in that format, will be able to access it readily. I see, right now, for this Tenth Parliament, we can actually access some of the *Hansard* online, and that is a good thing. We should move to get the older documents to be online, as well. There should also be a system where the original audio recordings can be kept in an audio archive so that if we need them we can listen to the old tapes. I think that the time is

right, now, for us to also consider having an official video record of the proceedings of this Assembly. Maybe, that is something for us to consider.

I think that all of us recognise the importance of our parliamentary records and it is important that we work collectively to maintain the integrity of those records. If there are gaps and weaknesses, then we should strengthen them. It is in this collaborative spirit, Mr. Speaker, that I have submitted some amendments to the Hon. Member Mr. Greenidge's motion and I do hope that they will be favourably considered.

Thank you very much. [*Applause*]

**Mr. Nagamootoo:** I wish to state the position of the Alliance For Change (AFC) on this motion, that we are in unequivocal support of it and we believe that this would have not been a subject of any contention, whatsoever, because the Hon. Minister Dr. Frank Anthony, himself, has articulated orally the great value of our history. I wish to, in this Parliament, applaud him for his own effort in producing the Guyana literary classics, because it shows to the world that we are a nation with intellect; we are a nation of writers and people who could imagine and who have vision. A lot of what has been preserved in the classics had gone back so many years. In the same way, we would want, as part of our Guyanese civilisation, to make available our statesmen's contributions, our leaders' contributions and our people's representatives' contributions in this august Assembly, in their pristine form, as accurately as we could possibly preserve and record them.

I cannot, for one moment, try to lay blame on anyone, on any side, to say that there might have been a conspiracy to destroy the *Hansard* or speeches that would contribute thereto. I believe that we cannot go back and ascribe motives for things that have disappeared, because if we start doing so, we would end up...

**Mr. Speaker:** Mr. Nagamootoo, at one time, you were the Minister of Information, around that period, and that is why you are saying that you cannot impute any bad motives.

**Mr. Nagamootoo:** Sir, those who throw stones must not live in glass houses. We must always believe that, because while I regretted, when we took office in 1992, then (when I was with the People's Progressive Party Civic (PPP/C)) there were files that were missing, Cabinet documents

and others because I discovered those myself. I also regretted, very deeply, that when I went to the Guyana Public Communications Agency (GPCA), most of the records of an earlier period...I looked with sadness and I was aghast to see utter despoilment of what the record that I was told was. We, ourselves, then, after we removed some of the documents in the possession of the GPCA – then so-called Ministry of Information – we did not preserve them in the way that we ought to, and I regret that very much.

If we start to apportion blame, we will only see the evil in each side and not what is the primary objective of the motion. That is, if there had been infraction and there had been destruction, we should now try to make a diligent search so that all of us could be rehabilitated, so that we can, in a sense, present our history to our young students – our scholars of tomorrow from the school of excellence - what has been done in this House on their behalf. It is not a matter of debate whether or not we should have our *Hansard*.

We must also say that we appreciate efforts to produce Hansard. Right now, while we speak here, since these debates, a few days after, I would receive a draft copy for minor technical and other corrections to be made, to the speeches that have been made. I applaud that because it shows that there is a deliberate purpose behind producing *Hansard*. I went to the library and I was able to access *Hansard* for several years. I was shocked to know that I could actually download them. That is in fact what all of us must aim to do and not simply to say that we have *Hansard* in a haphazard manner. It is so important that we must recognise and give credit where credit is due.

But we are saying that it is not enough. If it is found that there was a period for which *Hansard* was missing, there should be a purposeful search to locate where those *Hansard*, document, files, records, audio tapes, or even if there was video tapes then - I am not too sure - and not to apportion blame. Just in case that they cannot be located, one must reasonably assume that they could have been destroyed; they could have been misplaced. Because of the importance of this matter we should set a timeline and that is what this motion seeks to do. It is not to leave this open-ended. It is to set a timeline within which it ought to be done. No one of any reason could come back to the National Assembly, if it is said...even if it is the Hon. Minister...that a diligent search had been made and certain conclusions have been come to. No one could reasonably impugn the Minister, or try to impugn anyone, if we are told by the Minister that we tried, in

cooperation with the Parliament Office...I think that the Hon. Minister knows what I am talking about because he has a residuary position that he has committed himself to. [Ms. Shadick: It is inspiration; it is different from legislation.]

I will not be distracted from what I am trying to say. I think that the Hon. Member is trying to distract me but I am addressing the issue that it is absolutely necessary that there ought to be a timeline by which we should have the Parliament Office enquire whether those documents are available. If it comes and says that the documents cannot be found, we should then pursue, as the motion seeks to pursue, what has happened and who is culpable. There must be a culpable party if those documents are not located.

Speaking about culpability, I know the grief missing and destroyed records can cause and I refer to a booklet, *The Political Situation in Guyana and the Way Forward in Guyana: A Discourse on the Implications of the 1997 Elections*. Sir, this was edited by one named Mr. M.Z. Ali, a great friend of mine, who died two days ago, a subeditor. He was the Chief Information Officer. He was Hon. Minister Irfaan Ali's uncle. We had been together since the 1960s. This analysis, made by me in a speech, had called for the formation of a government of national unity in Guyana. That we should eschew the politics of winner takes all. I knew that when I was summoned to Freedom House just to be told that this book had to be withdrawn and destroyed. There were piles downstairs, which I saw with my own eyes, ready to be burnt. Those who are trying to cast stones, must remember what I said about glass houses. You cannot live in glass houses. It is reasonable to impute that there could have been destruction of records in the Parliament Office. [Interruption]

**Mr Speaker:** Order, Order.

**Mr. Nagamootoo:** If this is so, then this motion seeks to give a timeline whereby we could have rehabilitation of the records or an account given for them. I will fully support this motion and the AFC categorically and unequivocally supports it. [Applause]

**Mr. Speaker:** Mr. Nagamootoo, is that the last remaining copy of that booklet? If so, please keep it carefully.

**Ms. Ally:** I wish to support my colleague on the motion, “Hansard for the period January, 1985 to December, 1992”.

I want to join in signalling the importance of having all records of the National Assembly, more so the *Hansard*, available in the National Assembly. Sir, it boggles my mind why these very importance documents are not available for the period 1985 to 1992. More recently, a few minutes ago, I am told that some of them have been found, from the year 1998. But, be that as it may, I wonder, Sir, why would anyone not want to have those *Hansard* for an important era in the history of our country? As you know, Sir, this was the very period in which the records pertaining to debates on the Economic Recovery Programme had taken place - that very important programme which laid the basis for the improvement in our economy. It is even more incomprehensible that those records are missing for the year when the PPP/C assumed office in Government. This, Sir, does not smell refreshing.

The *Hansard* is treated as an accurate report. As I understand it, the edited *Hansard* is the official verbatim report of the legislature. In the case of any dispute, the *Hansard* is taken as the official record, and there were, recently, several instances where the Hon. Speaker had to call for the verbatim records of Members. It must be noted that the electronic version of the *Hansard* is printed only for information purpose, but the printed *Hansard* is the document of record.

Reporting is mandatory. Our parliamentary records are sacred. They are our sole reference of the business of this legislative aspect of governance. Hence, they must be treated with some measure of safety and importance, so that at any time in our lives they can be used as historical references.

Modern technology today affords us the luxury of having *Hansard* in a very timely fashion. I have been long enough in the National Assembly to recall the laborious task of reporters reporting and recording all of the business of National Assembly, then having to edit them and subsequently to produce them.

5.48 p.m.

I must place on record that this very period, with the missing *Hansard*, was my first period of tour of duty in this Parliament, and, for me, it is very disgusting that I cannot look back at those interesting years when I first served as a Member in this august body.

The production of *Hansard* has come a long way. Records of parliamentary business began since in the 1800s and has gone through various stages, on reporting on extracts, from shorthand writers to be transcribed in notes form, type from those symbolic typist machines, cyclostyled from those duplicating machines, from tape recorders to now, where these verbatim records compiled and recorded using modern technology.

The production of *Hansard* requires people with highly specialised knowledge. It is an intensive job carried out under great pressure, completed within a fixed time frame, continued for long hours without a break, utmost concentration, intellectual effort, needless to say, the physical stamina, mental alertness and quick reflexes are the essential attributes necessary for the production of *Hansard*. As I speak, Sir, I recall Ms. Eileen Cox, who used to sit way across there, and I was sitting where my honourable friend Keith Scott is sitting, that quiet and unassuming person who exhibited many of those attributes I spoken of, a short while ago, but, unfortunately is denied pension because of lost records at this very office. [Mr. Neendkumar: It is not you who carried it away.] I am not like you, Mr. Neendkumar, you always get yourself involved in those kinds of acts. How could all that pain and sacrifice be endured and today we are told that those *Hansard* cannot be found.

From the 1800s to present the production of *Hansard* has come a long way. We acknowledge the stages of development and these must be preserved, whether it is our likes or our dislikes. Sir, as you see, it is not only a report but those copies of *Hansard* are a rich source of contemporary history. They provide detail information on all matters touching the life of a citizen. They bring to light the political, economic and social conditions of even the remotest parts of the country, besides, they serve as a mirror of hopes and aspirations, concerns and apprehensions of the nation as voiced by its chosen representatives. We cannot allow the voices of our country's representatives in the National Assembly to disappear in thin air.

I, therefore, want to urge that that there must be expedient effort to find and to submit those reports to this National Assembly. I want to further urge that if those documents really cannot be

found - if they were destroyed to fulfil anyone's promises - that Sir, you launch an inquiry into the said disappearance or destruction and report the findings to the National Assembly.

A Partnership For National Unity (APNU) cannot accept this distasteful situation, hence, I urge that every stock be pulled out to retrieve these very important records.

I thank you. [*Applause*]

**Ms. Teixeira:** This is an important issue we are discussing here today, in terms of the nation's assets, and public records are the nation's assets. In Guyana, as in many other countries, these are located under the custodianship of many institutions by statute. The Parliament Office has been the repository of the records of Parliament and as Minister Dr. Anthony pointed out that, in fact, it was only in 1992 that the Parliament Buildings was handed over exclusively for the use of the Parliament Office. I am glad that Dr. Frank Anthony reminded me, because when we used to come here to picket, and also to come and sit in this hall to listen to the debates, that whole wing, at the western side, was occupied by the Prime Minister, at one time it was Mr. Hoyte, and at another time it was Mr. Green. The Parliament Office was only a small section of this building. Therefore, the Parliament Office, itself, has also had an exciting history and anyone of you who may want to know more about it.

The great challenges for Guyana, in terms of preserving records and keeping them, are basically fire and flood, the two things that pose the greatest risk to the preservation of our records, including most of our property in Guyana, as well. I remind you of recent ones where, for example, the Sacred Heart Church burnt down and the records of 1865 right through to 2006 were destroyed. Those were valuable records of the births, deaths and marriages of persons who used that particular church. It would be the same thing if we become concerned about some of the other church records in this country... but also to go back to public records. There are a number of places where other public records are kept - our maps, our land titles, all those are kept in particular places, our defence records and our maps that are under defence and security care; the issue of National Trust and some of its records that may be papered and may not be, they maybe architectural and physical, but the National Archives is obviously the next repository of our public records. For the younger people of this House the... **[Mrs.**

**Backer:** Thank you...*inaudible*] Mrs. Backer, you do not qualify. You are in between my dear; you have to get used to that idea. You are no longer in the youth category.

One of the things is that there were records kept here. Mr. Greenidge referred to records of an earlier period of the Parliament and it has been documented to show that records were being kept in the dome - I think that is what you call it, the dome of Parliament - that section there, in the alcove. The dome was where records were being kept and in the 1940s there was a fire which destroyed a lot of those records that were kept up there in that period by the British Colonial Office. So fire has been one of our main issues.

We have also been our own worst enemies, in the sense that in 1977 the National Archives was basically dumped on top of the fire station at the Stabroek Market. I remembered well, because I was doing research, and looking for dates for certain records, and I ended up there... That was the first time I met Mr. Tommy Payne, who was the archivist, who bemoaned the fact that on top of the fire station there were no windows at all in the building and rain and insects, and everything, were destroying the records. I remembered being very pleased when the archives... A lot of stuff was damaged by insects, by water and by people stealing. As in many places, people found the penchant to remove certain document from the place.

I was very pleased when parts of the archives was moved from that location, near Stabroek Market, and put into a section of the now National Museum, where the newspapers records remained for a long time, until the new Walter Roth Museum was opened in 2008, where all of those records were able to be moved. Then, of course, the other movement of the National Archives was under Mr. Hoyte in 1981. The problem with all of this is that every time records are removed, particularly papers records, they get damaged; they get misplaced; they get misfiled and a whole range of things. Even at the National Archives, when I was Minister of Culture, Youth and Sport, I attempted to get a list of holdings to see where the gaps were and to then recognise that a number of records were actually removed from the building, because it is that people just like to take things out of the building.

I will give a personal experience. That is why I am trying to preamble this to say that Mr. Greenidge's motion is... I caution Mr. Greenidge in jumping the gun and casting aspersions, because those of us who have some background in this area and who are record keepers in a

variety of ways really know how... I will give the anecdotal for example. We decided to have the bicentennial exhibition of the Schomburgh exhibitions in Guyana. That was where our boundaries were determined in the 1930s and 1940s. Lo and behold, we did put out to intellectuals of this country to share records with us, and they did come forward. They shared valuable handwritten records by Schomburgh which were written to the Venezuelans and how we knew they were the archives property was because they had a specific mark on them that could only come from the National Archives. Of course, I need not tell you that we did not return those records to those who shared them with us. I am just using that anecdotally to say that to jump the gun on a number of issues is, in fact, mischievous.

I want to add to this by saying that in contrast to what was experienced between 1977 and now and a number of us wrote in the newspapers of those days - quite a number of us wrote including Mr. Eusi Kwayana and others - and I know I was one of those writers, talking about the state of the public records of our country.

Other than the quote that Minister raised from the Frank Narain's document, which was shared with the National Assembly, I bring to the National Assembly the issue of what was our record. In fact, in 1993 the *Hansard* was reinstated, reinstated, into the Parliament Office and there was a contract with a person to start producing it because there was no capacity in the Parliament Office, at that point, to do it itself. So if we were the destroyers, burners and arsonists, as some Members on the other side seemed to have proclaimed, then why would these efforts, which I am going to document to this House, be done if we have no interest in what is the preservation of our country's records.

The Auditor General's Reports were reinstated back into Guyana. I have seen some things in the newspapers saying that audit records were submitted and I read from the Auditor General's 1992 Report, which was tabled in 1993 - this was signed by no other person than Anand Goolsarran, 1993 September 14<sup>th</sup> - and he said the following. I am saying this to show the efforts that have been made to try to bring these things back into order.

“A civilised country, a developing country, a sophisticated country must be able to have respect for its records and the preservation of them.”

