

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

31ST Sitting

Thursday, 22ND November, 2012

The Assembly convened at 2.10 p.m.

Prayers

[Mr. Speaker in the Chair]

ANNOUNCEMENTS BY THE SPEAKER

Mrs. Chandarpal excused from sitting

Mr. Speaker: Good afternoon again Hon. Members. There are just a few brief announcements. First is that Hon. Member Mrs. Indranie Chandarpal will be absent from today's sitting and has been excused.

Fitness walk to be held on Sunday 2nd December

Mr. Speaker: I wish to remind Members, I believe the Chief Whips ought to have passed the message on, that the national fitness walk for the parliamentarians will be on Sunday the 2nd of December, begins at 7.00 a.m. at the sea wall bandstand, proceeding west along High Street into the Avenue of Republic and then to the compound of the Public Buildings. I am informed that appropriate security and first aid arrangement will be in place for the duration of the walk for those, of course, who will need those facilities. The walk will commence activities for the National Fitness Week and I wish to urge all Members to come out and participate in the walk. I am also informed that individual invitations have been sent out to all Members.

Installation of new amplification system

Mr. Speaker: Members would note as well, certainly from the sound of my voice, that there is a new voice amplification system that has been installed and tested yesterday. This new system, I am informed, verily believed, has numerous features, including voting and cameras reflecting the images of Members while speaking. Members may note that on either side, on east and west of the Chamber, there are two cameras, so that when a Member engages a microphone, the camera automatically zeros in on that speaker. We hope that, in due course, we will have live streaming and there is a new feature which is a touch screen monitor. I wish to thank all those who were instrumental in ensuring that this equipment is installed and tested. We may expect, Members, some glitches but I will ask for your patience and cooperation.

Welcoming guest

Mr. Speaker: I wish to announce as well, on a personal note, that I have with me this afternoon as my guest Mr. Calvin Hamilton, attorney-at-law practising in Madrid, Spain, a Guyanese who has been a member of the Bar, United States of America, New York in particular, and has done very well for himself practising in the field of international arbitration. He is the head of his own firm, Hamilton Abogados, headquartered in Madrid, Spain. It is good to welcome Mr. Calvin Hamilton home. I wish to recognise that Mr. Hamilton and I have the same alma mater in the Fletcher School of Law and Diplomacy in Massachusetts, United States of America. He will be with us for a few minutes, observing the high level of conduct and behaviour of Members of this National Assembly.

Speaker's Ruling

Mr. Speaker: I believe there is a weightier announcement that I ought to have made. Members would recall on the last occasion I gave a ruling on a matter pertaining to the Minister, Mr. Rohee, and that ruling, I am led to believe, became the subject of much discussion and discourse. Some of it I believe to be quite out of place, but that is a matter for outside of this Chamber, some of it highly unformed by persons considering themselves to be learned. Be that as it may, in that ruling, in paragraph 11, I stated that the Speaker of the National Assembly, and I so ruled, has no power to restrict or deny the right of the Member Mr. the Hon. Clement J. Rohee from

speaking, or from anyway, fulfilling his ministerial duties and responsibilities in so far as they relate to this House.

In paragraph 12, I said that consequent upon my ruling, Members of the House may wish to consider whether a substantive motion on the subject should be pursued or not. There are varying schools of thought on this matter. I last night did quite a bit of research, looking at the situation as it plays out and as it pertains to the jurisdiction in Australia where there is quite a body of literature on the subject. Earlier today, by that, I mean within the hour, I made a proposal to both sides of the House, and that is, that we consider referring the matter of a Member's right or a Minister's right to the Committee of Privileges - it is not the Member but the issue - and at the time have a deferral of any matters which may arise.

Standing Order 91 states:

“There shall be appointed a Committee to be known as the Committee of Privileges ...

And it goes on to state that:

“There shall be referred to this Committee any matter which appears to affect the powers and privileges of the Assembly.”

I believe that this could be a matter that affects the power and privileges and it has nothing to do with the Minister but the issue and the issues surrounding it. However, unfortunately both sides did not see merit in my suggestion, so I believe we are left to proceed as we are going to. A supplementary Order Paper for a motion in the name of Brigadier (Ret'd) David Granger has been circulated this afternoon and we will address that in due course. That is my final announcement.

PRESENTATION OF PAPERS AND REPORTS

The following Reports were laid:

- (i) The Audited Financial Statements of the National Communications Network Inc. for the year ended 31st of December, 2009.
- (ii) The Audited Financial Statements of the Aroaima Mining Company Inc. for the period from the 1st of January to the 31st of March, 2011.

[*Minister of Finance*]

STATEMENTS BY MINISTERS, INCLUDING POLICY STATEMENTS

Mr. Speaker: I am being reminded by the Clerk that it was informed previously that the Hon. Minister of Foreign Affairs wishes to make a policy statement on behalf of the Government.

A CALL FOR A CEASEFIRE OF MILITARY ATTACK ON GAZA STRIP

Minister of Foreign Affairs [Ms. Rodrigues-Birkett]: As Members of this honourable House are aware, on the 14th of November, the Government of Israel launched the military offensive in the Palestinian territory of Gaza through a series of air strikes. This offensive has resulted in the injury and loss of lives of more than one hundred and sixty Palestinians, many of them, civilians, women and children among them, and the destruction of infrastructure and loss of services throughout Gaza.

The Government of Guyana issued a statement on the 19th November, 2012 calling for an immediate ceasefire. That statement expressed the Government of Guyana's grave concerns over the continued military air strikes and called on Israel to end immediately its offensive and to ease the suffering of the affected populations. Guyana also expressed its concern at the firing of rockets in Israelis territory, which reports now indicate, resulted in the death of approximately five Israelis. I invite this honourable House to join in expressing Guyana's abhorrence at this strategic loss of innocent civilian life and to condemn, in the strongest possible terms, the perpetration of violence and the killing of civilians.

The Israeli's offensive has taken a toll on the civilian population and exacerbated an already dire humanitarian situation in the territory which has been under Israeli blockade since 2006. The Gaza Strip is a small densely populated area of approximately three hundred and sixty square kilometres, less than one-fifth of Guyana's smallest administrative region. It is a home to approximately 1.7 million people and 1.2 million are refugees, according to the United Nation's and Relief Works Agency. As the occupying power, Israel must meet its obligations on the international law to protect the people and territory under its control. Civilians, both in Palestine and in Israel, are entitled to protection on the international humanitarian law. Guyana strongly supports the appeal made by the Secretary General of the United Nations, Mr. Ban Ki-moon.

Quote: “To all those commanding, bearing and operating arms, to respect international humanitarian law, to ensure the protection of civilians at all times.”

The renewed wave of violence between Israel and Palestine has come against the backdrop of a recent initiative by the Palestinians to seek observer status at the United Nations. The Government of Guyana has supported this aspiration and remains ready to welcome the State of Palestine as an observer State of the organisation, as a step towards its admission as a full member of the United Nations with all the privileges of member States.

The question of Palestine has defined resolution for over sixty-four years. The Palestinian people continue to struggle for the full exercise of their inalienable human rights, including their rights to self-determination and an independent homeland. They have found in Guyana a constant companion in that struggle. Our solidarity has been unwavering across generations and administrations. Our voting record at the United Nations bears testimony to this support. Indeed, Guyana was among the earliest members from the hemisphere to join the committee on the exercise of the inalienable rights of the Palestinian people which was established in 1975.

We were the first CARICOM country to recognise Palestine as a State on the 13th of January, 2011. Our country also has friendly and cooperative relations with the State of Israel. By dint of history and geography, the destinies of these kindred people are inextricably linked. Negotiation is the only viable means to bringing a mutually satisfying end to the conflict that exists between them. Now, more than ever, it is crucial to return to negotiations to realise the two States’ solution necessary to achieve the goal of secure Israel at peace with an independent Palestine free from occupation. We therefore welcome the ceasefire that was announced yesterday and hope that this would provide a window of opportunity for renewed diplomatic efforts aimed at finding neutrally, satisfactory and sustainable solutions for peace in the Middle East. Guyana will continue to support the efforts of the United Nations Secretary General and the international community towards this end.

In closing, I invite this honourable House to join in the renewal of our solidarity with the Palestinian people in their just and legitimate struggle for self-determination and statehood and in the expression of the hope that the people of Palestine and Israel will soon be able to live in peace and dignity within secure and internationally recognised borders. I also call on this House

to welcome the ceasefire, to express the hope that this will be maintained in the interest of safeguarding the lives of the people of Palestine and Israel and to reiterate Guyana's support for the efforts of the international community to secure an end to this conflict for a just and lasting peace in the Middle East region in keeping with relevant resolutions of the United Nations.

I thank you. [*Applause*]

Mr. Speaker: I thank you Hon. Minister, as always, for your statement and positions. Allow me just to say that your prescriptions for negotiations will do well in the domestic setting of Guyana from time to time.

INTRODUCTION OF BILL AND FIRST READING

The following Bill was introduced and read for the first time:

DEEDS AND COMMERCIAL REGISTRIES AUTHORITY BILL 2012 – BILL NO. 28/2012

A BILL intituled:

“AN ACT to establish the Deeds and Commercial Registries Authority as a corporate body, to establish and promote the efficient and orderly operation of the Deeds Registry and the Commercial Registry, to establish the conditions governing the employment of officers and employees of the Authority, to provide for funding of the operations of the Authority, and for connected matters.” [*Attorney General and Minister of Legal Affairs*]

PUBLIC BUSINESS

GOVERNMENT BUSINESS

BILLS – SECOND READINGS

TELECOMMUNICATIONS BILL 2012 – Bill No. 18/2012

A BILL intituled:

“AN ACT to provide for the establishment of the Telecommunications Agency and for a regular, coordinated, open and competitive telecommunications sector and for matters

incidental thereto or connected therewith.” [Prime Minister and Minister of Parliamentary Affairs]

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

A BILL intituled:

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

Prime Minister and Minister of Parliamentary Affairs [Mr. Hinds]: Mr. Speaker, Hon. Members, I rise to ask that these two Bills “Telecommunications Bill 2012 – Bill No. 18/2012 and Public Utilities Commission (Amendment) Bill 2012 – Bill No. 17/2012” be further deferred. I can report that meetings have begun with both of the main providers in Guyana.

Mr. Speaker: That is good news. Thank you.

Bills deferred.

PRIVATE MEMBERS’ BUSINESS

MOTIONS

PUBLIC UTILITIES COMMISSION (AMENDMENT) BILL 2012 – NO. 15/2012

“BE IT RESOLVED:

That this National Assembly, in accordance with Standing Order No. 52 (1), grant leave for the introduction and first reading of the Public Utilities Commission (Amendment) Bill 2012 – Bill No. 15/2012 –

A BILL intituled AN ACT to amend the Public Utilities Commission Act.”
[Mr. Ramjattan]

TELECOMMUNICATIONS BILL 2012 – BILL NO. 16/2012

“BE IT RESOLVED:

That this National Assembly, in accordance with Standing Order No. 52 (1), grant leave for the introduction and first reading of the Telecommunications Bill 2012 – Bill No. 16/2012 –

A BILL intituled AN ACT to provide for the establishment of the Telecommunications Agency and for a regular, coordinated, open and competitive telecommunications sector and for matters incidental thereto or connected therewith.” [Mr. Ramjattan]

Mr. Speaker: Mr. Ramjattan, you have two motions of very similar nature later on in the Order Paper. Do you wish to speak to your intensions now?

Mr. Ramjattan: My intention now is to have them deferred, Sir.

Mr. Speaker: Thank you very much.

Motions deferred.

GOVERNMENT BUSINESS

BILLS – SECOND READINGS

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

A Bill intituled:

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

Mr. Speaker: Hon. Members, we will now proceed with the second readings of the Firearms (Amendment) Bill 2012 – Bill No. 21/2012, published on the 2012-09-04.

Mr. B. Williams: If it pleases you Mr. Speaker. I rise on a Point of Order and it is Standing Order 40, rule (a). Mr. Speaker, I move that the period of notice for a Private Member’s Motion under Standing Order 28, rule (3), be dispensed with under Standing Order 31. In addition, Sir, I also move...

Mr. Speaker: Mr. B. Williams, excuse me please, you said Standing Order 28 (3), and which is the other Standing Order?

Mr. B. Williams: That is the rule for the period of notice for a Private Member's motion.

Mr. Speaker: I think you referred to another Standing Order.

Mr. B. Williams: Yes Sir. It is Standing Order 31, that that period of notice required under Standing Order 28, rule (3), be dispensed with under Standing Order 31. Further, on the basis of Standing Order 112, and under Standing Order 30 (d), I move that Standing Order 13, which deals with business, and Standing Order 14 (1), which deals with the sequence on the Order Paper, be suspended and that the National Assembly proceed to debate the motion in the supplementary Order Paper standing in the name of Brigadier (Ret'd) David Granger and Mr. Khemraj Ramjattan forthwith.

Mr. Speaker: Anyone wishes to respond to that or to speak to that?

Ms. Teixeira: Mr. Speaker, I believe that the honourable gentleman is not raising the Point of Order at the correct moment. Standing Order 24 talks about the Government Business will have priority. Let me get that quickly. Standing Order 24 (2):

“...Government Business shall have precedence on every day except on every fourth Sitting when Private Members' Business shall have precedence.”

This is not the fourth Sitting. This is the third since we came back from recess - the 22nd of October, the 8th of November, 22nd of November. The next sitting will be the Private Members' Business and therefore I believe, Sir, that the Point of Order is out order.

Mr. B. Williams: The Hon. Member, I was going to say my learned friend, Ms. Teixeira has misinterpreted what I have just said. I have proposed to suspend the Standing Orders related to the order of business, whether it is Government Business or Private Members' Business, and the sequence on the Order Paper, and it is a question for the Assembly. In relation to the period of notice for a Private Member's motion, which is what the motion is from Mr. David Granger and Mr. Kemraj Ramjattan, we asked that that period of notice required by Standing Order 28 (3) be dispensed with under Standing Order 31.

Minister of Agriculture [Dr. Ramsammy]: In terms of Standing Order 31, these Standing Orders cannot be suspended unless the Speaker is permitting them.

Mr. Speaker: The first thing we have to consider is whether or not Standing Order, I think, 112 has to first be addressed and then we can go on step by step to look at any other matters.

Ms. Shadick: I do not think I misheard, but the Hon. Member Mr. B. Williams, when he first got up, started off with Standing Order 40, when he rose on a Point of Order. The first Standing Order he quoted was a Standing Order that deals with interruptions when a Member is speaking.

Mr. Speaker: I noted that.

