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

OFFICIAL REPORT

PROCEEDINGS AND DEBATES OF THE NATIONAL ASSEMBLY OF THE FIRST SESSION (2020-2022) OF THE TWELFTH PARLIAMENT OF GUYANA UNDER THE CONSTITUTION OF THE CO-OPERATIVE REPUBLIC OF GUYANA HELD IN THE DOME OF THE ARTHUR CHUNG CONFERENCE CENTRE, LILIENDAAL, GREATER GEORGETOWN

50TH Sitting — Monday, 7TH November, 2022

PARLIAMENT OFFICE
HANSARD DIVISION

Assembly convened at 10.15 a.m.

Prayers

[Mr. Speaker in the Chair]

OATH OF A NEW MEMBER

Mr. Speaker: Hon. Members, I have received from Mr. Raphael Trotman a letter dated 22nd August, 2022, resigning his seat as a Member of Parliament (MP) with effect from 31st August, 2022. With Mr. Trotman's resignation, a seat in the National Assembly has become vacant. The vacancy is in accordance with Section 99 (a) of the Representation of the People Act, Chapter 1:03, to be filled by a person whose name is to be extracted from the List of Candidates from which Mr. Trotman's name was extracted.

As Mr. Trotman's name was extracted from the A Partnership for National Unity/Alliance For Change's (APNU/AFC's) List of Candidates, I have, in accordance with Section 99 (a) of the said Act, called on the representative of the said List to further extract from that List the name of a person who is willing to become a Member of the National Assembly to fill the vacancy. I have also received from the representative of the List, the name of Ms. Beverley Alert, who has been declared to be an elected Member of the National Assembly. Before Ms. Beverley Alert can take part in the proceedings of the Assembly, she will have to make and subscribe the oath before the Assembly, as required by Article 167 of the Constitution. As Ms. Alert is present, she can now make and subscribe the oath, which will be administered to her by the Clerk. I now invite Ms. Alert to take the oath.

The Oath of Office was administered to and subscribed by the following Member:

Ms. Beverley Alert, M.P.

ANNOUNCEMENTS BY THE SPEAKER

Welcome to new Member of Parliament

Mr. Speaker: Hon. Members, I want to, on behalf of all of you, and on my own behalf, congratulate Ms. Beverley Alert on her becoming a Member of the National Assembly. I welcome

the Hon. Member to the Assembly and extend best wishes to her. I see the Hon. Leader of the Opposition standing.

Leader of the Opposition [Mr. Norton]: Good morning. On behalf of the Opposition, I would like to welcome Ms. Alert to this Assembly. I know she has the requisite competence and will be able to serve the people of Guyana in good stead. Thank you.

Mr. Speaker: Thank you, Hon. Leader of the Opposition.

Welcome to the first Sitting of the third year of the Twelfth Parliament

Mr. Speaker: Hon. Members, let me also welcome all the Members of the National Assembly back to the Parliament. We now start for the first Sitting of this third year of the Twelfth Parliament, and I do extend our wishes that we continue to forward the business of the people in this august Assembly.

Representation at the Commonwealth Parliamentary Association and the Inter-Parliamentary Union

Mr. Speaker: Hon. Members, while we were on recess, the Parliament was represented at the 65th Commonwealth Parliamentary Association (CPA) meeting in Halifax, and the 145th Assembly of the Inter-Parliamentary Union (IPU) in Kigali, Rwanda. The output of these two meetings will be circulated during the course of the day.

PRESENTATION OF PAPERS AND REPORTS

The following papers and reports were laid:

(1) Report of the Auditor General on the Public Accounts of Guyana and on the Accounts of Ministries, Departments, and Regions for the fiscal year ended 31st December, 2021.

(2) Performance Audit Report of the Auditor General on the Management of Health Care Waste at Hospitals.

(3) Performance Audit Report of the Auditor General on the Management of Drugs and Medical Supplies at the Ministry of Public Health and Regional Health Facilities.

(4) Performance Audit Report of the Auditor General on the Receipt, Storage and Distribution of Textbooks to school.

(5) Performance Audit Report of the Auditor General on a Review of Training Programmes established and developed by the Council of Technical and Vocational Education and Training.

(6) Performance Audit Report of the Auditor General on Guyana's preparedness for Marine Oil Spill Responses.

[Speaker of the National Assembly]

Mr. Speaker: Hon. Minister of Home Affairs.

Minister of Home Affairs [Mr. Benn]: I am sorry, Mr. Speaker, I am not sure what you have reported [*inaudible*]. Sorry.

Mr. Speaker: The Motor Vehicles Road Traffic…

Mr. Benn: Yes, the Motor Vehicles and Road Traffic Act, Chapter 51:02. If I may read the regulations:

> "1. These Regulations may be cited as the Motor Vehicles and Road Traffic (The Use of Foreign Issued Driver's Licence in Guyana) Regulations 2022."

That is the citation. In respect of the permissions to drive in Guyana:

> "A person not resident in Guyana shall be permitted to drive on a road for a period of sixty days after his entry into Guyana without a driver's licence as required by section 23(1) provided that he is the holder and in possession of a valid driver's licence issued by a competent authority in the country of his residence along with such documents which shall establish the date of his entry into Guyana."

Mr. Speaker: Thank you, Minister, and you so present.

(7) The Motor Vehicles and Road Traffic (The Use of Foreign Issued Driver's Licence in Guyana) Regulations 2022 – No. 21 of 2022.

[Minister of Home Affairs]

(8) Mid-Year Report for 2022, which, in fact, is a report that was published in accordance with the Fiscal Management and Accountability Act 2003 during the course of the recess of the Assembly and is already widely circulated and very much in the public domain.

(9) Government Notice No. 3 of 2022, regarding Notification Receipts of all petroleum revenues paid into the Natural Resource Fund during the period 1st July, 2022 to 30th September, 2022, a notification published in accordance with the Natural Resource Fund Act.

(10) Financing Agreement Credit No. 7133-GY signed on August 12, 2022, between the Co-operative Republic of Guyana and the International Development Association (IDA) for an amount equivalent to SDR31,900,000, as part of the Guyana Strengthening Human Capital through Education Project. This Project will focus on expanding access to quality education at the secondary level and improving technical and vocational training (TVET).

(11) Loan Contract No. 5560/OC-GY dated September 19, 2022, between the Co-operative Republic of Guyana and the Inter-American Development Bank (IDB) for an amount of US$130,000,000.00. This Loan aims to support the execution of a policy-based reform programme aimed at strengthening the efficiency and effectiveness of public policy and fiscal management in response to the health and economic crisis caused by COVID-19.

[Senior Minister in the Office of the President with Responsibility for Finance]

10.30 a.m.

(12) The Civil Aviation (Licensing of Air Transport Service) (Amendment) Regulations 2022 – No. 27 of 2022.

(13) The Civil Aviation (Air Navigation) (Amendment) Regulations 2022 – No. 28 of 2022.

(14) The Civil Aviation (Navigation Service Charges) Regulations 2022 – No. 29 of 2022.

[Minister of Public Works]

(15) The Mabaruma Town (Constitution) (Amendment) Order 2022 – No. 42 of 2022.

(16) The Local Democratic Organs (Areas) (Amendment) Order 2022 – No. 43 of 2022.

(17) The Local Democratic Organs (Neighbourhood Democratic Councils) (Amendment) Order 2022 – No. 44 of 2022.

[Minister of Local Government and Regional Development]

ORAL QUESTIONS WITHOUT NOTICE

Mr. Speaker: Hon. Members, I did receive from the Hon. Member, Mr. Figueira, a request to ask an oral question without notice. I wish to inform the Hon. Member and the House of the two conditions that are necessary for such a question to be asked. It includes urgency and importance. Based on the fact that I do not consider the matter to be urgent, I would not allow that question.

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

Mr. Speaker: Hon. Members, I did receive from the Hon. Leader of the Opposition a request under this item. I would invite the Hon. Leader of the Opposition to make a brief statement on his motion before I rule.

Mr. Norton: Mr. Speaker, the motion submitted in my name is entitled Enactment of Constitutional and Statutory Amendments to Facilitate a Clean Voters' List and to Prevent Voter Impersonation.

I stand to present this motion entitled the Enactment of Constitution and Statutory Amendments to Facilitate a Clean Voters' List and to Prevent Voter Impersonation. You are aware that every observer that observed the 2022 Elections suggested the need for a clean voters' list. In fact, the Caribbean Community (CARICOM) did say, at the earliest opportunity, it should be dealt with.

If one looks at the emerging voters' list they would see, out of a population of 750,000 people, 682,000 persons are on that list. Therefore, that suggests that it cannot be a credible list. If one looks just at the United States (US) Homeland Security data, one sees that in the last four to five years, more than 54,000 people would have migrated. It should be obvious to most that the list has to be cleaned. May I also point out that the motion recognises clearly the Chief Justice's Ruling.

What the motion does is, suggests to this House that we can enact legislation to make changes. It is my sincere hope that we could debate this motion. Thank you.

Mr. Speaker: Thank you, Hon. Leader of the Opposition. Hon. Member, for a matter to qualify under this particular item, the issue of definite urgent public importance is necessary. This has been an on-going issue and it is an issue that is also upcoming. I consider this motion, at this time, not of the urgency that requires this debate. I would be unable to allow the motion to proceed further than this.

[*Members of the Opposition withdrew from the Dome*]

Condolences to the Minister of Education

Mr. Speaker: Before I take the introduction of the Bills, I notice that she did enter the Chamber. On behalf of all of you, I would like to extend our condolences to the Minister of Education on the passing of her dear dad. Hon. Minister, please accept our condolences.

INTRODUCTION OF BILLS AND FIRST READING

The following Bills were introduced and read the first time:

CRIMINAL LAW (PROCEDURE) (AMENDMENT) BILL 2022 – Bill No. 21 of 2022

A Bill intituled:

"AN ACT to amend the Criminal Law (Procedure) Act."

COURT OF APPEAL (AMENDMENT) BILL 2022 – Bill No. 22 of 2022

A Bill intituled:

"AN ACT to amend the Court of Appeal Act."

NATIONAL REGISTRATION (AMENDMENT) BILL 2022 – Bill No. 23 of 2022

A Bill intituled:

"AN ACT to amend the National Registration Act."

REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL 2022 - Bill No. 24 of 2022

A Bill intituled:

"AN ACT to amend the Representation of the People Act."

[*Attorney General and Minister of Legal Affairs*]

PUBLIC BUSINESS

GOVERNMENT'S BUSINESS

BILLS – Second Readings

CONSTITUTION REFORM COMMISSISON BILL 2022 – BILL No. 18/2022

A BILL intituled:

"AN ACT to establish a Constitution Reform Commission and to provide for its membership, its terms of reference and for other connected purposes".

[*Attorney General and Minister of Legal Affairs*]

Mr. Speaker: Hon. Members, we will proceed with the Second Reading of the Constitution Reform Commission Bill 2022 – Bill No. 18 of 2022, published on 28th July, 2022.

Attorney General and Minister of Legal Affairs [Mr. Nandlall]: Thank you very much, Mr. Speaker and my Hon. Colleagues of this House. The Constitution Reform Commission Bill of 2022 is one of the fundamental expressions of our commitment to modernise the legislative agenda of our country. Part and parcel of that legislative agenda is also our Constitutional landscape. Like the rest of the Commonwealth, our Constitution is our fundamental law. It is regarded as organic and alive and it is that sacrosanct and sacred pact between the citizenry and the State, outlining how the State will be administered for the benefit of the citizenry and elaborating the mechanisms that are guaranteed to ensure the civil liberties, fundamental rights and freedoms of the citizens are ensconced and enshrined and, also, to outline how public monies will be received and spent in observing principles of transparency and good governance.

This fundamental document in an evolving society governed by democratic principles and traditions, necessarily requires constant review to ensure that, as our society evolves, as the aspirations of our people change, as our country transforms, that sacred pact between the State and the citizen reflects those transformations and reflects those changes.

Constitutional reform, therefore, has rightfully been a forefront issue on our Government's agenda. We have always underpinned a fundamental principle in respect of Constitutional reform, that is, it must be driven by public participation. By its very nature, as I just said, it is a pact, a contract between the citizenry and the State. Therefore, the citizenry has the greatest stake in what the final output of a constitution is. Our Government recognises and respects that concept absolutely. That is why public participation in any constitutional reform process under our Government will form the cornerstone of the agenda.

10.45 a.m.

In our Manifesto going into the 2020 elections, we said this:

> "We are aware that issues concerning constitutional reform, particularly in relation to a national, inclusive governance model, management of elections, fiduciary accountability, enhancing rights of Guyanese and ensuring constitutional language is simple have been raised and discussed in the public domain. However, we believe that these, as well as other issues, must be part of a process of widespread consultation with the people of Guyana before being acted upon…
>
> Moving forward, we are committed to continuous revision of the Constitution. In this regard, we will ensure that the Committee on Constitutional Reform that will advance the work will pursue nationwide consultation following the model used in the past, that is, with half of the members from civil society and equal representation from Government and the Opposition."

Characterising our style in Government, that identical promise, in almost its verbatim expression in the quote to which I have referred, finds expression in the Bill that is before this House. On 28th July, 2022, we laid in this House, this Constitution Reform Commission Bill as a first tangible step in advancing the process of reforming Guyana's Constitution – our supreme law.

It will be recalled that after that sordid and horrendous process that gave birth to the 1980 Constitution, and I refer to the referendum of the 1978 period, the next major step in constitutional reform and law making in this country happened between 1999 to 2001. It is not a matter of coincidence that it occurred under the stewardship of the People's Progressive Party/Civic (PPP/C). Two decades, hence, again under the stewardship of the People's Progressive Party/Civic, we are embarking on another course in that direction. It is not that other political parties have not echoed the call for constitutional reform. They have. But as is their characteristic, as is their *modus operandi*, it remained a call only on their agenda. The *A Partnership for National Unity + Alliance For Change Coalition Manifesto Elections 2015* stated:

> "APNU+AFC recognizes that the Constitution, in its current form, does not serve the best interest of Guyana or its people."

This is what they promised the people of Guyana. A recognition that the Constitution in its current form does not serve the best interest of Guyana or its people. Perhaps, that is why they violated it with such regularity when they were in Government. I continue with their Manifesto which states:

> "Within three months of taking up office, APNU+AFC will appoint a Commission to amend the Constitution with the full participation of the people."

This is in their Manifesto of 2015. I am speaking here in 2022. They continue:

> "…the APNU+AFC Coalition will immediately appoint a Constitutional Reform Commission consisting of representatives of all major Stakeholders – trade unions, the private sector, religious and faith-based organisations, women, youth, professional organisations and the University. Its mandate will be to undertake the urgent task of fashioning comprehensive reforms, for early implementation, designed to guarantee a democratic society free from the abuse of citizens by those in high office fuelled by the exercise of arbitrary powers and behaviours by the Executive which is inconsistent with the spirit and provision of the Constitution."

You cannot fault them for sophistication. You cannot fault them for sophistry either. They went to the electorate with these grand promises and before 2015, let me remind the people of this country, when they went on separate tickets to the electorate, each, the AFC and the APNU, put

constitutional reform as the highest priority on their manifesto promises. They won a one-seat majority in the 2011 Elections. They took control of the Parliament. They made, no other than the Leader of the Opposition then, Mr. David Granger, leader on the Standing Committee on Constitutional Reform. By the end of that parliamentary term, the output of that Committee was a big fat zero – nothing. They then went back to the electorate with this excellent, glossy, very attractive formulation of language in extending yet another promise of constitutional reform. Let us see what they did between 2015 to 2020.

A Steering Committee on Constitutional Reform headed by former AFC executive, Nigel Hughes, was established. The Steering Committee was commissioned by the then Prime Minister, Mr. Moses Nagamootoo. The only assignment of any substance that he was given over a five-year period. Twenty million dollars was paid to this Committee to prepare a report. [**Mr. Ramson:** Single sourced.] Yes. Single sourced. The report was done, handed over to the Prime Minister… Of course, he used the opportunity, as he would normally do, to have himself photographed on the front page of the *Guyana Chronicle* receiving the report, and that was the end of the report and constitutional reform. That report never saw the *light of day*.

In constructing that report, though they promised consultation, as I just read, I do not know with whom they consulted. Nobody knows. They certainly did not consult with half or more of the electorate of this country. They did not consult then with the major Opposition party of the National Assembly. My predecessor, Basil Williams, made himself Chairman of the Standing Committee on Constitutional Reform. He called four or five meetings and produced absolutely nothing. I even have here statements made by then His Excellency President David Granger, when he opened the Eleventh Parliament on the 10th June, 2015. In usual style he said this:

> "Your Government will also bring forward legislation to secure strong and lasting constitutional reform to guarantee good governance."

In the end, Guyana saw neither constitutional reform nor good governance in any form or fashion. In fact, we degenerated into democratic chaos and constitutional shame in full view of the world during the March 2020 Elections and its aftermath. That is why, today, Guyana and law-abiding citizens of Guyana, democratic minded citizens of Guyana, should be proud that ongoing as I speak is a Commission of Inquiry (COI) commissioned by his Excellency the President to investigate

those events which were showcased to the world so that the people of Guyana and our future generations will know what transpired and who inspired, counselled, procured and conspired with what transpired. That Commission is ongoing.

We had several meetings of this Committee. We began by trying to get to examine and to see if we could benefit from what transpired before in several predecessors' standing committees on constitutional reform. Unfortunately, we did not, as I would have outlined, have much to review because not much was done. At the beginning of the process, as Chairperson, I took the opportunity to explain that this was one process of law reform, one endeavour of national importance that simply could not move forward unless we had bipartisan support. That is because of a mechanism in our Constitution called entrenchment. Entrenchment is that device that secures the provisions of the Constitution, in particular, the important ones, against change unless you have a stipulated majority of votes in the National Assembly. Unlike ordinary legislation, which can be passed by simple majority, constitutional provisions of any substance cannot be changed, unless we have a minimum of two-thirds majority, and some can only be changed by referendum. I explained to the Committee that, fundamental to the success of an endeavour in the direction of constitutional reform is consensus across the political divide. It is in keeping with that spirit that the Committee waited for over four months for a submission from the Opposition Members in the Committee.

11.00 a.m.