The last set, to quote:

“The last set of financial statements submitted for audit examination and certification was in respect to the fiscal year 1981 and the Auditor General’s Report thereon was laid in the National Assembly on the 18<sup>th</sup> December, 1987. As a result, a gap in financial reporting covering the period 1982 to 1991 existed. In addition to respect to the year under review two of the ten statements of accounts comprising Public Accounts of Guyana were not submitted by the Accounting General.”

And he went on.

If that first report of the year 1992 is read then the problem with the Consolidated Fund and balancing the accounts of Guyana can be seen.

So the first of the two things this Government did when it got into power in 1993 was to reinstitute *Hansard* and Auditor General’s Report. The second thing was to work with - I think it was, the United States Agency for International Development (USAID), as Minister Dr. Frank Anthony spoke about, for the establishment of the Parliament Office’s Library, in this House, and the rumour designated was that it looked and smelled like a library, and that was the beginning. We also then were not satisfied with that and then the Fiscal Financial Management Project which was the Inter-American Development Bank (IDB)-Government of Guyana project, we then went on to do training and upgrading of the facilities to try to pull together the way in which the Parliament Office operated in a more efficient way. That project ended in 2007. I think it started in 2004.

The Millennium Challenge Threshold Account - I might have got that wrong – but it is the United States Millennium Challenge Corporation (MCC). Under that funding, we started doing something which we have talked about before, and that was to digitalise the records of the House. Whilst we can talk about paper documents, the point is that this world is about digitalisation and about double keeping of records and not being depended on paper records, recognising their fragility and their vulnerability. In the 2006 to 2007 period this House moved into the digital era, with funding from the MCC to start digitalising, and that is when an estimate was done on the number of records that were available and had to be digitalised. The decision based on the money available was that... I know this because, I was part of it all, as it was in the Parliamentary Management Committee that those were issues discussed.

Two, in terms of co-helping the Government in dealing with and trying to get money for these programmes with the United Nations (UN) and with the Millennium Challenge Corporation that I am familiar with some of those things and I am not talking from a distance. I am talking from knowledge of recognition by the Parliament Office, by the then speaker, Mr. Ralph Ramkarran, by the Government and by Members of Parliament that we could not be dependent only on paper records and that were there to be a fire, and were there to be a flood, we would lose all of what we have, even though we recognise that there were public gaps. The Millennium Challenge Accounts started the digitalisation of the records, starting with the most current period. There is then the next project which is the United Nations Development Programme (UNDP)/ United Nations Children's Fund (UNICEF) Parliamentary Support Project presently in operation, which was from September 2011 and it will go on, in which, again, it includes websites - updating of websites, updating of records, uploading of records onto the website, digitalising, which has to be done before the website can be uploaded, and therefore creating parallel records.

There is also the Hansard Unit which is being established. This House should be proud of the Hansard Unit that, today, is up to date. Then, as you know, there is the weakness now and again – somebody slips up; someone is getting a baby or someone is not feeling well, but the point is that we can look back and figure out and deal with that part. The UNDP/UNICEF Parliamentary Support Project helped to build...

The issues of public records... and because there was so much damage done to the public records of the country, and the repairing, we were so far behind the rest of the world on what is done normally in any Parliament. Go to little Montserrat, go to Trinidad and Tobago Parliament and see their record keeping, but we were so far behind, because in the 1992-1995 period, for example, there was no money. I understand Mr. Greenidge's dilemma, as a Minister of Finance. This country was so far in debt; it had to deal with competing resource. Do you give money for water or do you give money for paper records? Obviously, somewhere along, he tried to do both and he fell on whatever. I understand and he has my sympathy. In those days someone like me could not have sat in this National Assembly, because the Opposition only had five or six seats, because the then Government had rigged the elections.

Some of us, who were young in those days, used to come and sit in this House to listen to debates. Two women, I always remember, Ms. Amna Ally referred to them, Ms. Eileen Cox and

a lady called “Shanta”. I cannot remember her last name. Those two ladies faithfully took the records in shorthand, which most people do not know how to do anymore, and also the old tape decks. Throughout all the sittings they would have sat here and did that. Later on, as Dr. Cheddi Jagan’s personal secretary... the Parliament Office used to send the speeches of the Members of Parliament (MP) on onion-skin paper. The young people do not know what onion-skin paper is. It had to be hand corrected by the Member of Parliament and returned. From there it was retyped, as Ms. Anna Ally went through, hand glyph setting, and stuff. Somewhere in that period, because I used to handle the *Hansard* for the Members of Parliament on the Government side, the onion-skin paper reports of the speeches stopped coming. They were not coming. So a *Hansard* cannot be read if there were no speeches because the Member of Parliament has to approve his speech. Mrs. Janet Jagan and Eusi Kwayana, who came into the National Assembly later - Dr. Roopnarine would tell me if I am wrong; we used to sit over that side - both, at different times, raised the issues as to why were the speeches not being provided to the Members of Parliament anymore and where was the *Hansard*. Well, there cannot be a *Hansard* without the speech. By the way, those questions, which were tabled by those two Members of Parliament, on the Opposition side, never saw the light of day on an Order Paper because in those days the Opposition questions did not go on any Order Paper.

Under the new cycle, the new United Nations Development Programme (UNDP) Country Programme for 2012 – 2016, under inclusive governance, there is an allocation or support for a Parliament Office - again record keeping, again digitalising, again website, again for *Hansard* and again for Committees - because it is a process. You cannot scan and digitalise thousands of records in a short period of times. It needs money; it needs time and it needs space, and so on.

I think I am very clear, in my mind, that tremendous amount of effort, time, contribution and dedication by the Government and by this Parliament office.... Look around the room here, who is from that era? The only persons from that era are Mr. Greenidge and Ms. Ally [Mr. Nadir: It is from the error.] Is it from the era or error? Yes, it is the error. The two Members of Parliament are from that era. The rest of us are froshies. Even the Clerk started from 1992, after the elections. The Deputy Clerk, all those young people who come from those Committees and Committee Clerks were not there at that time. Probably one of the older Members on the media side - I will point to him – was Mr. Colin Smith from the *Catholic*

*Standard*, who would remember that period and sat in the House in those days. The records... and Mr. Frank Narain, who was the Clerk at that time, can be asked by this Parliament Office to provide a paper, because his memory is very intact,...

**Mr. Speaker:** Believe me he will be asked.

**Ms Teixeira:** ...about *wuh happen to dem record? Why dem record na do?* Let him tell the story, because he is the only one who could tell the story. [Mrs. Backer: Why do you want to speak like that?] You do not tell me how to speak. I think that if we are serious... and I want to read from the Minutes of September 1991 of the National Assembly. It is the sitting of the 1990/1991. The 54<sup>th</sup> sitting at which there were sixty Members of Parliament present. The only one missing was Mr. Greenidge, who happened to be on leave at that time. It states so; I am not making it up. Here is the announcement by the Speaker of the House. The Speaker of the House was Mr. Sase Narain. So here we are saying that we cannot find records, and here is the record. I did not go and dig it up from somewhere. It came from the Parliament Office. The Speaker said, this is Mr. Sase Narain, that he had been “exploring ways and means to have published the verbatim records of the proceedings which are for various reasons, remained unpublished for a number of years, and that they were some hope in having that done. Before the publications stage the materials had to be conserved and preserved in good order. Those materials were a very important part of history and had to be protected.

The British Executive Services Overseas (BESO) had placed at the disposal of the Parliament Office Dr. Michael Pascoe a scientist, whose specialty was conservation management, training, planning science and technologies for libraries, archives galleries, museums, and historic buildings. Dr. Pascoe’s career also included keeper of the Conservation and Technical Services of the British Museum, head of Conservation Science at Camberwell College of Arts and a wide range of consultancies. Dr. Pascoe had arrived on the 6th and would have spent three weeks. On their behalf and his own he extended to Mr. Pascoe a warm welcome to Guyana.”

So there was recognition 1991 that the records had not been done. That was in 1991 and look who was talking. It was the Speaker, Mr. Sase Narain.

Mr. Speaker, as you know, there could be a storm in a tea cup. This is a storm in tea cup, Mr. Greenidge. You are trying to point fires where fire does not exist. The funny thing is that when

we jump before we look we will end up falling and hurt ourselves, because I have been around long enough. Mr. Greenidge was overseas, so I forgive him. Was it with the Africa, Caribbean Pacific Group of States (ACP), Minister Rodrigues–Birkett? Yes. So he did not witness the amount of rooms that had to be opened up and boxes that had to be moved and everything. I remember the stages and the dislocation and how much things had to be moved in this place. I think that the best thing in our heart we should do, instead of looking for the villain in the room, is to look for what can be honest mistakes and honest issues and try to resolve them. But this motion is wicked; it is a wicked piece of work. Do you know why I say so, Mr. Speaker?

6.18 p.m.

Notice, I never say the Member is wicked; the motion is a wicked piece of work, because it calls on the Parliament Office to submit the full report, but then it states that if they cannot be found, are being destroyed, have an inquiry. Comrade, this is a storm in a teacup. You are wasting the House time.

When I saw the motion came up on the table, I did not have time; any way we asked for a search, and I have found...I have been here for twenty years now and I am pleased that I can now, over the last few years, call and say, “I am looking for a record, could I have a copy of it?” “I am looking for a Bill, could I have a copy of it?” I will get it so fast. I think the staff has done well. Let me go back. We are looking, we asked, because we cannot believe that the records are not here. They are somewhere and so *Hansard* was not found for Mr. Greenidge, because the copies of the *Hansard* were not published. Mr. Sase Narain said so himself. So the Member cannot look for something that is not published; he has to go back to the transcripts. The transcripts and records were found, as Minister Dr. Anthony pointed out.

**Mr. Speaker:** Hon. Member, you have five minutes before your time is up. I am just giving you notice.

**Ms. Teixeira:** So in 1998, six transcripts were found - I have all the dates - 1989, seven Order Papers, ten transcripts were found. Let me give the year 1989 for fun, because I know that was when there was the big Economic Recovery Programme (ERP) going on this National Assembly, and the big debates, and everything. I agree with Mr. Greenidge. Here are the transcripts, verbatim records, which may not have been checked, which may be in their real form, but we can

solve this. This is not an issue to bring all this hullabaloo, but the 10<sup>th</sup> of January, the 13<sup>th</sup> of January, the 20<sup>th</sup> of February, the 11<sup>th</sup> of April, the 13<sup>th</sup> of May, the 9<sup>th</sup> of June, the 11<sup>th</sup> of June, the 9<sup>th</sup> of November, the 14<sup>th</sup> of November, the 20<sup>th</sup> of November were the only sittings that this House had during 1989, by the way. All it had was a few sittings.

The 1990 records, the transcripts and verbatim records, were nineteen, from January all the way to December 28, 1990. So Comrades, I believe firmly that we, as a Parliament, and the Parliament Office, with the right support, with some of the funding from UNDP, from the UN programmes, what we have done before, that those documents are in different places. They may have gotten misfiled. Maybe, Mr. Greenidge has not been in a position where he had to file his documents, but I can tell you, put a document in a wrong file, it would take years to find it back.

Thus, we have done a lot. I believe that the amendment brought by Dr. Anthony is that to encourage and to say with the support we have now, technically and financially, that we continue and we make a special effort to find whatever records are available during the period 1985 to 1992. Furthermore, if there are Members of Parliament, who are still alive, out there, from that period, they could copy their records, whatever they have - we do not need to check with them - and give us just whatever copies they have. It is to bring them into the archives and sort and fill the gaps wherever they may exist. I will tell you: this is what we had to do in October, 1992 - Members on the other side.

I walked into the Ministry of Health, as the Minister of Health, on October the 13<sup>th</sup>, 1992. The incinerator was burning and, as I walked into the compound, files were been thrown out of the Ministry of Health into it. The incinerator was full. I did not say who destroyed; it was the incinerator which destroyed them. The incinerator destroyed all the Cabinet's records that were in the Office of the President. Let me tell how we got them back. Let me tell you how we recompiled those documents, because they were gone. We went to every Minister in the Government and said "Can you seize your Cabinet records in your Ministries? Copy all of them, send them all to the Office of the President and let us try to recompile them." Hopefully, we have most of them. We did not get all, but we have, at least, the records because it was not about this Government records, it was the records of our Cabinet of our country that were just burnt - destroyed.

So the motion before us, let us take the essence of it and not what, I believe, is some mischief in the intention. Let us continue the search to fill the gaps - to go through those transcripts, to do the editing, because some of those Members of Parliament may no longer be alive - and let us try to get... As we get them we publish them and we would print those *Hansard*. If we cannot, we will make records of what are the Minutes of the sittings, which are different from the *Hansard*. I believe that there are all sorts of cupboards, and places, and things are tucked away. The reason why is that this Parliament Office did not have a lot of staff. It had a tiny staff. People were being paid well. A lot of people, of those days, worked part-time in this place; they came from other Ministries and worked part-time. So let us be kind to ourselves. Let us be kind to those who, I believe, in the past tried and somewhere a number of those records are there.

Therefore the motion that is amended by Dr. Anthony, I believe, removes what I think is a sword of Damocles and allows us to do what I believe is the intention. Let us search and rescue, because in some case it is a search and rescue. Having been with the National Archives and knowing about those, and Dr. Anthony knows it too, records can be damaged just by time, by wrong filing, by the air, by heat and all sort of things. So paper records in a tropical environment are a challenge. It is a serious challenge. The fact that our Dutch records have been kept in such pristine state, it is not only to do with the fact of how they are cared for, but also, funny enough, it is the paper and ink that they were on, because the new paper and ink and the old fax machines, which at some point we switched to, faded all over the place. So Comrades, we need to not only search, find, compiled, published the *Hansard*, but I want to go a bit further and add to what Minister Dr. Anthony added. That is, let us digitalise. Let us keep digitalising, as we get support from different donors, and what we can do ourselves - that we digitalise all our records.

But secondly, I want to suggest..., based on the experience of the fire at the Ministry of Housing and Water that was in the post 2001 Elections period. What saved those records at the Ministry of Housing and Water was that it had digitalised and stored its records of those land and house lots allocations in two different places. So what was burnt was only what was in that period that had not been uploaded/downloaded, whatever is the right word. So we cannot anymore rely on just luck. Therefore, it is with the digitalising and record keeping and the publication, putting on a website, but also it is trying to create double entry, double storage of using the new technology, to put in vaults elsewhere what are the public records we presently have in our thing, by

digitalised means.

Thank you very much and I support the amendment. [*Applause*]

**Mr. Scott:** The presentations by the Hon. Member Dr. Frank Anthony, the Hon. Member Moses Nagamootoo as well as Comrade Gail Teixeira left me in no doubt, whatsoever, that there has been an eloquent case for the second Resolved clause, that there should be an inquiry into the disappearance or destruction of those records.