Ms. Shadick: With all due respect Sir, that Standing Order 40 has nothing to do with whatever he is asking for. That was how he began. If he wanted to do something then he needed to do it in the right way and at the right time. The thing is, Sir, although Mr. Basil Williams and I, both, belong to same profession and he might not want to call me learned, being that I am junior to him, I do understand the English language and I do have a bit of knowledge of the law. With respect Sir, when you begin something, when you stand up to make a point, it should be relevant to what it is you are trying to do.

Deputy Speaker [Mrs. Backer]: Mr. Speaker, I do agree with you that for tidiness that the suspension of Standing Orders under Standing Order 112 should be sought. We now officially Sir, seek your leave to have Standing Order 112 suspended.

Mr. Ramjattan: If I may also indicate that in the supplementary Order Paper it is very specifically stated, and probably it is overlooked by my learned friend. I read from the actual motion itself.

“In accordance with Standing Order No. 112, Brigadier (Ret’d) David Granger, M.S.S., M.P., Leader of the Opposition to seek leave of the Speaker to move the following motion:”

Indeed, that is being already stated to this National Assembly, but also the requirements of notice and leave, I think, are what Mr. Basil Williams was getting at. It is inherent in the document itself, as moved by Mr. Granger and seconded by me, that we are seeking, of course, the platform Standing Order being 112. It is there.

Ms. Teixeira: Mr. Speaker, by your management of the House, we have moved to the Firearms Amendment Bill at which point the Minister is to get up and proceed on the Bill. It is highly irregular, in the midst of this item, that there is a subterfuge in this House to prevent the Bill, Government Business, and a Government Bill, which is on the Order Paper, is being pushed aside in this manner. The Member's motion, which, both, the Hon. Member Mr. Ramjattan referred to and it is on the Order Paper in the name of Mr. Granger, is on the supplementary Order Paper under Private Members' Business and therefore it will be come to when we reach there, but the Government Business, Sir, is ahead and this is highly irregular. This is an attempt, Sir - I am sure in your wisdom that you would not allow - that this will set a precedent that is totally unacceptable and unheard of in any Parliament in the world. I am asking you, Sir, to please let us proceed with the Firearms (Amendment) Bill 2012 – Bill No. 21/2012 as it is on the Order Paper. When we come to Mr. Granger's motion, as the House, we will deal with it accordingly.

Ms. Shadick: I am referring to the contribution made by the Hon. Member Mrs. Deborah Backer, who asked that Standing Order 112 be suspended. [Mrs. Backer: I never asked that Standing Order 112 be suspended.] The records will show that that is what she said. She was asking that Standing Order 112 be suspended.

Mr. Nadir: Mr. Speaker, I am not as learned as some of the learned people in the House.

Mr. Speaker: You are lucky.

Mr. Nadir: Thank you very much, Sir. I know that there is an honoured sacred provision in the Westminster system and that sacred convention states that the person who first catches the eye of the Speaker and the Speaker calls upon to speak as... [Mrs. Backer: It was Mr. B. Williams.] No. ...you did Sir, and as the Hon. Member Ms. Shadick said, the process had already commenced. You did call upon the Hon. Member, the Minister of Affairs to rise and he did. I feel that if we wanted to amend today's agenda, this particular intervention, seeking the suspension of Standing Order 112 and the suspension of the time period for bringing such a motion, should have come earlier. At this particular time you had already called on the Hon. Member to proceed with the second reading of the Firearms (Amendment) Bill – Bill No.

21/2012. In the layman's understanding and the simplest of the English language that Ms. Shadick thought, we need to proceed.

Mr. Speaker: Noted.

2.40 p.m.

Mrs. Backer: Mr. Speaker, this is the classic... Well it seems that the Speaker also wants to give me the job, because he is calling on me repeatedly, so why do you not be quiet. This is the usual People's Progressive Party (PPP) clutching at straws. Mr. Williams was recognised clearly by you. He got up to move the suspension and then he went on to seek the suspension of several Standing Orders. My intervention based on your quite correct notice was that firstly he should have indicated that he is seeking this suspension by virtue of the powers given to any member of the National Assembly by Standing Order 112. This is all a storm in a teacup. It is here on the Supplementary Paper, Notice and Order Paper, for those who have eyes to see and brains to read.

We would ask your leave so that the relevant Standing Orders, as quoted by Mr. Williams, can be suspended. There is no doubt that there is power to suspend Standing Orders; Standing Order No. 112 says that. We are asking you to exercise your discretion on the Standing Orders quoted by Mr. Williams and to give us leave to proceed with the debate on the motion standing in Mr. Granger's name and seconded by Mr. Ramjattan. Thank you.

Mr. Hinds: Mr. Speaker, I would like to follow on from our deputy Speaker, where she says that this motion presented by the Hon. Member, Brigadier (Ret'd) David Granger is on the Order Paper; it is on a Supplementary Order Paper. It is listed to be addressed at Private Members Business. I think that the series of suspensions of Standing Orders being asked here, if granted, would be a very grotesque abuse of the right to suspend Standing Orders. To remove a motion that is already on the Order Paper from where it is, on Private Members Business and to bring it forward to this point, I think would be very grotesque to do.

Mr. Speaker: Hon. Members, I have heard quite a few arguments and I have to say, Mr. Williams, that Mrs. Backer sought to remedy, I believe, a procedural snafu in a sense. You did rise and invoke Standing Order No. 40 and then you mentioned Standing Order No. 112, last.

What I would do is to invite you to address me on that. I do not think that another Member may fill any gaps for you, if they are any, but I think that you may.

Mr. B. Williams: Mr. Speaker, if it pleases you. Firstly, after much deliberation on this matter, I repeat myself again. I stood on Standing Order No. 40(a) as Hon. Member Ramsammy said that it really is the Minister's ministry and I interrupted him under Standing Order No. 40(a), which I am entitled to do. I think the Hon. Member Ms. Shadick did not understand that one.

Secondly, we have a situation where Mr. Granger's motion is on the Supplementary Order Paper. The first order of business is that such a Motion has to have satisfied the required period of notice. On that basis, I moved in the first instance to suspend the requirement for a Private Member's Motion to have 12 days after being put on the notice paper to be on the Order Paper. Secondly, [*Interruption*] you do not have to wait until we get there, you have to first establish the motion on the Order Paper. Then, since we are not prepared to wait until the end of the Session where the Private Member's Business is, I moved to suspend the order of business under Standing Order No. 13(1) and also the sequence on the Order Paper under No. 14(1). That is all we did, simply. I understood my Hon. Friends on the other side to be filibustering. I do not think they were really serious that there was some error or mistake made in what was going on.

So, Sir, if I could in the first instance move, with your leave, that the requirement for the period of notice under Standing Order 28, Rule 3, be dispensed with under Standing Order No.30(1). Once that is passed or agreed, we then move to suspend the order of business. Do not forget that once you get pass the question of notice, you still have the order of the business. In that order of business on the Order Paper, the Private Member's Motion is the last item. That is all that I was doing. There is no question of any irregular procedure or anything like that. In the first instance, I move that the period of notice that is required for the Private Members Motion under Order No. 28(3) be dispensed with under Standing Order No. 30(1). That is the first order of business.

Mr. Hinds: Mr. Speaker, I will like to submit that the question that we have to address on this interruption is, "what does this interruption allow?" If we read Standing Order No. 40(a) and we read Standing Order No. 40(b) I think it supports my contention that the interruption must be related to what the Member is saying. The interruption cannot be used to introduce an entirely new set of business. If we read Standing Order No. 40(a) and (b) together,

“Subject to these Standing Orders, no Member shall interrupt another Member except:

- (a) By rising on a Point of Order, when the Member speaking shall resume his or her seat....”

If you read (b),

- “(b) To elucidate some matter raised by that Member in the course of his or her speech...”

You are not interested in Standing Order No. 40(b), but it sets the context in which the interruption occurs. I humbly submit and I recognise that I am certainly not a learned person, but I submit that interruption and the matter being pursued by Hon. Member Williams, does not fall under the interruption foreseen in Standing Order No. 40(a).

Mr. Speaker: Hon. Members I am of the view that the first thing to be attended to is whether or not we suspend the Standing Orders, that is, Standing Order No. 112. That is my view. Earlier today Mr. Williams sent me a letter giving me notice of his intention to suspend Standing Orders Nos. 13, 14, 28, 31 and 112. I received this at about 1.00 p.m. this afternoon. Standing Order No. 112 says that all Standing Orders may be suspended if there is notice or if the Speaker gives leave. I am not minded to give my leave, but I note that the requisite notice has been submitted. I have to put the matter to the House as to whether or not it wishes to suspend Standing Order No. 112.

Ms. Teixeira: Mr. Speaker, I therefore wish for you to advise me and this side of the House. Notice generally refers to the time period within which such matters come to the House. It is not necessarily by a letter, so is it then possible that the notice to suspend these Standing Orders require no time period and that it can be done an hour before as you are saying, because these are setting new precedence in our House. Usually it is 12 days. Hon. Member Mr. Granger’s motion is on the Supplementary Order Paper, having not had the 12 days maturation period. So, one anticipates from the Order Paper that Standing Order No. 112 will come to the house at that time. Having done that, it seems that with your leave Sir, you have already granted that the motion by Mr. Granger is put on the Order Paper, not the notice paper, the Order Paper, without the

requisite 12 days. So, Standing Order No. 112 is to suspend the Standing Orders to allow for this to go forward.

Like I said, I can only say from the fact that it is on the Order Paper that it has your concurrence. What is taking place now is a completely different issue. This is where the Hon. Member wants to now violate what is basically a sacrosanct issue in parliament that Government's business comes as precedence and that on a matter as stated in the Standing Orders, that there are certain times when this can be changed, such as a privilege motion, for example. On a regular motion, you cannot in the middle of a discussion on a bill, introduce a motion to suspend and to suspend the entire order of the House. Mr. Williams has come bidding cognisant that you have given permission. The Opposition is fully cognisant that you have given permission for the motion by Mr. Granger that does not have the 12 days notice to be on the Supplementary Order. Not satisfied with that, they are now trying in the middle of a Government's Business, a Bill, to now introduce this. Mr. Speaker, this is anarchy and it will happen again and again. If you permit this to happen in this House, it means that every time Government's Business is put on the agenda this total grotesque occurrence, as the Prime Minister said, will happen over and over again. Mr. Speaker, I am asking you to stand by the Standing Order and to not permit precedence in this House that will turn this House into a madhouse. Thank you.

Mr. Speaker: Members, before anyone else speaks, we do have a precedent. When the substantive motion that we are seeking to address today was dealt with when in July the Leader of the Opposition, firstly, by an email that came to me at about 5.00 a.m. and later by a letter of the same email, a written or hard copy came later the day, giving notice of his intention to suspend Standing Order No. 112 to move a motion of no confidence. So, that matter was considered appropriate then. There was no objection then. So, we do have a precedent. Whether or not it has to do with this same matter or not is of no moment because we do have a precedent for this. It happened when I received just a matter of hours notice, I believe on the 17th of July, pointing out an intention.

As I said, I am quite aware of the jeopardies. I put a proposal to both sides of the House today, which was my own personal proposal which was rejected. So, it would appear that the parties on the two sides wish to have their say today and not listen to the Speaker. I am not going to stand in the way when the elephants seem to want to have a chance at each other. I believe that the

matter qualifies to be sent to the Privileges Committee, not the Minister, but the issue and as I said, that was my proposal. Members did not seem to want that. Who am I, but just a presiding officer? I am not the Judge.

Dr. Ramsammy: Mr. Speaker, I do not want to get caught up with all of the things. I am dealing with Standing Order No. 112. Standing Order No. 112 does permit that Standing Orders can be suspended. However, there are two conditions. Firstly, that notice is given. The time of notice has not been given. [*Interruption*] I have listened to you, so you will listen to me now. Mr. Speaker, the second condition is that the Speaker gives consent. I heard the Speaker say that he is not inclined to do that, which is what I am trying to get at. If the time, in terms of notice, is not satisfied, the only other way to proceed is if the Speaker gives permission. I did not hear that.

Mr. Speaker: I believe that based on precedent, when I received a few hours notice on a previous occasion to suspend all Standing Orders under Standing Order No. 112 that there is a precedent for this.

Ms. Teixeira: Mr. Speaker, if you do not mind I just want to rise for the sake of clarity. The issue that we are raising on our side is the intervention to overturn the order of the business of today in the middle of a debate on Bill. We have not counteracted or apposed your right to allow the suspension of a Standing Order under the motion presented by the Hon. Member Mr. Granger. Our views in relation to this and in the no confidence motion were documented to you and loudly heard in this House when it occurred, but you ruled and we accepted your ruling, unlike, November 8th when your ruling was not accepted. I just want to remind you.

Secondly, Mr. Speaker, you have referred to your overture to the two sides of the House. I wish for the record, because you called me, as the Chief Whip, your proposition to me was that the motion would be sent to the Committee of Privilege. You did not say to me that the issue of a Member of Parliament's (MP's) right to speak or not, in other words, a hypothetical broad theoretical thing was presented to me. It was to do with Mr. Rohee, the "Rohee" matter, whether he speaks in this House or not based on Mr. Granger's motion would be sent to the Committee of Privilege. Furthermore, you wanted Minister Rohee to defer his motion on the Firearms Bill today. On the side of the Government, we have opposed and we called you to tell you that your proposition was untenable. Therefore, I do not want to be in "prove story" with you. I have

respect for you as the Speaker and I think that the behaviour at the last Sitting was despicable towards you in this House.

I am also very concerned that whether miscommunication or not, my understanding clearly, when you approached me at around 12.15 p.m. was not in relation to a hypothetical issue of examining whether the House could remove an MP's right to speak. That would put a different tint on certain issues. That is not what I understood and it is not what I conveyed. Thank you.

Mr. Speaker: In that regard, let me just say that if there was any miscommunication the error is on my part and I hold myself solely responsible. I now put the question as to whether or not we suspend Standing Orders by invoking Standing Order No. 112.

Division

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

Ayes

Mr. T. Williams

Ms. Marcello

Dr. Ramayya

Mrs. Garrido-Lowe

Mrs. Hughes

Mr. Nagamootoo

Mr. Ramjattan

Ms. Ferguson

Mr. Morian

Mr. Allen

Mr. Jones

Noes

Mr. Jaffarally

Mr. Damon

Dr. Persaud

Rev. Dr. Gilbert

Dr. Mahadeo

Mr. Seeraj

Mr. Neendkumar

Mr. Lumumba

Ms. Shadick

Mrs. Chandarpal

Mr. Nadir

Mr. Adams

Mrs. Baveghems

Mr. Sharma

Mr. Bulkan

Mr. Bond

Ms. Kissoon

Mr. Trotman

Ms. Selman

Mr. Allicock

Ms. Wade

Mr. Felix

Ms. Hastings

Mr. Scott

Lt. Col. (Ret'd) Harmon

Mr. Greenidge

Mrs. Backer

Dr. Norton

Mrs. Lawrence

Mr. B. Williams

Ms. Ally

Dr. Roopnarine

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

Mr. Hinds

Brigadier (Ret'd) Granger

Question put, and agreed to.