The Committee was constituted of five Government Members and four Opposition Members. We waited four months. We had public complaints reported in the press about the failure of the Opposition to make any contribution to the Committee, but because of the nature and purport of the exercise, I felt it incumbent on our side not to proceed unilaterally. Therefore, we waited for four long months, but in the end, nothing came. We put forward a Bill capturing our position as expressed in our manifesto. The other side had nothing coming and we waited more. In the end, and I will recognise them for this, having nothing to contribute, they eventually gave their support to our draft of the Bill without any substantial amendments. What we have, in the end, is a Bill that is a consensual product of the parliamentary parties of Guyana.

The Bill is very simple. I am sure Members have read it. It establishes a commission – I will go through the main features of the Bill – which shall consist of 20 members. I saw some comment

somewhere that it may be a top-heavy body, but if it is that we want the broadest possible participation, I believe the number should not matter. The widest possible representation is what matters. We did this also to ensure that we have representation from the main strata of our society – economically, demographically, socially, commercially and ethnically. Of course, there is religion as well. This Bill seeks to establish an infrastructure that achieves that objective. I have here a *Guidance Note of the Secretary-General on United Nations Constitutional Assistance*, September, 2020 which states that constitution making, and equally ,constitution revision:

> "…is a sovereign process, more likely to be successful when nationally owned and led, inclusive, participatory and transparent, based on applicable international norms, standards and good practices, and tailored to the specific country context."

We used these sentiments as guide in formulating this Bill and, in particular, in constructing the composition of the commission. The commission, as I said, shall consist of 10 members or 50% which shall come from the Government and the Opposition in the National Assembly in equal numbers, and I want to emphasise that. We could have easily taken a majority, but we are committed to an equitable representation on this commission. So, it is equal – five Government and five Opposition. The other 10 members shall come from the Guyana Bar Association, the labour movement, the National Toshaos Council (NTC), the private sector, women organisations, youth organisations, Christian organisations, Muslim organisations, Hindu organisations and farmers. I make reference, again, to the UN Guidance Note, to which I had referred earlier, and it states this:

> "National Ownership…

In Constitutional making and revision…

> "… requires the engagement of national authorities, a broad range of political actors, ethnic, religious and minority groups, civil society, including women's groups, and the general public."

Those are the tenets coming from the UN Note that I believe are accurately and scrupulously captured and represented in our Bill. We believe that a commission so constructed will be able to find the much-needed consensus in doing the work that is required to be done. The chairman is to

be appointed by the President in the exercise of his deliberate judgement, and the President also will appoint the other persons. Of course, the organisations to which I made mention will be invited to make their nominations. So, it is not the President who would be handpicking but the process would be generated from the organisations themselves.

The commission, once appointed, would then appoint its deputy. The commission would have functional autonomy in planning its agenda and in executing that agenda. The Government will not attempt, in any form or fashion, to influence the work of the commission. The Bill, which will become law, however, mandates the commission to do public consultations across the country. That is the only mandate that they have in terms of how they will regulate their business.

The commission will have all the rights and privileges that Members of Parliament (MPs) have in the discharge of their functions. The rights and privileges of the Parliament are now very hotly litigated issues, as you know. Hopefully, we would get some clarify from the courts of our country on those matters. A secretariat will be established that will provide administrative support to the commission so that it could carry out its mandate effectively and efficiently. The commission will determine how it will make decisions. There are voting rights, *et cetera*, that are in Bill, and of course, the Bill stipulates what a quorum of the commission shall be.

The commission, once it is satisfied that it has completed the task of engaging the public and receiving the input from the public, then shall distil that input from the public and crystalise them into recommendations which it shall submit to the Parliamentary Standing Committee for Constitutional Reform. It is that Committee that will then determine what we will bring to the National Assembly in the form of constitutional amendments. The Bill also has a sunset clause because it is a Bill that sets up - I do not want to say *ad hoc* - but it is time-bound and assignment-bound and when its assignment or its objective has been accomplished, the Bill will cease to have effect.

The commission, of course, will be free to enlist the services of experts in any given area. Constitutional reform is not only about law, but it is about society itself. It is about human behaviour and the many facets of human endeavours in any country. The commission will have the freedom to employ such qualified persons, as it sees fit, to provide valuable guidance to it in the discharge of its mandate. As I said, this work of constitutional reform is not only of national

importance, but it forms the platform promise of every single political party that contested the last elections. As I said, by its very nature, it requires the full participation of the Parliament. It requires bipartisanism if it is to succeed. As I speak, I am speaking to empty benches on the other side. I hope …

Deputy Speaker [Mr. Shuman]: Mr. Speaker…

Mr. Nandlall: Sorry, I want to recognise… My apologies. You should elevate yourself to the front row so that you could become more conspicuous, Mr. Speaker. It is not to upset the status of anyone so prestigiously seated, but they are absent.

I hope that the people of this country are looking on and are seeing that we have made a promise and we are in the process of delivering on that promise. The other side made a similar promise a decade ago. From 2011 to 2015, though in Opposition, they controlled the National Assembly with a one-seat majority vote. They did nothing for constitutional reform. From 2015 to 2020, they made compelling promises to the people of Guyana to start constitutional reform with great immediacy. Five years after, they did nothing. Within the first half of the Irfaan Ali Government, this manifesto promise is halfway down the road.

The point I want to make before I take my seat is that we cannot travel the other half without the other side. I want the people of Guyana to understand that. I hope that the empty benches to which I am speaking is not a forbearing of what is to come in relation to this process. The people of Guyana must hold accountable those who make promises and do not deliver. We are here delivering on ours. I thank you very much. [*Applause*]

Mr. Speaker: Thank you, Hon. Attorney General. Hon. Member, Mr. Sanjeev Datadin, proceed.

11.15 a.m.

Mr. Datadin: Good morning, Mr. Speaker.

Mr. Speaker: Good morning.

Mr. Datadin: Mr. Speaker, I rise to support the Constitutional Reform Commission Bill 2022 – Bill No.18/2022 which has been proposed to this House. Constitutional reform is important to everyone. Every citizen is bound by the rules that are set out in the Constitution. The first and most

important thing we should recognise is the Constitution is supreme. The other laws that we have in the country and the other laws we make must abide by the constitutional provisions.

Every day in the courts across this country, regard is had, and deference is given to constitutional provisions, which is why when we are amending the Constitution to declare rights, vary rights, and introduce new rights, we should…and it is in fact mandated. As the Hon. Attorney General said, it must be by consensus. Two thirds of the Parliament is required. In some cases, a referendum is required before an amendment could be made. There may be even cases where it is argued that no amendment is possible.

The attempt to do so in the absence of Opposition Members in this House is alarming. It is worrying and it does not augur well. The genesis of this process and the way it is set out in our rules is that in Parliament, as you well know, there is a Constitutional Reform Committee on which Members on both sides of the House sit. Interestingly enough, at meetings of that Committee, the Opposition Members were again absent. In terms of contributions, despite many opportunities being given by the Hon. Attorney General, who chairs that Committee…and I am sure he will forgive me for saying he was openly begging for contributions of any kind from the Opposition and received none. That, Ms. Speaker, again, with our colleagues in the Opposition benches not seeing it fit to be here for this debate, does not augur well.

The promises are easy to make. I do not wish to rehash what the Hon. Attorney General has so eloquently said about the promises made in manifestos. It is time that the citizens of Guyana recognise that keeping your word is an important aspect of public life. When you make promises, you must deliver on them; you must at least try. The previous attempts at constitutional reform in the last Administration met with…there was a committee. I know Mr. Hughes was on that committee and, perhaps, one other person. The recommendations which were made and the reports which were produced, I dare say, it is safe to say, were unhelpful to the parliamentary committee. We hope that it also be noted that there was a proposed Bill to the previous parliamentary sub-committee. That Bill was never agreed upon and neither was it concluded. The provisions of the Bill had not been agreed nor set out, and I think it is public knowledge that it was not brought to this House.

For us to be able to do what both sides of the House have promised the people of Guyana, there must be some level of engagement and some sense of duty by those who sit in Opposition. Again, Mr. Deputy Speaker, I do not wish to include you in that. I see you are about to stand again. There must be a sense that Opposition MPs understand their obligations and duties. When they promise the people something, they must make an attempt to at least deliver on the promise. The lofty promises of constitutional reform, because of its nature, require wide consultation. Wide consultation cannot take place in a vacuum. It has to be set out, it has to be managed, administered and, most importantly, it has to be funded. In an effort to do that, we have the Constitution Reform Commission Bill 2022. As the Attorney General has set out, it provides for wide-ranging membership. It provides for half of its membership to be parliamentary Members, inclusive of Government and Opposition in equal shares. Nominees from the private sector, women organisations, youth organisations, Muslim, Christian, Hindu organisations, rice farmers and Toshaos are provided for by clause 4 of the Bill.

What is important is that all of the deliberations of the commission, as provided for by statute, shall be public. Unless they decide for some peculiar reason that it will not, then they could hold in-camera hearings. The fact that it is public allows the inclusion of all persons and every citizen and every Guyanese could participate. They could attend the meetings of the commission. The commission meetings are intended to be across all 10 regions of Guyana. It is intended to be across the length and breadth of the country. In many cases, it is safe to say that persons do not have to come to the commission, the commission will come to them or at least to a place near them. That will give persons the opportunity to make their contributions and participate in the meetings. Of course, and the Bill expressly states so, one is allowed to participate but one cannot vote. That would be cumbersome and impossible to execute or implement. It is only the members of the committee who will do the voting.

Then, there is funding which is very important for the committee to do its job. To be able to get to all parts of Guyana, and importantly to be able to obtain experts in some cases where it may be needed and obtain advisers where in some cases it would be needed, there is funding that is specifically provided for on a budget. It is important and I wish to highlight that the terms of reference and the powers of this commission have been very clearly set out in Clause 7 of the Bill. If you permit me, Clause 7 of the Bill states:

"(7) The Commission shall review the Constitution of Guyana, to provide for the current and future rights, duties, liabilities and obligations, of the Guyanese people …"

The last time there was constitutional reform was the period 1999 to 2003. We have had many amendments which have formed part of our law since then. There has been a widening of our Constitution, our constitutional rights have improved, and the amendments have proven to be very useful and, indeed, they have been much pronounced upon by the courts since then to now. It is important that we understand that this commission must not only speak or address rights of today, but must address and speak to rights of tomorrow, of things that may arise, things that are likely to arise, and to protect the citizenship in a manner that is in the best interest of the citizens.

In conducting a review of the Constitution, the commission is obliged by law to take into account fundamental rights and their full protection, the rights of indigenous people, the rights of children, eliminating discrimination, improving race relations and ethnic security, equal opportunity, measures to ensure that the rights of minorities are included in the decision-making of Government, implementing reforms of the elections and the Elections Commission (GECOM), and measures to secure and protect economic, social and cultural rights. It goes on. It also states that it is intended to enhance the capacity and effectiveness of the National Assembly. Perhaps, we ought to have an attendance rule; maybe that would help. The functioning of this Assembly requires all Members, and it is important that we recognise that.

Importantly, the privileges and the immunities that are afforded to the members of any such commission are important so that it allows the members of that commission to execute their duties and to deliver on what it is they are charged to do. The privileges and immunities of commission and the members shall be the same as Members of the National Assembly. As you know, Mr. Speaker, those are considerable immunities. Most important of them all is the freedom to speak and the freedom to say what you need to say in these deliberations. The commission may, by clause 11, engage experts because there may be a requirement for some areas that there be an expert and that the deliberations of the commission be guided by persons with unique expertise. The budget is provided for, and it must be such to adequately discharge its functions.

It is easy for us to talk about what are the things we will deliver, and it is easy for us to promise things and only pay lip service. The process for the reform of the Constitution is regrettably a fairly

lengthy one. The consultative process is lengthy. The time it will take for the compilation of reports *et cetera*, is indeed lengthy. The process starts now, here and today. Hopefully, this Bill will be approved by this House so that we could get on with it. Mr. Speaker, I thank you and again, I support this Bill and I commend it for passage by this House. [*Applause*]

11.30 a.m.

Mr. Speaker: Thank you very much, Hon. Member. I now call on the Hon. Deputy Speaker, Mr. Lennox Shuman, to make his contribution.

Mr. Shuman: Mr. Speaker, firstly, let me join you in extending sincere condolences to the Hon. Priya Manickchand and her family on their sadful loss. They say that you often judge a tree by the fruit that is borne. Judging from the character that the Hon. Minister has displayed and the person that she is, it was most definitely a tree that was noble and obviously very well put together – a strong and solid tree, if I were to put it that way.

Let me take this opportunity to express my absolute and sincere disappointment, not in terms of the content of the Bill but in terms of the empty seats that reside on my side of the House. I would like to thank the Attorney General and my colleagues on the opposite side for acknowledging that not the entire Opposition is absent from this House

Constitutional reform is not and should not be a political football. It has been something that both sides of this House have committed to, time and time again. It is something that this country has said that we desperately need. All political parties campaigned on constitutional reform. We recognised the importance of it to changing a whole lot of things in this country. Yet, there is a party that claims to represent over 50% of the people but has decided that they do not want to participate in this very critical and important discussion. Constitutional reform, in my humble view, should not be an issue of which side of the political line one stands or sits. It is people centric. The Constitution is there to govern a nation and a nation is made up of people, regardless of who they vote for and regardless of their politics.

To know that there is a party that committed to constitutional reform in 2015 and is now being given an opportunity to change the dynamics, change the discourse and change everything. Instead of being present and contributing, it is being utilized for what I would say is very shallow and

narrow political gains; they walked out of the House without coming here to contribute to the debate.

I commend the Attorney General and his staff for putting this together. I commend his Excellency and everyone who was engaged and involved in standing by that commitment to getting constitutional reform back on the agenda, and I say meaningful constitutional reform. I cannot contribute much more to the substance. The Attorney General and my colleague, Hon. Mr. Sanjeev Datadin, have done a tremendous job of doing that, and I am there are many others who can speak on it. I want to ensure that the people of Guyana understand that when we talk about something that affects people, such as constitutional reform…My colleagues who claim that they want to represent the people and that they represent almost half of the population do not want to engage, then what does that say about the representation that they would have elected?

I will say that I support this Bill wholeheartedly and I want to ask the Hon. Attorney General, maybe, for one or possibly two changes. Those are that Indigenous Peoples' Commission (IPC) also become a sitting member on this commission and possibly one person from the Indigenous non-governmental organisations (NGO's) to participate in this process. As you know, Indigenous communities are very difficult to get to. Communication in those communities in themselves are sometimes a very tall order. It is my humble view and those of many of my colleagues that we need a very robust process to be able to reach as many of those people in those communities as possible, people who are well acquainted in the terrain. It is my hope that when we go through this process, those far-flung communities are given some extra attention so that they could fully and meaningfully contribute to this process.

Mr. Speaker, on those, I want to thank you and thank the Hon. Attorney General for presenting this. It has my wholehearted and full support. Thank you. [*Applause*]

Mr. Speaker: Thank you, Deputy Speaker. Now, I call on the Hon. Minister of Parliamentary Affairs and Governance, Mdm. Gail Teixeira, to make her presentation.

Minister of Parliamentary Affairs and Governance and Government Chief Whip [Ms. Teixeira]: Good morning, Mr. Speaker, colleague (MPs) and Deputy Speaker of the House. I do not want to repeat what my colleagues before me have said, but I want the audience to have an appreciation of the issue of constitutional reform in Guyana. What we are doing here today and

repeating what happened in 1999 is the model that has been most progressive and most innovative not only in Guyana but in the entire region.

Since we were governed by the British, we had the 1928 Constitution. In 1966 when we got independence, we got a new Constitution and that began the first phase of constitutional reform in our country. This was, if you read *The West on Trial*, a torturous experience in which the British used the new Constitution of an independent country, when it was created, as the tool to make sure that the People's Progressive Party/Civic (PPP/C) was not the Government that dropped the Union Jack and raised our new Golden Arrowhead. The mischief of that period needs to be constantly reminded that constitutional reform, at that point, was also separated from the public. It was done by leaders such as Dr. Cheddi Jagan, Mr. Burnham and Mr. D'Aguiar going to London and negotiating with the British. The real Guyanese Constitution came with the 1980 Constitution, known as the Burnham Constitution, and this was totally removed from the Guyanese people, for those of us who were young enough then.

No one knew what the constitutional reforms were. I look to my colleagues, Mr. Speaker, Mr. Manzoor Nadir, Ministers, and a number of other comrades here. No one knew what was in this Constitution that was being drafted and we were then being asked to vote in a referendum to allow the Constitution when no one had an idea of what it was going to be. This Constitution, first of all, was done in secrecy.

Secondly, it was adopted based on a rigged national election to bring it into operation. The July, 1978 elections led to declarations by the former Prime Minister and former President to be, Mr. Burnham, that 80% of the people turned out to vote for this Constitution. In fact, the one observer we had in those days, Lord Avebury from the British Parliament, was roughed up by the thugs, *et cetera,* but pointed out at polling station after polling station, the emptiness of the polling stations. Yet, 80% voted in this election. This, again, is the experience in which constitutional reform was overtaken by the People's National Congress (PNC) and by Mr. Burnham to enshrine the presidential powers. In fact, by the end of it, the presidential powers in the 1980 Constitution were even more protected than the United States of America's (USA) President at the time. This became a big issue of protest and marches, *et cetera,* but the Constitution came into effect, as they had the majority in the Parliament, based on rigged elections also. There was the 1978 referendum and there was the 1980 rigged elections.

The second phase of constitutional reform in Guyana began when President Cheddi Jagan announced - which was part of the PPP/C 1992 promise to have constitutional reform and where a Parliamentary Special Select Committee was established to review and hold consultations on the 1980 Constitution. I must give recognition to Mr. Bernard De Santos who chaired this Committee until the elections of 1997. This became a template by the time we got to 1999 and the new constitutional reform process. This was where, for the first time in the history of our country, the people of this country were being consulted on what they want in the Constitution. This began by going out in the countryside, having meetings with people and asking what their views were. In fact, for many people, it was their first time knowing what was in the Constitution. The death of Dr. Cheddi Jagan and the 1997 elections did not allow that Committee to conclude.