I consider this disappearance of those records for the period 1985 to 1992 to be a very serious matter. For this and other reasons that have been stated, I rise to endorse the motion before this House this evening. We have developed an international reputation for poorly kept archives and our national archives are in a terrible state. But, if in one sense, we might understand, if not forgive the treatment of newspapers for the period of the nineteenth and twentieth centuries, how is it possible for fairly recent and important national records, as the *Hansard*, to be treated in a similar fashion? Perhaps the essential difference is that in this instance the missing documents, in this case the *Hansard* for a particular period of our history, can be deemed as a modern mischief. The inexcusable disappearance of the *Hansard*, especially in the period 1985 to 1992, is an assault on an important element of our national history.

Moreover, the political direction is very clear in this disappearance of these *Hansard*. Why? What is there about this particular period that makes this criminal erasure of our past history possible? The answer is not hard to discern. The Hoyte's period, and especially the economic management of our economy by our esteemed Member of Parliament and former Minister of Finance, Hon. Member Mr. Carl Greenidge, the architect of its success, is truly subversive to this Government, because it demonstrated economic management and competence at the highest level. I will return to this shortly.

But there is also the democratic issue and, more specifically, the freedom of the press at work, in this period, that stands in stark distinction to attitude of this Government to the press. Mr. Hoyte, you might recall, Mr. Speaker, prepared the way for a full free press freedom, an environment in which *Stabroek News* newspaper was born.

**Mr. Speaker:** Hon. Members, could we have less crosstalk? I am right here and I am not hearing

the Hon. Member Mr. Scott

**Mr. Scott:** What did the *Jagdeoite* PPP do more than a decade, in 2006? It cut Government's advertisements to the same newspaper. *Kaieteur News* newspaper too had its share of pressure, an indictment which is now confirmed even by Government's spokespersons. What more proof do we need of the egregious display of power and control of information? Now we are faced with this *Hansard* scandal. It is my humble contention that these issues are all connected together.

If the period of 1953 to 1985 represented the exciting era of Cheddi Jagan and Forbes Burnham, the rise of socialism and the fervour of national ownership of the commanding heights of our economy, and the distinguished membership of the then newly conceived Non-Aligned Movement and the concomitant struggle for full self-determination and economic growth in the face of hostile forces determined to extinguish any spark of success for the socialist experiment, then the era of Desmond Hoyte, in the period 1985 to 1992, is confirmed by history as one of courageous transformation and signified by the courage of a man who understood the realities of power politics as it affected small developing countries as ours. We felt the pressure in the period, now marked by absent *Hansard*, and our economy suffered then for it. But in the face of great resistance from his own party, and from the Opposition, Mr. Desmond Hoyte resolutely pursued his vision to chart a new economic path for his country. Mr. Hoyte explained his objective in the introduction to his book *Guyana's Economic Recovery* when he wrote, and I quote:

"To complete, as rapidly as possible, the evolution of Guyana, as a country of free people, practising free enterprise in an open society."

Mr. Hoyte eschewed the militant and revolutionary approach and adopted the economic platform geared, as stated in his book, "to the search for investment, the resolution of the debt problem and the reconnecting of the Guyana economy with the regional and global ones."

The man he chose to lead that rebirth was the distinguished economist and internationalist, the Hon. Member Mr. Carl Greenidge. The PNC Government and the party, now a committed member of the Partnership for National Unity (APNU), whatever else may be said of it, cannot be accused of lack of courage at any stage of its history, be it the 1950s, 1960s and up to 2011.

Hon. Member Mr. Carl Greenidge steered our state back to economic stability and success, so that when the PPP/C acceded to office in 1992 it inherited a buoyant economy with an economic growth rate of 6.6 per cent. It is my contention that this success, garnered in the period of Greenidge's management of the economy, is the overriding reason for the disappearance of the one chronicle that accurately preserves, for all time, the triumph of that period of our history. It is more than the passing strange that the period 1985 to 1992 is the only period strangely and inexplicably missing from our well kept parliamentary records. In other words the *Hansard* has surreptitiously vanished.

The PPP/C has built on the success of the immediate pre-1992 period, to such an extent, that it has become a reality that it has great difficulty in accepting. Its own propaganda traps it in its twisted logic. For it, the great things only began when it took office. We are aware of the efforts of senile misguided souls, who, like debauched Caesars of old, truly believe they can rewrite history. The artful success of propaganda gives the illusion that current affair is permanent. They also do not realise that history always corrects itself; it always corrects the false present and restores the true order. The Government Information Agency (GINA), and National Communications Network (NCN) and the *Guyana Chronicle*, with all their arrogance and rewrites of history, cannot detain the process we are embarked on today. It is our sacred duty to posterity, and to ourselves, regardless of party affiliation, to ensure that those *Hansard*, those records, are found and the criminals guilty of this deed be exposed and brought to justice.

**Mr. Speaker:** Hon. Member, I have to say “the alleged”, because we are asking for an inquiry and we cannot make any findings of fact that there is criminality, or so afoot, if we are going to have an inquiry, because you are making life very difficult for me to...

**Mr. Scott:** I agree Mr. Speaker. It is the “alleged”. The *Hansard*, as a complete record of all that is done and said in this Assembly represents truth. Indeed, it is the definitive record of Guyanese politics. The works of all of our leaders are preserved for all time. Any attempt to tamper with this record is an attack on press freedom. It is an attack on the media and an attempt to fill that gap later on with revisionist history. We have seen this happened in Stalinist Russia. All self-respecting and patriotic parties and Members of Parliament must join in condemning this deed and demand a full investigation. Our living recorded history therefore demands that those copies of *Hansard* be found and restored to their rightful place.

For this country to go forward, uncomfortable truths must be faced. The PPP has tried in vain throughout its term in office to present itself as the standard bearers of democracy. Nothing can be further from the truth. The recent press freedom index assessment has put us lower down the scale of countries with press freedom. The *Hansard* scandal is another nail in the coffin of the PPP's desire to control what every Guyanese see or hear. It will fail.

I call upon this House to condemn the absence of the *Hansard* for the period identified and for all of us join together calling for an investigation of the disappearance.

I thank you. [Applause]

**Mr. Greenidge (replying):** I wish to thank our colleagues for the very fulsome way in which they responded to this motion. The motion is a fairly straightforward one. First of all, it does appear that some of my colleagues are having difficulty with the language. The motion in the first instances accuses no one of anything. It is a fact. The fact is that the documents are missing and that is something that cannot be denied. The motion request the House's support to have the matter looked at, and in my presentation I urge that the staff be encouraged to look for the documents and also, if necessary, then to find out why it is they disappeared. I really cannot see why anyone would have a difficult with that at all.

I have learned also of an explanation concerning what has happened at the National Archives, what has happened in various other institutions. All of that is irrelevant. I am really not interested in addressing those matters. The motion is about the *Hansard* and that is what I ask the House to address. The point is that the motion points to the fact that documents are missing for a key period; it does not mean that one is unhappy with anything that the staff have done. In fact, as I think many people have attested, the staff have been very helpful, and, indeed, in my own intervention I made it very clear that the staff lent me their support in trying to find the documents. So we need not be diverted by these attempts to deflect us from what is really an urge to try and get something fix which is not in order.

The point is this, that there are, according to Dr. Anthony, bodies that assisted in putting together the digitalisation and recording, or the transfer of the document from the hard copies to the digital versions, and also building what is now the library. We could perhaps, if those documents

still can be found, ask them whether they could advise us as to where those documents could be or whether they have, themselves, passed through their hands. There are a number of options I think we can pursue, but at the end of the day, as the Hon. Member Mr. Moses Nagamootoo was indicating, we do require a timeline and I think that is quite in order.

The concern as to whether this is not an important matter, I think, is unfortunately we should get there. I think all of the speakers have attested to the importance of those records to our own history. The fact is that some of those who are concerned that this issue is of no relevance have themselves contributed, far more than anyone else, in lengthening the time taken in the debate. That, it itself, I think, suggest that they think it is important. If it were not important then it is very surprising that they should have spoken so long and tediously about the issue. So the point is this, that it has been confirmed that the documents, I think, have not been available. The fact that we could be told that some of the records were not published and, at the same time, have been told that a search has yielded some subset of those documents indicates the state of confusion that some of our Members have as to regards what it is that we are doing.

We are saying, whether or not the documents have been published, the teams that were working on the records of the meetings sent to Ministers...I, myself, received a number of the typed scripts from the House which were corrected and sent back to them and they have to be in some place. If they all can be found that is great; if they cannot all be found, let us find means of supplementing them. That is all that the motion states, and I do not think that Members should have a difficulty with that very simple exercise.

Thank you very much. [*Applause*]

**Mr. Speaker:** Thank you Hon. Members. As I said it has been a lively, interesting and quite enlightening debate. Hon. Members, before I put the motion, we do have some amendments which I have received dated the 9<sup>th</sup> of May, 2012 in the name of the Hon. Minister, Dr. Frank Anthony. Members have copies of those amendments. I would have to put the amendments first and then, whether they are accepted, put the motion as amended.

So Hon. Members, I wish to refer to the amendments that you have in hand. Rather than to do the deletion and then the insertion, I would just propose the first resolution clause, as proposed by Dr. Anthony, that reads:

“BE IT RESOLVED:

That action taken by this House to reach for search for and compile the records of the National assembly for the period January 1985 to December, 1992 for publication as early as possible”

That is what the new resolution clause should look like and read if we accept the insertion and the deletions.

So I now put the first amendment to the House, that we delete the words, and I quote, “to submit the full”, and insert the words in their place, and I quote, “to search for and compile” and it should then go on to read “the records of the National Assembly for the period January 1985.”

6.48 p.m.

**Prime Minister and Minister of Parliamentary Affairs [Mr. Hinds]:** Division.

**Division**

*Noes*

Mr. T. Williams

Ms. Marcello

Dr. Ramayya

Mrs. Garrido-Lowe

Mrs. Hughes

Mr. Nagamootoo

Mr. Ramjattan

Ms. Ferguson

Mr. Morian

Mr. Allen

*Ayes*

Mr. Jaffarally

Mr. Damon

Dr. Persaud

Rev. Dr. Gilbert

Dr. Mahadeo

Mr. Seeraj

Mr. Neendkumar

Mr. Lumumba

Mr. Chand

Ms. Shadick

Mr. Jones

Mr. Adams

Ms. Baveghems

Mr. Sharma

Mr. Bulkan

Mr. Bond

Ms. Kissoon

Mr. Trotman

Ms. Selman

Mr. Allicock

Ms. Wade

Mr. Felix

Ms. Hastings

Mr. Scott

Lt Col (Ret'd) Harmon

Mr. Greenidge

Mrs. Backer

Dr. Norton

Mrs. Lawrence

Mr. B. Williams

Ms. Ally

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. Ramsaran

Dr. Westford

Mr. R. Persaud

Dr. Singh

Mrs. Rodrigues-Birkett

Mr. Nandlall

Dr. Ramsammy

Mr. Rohee

Dr. Roopnarine

Mr. Hinds

Brigadier (Ret'd) Granger

*Amendment put and negatived*

**Mr. Speaker:** I will now proceed to put the second amendment and that is that after the words “December, 1992”, we remove the words “as early as possible or within two (2) months of this motion has been published in the Notice Paper” and insert thereafter, the words “for publication as early as possible”. Hon. Members, I put that second amendment by Minister Anthony.

*Amendment put and negatived*

**Mr. Speaker:** Hon. Members, there is a third amendment and that is that the second RESOLVE clause on Mr. Greenidge’s motion be deleted altogether.

*Amendment put and negatived*

**Mr. Speaker:** Hon. Members, I now put the motion without any amendments.

*Motion carried*

**Mr. Speaker:** I note that there is some responsibility falling on me. I enjoyed, I must say, the historical discourse, for the period that I was not present because it does allow me to approach it objectively – the task at hand. I hope that I can have the cooperation of Members from both sides. I intend, as I have discussed with the Clerk, who is very diligent, and his staff I should say, in finding documents, and I should say as well that I have discerned no irregular motives and I will discharge the responsibility as bestowed by this motion to the best of my ability, knowing that I have a capable Clerk and the Parliament Office’s staff to support. We will be speaking with Mr. Narain and all others who may have some information on this matter. So thank you very much.

Hon. Members, it is five minutes to seven o’clock. We are due for a break at seven o’clock. I urge that we take the break but we will resume earlier. I also urge that for the remaining three motions, there are amendments to those as well, that if there is a possibility that the two sides can speak with each other, please do so.

*Sitting suspended at 6.56 p.m.*

*Sitting resumed at 7.32 p.m.*

**Mr. Speaker:** Hon. Members, at the time that we took the suspension, we had just concluded the first of four motions in the name of the Hon. Member, Mr. Greenidge. We will move to the second motion on the Courts. But before we do so, I wish to make two announcements.

One is that it is my expectation that we will conclude our business at 10.00 p.m. I do have a matter of my daughter writing examinations in the morning and I would like to be there personally. So I would ask the Deputy Speaker to, perhaps, preside. But if it is that we can conclude our business tonight, I would be most appreciative. Other Members may wish to leave as well.

Secondly, I should state that most of you would have collected some brightly coloured orange bags which have been provided courtesy of the health promotion department of the Ministry of Health. I am asked to announce, and I think that I should rightly do so, that this bag contains very important information on the damage of tobacco and it is meant for distribution to all Members of Parliament (MPs). None is to be spared. A draft Bill on the control of tobacco is also contained in that bag and it is the plan of the Ministry to have extensive consultation to ensure a tobacco free and safe environment nationally, of course starting in the Assembly and its precincts then extending outwards nationally.

## **THE COURTS OF GUYANA**

WHEREAS under Article 122A of the Constitution all Courts and all persons presiding over courts shall exercise their function independently of the control and direction of any other person or authority and shall be free and independent from political, executive and any other form of direction and control;

AND WHEREAS in accordance with Article 122A of the Constitution all courts shall be administratively autonomous and shall be funded by a direct charge upon the Consolidated Fund and such courts shall operate in accordance with the principles of sound financial and administrative management:

AND WHEREAS the Supreme Court of Guyana and all other Courts are being treated as a Budget Agency, a practice which seriously calls into question the independence and autonomy of the Courts,

“BE IT RESOLVED:

That the National Assembly takes steps to amend the Schedule to the Financial Management and Accountability Act 2003 so as to remove the Supreme Court from the Schedule of Budget Agencies and restore it to its rightful place as an autonomous body drawing directly from the Consolidated Fund and that the changes should 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:** Thank you very much Mr. Speaker. This motion carrying my name is a very important one. Compared to the others, it is especially important because it seems to fly in direct contradiction with the provisions of the Constitution of the Co-operative Republic of Guyana.