Motion Carried

Mr. Speaker: Is there any subsequent motion?

Mr. B. Williams: Sir, as I understand that motion, it was to invoke Standing Order No. 112.

Mr. Speaker: Well, you now have the control. What is the wish of the House?

Mr. B. Williams: We move that Standing Order 13, which deals with “Order of Business” and Standing Order No. 14, Rule 1, which deals with sequencing on the Order Paper be suspended.

Mr. Speaker: To allow for?

Mr. B. Williams: To allow for this motion in the name of Brigadier (Ret'd) Granger and Mr. Khemraj Ramjattan to be proceeded with-forth.

Mr. Speaker: Members the motion is there. Is there a seconder for that motion?

Mrs. Backer: I rise to second.

Ms. Teixeira: Mr. Speaker, I did not hear, the Hon. Member has moved Standing Orders Nos. 13 and 14(1), is that correct?

Mr. Speaker: That is what I heard, yes.

Ms. Teixeira: Therefore, the issue of the order of the arrangements of business proceeds with the Bill. The Standing Order has not been changed in relation to us proceeding on Government Business. Secondly, he has brought Standing Orders Nos. 13 and 14. You are looking at the wrong Standing Orders, if that is what you wish to do and I am not going to enlighten you.

Mr. Speaker: As I understand it, Standing Order No. 13 deals with Order of Business and sets out from (a) to (o) and Standing Order 14 deals with sequencing on the Order Paper particularly No. 14(1). The Member has asked that the business and the arrangements of the sequential order of which the Order Paper is set out in the way business is conducted be suspended and that the

motion in the name of Brigadier (Ret'd) Granger be brought up for earlier and immediate consideration. That is as I understand it.

Mr. B. Williams: Excellent. Your understanding is impeccable, Sir.

Mr. Speaker: There is a seconder to that motion. So I put that motion.

Ms. Teixeira: Mr. Speaker, again, Standing Order No. 14(1) and No. 13 cannot overrule unless the Standing Order is suspended by No. 24(2). Standing Order No. 24(2) is what we have been talking about for the last 40 minutes on the Government side. Government's business takes precedence. Therefore, we proceed with the Bill Mr. Speaker.

Mr. Speaker: It would appear to me that once Standing Order No. 112 is invoked, all Standing Orders are suspended.

Ms. Teixeira: You have to name which Standing Orders.

Mr. Speaker: The application of all Standing Orders is held in abeyance.

Ms. Teixeira: That is not so.

Mr. Speaker: That is my understanding, including Standing Order No. 24. I would proceed to put the question.

Ms. Shadick: Mr. Speaker, I beg to differ with what you just said. Standing Order No. 112 says "any one or more" and not all. If somebody wants to suspend, let them number the ten or however many they want so those will be suspended. It cannot be all, Sir. Standing Order No. 112 does not mean that all the orders are suspended; it cannot mean that. It does not say that.

Mr. Speaker: Standing Order No. 112 says "any one or more". Therefore, it could mean all 113 or it could mean two of 113. My impression is that we are going in a sequential order. We are at the stage of reordering the business. I wish to put the question that the Order of Business be rearranged to facilitate the motion of Mr. Basil Williams.

Division

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

Ayes

Mr. T. Williams

Ms. Marcello

Dr. Ramayya

Mrs. Garrido-Lowe

Mrs. Hughes

Mr. Nagamootoo

Mr. Ramjattan

Ms. Ferguson

Mr. Morian

Mr. Allen

Mr. Jones

Mr. Adams

Mrs. Baveghems

Mr. Sharma

Mr. Bulkan

Mr. Bond

Ms. Kissoon

Mr. Trotman

Ms. Selman

Mr. Allicock

Ms. Wade

Mr. Felix

Ms. Hastings

Mr. Scott

Lt. Col. (Ret'd) Harmon

Mr. Greenidge

Mrs. Backer

Dr. Norton

Mrs. Lawrence

Mr. B. Williams

Ms. Ally

Dr. Roopnarine

Brigadier (Ret'd) Granger

Noes

Mr. Jaffarally

Mr. Damon

Dr. Persaud

Rev. Dr. Gilbert

Dr. Mahadeo

Mr. Seeraj

Mr. Neendkumar

Mr. Lumumba

Ms. Shadick

3. 10 p.m.

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

Mr. Hinds

Question put, and agreed to.

Motion carried.

Mr. B. Williams: Finally Mr. Speaker, if it pleases you, I move that the period of notice for a Private Member's Motion under Standing Order No. 28(3) be dispensed with under Standing Order No. 31.

Mr. Speaker: Is there a seconder?

Mrs. Backer: I second.

Mr. Speaker: I put the motion as by Mr. Basil Williams.

Division

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

Ayes

Mr. T. Williams

Ms. Marcello

Dr. Ramayya

Mrs. Garrido-Lowe

Mrs. Hughes

Mr. Nagamootoo

Noes

Mr. Jaffarally

Mr. Damon

Dr. Persaud

Rev. Dr. Gilbert

Dr. Mahadeo

Mr. Seeraj

Mr. Ramjattan

Ms. Ferguson

Mr. Morian

Mr. Allen

Mr. Jones

Mr. Adams

Mrs. 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

Mr. Neendkumar

Mr. Lumumba

Ms. Shadick

Mrs. Chandarpal

Mr. Nadir

Ms. Teixeira

Bishop Edghill

Mr. Whittaker

Mr. Baksh

Mrs. Campbell-Sukhai

Ms. Webster

Mr. G. Persaud

Ms. Manickchand

Mr. Benn

Dr. Anthony

Mr. Ali

Dr. Ramsaran

Dr. Westford

Mr. R. Persaud

Dr. Singh

Mrs. Rodrigues-Birkett

Dr. Norton

Mr. Nandlall

Mrs. Lawrence

Dr. Ramsammy

Mr. B. Williams

Mr. Rohee

Ms. Ally

Mr. Hinds

Dr. Roopnarine

Brigadier (Ret'd) Granger

Mr. Speaker: Hon. Members, The Clerk reports on the division being requested and having been taken, 33 Members voted in favour of the motion while 31 Members voted against. The motion is carried.

Question put, motion carried

I believe that the House is in a position to proceed with the motion.

Leader of the Opposition [Brigadier (Ret'd) Granger]: Mr. Speaker, I rise to put this motion

...

Attorney General and Minister of Legal Affairs [Mr. Nandlall]: Mr. Speaker, on a Point of Order, Standing Order No. 26 dealing with Admissibility of motions says:

“In order that a motion may be admissible it shall satisfy the following conditions.”

And I wish to refer to condition (g):

“ it shall not relate to any matter which is under adjudication by a court of law.”

Sir, I have here Notice of Motion filed in the High Court numbered 69(m) of 2012, a Motion Intituled “In the Matter of the Constitution of the Republic of Guyana in the Matter of the Rules of the High Court, in the Matter of the Inherent Jurisdiction of the High Court, the Attorney General against David Granger in his capacity as Leader of the Opposition and Raphael Trotman in his capacity as Speaker of the National Assembly, Respondents, jointly and severally.”

Mr. Speaker, the action itself, if I may be permitted, with your kind leave, to read the reliefs, it reads as follows:

“A declaration that motion moved in the National Assembly on the 25th day of July 2012 by Leader of the Opposition Brigadier Retired Mr. David Granger, MSS, MP, and duly passed on the 30th day of July, 2012 is unlawful, violative of the doctrine of separation of powers, unconstitutional, null, void and without any binding force or effect in so far as same purports to censure and express a no confidence in Minister Clement Rohee, MP.”

The second relief:

“A declaration that resolution No. 18, passed by the National Assembly on Monday, 30th of July, 2012, is unlawful, violative of the doctrine of separation of powers, unconstitutional, null, void and without any binding force or effect in so far as same purports to censure and express no confidence in the Minister of Home Affairs, Mr. Clement Rohee.”

Attached to the motion is an exhibit AG1. It is the motion which was passed by the National Assembly along with a certificate from the Clerk of the National Assembly as well as the Resolution which resulted from the motion.

I refer to the motion now which is before the House, the resolve clause. It reads as follows:

“That since the National Assembly by National Assembly Resolution No. 18/2012, the very resolution which is the subject of the court matter which is pending, has expressed no confidence in the performance of Hon. Clement Rohee MP, as Minister of Home Affairs that he be prevented from speaking in the National Assembly so long as he is purporting to carry out the functions of Minister of Home Affairs as published in the Official Gazette.”

The identical subject matter which is the subject of this motion that the Leader of the Opposition is embarking to speak upon is the identical motion which is the subject of the legal challenge. I have the Resolution No. 18. The motion states the resolution that it expressly seeks is Resolution No. 18 of 2012. This motion seeks to prevent the Minister from speaking as a result of Resolution No. 18. And Resolution No. 18 is the subject of legal proceedings. Applying

Standing Order 26(g), “it shall not relate to any matter which is under adjudication by a court of law”, this matter, which is the subject of the motion, I humbly submit, is clearly in adjudication by a court of law and, therefore, is prohibited by the Standing Orders. It is inadmissible; it cannot begin to proceed with the debate. That is my first objection.

My second objection is rooted in Article 146 of the Constitution. Your Honour would recall in Your Honour’s ruling you very carefully articulated, relying and citing the case of Sabaroche against the Attorney General of the Commonwealth of Dominica, dictum to the effect that the Parliament must always act in conformity with the Constitution, specifically in the Sabaroche’s case it was an attempt to prevent a member from speaking in the National Assembly. The judges of the OECS Court of Appeal were very, very clear and trenchant in their Ruling. They say that the National Assembly has no authority in law and under the Standing Orders to violate a person’s fundamental rights. Minister Rohee, as every other citizen of this country, is conferred, by virtue of Article 146 of the Constitution of the Republic of Guyana, the freedom of expression. I will read the article:

“(1) Except with his own consent, no person, shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinion without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference and freedom from interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision...”

Following are the exceptions where a citizen can lose his freedom of expression. It can only be done in the following circumstance: under the authority of a law. That is the first thing. We are not operating here under the authority of any law. We are operating here under Standing Orders most of which have been suspended in any event. It is trite law that Standing Orders do not have the force of law. So there is no person or this Assembly is not acting under the authority of any law. That, notwithstanding, I will still continue.

“(a) A law that makes provision that is reasonably required in the interest of defence, public safety, public order, public morality and public health.”

That clearly has no applicability.

“(b) That is reasonably required for the purpose of protecting the reputation, rights and freedoms of people”

Of course, here it is speaking about liable laws and so on, that has no application.

“(c) That imposes restriction upon public officers or public officers of any corporate body established on behalf of the public or on behalf of the Government of Guyana.”

That has no application.

“(d) That imposes restriction upon any person institution, body authority or political party from taking any action or advancing, disseminated or supporting any idea which will result in racial or ethnic division among the people of Guyana.”

That has no application.

It is my duty to advise this Assembly that should this Assembly proceed along the route which it is embarking upon, the ineluctable consequence will be the violation of Article 146 of the Constitution, the violation of Minister Clement James Rohee’s fundamental right to express himself. More importantly, the Parliament is a creature of the Constitution and I see the motion itself which is before the House now cites several sections of the Constitution seeking to establish the sovereignty of Parliament, but at the beginning of every one of those constitutional provisions there are the words “subject to this Constitution.” I have said repeatedly that this Parliament is not above the Constitution. This Parliament was created by the Constitution and is a creature of the Constitution. It can only act within the parameters given to it by the Constitution. The Constitution does not authorise this Parliament to violate the fundamental rights of any citizen. If this Parliament is proceeding along that course, I am adverting this Parliament’s attention, as I am duty bound to do as Attorney General, of the consequences that will flow.

I thank you very much, Sir. [*Applause*]

Mr. Speaker: Mr. Williams, two arguments have been raised: one that the matter is *sub judice* and the other the content of the motion is ...

Mr. B. Williams: A breach of fundamental rights.

In the first instance, if I might respectfully deal with the *sub judice* rule, I refer to the advice of eminent Senior Counsel Mr. Rex McKay given to you. This is what he has to say on the question of *sub judice*.

“I think that the existence of Constitutional Motion No. 69 of 2012 (which was just quoted by the Hon. Attorney General) does not restrict further action or comment in the National Assembly.”

I will repeat the advice of eminent Senior Counsel Mr. Rex. McKay:

“I think that the existence of Constitutional Motion No. 69 of 2012 does not restrict further action or comment in the National Assembly.”

He goes on by referring to Constitutional Motion No. 69 filed by the Hon. Attorney General, and says:

“The said motion is a sham and an abuse of process intended to gag the National Assembly from discussing the consequences of the motion.”

This is the same advice that the Hon. Attorney General has been regaling us on national television, asserting that it is gospel. Now he stands up in this Hon. House today to knock it down. He must understand that we are very keen on this side in these matters. Even the common law does not support the contention of the Hon. Attorney General. Mr. McKay refers to Van Syna and Myrr, 1994, through Hollinger report and the reasoning of the greatest of the greats, Lord Denning. He says:

“I know it is commonly supposed that once a writ is issued it puts a stop to discussion. If anyone wishes to canvas the matter in the press or in public it cannot be permitted it is

said to be *sub judice*. I venture to suggest that it is a complete misconception. The sooner it is corrected – and it will be corrected today – the better.”

I should say it ought to be corrected today. My humble apologies, Mr. Speaker.

“It is a matter of public interest; it can be discussed at large without fear of thereby being in contempt of court.”

This is a strong statement.

“Criticisms can continue to be made and can be repeated. Fair comment does not prejudice a fair trial.

This was pointed out by Salomon, Lord J, in Thomson and Times Newspaper. I quote

“The law says, and says emphatically, that the issue of a writ is not to be used so as to muzzle and prevent discussion.”

I do not think I need to go further.

Mr. Speaker: Actually, yes, you do. Mr. Williams that case deals with discussion, muzzling and going through the merits or demerits of a matter. We have a motion which seeks to take an action.

Mr. B. Williams: With respect Mr. Speaker, the Attorney General’s contention is that we cannot proceed because he has filed Constitutional Motion No.69 of 2012. That is what he is saying; and that it is substantially the same thing we are discussion in the present motion. It is very clear. If I can continue Mr. Speaker, Mr. McKay refers to the 22nd Edition of May’s Parliamentary Practice. He refers to this passage in the 22nd Edition and says it is of some relevance in considering the *sub judice* rule:

“...and matters which do not touch upon issues which are *sub judice* are unlikely to affect any judgement.”