Then, we have the third phase, and the third phase is probably the most relevant to how we will measure what we are going to do this time. That is, following the Herdmanston and St. Lucia Accords in 1999, under President Jagdeo, there was the establishment of a presidentially appointed broad based Parliamentary Constitutional Reform Commission chaired by the then Speaker, Mr. Ralph Ramkarran, comprising, as my colleagues have pointed out, equal numbers of political parties and civil society. In fact, just let me recall, the 1999 committee had five members for the PPP/C, three members for the PNC, one member for the United Force (UF), which was not my colleague, Mr. Manzoor Nadir, but it was Mr. Collins if I remember correctly, and a member from the Working People's Alliance (WPA), who was Dr. Rupert Roopnarine. Again, there was a formulation that is similar to one of the Bill you have before you today. The difference between the two Bills – the one from 1999 and the one before you today – is that, as the Attorney General said, the Constitutional Reform Commission will be reporting to the Standing Committee on Constitutional Reform. In 1999, that Committee obviously did not exist because the Constitution had not been amended.

The importance of tracing some of these things is to really appreciate what we have achieved as a country and what we are capable of doing as a people when we agree to have a *raison d'etre* and we agree to have *a modus operandi*. When we are in the environment we are now where there is no *modus operandi* with the Opposition, it is just chaotic, knee-jerk reaction, unproductive, unhelpful and petulant. They are behaving like little boys in the playground where they throw down their bat and ball because they lost the game. So, unlike that, in the 1999/2001 period…and

I hope that era will be written because despite what happened in the 1997 elections, despite what happened in the cases before the court, where then Chief Justice Claudette Singh ruled.

11.45 a.m.

Despite all that, the Constitution Reform Commission (CRC) was upheld by an understanding, between both, that this was the direction in which we wanted to go. Whilst there were hearings across the country – I will give you some figures about how extensive this was – there was a parallel system. There was the Constitution Reform Commission and what we called the inner camera group made up of the People's National Congress/Reform (PNC/R), the People's Progressive Party/Civic (PPP/C), the Working People's Alliance (WPA) and The United Force (TUF). Behind the scenes, they tried to reach a consensus on a number of issues.

For example, the amendment for the Guyana Elections Commission (GECOM), where the Leader of the Opposition has to give six names to the President, was part of those very high level – which was called – plenipotentiaries by the party of the PPP/C Government. It was led by Dr. Roger Luncheon, whose name has to be part of the constitutional reform history of this country. There were meetings, frequently, to go through these very complex, sophisticated philosophies on how we were going to create an architecture of the state of Guyana – a democratic architecture. So, the power of this period was, one, an Opposition that was willing to come to the table. It is not like what the Leader of the Opposition said, that he would not shake hands with his oppressors. If that was the case, and the PPP/C had behaved like that in the 1970s and 1980s, when we had to go and talk to Mr. Burnham and when we had to go and shake hands with Mr. Hoyte to get the count of the ballots at the places of the poll, then where would we have been? We would still be under the PNC/R rule. Would we have been under a dictatorship all the time?

The political myopia of the Opposition is astounding. It has never been so bad. I will tell you, having been around for a while, I have been through some bad periods too with the myopia. This level of myopia, I do not think this country has experienced or seen. That period of one willing to come to the table, being able to negotiate, being able to fight, and being able to have a huge secretariat, guess who was the head of the secretariat of the Constitutional Reform Commission? It was Mr. Parris, a known PNC/R leader. He was surrounded by lawyers and secretarial staff

costing hundreds of millions of dollars. The teams went out to meet the people in all 10 regions, my Dear, Mr. Shuman. It was all 10 regions.

The difficulty was that people had to first know what was in the 1980 Constitution to be able to comment on it. In other cases, they just gave what their views were, what they thought were rights that needed to be enshrined, or ways in which the state needed to operate. So, the fact that there was this parallel body – people knew about it and the press knew about it – there were inner camera meetings to try to get agreement on these sensitive issues. Of course, there were discussions at the political levels – at the highest levels of both parties. We know that. That period did not happen by magic. These extraordinary, progressive amendments that were made in this Constitution – that we had amended in 1999/2000 – came about by hard work. This was in 1999 to 2001. The bills started coming in 2001, 2002 and 2003. In fact, based on the court ruling and based on the accords, we had to finish bringing the Constitution Reform Commission by the time the 2001 Elections took place.

I do this, Mr. Speaker, because I believe that we think that constitutional reform is to just get up, say what we want, someone drafts it and we do it. The actual hard work is winning people to whatever their positions are. The Constitution Reform Commission created task forces on human rights, local government, judiciary, and service commissions, *et cetera*. I do not think that we appreciate the fact, in this country, that the presidential powers were reduced in that period. No longer did the President do as in the other Caribbean Community (CARICOM) countries – the Governor General or the Prime Minister, depending on which country you are talking about – which was to appoint, on his own, the service commissions without consultations and appoint the Judges and Magistrates without consultations. These were all things that were reduced in the 1980 Constitution.

One has to look at what we did. Maybe, this is part of the constitutional reform that we have to deal with now. We created a sophisticated system that was to build trust. The fundamental issue in the 1999/2001 constitutional reform process was building trust between the Government and the Opposition, and coming to a consensus and agreement on fundamental issues in relation to how our state, the architecture of the state of Guyana was governed – that philosophy. It was not a mechanical process; it was not perfunctory in any way. There were things we did to reach political agreement which, I know, lawyers and outstanding lawyers have commented on and said

that we were a bunch of crazy people. They, probably, were right. At the same time, we wanted to find a medium of agreement to ensure that the Opposition – in that day the PNC – did not feel that it was marginalised and alienated, *et cetera*. What has been the experience? There was the Chancellor of the Judiciary, the Chief Justice, the issue of GECOM, and the horrible violation of our Constitution, in 2017, by President Brigadier Granger to appoint a Chairman of GECOM in open violation of the Constitution. So, the Constitution also did not protect us enough from executive lawlessness which we experienced. Fortunately, the courts of Guyana, including the apex court, upheld this same Constitution.

Mr. Speaker, the President when he addressed the Parliament, emphasised: the issue of the need to work together; the need to ensure that what happened in March, 2020 did not happen again; that lawlessness must never be tolerated in Guyana again; and that contempt of the people must never, never, ever be allowed in Guyana again. One of the important aspects, as I said – I think my colleague Mr. Nandlall referred to it – was article 119A which provided for a permanent Parliamentary Standing Committee for Constitutional Reform. This was an important innovation, in the sense that the view was that constitutional reform should not be seen in a way that the country has to have it every 10 or 20 years. It would seem to be one that could be continuous, based on discussions and agreement.

In 2006, during the parliamentary reform period, the Standing Orders were amended to allow for the Standing Committee for Constitutional Reform. The first Chairman, then, was Attorney General, Mr. Doodnauth Singh who was replaced by the Attorney General, Mr. Charles Ramson, Snr. That Committee did not make any recommendations. In 2011, the Leader of the Opposition, Brigadier David Granger was appointed the Chair. Between 2011 and 2015, the Committee met on two occasions: once to appoint Brigadier Granger as the Chair, and the meeting lasted less than one minute; and the second meeting was to consider a work plan. Interestingly enough, at that second meeting, which lasted 10 minutes, it was decided that the People's Progressive Party/Civic (PPP/C) Minister at the time, Dr. Leslie Ramsammy, should prepare an itemised list of all the recommendations for reforms that were made during the extensive consultation in the 1990s, which were documented in the special constitutional reform report, and bring that to the Committee. This was done but no meeting was ever held after that.

In 2015, the Attorney General, then Mr. Basil Williams, was appointed the Chair of the Committee. My colleague has reported that nothing came out of that. We then have the new one under this Parliament which is chaired by the Attorney General, Mr. Anil Nandlall, and which will be the recipient of the recommendations and the report of the Constitution Reform Commission having been appointed and finished with its work.

One of the interesting things about Guyana, again, I always think that we underestimate our good things. We are distracted by bad things or negative views. We are capable as a people to be innovative, to be sophisticated, and to find answers to our dilemmas, once the environment is one that is constructive. It does not require everybody to agree with each other. So, although we went through this period of dictatorship, from 1966 right to 1992 with the first free and fair elections, the constitutional reform process that started in the first Parliament after 1992, started to lay a practice, a means of communication with the people on how we do constitutional reform, how we do legal reforms and statute reforms. Even now, that whole process that began has influenced, and that is the philosophy of the PPP/C – that we must consult with the people on the bills we bring here, on motions we bring here and on amendments that we bring here. Every Minister, through the last three decades, has been part of that process to ensure that there is buy-in by the public and self-interested groups, *et cetera*, with regard to matters we bring before the House.

I want to emphasise a point that I believe my colleague, Mr. Datadin said. One of the most important things that is different between the era of 1999 and 2001, is the behaviour of the present Opposition, the A Partnership for National Unity/Alliance For Change (APNU/AFC) Coalition and the Constitution they agreed to and amendments they agreed to. I remind the public, that many of these reforms, if we want to bring them, require two-thirds majority and in other cases a referendum. We have to have bipartisanship buy-in on this process. With these issues and the behaviour of the Opposition… As the Constitution is now, the President invites the Leader of the Opposition to talk about nominations for the Integrity Commission and the services commissions. That started in April, and it has gone nowhere. The Leader of the Opposition said, that he only wants to talk about the Chancellor of the Judiciary and the Chief Justice, nothing else, and then goes to court on the matter. So we are stuck.

We have the issue of looking at electoral reform. We invite them to the consultations. They were sent the Bills since November, 2021. With due regard to Ms. Amna Ally, the former General

Secretary and Ms. Volda Lawrence, the former Chairperson of the People's National Congress/Reform (PNC/R) since they asked for hard copies and got them. The Bills for electoral reforms which my colleague tabled today, were put on *Facebook*, sent to the political parties – hard copies were sent to all political parties – and after a year, there is not one amendment out of them. There is not one presentation. They come to the national consultation and walk out because they claimed that the Attorney General speaks too long. In fact, when we checked the timing – we are in an electronic age now – we knew exactly that they walked out after the Attorney General reached about 2.40 p.m., and we started at 1.30 p.m. This petulance, this inability, this mindset of refusal to engage, would be one of the major challenges in constitutional reform in our country at this stage. One does not have a political environment within which the Opposition – just to make sure that Mr. Shuman does not think I am including him in this obstructionist behaviour of the other Members of Parliament (MPs) and the Opposition - The APNU/AFC Coalition refuses to engage on any issue.

12.00 p.m.

After the national consultation, which I referred to just now, they then started to spew out a couple of recommendations and we are supposed to work by remote control. This will not build an environment for trust. We have committed to continue and go into the next phase of constitutional reform because, as my colleague said, this is an ongoing process. We have a society which has changed between 1999–2001 to now. We have issues that we did not have to deal with or did not recognise we were dealing with in 1999–2001.

Climate Change, for example or how much more do we need to do to strengthen the democratic institutions of Guyana? Are there other rights and human rights we need to include? Are there ways of strengthening and protecting more human rights that we have in our Constitution? Do we need to put in our Constitution more things to do with economic and social development on the oil industry? All these things – the social media, the management of the social media under freedom of expression to do with the good, the bad, and the ugly of the information-based world that we live in today – some of these may not be constitutional issues, they may be statutory, but the issue is the engagement with people, feed-back from people about what are the issues they are interested in and whether they are constitutional, whether they are statutory or whether they are just administrative; business, how we run business, how well we do things. It is the process of

engagement and recognising that this is a process that can help strengthen democracy in our country, help strengthen the architecture of the state of Guyana, as a democratic state, that can withstand the kind of executive lawlessness that we lived through from 2015 - in fact from 2011, when they had the majority in this Parliament, right through to 2020. Who can imagine? Maybe it is the embarrassment. How do you come to a table and talk about constitutional reform when your own Government fell because of a no confidence motion and, in the face of the Constitution, did not hold elections until 14 months later, when the Constitution demanded three; further to that, another five months for recount.

The process we began and the Bill that is before you are very similar to that which was brought in 1999. It is an important step by our country, and it must not be rushed, in my mind. It must be one that allows for the engagement. But I believe that unless we are able to have an environment where the Opposition recognises and comes to terms with the fact that they lost elections in 2020, that we will not be able to move as constructively and positively as we would like to. I believe the people of the country, civil society organisations, and some of the other political parties, want to move forward, and we committed to do so. We shall continue to keep our commitments that we made in the manifesto. I wish to support this Bill. Thank you very much, Sir. [*Applause*]

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

Recognition of Special Invitees

Hon. Members, before we take the suspension for lunch, let me recognise Her Excellency Guo Haiyan, the Ambassador from the People's Republic of China; His Excellency Rene van Nes, Ambassador of the European Union; Mr. Robert Edwards, Consul of the Canadian High Commission; our former Member of Parliament, Mr. Harry Gill; former Member of Parliament, my very good old friend from the Alliance For Change; and joining us also is Mr. Jamele Ahamad Nadir, the eldest brother of the Nadir clan. [*Applause*]

Hon. Members, this is a good time to take the suspension.

Sitting suspended at 12.05 p.m.

Sitting resumed at 1.35 p.m.

Mr. Speaker: Hon. Members, thank you. Please be seated. We will resume consideration of the Constitution Reform Commission Bill. The next speaker is the Hon. Minister of Public Service, the Hon. Member, Ms. Sonia Parag.

Minister of Public Service [Ms. Sonia Parag]: Good afternoon, Mr. Speaker and Hon. Members of the House. I am standing before you to support fully the Bill for the Constitution Reform Commission.

The *Constitution of Cooperative Republic of Guyana* is the embodiment of fundamental principles and rights and freedom of all Guyanese. As society moves forward, progresses, evolves, as our country evolves so must its Constitution and the rights and freedoms that lie therein. As a consequence, this particular Bill, and all Bills that are brought by this Government to this honourable House, are people-centered and target specific categories of persons at different times. This specific Bill encompasses or captures all of Guyana, all citizens. Not only does it do that but in comparison to what would have obtained during 2015, or as the Hon. Attorney General said, 2011 to 2020, this particular Bill seeks to be inclusive, a hallmark of the PPP/C Government.

The Bill seeks to mandate consultation with the public and, I think, we need to emphasise and re-emphasise that point because we cannot amend a constitution or establish a commission with the aim of amending or reforming a Constitution without the necessary input of the people. Widespread consultation, I would say, is the most important part of this particular Bill and the establishment of this commission. The fact that the commission has just about 20 persons, coming from all sectors of the country, says quite a lot in terms of what we want to achieve.

Mr. Speaker, because the speakers before me have said much about the Bill, as a matter of fact, all that can possibly be said about the Bill, I fully support the Bill that is brought here, and I do believe that the aim is, as always, to include the people of Guyana. Thank you very much.

Mr. Nandlall [replying]: Mr. Speaker. I want to thank the Members who spoke in solid support of this Bill. I want to also assure my colleague on the other side, the Hon. Lenox Shuman, that I hear his call and I want to assure him that our Government historically, currently, and futuristically, stand committed to the advancement of the welfare of our Amerindian brothers and sisters. I want to also remind him that it is under our Government that a Ministry of Amerindian Affairs was established, and a Minister appointed to administer the affairs of that Ministry. It was under our

Government also, and through a previous constitutional reform process, that the constitutional commission on the Indigenous people was established. And again, in keeping with the high priority accorded to our Amerindian brothers and sisters, in 2006 we enacted our Amerindian Act and enshrined in that Act the concept of internal self-government for the Amerindian community in our country – the only ethic group that has been visited with that right of internal self-government.

This Bill again demonstrates and illustrates the priority which our Government accords to our Amerindian brothers and sisters by recognising and making a place as the only ethnic group with a presence and a representation, specifically ethnic, on this commission. We chose the National Toshaos Council because it is the statutory agency, in our legal architecture, that represents the widest cross sections of Amerindian people across the length and breadth of our country. Should we move into the direction of having a second representative, then we may be accused of inequity, and we do not wish to do that. As I said, the Amerindian community of our country has a special and specific representation here. Of course, those who fall into the private sector will have private sector representation; women, youth, *et cetera,* will represent the Amerindian community without doubt; the religious organisations will represent the Amerindian community because the Amerindian is part of the religious architecture of our country. Hon. Member Mr. Shuman, please be assured that the Amerindians' welfare is recognised and is provided for, specifically, in this Bill, and if I dare say, adequately.

Mr. Speaker, in particular, I want to thank our senior colleague, Cde. Gail Teixeira, who took the opportunity to remind us of the travails that we have endured and encountered in this country as we attempted to reform our constitution at various intervals. I wish to just add that there was another process which Cde. Gail Teixeira did not mention, and it had to do with the reform of the 1966 Constitution in 1970. It is important that we put these things on the record so that young people and our population, generally, can understand what inspired constitutional change when our Government was in office and what inspired constitutional change when our Government was out of office.

1.45 p.m.

The basis for the change was to move us into Republican status and to remove all links, or what was described then as the last vestige of colonialism, and for us to have as Head of State no longer

the Queen but a President. At that time a titular President. Hidden among those reforms was that reform that abolished the Privy Council from our legal system, and it is the abolition of that important adjudicatory body, at the apex of our judicial structure, that sowed the seeds for the authoritarianism to not only be ensconced but to be immune from judicial challenge external from Guyana. We must not omit these important things and must always put them on the record. That is what happened under the PNC/R.

Fast-forward to the years 1999 to 2000, Cde. Gail Teixeira spoke about the impenetrable and vast amount of power, which was vested in the 1980 Constitution. The 1999 to 2001 constitutional reform effected over 200 changes in dismantling largely that heavy, monolithic concentration of power in the executive and diverted it, importantly, into the Opposition and the National Assembly. If one examines the philosophy and the undercurrent that underpinned those constitutional changes, one will see the migration of power away from executive polls to the peripheral organs in the constitutional structure. The President used to appoint the Chancellor of the Judiciary and Chief Justice over a rubber stamp process of consultation. That was changed to have agreement; it has not worked and perhaps we have to relook at it. It demonstrates the type of commitment, the whole establishment of these constitutional commissions, empowering Parliament in the process to constitute these commissions. Not only their establishment is something that we should laud but the process to constitute them came from a bipartisan process put in the bosom of this National Assembly.