The situation in which we find ourselves today is a very interesting one and we can, I think, see the lengths to which our colleagues are prepared to go in order to ensure that some of the entities that are ascribed privileges in the Constitution of the Co-operative Republic of Guyana are somehow frustrated in enjoying those privileges. More specifically, the motion suggests that the Constitution of the Co-operative Republic of Guyana grants specific privileges to the judiciary and the reason for this is the close link among the rule of law, civil rights and democracy.

The Separation of Powers in English-based Westminster system is the pillar of an approach which seeks to strike a balance – the balance of power among the three branches of government by acknowledging their supremacy and their specific domains and giving them more power to unduly influence or control the other branches. That is my understanding of the concept underlying the separation of powers.

The rule of law itself, the bodywork of a democratic society – and it is also important in the operation of a market economy...if the rule of law is to be held, it is essential, therefore, that there should be an independent judiciary because that enables the markets to operate on the basis of predictability, fairness and so forth. The rule of law requires that the courts have jurisdiction to scrutinise the actions of Government to ensure that they are lawful, in other words. That is the point here. And in modern society, the individual is subject to controls imposed by the Executive

in respect to almost every aspect of life. And since those laws affect us in so many different ways, we need to be able to challenge their legitimacy and the legitimacy of Executive actions, and that requires an independent judiciary.

The Constitution of the Co-operative Republic of Guyana is consistent with many of the countries within the Commonwealth and those principles can also be seen enshrined at a more global level in terms of the United Nations (UN), for example.

The seventh UN Congress on the Prevention of Crime and the Treatment of Offenders, held in Milan on 26<sup>th</sup> August 1985 to 6<sup>th</sup> September, 1985, and endorsed by the General Assembly resolutions 40/32 of 29<sup>th</sup> November, 1985 set out the following basic principles to assist member states in their task of securing and promoting independence of the judiciary. It includes a number of things. I am not attempting to set out all the requirements of an independent judiciary but I am concerned as to those that pertain to the financing of a judiciary. And in that regard, of the seven principles that were set out in the UN Declaration to its member states is no. 7 which refers to the duty of each member state to provide adequate resources to enable the judiciary to properly perform its functions.

In 2003, the Commonwealth Heads of Government Meeting in Abuja, Nigeria endorsed the so called Latimer House guidelines on the relationship between the three branches of government. These identified the requirements for judicial independence. These Latimer House guidelines have been the subject of many formulations but what I would like to highlight are two aspects. They speak to financial independence and administrative independence.

You would be aware, Mr. Speaker, that more recently the United Kingdom (UK), in the wake of the crisis or changes that had to be implemented in relation to the lower lords and the removal from the House of Lords, established a supreme court. And the debate around that is still ongoing in terms of a number of factors associated with the issue of independence and the machinery of getting funds to the judiciary and to the courts. What I can say, in summary, is that it reflects on the part of the Judiciary, the affair of becoming a branch of the Executive. The lower lords are concerned about the need to be free to run the courts themselves...and that if they have a chief executive, a registrar who will be answerable or accountable to the courts...and they also reflect concerns about curbs and recruitment and salary levels. And there are issues pertaining to capital

costs – maintenance of buildings and facilities. All of these impacts upon the capacity to deliver service at a quality and at a speed recognised as acceptable. And one may have seen, recently, some rather sharp exchanges between the Justice Secretary, Kenneth Clarke, and two of the lower lords. Kenneth Clarke took umbrage over something that they said and pointed out that the UK Government had been scrupulously following or recognised the need to keep the Judiciary independent and that the mechanisms it had in place for keeping it independent would ensure that it is able to get the resources it needs to operate effectively. He pointed out, in passing, that the Ministers of Government scrupulously avoid questioning any judgements made against the Government and they do not comment on court judgements.

The UK's mechanism for dealing with the need for financial independence is an interesting one. It ended up with a situation in which once the Treasury scrutinised the bid, the request by the Judiciary for funds, it is voted on in Parliament and the funds go directly to the Supreme Court from the Consolidated Fund rather than via any other entity. In effect, that ring-fences the Supreme Court budget and ensures that it cannot be touched by Ministers. In other words, the Chief Executive, the Registrar, is solely responsible for the administration of the Court in accordance with the direction of the President and the funds are free from ministerial control. And after that, of course, the normal regime of accountability would apply. The Audit Office will check on the expenditure after the fact and if the Public Accounts Committee wants to examine anything that has been done, that can be undertaken.

I think it is important to understand that this idea of ring-fencing or block vote is very important. And in the context of the UK, it does not solve all of their problems but it is a principle that is not alien to us. I will tell you what I mean by that. I am saying that, in effect, the motion which cites Article 122.A of the Constitution of the Co-operative Republic of Guyana speaks to this question of the independence of the Judiciary and, more specifically, the financial dimension and the administrative implications of the independence of the Judiciary. Article 122.A speaks to:

“All courts and all persons presiding over the courts shall exercise their functions independently of the control and direction of any other person or authority; and shall be free and independent from political, executive and other form of direction and control.”

At the same time, Article 122.A mentions:

“...all courts shall be administratively autonomous and shall be funded by a direct charge...

And this is the nexus between the points I was making earlier.

“...upon the Consolidated Fund; and such courts shall operate in accordance with the principles of sound financial and administrative management.”

So the Constitution of the Co-operative Republic of Guyana recognises the same point I made in relation to the British courts, the need having received the resources as a block vote or as a lump sum to adhere to accepted principles. It is also interesting for me to refer you to Article 222A (a) of the Constitution of the Co-operative Republic of Guyana which has something else to say on this matter. It deals with the overarching clause on financial autonomy. If you have a copy of your Constitution, it is on page 224 and under it speaks again:

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

The entities in question are captured in the Third Schedule, page 247, and those entities list the Judiciary and, as we are here, the Office of the Auditor General. I hope I am making myself clear. In other words, the Constitution of the Co-operative Republic of Guyana is unambiguous...

**Mr. Speaker:** Are you speaking to the Judiciary or just the Auditor General’s Office?

**Mr. Greenidge:** I am speaking to the Judiciary. I mentioned the Auditor General’s Office in passing.

**Mr. Speaker:** Sorry

**Mr. Greenidge:** The motion that I am addressing pertains to the Judiciary. I just wanted to make it clear that it was not the only entity mentioned in Article 222A as having a right to be in the Third Schedule and a right to having direct charge on the Consolidated Fund and a block vote.

**Mr. Hinds:** Mr. Speaker, I know that we will get on to the Auditor General’s Office, but I would like to say here at this particular moment...

**Mr. Speaker:** Is it a Point of Order, Hon. Prime Minister?

**Mr. Hinds:** Yes Sir.

**Mr. Speaker:** If it is a Point of Order, I will entertain it.

**Mr. Hinds:** Sir, maybe I wanted to – maybe it is not the right time – challenge the Hon. Member talking about the Auditor General’s Office. He mentioned the Auditor General’s Office as listed and Government’s position is that it is in accord with what is required by the Constitution of the Co-operative Republic of Guyana and the other Acts on the Auditor General’s Office.

**Mr. Speaker:** Hon. Prime Minister, I think we gathered that. There will be a full debate on this issue later on but other Members of the Government side are free to take issue with anything Mr. Greenidge says. I will not recognise that as a viable Point of Order.

**Mr. Greenidge:** Thank you very much, Mr. Speaker. Normally, I am very solicitous of the need by the Prime Minister to intervene, but, I think, on this occasion I have a difficulty. The fact is that a direct charge on the Consolidated Fund is usually interpreted as meaning a “block vote”. A “block vote” is reflected as a lump sum in the Estimates. It does not require debate or examination by the Minister and it comes to the House, as we see, almost in the same way as the entities...there is a set of entities in the Estimates that are treated in that particular way.

The Fiscal Management and Accountability Act which was passed in 2003 by the Government in return for donor support under the Heavily Indebted Poor Countries (HIPC) has been described by one commentator as the most insidious piece of legislation to have been enacted in recent years and this observation is made by that commentator because of the import that it has for...

[**Mr. Neendkumar:** Which commentator?] Will you please...? ...because the importance that it has for the operations of the court.

When one passes legislation as a Government, one is obliged to honour that legislation. And in honouring that legislation, if one has a difficulty with that legislation then it should not have been passed by that person. The Act itself is a device by which the PPP/C Executive has, in fact, gained control over some key constitutional bodies, including the Guyana Elections Commission (GECOM), the Audit Office and the Judiciary. By making the Supreme Court a budget agency, the Judiciary’s independence has been made subordinate. [**Mr. Nandlall:** When you were

the Minister of Finance, what did you do?] The legislation of 2003 postdates my position in

Government and getting angry over it is not going to solve the problem. I did not pass the legislation. Mr. Speaker, in the words of the same commentator, this Act seems clearly repugnant to several articles in the Constitution of the Co-operative Republic of Guyana.

**Mr. Speaker:** You may mention that there has been a commentator. But if you are going to be quoting from a person, the Standing Orders state that you will have to reveal your sources. You may make a cursory reference, but if you are going to be quoting from a document or statements made by someone else...

**Mr. Greenidge:** Thank you very much, Mr. Speaker. I am making reference simply to the terminology rather than quoting from the Constitution of the Co-operative Republic of Guyana.

In addition, what I am saying is that the wording of the Constitution of the Co-operative Republic of Guyana is not consistent with the Fiscal Management and Accountability Act 2003 which seeks to add to a Schedule at the back of the ACT, a number of agencies which are termed budget agencies. And in the body of the Act specifies certain powers that the Minister enjoys in relation to the entities that are described as budget agencies.

7.52 p.m.

Even in relation to special-joined rights, for example, it gives the Minister power to grant special-joined rights and also to withdraw them often without notice and without explanation. Those features are inconsistent with the features set out in the Constitution.

One can get a feel for the intention of other countries which use the same formulation as to autonomy by looking for example even at a jurisdiction that is different from the Commonwealth. In the case of the United States ... [*Interruption*]

**Mr. Speaker:** Hon. Members, allow Mr. Greenidge, he has a right to make his presentation; he is the mover of a motion. There are a number of speakers lined up here including Members of the Governing side. You will have your chance. Mr. Greenidge, please continue.

**Mr. Greenidge:** Thank you Mr. Speaker. I am making reference to a jurisdiction other than one in the Commonwealth. In relation to the United States I am saying in order to maintain

separation, and I quote from a paper by Mr. Candreva at the Business School in Monterey in the USA:

“To maintain separation among the three branches of the Government while still maintaining the requirement for a consolidated federal budget”

The budgets of the Judiciary and Legislature... [*Interruption*] If you listen you will understand the relevance of the comment. The Budget for the Judiciary and the Legislature are included with the Executive budget but are not reviewed or modified by a central budget office or the office of management and budget in the right House.

Section 11:05 of Title 31 of the US code of Federal Law addresses the submission of the annual budget. Part (b) says that estimated expenditure and appropriations for the Legislative branch and the Judicial branch to be included in each budget under sub section A(5) of this section shall be submitted to the President before October 5<sup>th</sup> of each year and included in the Budget by the President without change. The point I am making here is that the idea of having a block vote is not peculiar to Guyana’s Constitution, it is not peculiar to the Commonwealth Constitutions and it is not peculiar even to jurisdictions that have migrated a long time ago from the old British Jurisdiction.

In the current dispensation in Guyana, the Law courts and Judiciary are deemed budgetary agencies for the purposes of budgetary control and the Registrar of the court have been deemed the Accounting Office and the funds are channelled through him and the small secretariat that he has.

Several persons have asked, when this motion was first publicised, whether our understanding in the APNU was that Judges should be given the right to name whatever budget they wanted, or to have whatever increases they wanted from here to there. Clearly this is not the intent. Whatever waver roll financial guidelines the Government sets will apply to the Judiciary. The point is that with having a block vote the Judiciary itself will determine how it is used and the will not be exposed to Ministers and others who will seek to change line items within that allocation which changes may affect the capacity to carry out the responsibilities that they have. That is the purpose of a block vote and the obvious answer is that it leaves the allocation of funds to the Judiciary themselves.

As you well know, Mr. Speaker, there are *many ways to skin a cat* and muzzling a Judiciary can take many forms. As we have it in Guyana, we see the withholding of benefits to Judges and the Judiciary, the employing of retired Judges who gratuities are then held hostage to favourable decisions, the denial of facilities...

**Attorney General and Minister of Legal Affairs [Mr. Nandlall]:** Your Honour, I rise on a Point of Order.

**Mr. Speaker:** Mr. Greenidge there is a Point of Order on the floor being made by the Member.

**Mr. Nandlall:** Some serious allegations are made against the Judiciary and against judicial officers, against Judges saying that they are being held at ransom maybe by the Government, but it shows that they are susceptible to be held at ransom. The Judiciary is not here in person to defend themselves, and I ask respectfully that the Hon. Member withdraw such attacks.

**Mr. Speaker:** Hon. Attorney General, my sense is that the Member was saying that as it is it may be or can be, but he is not making an accusation to that effect.

**Mr. Nandlall:** Sir, my friend made reference to a specific case where a Judges pension was held up because that Judge was not giving a decision in a particular manner. That is what he said.

**Mr. Speaker:** Mr. Greenidge, could you clarify if in fact you said that you were quoting or referring to specific instance of a Judge's pension being held up by politicians. If it is so, then that is a strong and strident allegation. Unless you have proof to that effect, I will uphold that aspect. So far as what I heard about you saying that, "it can be", is okay in my view except the aspect of the reference to a Judge's pension. Please clarify that.

**Mr. Greenidge:** Thank you very much Mr. Speaker. I did not make any reference to a Judge's pension, I spoke generally and indeed as we all know there have been allegations by even as distinguished a predecessor to our colleague on the other side who himself had complained about his treatment. I did not want to get to those details and I certainly am not addressing those details. I thought that I was very clear as regards the scope that the legislation provides for pressure to be brought on members of the judiciary. It is the first time I am going to understand that the victim of a kidnap is being treated as the person responsible for the crime.

The “block vote” as I was saying is not perfect, but is largely meets the requirements of the Constitution whereas the Act of 2003 does not. Therefore, why we are proposing what we are proposing is that the Constitution is supreme. It has to be supreme over a Law like the Fiscal Management and Accountability Act and in this particular case the remedy is very simple. Just as the Minister has seen the wisdom of removing the Auditor General’s Office from the Schedule, we require that they observe... [*Interruption*] Yes, understanding seems to be only a privilege of some people, and that is why we are unable to have sensible dialogue. The request of the nation is that Members agree to delete the words “reference to the Judiciary” entirely from the Schedule; it is very simple. That is what the Constitution requires. Thank you very much. [*Applause*]

**Minister of Finance [Dr. Singh]:** Mr. Speaker, I rise to make a contribution to the debate on the motion moved by the Hon. Member, Mr. Carl Greenidge, in relation to the Courts of Guyana, in particular in relation to the financial arrangements governing and applying to the Courts of Guyana.