So what we are saying is what is this going to effect? What judgement is this going to affect if we discuss that. Mr. Speaker, the very Attorney that the Hon. Attorney General was regaling us and asserting on the National Media this is what his opinion is. However, I think there is even a

higher authority than that in this National Assembly. Might I respectfully refer to the Minutes of the first meeting of the Committee on Appointments held on Friday, 16th March, 2012 at paragraph 1.2.1.6. This is a decision of this House by no less a person than you, sir, the Hon. Speaker of the National Assembly. It is reported you said...

Mr. Speaker: What are you quoting from?

Mr. B. Williams: From the Minutes of the first meeting of the Committee on Appointments held on Friday, 16th March, 2012.

Mrs. Backer: Mr. Speaker, if I may, as recent as yesterday when the Committee on Appointments met the Minutes were confirmed in the presence of no less a person than the Hon. Gail Teixeira.

Mr. B. Williams: Thank you for that.

“The Speaker then informed the Committee that after consulting the Clerk of the National Assembly (who is the expert in these matters as far as I am concerned), and the Head of the Committees Division, he wishes to place on record that, (and he is quoted,) “whether there was an order blocking me as The Speaker or not there is no way I can bow to the High Court to make this Parliament an inferior court or place than the High Court.

We salute you on this side, Sir, for those words.

Mr. Speaker: That will not help your argument. You can go past that.

Mr. B. Williams: There is no higher authority. I continue.

“It would be a sad, sad, day not only for this Tenth Parliament, but for parliaments that are to come, if I were to allow this Parliament, which I know to be the most important of the three arms of the state, to just defer all of its business because a motion has simply been filed.

I rest my case on this issue of *sub-judice*.

The second issue is about the question of right to speak under Article 146. I am not sure where the Attorney General was going, with respect, but he refers to Sabaroche. Sabaroche was a case which dealt with suspension of a member, not preventing a member from speaking.

Mr. Speaker: Mr. Williams, members have rights. One of them is to attend, one is to speak. To use your term we may want to apply the reasoning *mutatis mutandis*.

Mr. B. Williams: Yes, Sir, but if you may just bear with me. I think he said what the decision was. However, this is the decision because I have the authority with me.

“further the powers under section 52 (which is equivalent to Article 165 in our Constitution) must be exercised in accordance with the provisions of the constitution and the courts have jurisdiction to inquiry into the validity of the exercise of those powers and to ensure that a member of the House is not barred from his seat except in accordance with the House’s rules or Standing Orders.”

That is what we are relying on. [*Interruptions*] If I am allowed your protection Hon. Speaker, we are relying on Standing Order No. 47, rule 10. I should quote the Standing Order for the benefit of the Hon. Attorney General:

“Nothing in this Standing Order shall be taken to deprive the Assembly of the power of proceeding against any Member according to any resolution of the Assembly.”

And we are proceeding under Resolution 18, passed in this Hon. House on 26th.

Mr. Speaker: How do you answer the question Mr. Williams that Standing Order No. 47(10) comes under the umbrella of 47 as it relates to order in the Assembly? In other words, whatever the House needs to do to maintain order in the Assembly it has the power to do because the preeminent wish is to have order.

Mr. B. Williams: Sir, if I could respond, when one reads Standing Order No. 47 and Standing Order No. 47(10) which is the final rule under the Standing Order No. 47 it says, “nothing in this Standing Order”, in other words nothing that was discussed in this Standing Order shall prevent or restrain this National Assembly from proceeding against any Member on any resolution. That is what it is saying. In other words it operates without the provisions of Article 47. [*Interruption*]

What constitution? We are talking about the Standing Orders. Listen and learn. However, as I said, there is no greater authority in this House than the Speaker himself. Again, I have to resort to the security of the utterances and wisdom of the Hon. Speaker of this Hon. House.

3.40 p.m.

Sir, might I respectfully refer this Hon. House to your ruling of the 8th November, 2012; the ruling on the right of Mr. Clement J. Rohee to participate in the House as the Minister of Home Affairs and I refer in particular to paragraph 7. You said here in this ruling:

“As uncomfortable and as unpleasant as it is for me to have to make a ruling in this instance, I must stand on the side of the rule of law, and by applying my own deliberate judgement, and adopting the opinion of Counsel...”

And these are the material words.

“...find that in the absence of a Resolution of this august House, that specifically sanctions the member, and directs that he be restrained from speaking in any one or more capacities, I am, by law, duty bound to rule that he must be allowed to speak.”

So you are saying that if there is a Resolution of this House that restrains the Minister or prevents him from speaking, you will be bound and this House will be bound. That is what your ruling was. And if that was not transparent enough for my Hon. Friends on the other side, this was how you concluded in that ruling:

“Consequent upon my ruling, Members of the House may wish to consider whether a substantive Motion on the subject of the Hon. Member’s participation in the House should be pursued or not.”

Mr. Speaker, we have taken your advice and we are pursuing it with the present motion that is being debated before this Hon. House. Why should we question wisdom when it is there in abundance?

I would just like to say in relation to Article 146, which I believe with respect, has no application to the issue at hand. Even under the Constitution, there is no right that is an absolute right. No right is absolute. Even under that it is limited. It is limited by liable, et cetera, but in this Hon.

House also we have limitations. We cannot use certain words in our debate in this Hon. House. We cannot say what we like in this Hon. House, so this is also limited. The very said same Order 26, that was refer to by my learned Friend and Hon. Attorney General, also restricts the right to speak in this Parliament on a motion. You cannot speak on a motion as according to you which was substantially the same as was discussed before – you cannot do that in the same session of the Parliament or in the same Parliament. I could go exactly to that.

So even in this House you are restrained and this Hon. House is replete with examples of the application of that principle. Under the previous Speaker, your predecessor, the Hon. Mr. Sase Narain, the Hon. Gajraj and the Hon. Ramkarran, persons were prevented from speaking in this Hon. House, including yourself Hon. Speaker. And if my memory serves me correctly ...
[**Mr. Nandlall:** So the man must be banned from speaking in the House?] Hello young man, abide what I am saying.

If my memory serves me correctly, I recall the self same Hon. Clement Rohee, who has now taken a seat again, he advised your predecessor the Hon. Ramkarran, not to leave his seat to come outside. So previous Parliaments are replete with instances of constraining and restraining of Members of this Hon. House and so in response to the Hon. Attorney General, I am asking that you find that the sub-judicial role does not affect us in proceeding with our business in this Hon. House. And (2), under Standing Order No. 47, rule 10, we have the right to proceed on any resolution that emanated from a motion that was moved under Article 171 of our Constitution, which is replicated in Standing Order No. 25 of the rules of Parliament, which gives us the right to propose any motion, which shall be debated in this Hon. House.

If we are given such a right and we pass a motion, we cannot act in vain. Parliament and the National Assembly cannot act in vain. We must be efficacious and so it is a natural corollary that if we can pass a motion, we should be able to act on that motion, insofar as it does not breach the Constitution of Guyana.

My respectful submission is that moving a motion and pursuing the Resolution emanating from that motion is not the subject of Constitutional recourse to the court, that was decided in the Privy Council's authority of *Sinemet, the Methodist Church of the Bahamas and Sinemet*, where a similar position in the Bahamian Constitution, similar to Article 171 and the Standing Orders

and Article 165 - which talks about regulating our own procedures, was discussed by the Privy Council. They held that you could not give it should a strict interpretation as to be the occasion for recourse to the court. In other words, you cannot go to court on that and that is high authority- the authority of the Privy Council. I do not think, Sir that it is a session in court – this is the highest court – but I do not think there is a session in the High Court of the Supreme Court.

I do not wish to bore listeners any further, but it is safely just to say that this motion is well founded, it does not affect the rules of *sub-judice* nor does it affect the right to speak as adumbrated or outlined by the Attorney General. It was not something that was substantially discussed before. In fact, it has nothing to do with the no confidence motion whatsoever. This is a motion complete within itself... **[Interruption]**... Yes but, we are not discussing the no confidence motion that was only to give you the context. I am asking that you rule that the motion is properly founded before this Hon. House. Thank you very much. **[Applause]**

Mr. Speaker: Mr. Williams, I wish to advise you and any other Member who wishes to speak to address my arguments to this, these questions. Firstly, does an elected Member of the House...

Ms. Teixeira: Sit!

Mrs. Backer: You cannot tell him what to do.

Ms. Teixeira: You are supposed to.

Mr. Chairman: When the Chair is speaking, a Member sits. Does an elected Member of the House have a privilege to speak? Forget whether as an ordinary citizen has a right to freedom of expression - that is the first thing. Secondly, does this House have the right to restrict that privilege in anyway? And thirdly, does due process play a factor at all? That is, does the Member have a right to be heard in his or her defence, if that right - presuming that there is such a right and right can be affected or bridged or taken away or suspended or terminated - is the Member entitled to be heard in his or her own right or with counsel or otherwise or not? Those are things that are in my mind. I must say that I am enjoying the debate and I wish I was a fly on the wall and not sitting here. Do you wish to respond to that? I am asking any other Member who wishes to speak, to address their minds to that matter. I will recognise Ms. Teixeira first and then Mr. Ramjattan. Mr. Williams, it is something that I may wish to hear you on as well.

Ms. Teixeira: Mr. Speaker, thank you very much, I will try to come to the points you have just raised. Mr. Speaker, in 2009, April 7th, you would remember, as you were a Member of this House that we had a big debate on Clico and by joint collaboration on both sides of the House we amended that Bill and sent it to Select Committee. Following that, Mr. Corbin followed up with a follow-up motion, very similar to the first one. The Speaker ruled on this matter because by then the Clico issue was taken to court and they had a judicial manager and there was a number of people who were taking Clico to court.

April 7th, 2009, the Speaker, for example, ruled on the fact that the motion, in terms of the same question rule, was in order. However, in terms of *sub-judice*, it was not in order. He quoted it in his notes which were shared in the House and which subsequently became a withdrawal of Notice Paper 383, April 14th, 2009. However, what the Speaker writes in his response to the Clerk and subsequently to Mr. Corbin, he says the following and I will just repeat that Standing Order No. 26 (g):

“In order that a motion be admissible, it shall satisfy the following conditions, namely:

(g) It shall not relate to any matter which is under adjudication by a court of law;”

While the issue of sub-judice, I know is something that Mr. Ramjattan feels strongly about, we have debated this issue before in 2009 and in Committee and so forth. However, Parliaments as distinct from the opinions from people and so forth, have very clearly ruled on this matter. The Australian House of Representatives page 495, says:

“As a general rule matters before civil courts should not be referred to from the time they are set down for trial or otherwise brought before the court and similarly, the restrictions should again be applied from the time an appeal is logged until the appeal is decided.”

The Canadian House of Commons Procedure and Practice also refers to the above and states on page 534 that:

“During debates restrictions are placed on the freedom of Members of Parliament to make reference to matters awaiting judicial decisions in the interest of justice and fair play. Such matters are also barred from being the subject of motions or questions in the House.”

Erskine Mayes', Parliamentary Practice, I believe it is the 22nd Edition, page 333, says:

“The House is resolved that no matter awaiting or under adjudication by the court of law should brought before it by motion or otherwise.”

On these grounds, the then Speaker refused Mr. Corbin's motion based on Standing Order No. 26(g). Mr. Speaker, the issue is not about influence or not influence. It is a basic principle in Parliaments to allow for the separation of matters between the legislature and the judiciary.

The issue also in relation to Standing Order No. 47 (10) which is being used both in the motion and by the Hon. Member Mr. Williams, Standing Order No. 47 (10) says:

“Nothing in this Standing Order...

Not the word “Orders”, but the word “Order”. Therefore, it can only be referring to Standing Order No. 47 and Standing Order No. 47 solely deals with order in the House, as what happened on November 8th. The Speaker could have named anybody and order that the Prime Minister or a Minister rise on a Suspension motion. However, this is not an issue of order in the House in relation to this motion and what Mr. Granger is attempting to do.

Minister Rohee has not done anything in the House; he has done nothing. In other words when all the noise was being made, it was not Mr. Rohee who was making the noise. Also, Mr. Speaker, I hear history being used about other Members... and this comes to your question Sir, can the House restrict or not? Standing Order No. 47 (10) when it is talking about the Resolution - it is talking about it in the context of Standing Order No. 47 - where a motion can be brought against a Member who is behaving disorderly in the House at that time. It is not a generic Standing Order under SO No. 10 to allow for you to use it *willy nilly* on any Resolution of the House. If you want to look for that find it where it is provided in the other Standing Orders. Do your homework. But it is not under Standing Order No. 47 (10).

Mr. Speaker, your question about due process; your question does the House have the power to restrict a Member. Again we go back to Parliamentary custom, practice, conventions, Standing Orders and the Constitution; those are the tools that we have at our disposal. I have seen in the motion a reference to the United Kingdom, the ruling you brought the last House, in which you

got legal opinion, made it clear that you did not have the power to remove a Minister nor a Member of Parliament.

We have a recall legislation that has been used once in this House by Mr. Corbin, the Leader of the Opposition against Mr. McAllister. It has never been used - and it is in the Constitution of Guyana that the head of the list, the Representative of the List who comes to the Speaker and says the party on whose list that person is has lost confidence. So this approach to the Constitution is totally flawed because the Constitution makes it clear:

(1) In terms of a Minister it is the President; in terms of a Member of Parliament it is the Representative of the List.

It gives no power to the Parliament to remove a Member as a Minister and/or a Member of Parliament... *[Interruption]*

Mrs. Backer: On a Point of Order.

Ms. Teixeira: I listened to Mr. Williams you know – patiently.

Mr. Speaker: I recognise the Point of Order. What is the Point of Order please?

Mrs. Backer: The Point of Order is that nowhere in the proposed motion is there any mention about us removing... she is misleading the House. Nothing before us... *[Interruption]*... It is irrelevant. There is no...*[Interruption]*

Mr. Speaker: I understand the basis of your Point of Order. I think that we have to give some latitude in the arguments and whilst the motion may not speak specifically to removal or otherwise...

Ms. Teixeira: Mr. Speaker, with due respect to you.

Mr. Speaker: Go ahead.

Ms. Teixeira: You asked the question to us who wished to speak, that is, does the House have the power to restrict a person from speaking. Mr. Speaker, the first page of this motion refers to the previous Resolution to do with the first Resolution. And the last WHEREAS clause talks about the convention in the House of Commons that a Minister loses a no confidence motion

resigns as a Minister. First of all in relations to your question, the House has no jurisdiction. In relations to any comparison with the United Kingdom (UK), it has no jurisdiction because the UK Parliament has no Constitution above it and they have an electoral system that is completely different. They do not have recall legislation so the two issues are not comparable. You are talking about chalk and cheese.