The powers of the President, in terms of immunity, were substantially reduced; the power to remove a government by way of a no confidence motion was, for the first time, put in the Guyana Constitution; the establishment of a provision that would allow for us to adapt the Caribbean Court of Justice (CCJ) when it came on board, without a constitutional amendment – the germ of it – was put in the Constitution itself, and when the CCJ came on board we did not have to amend the Constitution. We all have lived to witness the benefits that Guyana has derived from an external apex court in our judicial hierarchal structure. I can go on to highlight the amount of good, benevolent, democratic changes that the 1999 to 2001 process brought to the House. The establishment of the Standing Committees and making them a part of the constitutional architecture of this National Assembly, ensuring that they represent sectoral interest, across the

length and breadth of human endeavour of this country is, again, a check and balance of power given to this National Assembly to oversee executive functions of the Government.

Guyanese public should never be in doubt, and the record of this country must always reflect, that when the PPP/C is engaged in constitutional change, and in an effort to bring about constitutional change, there is one polestar by which we are guided, and that is the best interest of our people, the advancement of our legal system and the enshrinement of democratic norms and traditions. I am proud to say that this Bill does exactly that and lays the foundation for us to take constitutional reform to the next level as we continue to build our country for the next generation. I thank you very much, Mr. Speaker.

Mr. Speaker: Thank you very much, Hon. Attorney General. Hon. Members, there being no other contributor, I now put the question that the Bill be read a second time.

Question put and carried.

Bill read a second time.

Assembly in Committee.

Bill considered and approved.

Assembly resumed.

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

MOTOR VEHICLES AND ROAD TRAFFIC (AMENDMENT) BILL 2022 - BILL NO. 19/2022

A Bill intituled:

"An Act to amend the Motor Vehicles and Road Traffic Act."

[*Attorney General and Minster of Legal Affairs*]

Mr. Nandlall: Mr. Speaker, this is yet another very important piece of law-making, critical to the public safety of the people of our country. An important component of law-making is to address societal and or social ills which are symptomatic [*technical difficulties*] which the law is to operate.

Road Traffic accidents, the carnage which takes place on our roadways, and the [*technical difficulties*] must concern every single Guyanese. In a population of less than a million people our per capita death on the road is perhaps one of the highest in this hemisphere. I have in my hand here statistics obtained from the Road Traffic Department of the Guyana Police Force (GPF) and the data, expectedly, is staggering. Over the past 10 years, from the years 2012 to 2022, 1,303 persons were killed on our roadways; that is over 100 persons per year. Out of that, 1,072 were males, 231 females, and 89 were children. No political party, no civil society organisation, or no sensible citizen of this country can find comfort with these statistics.

I have chosen only the last decade as part of my presentation but, like everyone in this House and everyone who is listening would know, the last 10 years' statistics is consistent with statistics going back decades. We have had on our roadways, human plundering – genocide maybe a heavy word. We simply cannot continue, as a responsible society and as a responsible Government, to ignore this horrendous loss of life. Any examination of the data would also establish, and everyone listening to me can relate, that there is a deep causal connection between these road accidents and fatalities and alcohol or drunken driving. We live in this country, and I do not think I need to plead a case of a connection between drunken driving and the resultant road accidents and fatalities.

2.00 p.m.

Every month our newspaper's front page, at least once every month, is unfortunately punctuated with some scene of some horrific road traffic accident and, when one reads the story, alcoholism is somehow connected to the accident. When this Bill was being drafted, great care was extended into ensuring that while it addresses the situation, it was formulated in a manner that would ensure compliance. This Bill and the one that succeeds it, the Intoxicating Liquor Licensing (Amendment) Bill 2022, introduces concepts that are both new and novel in our law. There will be great difficulty, no doubt, and first of all in getting our citizenry to become familiar with them so that they could comply with them, but, even more importantly, so that they could be enforced when there is a violation because that would also be a challenging issue.

These Bills were drafted months ago and posted on the Ministry of Legal Affair's website and a public advertisement was placed in all the media outlets or the major media outlets drawing attention to the publication of these bills on that website and inviting comments, submissions and

views. His Excellency, the President, also posted these Bills on his *Facebook* page and I did so. I believe some of my Colleagues may have followed suit. At the time, I examined the response, both on his Excellency's *Facebook* page and on my *Facebook* page, and I am pleased to report that the response was overwhelming in support. Additionally, we got inputs from members of the public but not one of them was critical. We also received full endorsement from the Guyana National Road Safety Council. I am confident that this Bill has received national approbation and, obviously, is a timely law-making intervention. The World Health Organization (WHO) in its report: *Drink Driving: A Road Safety Manual for Decision-Makers and Practitioners 2022* states:

> "The immediate effects of alcohol on the brain can be depressing or stimulating in nature, depending on the quantity consumed, which causes degradation of driving performance directly related to BAC levels. Alcohol results in impairment which increases the likelihood of a crash because it produces poor judgement, increased reaction time, lower vigilance and decreased visual acuity. Physiologically, alcohol also lowers blood pressure and depresses consciousness and respiration…"

This is the World Health Organization advising the world on the impact of alcohol in particular and in respect of driving. Again, I go to the World Health Organization's report, *Drink-Driving: A Road Safety Manual for Decision-Makers and Practitioners 2022*:

> "…driving after drinking alcohol significantly increases the risk of a crash and the severity of that crash…"

It is a fact that persons continue to drive after drinking because they do not think that drinking impairs their ability to drive and to do so in a careful manner. However, the reality of the headlines we see in daily print paints a radically different picture. Even in cases where alcohol is consumed in small quantities, its very presence in the human system diminishes vision, reflexes and impairs judgement. Against that backdrop, our Government feels compelled to make this intervention and I will concede that it is one that maybe described as drastic, but it is done simply to save the lives of the citizens of our country. We are dealing with a chronic problem and a problem, I dare say, of an extraordinary nature. The response, legislatively, must be commensurate with the gravity of the harm or the gravity of the problem that we are dealing with. Again, I refer to the United Nations (UN). At the level of the United Nations, the Sustainable Development Agenda of 2030, recognises

the importance of road safety through Sustainable Development Goal 11.2 which calls on the UN Member States to *inter alia* by 2030 improve road safety. Additionally, in 2020, the UN adopted the UN Resolution 74 of 299 which declared the period 2021 to 2030 as:

"…the Second Decade of Action for Road Safety…"

Guyana is now making its contribution to this UN resolution and UN commitment to the world. The Motor Vehicles and Road Traffic Act, Chapter 51:02, is the primary piece of legislation governing road traffic, the use of the public roadways of our country by vehicles and by other road users, and also the licensing regulation in respect thereto.

The purpose of this Bill is to amend that Principal Act in three major ways. Firstly, to provide for new offences of motor manslaughter and grievous bodily harm while driving under the influence of alcohol or a drug. Secondly, dissuasive penalties, imprisonment, harsher fines, and temporary and permanent disqualification from holding or obtaining a driver's licence for the offences of causing death by reckless or dangerous driving and driving under the influence of drinks or drugs. Thirdly, these amendments provide for consequential amendments to procedural provisions of the Act, dealing with the testing of breath and blood of the accused or suspected person for the aforementioned offences. Those are the broad objectives which this Bill seeks to achieve and I will try to go through the clauses in the order in which they appear in the Bill, and not necessarily in order of importance. Clause 2 of the Bill amends section 35(3) of the Act which provides for the offence of causing death by reckless or dangerous driving. Now, as the section states, the offence is called:

"Causing death by reckless or dangerous driving…"

In order to prove such an offence, the prosecution has to establish that there was dangerous driving or reckless driving, and that dangerous driving or reckless driving is what caused the death of the deceased. So, if the deceased died from another cause, for example, he was in an accident but on his way from the scene of the accident to the hospital another vehicle hit him and he died from that, then the driver cannot be convicted for that offence because there is – what is called – a *Novus actus interveniens* factor. There was an intervening factor.

Now, under the current law, when such a situation occurs and the case is tried before a judge and a jury, then the jury is free to convict, not on the ground of causing death by dangerous driving but for the lesser offence of dangerous driving or reckless driving as the case may be. As I said, that is the law and it applies only to a judge and jury, which is, if one of these cases reach the High Court for determination because a judge and jury only sits in the High Court. The practical reality, however, is that most of these cases are determined in the Magistrate Courts in our country. This Amendment seeks to simply empower the Magistrate to do exactly what the jury could have done. Now, if the Magistrate is trying the matter and the prosecution is unable to prove that the death was caused by reckless or dangerous driving, then he/she can convict for the lesser count or the lesser charge of careless driving under section 37 of the Act. So, that is clause 2.

2.15 p.m.

That one was more of a procedural nature to bring the principal legislation in keeping with the realistic changes that have taken place, whereby traffic offences now are largely heard and determined in the magistracy.

Clause 3 of the Bill introduces, for the first time, the offence to which I have made mention. It seeks to amend the Act by inserting a new section 35A to provide for the offence of:

> "'Motor manslaughter and causing grievous bodily harm when driving a motor vehicle under the influence of drink or drugs.'"

Motor manslaughter is a completely new concept in our jurisprudence, though it exists in North America. A person who causes the death of another person while driving a motor vehicle under the influence of a drink or drug shall be guilty of motor manslaughter. This is an indictable offence which carries a penalty of a term of imprisonment not less than 10 years – not less than 10 years – and that is the seriousness that the legislation views when death results because of drunken driving. I cannot imagine anyone would have a difficulty with this. In the year 2022, no one should want anyone, be it his/her friends, enemy or family to be driving in a state where he/she cannot exercise due care and control over a motor vehicle. The motor vehicle becomes a lethal weapon not only against the driver and the occupants of that particular motor vehicle, but it becomes a lethal weapon against all road users, including anyone of us here. So, that is the first offence.

Grievous bodily harm is where the person who causes grievous bodily harm to another was driving under the influence of drink or drug. Death, here, does not result, but grievous bodily harm results and the penalty is a term of imprisonment of not less than five years. This is where the injury is grievous, serious, of a grave nature. The penalty is not less than five years. These are all minimum penalties. A magistrate has the statutory freedom of going much higher if the facts and circumstances of the case warrant a higher sentence. This new section also provides the Magistrate with the power to do exactly what a judge and jury could have done, as I explained before in relation to the previous section, so I do not need to take you through there. An important part of the penalty is disqualification from holding or obtaining a licence and - please listen carefully - a person convicted under this new section shall be disqualified from holding or obtaining a licence for three years. A person who is convicted either of motor manslaughter or of causing grievous bodily harm under this section, shall be disqualified. There is no power here; there is no discretion here; disqualification is part of the sentence: from holding or obtaining a licence for a period of three years.

In the event that the person is convicted again for a like offence, the person shall be permanently disqualified from holding or obtaining a licence. Now, I know that these are serious consequences. They were examined and analysed when we were drafting. I am not unaware that the driver's licence is an instrument that people use to earn. I am not unmindful of that; we are not unmindful of that. Taxi drivers, minibus operators, truck drivers – I know the economic connection between the driver's licence and livelihood. If they want to use that licence - nobody is telling them not to drive, this offence will not apply if they are sober. This section has no application if they are sober. So, if they are sober and make an accident, these harsh penalties do not apply to them, and I want to make that very clear. It is when they are drunk and have no right to drive in that intoxicated level.

Clause 4 seeks to amend the Act by inserting a new section 38A in the Act to provide for temporary suspension of a licence pending the determination of a charge in circumstances where a person is charged for a second or third time with the following offences. Before I get there, let me emphasise what this means. We were speaking about conviction, just now, and disqualification post-conviction. Now, we are introducing a different regime, which is suspension *ante* or before conviction. This, also, was not likely done. We had to look at the presumption of innocence, a

constitutional protection, and the imposition or the apparent imposition of a penalty prior to a finding of guilt by a court of competent jurisdiction. All those legal issues had to have been interrogated and satisfactorily resolved before we could have ended at this result. One will note that it does not apply to a first charge but if one is charged a second or third time with offences under section 35A, that is the motor manslaughter offence and the causing of grievous bodily harm offence whilst driving under alcohol or drugs, or one is charged with a section 39, which is driving under the influence of alcohol or drug whether one makes an accident or not, or section 39A, where one is driving or is in charge of a vehicle while his/her breath or blood level exceeds the prescribed limit… There is a difference in these two categorisations. There is a prescribed limit category where one could be charged and that is the lesser of the offences. When the Bill states driving under the influence of drink or drugs, it is speaking – and the section explains it in the Bill, if you look at the Bill – that one must be a state or condition where one cannot manoeuvre or control the vehicle, which is a different level of drunkenness. There is a stratum of consumption and outward behavioural pattern in relation to these offences.

Where a person is charged a second time with the aforementioned offences, the court may order suspension of the licence of that person pending the charge. Upon suspension, the licence of the person shall be surrendered as soon as practicable to the court before which the person appeared. When there is a second charge, the court may order a suspension. I spoke about a graduated approach. This is where there is a second charge; the suspension is "may". The Magistrate may or may not. However, if there is a third charge where the person is charged a third time for the same offence, then the court shall order suspension pending the determination of the charge. That must be considered fair because the law is giving several opportunities for reform and rehabilitation to take place. Why should anyone be charged three times for the same offence? It means that there is a problem – there is a problem. Failure to surrender the licence is also an offence.

Clause 5 seeks to amend section 39 of the Act, which provides for the offence of driving a motor vehicle under the influence of drink or drug to such an extent as to be incapable of having proper control of the vehicle. This here is the offence that I am speaking about, and it is when one is in this state and causes death or cause bodily harm that those offences are activated. Here, if one is caught in this condition but has not caused an accident, obviously, one has committed an offence, and that is already in the law. What we are doing now is to increase the penalty.

Subsection 1 is amended by increasing the monetary penalties for the offence. Currently, the penalty is a fine ranging from $30,000 to $60,000 or imprisonment for 12 months and, in the case of a second or subsequent conviction, to a fine ranging from $40,000 to $80,000 and imprisonment. The monetary penalties are amended to reflect, for the first conviction, a fine of not less than $200,000 and for a second or subsequent conviction, a fine of not less than $300,000. If one does not drink and drive, he/she is not affected in any manner, whatsoever, by this regime of changes in the law.

Additionally, subsection 2 of this section is amended to provide that a person convicted under this section shall be disqualified from holding or obtaining a licence for 12 months minimum. If a person is convicted of this type of offence where he/she is found driving a car, incapable of having proper control of that vehicle, which is a section 39 offence, then, upon conviction, he/she shall be disqualified from holding or obtaining a licence for 12 months. Again, I remind that this is a minimum sanction, the Magistrate is free to go higher. Where the person is convicted for two consecutive such offences, the person shall be disqualified from holding or obtaining a licence for 24 months. So, if the person is a second offender, convicted a second time for the same drunken driving, well then, that person has a 24-months' suspension. If there is a third conviction, then the person has a permanent disqualification from holding or obtaining a licence.

2.30 p.m.

Clause 6 seeks to amend section 39A of the Act which provides for the offence of driving or attempting to drive or being in charge of a motor vehicle on the road or other public place while the breath or blood alcohol level exceed that prescribed limits. This is the third of the category of offences which we are amending. Here we are amending the fine.

Subsection 2 is amended by increasing the penalty for the offence from a fine of $75,000 to a fine of $200,000. The breathalyzer offence is now moving from $75,000 to $200,000.

Subsection 3 of this section is also amended to increase the period of disqualification of holding or obtaining a licence where a person is charged with two consecutive offences from 12 to 24 months. Right now, there is a power to suspend after conviction and we are, now, adding for a second conviction of two consecutive offences, two other convictions you are moving to 24 months in terms of suspension.

I spoke earlier of the procedural amendments and they are contained in Clause 7 of the Bill. Under the current law, there is a Constable who is authorised to carry out this exercise. Based upon our experience, and I am sure Minister Benn will substantiate it with possibly data, the problem that we have had in securing convictions for these offences has been the failure of the machine. There is this machine that is being used to test breath. The machine, apparently, is not properly calibrated and the readings consequently are defective or have been found by our Court system to be defective, which caused a lot of people to get off from these offences. That is being addressed now.

The Constable, before administering this test, must ensure that this instrument that will be used must be in satisfactory condition and properly calibrated so that it produces an accurate breath result. The power is given to the Constable to also certify the instrument for the purpose of evidence. Right now, the sample is what alone is certified. Sometimes one has a difficulty in establishing a chain of connection, whether this is the instrument that was used at the scene of the accident because the instrument is not certified with any stamp or mark. The Constable now must certify that instrument so that if the instrument is to be examined by a Court, there must be a causal connection to show that is the instrument that carried out the exercise.

Clause 9 seeks to amend section 39D of the Act which empowers a Constable to require a person under investigation for the offence under section 39, that is the driving under the influence of drink or drunk, to provide a specimen of blood for a test if that person cannot give a breath test. There is a serious problem in the current construct of the law. The law in its current construct requires a person to do both a blood and a breath test, if one of these offences are to be proved. We have made the requirement not an aggregate one but a disjunctive one. The Constable is free to do a breath test – currently the law has the word 'and' – or a blood test. The blood test, Mr. Speaker, is a complicated process. You have to get a doctor. It takes a long period of time and it is an expensive exercise.

The instrument that the police has can do the breathalyzer and do the breath test. We have allowed that breath test now to be used. However, if the circumstance should arise whereby a breath test for whatever reason cannot be administered then, of course, a blood test can be done. The reading or the millimeter proportion of how it is measured and what is the limit is stated in the legislation. I do not think it makes sense for me to repeat it. We have now put in our law a regime of changes which we hope will have a positive impact in the reduction of road accidents and, in particular,

road fatalities right across Guyana. As I said, our Government's priority is the protection of our citizens. Public safety is an important objective and a security priority of our Government. An integral factor, in the equation of public safety, is the safety of our roadways. We must be able to traverse our roadways, our children must be able to traverse our roadways, and our citizens must be able to traverse our roadways, with a sense of security and psychological peace of mind that some erratic drunken driver is not using his vehicle as a lethal weapon along some roadway in this country and can intercept us and our families as we seek to do our regular business. We must have a sense of security.

As I said it is going to require changes and it is going to require a lot of public education. This cannot be the Government's job alone. Legislative changes alone can never be able to curb this horrendous tragic loss of human life in our country. Every member of society and every responsible organisation in this country must join hands with our Government as we begin to charter a new course of making our roadways safe. Mr. Speaker, I commend this Bill to the House for its second reading. [*Applause*]

Mr. Speaker: Thank you, Hon. Attorney General. Our next speaker is the Hon. Member, Minster of Education, Ms. Manickchand.