This motion is in fact one of a series of motions similar in nature to one addressing the Office of the Auditor General, on addressing the Service Commission and of course the one currently before us on the matter of the Judiciary.

Upon receiving the Order Paper for this Sitting, I quickly endeavoured to ascertain what the substantive business would be before us. Having seen the motions tabled by the Hon. Member before, but having had the benefit of subsequent experience, including the interactions that were afforded during consideration of the 2012 Estimates, it really was my expectation that I would find this and the other similar motions asterisked and deferred for future consideration. Indeed, I might even go so far as to say that I almost expected that the Hon. Member might have withdrawn these motions for reasons that I will outline shortly.

The matter of constitutional and statutory provisions governing the financial operations of certain Constitutional Offices found itself on a list of matters submitted by the Leader of Opposition to Government for consideration within the context of the discussion that was being held as we considered the National Estimates for 2012.

Colleague Members of this House would recall the Government readily agreed to engage in these discussions, received the written submissions and engaged, to the credit of both side, in lengthy discussions on the matters tabled by the APNU. In fact, I recall that we met on many of morning from 8.00 a.m. until immediately before this House was due to be called to order. In fact I seem to recall that on the occasion that we met, the calling to order of House had to be deferred somewhat to accommodate the arrival of some of the plenipotentiaries to those talks. I recall also that we met an occasion after Parliament. I remember we met one even from 7.00 p.m. until 1.00 a.m. in the morning. We met on one occasion; I think it was a Sunday, from 8.00 a.m. in the morning until 3.00 p.m. in the evening.

On many of the issues raised there were very clear understandings of the issues reached. There is no lack of clarity about what was said in relation to these Constitutional Office and what responses were offered by Government and indeed what was concluded upon and what emerged from those discussions. Those who participated in those discussions would recall that upon the matter of the Constitutional Offices financial arrangements being identified, Government offered some responses which lent clarity to some of the issues, including the fact that the Courts could not be considered in the same breath as the Service Commission, because the Courts were already at the current time the subject of a Constitutional Article, the said 222 (A) and third Schedule whilst... **[Mrs. Backer:** Article 122 (A)] Article 222 (A), I suggest you acquaint yourself with the Constitution instead of behaving like a rabble-rouser. This is the kind of Lawyer sitting on the front bench of the APNU.

Mr. Speaker, we were crystal clear that the Service Commission could not be considered in the same breath as the Supreme Court, because the Supreme Court is listed in the Third Schedule whereas the Service Commissions are not, and that is a fact. One has merely to turn to the Third Schedule to see that you could not possible deal with Service Commission in the same manner as you would or could the Judiciary. It only requires one to be able to read madam. **[Mrs. Backer:** I challenge you to look at 122 (A) and read it for me].

**Mr. Speaker:** Hon. Members in the same way that I asked that Mr. Greenidge be allowed to present, I am asking that we allow the Minister of Finance to do the same without the least bit of interruption, please. Thank you.

**Dr. Singh:** I was about to be un-parliamentary and say that there appears to be a “hooligan” in our midst. I was only about to do that.

**Mr. Speaker:** There is no need to even be about to or to impute or to even venture anywhere near there please.

**Dr. Singh:** Thank you very much Mr. Speaker. We discussed the matter of these Constitutional Offices at great lengths. Having discussed the matter of these Constitutional Offices, the fact that this was an issue that went to the core of the Constitution that required reflection and interpretation for subsequent application and in some cases, particularly in the case of those entities that are not currently addressed by the said Article 222 (A), might even potential require Constitutional amendment.

It was in fact agreed, or at least this is my recollection, that this family of matters will be the subject of further study and ultimately would be considered by the Standing Parliamentary Committee for Constitutional Reform. I do not believe that this was a figment of my imagination. There are others present here who participated in those discussions and who must surely recall that particular outcome from the said discussions. It was very clear; this was a matter that would appropriately be considered. There were a number nuances that were identified. In fact we had discussions about what type of expenditure could probably be a direct charge on the Consolidated Fund and what type would less appropriately be a direct charge on the Consolidate Fund. My own humble recollection is that Mr. Greenidge contributed actively and indeed meaningfully to those discussions. I remember Mr. Greenidge saying that indeed he understands that certain emoluments and entitlements should be a direct charge, but other types of expenditure might be less appropriate to be treated as a direct charge on the Consolidate Fund. I recall no less a person than Mr. Greenidge himself making that point and identifying by making that point the need for the issue to be the subject of closer and more detailed study, and ultimately, consideration of the Parliamentary Standing Committee for Constitutional Reform.

It would be recalled that that Committee is in fact itself a creature of our 2001 amended Constitution. Members will recall the large family of amendments made to our Constitution in 2001. Article 199 (A) was inserted into our Constitution under which the Parliamentary Standing Committee for Constitutional Reform was established and was given a mandate for continued

review of the effectiveness of the working of the Constitution and to make periodic report thereon to this House with proposals for reform as necessary.

The Constitution establishes that Committee. That Committee's establishment is recognised in our Standing Orders and elaborated in our Standing Orders. The Chairman of that Committee is the distinguished leader of the Opposition. In the Tenth Parliament, the Chairman of the Standing Committee on Parliamentary Reform is no less a person a person than the distinguished Leader of the Opposition. So, there can be no doubt that this matter is at best appropriately referred to the Standing Committee on Constitutional Reform. This is what was agreed in the multi-party talks during the consideration of the 2012 Estimates. To my astonishment, the Hon. Member Mr. Greenidge proceeds today to move this motion – I did not realise that the Hon. Member needed to be reminded so frequently of his good honour, but I am happy to call him the honourable member which is the protocol required in the Parliament.

**Mr. Speaker:** Just by way of clarification, if I may. It is not improper to refer to a Member by his/her title whether Mister or Miss. We are courteous by saying Honourable, but it is not against the Standing Orders or the etiquette of the House.

**Dr. Singh:** Thank you. In any event, to my astonishment, the Hon. Member Mr. Greenidge, notwithstanding what must be a clear recollection of the discussion had with Government, proceeds to move this motion. I do not know how to interpret this. Is this a renegeing of the undertaking and understandings reached when we met? Is this a renegeing? In fact, the motion seeks to make a very definitive decision, abandoning the need for the study that was recognised to be necessary, abandoning the need for the consideration of the appropriate appointed body, the Constitutional Reform Committee, Mr. Greenidge today persists with a motion that pre-empts any such study, and consideration by the Committee and arrives at a conclusion on what needs to be done in relation to this matter.

So, I want to urge, if there is still time, that Mr. Greenidge reconsiders the matter of putting this motion to the House, because he recognised, during the course of these discussions that I referred to, that this matter was a far more complex matter than simply to say the budget of Judiciary should be a direct charge on the Consolidated Fund. In fact I will say that the motion does a curious thing. In the second whereas clause, the motion replicates a part, ignore for the time

being the incorrect reference, I presume Mr. Greenidge means of course Article 222 (A), the second whereas clause replicates or seeks to replicate a part of Article 222 (A). In particular it says “that in accordance with article 222 (A)”, I correct what I presume to be like I said a typographical error, “of the Constitution, all Courts shall be funded by a direct charge upon the Consolidated Fund and such Court shall operate in accordance with the principles of sound financial administrative management.” What the motion conveniently ignores is that Article 222 (A) also explicitly says that the budget of third Schedule entities including the Judiciary shall be approved by the National Assembly after a review and approval of the entity’s budget as part of the process of the determination of the national budget. Conveniently, and I do not want to use the word suspiciously, the motion omits that part. So, if the intention is to be faithful to our Constitution then the omission of that fundamental and germane part of Article 222 is going – I hear the word dishonesty mentioned – will result in a perverse resolution passed by this National Assembly, a resolution that will do offense to and collide with our Constitution. This House cannot move a motion that will make the budget of the Supreme Court a direct charge on the Consolidated Fund and ignore the second part of that Article which gives the legislature an explicitly defined role in the determination of the Budget of all third schedule entities.

I say to Mr. Greenidge that it is difficult to image that that could have been an accident. In fact, in his presentation on the motion, in moving the motion, Mr. Greenidge actually discloses his intent. The Hon. Member says that the intention of the Constitution is that there must be no review or consideration of the Judiciaries budget. He said there must be no role for the Minister or for the Parliament to consider the Judiciaries budget. He said that there must be no review of the Judiciaries budget. That is not the intent of Article 222 (A). If the motion is framed by Mr. Greenidge against the background of 222 (A), the omission of that second critical aspect results in a motion that will generate, if this House were to approve it, a resolution that will collide directly and frontally with the intention of Article 222 (A), and it is fundamentally flawed.

In fact, the Hon. Member Mr. Greenidge makes reference to other jurisdictions. He cited the United States of America for example. He cited the United Kingdom earlier in his presentation. I was here and I heard the reference. What Mr. Greenidge does not tell us is that in many of those jurisdictions, even where you have the Budget of an entity like the Judiciary as a direct charge on

the Consolidated Fund, you do not have an unfettered and unlimited call on the Consolidated Fund.

8.22p.m.

In fact, in almost all of those jurisdictions there is a formula that is imposed, whether it be a percentage of the national budget, or a percentage of the state budget in the case of a provincial or a federal system, or a baseline adjusted by inflation year after year, or some other formula. In almost all of those jurisdictions what the constitution and the relevant laws do is not give an unlimited unfettered, open, bottomless box. In fact, a very rigorous and visible formula is legislated before such a provision can be implemented. So the attempt to implement Article 222, without due attention now, apart from the fact that Mr. Greenidge motion seeks to ignore and bypass this parliamentary role, in fact, Mr. Greenidge's motion seeks to exclude the Parliament from any role in consideration of the judiciary's budget.

**Mr. Greenidge:** Mr. Speaker, on a Point of Order, can I just remind you that Dr. Singh was not here during the entire presentation. I just wish to remind you that I cited the example of judges and lawyers who have asked us on the APNU side whether we intended to allow the judges unfettered increases or unfettered amounts. You remember I said that but I am being told I did not say that. I also made reference in the case of the United States and subsequently to the need for the document to be presented to Parliament for its examination. Thank you very much.

**Dr. Singh:** Mr. Speaker, in fact I did hear the Hon. Member say exactly that. I will repeat what I recall him say. He did say that judges and lawyers had asked whether the intention of this motion was to give the judiciary unfettered access to resources. He did say that he answered in the negative. He said, no, that is not the intention. In fact, I think 'the Government's financial guidelines' was the phrase used. [I see Mr. Greenidge nodding in the affirmative] That the Government's financial guidelines will apply. But what are these Government financial guidelines being referred to? How can you say the Government financial guidelines will apply when in the same breath you say the Minister must have no role? The two do not sit together. You cannot say the Minister, as the Government's fiscal representative, fiscal manager, must have no role but the Government's financial guidelines will apply. What are these nebulous financial guidelines that will apply? Is Mr. Greenidge now coming back to say that there must be

a role for the Government? Is he now coming back to say there must be a role for the Minister of Finance or for any other minister? Is he now saying there must be a role for the Executive? There is an inherent and obvious, blatant, contradiction in the two things. Mr. Greenidge cannot possibly say the Minister and the Executive must have no role on the one hand but on the other hand, and in the same breath, say the Government financial guidelines would apply to limit the unfettered access to resources. You cannot have it both ways.

With these obvious fundamental flaws - and the records will reflect if my memory fails me, and I am not completely faithful to Mr. Greenidge's verbatim presentation - this is yet another example. There is the omission in the motion of the part of Article 222A about the role of the judiciary that is so fundamental. There is the reference - not in the motion, but in the discourse and debate on the motion - to Government's financial guidelines but the motion makes no such reference. The motion in fact leaves a completely unfettered pool of resources open and available. It is not sufficient to have a motion that does not refer to these guidelines but in your discourse speak of these guidelines. If there is the intention that the Executive must have a role, that role must be defined in the motion. It must be defined in the resolution that will emerge from this House having considered the motion. So if Mr. Greenidge's intention is that there should not be unfettered action to resources, that there should be a role for the Executive or some benchmark of financial responsibility, it has to be included in the motion, Sir, but it is not. This highlights yet again a fundamental flaw in this motion.

Mr. Speaker, I will say this, the Hon. Member Mr. Greenidge asserts the wording of the Constitution. The Member makes an issue of the fact that the Supreme Court of Judicature is listed in the schedule of the Fiscal Management and Accountability Act. He asserts that that inclusion in the schedule to the Fiscal Management and Accountability Act of 2003 is somehow inconsistent or incompatible with Article 222A. The fact of the matter is that Article 222A in its current formulation explicitly recognises that Third Schedule entities shall be subject to the budgetary process. It explicitly says that the determination of the budget of these entities shall be the subject of:

“Review and approval of the entity's annual budget as part of the process of the determination of the national budget”

That is a verbatim extract and quotation from the Constitution. So there is nothing incompatible; the Constitution recognises that these entities are funded by the budget; the Constitution recognises that these entities are subject to, and I will repeat subject to, the process of the determination of the national budget. So there is absolutely nothing incompatible between Article 222A once it is read in its fullness, not as it is dissected and selectively quoted in Mr. Greenidge's motion. Once Article 222A is read in its fullness there is absolutely nothing incompatible with that article and the inclusion of an entity in the schedule listing budget agencies.

**Mr. Speaker:** Hon Minister you have three minutes left on your half hour presentation. You are 27 minutes on.

**Dr. Singh:** Mr. Speaker, I do not require more than five minutes, so a two-minute extension would suffice. [*Interruption*]

**Mr. Speaker:** I was giving him notice that he was approaching that time.

**Dr. Singh:** It is not my desire to detain this House unduly on this matter. So fundamentally flawed is this motion in its formulation, its content, and in particular its presentation before this House, especially in light of the fact that we discussed these matters and agreed on a course of action. The motion now conveniently ignores those discussions, casts them aside, as if they never occurred and, seeks now to leapfrog a process that was agreed upon, to arrive at an outcome that is itself a fundamentally flawed and perverse outcome. I really do not believe that this motion merits further attention from me. I have highlighted a number of aspects of the motion. I have highlighted a number of aspects of the motion which demonstrates clearly that it is inappropriately worded, fundamentally flawed and brought to this House at a time that it should not have been brought to this House. I believe there is yet time so I urge the Hon. Member at the appropriate time to withdraw this motion from consideration by this Hon. House.

I thank you very much. [*Applause*]

**Mr. Speaker:** Hon. Members, before Mr. Williams speaks I just wish to bring to the attention of the House - I think I have a duty to do so - that under Article 164 of the Constitution Article 222 must receive a two-thirds majority for any changes to it. Only an act of parliament may amend

Article 222. We need to understand, therefore, that the exercise we are in may make declaratory statements but it cannot alter the Constitution. Only an Act of Parliament that enjoys a two-thirds majority may do so.