The next issue is that how would this House treat with a Minister or Member of Parliament who one wishes to discipline? It reserves to the House the issue of discipline under Standing Order No. 47. Standing Order No. 47 only deals with disorder and discipline in the House, there is no other part of the Standing Orders that deals with if a motion passes that wants to tell a Minister to jump over on the other side that he should do it. There is no such power. The House give no such power to a motion brought by anybody. However, on the issue of can the House rule; yes on this issue – it can on this issue.

When Mr. Bashir got up in 1991 March and walked to the mace and picked up the mace and moved the mace, then having being reprimanded by the Speaker, he then threw a glass, which did not hit the Speaker by the way, but... [Ms. Ally: It hit the Speaker.] Could I finish? I mean you are getting what you want, can you not let people speak? What is wrong with you guys?

Mr. Speaker: I am very interested in this historical record.

Ms. Teixeira: So Mr. Speaker...

Mr. Speaker: What happened when Mr. Bashir did that? That is what I am interested in knowing.

Ms. Teixeira: What happened is that a Minutes somewhere in the Hansard, I think the Speaker was Mr. Marcellus Fielden Singh and the then Minister of Regional Development, Minister Jeffery Thomas, ably supported and seconded by Ms. Amna Ally, a young MP in those days, supported the motion that did not expel Bashir, in fact the records do not show that Bashir was expelled. It brings a motion calling for Mr. Bashir... [*Interruption*]

Mr. Speaker: Mr. Greenidge did you rise?

Mr. Greenidge: Just a Point of Order. I believe I heard the speaker said that she is quoting from the Hansard of 1991.

Mr. Speaker: What is the Point of Order?

Mr. Greenidge: No such document was found by this Clerk in this House, so I would like her to provide that document. *[Interruption]*

Mr. Speaker: Hon. Members... Member that would not qualify as a Point of Order, but it is a matter that clarification will be sought on later on. *[Interruption]*

[Speaker in aside with Clerk]

Mr. Speaker: Thank you very much Mr. Isaacs. Mr. Isaacs advises me that these are the Minutes and not the Hansard and I would like to get a copy of that please, if possible.

Ms. Teixeira: Mr. Speaker, it is regrettable in this House that when we discuss the issue of Hansard that Mr. Greenidge paid no attention to some of us who spoke; who read out, based on information from this House, of what Minutes and Hansard were available. However, this is Minutes, Sir...

Mr. Speaker: With respect, we are having a debate on a very serious matter. The issue of missing or present Hansard with respect will not be entertained at this sitting. I myself need to see what is being quoted from, because I have not seen it, but certainly that issue is not the subject of our discussion this afternoon and I will not be entertaining it.

Ms. Teixeira: Mr. Speaker, if I would be allowed, this is not my handwriting, this is from the Parliament. This is the:

“MINUTES OF THE PROCEEDINGS OF THE 45TH SITTING OF THE NATIONAL ASSEMBLY OF THE SECOND SESSION (1990-1991) OF THE FIFTH PARLIAMENT OF GUYANA, HELD AT 2 P.M. ON MONDAY, 4TH MARCH, 1991”

The Speaker at the time was Mr. Sase Narain.

At this point, the proposal for the expulsion of Cde. Isahak Bashir:

“The Minister of Regional Development moved the following motion and amendment thereto:”

The Minutes regrettably do not give you an idea of all the things that happened, but it says the following that the motion reads as follows:

“WHEREAS on the 14th January, 1991, Cde. Isahak Bashir, M.P., without lawful permission removed the mace from its accustomed place on the table of the National Assembly;

AND WHEREAS on the date aforesaid, Cde. Isahak Bashir assaulted the Speaker by violently throwing his drinking glass at him;

WHEREAS such misconduct on the part Cde. Isahak Bashir, is an insult to the Speaker and the dignity of the Parliament;

AND WHEREAS the assault on the Speaker constitutes a crime punishable by law;

AND WHEREAS Cde. Isahak Bashir’s behaviour on the date aforesaid constitutes grossly disorderly conduct;

That Cde. Isahak Bashir, M.P., be expelled from the service of the Assembly.”

This was moved as I said, by Minister Jeffery Thomas and the persons who spoke on the motion were the Prime Minister –Mr. Green and Cde. Amna Ally. I am just reading from the Minutes. In those days they did not say Honourable, they used Comrade.

The motion was put and carried and amended. It does not elucidate in any way after that what was happening. In fact, it seems to be that after that happened, the meeting closed. In fact, the Parliament met from what was around 2 O’clock to 4 O’clock and that was the only item on the agenda.

Mr. Speaker, if you doubt this I am sure to give you this, you can have a copy, but I got this from the House. I did not make this up.

The issue we are talking about – does the House have the right to restrict? Under privilege – on the matter of privilege the issue is that it has to be things that would bring down the repute of the

House and the image and dignity of the House. It specifically allows, in terms of all Parliamentary practice, from the gate – the precincts of the Parliament Buildings, from gate to gate.

The Resolution is not about disorderly behaviour that Mr. Granger is bringing here. Mr. Granger is not bringing a disorderly behaviour motion on his own right, that during November 8th Sitting, Minister Rohee behaved bad; thumped the table, did not listen to the Speaker. He has a right to do that then Sir. In fact, you could have called on anyone of us to move that motion in your defence. But there is nothing that you can bring that Minister Rohee has done in this House. Therefore, the right to suspend a Member; the right to prevent a Member from speaking and maybe you would remember – I will just divert a minute. Mr. Speaker, you may remember when the Hon. M.P. Aubrey Norton was in this House, there was a very heated debate one night. The Speaker then, Mr. Ramkarran warned him and they ended up having an altercation between the Speaker and Mr. Aubrey Norton. The Speaker warned again and the altercation continued. This was a one on one between the two gentlemen and the Speaker said, at that point, I will not recognise you.

Mr. Norton was not recognised for several Sittings - now recognised is different from not speaking. And so Mr. Norton was found to have been disrespectful to the Speaker. Minister Rohee has not been disrespectful to anybody in this House, least of all or most of all the Speaker of this House... *[Interruption]*

Mr. Speaker: Was Mr. Norton permitted to attend Committee meetings and to participate in those meetings?

Ms. Teixeira: Yes Sir. Mr. Norton attended the Ministry of Foreign Services Parliamentary Sectoral Committee, when he was available of course, because he was not a frequent attendant in the first place. The second thing was that Mr. Norton came to the House and he never put up his hand to test what the Speaker said about not recognising him, but he was never suspended.

So Mr. Speaker, when we talk about gagging and preventing from speaking, in the House if a Member is disorderly, the rule of the Parliament is that the Speaker recognises your hand and you wait for the Speaker to recognise you. That is the level of where the order of the House is kept. If the Speaker feels that any Member has been out of order, he can do several things: Not

recognising - which means the Member can put up his hand a hundred times and the Speaker would look a different way. Because always in Parliaments and you can go back to the UK's Parliament, it is who the Speaker sees first and there is nothing to require the Speaker to see or not see a person. Therefore, you cannot prevent a person from speaking unless they have done something in the House or in the precincts of the House.

4.10 p.m.

There was an issue in 2003, which Dr. Ramsammy would remember, in which an issue was brought in this House to do with being unable to pass the gates of this House because some Members of Parliament were blocking the gates. This was an issue that was raised and called for this reaction because a Member of Parliament should not be prevented from entering the precinct of the House. I believe firmly, that is in response to your question, the first question, that the ability of the House to prevent or restrict a Member from speaking does not exist unless a case is being made out for disorderly behaviour, or behaviour that would bring this House into dispute.

The second issue, Sir, about due process: Under Speakers Fielden Singh and Sase Narain, the issues to expel the Member took place on the floor and part of it was because the Standing Orders were different, the Constitution was different and the Government was different. It was a party that got into Government by rigged elections. Chalk and cheese are not comparative. Due process, in the many changes of the Standing Orders, has ensured that people have the right to be heard and that is enshrined in our Constitution; it is enshrined in the way in which we operate. We cannot ask this House to set a standard that is less than the standard set in the Constitution that everyone has the right to due process. If a person is accused of murder, that person has the right of due process. How can this Legislature be less than the standards that are set in the judiciary? How could that be possible? How could that be possible for someone to be charged with a crime and not have the right to answer? In fact the Sexual Offences (Amendment) Bill, which is before the House, which we are not allowed to get to, is an issue that is dealing with this issue of the right to be heard and due process.

Mr. Speaker, I am calling on you. This motion is inadmissible and when we come – because they will vote and ramrod it through - ... Then we will see in the argumentation that will come what new rabbits the Opposition Members are going to pull out of the hat to justify this motion,

because up to last night on *Nation Watch* they were pulling out new rabbits out of the hat to justify this motion that it is unconstitutional, undemocratic and a violation of our human rights. Thank you very much. [*Applause*]

Mr. Speaker: Mr. Ramjattan, it is ten minutes past 4 o' clock. We are due for a break.

Mr. Ramjattan: I will speak after the break, Sir.

Mr. Speaker: We will have a suspension for forty-five minutes.

Sitting suspended at 4.13 p.m.

Sitting resumed at 5.25 p.m.

Mr. Speaker: Thank you. Please be seated. The session has resumed.

Mr. Ramjattan: The matter which I stand here to speak on, is one that is of utmost importance to this National Assembly, to our Constitution and, quite frankly, to our country it being a Republic today and, of course, more directly to all Members of this National Assembly. I cannot overstate the significance and importance of this very important topic that we are talking about. I want to indicate that indeed it goes back to, largely, research and appreciation as to what are concepts well-known in the House of Commons in England and also the House of Lords in England which were the places of origin of what is called Standing Orders, conventions, privileges, immunities and powers of Parliament. It is important that we – to give the majesty of our Republican National Assembly here – do nothing to delimit its powers, privileges and authority on any question that the majority in this Parliament seeks to promote.

It is this House of Assembly, the representatives here, who earlier on voted that we in the Parliament deliberate, determine, the issues of this motion. When the Hon. Attorney General got up to speak and to make his inadmissibility objection at that point I thought that it was wholly untimely, largely because the vote was already taken that we in this Parliament will proceed with this motion. And to a certain extent, if not explicitly, it was made clear that it is admissible for us to proceed ahead with it. As regards the question that it is inadmissible and it cannot now be determined, I think that the Hon. Attorney General missed the boat when he was so untimely. I wish to make that as a preambular argument.

There is another argument that the learned Attorney General indicated that, again, seems out of place and it is that our Standing Orders are not law, that our Standing Orders are something less than law. I wish, however, to remind him that the Constitution Act that brought the Constitution into being – all the articles of our Constitution – indicates in section 9 thereof that Standing Orders are here to stay and they shall be the law governing our Parliament. I wish to quote it. This is our Constitution and our Constitution, of course, could not have been brought into force without an Act of Parliament and that Act is cited as the Constitution of the Cooperative Republic Act 1980. The Constitution is merely the Schedule to this Act and it is quite clear. This is what section 9 of that Act states - section 8 deals with Parliament - section 9 now talks about how we govern this Parliament here, which is this National Assembly.

“The rules and orders of the existing Assembly...

That was the Assembly just prior to the passing of this Act.

“...as enforced immediately before the appointed day shall, until it is otherwise provided for under article 165 and article 173 of the Constitution as the case may be, be the rules of procedure of the National Assembly...”

Of course, at that time there was the Supreme Congress of the People, and all of that, which has now been abolished.

“...and shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.”

Our Standing Orders have got then what is called the sanctification of a Parliament and a Parliament that indeed has not only this National Assembly, but a President assenting to it. So if we do have Standing Orders by this Constitution Act indicating that the rules governing Parliament are called Standing Orders, I cannot see how it is that our Attorney General is going to say that we do not have what is called law governing the procedures of this Parliament. It has the force of law. [Mr. Nandlall: Find out where it says that.] There is nowhere that says it does not, and you must understand that.

If that Act could bring into the fore the entire Constitution, why that Act cannot by section 9, say that indeed Standing Orders are what we are being governed by? We are being governed by them.

I also want to bring to the attention of this Honourable House that my learned friend, apart from being very misconceived in his argumentation about the *sub judice* rule, with which he wanted to make this motion inadmissible, was saying that there is something in the Standing Orders that he now wants to use to gag all of us. He used this rule, called the *sub judice* rule, to state that we in the National Assembly cannot speak because there is something in the court. Yet he quotes the article in the Constitution that talk about the right to speak. He is urging this National Assembly to state that because Mr. Rohee has the right to speak under article 146, he should speak, but where the *sub judice* rule is not explicitly stated as a qualification he wants all of us not to speak. He wants to gag all of us! But by virtue of a rule in a Standing Order that he argues is not really law. This thing is riddled with what is called self-contradiction by the Attorney General.

I want to indicate to you, Sir, that our Standing Orders are rules that substantively govern the exercise, the discipline, the organisation, and the management of this National Assembly and we must respect those rules. If we are going to use the Constitution conveniently to say that there are exceptions to freedom of expression, which do not qualify, why does he not say that there is nothing in the qualifications that states that *sub judice* prevents people from speaking? He does not!

I have gone through *Erskine May's Parliamentary Practice* which is the authority, which we call the bible, in relation to this *sub judice* rule and it has on several of its pages that it is at the discretion of the Chair, that is, the Speaker here. I will quote the passage just now. And there is a good reason why it is at the discretion of the Chair. To begin with, matters of national importance can be "gagged" by virtue of a simple application of the rule and not understanding its origins and the purpose behind it. We had argued this thing very extensively when we had wanted to bring a motion for the investigation of Colonial Life Insurance Company Limited (CLICO). The Government side was in the majority at that time and indeed there was a ruling by the then Chair that it will not deal with the matter because there was a CLICO litigation in court. However, assuming now that we want to bring to the National Assembly's attention matters of national importance, the Attorney General then quickly runs to the Court, files an action - an

action that obviously would have absolutely no merit; it is vexatious as the very first one that he brought in relation to the Committee of Selection – and then comes to this National Assembly when we are about to deal with the motion...

Mr. Speaker: One word of caution, Mr. Ramjattan. Even though I am a named respondent in that matter, I would ask that we refrain from classifying it as vexatious or otherwise. It is pending. I and the Leader of the Opposition, I think, are the ones who are entitled to describe it as such because we are named as the respondents but, that aside, let us avoid the adjectives...

Mr. Ramjattan: Whatever the adjectives I will use it could very well be one that is “without any substance”. And then they come into the National Assembly and use it to gag all of us. What happens then? That is exactly what I am saying: That flawed and misconceived applications can be brought which can then be regarded as shams to the extent of blocking, in this Parliament, in this National Assembly, motions from being debated, Bills from being brought, whatever it is. Hence, the actual House then is stultified and stifled from carrying out its work! And that is what I am saying. It could never be the purpose of this *sub judice* rule to gag the entire National Assembly from proceeding on any debate. When the learned Hon. Attorney General indicated to this Honourable Assembly that the *sub judice* rule is priority number one, all of us are gagged if there is a ruling by the Speaker that indeed that be so. But his advocacy for the right to freedom of expression for Mr. Rohee under, article 147, overrides all of that. It is contradictory to the core and to that extent I want not to allow us, by virtue of that kind of circuitous argument, to say that we ought to hold that this motion is inadmissible. It is very much admissible!