Minister of Education [Ms. Manickchand]: Thank you, kindly, Mr. Speaker. What is this new Guyana and the new pathway that the Hon. Attorney General just ended his speech on? What is it we are trying to create? Guyana is undoubtedly a beautiful country, with beautiful people and we benefit from maintaining even as we develop, a level of history and historic cultural happenings. We are hospitable; we are humble; we have managed to maintain much of what we were, what we began with and what our foreparents left us with.

In this new imagining and imagining the new Guyana, the one we would like to leave for our children, we must imagine and we must act, in a way that helps us to preserve our human resources and live in an orderly predictable fashion. We must no longer listen to and feel comfortable either saying or hearing '*is Guyana after all, wuh yuh expect*' when it has to do with disorderly behaviour and uncivilised behavior. The same people here who would break rules, throw their sweetie paper through the window, fling the Kentucky Fried Chicken (KFC) box through the bus window, drink and driver, and lick down anything in sight are the same decent human beings who would go to

another country, whose government and people invested the time in developing an orderly society to follow those rules and orders.

I have no doubt – none – in my mind that our people here can and want to live in a more orderly state, to live in a place where they can feel comfortable that when they step out these predicable rules, these known parameters would be what attends to the other people who they have interact with. I believe that has to be the only civilised way that we could progress as a people. What is the state's duty in creating this new Guyana, this orderly Guyana, this Guyana where we have respect for our fellow human beings, and we value their lives and the contributions they can make? The state, which would include the Executive, definitely this, Legislature and the Judiciary must have a role, not only in envisioning and talking about this Guyana that we want, but in putting together rules, laws and boundaries about where and how we are going to craft this new country.

We here in the Legislature are guided by the Executive. The Executive – the President, Mr. Irfaan Ali, His Excellency, and the Cabinet are fully guided by promises we made when we went to people, in 2020, of this country to say 'give us your vote, give us your support, put your confidence in us' because once we get that job, you will the people who we are looking after in every way. We are guided by promises we made to people, one of which was that we would review our entire legal framework in which we were dealing or which would guide the behaviour of people on some of what are considered the softer issues, even as we change the economic investment architecture in this country. I do not think anyone can doubt, looking at us perform, watching our policies, watching our movements, both in major infrastructural and economic development, even as the President walks through streets, meeting people and hearing their softer concerns.

2.45 p.m.

I do not think anyone can doubt that we have faithfully stuck to our belief that we must fulfil the promises we made. The Executive, in fulfilling that promise, instructed the Attorney General (AG) and his team to draft this piece of legislation, but not in a vacuum, after hearing from organisations, civil society, letters in the newspapers, and reports of pain and grief of family members left behind – the victims of accidents. Having considered all of that, this is the Bill that the Executive brings before this honourable House and the people of this nation to take us along that Guyana, to the Guyana where we are no longer seen as people who cannot evolve with time.

It is very unfortunate for me that on a Bill like this, where we are going to save lives – the lives of men, women, children, the lives of the People's Progressive Party/Civic (PPP/C) people, and the People's National Congress/Reform (PNC/R) people, rich people, poor people, Christians, Hindus, Muslims, men, women, and Amerindians – of Guyanese, cannot enjoy the support of the Opposition. *It is a crying shame*. *A crying shame*. All of us here know people who cannot stop wailing because of the loss of life to drunk driving and because of the loss of limb to drunk driving. If we cannot come here and debate legislation like this and pass legislation like this, we cannot speak of the love for Guyanese citizens. We cannot.

Today, this must go down in history. This absence of the Opposition, all of them, must go down in the history of this country as a mark of shame against the Members of the Opposition who are absent. They did not see it fit to come here and look after their supporters, and the people of this country by passing this legislation. I want to specifically recognise the presence of the Deputy Speaker who is in the House, whose support I expect on this piece of legislation and to say to him that there will be many more occasions when you and your combination party get to pick how you will serve Guyana. So far, Sir, I am very impressed by the progressive decisions that you have made that show support for the people of this country and for the development of the people of this country. We urge you never to be caught up in this destructive, *dokaydam*, *laissez-faire* attitude that is met with fulfilling that very important duty of preserving life and limb and providing a platform where people in this country, old and young, rich and poor, could advance.

I want to be very clear. We are not dictating – and I am certainly not standing here to dictate – whether people should drink alcohol or not. That is a personal choice for you. Hopefully, when one drinks, one will inform oneself – or actually, before one does – of the benefits and disadvantages, if there are any benefits. We are not here to say do not consume alcohol or to self-righteously proclaim what one must drink or how one must socialise. We are not here to do that. That is not what I am doing. What we are saying is when one makes these personal choices, one has to behave in a certain manner, as far as it relates to driving motor vehicles or being in control of motor vehicles, or the law with all its might will come down on one. We do not want to tell a person whether they can drink. So, we are telling persons that they cannot drink and drive.

Minister Nandlall said earlier that there was a… And there are people that will complain about their livelihoods being taken away. That is in their hands. If a person does not want his/her to

licence to be seized or suspended, do not drink and drive. But when it gets taken away, do not blame someone else for that. A person has a choice. If someone goes to the United States of America (USA), he/she will drink, park his/her vehicle, and get a taxi home. We will have to start doing the same thing here. Science and medicine have been clear about the effect of alcohol on the body when consumed. Alcohol reduces our ability to judge distance, to judge speed and to judge the movement of other vehicles. It causes changes in parts of the brain that control motor skills which slow down reflexes and decreases the ability to safely steer or use gas and brake pedals appropriately. Alcohol reduces the function or relaxes the eye muscles so that we are slower to see and slower to respond. Anyone who has had drinks and – I think that may cover a large percentage of people who drive – who has sat behind the wheel could tell us all – and maybe everyone did that at least once in their youth – that his/her reflexes are slower and his/her vision is impaired. Science and medicine have determined, not only us here in Guyana, that someone who has consumed alcohol is more likely to cause an accident.

We have seen the charts internationally where at a 0.3 blood alcohol concentration (BAC) level, accidents begin to happen. We are not changing the law as it relates to blood alcohol level. We are still at 0.8 *per cent* which many argue is too high. We have not changed that in this Bill that we are bringing here. We have to craft this new Guyana that we wish to have. We have seen, and you heard the statistics, mothers with children left without incomes, parents left without their children, and families were broken by accidents that could have been avoided. That is what we seek here to do today. Keep our human resources intact, look after them, offer them opportunities and see them thrive and grow in this new Guyana that we envision. Today, I am not going to go through the clauses again or the penalties that the AG went through, but they range from fines to the suspension of one's license to a revocation and to jail. Again, I raise with all of you in this country; any application of this act against you would be something you invited unto yourself. None of us in this House, no police in any police station, no Magistrate sitting in any court, will come and hold a rum bottle, pour it into your mouth, and then put you in front of a car. Any penalty applied to you by the Magistrate, or the police based on this act that we are passing is something that you invited unto yourself.

To the young men and women, we do not want you to stop having fun. Whatever you define fun to be. I want to be very clear. I am not necessarily saying fun involves alcohol, and I am not saying

that it does not. That is a choice for you to make in your homes, with your families, with your churches and mandirs and mosques. Not for the Government to make. We are asking you to become the responsible citizens you would like to see this country comprised of. If you are going out as a group and you are drinking, or you are engaging in any sort of consumption of alcohol or other substances that can impair your functions and motor skills, that you have a responsible person who is there or a parent who agrees to come and pick you up. There is nothing heroic or fun or cool about driving drunk when you think of the harm you can cause to yourself, the pain you can cause your parents and siblings and young family, or the pain you can cause to someone else that you kill on the road because you were having fun. We ask you to be the kind of responsible citizens you would like to see this country have and that you would, yourself, engage in, if you were to live in other countries with these laws without question and without objection.

Today, I commend for passage in this National Assembly and for effective, equal, and fair implementation of Bill No. 19 of 2022 – Motor Vehicles and Road Traffic (Amendment) Bill 2022. I thank you. [*Applause*]

Mr. Speaker: Thank you very much, Hon. Minister of Education, the Hon. Priya Manickchand. Now, for the Hon. Minister of Human Services and Social Security, Dr. Vindhya Persaud.

Minister of Human Services and Social Security [Dr. Persaud]: I rise to support my Colleague, the Attorney General, on bringing, not just this piece of legislation, but the one that will follow subsequently that hits at the heart of the loss of life of persons who are irresponsibly going behind the wheels of vehicles and leaving in their wake – carnage. This Bill, brought here today, effectively holds persons responsible. I would like to say that they are both pieces of legislation – this and the one to follow – where responsibility is at the centre of the discussion and debate today.

As people make their choices in life, those choices have implications and repercussions. As such, when this piece of legislation – the Motor Vehicles and Road Traffic (Amendment) Bill 2022 – takes effect, it hits to the heart of what persons should consider their as responsibility on our roadways. The limit that has been placed in terms of blood alcohol concentration is one which is the same for many countries in the world. That is 80 milligrams in 100 millilitres of blood. It really speaks to persons not being in full control if they are intoxicated, inebriated, or under the influence of alcohol and drugs. It simply means that when there is judgement to be exercised on the

roadways, that judgement is affected. That judgement may definitely result in a fatality, or grievous bodily harm, or it could be construed under the legislation as careless driving. I hope that, today, after this Bill has had the full support of those of us from the Government's side, without those persons on the Opposition's side, the citizens of Guyana will understand the gravity of a situation that has persisted in our country for decades.

3.00 p.m.

In fact, I believe everyone across the length and breadth of Guyana should understand the Government of Guyana's conviction when it comes to keeping people, children, men, and women safe on the roadways. The reason I refer to the Bill after this one is because they are integral to each other. While we speak within this Bill of the measures commensurate with the offence, the second Bill will speak to the responsibility of those who get behind the wheel and those who sell alcohol.

I think it is important today; in fact, it is a historic day. Many people know my views on alcohol and the devastation it has caused in families, in communities and definitely led to the loss of lives. I am extremely pleased that it was not one or other but both that really tell us as a nation that we need to be conscious not only of our safety and our lives and that of others. It also pushes the system to be more responsive and more responsible because those who must be the custodians of this piece of legislation should ensure that their equipment is in sound order and calibrated so that the level of alcohol and drugs, when testing is done, can be dealt with in a very sound way which means that the equipment must be calibrated, must be in good state and shape, so that right across the country when people are seen to be on the roadways and use the roadways in a reckless manner to cause fatality, they could be held accountable.

Not one of us could be impervious to the cries, to the suffering, to pain, and to the grief of countless families across the country, who lost loved ones at the hands of persons who wantonly imbibe and use the roadways. Today, I would like to not only support this amended legislation, but I would like to urge persons to look at the measures that will be applied when this sort of offence is committed. I do think it is important to understand that if people are unsafe on the roadways, their licences should not be in their hands. I see no problem with this amendment to the law. I believe also what has been inserted into the law, that pending an investigation into driving under the

influence allegation, your licence should not be in your hands because it lends to the creditability of what will happened and if you are culpable then it keeps you off the roadways before you could be a repeat offender.

This piece of legislation emerged from hours of discussion with many stakeholders across the country. I believe wherever they are, they are happy that this step has been taken by the Government of Guyana (GOG) through the Attorney General's Office. When we consider the loss of life and, in this case, where there has been a number of years recommended whether, for loss of life or grievous body harm, I believe it sets the tone of the gravity of the offence. It is not left necessarily to open discretion to determine a measure that is commensurate with the offence; rather, a number of years have been prescribed, which is a starting point where the Magistrate now has the discretion to go higher. We have all seen, we have all read, and we have all experienced the loss of people to horrific accidents. I say carnage many times because many of those accidents caused by driving under the influence of alcohol and drugs could lead to the loss of not only one life but multiple lives. We have heard of the pregnant mother; we have seen the children, and we have seen parents leaving children without them all because somebody got behind the wheel of a vehicle and unthinkingly and recklessly got on the roadways.

The Attorney General has completely and comprehensively given the details of this piece of legislation. I want to thank him for this because he and I had numerous discussions on this and many others similar instances where we see the devastation caused by alcohol. Ahead of the next Bill, I would also like to thank him for that as well because this has come up in the Sectoral Committee on Social Services, where we all feel the need to have a more responsible society. I hope that with these measures put in place through the new pieces of legislation, we could move in the direction where people see the need to have a Guyana that is completely law abiding, built on the fact that we need to preserve the life of every citizen of this country whether we choose to go about it in an unthinking way or do it consciously. At the centre of who we are and what we are as Guyanese, we must be responsible people.

I, there, say then that with the passage of the Motor Vehicles and Road Traffic (Amendment) Bill 2022, we would be able to see persons who do the right thing and have a designated driver if they are going to imbibe alcohol. I hope with the passage of both Bills there would be persons who are conscious of who they are selling alcohol to and how much that person has already imbibe. I hope

with the passage of these Bills, we will see less and less minors being sold alcohol. I hope with the passage of this Bill there will be persons who knowingly do not get behind the wheels of their vehicles, knowing that they are not only endangering their lives and the passengers that they carry in their vehicles but those who use the roadways whether as pedestrians or passengers of another vehicle.

The measures within this piece of legislation are meant to be dissuasive. They do not merely stop at fines which in most of the instances listed have more than doubled, but it speaks of jail time too. It is not that we just want to randomly put people behind bars, but I think the time has come for what we see on our roadways to stop. I believe every family that has lost someone, today will feel, in their heart, that something is being done. We cannot replace that loved one. We cannot give them back the child, the mother, the father, or the sibling that they may have lost, but we could do the right thing with the passage of this Bill and ensure that we adhere to it, every letter in this Bill *dot every I, cross every T* when we get into our vehicle and ensure that our beautiful country Guyana is safe.

Safety begins with personal responsibility, and I advocate that there must be responsibility, or there will be consequences emerging from someone getting into a vehicle under the influence of alcohol and drugs. That is why today I would like to term both pieces of legislation 'responsibility type' legislations because every action has a consequence. If people start to take responsibility for their actions, we will have in our country the state we want to have where people are held accountable, especially in this instance where getting behind a vehicle is perhaps one of the seemingly simply things, but it is something that comes with a deep sense of responsibility.

I unhesitatingly support my Colleague. I support this piece of legislation, and although I will not appear for this next one, I want to lend my support ahead of time to it and hope that we could continue along this vein. Thank you, very much. [*Applause*]

Mr. Speaker: Thank you, Hon. Minister. Now, for the Hon. Minister of Home Affairs, the Hon. Robeson Horatio Benn.

Mr. Benn: Thank you, Mr. Speaker. I want to join with the previous speakers before me in support of the Motor Vehicles and Road Traffic (Amendment) Bill 2022. In so doing, I have to commend

the Hon. Attorney General and Minister of Legal Affairs, Mr. Anil Nandlall, for diligently following the Cabinet's and President's instructions with respect to this matter.

Sir, of course, for me, the most precious life in the world is a Guyanese life and particularly when it comes to the lives of women and children and particularly those who are young and particularly those who are young and those cohort of our population, young men between 15 to 35 who represents the largest section of our population who perish by road deaths as a result thereof. I have to point out that the statistics from the World Health Organisation (WHO) indicates that for every life lost, there are 15 other people who are injured, and of that 15, half of them are permanently disabled either physically or physiologically not to mention the dysfunctionality which comes to families as was said by the previous speakers, loss of income, lives, support and everything which goes along with the question of traffic accidents.

One of the more recent rankings toward Guyana in terms of road traffic deaths also from the WHO ranks us at 63rd of all the countries in respect of road traffic deaths. The terms, of course, made represented carnage on the road or irresponsibility in all facets in respect of road use, not to mention some other issues, but as was said by the other speakers, the coming into force of this legislation which relates not only to alcohol use but also to the question of drugs is particularly apt. It brings into stronger focus with the issues of revocation, suspension, and higher fines. In these new amendments, the work which was done by Mr. Clement Rohee, my predecessor and the then Minister of Home Affairs in respect to this issue in 2008, with the coming to use of the question of the breathalyser, the limitations, use of drugs, bring found of alcohol and being identified then with breath alcohol concentration 35 micrograms of alcohol in 100 millilitres of breath and blood alcohol concentration 80 milligrams of alcohol in 100 millilitres of blood.

3.15 p.m.

These amendments and these resorts will strengthen that legislation. That first effort in respect to this issue. I think we are now on a better course of action, and as was said that we have not only the tools, but we have to also do the awareness in respect of bringing to the population again, clearly to drivers and would-be drivers, what the expectations are and what their legal resorts are in respect of this matter. The United Nations (UN) and WHO's decade of reducing road deaths worldwide is a target of reducing road deaths by 50% – by halving it in the decade up to 2030. I

would like to say– in spite of all that we are so worried about with this problem is –that we have, and there was a suggestion that it may have been conflated by the question of the Coronavirus Disease (COVID-19) that– for the first time in 16 years, last year we reduced road deaths in Guyana by 28.8% in one year. We are now, at this point, slightly above that year-to-date figure. The coming to being of this legislation is now even more important and significant to bring more tools, new resorts, new efforts, and new energy to the question of road fatalities.

I would say when we speak of this particular issue, we have to pay some tribute to those who have been impacted by the question of road fatalities. I remember particularly a Mrs. Khan who lost her son and daughter at Vryheid's Lust, I believe on the road, a 17-year-old and 16-year-old, son and daughter. They always came to our outreaches in respect of the Guyana National Road Safety Councils' efforts. I remember Ms. Denise Dias, I think, from the Mothers in Black, who lost her daughter and many others. Of course, I would have to say last Friday, we launched for the first time in Berbice, in New Amsterdam, the National Road Safety month. The programme was initiated, headlined by a Ms. Heitmeier – a lecturer of the University of Guyana, who lost a leg as a result of an accident in February, only, of this year and she very poignantly said to us the great difficulty she has had to come to terms with it psychologically and then the physical impairment, the impediments and adjustments the family has to make in respect of the matter, is severely taxing psychologically, physically and emotionally in respect of the matter.

Going forward, we of course have to pay attention... And if I would say a bit more of the statistics… Our young people, as was said, between the ages of 15-34 are the most severely impacted group cohort. The cause of deaths by accidents in 2021, the year where we achieved less than 100 persons dying for the first time in 16 years, appears in the statistics, where it speaks largely of drivers speeding and drivers' inattentiveness, but if you merely look at the question of under the influence of alcohol, there is a much lower figure. It has to do, of course, with the issues, I believe, of the presence and the question of determining the blood alcohol content, the drive speeding, and the adrenaline rush which may come as a result of speeding by itself. Speeding and inattentiveness itself, in my belief and based on looking at previous statistics, has much to do with the use of alcohol in the absence of the instrumentation, calibrated, and I think we all remember an infamous episode and resort in the courts, which resulted in an escape from the required sanction in a particular case. The strengthening of the resorts and clearly having the ability, the instrumentation,

the equipment to ensure that the equipment on the road in the hands of the constable, as stated in the amendments, is critically important now.