**Mr. Greenidge:** Mr. Speaker, I think there is some confusion here.

**Mr. Speaker:** Why is that?

**Mr. Greenidge:** First of all apart from the confusion that is arising from the Minister's reference to the 'Whereas' clauses instead of the effective clauses, this motion does not seek to amend the Constitution. It seeks to amend the Act. The Fiscal Management and Accountability Act is not part of the Constitution; it conflicts with the Constitution and that is what we are trying to change.

**Mr. B. Williams:** If it pleases you Mr. Speaker, I rise to support this motion which is well founded and shall hereafter be illustrated. It is apposite to note, as I rise to so do, that I am really now basking in the gaze of two eminent senior counsels who were Presidents of this country. I think it is apposite that we are discussing independence of the courts and judiciary at this time in Guyana. I am not going to dwell that much on the intervention by the Hon. Member the Minister of Finance, Dr. Ashni Singh, save to say this: to say that this issue should abide resolution in the Constitution Reform Committee (CRC) of Parliament has to be a misnomer or a joke. I was on the CRC in the Eight Parliament, the Ninth Parliament and I am presently on the CRC in the Tenth Parliament. In the Eight Parliament there was one meeting. The Hon. Attorney General at all material times in the last two Parliaments I mentioned was the chairman for that committee. There was one meeting to vote for the chairman of that committee and no other business was done in the Eighth or Ninth Parliament in relation to constitution reform. So I am not going to be delayed by the interventions by the Hon. Member.

**Ms. Teixeira:** Mr. Speaker, maybe we wish to be reminded that there was a point of elucidation, because he is talking about the Eighth and Ninth Parliament. But in this the Tenth Parliament we are reminded all the time of a new dispensation. The Constitution Reform Committee is headed by no less an eminent person as Mr. Grainger... *[Cross talking]*... I expect your performance to be better.

**Mr. Speaker:** Okay Ms. Teixeira, that is not a Point of Order. The point was made five minutes ago by Dr. Singh. Proceed Mr. Williams.

**Mr. B. Williams:** Mr. Speaker, this motion seeks a solution in the 21<sup>st</sup> Century which jurisprudential basis has its genesis in the theories of the separation of powers espoused in the 17<sup>th</sup> century by John Locke, an Englishman, and the French philosopher Montesquieu. Locke championed a constitutionally limited sovereign and a three-fold division of government power in order that a sovereign shall not abuse his power. The in-depth reading can be found in the ‘*Second Treatise On Civil Government*’ which was published in 1690 by John Locke. Montesquieu posited that the guarantee against abuse lies in establishing neutral checks between the legislative, executive, and judicial functions. He developed this theory also in his work *De l’Esprit des Lois* in 1748. In Dias on ‘*Jurisprudence*’, Fourth Edition, 1976, Butterworths at page 98 – I am doing all of this so that the Hon. Members could source the information – the learned author states thus and I quote:

“Montesquieu’s doctrine is carried furthest in the United States of America where the separation is guaranteed by a constitution guarded by the courts. The federal legislative power is vested in the congress, the federal executive power in the President and his Cabinet, and the federal judicial power in the supreme court.”

This is the crux of this motion before this court, the struggle to maintain the independence of the judiciary of Guyana, and it is a laudable cause. In former British colonies, including Guyana, written constitutions were introduced based on the Westminster model and were expressed to be the supreme law of the land. According to Madam Margaret DeMerieux in her work ‘*Fundamental Rights in Commonwealth Caribbean Constitutions*’. [Mr. Nandlall: She run mad, right.]

**Mr. Speaker:** Insane. Mr. Nandlall you cannot use those words here.

**Mr. B. Williams:** That always happens with brilliant people.

**Mr. Nandlall:** So you agree that she run mad.

**Mr. B. Williams:** You are not yet there. You are quite sane.

**Mr. Speaker:** You go ahead Mr. Williams.

**Mr. B. Williams:** I quote:

“Set clear limits on the powers of the several arms of the state, and arising therefrom, creates a power in the courts to see that the institutions established in the documents function within the prescribed boundaries.

Sir Fred Phillips in his book *Commonwealth Caribbean Constitution* on pages 18 and 19 proffered this:

“The principle of the separation of powers deriving from our new constitutions has since 1960 been articulated in leading cases designed to highlight the fact that the executive and the legislative should not trench upon the preserves of the judiciary.”

This is what we are trying to do in this motion, to maintain the purity of the independence of the judiciary of this country. Alas, let us see how it is going.

In *Hinds v R* the legislature purported to create the gun court and surmised to include and give the same jurisdiction as the Supreme Court in Jamaica, which was already established by the Constitution, Of course that was a collision and was held to be illegal and unlawful.

In Guyana’s present Constitution Article 123 provides for the establishment of the supreme court of judicature consisting of a court of appeal and a high court with such powers as conferred on them by the Constitution. Pursuant to Article 123 of the Constitution, the Caribbean Court of Justice (CCJ) was made our final court of appeal. The independence of the judiciary is provided for in Article 122A of the Constitution, and it is this article which forms the core of this motion. I am not sure why the Hon Minister of Finance kept insisting that it ought to be Article 222A. Article 122A(1) of the Constitution says this:

“All courts and all persons presiding over the courts shall exercise their functions independently of the control and direction of any other person or authority, and shall be free and independent from political, executive, and any other form of direction and control.

You cannot hear it clearer than that. That is what the basis of this motion is, Article 122A. Article 122A(2) says this:

“Subject to the provisions of Article 199 and 201 all courts shall be administratively autonomous and shall be funded by a direct charge upon the Consolidated Fund. Such courts shall operate in accordance with the principles of sound financial and administrative management.”

Mr. Speaker, the appointments of the Chancellor and Chief Justice are provided for in Article 127 of the Constitution. It provides thus:

“The Chancellor and the Chief Justice shall each be appointed by the president, acting after obtaining the agreement of the Leader of the Opposition.”

All these provisions seek to get to that reality, that dream, that aspiration, of insulating our judges from the reaches, from the grip, of the executive.

I continue, Article 197 of the Constitution provides for the security of tenure of judges and the manner of their removal. Article 198 provides for the composition of the Judicial Service Commission, and Article 199(1) vests the jurisdiction to appoint, remove, and discipline judges in that Commission. The independence of the Judicial Service Commission is provided for in Article 226(1) and it provides as follows:

“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.”

Not only the judiciary but the Judicial Service Commission, which has a remit to appoint judges, has to be free of political control and executive control.

Article 226 (7) clarifies it and defines commission to include the Judicial Service Commission, Public Service Commission, Teaching Service Commission, or Police Service Commission. Those constitutional commission are also expressed to be independent and beyond the control of the executive or other influences.

Finally, Article 222A provides an overarching clause on financial autonomy.

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

[**Mr. Nandlall:** That is higher than article 122; overarching.] It cannot be higher:

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

... as was said in Article 122A(2).

“(b) Each entity shall manage its subvention in such manner as it deems fit...”

The judiciary is listed in the Third Schedule to our Constitution. The foregoing legal architecture is designed by its framers to guarantee the independence of our judiciary and to insulate it from the executive and legislative branches of the state.

I respectfully refer you, Sir, and the Members of this Hon. House, to the author Dias who at pages 128 and 129 of his work ‘*Jurisprudence*’ enters this caveat. I quote:

“For there could be no protection against abuse of power, even when safeguards are enshrined in a written constitution, if the judges who have to interpret these whenever the government is challenged are only puppets of the government.”

I am respectfully contending that to ensure that our judges do not become, and I quote, “puppets of the government”, it is imperative that we excoriate from the aforementioned architecture, the rotten plank of the budget agency. The budget agency is a device introduced by the Fiscal Management and Accountability Act of 2003 to remove the financial independence of the courts/judiciary and transfer the control over their finances to the executive. The time worn aphorism immediately comes to mind, “who pays the piper calls the tune”.

In that Fiscal Management and Accountability Act entities listed in the schedule thereto are budget agencies. Section 2 defines budget agencies to mean:

“a public entity for which one or more appropriations are made and which is named in the schedule.”

The Supreme Court is listed in that schedule. The time has come for its removal, in order to restore the independence of the judiciary.

The purported creation of the budget agencies is inconsistent with the aforementioned constitutional provisions guaranteeing the independence of the judiciary.

Article 8 of the Constitution provides in this connection, and I quote:

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

The budget agency has therefore always been an unlawful invention.

The following are two examples of jurisdictions which have devised approaches for securing the independence of their judiciaries. I refer to the Judicial Salaries Commission of the State of New York on a publication of that Commission dated 26<sup>th</sup> August, 2011; very recent.

“A state commission decided on Friday to increase of more than 1,200 new York state judges by 27% over three years ending a decade of battles in Albany and the courts giving judges their first raise in 12 years.”

This is what is so important:

“The seven-member commission appointed by the leaders of all three branches of government...”

That is remarkable, the extent that they have gone to ensure the independence of and to insulate the judiciary from the executive.

[**Mr. Hinds:** All three branches] All three branches, not the executive. All three branches had to be there. It is not like here. Unlike Guyana as the Prime Minister is reminding me now, some years ago when our judges wanted an increase they had to go virtually cap in hand to the President. There as big picture in the newspapers, judges going to beg for increase in salaries.

*8.52 p.m.*

They liked that, they published the picture. That must never happen again in this country. That was what you call, until the last elections last year, the dictatorship of the executive. That was what was happening in Guyana for the last 19-20 years.

The seven member commission appointed by the three leaders of all three branches of the Government had expected to grant a raise. Still the amount that was settled on was considered very malice and some judges even expressed their bitter disappointment. But this is what they said in the 80<sup>th</sup> Report, at section 174:

“Further we continue to hold that judges occupy a unique position in our society and that paid arrangements for offices in the Judicial and Legal Service should continue to be fixed within the structure applicable to that service.”

So in other words to determine what the judges got, you did not have to go to the Governor alone, you had an independent commission. Even when the commission fixed the remuneration it had to go back into the judicial structure for them to disburse it and spend their own money. That is exactly what it meant and that is what we need here in Guyana. An independent commission to fix the wages and the salaries of the judges and their benefits... [Mr. Nandall: That is not what the motion called for.] That is what it calls for; it calls for independence. [Mr. Nandall: Which paragraph?] Just listen and you will learn.

I will also go close now; I will go close to home – Trinidad and Tobago. In Trinidad and Tobago there is a Salaries Review Commission, established by section 140 of the Trinidad and Tobago Constitution and it is structured in this way, it has a Chairman and four members appointed by the President, after consultation with the Prime Minister and Leader of the Opposition. Before the Hon. Members on that side of the House gets excited, the President in Trinidad and Tobago is not like a President under our Constitution. They do not have an executive President. They have a titular or ceremonial President and you realise that it is everyone involved in the appointment of the Commission, the Government, the Opposition and the titular President. The remit of this commission in Trinidad is to review from time to time with the approval of the President, the salaries and other terms and conditions of service of the judiciary. All these practices are best practices around the world – close at home. Yet this Government has never made... what has this Government done? What the Government has done is tell us to follow the best practices. They decide, create budget agencies, create these little fiefdoms and get the GECOM, who is supposed to also be independent, the Auditor General and the rest until recently, to have to go cap in hand to these people. And so they control the lever. Look at our courts, no amenities, no proper remuneration – look at it. That is what we are arguing. Not even

appointing judges. The work load of our judges alone, I am worried for the few judges that are there and this thing about part-time judges is a no-no. That is more control. You must have the political will to appoint judges with security of tenure. That is what the Constitution contemplates. Not a judge that is at your whim and fancy that you can dismiss and do not renew their contract as has happened. You do not pay them what they are supposed to get, we do not want that kind of thing in Guyana.

We are saying, the new dispensation that exists in this new Parliament is one to correct all the wrongs and it is to institute good Governance in Guyana, once again. We want to maintain the independence of the judiciary and not allow the Government to ride roughshod over it or over Parliament also, but that is another matter.

So the motion as I said, is well founded, the relevant article upon which it is premised is quite correct and apposite. Therefore, I have no difficulty whatsoever in agreeing with the reserve clause, that to correct this anomaly all we simply need to do is to edit out, so to speak or scratch out if you wish from the schedule in the in the Fiscal Management and Accountability Act, the reference to the Supreme Court. That is all we need to do, do not worry about their red herrings and smoke screens about Constitutional motion, we do not need all those things. Therefore, I will advise the Members on the other side to sign on to this motion and support the motion and you know you do not have to have the two-thirds. One vote is all that it takes to get this done.

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

**Mr. Speaker:** Hon. Members, Mr. Nagamootoo will speak. Will you speak or Mr. Ramjattan? Who speaks?

**Mr. Nagamootoo:** Mr. Speaker I concede to my friend, Mr. Khemraj Ramjattan.

**Mr. Speaker:** As you please. Mr. Ramjattan please proceed.

**Mr. Ramjattan:** Thank you very much to my learned friend Mr. Nagamootoo first and of course, thank you very much Mr. Speaker. I rise to... [**Mr. G. Persaud:** To second the motion.] You can say that, to second it. This motion is to correct an aberration that can be easily made, notwithstanding what the learned Minister of Finance has been indicating as apparently cannot be done.

I want to make this point that when this was debated in 2001 and prior to that, we had the calumny of a history of where our judiciary was subject to executive control and was subject to a whole host of things even [Mr. Nandall: When Greenidge was there?] ...when Mr. Greenidge was there.

Also, to a certain point when even we had certain allegations being made during the course after the 1992 period. It was that reason where we wanted to erase and eradicate completely that kind of control that this 2001 Constitutional Amendment came into being. We must understand the origins before we can understand the entire process behind it and then we can understand why we are here today.

Independence of the judiciary can be affected at the adjudicatory functioning. That is where a judge could be called up on the telephone by some executive member who says, "I want a decision to go a certain way", that is what I mean by adjudicatory function. That is what Article 122A(1) is getting at, when it says and more than that, when we enshrine as you rightly mentioned Mr. Speaker, to the extent of having a two-thirds majority for its amendment.

The judiciary functions of those persons who are judges, is expressly stated here that they shall be free and independent from political, executive and any other form of direction and control. My reading and knowledge of what transpired during the course of the Constitutional Reform process was that we wanted to emphasised that, that indeed the adjudicatory function of a judge was going to be made free from any control and direction and that is what Article 122A(1) of the Constitution meant and the whole purpose of it was.