There is, also, a larger principle that I wish to draw to the attention of the National Assembly. Because we are a Republic now we must give our House of Assembly a status that is equivalent to the powers, that be, in relation to the House of Commons on matters of this nature. Our Standing Orders, on which I have argued already, are very much the law that governs this Parliament which means that we must adhere to those Standing Orders. The Standing Orders indicate that where we are silent about certain usages and practices we must go back to what is in the House of Commons. What is it that is in the House of Commons now that we have a silence on this convention of ministerial responsibility?

I went through very thoroughly, at the last debate, quoting Diana Woodhouse's "Ministers and Ministerial Responsibility", that indeed it is a convention that when under the stewardship of a certain Minister things have gone wrong, that Minister must resign. But, more than that, when there is a no confidence motion being brought against him, it is a double whammy. It is not only the atrocities that occurred under his watch the basis for it, but we additionally brought a no confidence motion against him. And as you, Mr. Speaker, even mentioned in your ruling that in any other Commonwealth country there would have been a resignation! What that means, by the Minister not resigning or his President not dismissing him, is that a command of this National Assembly is being violated. It is a command by virtue of it being a resolution. Otherwise, this larger principle that I speak about would be that in this Parliament we are going to move motions, we are going to make Bills and we could very well have nothing happen. So what then happens to the people's representatives in a majority situation like this? It means nothing. Is that what we want in this National Assembly? To see it being just a façade? So we do not have the power if we want to, as a majority here, to state that: "Look, Mr. Minister, certain things have happened under your watch and of course there is a no confidence motion"? It is not as if it is breaching the Constitution, by virtue of the argument as proposed that the President has appointed him, only the President can disappoint him. No!

We in this country also have solid authority that we could expel, withdraw, any Member once indeed a motion is to that effect. [Mr. Neendkumar: How laughable.] How laughable. [Ms. Teixeira: Why did you not do that for all [inaudible]...]

My dear, they quoted a lot of the cases out of... It is the case of *Jagan vs Gajraj*. We were running all over the Caribbean and we have the authority here in Guyana, decided by one of the most brilliant judges we ever had, Chief Justice Luckhoo. And what he said at that point in time that caused the issue in this National Assembly was that the two Jagans did certain things that constituted what the Members of that Parliament did not like and the Members of that Parliament then moved a motion for the withdrawal of those Members who were clearly out of the place. [Mr. Nandlall: What was the year of that case?]

This case was in 1963 and we, at that stage, had what was called a colonial legislature. Today we have more a Republican legislature and there is section 9 of what is called the Constitution Act, stating that Standing Orders are applicable.

In that case... [Ms. Teixeira: Chalk and Cheese.] It is not chalk and cheese. That is why you clearly steered away from the authority and you want to go quoting from the case of *Sabarouche*, a Dominican or St. Lucian case. You did not want to quote your own case and this is what it says. [Ms. Teixeira: In 1963 there was a first past the post system.] What “first past the post”? The representatives were duly elected here, Madam Gail Teixeira, so not because it was first past the post or proportional representation (PR).

Mr. Speaker: Hon. Member, Ms. Teixeira...

Mr. Ramjattan: This is what the learned Chief Justice then ruled:

“The Legislative Assembly, having the power under its Standing Orders, can regulate its internal procedure relating to conduct and is the sole judge of the occasion and the mode of exercise of its privileges and power in that regard. Without statutory...

This is number 3.

“...authority the Legislative Assembly has no power to punish a Member for misconduct by way of committal but has the power without statutory authority to order his removal...”

It is to expel, suspend him and all of that. [Ms. Shadick: That is if he does something in the House.] I am saying that even if he did something outside of the House... He is doing something in the House. We ordered a no confidence motion and he is violating it. That is what we are talking about. You seem not to understand that the convention is being violated and you just absolutely do not understand that. [Mrs. Backer: She is pretending not to understand.] Yes. That is what they are doing - they are pretending.

“What was complained of by the Speaker if held to be well founded can necessitate his powers to do just as he did.”

[Mr. Nandlall: What did he do?] That was to withdraw him from Parliament. [Mr. Neendkumar: What did he do?] He did a very unkind act to the Speaker and we are saying that what Mr. Rohee is doing, by not resigning, is also a violation of this National Assembly and that is what you must understand. You seem not to want to understand that. All

these things we talked about when we debated that no confidence motion and you are not going to go back there.

This is it - Number 4 ruling of the Court of Guyana:

“The Legislative Assembly has the power to enquire into the question of privilege brought to its attention by the Speaker and to exercise its powers in connect therewith. The Assembly has power to suspend...”

It is for a limited purpose in this case. It has that power to exercise in relation to the...

Mr. Speaker, it comes out of the inherent jurisdiction of this National Assembly to have powers so that it can conduct its business. You do not have to run to some other piece of law. Without anything else, this National Assembly has that power and when the Member was quoting so many cases, the Chief Justice, ... Whenever there was a lawyer by the name of Joseph Oscar Fitzclarence (JOF) Haynes, Queen’s Counsel, arguing there will be lots of cases being quoted. Mr. JOF Haynes was arguing this; and indeed, very extensively, all of the privileges and immunities, and all of that, were dealt with in this case. What was stated? They went through a set of cases that said... [Ms. Shadick: “Within these hallowed walls...”, within here.]

That is right. “Indeed in this House of Parliament power should be over Members otherwise, the House would sink into utter contempt and inefficiency without it.” That is what we are talking about. Without these inherent powers - it is not the power that has to be got from some statute or the Constitution - it could be very contemptuous. It could be a very inefficient House and that is what we are talking about.

When the learned Attorney General indicated that there was no law, the Legislative Assembly, being the legislature has the power inherent in it. How does it conduct that? It does it generally by a majority vote on the issue. That is what it does. So it does not have to talk about, necessarily, what was the rationale for that. Even the Constitution states this: That without any reason or anything of the sort, if we bring a no confidence motion against all the Ministers over there they are obliged to resign in ninety days. The Constitution provides for that. Indeed, if the Constitution provides... [Interruption from Government Members.]

Mr. Speaker: Order! Allow Mr. Ramjattan to address... I am not hearing him. I need to hear Mr. Ramjattan.

Mr. Ramjattan: If the Constitution makes provision for the whole I cannot see why we cannot have a no confidence motion in relation to one. We do not want to bring that one. It might come in due time. [*Interruption from Government Members.*] You can call the elections. Why do you not want to call it? You can call the elections.

Mr. Speaker: Hon. Members.

Mr. Ramjattan: It is getting very disorderly here now. You all are getting very disorderly over there.

Mr. Speaker: Mrs. Backer, are you inviting them to continue in that vein?

Mrs. Backer: It is obviously...

Mr. Speaker: That would be to pay gross disrespect to the Chair, again. Could we have Mr. Ramjattan complete his presentation, please?

Mr. Ramjattan: The platform on which the conduct and management of our affairs, no confidence motions, and thereafter, whatever we would like to see as being effectively ensuring that no confidence motion we can bring in this House. The Constitution makes provision under a certain article that any motion be brought here.

5.51 p.m.

It is stated in article 171...I want to quote it. Although he is on television a lot these days, he is not quoting these provisions, our Attorney General.

Article 171 (1) – Introduction of Bills, etc.:

“Subject to the provisions of this Constitution and of the rules of procedure of this National Assembly, any member of the Assembly may introduce any Bill or propose any motion for debate in, or may present any petition to, the Assembly...”

Any Member can bring any motion to be introduced for debate in this National Assembly!

If we brought, as we did, a no confidence motion and now we are bringing a motion to give it teeth so that, indeed, he could be gagged – I will use that word because that is what we want – we are stating that we can so bring the motion. It is admissible. The fact is that article 171 is not only subject to the Constitution, Mr. Speaker. Let me read it again so that the Hon. Attorney General will listen. “Subject to the provisions of this Constitution and the rules of procedure of this National Assembly, any member...” It is so clear that it is subject to the rules of this National Assembly.

We want to make it clear, that if today we do not ensure that this National Assembly has inherent in it all of these powers, we are going to denude this National Assembly of that which makes it of such majesty. We are going to, in a sense, dilute, water down and neuter it to the extent that it will have no power, especially with a majority in the Opposition, to do anything. There is a scenario whereby to shut this motion out when the Constitution provides for it is clearly something that ought not to be ruled in favour of the Attorney General.

He talked about the privilege that his Hon. Minister of Home Affairs has to speak, but this is on a collision course, with the command of this National Assembly by a majority resolution. I want to state that, indeed, it is new ground. It is new territory. It is new seas that we are chartering in here. But it must be understood that when we, in a sense, distil what we have before us, it is the privilege of the Hon. Minister as against a command of this National Assembly.

We are stating, by virtue of what we are, in the limited way, that we can restrict Mr. Rohee as Hon. Minister of Home Affairs from speaking because of that no confidence motion. We are not in any way indicating..., and we make that quite clear. The concept of what is called...and to answer your question... We wanted to indicate that this due process...We are not abusing his due process here, Mr. Speaker.

Mr. Speaker: You mentioned just now, Mr. Ramjattan, that there is a privilege versus a command.

Mr. Ramjattan: That is right.

Mr. Speaker: You recognise that there is a privilege.

Mr. Ramjattan: I recognise the privilege, but that command is also a privilege.

Mr. Speaker: Agreed. That is where my question about due process comes in. The removing or vacating of that privilege, is it by a command?

Mr. Ramjattan: It is and I urge this National Assembly...

Mr. Speaker: Is the privilege holder entitled to any right of hearing or anything of that nature?

Mr. Ramjattan: Once it is a motion brought and is passed by a majority, just as what happened in the case of *Jagan vs Gajraj*, he has to abide by it. He went to the court. The two Jagans then, Deryck and Cheddi, famous men, one a Speaker, went to the court for an injunction and it ruled them out of place: that it was inside of this Assembly, go and get your remedy. Do not come to the court. [Mr. Hinds: What year was that, Sir?]

That was 1965. Only the other day, in relation to the Committee of Selection, my learned friend ran to the court again and said that the National Assembly was wrong. What did the Chief Justice rule? The Chief Justice ruled that his entire application, motion, and whatever it was, was misconceived and flawed.

Let me just read what Mr. Chang said about it. [Mrs. Backer: You better read slowly.]
Let me read slowly. It is at page 29:

“This court holds that the motion of the Attorney General is legally misconceived in that the Affidavit contains no allegations supporting any breach. In other words, the court finds that the facts that the Attorney General wants to deal with in his Affidavit are legally incapable of supporting his claim.”

What did Mr. Chang rule? Mr. Chang, Hon. Chief Justice, ruled that indeed he should come here and deal with that issue. This is a matter for *Lex Parliamenti*, as *Erskine May's Parliamentary Practice* mentions. You do not just run out, because of what? It is because of the concept of separation of powers. Our learned Attorney General, of recent times, however, wants to govern by lawsuit. He wants to govern by lawsuits. He wants to gag us. He wants to let the courts rule that this is wrong, and that is wrong, and we are all wrong and that is not what we are going to allow in this Chamber.

What I want to make as a special argument here is that we are not abusing the Minister's due process. In this Assembly, just as Dr. Jagan and his brother were indeed stopped from speaking in this National Assembly, by logic, it necessarily means that when a Member is suspended, that Member cannot talk. The Member does not have a right to speak. If the Member can be suspended and does not have a right to speak, that Member cannot come and use the Constitution and say, "My right to speech is being denied and I should come in back the National Assembly." When by that majority those Members were told to withdraw, the court even ruled that if the motion was that they could be expelled, they could have been expelled. [Ms. Shadick: It was for misbehaving in here.] Yes. We are saying that by virtue of him not resigning, he is misbehaving because he is breaching a resolution that called for his no confidence. You seem not to understand that. There is a no confidence in him, which automatically should mean that he goes away, but no, you want to confront... [Ms. Shadick: Bring the charges.]

This has nothing to do with charges. As I indicated in my speech on the last occasion, this is a question in the political realm. It is not the juridical realm nor is it under the criminal law realm. We, in this National Assembly, can deal with the questions as to whether we want him out or, at least in this case, to gag him and if indeed this motion is passed, he will be gagged. Then it becomes a resolution and hence a resolution, he has to abide by it. Otherwise, all of the resolutions that we pass will mean nothing. This is what we have... [Ms. Shadick: A resolution does not have the force of law.] A resolution, effectively, must be abided here and in this *Lex Parliamenti* it has the force of law to the extent that we can ensure its adherence.

I want to also make this argument, because it has been spouted all over the place, that the Constitution does not state that we can pass a no confidence motion or a motion of this nature. I want to say that the Constitution never prohibited it. Why is that argument not being acted upon? The Constitution is not going to be a huge document with all of the rules. It will have the general principles. What is being argued by the Hon. Attorney General is: Where in the Constitution does it say so? Well, I want to counter where in the Constitution it does not say so. Where does it say so? There is section 9 which indicates that where these things happen. We can go back.

My learned friend Mr. Nagamootoo indicated that only two days ago in Egypt – not very well known for very democratic traditions – that last week the Minister for Transport resigned after a train accident. [Mrs. Backer: He was not driving the train.] He was not driving the train.

We mentioned all of the cases from Diana Woodhouse, about Lal Badadur Shastri, under Nehru, as the Prime Minister. There was a train accident and he resigned. There were some many accidents under Mr. Rohee and he does not want to resign.

I want to emphasise what this case has mentioned and where our learned Attorney General is in every respect running away from it. It is that we, this National Assembly by a certain motion, can expel, remove, withdraw, and do all of those things. As I said, the logic here is that we, in this Parliament, on a majority, can do so. That is why they cannot accept the new dispensation too. That is why. We are not acting unreasonably or capriciously. We had indicated in a debate, which lasted some twelve hours, why it is that the majority of this House does not have the confidence of the Minister and we stated them all, but still the convention which is supposed to apply...

There is also an additional point. My learned friend is indicating that conventions do not apply where there are written Constitutions. Well, again, in my speech on the last occasion, I quoted Professor Fiadjoe and Professor Phillips who indicated that notwithstanding there is a written Constitution there is nothing in the writing that excludes conventions. Nothing! All of a sudden, because he wanted to make the distinction, he made the distinction that in England there is not a Constitution, which is in writing, so it applies there, but here there is a Constitution. What kind of distinction is that? What kind of distinction without a difference is that? We must not go away thinking that it is because we have a written Constitution it excludes convention.