I believe that we still have to tweak, and we have to bring clearly into the legislation, too, the issue of Field Sobriety Tests (FSTs), which is used in the United States of America, Canada, Europe and the United Kingdom (UK), as an additional resort which we have to bring better control on this matter. I note the reference of the upcoming Intoxicating and Liquor License (Amendment) Bill, which is related to the total issue that we are bringing on this front in respect of these matters in making our country and our roads safer. I have to suggest that the integrity and diligence of our law enforcement officers would come more into question, play and even for themselves, we would have to bring greater understanding and awareness in respect of the amendments to the legislation for the constables, for the policemen, for the law enforcement officers and I hope through the office of the Attorney General in respect of members of the Judiciary and others.

As I have been suggesting, we look forward by having these amendments and other resorts put in place to half the deaths by 2030, as the World Health Organisation mandates, as is required for the development of our country, the loss of life of particularly young people. But, of course, sometimes we say that they are young, restless, reckless, indolent sometimes and sometimes easy caught up in exciting things out there but much more work has to come into play in respect of this cohort and also of public transport operators, the minibus and taxi operators in respect of the question and drinking and driving which is observed in the buses and in the taxis while persons are being conveyed. There is much more work which has to be done at the levels of the police, self-regulation by the minibus route operators, and of course the personal responsibility, which has to come in play in respect of the driver, the person who is handling the wheel to take his passenger, the person who he relies on to bring him an income so that we could be all safe.

I think much has been said on this question. It is of course regrettable, again, that the Opposition barring one Mr. Shuman, has absented itself from a pivotal debate in respect of protecting the young Guyanese people and has preferred to take itself out of the play, out of the debate, out of the discussion on developing our country and protecting our citizens and making sure that we could handover a new, better and safer generation to the next group of Guyanese – our children.

With that, of course, again, I want to thank the speakers before me, the Attorney General, the Cabinet, President Irfaan Ali, and others who have been very strong on this matter, and that we look forward to bringing all our collective efforts from the Ministry of Education, from the Ministry of Human Services, and of course from the Attorney General's chambers in respect of making this work so that we arrive at the end of the decade at a half, or much less than half in respect to deaths on our roads. Thank you, very much. [*Applause*]

Mr. Nandlall (replying): I rise to conclude the debate on this Bill and, of course, thank my Colleagues for their remarkable presentations and their unflinching support.

I want to echo a point made by the Hon. Minister of Home Affairs, and that is to lament the absence of the Opposition. Today, we are debating some of the most crucial pieces of legislation in our National Assembly. The Opposition elected here to represent 49% of the electorate, other than the Hon. Mr. Shuman, chose to be absent, and no one knows why. They run around this country to tell people that they are suspended wrongfully, not disclosing that they attempted to break the Mace, steal the Mace, destroyed the loud speaking equipment in the National Assembly, disrespected Your Honour, ignored your ruling, assaulted the staff Members of this National Assembly, and jumped around this arena without your permission, dancing, gyrating, wining and blowing whistles. They convey the impression out there that by that suspension, thousands of their supporters are deprived and denied the opportunity of their representation.

What is the excuse today with the remainder of them who are left? A motion that clearly did not qualify under the ruling of every Speaker since Independence has an urgent motion of public importance. It also collided with the Standing Order that speaks to Bills that are in the House for debate and that motions must not anticipate discussions that will flow from these Bills.

3.30 p.m.

We have two Bills dealing with the identical issue that the Leader of the Opposition wants us to discuss, an issue that is not new and an issue that is the direct subject of two Bills and possibly the third Bill – Constitutional Reform. Because they do not get their way, in open disrespect again to your Honour's ruling, to openly disrespecting the Parliamentary process, they decide to pack up and leave, abandoning their responsibility, abandoning their duty to represent those who voted for them.

Their contribution to these Bills would have been considered valuable for the people of Guyana. It is not only Government supporters that are affected by road traffic problems. The death on the roadways do not affect one segment of our population. They have decided for no apparent reason, after three months of vacation, still they are not prepared to work but receiving money. My Colleague over there is saying that they ate before they left, and it is duck curry again. I hope that the people of Guyana are observing and that they will recognise, I know that they are recognising, that this is the lowest ebb of Opposition politics in independent Guyana. This is the lowest ebb to which we have descended.

The other point that I wanted to make is, Mr. Speaker, a lot of attention has been drawn to deaths caused by road accidents and, of course, that point cannot be overstated. There are a large number of people in our country who are permanently disfigured, permanently maimed and permanently incapacitated and fundamentally deprived of their right to long and healthy living by road accidents. We must have those people in our consideration as well. We know of persons who have lost their limb. I did a road traffic case where a young beautiful woman from Mahaica was going to a wedding and was involved in an accident. Her face was completely disfigured, and her entire left side of her body crippled as a result of that accident. These are the persons who live in agony, who survived these accidents, but they live in anguish, in pain and in deprivation. This Bill and the one that will follow speak to these people as well and we have them in our contemplation as well because they, fortunately, have survived and they are listening to this debate. I believe that we should recognise what they have endured as well and say to them that our Government is taking corrective measures to ensure that protection is afforded to future generations and to insulate future generations from the misery to which they have been subjected as a result of road accidents caused by drunken driving.

Mr. Speaker, it is with great pride that I conclude this debate, it having received the valuable support of every Member who spoke on it. I thank you very much.

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

Question put and carried.

Bill read a second time.

Assembly in Committee.

Bill considered and approved.

Assembly resumed.

Bill reported without amendments, read the third time and passed.

INTOXICATING LIQUOR LICENSING (AMENDMENT) BILL 2022 – Bill No. 20/2022

A Bill intituled:

"An ACT to amend the Intoxicating Liquor Licensing Act."

[*Attorney General, Minister of Legal Affairs*]

Mr. Nandlall: Mr. Speaker, it is common ground already recognised that there is a connection between the Intoxicating Liquor Licensing (Amendment) Bill 2022 and the Bill that we just discussed and passed. These two pieces of legislation go hand in hand and cumulatively address the same Bill and that is, drunken driving and bringing legal regulation to the consumption, use and sale of alcohol with a specific dimension addressing potential drivers or drivers.

Again, like the Motor Vehicles and Road Traffic (Amendment) Bill 2022, this Bill introduces some concepts into our jurisprudence that are new to Guyana but have been utilised elsewhere. My sister, the Hon. Minister of Human Services, and I believe Minister Ms. Manickchand, the Hon. Minister of Education, both alluded to the positions which exist in different countries to which our population quickly adapt and, when they are in Guyana, for some reason they seem not to be able to comply with similar standards. This Bill introduces a series of regimes that are part of the law already in Europe and, in particular, North America. We are a travelled population, in the year 2022, most Guyanese would have visited New York, Toronto, and other cities in North America and would be fully aware of the strict regulatory framework and regime which exist in those countries in respect to the selling, consumption of alcohol, the regulatory framework which governs the premises where alcohol is sold and consumed and the regulatory framework that governs persons who are drivers and who want to consume alcohol.

The Guyanese public cannot claim ignorance of these concepts. While they are new to Guyana, most Guyanese who would have travelled overseas would have either interacted personally with this regulatory framework and see it at work or would have been informed of it by friends, relatives and families. All that this Bill seeks to do, in compliment with the Motor Vehicles and Road Traffic (Amendment) Bill 2022 just debated, is to connect in an institutional and legislative way, drunken driving and the consumption and sale of that substance that results in the drunken driving. The Intoxicating Liquor Licensing Act Chapter 82:21 makes provision for the granting of licenses for the sale of intoxicating liquor. It also provides for the regulation of such sale and the control of licensed premises. Naturally, this will be the Bill, will be the Act, rather that will have to be amended if we want to achieve that complimentary framework to support the Motor Vehicles and Road Traffic (Amendment) Bill that we just debated.

3.45 p.m.

There are 11 classifications of licences under the Act, these are: Off-licence, hotel licence, railway station or stelling liquor licence, spirit shop licence; restaurant licence; restaurant liquor licence; passengers' steamer liquor and tobacco licence; occasional liquor and tobacco licence; malt, liquor and wine licence; restaurant or parlour liquor licence; coconut rum or toddy licence; and members' club liquor licence. The amendments in this Bill are applicable to all the above licences and the respective licenced premises. Let me just dilate a little, for the purpose of explanation, on two of these licences for the public's edification. It is the occasional liquor and tobacco licences. The others, I believe, are self-explanatory, but this is the licence that is normally granted when a fair, bar-be-que or one of these one-off events is held in the community. This is the licence that one has to obtain before such an event is lawfully permitted. It goes along with a licence under the Music and Dancing Licences Act. That is the licence that allows for the playing of music at those events and permits dancing to take place.

When you are applying for these licences, or 'permission' as it is called loosely, to hold these events, what you are getting permission to do really is - you are being issued an Occasional Liquor and Tobacco Licence under the Intoxicating Liquor Licensing Act. You are getting licences under the Music and Dancing Licences Act so that you can play music and dance if you wish at those events. Importantly, those events and those licences are now part and parcel of this regime of amendments.

The amendments are intended to strengthen the provisions of the Act that prohibit drunkenness on premises licenced under the Act. The amendments also serve to curtail drinking and driving by introducing the concept of 'designated driver' into the Laws of Guyana. Simply put, a designated driver is a person who agrees to abstain from drinking alcohol and drives for one or more persons who have consumed alcohol. The purpose of having a designated driver is that it provides safe, alternative transportation for persons who chose to drink alcohol and promote safe driving. While new to Guyana, throughout the world, designated drivers are used, for example, as I stated earlier, in Canada, the United States of America (USA), Australia and several countries in Europe, including France, Belgium, Greece and the Netherlands, just to name a few.

The Bill creates mechanisms for the licence holders to take active roles in encouraging their patrons not to drink and drive. So, this targets the drivers, the potential drivers, the designated drivers, consumers at licenced premises, workers at licenced premises and, also, the owner or operator of those premises. In the Act, the expression 'drunken person' is used. However, the Act is silent on what a drunken person is. So, the substantive legislation, which is decades old, speaks to a drunken person but nowhere in the principal legislation does it define who is a drunken person or how one determines who is a drunken person. This Bill defines that concept so as to bring clarity in interpreting the relevant provisions.

Section 2 of the Act is amended to reflect that definition. It reads that a drunken person means:

> "… a person whose physical or mental conduct is substantially impaired as a result of the introduction of intoxicating liquor into the person's body and who exhibits those plain and easily observed or discovered outward manifestations of behaviour commonly known to be produced by the overconsumption of intoxicating liquor, and 'drunkenness' shall be construed accordingly;"

This definition, we borrowed from several states in the United States, including Delaware, Nebraska, and Alaska – to name a few – and, also, from a manual dealing with the topic in the Province of Ontario.

Section 52 of the Act prohibits a licence holder from knowingly employing or allowing any person to employ a person under 18 years old to supply, sell or assist in the sale of intoxicating liquor on

the licenced premises. The penalty for this offence is currently $2000 for the first offence and $6000 for the second offence.

Clause 3 of the Bill increases these penalties from $2000 to $500,000 in the first instance and from $6000 to $1 million for any subsequent offence. Mr. Speaker, this is directly aimed at the owner or operator of a licenced premises, or the licensee himself. This is to prohibit the employment of persons under 18 years of age in the selling or supplying of intoxicating liquor at any of the licenced premises. I go back again to draw the connection between this and the bar-be-que, the fair or the concert in the village on the weekend or the dance somewhere. The licenced premises applies to wherever the event will be held. This very rule, clause or section, when it becomes law, will apply to those events as well. I just want you to understand that this thing is not confined to the rum shops alone, the bars alone, the clubs alone or the hotels alone. It applies also to the events to which I have made reference. As Dr. Persaud said, the recommendation to expand beyond bars, hotels and licenced premises came from the Parliamentary Standing Committee on Social Services. This is to expand it to cover all these events across the length and breadth of our country which take place with regularity.

Clause 4 of the Bill inserts a new section 52 (a) in the Act. This new section requires the holder of a licence, under this Act, to verify the age of all persons. So, you have a duty to verify the age. When an underaged person is found at your premises, your defence cannot be that you did not know, or the person looks big, but they are only 14 years old. You now have a duty to verify the age of persons whom you wish to employ in your establishment. Verification of age is required for the purposes of sections 50, 51 and 52 of the Act. We already dealt with section 52.

Section 50 of the Act provides that the holder of a licence or his servant shall not allow any person under the age of 16 years to be in any bar on the licenced premises. So, if you are 16 years old and under, if you are under 16 years rather, you are not to be in a bar. The person who is operating that bar or who is licenced to operate or authorised by contract or otherwise to operate that bar, shall be made liable if you are found there.

Section 51 of the Act provides that the holder of a licence shall not knowingly sell, allow anyone to sell nor shall any servant of his knowingly sell, to be consumed on the premises, any intoxicating

liquor to persons under 18 years of age. So, you cannot sell, neither can you authorise the sale, nor can any servant or agent of yours sell alcohol to any persons under 18 years old.

Section 52 of the Act prohibits a licence holder from knowingly employing or allowing any person to be employed, under the age of 18 years, to supply, sell or assist in the sale of intoxicating liquor on the licenced premises. So, this is one regime of the regulatory framework unfolding, dealing with young people and prohibiting their employment, their presence and their consumption of alcohol at bars or licenced premises.

Section 54 of the Act imposes on the holder of a licence, the obligation to prevent drunkenness, violence and quarrelsome or riotous conduct on the licenced premises. The holder of a licence is prohibited from selling intoxicating liquor to a drunken person. This is already the law and that might come as a shock to persons listening to me, simply because we are aware that there is a different reality out there.

4.00 p.m.

Currently, the law is tha**t** they must not sell, tolerate or permit drunken persons, violence, quarrelsome or riotous conduct on a licenced premises. That is already the law. One cannot sell intoxicating liquor to such a person. That is already the law, but we know that law is observed in reality more in its breach across the length and breadth of our country. We all know of drunken persons being sold more liquor. We all know of rowdy persons, who are conducting themselves in what can be described as riotous conduct, being permitted to remain on licenced premises and, worst yet, being sold more liquor. All of which are current criminal offences.

Clause 5 of the Bill seeks to amend this section by expanding the obligations currently placed on the licence holder. In addition to what is there, we are now adding and then we will add penalties for breach, not only of what is extant but what will now be part of those obligations which the license holder must comply with.

The licence holder will now be required to do the following: One –

> "(b)…not… give or barter intoxicating liquor to a drunken person;"

Two –

"(c) not allow another person to sell, give or barter intoxicating liquor to a drunken person within the premises;

(d) not sell, give or barter intoxicating liquor to a person he knows is likely to leave the premises by driving a motor vehicle unless that person has identified another person to be the designated driver of the motor vehicle;

(e) not sell, give or bater intoxicating liquor to a person identified as a designated driver…;

(f) ...inform the nearest police station and request their immediate assistance;"

If a drunken person is attempting to drive or is in charge of a motor vehicle, these are now the new conditionalities that will be attached to the licence. It is not finished.

"(g) conspicuously post signs on the premises that discourage drinking and driving; and"

Lastly,

"(h) ensure that announcements are made, on the premises, at regular intervals that persons should not drink and drive;"

This is the new regime of measures that will now be implemented and made part of the law and licence owners and users of those premises will now be bound by this regime.

Subsection (2) of section 54 is also amended to increase the fines for breach of these obligations by the licence holder from four thousand to one hundred thousand dollars for the first offence and from ten thousand to two hundred thousand dollars for a second offence. The licence holder, as I said, new penalties are being imposed for violation of these obligations.

Additionally, two new subsections are inserted into Section 54, namely subsections (3) and (4). Subsection (3) provides that the obligation of a holder of a licence set out under section (4) shall apply with the necessary modification to the holder of a licence granted under the Music and Dancing Licence Act Chapter 23:03. That is the point I was making earlier. So, when you apply for the Music and Dancing Licence, you will be bound by these same conditionalities.

Section 56 of the Act in its current form empowers the licence holder to refuse to admit a drunken person on the premises or to turn out a person who is drunk, violent, quarrelsome or behaving

disorderly from the premises. Further, the licence holder may exclude any person from the premises whose presence on the premises will subject him to a penalty under the Act. The power to refuse to admit in the Act is currently discretionary.

In the Bill, we are changing that word "may" to "shall" to make it mandatory. Licenced premises and their holders and obligators must exclude from the premises drunken persons or persons who are behaving in this manner or in relation to the obligations. Again, we have a new regime of fines that will govern this mandatory obligation and we are increasing from six thousand, again, to one hundred thousand dollars for a person who refuses either to leave when 'the man' tries to get him out or refuses to put out the person who is a drunken person from the premises.

As I said in my opening remarks in relation to the Motor Vehicles and Road Traffic Amendment Bill, I am not oblivious to the challenges with which we will be presented in the application of these amendments when they become law and their enforcement. When we were drafting them, we were acutely aware of those ramifications, but we have to start somewhere. Growing up in rural Guyana, I know what happens in what are called 'rum shops', which litter the length and breadth of our country. I know the herculean task that we are shouldering. For operators of those establishments to tell a man that he cannot drink if he is driving or to tell a man, when he is drunk and he comes to buy a bottle of rum, 'I am not only selling you and you must get off my premises', exposing that bar owner or that rum shop owner to the peril of criminal conduct, if there is non-compliance. I know the difficulty and we know the difficulty as a collective that will flow from a bar owner calling the police to say, 'vehicle number so and so just left my premises and the man who is behind the wheel or the woman who is behind the wheel is drunk, and I want you to stop that vehicle'.