But also, the judiciary can be affected negatively and its independence damaged by administrative arrangements. Not only at its adjudicatory levels could it be affected, but administratively, executives of the day can deal with the financial resources of that judicial branch of Government or the State and damage it and what was intended now to cure that potential damage and to ensure that we do not have that happening in future, was what was catered for and provided for by Article 122A(2):

“...all courts shall be administratively autonomous and shall be funded by a direct charge upon the Consolidated Fund;”

That is what I want to say in rebuttal to the argument of the learned Hon. Minister of Finance. That it is not the ludicrous scenario of, let us say, the Registrar, who is supposed to be literally the executive officer under the Supreme Court, the Registrar that sits here, the CEO, that they are going to come and say they want \$2 billion for the judiciary. It has been taken to ludicrous lengths, that all when they come, can come for all manner of moneys. I want to say that when we were dealing with that Constitutional Reform process, we said that that the proviso whosoever it was then, I think it was Mr. Cecil Kennard, he cannot come with anything. He has to come because the proviso being he should operate in accordance with the principles of sound financial and administrative management. That is the proviso that stops, that is why we must give meaning to the words that we were providing during the 2001 process. Meaning that a Chancellor who is President of the Supreme Courts System or the CEO comes as Registrar and says we are going to want a lump sum of \$10 billion. That is not in accordance with the principles of sound financial and administrative management. So the caveat that they cannot come with ludicrous asking of that kind of sum is in this Constitution too, it is provided for there and that is what makes the distinction. This is what fetters the unlimited demand of a Chancellor and or a Registrar. That is what we were talking about when we spoke in 2001, but it would appear that some people forget what we were talking about.

I also want to mention to give teeth and to flesh that provision, which is so enshrine to a higher order of needing a two thirds majority. That we then also plugged in Article 222A, a certain provision and that provision is what now gives it flesh and teeth. How do you do that knowing that it is going to be but a fundamental departure from what we had in the accounts and estimates before? We arranged that it should be specified in order to show the independence of the entities listed in the third schedule. What does the third schedule have? It has the judiciary. I will come just now to the Ethnic Relations Commission, because had the Ethnic Relations Commission not been a budget agency, it would have been hard put for us to cut what we did in relations to the... because it would have been an entity that came under the third schedule and it would have been protected, but they wanted to put it in the budget agency for their own things and we could have cut.

I want to say this, to give it flesh and teeth, that same Article 122A(2), the administrative autonomy, it was stated that the expenditure of these entities, that is the judiciary, shall be

financed as a direct charge on the Consolidated Fund, determine as a lump sum by way of annual subvention approved by the National Assembly after a review and approval of the entity's annual budget as part of the process of the determination. What that means is that from the previous review, of let us say the 2011, what they had gotten for the Supreme Court, would be the basis for going forward and not that they are going to start with ... I think they had \$1.5 billion last year, they are going to jump to \$10 billion in 2012. That is what it is all about. This is a Constitutional provision.

Each entity shall manage its subvention in such a manner as it deems fit for the efficient discharge of its functions. So if a Mr. Carl Singh or a Dianna Insanally is going to ask for a certain subvention here, it cannot be to the ludicrous lengths that it is unfettered and that we cannot control it. We have the Constitution telling us how we can control it. That is what is meant here. And moreover it shall be subject only to conformity with the financial practices and procedures approved by the National Assembly. We here in this National Assembly, has what is called, financial practices approval to ensure accountability. It literally means that we just cannot cut it, we have to have what is called, these procedures and what has been happening since 2001, is that we have not been catering for these procedures. We have not been doing anything; we have remained silent and more than silent.

After passing this in 2001, we go on to 2003 and literally nurtured that Constitutional provision by putting in this 2003 Act, which is by the way, in my view, this aspect of it which can be severed, is unconstitutional and this section that says, in the schedule that it is a budget agency. So they have what is called executive control and the Supreme Court and the Judiciary has ceased to be in accordance with the shape it ought to take as a result of that Constitutional provision Article 122A and B, it has been misshapen by this Fiscal Management and Accountability Act (FMAA) Article, that schedule budget agency. I want that to be understood.

What this motion seeks to do is nothing else, but to do that that which is going to beat it into shape by taking it out as a budget agency. It is not as if we have to go to court or we are going to in anyway have to bring some declaratorily order in the court, we can do that. This is what by a motion demanding that the Minister do it. The Minister did it with the Audit Office recently and he did not even need the National Assembly's support. What section 82 of the Fiscal Management and Accountability Act 2003 says?

“The Minister may by order amend that schedule.”

A previous section had given him the authority to go and put in what shall be budget agencies and he did do that in the third schedule, but under section 82, he can now, by order, amend the schedule and then take it out. That is all the motion is seeking. Take it out it as a budget agency and more than that, what the motion is also asking, because it is not an area or realm that is not somewhat uncharted. We have to make what is called amendments to our estimates too, because in our estimates in Volume 1 at page 578, you will notice that there is a certain set of, at page 578, I think it is where you have... The Ethnic Relations Commission, I am going to come to that. In that you have what is called the Supreme Court being given a certain set of moneys which it is going to expend on workers, contracted workers, this that whatever. I have not gotten the page correctly, but whatever it is that still, although one can say that there is a certain budget that is going to be presented by the CEO and the Chancellor or whoever, it is still subject to the executive branch saying, well change that and that and whatever, even if they do not do it when it is a budget agency. But what is suppose to be done now is to have a separate page in Volume 1 that is going to say, Entities in accordance with section Article 222A. That is what it is suppose to have now, not statutory bodies, another page.

That is what this motion is asking for. That be it also resolved that first of all we change the Fiscal Management and Accountability Act to remove the Supreme Court as a budget agency, but also that we do the necessary changes that should be reflected in the annual estimates to be submitted by the Minister for the approval of the National Assembly.

So please do not get the mover and now that I said I am the seconder of the motion, wrong at all. It is indeed the way to go to ensure that we transform what was first of all somewhat at the dictation of the executive branch that which the Constitution demands it to be and that is an autonomous administrative body.

We know that the history of the judiciary in Guyana was subject to a number of anomalies and aberrations, I do not want to get back there, but Prof. Harold Latchman have spoken about it, Mr. Bertrum (Bertie) Ramcharran has talked about paramountcy of parties and all of that. But we are indicating now, that since 2003 we have gotten this Article in the Constitution, we now have to be the gentlemen and gentlewomen here to give it teeth. What this motion seeks to do is to give it

teeth and we must not get to the ludicrous lengths. Oh they will come with unfettered demands and we cannot stop them. No, it is not that. I do not believe that anyone in the Government branch would say that members of the judiciary, especially the highest of the hierarchy will come here and talk nonsense about asking for \$10 billion or \$20 billion. No. So all of that was just to throw dust in our eyes, to cloud the issue and not want to give what respectfully ought to be given to the Supreme Court. Thank you very much Sir. [*Applause*]

**Mr. Nandlall:** Thank you very much Mr. Speaker. I rise to make my humble contribution to this debate. I begin by concurring with the Hon. Member, the mover of the motion, Mr. Carl Greenidge, that this motion raises a matter of crucial importance, the judiciary and its independence.

As Attorney General Sir, it is incumbent upon me to say that this administration is and has always been deeply committed to ensuring that the judiciary of our country remains pure, independent and uncontaminated by any form of extraneous influence, including of course, political influence. This administration is very much aware of the history of our judiciary and our country and the pressures which were brought to bear on our judiciary at a particular time in our history.

This administration is very much aware of 1978 Declaration of Party Paramountcy and the subjugation of our judiciary to the paramountcy of the People's National Congress when they were in power. So much so that the flag of that political party was flown on the apex of our judiciary's building. We are well aware of that. We are well aware Sir, of the abolition of appeals to the Privy Council and the reason behind that abolition. We are aware Sir, of the many other attempts which have been documented in many publications, including the one to which Mr. Ramjattan made reference, where a chancellor of the judiciary in 1980, in an address to the Guyana Bar Association of our country said this:

“October 28<sup>th</sup> 1981,

In Guyana the rule of law is very necessary so as to provide the right environment for socialist orientation.”

You would recall that the party of the day had proclaimed itself to be a socialist party and committed this country to a path of socialism and that is the right of a political party. But here it is you have the judiciary that we are so concerned about now, about its independence, is now declaring, the Chancellor of the Judiciary is making this declaration:

“To provide the right environment for socialist orientation and nation building which are the dominant preoccupation of Parliament and the Government of the Republic of Guyana. The judiciary is now a necessary and integral part of the political, economic and social systems and the judiciary must look upon itself as having a crucial role to play in this task by ensuring that in the all important field of socialist development, basic value like the rule of law and consequently justice are to be maintained. This is without, any doubt, one of the most important judiciaries function in contemporary Guyana.”

And then this:

“The high point of the present day arrangement is that while he maintains his judicial independent conscience, the Guyanese judge works in cooperation with the political administration for the advancement of socialism.”

So, Mr. Speaker, we on this side of the House, we are not unaware of the pressures which have been brought to bear on the judiciary. Those who are now crusading as protagonists of judicial impartiality must know that they are the ones who contaminated the judiciary with politics. While they had contaminated the judiciary, they used that judiciary as a political weapon against this side, jailing several of our leaders. Sir we are aware of the importance of the independence of the judiciary.

It is since we have come into power those initiatives, one after the other have been taken to ensure that the damage and destruction which have been done to the architecture of our judiciary to undermine its confidence, has been reversed. We have been reversing them, step by step.

*9.22 p.m.*

The Constitutional Reform Commission, which brought into force the constitutional amendments upon which this motion is predicated, is part of this administration's creation. It is part of our initiative to entrench the independence of the judiciary. All the autonomy that article 222 speaks

about, and article 222A speaks about, it is we who have done that, Sir - we initiated the Constitutional Reform Commission.

**Mr. Speaker:** I do not know if any other Member of the House would wish to take you up on that, but certainly all constitutional reforms, coming out of the Herdmanston Accord process, were as a result of a process that involved both sides of the House, and it was not the initiative of one.

**Mr. Nandlall:** The point I want to make, Sir, is that it was done while this side was in Government. That is what I mean. If I created another impression I wish to withdraw it.

In addition to article 122A, in the Constitution, and article 222, we have amended the Constitution to ensure that the two most supreme officers of the judiciary are appointed only upon an agreement between the President and the Opposition Leader. There is only one country in the entire Commonwealth which has such a position and that is Pakistan. Guyana stands alone in the entire Caribbean as a country with a Constitution that ensures that the head of the judiciary can only be appointed after an agreement is reached by the Leader of the Opposition and the President. That was not there before. That is how we have strengthened the judiciary.

We have amended the Constitution to reside in the Judicial Service Commission powers that it never had before; powers that the Judicial Service Commission now exercises in relation to the appointments of not only of magistrates and certain judicial functionaries, but the support staff such as the Registrar of the Supreme Court, the Deputy Registrar of the Supreme Court, the Registrar of Deeds, the Deputy Registrar of Deeds and many other important functionaries, who used to be appointed by the Public Service Commission, are now only to be appointed by the Judicial Service Commission – an independent constitutional body. That is how we have affirmed and entrenched the independence of the judiciary.

We recently passed rules to govern the Judicial Service Commission in its operation in the Ninth Parliament. Never before, in the history of our country, did the Judicial Service Commission have rules that govern its functioning – that provide the officials of that body with security of tenure; that say how they must behave; that set out a code of ethics as they perform and discharge their functions. This administration did that only two years ago.

This administration and this country, was one of the first to sign on to the Caribbean Court of Justice Act to ensure that the Caribbean Court of Justice became the highest court in our land, adding to the hierarchical structure of our court system another tier, providing our people with a court resident outside of Guyana and added another forum by which they can challenge judicial decisions.

These are the additions which we have made to the judiciary to ensure that there is independence. The very articles of the Constitution, which the motion mentions, are articles – when one looks at article 164, the entrenchment articles – which receive the highest form of protection in our Constitution. They can only be altered by way of a referendum. That is the type of protection which we have given to this judiciary.

For the last twenty years that we have been in government five or more chancellors – if I can name them: Chancellor George, Chancellor Bishop, Chancellor Kennard, Chancellor Bernard and Chancellor Carl Singh – have presided over the judiciary. If any Member of that side is aware, he or she should stand and say so, but I am unaware of a single allegation or complaint made, either privately or publicly, by any of those Chancellors that the judiciary was ever starved of financial resources in this country, under this administration - not a single allegation, either from the Chancellor or the Registrar of the Supreme Court who is the Chief Executive Officer and the Chief Accounting Officer. The Registrar of the Supreme Court is here. She can say what pressures, if any, is she subjected to whenever she presents a budget for approval. I spoke with the previous Registrar, Ms. Sita Ramlall, as well. I enquired of her... [Mr. B. Williams: Could you talk to her?] She is the Solicitor General of this country, so she works with me... as to what, if any, pressure was ever brought upon her in relation to budgets which she had submitted over the twenty years that she served as Registrar of the Supreme Court, and she told me “no”.

This motion makes some serious allegations, and that is why it is necessary that we treat with this motion very seriously. The judiciary is recognised by this administration as a central pillar to our democracy. It is recognised by this administration as that forum to which our people can go to enforce their constitutional rights, for the settlement of civil disputes and resolutions. It is an institution that ensures that there is public order in our country; it is an institution that is an important adjunct to the creation of the climate which will conduce for investments and

economic progress in our country. So the judiciary is most important and therefore, when allegations are made that the judiciary's independence is compromised one would expect, at least, that those allegations would have some type of evidence in support of them.

The third WHEREAS clause states this:

“AND WHEREAS the Supreme Court of Guyana and all other Courts are being treated as a Budget Agency,…”

Then there is a quantum leap.

“...a practice which seriously calls into question the independence and autonomy of the Courts”.

I do not know if because of the fact that judiciary is treated as a budget agency, *ipso facto*, results in it being a compromised organisation. That is a most bizarre proposition. One would have expected that the Hon. Member would have listed certain facts, certain pieces of evidence, to support that wild, reckless and unsubstantiated allegation. Unfortunately, upon a peripheral or/ and a profound examination of the motion there is no evidence, whatsoever, to support such an indictment on the integrity of our judiciary and the integrity of the characters of our judges and those who are in charge of the administration of justice.

What is the Member saying? The Member is saying that because the judiciary is a budget agency under the Fiscal Management and Accountability Act it is compliant to the executive – that they sing for their supper. That is what he is saying. That is the bold and damaging allegation which is made in this motion, reducing judges to a band of people whose decision depend upon the amount of money they get from the Government. That is the implication of this motion. As the Attorney General, I must deprecate this contention because I am the legal and the constitutional representative of the judiciary. When allegations are made against the judiciary, when the judiciary is sued for allegations of improper conduct, it is the Attorney General who is called to answer; it is the Attorney General who is responsible to this National Assembly for the conduct of the judiciary; it is the Attorney General who signed on approving the budget of the judiciary. Therefore, these allegations not only indict the integrity of the judiciary, but they indict also the integrity of the Attorney General. [Mr. B. Williams: Let us hear what we are saying about

the Attorney General.] You must not come to the National Assembly with these types of allegations which are unsubstantiated.