Conventions are but what is called the lubricant to ensure that there is better governance for the Westminster machinery and this is a Westminster democracy because of its origins, notwithstanding there is a written Constitution.

Here is the fundamental point, Mr. Speaker. When there is a Minister or any Member for that matter not wanting to act on convention and then being disobedient and defiant in the face of conventions, the Minister or Member brings to crisis level the National Assembly. It creates disharmony and rancour, and that is why conventions came so that the business of the House can go along pretty nicely by the Minister removing himself. There is now being created a logjam, a confrontation, and it is said that it is the majority. No! That is why it was regarded as a lubricant by a famous politician whom I quoted. It was a famous politician out of England. I cannot

remember his name, but he said that it was the lubricant that ensures that the machinery works. It does not have to be written anywhere. It is a convention and the majority of the House has no confidence in him. The Members over there ought to tell him to go, but they want confrontation and that is what we are ending up here with - we have to debate, deliberate, cuss down each other and whatever it is.

The Members over there, obviously, do not understand the underpinnings of convention and the underpinnings and the philosophical rationale behind it, which is “please go.” The majority of the House does not want the Member. It is in that context... just as Dr. Jagan and his brother, when they defied the House, the Speaker asked for a motion and it suspended them. It is exactly what we are doing here. He wants to speak and I am saying that in that context we can come with this motion to ensure that that defiance is brought to a halt and we are entitled to do just that. This is something that is very much admissible.

I want to, in ending, indicate that *Erskine May's Parliamentary Practice*, Twenty-first Edition at page 326... [Ms. Shadick: That is an old book. You need a new edition.] It is a very expensive book, but it is my book. [Mrs. Backer: It is not a photocopy.] I have not photocopied it. That is Ramjattan's book.

“Matters awaiting judicial decision

The House has resolved that no matter awaiting or under adjudication by a court of law should be brought before it by a motion or otherwise.”

It goes on to state:

“This rule may be waived at the discretion of the Chair. Exceptions have, for example, been made on matters before civil courts which relate to Ministerial decisions or concern issues of national importance, matters which have no likelihood of coming before the courts in the reasonably foreseeable future...”

Listen to this:

“...matters which have no likelihood of coming before the courts in the reasonably foreseeable future...”

[**Mr. Nadir:** You are defeating all of your arguments.] We are not defeating the arguments. We are saying that - if you did not listen to me Mr. Manzoor Nadir - it could be waived.

“... and matters which, though touching upon issues which are *sub judice*, are unlikely to be affect any judgment.”

I want to bring this point.... Mr. Chang is not going to be in any way prejudiced by what we say here. He is the Chief Justice and, just as Chief Justice Luckhoo did, and he might very well say that that motion could be entertained in this National Assembly and it can very well be that again it was another misconceived motion, just as the Committee of Selection’s motion.

Additionally, there are a number of instances, at page 378, where successive speakers have exercised their discretion to allow matters to be discussed, notwithstanding them being in the courts of law in England, because, of course, on one rung, they have considered that as no substantial risk of prejudicing the proceedings which would arise.

As I have indicated, in my preambular point, that Government side over there can block everything that the Opposition brings. That is what it wants to do by bringing this *sub judice* rule or that adjudicating of matters before the court. If I may say so, I want to believe that that was the reason why it was brought because, as was said by a Senior Counsel, it was a sham.

Erskine May Parliamentary Practice, Twenty-first Edition, has a number of classical examples where this *sub judice* rule, or that which my learned friend is talking about as to making this motion inadmissible, can apply to waive it. He did not say anything about *Erskine May Parliamentary Practice*, I noticed. We must bring the total picture to this House. We must not indicate that that there is a Standing Order that states so and then literally defeat that argument by saying that Standing Orders are not law and then want to quote the Standing Orders to gag the whole National Assembly. I cannot understand that.

Mr. Speaker, this motion is very much admissible and I wish that you so rule as regard it.

Thank you very much. [*Applause*]

Mr. Speaker: I think that Mr. Nadir had indicated...

Mr. Nadir: Sorry Sir. I do not know how the microphone came on. I did not.

Mr. Speaker: It is the system.

Mr. Nandlall: I will reply, Sir. Sir, my friend has said a lot. Just for the purpose of the record I will reply. [Mrs. Backer: No.] I have a right of reply. It is my objection. I raised an objection.

Mr. Speaker: One second, there is a Point of Order on the floor.

Mr. Nagamootoo: I rise on a Point of Order. [Ms. Shadick: Which Order?] It is Standing Order 38. The Attorney General having spoken once ought not to speak again on this particular issue. He has not originated this motion. He is a contributor to an objection that was made.

Mr. Speaker, I have sat here in making this Point of Order...

[Interruption from Government Members.]

Mr. Speaker: Okay. There is a Point of Order.

Mr. Nagamootoo: I can tolerate their disorder. It is the habitual behaviour of losers. Standing Order 38 is pellucidly clear, Mr. Speaker, "Time and Manner of Speaking."

"A Member desiring to speak shall rise in his or her place..."

This is it.

"No Member shall speak more than once on any question except:

- (a) when the Assembly is in Committee;
- (b) in explanation as prescribed in paragraph four (4) of this Standing Order;
or
- (c) in the case of a mover of a substantive motion or the Member in charge of the Bill, in reply."

He is not the mover of this motion, the Hon. Attorney General. He spoke to the motion and he ought to, but I have seen people speaking repeatedly to the same question, in complete violation of the very Standing Order that they seek to protect and they invoke by beating their breast to say

what the Standing Orders can do and what these Standing Orders cannot do. One of the things that the Standing Orders cannot do is to allow someone who has spoken on an objection to rise again to speak in reply. I think, Your Honour, it calls out for your ruling.

Mr. Speaker: Hon. Members, we are in an extraordinary mood as we speak and I have posed some questions. In fact, I even invited Mr. Basil Williams to respond, if he so desired. He has chosen not to. I believe that the matters before us are grave and important enough that for the elucidation of the matters, and for me to be able to make up my mind, I will listen to the Attorney General because, as I said, we are in an extraordinary mood.

Mr. Nandlall: Thank you very much, Sir. Your Honour, you have raised a few very pertinent issues which you asked for us to address. Mr. Ramjattan spoke at length and I do not believe that he assisted you, Your Honour, at all in what he said, because he said everything other than addressing the issues which Your Honour raised. He spoke about the Jagan and Gajraj case and, as a lawyer, he failed to point out that the material distinction which distinguishes these sets of facts from anything that occurred before independence when that case was determined, which is this document – the Constitution. He did not mention at all that he was speaking about a system which essentially was the British House of Commons system. Therein is the distinction. The case has no applicability at all to this Assembly because this Assembly was created by this document. If this document does not invest a power to this Assembly, this Assembly does not have it. It is as simple as that.

You, yourself, Sir, said in your ruling that the customs, practices and conventions of the United Kingdom House of Commons as they apply to no confidence motions and resignations do not, as a matter of course, apply to Guyana. [Mrs. Backer: It is as a matter of course.] It is as a matter of course. [Mrs. Backer: What does that mean?] It means that all of the arguments advanced by Mr. Ramjattan are in defiance of the Speaker's ruling. All of this foray that he keeps going on with on ministerial responsibility is completely irrelevant.

Mr. Speaker: Take us to the questions which I asked.

Mr. Nandlall: The questions that Your Honour asked... I go back to Your Honour's ruling. Your Honour enquired about the privilege of the Member to speak and how he can be denied of that privilege. You said in your ruling, Sir:

“As previously indicated, I can find no provisions within the Standing Orders of this National Assembly, the Constitution, or the Laws of Guyana which restrains the elected Member from fulfilling his functions as Minister of Home Affairs of Guyana in the National Assembly.”

Now, Sir, this is Your Honour’s absolute position. Where it is that You Honour will now get a power? You have cited already that you do not have power. The Speaker has no power under the Standing Order, under the Constitution, or under the laws. Where it is that Your Honour now gets the power from?

Mr. Speaker: Hon. Attorney General, which one of the paragraphs in the ruling are you referring to?

Mr. Nandlall: I just referred to paragraph 6, Sir. Paragraph 6 I will read again verbatim.

“As previously indicated, I can find no provisions within the Standing Orders...”

Sir, there is a motion before the House. [Mrs. Backer: Why did you stop? Continue reading it.] I will read it.

Mr. Speaker: Let me just help you out there immediately. At the moment in time, I was asked as Speaker, to restrain. I was saying that there is no power vested in the Speaker and I could not find anything in the Constitution, the Standing Orders or any laws, or anything, which could empower the Speaker to prevent a Member from speaking.

Mr. Nandlall: Right. My position is simple. The motion is before the House that Your Honour indicated or invited the Opposition to bring. It is before the House. Let us look at the Constitution, let us look at the Standing Order. Where does it now give you the power? [Mrs. Backer: The motion will give him the power.] Where? [Mrs. Backer: The motion that you are debating now.] Sir, it is either Your Honour has the power... Your Honour cannot pull this power out of thin air.

Mr. Speaker: I am asking you to go, please, Hon. Attorney General, to the questions I posed about the rights. Can those rights be taken away and whether there is any due process involved in that?

6.21 p.m.

Sir, we all know, as lawyers, that even administrative tribunals, which are not performing legal functions, the law has advanced to such a stage where they are not even required to perform a quasi-judicial function, purely administrative functions. The law, in its evolution and in its wisdom, imposes upon such a tribunal an obligation to observe basic principles, including natural justice, including fairness. It is such an outrage that a Member, who is a lawyer, is going to differentiate now to say that this High Court of Parliament is not a tribunal that is required to observe the rules of natural justice...

Mr. Speaker: Hon. Member, I am just on page 89 of *Erskine May Parliamentary Practice*, the Twenty-second Edition, where there is a reference to the High Court of Parliament.

Mr. Nandlall: [Mr. Ramjattan: ... *inaudible*] That is right. You did not even hear what the Speaker said. If it is the High Court of Parliament, is it not going to observe the rules of natural justice?] I am so happy that the cameras are rolling on an attorney-at-law practising in the courts of this country and he is saying that the Parliament of Guyana...

Mr. Speaker: Let us avoid that. We are in the High Court of Parliament and it is not at National Communications Network (NCN).

Mr. Nandlall: That is correct, Sir.

Mr. Speaker: Let us exercise some high quality of decorum.

Mr. Nandlall: A Member is advocating that in this High Court of Parliament that natural justice does have to be observed; that a Member can be denied the right to speak; the electorate of this country can be denied of the right to their elected representative in the form of Clement Rohee without due process. Well Sir...

Mrs. Backer: Mr. Speaker, I rise on a Point of Order. The learned Attorney General is, I think, not deliberately, but definitely, seeking to mislead the House. When the motion of no confidence was debated that was the opportunity to be heard and he was heard. He spoke and all of his colleagues spoke on his behalf. He was heard. How can he say...?

Mr. Speaker: Okay. Hon. Members, there are two things and, in fact, all of my readings last night, and until very early this morning, distinguished between censure motions and no confidence motions. When you are going to censure and sanction there are far different to a no confidence. With respect I do not believe that the right to be heard was naturally exercised only at the no confidence. Censure and no confidence, according to all that I read, until about 3 o' clock this morning, are to be differentiated and distinguished because one has a punitive effect and one has a declaratory effect.

Mr. Nandlall: Sir, what tribunal is going to impose a penalty? By what process that is acceptable to civilisation?

Mr. Speaker: Let us move on from that. I think the point has been made.

Mr. Nandlall: I am answering your question. The question Your Honour posed to me...

Mr. Speaker: Well try not to make it personal too.

Mr. Nandlall: I am not. I am speaking about... Your Honour is asking me whether fair due process should be extended. I am answering by saying that I do not know of any civilised process which would result in the possibility of the imposition of a sanction and the recipient of that sanction is not extended due process. I do not know of any civilised situation. It is none. Therefore to answer your question I submit, firstly, that this National Assembly has no power, in the present circumstance, to deny Minister Rohee the right to speak as he has not committed an offence which is contemplated by the Standing Orders. The Standing Orders empower Your Honour and the Committee of Privileges to impose a penalty when a particular offence is committed in a particular context. That factual matrix does not present itself here. We are dealing with a completely different situation.

Therefore, Sir, I do not know where the power will come from. Where is the power...

[**Mr. Ramjattan:** There is a majority in Parliament] The majority in the Parliament cannot pass a motion that it will repossess Dr. Ashni Singh's house tomorrow. This feeling that your numerical strength of the majority can do as it feels is one that is completely absorbed. The power of the National Assembly in accordance with the law of the land and the Constitution has

to be exercised. Sir, those are the remarks that I would like to make in relation to the questions that you posed.

I just wish to remind Your Honour that earlier this year Hon. Member Mr. Carl Greenidge had brought a motion which sought to discuss past Presidents' Pension or Pensions of past Presidents and because a matter was pending in the court filed by, I believe, Mr. Christopher Ram, I drew that to your attention and I had forwarded to you certified copies of the proceedings with a request, on my part, to humbly not proceed with the matter, pursuant to the *sub judice* rule. Your Honour had then ruled that you will not so proceed until the matter was withdrawn.

Mr. Speaker: Actually that was in error because I never ruled. In fact days before the matter came up I received a notice of withdrawal and discontinuance, so there was no need for me to rule.

Mr. Nandlall: Okay. Your Honour, there has been precedence of that Standing Order being activated without controversy.

Mr. Speaker: Hon. Members, we have had a long and, I think, wholesome debate. I have thoroughly enjoyed it, except that I am the one who is sitting here. I would like to say that with respect to the objection that the matter before us is *sub judice*, I think that the Standing Order referred to say that a matter that is *sub judice* shall not be enquired into by this House, it could not have meant that we had our mouths gagged completely or tied, and so each case must be decided upon by its own peculiar sets of facts and circumstances. The question is, as I have read extensively out of Australia, New Zealand and England, that you have to go onto to show that the debate or discussion will prejudice the outcome of the matter before the court, so *ipso facto*, just having a writ filed or a motion filed cannot and should not bar the National Assembly from discussing a matter. If it goes on to try to make a ruling that the court is being asked to make at the same time, I think that would be wrong. The court is asked to set aside a no confidence motion by this House passed in July. There are no ancillary orders sought, I think that it could be granted restraining us from doing anything else, so I am of the opinion that the matter is not *sub judice* to the point that it cannot be discussed.

We have come to the second limb of the objection, and that is, that it violates the Member's right to freedom of expression. I believe that, independently, a person has the right to freedom of

expression and that right should only be taken away as prescribed by the Constitution, and I think the Attorney General listed the different areas on which that right can be taken away. The Member before us is not just an ordinary Member; he is a Minister, and so this House has its own rights and its own regulations and procedures as well. The question is whether the House has any authority or power to regulate the conduct of its own Members. Again, I am satisfied that this House does have that authority.