We are not unconscious neither are we unmindful of the deep ramifications, consequences and difficulties which will flow from trying to enforce these new measures. It is a cultural change that we have to pioneer here. It is a complete change in attitude, in behavioural pattern. It is a new social dispensation which has to be embraced. It is a new level of education and public awareness that we will have to embark upon if we want to achieve the desired objectives of saving lives and saving limbs on our roadways. I believe as challenging as it is, we have reached a level of maturity in our society where we can do this together, but it has to be done together. This cannot be the job of the Guyana Police Force alone, neither can it be the job of the bar owners alone. We as

consumers and as visitors to those bars or patrons to those bars must understand our legal duty and our responsibilities under the law and to society itself and behave with the requisite restraint. These Bills have nothing other than the public good and the preservation of a safe and healthy society in mind, nothing else.

The regimes are new, they may be harsh. The enforcement regimes may be difficult and technical to execute but, once we join hands together and we recognise the utilitarian nature of these initiatives, then I have no doubt as a country and as a society we will successfully pilot the execution of these Bills when they become law. Mr. Speaker, with those few remarks, I ask that the Bill be read a second time. [*Applause*]

Mr. Benn: I can only stand in support of the Hon. Anil Nandlall, Minister of Legal Affairs and Attorney General, in supporting this Bill - the Intoxicating Liquor Licensing (Amendment) Bill 2022. Our Attorney General has gone through, in great detail, the amendments to this Bill which are required to be supportive to the Bill that we just passed in the Parliament, previously and, also, overall, to bring us to a new culture in respect of issues relating to the sale of alcohol in various establishments under the Intoxicating Liquor Licensing Act. Sometimes, we have difficulty in the Ministry, its departments and its agencies in relation to how do we respond to issues relating to that section of violent crime which we term disorderly crimes – murders, assaults and other things related.

Also, to the question of the driving which we were considering, just previously, the Hon. Attorney General had spoken to, perhaps, the culture, the architecture, the behaviour and the presence of a large number of liquor dispensing establishments in the country. I may have to add to it the questions of how do you in other communities and in places where they are completely unlicensed, the additional effort which has to be made in respect to getting the bar owner, the waitresses and the waiters to be the ones who are at the point on the spare, as it work, in terms of determining whether they should give more drinks, more shots, or another grenade – I think they call it – to a drinker, when they should bring his imbibing to a stop at the risk of reducing the total income of the establishment.

4.15 p.m.

The questions of culture, the question of public drunkenness…If you go to some places, in particular on weekends and in the evenings, and to the clubs, you get the impression that we are headed to a culture of drunkenness, to use the term in the amendment Bill. The two amendment Bills, the one previously passed, which is now an Act, and particularly this one which we are considering, for which the Hon. Member, Mr. Nandlall, has clearly adumbrated the risk and the opportunities in respect of it, the responsibilities which go with it, and the imperatives and the requirements of all going forward along this pathway in respect of enforcing this, are again very significant. It is indeed conjoined with the previous Bill, now an Act, in respect of drinking and driving.

In thinking and in passing just now…and I want to apologise for not having the opportunity to speak to the Hon. Attorney General. I think, perhaps by way of an amendment, we can consider quickly the issue of persons who, in the riverine areas, may imbibe and then operate a motorboat. I believe we have had a significant number of issues in relation to that issue, as not only necessarily driving a vehicle but also a watercraft and being intoxicated while doing so. There is a significant proportion of our people in the various rivers – the Pomeroon River and all the others, of course, Bartica and other places – in respect of this issue. I think it would aid, too, on the question of determining the age of persons going into the establishments, problems with trafficking in persons (TIP) and problems with respect to the abuse of minor and underage children. The overall environment at the establishments should change as a result of the intervention in terms of this Bill.

I do not want to continue for much more on the issue. I think the Hon. Attorney General has adumbrated on the matter clearly and sufficiently, but in closing, I want to say a little thing. A long time ago, in the Wapishana country, a man of Akwero left an establishment drunk and took off. I have to admit I was there, but I am still not a drinker. He went off riding his horse to go to another place. Somehow in his drunken state, the horse took him to his home where he confronted his wife and asked her, how did I get here? I was not supposed to come here. Of course, he was assaulted, verbally and physically, to our amusement later when the story was related to us. It is just to say that drinking and driving while using different forms of transport would have to be somehow taken into consideration. Hon. Member, Mr. Nandlall, the one I would like you to take under

consideration now, with all apologies, is the issue of using the speedboats, the water taxis, while intoxicated. Thank you very much, Mr. Speaker. [*Applause*]

Mr. Speaker: Thank you very much, Hon. Minister Benn. I now call on the Hon. Deputy Speaker, Mr. Shuman.

Mr. Shuman: Thank you, Mr. Speaker. I first want to commend the Hon. Attorney General, before he takes his two-minute break, on putting this Bill before the House. I follow my parliamentary colleague and Minister of Home Affairs, the Hon. Robeson Benn, and I follow all of my colleagues on the opposite side of the House in terms of the support.

It was February, 2020, when I quipped about the first assassination attempt on my life. I say I quipped because it was jokingly so. It had to do with the very same matter we are discussing today. We were on the campaign trail. The shop that was selling alcohol was probably not regulated. The boat driver was intoxicated, we could not find another one, and I could not operate a vessel. This was up in Mabaruma. The boat driver hopped into the boat – we really did not have much of an option – and he started to drive, and he was intoxicated. He fell asleep at the wheel and drove us into the bush. Luckily enough, someone who was seated right next to him took the wheel and steered us back into the middle. I got a solid hit with a dry branch, and I quipped about that being the first attempt on my life. I say that because so many of us sometimes watch all of these things happen and say nothing.

The Attorney General is quite correct in that the responsibilities to ensure that these laws are not only enacted but also enforced lie on all of us. When we stand or we sit and watch things go and we say absolutely nothing, we then become party to people's indiscretions and to their wrongs. We subscribe to that and then we expect something different. As a country that is on the up and up, evolving with massive changes, not only infrastructurally but economically, we cannot build a new country and we cannot build a new Guyana on old attitudes. It is time that we, as a country, start to revise the way we look at things. I know that the current dispensation, I would say the current People's Progressive Party/Civic administration, had a five-year break. It is a rhetorical question when I ask, why did it take this long to get here? These laws have been enacted in many developed countries for decades. Why did it take so long to get here?

I want to ensure that the people who are watching or listening and my parliamentary colleagues understand that this Bill has my 100% support. I have seen what alcohol has done to many families, not only on the coast but in many Indigenous communities also. It is my sincere hope that with this Bill coupled with the previous Bill, the one that deals with drunk driving, the requisite support comes from the Government for the Indigenous leaders in Indigenous communities to address and enforce these very same laws that we are enacting in the Parliament. I remember through the years 2018 to 2019, under the previous Administration, the significant difficulties that existed in Baramita when the Toshao at the time sought to stop a vehicle that was entering the community loaded with nothing but alcohol, only to be overridden by not only the politicians but also by the police. I know because she called me. While it is nice for us to enact all of these laws, and I say that there is quite a lot more that is needed for us to deal with a lot of things nationally, it is my sincere hope that the Government also offers the kind of support to Indigenous communities, especially the leadership, to ensure that they are no cracks, and that when support is called for it is there. As I said, I have seen what alcohol has done to families. I have seen it not only in my community but many other communities on the coast and in the hinterland.

I want to, once again, thank the Attorney General for presenting this Bill and offer my 100% support. It is my sincere hope also that he takes on board the proposed recommendation for amendment, as was offered by the Hon. Minister of Home Affairs. With that, Mr. Speaker, I thank you and the Bill has my support. [*Applause*]

Mr. Speaker: Thank you very much, Deputy Speaker. To conclude, the Hon. Attorney General.

Mr. Nandlall (replying): Thank you very much, Sir. I want to echo my deepest gratitude to the Hon. Minister of Home Affairs and the Hon. Deputy Speaker for robustly supporting the Bill that is before us. I have listened carefully, and I wish to express my full agreement with the recommendations that both the distinguished Members have made, and I will try as far as I possibly can to accommodate that request.

There is one last point that I believe should be placed on the record, and it is directed to our brothers and sisters in diaspora who are now returning home with commendable frequency and in large numbers. We have, earlier today, under the hand of the distinguished Minister of Home Affairs, laid before this House an Order which permits the use of a driver's licence issued in another

country to be used in Guyana for a period of six months, I believe. I wish to respectfully remind our brothers and sisters from the diaspora and generally visitors to our country that when they come and that new facility is extended to them, they will obviously be allowed to drive. Even if they decide to stay beyond that and get a temporary driver's licence from the Guyana Revenue Authority (GRA), they would be expected to comply with this new legal dispensation.

We spoke at length in different presentations about this regime of regulation existing in the United States of America (USA), in Canada, in Europe and in many jurisdictions from which these persons will come. We expect, obviously, that they will comply willingly with these new provisions that will become part of our laws in due course. Obviously, it will not be a difficult experience for them because we know that in many of the jurisdictions in which they permanently reside it is part of the laws of those jurisdictions. I just thought I should put that on the record of this debate for completeness. The Bill having received the support of all those who spoke on it, I commend it for passage by this National Assembly. I thank you very much, Sir.

4.30 p.m.

Question put and carried.

Bill read a second time.

Assembly in Committee.

Bill considered and approved.

Assembly resumed.

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

Mr. Speaker: Hon. Members, I think this is a good time to take a very short suspension of half an hour. We still have quite a bit to do for the rest of today's sitting.

Sitting suspended at 4.34 p.m.

Sitting resumed at 5.27 p.m.

Mr. Speaker: Thank you, Hon. Members. Please be seated.

HIRE-PURCHASE BILL 2020 – Bill No. 14/2020

A Bill intituled:

> "AN ACT to make provision for the regulation of hire-purchase, credit sale and conditional sale agreements and for related purposes."

[*Minister of Tourism, Industry and Commerce*]

Mr. Speaker: I am just checking with the Hon. Minister of Parliamentary Affairs and Governance and Government Chief Whip. Are we proceeding with the Hire-Purchase Bill 2020?

Ms. Teixeira: My apologies, Mr. Speaker. We will defer that to another sitting please. We could go to the Suicide Prevention Bill 2022.

Second Reading of the Hire-Purchase Bill was deferred.

SUICIDE PREVENTION BILL 2022 – Bill No. 11/2022

A Bill intituled:

> "AN ACT to make provision for the prevention of suicide, for the establishment of a National Suicide Prevention Commission, the functions of which shall include the preparation of a National Suicide Prevention Plan consisting of policies and measures to be implemented for the prevention of suicide, for the provision of Suicide Prevention Centres to provide support services including counselling services to suicide survivors and persons contemplating suicide, and for related matter."

[*Minister of Health*]

Minister of Health [Dr. Anthony]: Thank you very much, Mr. Speaker. Hon. Members, I rise to present the Suicide Prevention Bill, Bill No. 11 of 2022. The standardised rates of suicide in Guyana are relatively high as compared to the global and the regional averages. While successive governments have worked on this problem and recorded modest improvement, this Government, the PPP/C, has decided that it is time that we have a dedicated, multisectoral team that would work consistently to reduce deaths by suicide. This Bill provides for the establishment of the national

suicide prevention commission which would be responsible for developing a comprehensive suicide prevention plan.

This Bill also provides for the decriminalisation of attempted suicide. This was a call that was consistently made by the PPP/C and several non-governmental organisations such as the Caribbean Voice and Prevention of Teenage Suicide. This call, as you would recall, Mr. Speaker, was reinforced when the PPP/C, while in Opposition, brought a motion to this Parliament in 2016. We brought that motion, we debated it but, unfortunately, nothing happened. The A Partnership for National Unity/Alliance for Change (APNU/AFC) in 2017 held a parliamentary consultation, I think on 5th July, 2017, but after that consultation, while this matter was again raised, nothing happened. So, it is these that attempted suicide being a criminal offence remains in the Laws of Guyana. This Bill, once enacted, will decriminalise attempted suicide by removing the relevant provisions of the Criminal Law (Offences) Act, Chapter 8:01 and the Summary Jurisdiction (Offences) Act, Chapter 8:02. The Bill also complements the recently passed Mental Health Protection and Promotion Act which replaced the antiquated 1930 Mental Health Ordinance.

Suicide is a serious global public health problem. Every 40 seconds a person takes their own life, which means that at least 800,000 suicides occur worldwide every year, and for every completed suicide there are at least 20 attempts at suicide. These attempts frequently end with persons being psychologically, physically, and sometimes socially traumatised. A large portion of this loss of human life could be prevented but this does not happen. In 2019, in the region of the Americas, suicide accounted for 97,339 deaths. Of this, 74,918 were men and 22,421 were women. The number of deaths from suicide increased by 56% from 62,401 deaths in 2000, to 97,339 deaths in 2019. In the Americas, Guyana, Suriname, Uruguay, the United States of America and Haiti are among the countries with high suicide rates. In the United States of America, suicide is the tenth cause of death, costing the healthcare system in the United States of America approximately $44 billion annually.

In Guyana, progress has been made in reducing suicide from 222 deaths in 2015 to 165 deaths in 2021, and the numbers for 2022 look even more promising. Up to October of this year, we have had 100 deaths, which is still a lot, but it has reduced from the previous numbers. The suicide statistics between 2017 and 2021 show that the number of deaths dropped from 184 in 2017 to 165 in 2021. All regions saw a decrease in deaths except for Regions 3 and 10.

Suicide affects all races. East Indians, however, account disproportionately for about 70% of all cases while the remaining 30% is divided among Africans, Amerindians and others. In terms of sex, four-fifths of the cases are males. In terms of the age disaggregation, in the last five years, most of the deaths by suicide occurred in the age group 15 to 19, with 11.6%, and between the 20 to 24 age group with 13.5%. This was followed by the 25 to 29 age group at 9.8%, and 40 to 44 age group with 9.4%. The most common means of suicide in Guyana is the ingestion of poison, pesticides or organophosphates, followed by hanging, self-suspension and strangulation or suffocation, and other causes such as firearms. These statistics have been used to develop strategies and intervention plans over the years.

The last plan that we had, the *National Suicide Prevention Plan 2015-2020,* was developed under the Hon. Member, Dr. Ramsaran, and was published by the APNU/AFC under Dr. George Norton. A review, however, of the plan, which was done by the Pan American Health Organization (PAHO) in 2021, shows that many of the things that we wanted to do when that plan was first conceived in 2015 were not accomplished. Some of those things include legislative changes, implementing new governance structures, setting up new systems for data collection and, of course, expanding clinical services so that we could identify persons who need support and persons who need treatment.

Nevertheless, what we intend to do now with this legislation and the next plan that we will develop is to take corrective action so that we could further reduce the cases of suicide. Best practices worldwide have shown that one critical component of a successful suicide prevention programme is restricting the means to inflict self-harm. Based on data collected over the last decade, there is a need for us to restrict pesticide and herbicide, especially for persons with suicidal thoughts and ideation.

5.37 p.m.

Over the years, under the Pesticides and Toxic Chemical Control Act and its attendant regulations, we have sought to limit access to pesticides and herbicides for persons who might be affected and have these suicidal thoughts. We have, through this body, been able to implement programmes so that we can increase or put mechanisms in place to have vigilance in terms of storage and in terms of distribution of the chemicals. By doing this, we are able to reduce the number of cases.

Another very important thing is that if we are going to be using some of these pesticides and herbicides, one of the things we have to ensure is that we have the antidotes to these poisons. This is something that we will be collaborating closely with the Ministry of Agriculture on so as to ensure that we develop a poison prevention centre in Guyana with the relevant antidotes to the pesticides and herbicides that we will be using. Another area where we can reduce harm is to restrict access to firearms. This has been adequately covered in the Firearms (Amendment) Act. The current Bill interconnects with these two pieces of legislation. In this current legislation, while it makes reference to these other pieces of legislation, we did not put it specifically in this Bill. But it makes reference to the legislation.

As I have said before, Part II of the Bill speaks to an innovation, and that is the establishment of the national suicide prevention commission and its functions, its composition, and what we intend this new body to do, and that is basically to make the national suicide prevention plan and to make sure that it is properly implemented. One of the things we know is that if we are going to do these plans, we have to look at the factors that are causing suicide. When we look at the factors, we can group them broadly into two areas. Those are distal and proximal factors of suicidality. The distal factors would include if a person had adverse childhood experiences; stressful life experiences; a family history of attempted suicide; psychiatric pathology, such as mood disorders, anxiety disorders or psychotic disorders; and maybe a history of suicidal thoughts and behaviours; or if they had a recent attempt by a friend or a family member to commit suicide. These distal factors can affect how people behave.

Of course, there are proximal factors such as psychiatric illnesses, chronic medical illnesses, psychological stress, and availability of means to commit suicide. Despite these advancements in understanding these factors, one of the things that is very potent as a risk factor is if somebody attempted suicide in the past year. If they attempted suicide in the past year, more than likely, you could see them attempt, within the year, to try again. This is why we need to put mechanisms in place to ensure that they are treated and that they receive the relevant counselling. One of the things that this legislation contemplates is building the mechanism to extend healthcare for persons who are affected by this.

Parts IV and V of the Bill speak about how we would be able to do early diagnosis of suicide, what are the tools that we can use to make those early diagnoses, and then, having made the early

diagnoses, how we can treat persons with these problems. As it is right now, for persons who are affected by these things, like depression, when they come to our primary health care centres, most of them go unrecognised. What we need to do is train more people at the primary healthcare level to be able to detect depression and anxiety. If we are able to do that early detection, then obviously we will be able to treat these persons. Parts IV and V contemplate how we will expand these types of services to ensure that persons who are affected could have more access to healthcare. It also contemplates a process of how persons can be referred and how they can receive further treatment if they are seen at the primary healthcare level and need specialist services.

When we identify someone who has problems with depression or anxiety, it is not only about treating that person with medicine, but it is also sitting with that person and their family to work out how to reduce the harm that can be around that person's home. For example, when you do the interview with such a patient, they would probably tell you that they are thinking about committing suicide, the methods that they would like to use, and so forth. If that is the case, then we will have to work with them and the family to remove those means of committing suicide. And so, creating a safety plan for a patient is a very important part of reducing harm to that patient. This is not something that we have been doing, but this is one of the new techniques that are available now in how to work with patients to prevent suicide.