Another point that I want to raise is this: This is a motion which seeks an amendment of an extant legislation. The Parliament of this country is now being asked, by a motion, to review its own legislation with a view of amending it. The only review power which exists in this country, in relation to legislation, resides with the judiciary. There is no power vested in this Parliament to conduct a review of its own legislation. That is a power which the Constitution has resided in the judiciary. If an amendment has to be effected to an extant legislation then one has to bring the amendment in the form of an amendment. It cannot be brought in the form of a motion. When the amendment is brought and then we vote on it. This motion, this exercise, is superfluous; it is unnecessary; it is misplaced; it is misconceived; it is wrong and it is an abuse of parliamentary process. If Mr. Greenidge wanted to amend it all he had to do, with his thirty-three votes behind him, was to bring the amendment and we would have been finished – we would have amended it and that would have been the end of the matter. But here it is, Mr. Greenidge initiated an exercise for political grandstanding. You go to the court to review legislation. You do not come to the National Assembly to review legislation. The shadow Minister of Legal Affairs should have advised Mr. Greenidge and Mr. Ramjattan ought to know better.

Let us go to the motion itself. But before I go there, I wish to deal with the legislation. I hear a lot of negative comments being made about this legislation. I have looked at the counterpart legislation of Jamaica, Trinidad and Tobago, Barbados and the model used by the Eastern Caribbean countries and, having done the comparison, this legislation stands out as one of the most advanced of its kind in the region. This is a groundbreaking legislation for the purpose of public accountancy and financial management. It repealed a 1962 anachronistic and archaic legislation, which the Opposite Members were following, and had the judiciary attached to it. That is what they are complying with. It was repealed by this Act, a 1962 Act. Look, it is here: “Then Financial Administration and Audit Act is hereby repealed.” I am telling them that this is the modern landscape; this is the modern infrastructure and it stands high and way above those which exist in the region.

My friends are advocating a deletion from the Schedule of the judiciary as a budget agency. [Mr. Ramjattan: Is not that was done for the Auditor General Office the other day?]

The difference between the Auditor General's Office and this is that the Auditor General's Office has an Act that sets up a financial infrastructure - how it is to do its budget, how it is to regulate its financial affairs, how it is to manage its financial affairs. There is no such legislation or framework for the judiciary. When the judiciary is deleted from this Act, then there is a vacuum - there is then no framework within which to govern the judiciary and the way it finances itself. That cannot be a position that we are advocating, as a Parliament. The judiciary with all of its independence cannot be aloof of the governmental structure of the country. It is a public institution, it is funded by taxpayers' money and it must be accountable to the people of this country. That is why in every country in the Caribbean there is a Minister with responsibility for the judiciary in the Parliament. My honourable friend is reminding me that this is the reason why this National Assembly passed, in the Ninth Parliament, the Time Limit for Judicial Decision Act, because we recognise, as a Parliament, that the judiciary must be accountable. It does not reside in isolation from the rest of the society. With all of the aura with which we want to imbue in it and all the independence to which it is entitled to, it remains an organ that is funded by public money; it remains a branch of Government; it remains a creature of the Constitution, and therefore it is accountable to the people of this country. When we delete it from this Schedule then there is no framework. I heard my friend saying "they must present it". Who will present it and where will it be presented to?

This motion is suffering from so many flaws. When one goes through the Fiscal Management and Accountability Act... For example, section 11 outlines in great detail how a budget should be prepared; it outlines the matters which must be taken into account when the budget is prepared; it outlines a time schedule by which this budget must be prepared; it tells you what factors must be taken into account when a budget is prepared. So all of these things are now regulated by this Act. When the judiciary is deleted from this Act, the Act does not apply to it anymore. Three lines in the Constitution now apply to it. I will deal with what the Constitution states. There will be a judiciary now that is completely bereft of any form of structure or any forum of accountability. [Mr. Ramjattan: You better go and tell... *inaudible*] I can tell him that, because that is what you are doing. You are setting him up. You want to put the judiciary in chaos.

The current position is: In August of the year before, the Registrar of the Supreme Court meets with the Ministry of Finance and a lump sum figure is arrived at, as to what allocations are to be made to the judiciary for the next year. That is a result of a detailed discussion, and when \$2.2 billion is agreed upon, then the Registrar, as the Accounting Officer, goes back and, in consultation with the judges and the magistrates, and other official intra the judiciary, prepares a budget without any injection of the executive in relation to how that \$2.2 billion is spent. The remuneration package is unalterable even by this National Assembly, because the judges have security of tenure which extends to the remuneration. They have security of tenure.

All of this grandstanding that is taking place, about judges are going begging in hand, is absolute inaccuracy. Nobody in this National Assembly, whether there is majority or not, can interfere or vote against the remuneration of a judge because it is entrenched as a protective provision in the Constitution.

These are the issues. When the Registrar goes to the Ministry of Finance and that lump sum figure is arrived at, the budget is then created and that budget is sent to the Attorney General simply to be signed... [Mr. Nagamootoo: It is to be rubber-stamped.] It is to be rubber-stamped. Then it is transmitted to the Ministry of Finance. That is the extant procedure.

**Mr. Speaker:** Your time is up Hon. Member. It is a quarter to ten o' clock.

**Mr. Hinds:** I move that the Hon. Member be given fifteen minutes to continue his presentation.

**Mr. Speaker:** Hon. Members, I put the question whether or not the Member should be given fifteen minutes to continue or is there an arrangement between the whips as regards this matter, Ms. Ally?

**Ms. Teixeira:** Mr. Speaker, the Chief Whips met and we agreed that we will have no extension past ten o'clock and that we would stop, and wherever we would have been on the agenda would roll over to 30<sup>th</sup> May. That was the agreement. The issue was wherever we would have been at this time we would stop and if, therefore, the motion was not completed we would roll over to 30<sup>th</sup> May. That was the understanding.

**Mr. Speaker:** I see. In light of that fact I am not going to leave an unfinished motion dangling and so I invite the House to come with a proposal, *vis-à-vis*, time for presentations.

**Mr. Hinds:** Mr. Speaker, if you would take it at this time I would be quiet pleased to move the motion that we wave the...

**Mr. Speaker:** I am not entertaining that at this time. What I am entertaining is whether or not a Member is given fifteen minutes to continue a presentation or whether there is an amendment to that motion.

**Mr. Lumumba:** It is muzzling.

**Mr. Speaker:** I am not muzzling anybody.

**Ms. Ally:** Mr. Speaker, may I ask that the Hon. Member be given five minutes to conclude his presentation and Mr. Carl Greenidge also be given between five and seven minutes to wind up the motion so that we can conclude in good time for ten o'clock?

*Question put, and agreed to.*

**Mr. Nandlall:** The reason why the executive has to continue to have a connection with the judiciary is that there must be someone in this National Assembly who will answer for the judiciary. When we go into the Committee of Supply who is going to answer to the questions which are being asked. I then would be in the invidious position of being asked to answer questions about an entity that I have absolutely no connection with, and with that I am the mouthpiece with no responsibility whatsoever. That is an untenable situation. That is an untenable position. The judiciary cannot come here to defend itself; the registry cannot come here to defend itself, so someone must be here.

Article 222A, (a):

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

This is the position which obtains now. The Minister of Finance presents the budget which includes the budget of the judiciary and it is voted upon. It is the subject of scrutiny in the Committee of Supply and as a result of that process, or at the end of that processes, it is voted

upon by the National Assembly. It is approved by the National Assembly so there is no violation to the extant procedure in relation to 222A, (a).

Let us deal with 222A, (b):

“each entity shall manage its subvention in such a manner as it deems fit for the efficient discharge of its functions, subject only to conformity with the financial practices...”

That is the position now. The budget is given to the Registrar, as the Chief Accounting Officer, and her unit which was created – and there is an accounting unit which was created – and that is what obtains now. They are in complete autonomy with the management of their finances.

Article 222A, (c):

“the terms and conditions applicable to grants and donations destined for entities shall be approved by...”

Well, that is not relevant.

The position which obtains now is in complete compliance with the Constitution. In fact, there is no mechanism in place to allow for any other system to be put in place. When one examines the countries of the Commonwealth Caribbean – and examine them - every single country has an identical position to the position in Guyana – all of them.

*9.52 p.m.*

In fact, Sir, as a result of a controversy which arose in Trinidad and Tobago in the year 2003, the Trinidad Attorney General brought in Lord Mackay, the former Chancellor of the Judiciary in England, and he did an examination of the financial structure of the judiciary in Trinidad and Tobago, a structure which is similar to ours, and he found that there were no malpractices. He found that there was no financial dependence by the judiciary upon the executive that in any way compromise the independence of the judiciary.

**Mr. Speaker:** You have one minute remaining, Hon. Attorney General.

**Mr. Nandlall:** Sir, in conclusion, this motion, I cannot support it. It is unnecessary; it is wrong; it is superfluous; it is waste of time and it is an abuse of parliamentary process.

Thank you very much, Sir. [*Applause*]

**Mr. Speaker:** Hon. Attorney General, you do have some amendments.

**Mr. Nandlall:** The amendments have been tabled, Sir, and at the appropriate stage, I will ask that they be put.

**Mr. Greenidge (replying):** I would like to, perhaps, start off with a comment on tone. I have, in the time in this House, since I have been here, I think, been treated with a certain degree of respect and I find that somewhere along the line that is slipping. I make specific reference to the reference by the Minister of Finance to the decisions taken at a meeting with the Hon. President.

I happen to have before me - I am not going to read them - the record that we tried to merge - one paragraph written by Ms. Teixeira and the other paragraph written by myself and the A Partnership for National Unity (APNU), in respect to constitutional offices. All I want to say is that they do not accord with Dr. Singh's interpretation. The point is, Mr. Speaker, he was not satisfied with simply citing a difference of interpretation, but accused me a lot of other things. I note the point and I will move on.

**Mr. Speaker:** There was talk of a tape being made of the meeting.

**Mr. Greenidge:** I have the record submitted by Madam Teixeira. I do not have a tape; I have written record sent to me by Madam Teixeira.

At that very meeting, we also had commitments from the President about the Auditor General's recommendations as regards institutions such as the Customs Anti Narcotic Unit (CANU) and the State Planning Authority and, yet, the Government says something else publicly.

Secondly, as regards, the role of the Minister, *vis-à-vis* the institution, I think that this is a very straightforward matter which can be easily solved. It needs an administrative device.

Thirdly, I would like to say that in relation to the Auditor General, all that the Government side felt was needed was the laying of the order by the Minister. It is exactly the same that is being proposed here. There is no reason why same pattern cannot be followed.

And as to this nonsense about Act that I am being heckled with here, I have a copy of the Constitution which speaks to the Third Schedule. We have been told that the Auditor General's case was different because the Auditor General's Office has special legislation. Could I know of the legislation that the Indigenous Peoples' Commission has that is similar to the Auditor General's Office, in terms of financial structure and otherwise which would have allowed it to be placed on this Schedule under the Constitution?

Finally, let me just say to my colleagues that the issue here...The essence of the proposal pertains to the resolution clause and the resolution clause is straightforward. It does not have to be confused with what was going on before. All we are asking is that this matter be treated in exactly the same manner as the Auditor General's because, as it stands, it conflicts...The treatment in the rest of the Caribbean is not the same, it is different simply because it is the donor institutions that forced us to have this Financial Management and Accountability Act (FMAA), with which I have no difficulty. However, the Schedule of the Act, along with other things, which only make, for instance, officials liable to jailing, and not the Minister, for crimes of misuse of state resources...It is the addition of the constitutional offices to that Schedule which make this particular Act repugnant. Therefore, our intention here is to invite Members to support the motion and call for the Schedule to be amended.

**Mr. Speaker:** There are some amendments.

I do wish to make a comment on the "RESOLVED" clause and it is that the "RESOLVED" clause is asking that this National Assembly takes steps to amend the Schedule. In the absence of an Act to amend the substantive Act, this National Assembly, and I, being, in a sense, the Chair of the Assembly, would not be able to take it further. The "RESOLVED" clause is quite specific about what it asks. It asks that this National Assembly to take steps to amend.

I will now propose the amendments standing in the name of the Hon. Attorney General, and that is:

“After the words “Article 122 A” insert...”

It is in the first WHEREAS clause.

‘“(2) “subject to provisions of articles 199 and 201, all courts shall be administratively autonomous and shall be funded by a direct charge upon the Consolidated Fund; and such courts shall operate in accordance with the principles of sound financial and administrative management”’;

*Amendment put and negatived.*

**Mr. Speaker:** I wish to move to the second amendment proposed by the Hon. Attorney General and that is to the second WHEREAS clause.

“Delete all the words after the words “a Budget agency” and insert a semi-colon.”

“Delete the BE IT RESOLVED clause and replace it with the following:”

‘ “That the National Assembly notes that the inclusion of the Supreme Court in the Schedule to the Fiscal Management and Accountability Act 2003 is not inconsistent with the provisions of Article 222A of the Constitution.” ’

*Amendment put and negatived.*

*Question put.*

*Motion carried.*

## **ADJOURNMENT**

**Mr. Speaker:** Hon. Members, this concludes our business for today. As has been announced, the House stands adjourned until 30<sup>th</sup> May, 2012 at 2.00 p.m.

**Leader of the Opposition [Brigadier (Ret’d) Granger]:** I would like, on behalf of this side of the House, and I am sure the Hon. Members on the other side would join me, in taking this opportunity not only to wish the mothers in this honourable House a Happy Mother’s Day, but to extend our wishes to all of the mothers of Guyana on their day of the year. Particularly, Mr. Speaker, we would like to call to mind those mothers who have been victims of abuse and give them assurance that this House, this year, and throughout the Tenth Parliament, will continue to make their lives more comfortable, to make their lives safe and give them, what the Opposition

has promised throughout the campaign, a good life for all Guyanese, but particularly for our mothers.

**Mr. Hinds:** This side of the House joins, too, in extending best wishes and greetings to the mothers of Guyana and we also are committed to, and we have been leading the way, taking the battle to abuse against women and children.

Mr. Speaker, you have already alluded to the fact that we are going to meet on 30<sup>th</sup> May, 2012, but I want to add, also, for the better planning of Members, that there is the intention to meet on 31<sup>st</sup> May, 2012. I think that was the agreement between the two Chief Whips.

**Mr. Speaker:** Members, I wish to remind you that the Government, Commonwealth Parliamentary Association (CPA) and United Nations Development Programme (UNDP) sponsored seminar is on from 20<sup>th</sup> to 22<sup>nd</sup> May, 2012. Members will be facilitated, in terms of participating. Resource persons will be coming from London and, perhaps, as well as Canada to assist and be here with you. I encourage you all, to participate fully, those of you who are here. Enjoy your weekend.

Remember those who are in distress in regions along the Coast and in the Rupununi, even as we speak, and I hope that some of the initiatives, which were discussed this afternoon, would bear fruit.

*Adjourned accordingly at 10.04 p.m.*