As I said, I have been reading extensively, and even a few minutes ago, I think, I quoted from page 89 of *Erskine May Parliamentary Practice*. I would like to quote a bit from what I have been reading. In the case of *Bradlaugh v Gossett*, I am quoting from page 89 of the Twenty-second Edition, an 1884 case, the question arose as to whether the Member Bradlaugh would be allowed to participate in deliberations of the House. He was forbidden because he refused to take an oath, took the matter to court and Justice Stephen ruled and declared that even if the House of Commons forbid a Member to do what statute required him to do, in order to enforce a prohibition excluded him from the House, the court had no power to interfere. The House of Commons is not subject to the control of the courts in its administration of that part of the statute law which has relations to its own internal proceedings. Even if that interpretation should be erroneous the court has no power to interfere with it directly or indirectly. It goes on to say, lower down on the page, and I am quoting Justice Stephens again:

“It would be impracticable and undesirable for the High Court of Justice to embark on an inquiry concerning the effect or effectiveness of procedures in the High Court of Parliament or an inquiry whether in any particular case those proceedings were effectively followed.”

Later down there is a case of *British Railways Board v Pickin*, 1974, appeal case 765. Parliament has to be left in unfettered control of its procedure. I accept that we have the right to regulate our own procedure and the court has the right to do what it has to do, but we have the right to do what we have to do. It comes down to the question I posed: Whether or not the procedure invoked to sanction the Minister is appropriate.

I believe that the motion is properly before the House, the motion in the name of the Hon. Brigadier. I do have misgivings about the due process aspect and after careful consideration I am

going to make a ruling which I believe will not find favour with anyone and, before I do so, I wish to state as well, publicly, that should any party in House, on any side of this House, alone or together, requires my resignation or expresses no confidence in me I am prepared to go. I do believe that as Speaker I have a duty to ensure that the rules and procedures are respected, enforced and followed, at the same time I have a duty to protect majority and minority. I believe that, notwithstanding what may have been decided on in previous cases, particularly the case cited extensively of Jagan versus Speaker Gajraj, a Member who comes up for sanction, which is the punitive arm of the House, which I believe the House has the authority to issue sanctions, has a right to be heard. I do not share the view that his address from the floor during the no confidence motion equates to a right to be heard at the stage of sanction. Those of us who practise law know that anyone and everyone, who is accused of anything or who faces any punitive sanction, has a right, at least, to be heard in his or her own defence and if he or she feels incapable of conducting that defence he or she has a right to solicit assistance.

In that regard, having accepted that the motion is properly before us, I am going to, as I said, make an unpopular ruling. It has two parts.

- (i) The first part is that I believe that the motion properly brings before this House, for the first time in many decades and particularly after we gained independence, and now with a written Constitution, to the fore the powers and privileges of this House, because what happens to one Member affects not that Member but this entire House. So how we treat with one or ten or all sixty-five Members brings the entire House under the spotlight. And so for that reason I believe that the matters raised in the motion are matters which should be referred to the Committee of Privileges for its consideration and report, and I also will rule that pending that report, because I believe that this House has the right to consider all of the effects and all of the available sanctions,...

In Australia, they looked at several sanctions, including the refusal to entertain Bills on behalf of a Minister who has been found not to enjoy the confidence or voting against any financial appropriations for that Ministry, as including a few other sanctions. I believe that we ought to look to see, now that we are exercising this power for the first time in a post colonial setting, how best we do so, so that the House is on a sound footing.

- (ii) The second part of the ruling is that I rule that we will not proceed with the second reading of the Firearms (Amendment) Bill 2012 pending a report from the Committee of Privileges.

That is my ruling on this matter.

On that note we may either proceed or take a short suspension. What is the wish of Members?

Mr. Nagamootoo: I crave your indulgence, Mr. Speaker. The Members of the Alliance For Change accepts your ruling on this very contentious and controversial matter and we will, with your guidance, take those measures that will allow the fullest distillation of this controversy. On our part, we are not happy that we are caught up in a game of ‘Rohee Roulette’, where it appears as if one Hon. Member of the House is a single bullet in the Chamber that could shatter our parliamentary democracy. Therefore we do not feel that this an issue on which this Parliament should die. The people out there... We have a responsibility to the Guyanese people and we have duty to perform on their behalf and so we want to ask that we veer off from the precipice of self - destruction and gridlock and that we take the only sensible path of having some political space in which we can defuse the tension, have the lives of the people of Guyana be pursued as best as they could in this period that is coming down of yuletide.

I believe that the ruling is one that should inform us that we should not go to the precipice of a gridlock; we should back off. So, Your Honour, I can assure you that on behalf of the Alliance For Change (AFC) – I nearly said Alliance for progress because it is really an alliance for progress – that we have no intention, no contemplation, no cause, whatsoever, to express any no confidence in Your Honour and we fully abide by the Speaker. We have full confidence in you.

Mr. B. Williams: We accept your ruling as Speaker, but on a point of clarification, is it that the Speaker is ruling that while the matter is with the Committee of Privileges, the Hon. Member shall not speak in relation to any matters gazetted with respect to the functions of the Minister of Home Affairs? It cannot just be with the Firearms (Amendment) Bill 2012. Suppose next week another Bill is brought from the Minister of Home Affairs.

Mr. Speaker: Let me clarify it. While this matter resides with the Committee of Privileges, it is a matter than concerns this entire House. All of us have a duty to ensure that we take the right and proper steps.

I recognise the right of Mr. Rohee to address the House. Any Bill that comes or is initiated by him I will not recognise.

Leader of the Opposition [Brigadier (Ret'd) Granger]: Mr. Speaker, your expectation that your ruling would be controversial has been fulfilled. I brought before this House a motion in good faith. It was deemed admissible, but before I was allowed to speak a ruling was given. Could I hear from you what the status of the motion is?

Mr. Speaker: Your motion is extant; it is valid; it is pending. It has been referred to the Committee of Privileges. On report of that Committee, you can debate the motion. The motion is not dead. It is alive; it is extant and the debate is awaiting the report of the Committee of Privileges.

I just ruled on the Point of Order that it was an inadmissible motion.

Hon. Member Mr. Benn. Prime Minister, sorry. Do you defer to your Prime Minister?

Minister of Public Works [Mr. Benn]: No.

Mr. Speaker: Please do.

Mr. Hinds: Mr. Speaker, Hon. Members, we certainly respect your ruling and we certainly believe that you came to it after long and deep consideration. I may even want to say agony of the soul. But, Sir, our concern at this time is that it in effect has put the motion into effect. That is our concern at this moment. We certainly respect your purpose and intent, but we are concerned that the motion has been already put into effect. We still do think that, whether it would have been today, or when it comes after the Committee the Privileges would have looked at it, we certainly have a case that we want to put to the electorate of our country, put to the people of our country, about this motion.

This motion seeks to do nothing else but to...

Mr. Speaker: You cannot have a debate on the motion now. Thank you.

Hon. Prime Minister, I empathise with your anguish. Believe me, I am agonising myself, and as I said, I did not expect it to be non-controversial or popular on either side, but this is an interim measure. I would expect that long before Christmas we would have met. I am Chairman of the Committee, even though I do not vote. We will meet. As I said, I discovered out of Australia, last night, quite a treasure trove of good material on responsible government and the different steps that Commonwealth countries are taking to deal with it. We have to look at the fact that we have a Constitution when other countries did not and some cases were decided when we did not have a Constitution. It is an interim measure and I am asking both sides of the House to work with me.

As Chairman of the Committee of Privileges, I do not have a vote and so I would not be participating. I know that there is an argument about a majority, but there is a majority here as well if one side decides to go one way or the other.

Mr. Benn: Before your ruling, Sir, and this is what perturbs me with the feeling that the Tenth Parliament is somehow ruined. The Hon. Member, Mr. Khemraj Ramjattan said, from that side of the House that, “We will knock off each one of you one by one.”

Mr. Speaker: Who said so?

Mr. Benn: Mr. Ramjattan said.

Mr. Speaker: Is it today?

Mr. Benn: The Hon. Member... [*Interruption*]

Mr. Speaker: All right, one second Mr. Minister. Mr. Ramjattan, did you say so while speaking on your feet?

Mr. Ramjattan: While speaking on my feet, no.

Mr. Speaker: Mr. Ramjattan, let me say this, to all Members: We are not running some kind of a poppy show here. We are not in the business of targeting Ministers because we think that we have the power to target them and to be pulling down. This is a matter that I have heard expressed. I have spoken to the Members of the Opposition about it. I have been told that they

are acting responsibly and there is no intention...Despite what may be said on the National Communications Network sometimes, or on *Nation Watch*, or Channel Six at other times, we have to behave as responsible legislators in this House. I believe that any notion that we are going to be sniping at Ministers...that is not going to be allowed.

Mr. Ramjattan, I do not know if that statement is attributed to you.

Members, I am told that there was a problem in the lounge where the lights were off but they are now fixed. When we come back we will have the honour and the privileges of debating the Music and Dancing Licences (Amendment) Bill, Bill No. 23 of 2012 and it would be a welcome respite from the debate that we just came out of. Thank you very much.

Sitting suspended at 7.00 p.m.

7.16 p.m.

Sitting resumed

Mr. Speaker: Hon. Members, allow me to apologise please. I was unaware that snacks were not ordered. I believe that it was not contemplated that we would have been going this late and that perhaps the Speaker would be forced to invoke Standing Orders and adjourn the House prematurely. Be it as it may, we have the task of proceeding with the Order Paper. I had silently hoped that the Whips might have considered an early adjournment, but we do have the Music and Dancing Licences (Amendment) Bill 2012 – Bill No. 23/2012 looming large before us.

MUSIC AND DANCING LICENCES (AMENDMENT) BILL 2012 – Bill No. 23/2012

A BILL intituled:

“AN ACT to amend the Music and Dancing Licences Act.” [Minister of Finance]

SEXUAL OFFENCES (AMENDMENT) BILL 2012 – Bill No. 26/2012

A BILL intituled:

“AN ACT to amend the Sexual Offences Act.” [Attorney General and Minister of Legal Affairs]

BUSINESS NAMES (REGISTRATION) (AMENDMENT) BILL 2012 – Bill No. 27/2012

A BILL intituled:

“AN ACT to amend the Business Names (Registration) Act.” [Minister of Finance]

Ms. Teixeira: I was wondering if I was gagged too, Sir. Mr. Speaker, after consultation on the Government side tonight, we do not wish to proceed at this moment with the three Bills that are listed under Government Business for tonight. Thank you.

Mr. Speaker: Well I know that Mr. Ramjattan had indicated his preference not to proceed with the Public Utilities Commission (Amendment) Bill 2012 – No. 15/2012 and the Telecommunications Bill 2012 – No. 16/2012, but it does leave us with Fiscal Management and Accountability (Amendment) Bill 2012 – No. 24/2012 and Former Presidents (Benefits and other Facilities) (Amendment) Bill 2012 – No. 24/2012. What is the thinking of the Opposition? As I said that I had silently hoped that after that very intense session that we would step back a bit and consider our relative positions, but there is a silence. I am urging a deferral. It is just a suggestion.

PRIVATE MEMBERS’ BUSINESS

MOTIONS

FISCAL MANAGEMENT AND ACCOUNTABILITY (AMENDMENT) BILL 2012 – No.24/2012

“BE IT RESOLVED:

That this National Assembly, in accordance with Standing Order No. 52(1), grant leave for the introduction and first reading of the Fiscal Management and Accountability (Amendment) Bill 2012 – Bill No. 24/2012 –

A BILL intituled AN ACT to amend the Fiscal Management and Accountability Act 2003.” [Mr. Greenidge]

Mr. Greenidge: In the light of the mood of the House, I would ask that the matter on the Fiscal Management and Accountability Act be deferred for the next sitting.

Motion deferred.

**FORMER PRESIDENTS (BENEFITS AND OTHER FACILITIES) (AMENDMENT)
BILL 2012 – No. 25/2012**

“BE IT RESOLVED:

That this National Assembly, in accordance with Standing Order No. 52 (1), grant leave for the introduction and first reading of the Former Presidents (Benefits and Other Facilities) (Amendment) Bill 2012– Bill No. 25/2012.

A BILL intituled AN ACT to amend the Former Presidents (Benefits and Other Facilities) Act 2009.”

Mr. Speaker: Mr. Greenidge, there is also the Former Presidents (Benefits and other Facilities) (Amendment) Bill 2012 – No. 25/2012.

Mr. Greenidge: That also too, Mr. Speaker.

Motion deferred.

COMMITTEES BUSINESS

MOTION

**CONSIDERATION OF OUTSTANDING WORK OF THE PUBLIC ACCOUNTS
COMMITTEE OF THE NINTH PARLIAMENT**

WHEREAS in accordance with Standing Order No. 104 (1) every Committee shall before the end of the Session, in which it was appointed, make a report to the Assembly upon matters referred to it;

AND WHEREAS the Public Accounts Committee, a Standing Committee of the National Assembly of the First Session of the Ninth Parliament, was unable, owing the dissolution of Parliament on 28th September, 2011, to conclude the work that was referred to it in that Session.

“BE IT RESOLVED:

That the Public Accounts Committee of the National Assembly of the First Session of the Tenth Parliament take into account all outstanding work of the previous Committee.” [Mr. Greenidge]

Mr. Greenidge: Mr. Speaker, that is a very straightforward procedural matter and I would urge that we proceed with that one.

Mr. Speaker: Very well.

Mr. Greenidge: Thank you very much Mr. Speaker. The matter before us, the motion, is the “Consideration of Outstanding Work of the Public Accounts Committee of the Ninth Parliament,” and I would ask that the House gives the Committee the support that is reflected in the resolve clause set out here.

Mr. Speaker: The motion is put, any other Member wishes to speak to the motion may do so. I sensed that no one wishes to speak. I also sensed that there is consensus that this work, as important as it is, must be approved.

Question put, and agreed to.

Motion carried.

ADJOURNMENT

Mr. Speaker: I think this is an appropriate time for us to have an adjournment motion and I invite the Hon. Prime Minister to do so.

Mr. Hinds: Mr. Speaker, Hon. Members, I move that the House be adjourned to Monday the 17th of December.

Mr. Speaker: Very well. Hon. Members the House is adjourned until Monday the 17th of December. We do so stand adjourned. We will ensure that all facilities will be in place. I wish, before we rise, to thank the staff, the Clerk and Members for their patience today and for remaining calm. I know that we have stepped back slightly from the precipice. I am urging, in the time available, that we speak to each other, because I always believe that everything can be resolved by speaking and negotiations. Thank you very much.

Adjourned accordingly at 7.22 p.m.