Another way of helping patients is that apart from their psychiatric illnesses, such as depression or anxiety or psychosis, while we treat these patients for these illnesses, it is also important that if they have suicidal thoughts, we work with them in terms of cognitive behavioural therapy. There are various forms of cognitive behavioural therapy that can be used. When we talk about suicide prevention centres in this Bill, the understanding is that we will be training a lot of persons who would be at these centres and who would be trained to be able to do cognitive behavioural therapy, which has been shown as an evidence-based method to reduce suicide. In combination with treatment and this type of therapy, we would be able to help people through the acute phases and eventually return them to some level of normalcy. This is what this Bill contemplates, and this is something that you will see happening as we unfold this new type of therapy.

Another area that we often times do not think about is what happens to the family if somebody completed suicide. Bereavement support is a very important component. One of the things that this Bill contemplates is to be able to provide this support to the family of persons who have

committed suicide. Very often when you interview these family members, they believe that they could have done something, that they should have been able to detect these signs and symptoms, and very often they blame themselves for not being able to detect this. By blaming themselves, they feel guilty, and they themselves can become very vulnerable. It is very important that we provide bereavement support for family members. This is something that this Bill contemplates and something that we will be putting together. It also contemplates having a 24-hour helpline. Right now, we do have a helpline, but it is not working as effectively as it should. This is something that we will be working on to make sure that we have 24-hour coverage.

In addition to that, this Bill also contemplates that if people need help, we will be able to respond very quickly and send a team out to those persons who need help. Earlier this year, we implemented a system like that where we have a quick response team that can go out and help patients. In fact, for this year, we have been able to respond to three persons who really required help. The team went out and brought those persons in to the hospital and we were able to work with them and treat them, and so averted what might have been a completed suicide. But we need to extend this type of work, and it should not only be in Region 4 but we should extend it to the regions where we see a lot more suicide. We are going to work to make sure that these types of services are developed in those regions.

One of the things that we have been working on over the last couple of years is to do better research in terms of understanding some of the factors relating to suicide. We have had a partnership with Columbia University, and we have a five-year longitudinal study that is ongoing. It has several components in terms of understanding the factors for suicide in Guyana. While we are looking at these factors, one component deals with going to the family and doing what is called a psychological autopsy, that is, interviewing family members to see whether or not they were detecting signs of suicidal behaviour, but probably did not understand these signs. By gathering that type of information, we would be able to develop programmes that are more evidence-based so that we can respond appropriately.

From the scientific literature, there have been some studies that show that there might also be a genetic component to some people being more vulnerable to suicide. Part of this study is to collect saliva samples so that we can do the genetic testing to see whether we can find a marker or a gene

that makes people more vulnerable. This is a study that will be going on for the next three to four years, and we will be able to get a better understanding of suicide in Guyana.

In addition to this particular study, we have another one where we are looking at…and earlier in the day we were also talking about road accidents and the causes of road accidents. There is a percentage of accidents that might be caused by persons who might want to display some type of suicidal behaviour. But very often when they crash and they come into the hospital, we do not think about them as suicidal. We have a different study that is going to look at trauma and injury in our accident and emergency departments of our hospitals to see whether or not there is a subset of patients who have displayed this type of tendency. There is a lot of research-based work that is ongoing, and once we finish these works, we will have a better understanding of how to treat with some of these problems. We have had a lot of support from a lot of technical experts in crafting this Bill. On the medical side, we have relied on the Pan American Health Organization (PAHO) and its expertise, both in Guyana and in Washington, and we have been privileged to have some of their mental health experts, such as Dr. Caetano and Dr. Renato Oliveira e Souza.

5.52 p.m.

These are all experts in the field of mental health and in some ways in suicidology. They have contributed to us crafting this Bill. We have also benefitted from the expertise from the team from Colombia University who helped us to review the technical aspect of this Bill and in some ways helped us to strengthen aspects of the Bill. We have also benefitted from the expertise of the Psychiatrist at Northwell and a retired Psychiatrist who used to practice at St. Joseph Mercy Hospital, Dr. O'Connor, who kindly reviewed the Bill and made suggestions for strengthening the Bill.

We had the local experts here – the team from the Ministry of Health in the Department of Psychiatry; we had a number of non-governmental organisations (NGOs) that also reviewed the Bill – and we took their inputs and strengthened the Bill. Of course, all of this we put together, we took it to the Attorney General's Chambers and the Attorney General (AG) and his team have helped us to put the Bill in the legal format and made sure that we are able to bring it here today. I am indeed grateful to all lot of people who have contributed to the Bill and a lot of people who, over the years, have advocated for us to have such a Bill and for us to decriminalise attempted

suicide. That is because if we criminalise attempted suicide, we are not helping people, we are doing people more harm. In the modern progressive way, we need to decriminalise it, and this Bill would certainly decriminalise suicide and make sure that we can help those persons who need help. Thank you so much, Mr. Speaker. [*Applause*]

Mr. Speaker: Thank you very much, Hon. Minister. Our next contributor is the Hon. Minister of Human Services and Social Security.

Dr. Persaud: Thank you, Mr. Speaker. I rise in support of a comprehensive and transformational Bill which seeks to decriminalise suicide and to address a serious public health and social issue that continues to provide nationwide challenges through a slew of sweeping measures which are people- and service-centred.

Today, I am confident that this Bill will enjoy the support of Guyanese across the length and breadth of Guyana. I am aware that in this House we all stand united behind this Bill. I remember the People's Progressive Party/Civic brought such a motion to this House in 2016. In fact, I was the one who brought this motion to the House, on behalf of the People's Progressive Party/Civic as an Opposition Member. From then to now, we have had to wait to join the number of countries that have already decriminalised suicide. In fact, 20 countries, right now, in the world have not decriminalised suicide. We have now reduced that number because I am pretty sure that this Bill brought by my colleague, the Hon. Minister of Health, Dr. Anthony, will enjoy support.

This Bill answers many issues and addresses many critical areas. I believe it is pertinent at this point in time because, in our country, we are still challenged by persons who self-harm and who attempt suicide. Granted, the numbers are reducing; however, one life lost is one life too many. If we are to ensure that people stop attempting suicide, every effort must be made to look at every loophole, every gap in a support structure, so that persons out there understand quite clearly that attempting suicide is not a crime, but we get it – it is an appeal for help. That is what this Bill offers. By ensuring that there is a commission that focuses entirely on suicide prevention, the Government of Guyana is clearly stating an intention to address the many facets that contribute to suicide in Guyana.

This commission will be comprised of a number of persons so identified within the legislation, and every iota of their work will be geared towards ensuring that there is an efficient and an

effective service to tackle the many reports that come to the sector. In 2016, many of these were advanced in this House, to form a committee, to have the resuscitation of the Gatekeepers association, to look at pesticides access and security, to look at counselling, to look at so many areas that would have been key at that point in time, in the reduction of the numbers of cases. In fact, in 2015 to 2017, we had the highest spate of cases of suicide. What was alarming at that time was the escalation of numbers among young people – young people between the ages of 16 to their early 40s. It was felt that it was imperative to address suicide that, somehow or the other, seemed to be entrenched in our country for a very long time.

Needless to say, that motion was opposed in its entirety by the then APNU/AFC Government, with no rational reason being given. I am very heartened that, within two years of our Government's existence, this has been on the front burner and here we are today, before the end of 2022, bringing a Bill that really, critically, addresses something that I think many persons out there in the community, whether they are part of an NGO, faith-based organisation (FBO) or the wider community would like to see. More importantly, this Bill has benefitted from the expertise of many persons. In conversation with my colleague, I am made aware of the many experts who wrote texts books, who wrote papers, who are the authorities in the world on suicide, being a part of the preparation and crafting of this Bill. It has benefitted from that level of international expertise, as well of sound local expertise in getting to this point where, today, we can have the Bill presented.

Within this Suicide Prevention Bill 2022, the commission does not only exist nor is it only composed, it is funded and that is an important thing. When we want to address a public health issue like suicide, we cannot do it without a budgetary allocation. One of the things that will jump out immediately in this Bill is that funding or budgetary allocations would have been provided within the ambit of the legislation towards tackling suicide. That is an important thing because it effectively equips the Commission with the capacity to train persons so that they can directly offer services in a myriad areas to address consequences of an attempted suicide. We do know, in the country, that while we might have data that represents the number of cases of persons who commit suicide, we are still struggling with data on attempted cases of suicide. Here again, this Bill addresses that. It addresses the fact that people who attempt suicide may do so repeatedly. It addresses the fact that when there is an attempted case of suicide the family and those closest to

that person should also be addressed – counselled and guided – so that we would not have an escalation of cases of suicide.

Another excellent intervention in this Bill is the suicide prevention centre. This allows persons to, again, have all the services that they would require in one place. This is not confined to one region. This is a decentralised initiative that will be able to effectively address persons who are grappling with suicidal ideation and mental health issues, notably depression. This is an important step in our country because we are taking the issue of suicide so seriously, that we are looking at it minutely, and taking it in a very detailed way in all of the regions across Guyana.

In addition to that, a slew of policies, strategies and programmes will emanate from the centre and the commission which will also affect every level of persons starting from the formative years, where people need to have a foundation on coping mechanisms, all the way to the adult years when persons will be bombarded by a variety of social ills, issues, and also the use of alcohol and drugs. It has been proven by a number of studies that alcohol and drug use have both been linked to increases in cases of suicide. Many of these causatives or triggering factors will be addressed through the passage of the legislation. Like all pieces of good legislation there is good, not as implemented but as enforced. So, it is important, as we pass this ground-breaking piece of legislation, that enforcement be very key so that we can have the kind of outcome that we want to see across the country.

In addition to what I have already mentioned, and my colleague has spent a lot of time on, the idea of a national suicide prevention plan is that it is not an idea. In 2016, I remember coming here in the House and lamenting that one of these plans already crafted in 2014 was never implemented. Here, now, we are looking at future plans and, here, now, we will definitely see not only the crafting of a national suicide prevention plan but the implementation of a plan that will enable structure and framework to be given to an issue that really causes much pain to everyone – whether a close person to someone who committed suicide or a citizen who reads of a loss of life – especially young people, women and men. It is really heart-breaking to see the kind of devastation left in the wake for the family to grapple with.

In addition to that, every piece of legislation, every plan, every strategy, every policy, requires education an awareness within the legislation itself. There are many measures that will be utilised

to educate the population, to raise awareness, and to ensure that persons are familiar with this piece of legislation and, also, the avenues of support that are provided within this very comprehensive, progressive piece of legislation. One of the things that I really like about the legislation is that it pays emphasis on reporting. Reporting is not something that happens as often as it should, thereby affecting data collection. Within this legislation, there is serious emphasis on reporting and reporting attempted cases, as well as those cases that would be defined as suicide. I carefully couched my language there. To ascertain whether a case is suicide, that is also within this legislation so that cases will not be ascribed as suicide unless so defined by the legislation. That is an important distinction as well.

6.07 p.m.

In addition to all of that, services have been catered for. I know that many people would like to not only have services, but effective, efficient services. From the hotline to the counselling avenues, to the support structure, all of that is contained within this Bill and there are guidelines on how these will be rolled out across our country. The commission is mandated to provide all the centres with medical practitioners, certified psychiatrists, counsellors, social workers and staff necessary to perform all of these functions. Children are also catered for in this piece of legislation, where their special needs are taken into consideration when it comes to cases of self-harm and attempted suicide.

I want to say that one of the areas which is relatively new to the legislative landscape of our country, is the enabling of suicide. That is catered for within this legislation where persons who enable someone else to take their life will face the full force of the law. People cannot enable or provide a way for someone to take their life. The law deals with it. The law deals with it condignly, as is emphasised in this piece of legislation. In fact, Part 7 of the legislation speaks to that. Persons will be fined $2 million to imprisonment for 10 years if they are part or party to someone taking his/her life. I think that, and many of the other things within the piece of legislation cannot overemphasise how seriously the Government of Guyana takes the issue of suicide.

I want to offer my full support. I want to say that, again, legislation remains legislation unless it is enforced, unless persons adhere to it. I want to encourage the wider Guyana to be familiar with this legislation. Many statistics have been shared by Dr. Anthony today, giving the narrative of

how suicide had rocked our country at different times in our history. We want to see an end to suicide. We want to see the curbing of the cases of attempted suicide, but more importantly, today is a landmark day with this piece of legislation, with the support I know it will receive from everyone here, again, except the persons in the Opposition who should be here for important pieces of legislation like this – except our Deputy Speaker, as always, who I am sure will support this – I have no doubt that Guyana will stand tall because today we decriminalise suicide in our country. Mr. Speaker, I thank you, and I thank my colleague for bringing this Bill to the House. [*Applause*]

Mr. Speaker: Thank you, Hon. Minister Persaud. Now, for the Hon. Member, Dr. Vishwa Mahadeo.

Dr. Mahadeo: Thank you, Mr. Speaker. First, I would like to congratulate our Hon. Minister of Health and the Government of Guyana for bringing this piece of legislation to the House. It is one of many that the Minister has already brought and many more that will be coming. What we are doing is ensuring that whatever systems we are putting in place, whatever it is we are doing for the good of Guyana, once legislation is necessary, we pass the legislation because the other side – except Mr. Shuman, of course – has a history of trying to undo what the People's Progressive Party/Civic has done, like in the case of the Berbice Regional Health Authority.

From the time of Minister Gail Teixeira to the current time of Minister Frank Anthony, suicide has been something that was paid attention to. Over the years, we have evolved, and we have worked, came up with different strategies, different plans. My two colleague MPs and Hon. Ministers have dealt with, in some detail, this simple piece of legislation, but I would want to share some of my experiences because I worked for a long time in Region 6. Region 6 used to be deemed the capital of suicide in Guyana whilst Guyana was the capital of the Caribbean and Latin America. I remember, when I came back to Guyana in 1990, there was a senior doctor on call when someone attempted suicide. The nurse called him out and his answer was that he wanted to kill himself. Why are you disturbing me? Call the police. That was the approach to suicide. That was the level of thinking at that time. We know, for quite some time now, that attempting suicide is someone calling for help. I think this piece of legislation deals with that not only effectively and efficiently, but also in a timely manner so that that call could be listened to. It could be heard, and help could be given. What did we do before? Things that were done and that in 2015 were shut down. For example, we had put systems in place and there was a lot of money, effort and time that were spent

with the Gatekeepers' programme where persons – I was personally involved in that –went to the families.

Like the Hon. Minister of Health said, it has been found that once someone attempts suicide within a short period of time, if they do not have the necessary counselling, if they do not have the necessary attention, if they do not have the necessary help, they would attempt it again, and again, until they are successful. Suicide is one of these things where when one is successful, one dies. They will keep on going at it until they die. The other thing we found is that, usually, in a family, if there is one person or two persons… I know of families in the Corentyne. In my own village – Number 66 Village – there is a family that had three sons and all three died by committing suicide.

Knowing all these things and not doing something about it, I think is also criminal. The Gatekeeper's programme was something that was implemented to deal with some of these – to go to these families. As both Ministers said, a family that has been affected by suicide not only does the family feel the pain and the trauma of losing someone, but in some ways, it is also a kind of stigma. Put everything together, the psychological trauma, the trauma on the family members, the trauma even on the villages, it is great. I am glad that, here, we have interventions by setting up the commission, by providing training not only to the doctors and to the medical personnel but also training in school, making things more simple for the youths, for the teachers, for the business places to be able to, if they identify someone, make the necessary reports so that timely intervention could be done.

We have spoken a lot over the years about suicide and attempts to deal with suicide, but all these things were not… We were just speaking about it, trying here, trying there. This has concretised all the efforts, concretised all the research that was done, all the ideas and the modern approach to suicide. I think we are well on our way forward. Not only are we doing modernisation of the health sector with more training of staff, with implementing new programmes, building new facilities, but we are also changing the legislative landscape of Guyana. Congratulations again to the Hon. Minister and the Government. Thank you, Mr. Speaker. [*Applause*]

Mr. Speaker: Thank you, Hon. Member, Dr. Mahadeo. Now, for the Hon. Member, Ms. Sheila Veerasammy.

Ms. Veerasammy: Thank you, Mr. Speaker. I would like to give my full support to the Hon. Minister, Dr. Frank Anthony, for bringing this Bill to the National Assembly. It is long overdue, and it is going to create a pathway through which we will all be able to provide support through systems and mechanisms that will help people who are in dire need.

Mr. Speaker, one life lost to suicide is too many. You may remember, my colleagues referred to it, and Dr. Vindhya Persaud ventilated a lot about the motion that was brought in this National Assembly. I remember, in amazement, when the Opposition, then in Government, voted that motion down. Today, had that motion not been voted down, perhaps some of this would have been in place and Guyana would not have found its place at the top of the list for Latin America and the Caribbean with the highest number of deaths per year. The PPP/Civic Government brought this Bill here today because it shows that we have the courage, the will and the stamina, and we are not afraid to put systems in place to tackle this psychosocial problem that is affecting so many people. I say again, we are going to work very hard because one life taken through suicide is too many. Charlotte Shaw stated in an April, 2022 edition of *ScienceDirect*:

> "Suicide is a major public health issue and reducing the global suicide mortality rate is one of the targets of the United Nations Sustainable Development Goals. It is estimated that 77% of all suicide deaths occur in low-and-middle income countries…"

Guyana is moving rapidly ahead, but we are still here. While the global rate of suicide has been decreasing, it has not been so for Latin America and the Caribbean. Guyana holds one of the top places. Our first suicide plan that the PPP/Civic Government had developed, which had aimed at reducing suicide by 20% by the year 2020, which has gone two years ago, never materialised. Instead, the suicide rate has increased dramatically over the last two decades. Data on suicide mortality from the Ministry of Health revealed that males accounted for 78% of all suicides because they use methods that are harsher – they hang themselves, they shoot themselves, they cut their wrists. Women use softer methods, so sometimes we are able to get them to the hospital and they are saved.

This Bill is very timely, and it will give the relevant authorities that will be put in place, that is the commission that will develop the plan of action, the support and the resources that will make it into a reality. I want to bring a slant to this whole discussion. I do not want to repeat anything that

Dr. Anthony said. I want to look at the humane side. All of us in here have had opportunity to interact with people who have lost someone, who have had their siblings, their wives, their husbands, their children, their parents end their lives by suicide. The problem that we have is that sometimes people believe that people who end their lives by suicide, the myth is, they want to die. Dr. Vishwa Mahadeo alluded to that, 'let them die'. This is not really so.

6.22 p.m.

It is because their families, their friends, their colleagues, their co-workers and their neighbours do not understand the triggers, the mental health issues that preceded the act itself. What happens is that we might say to someone, why are you being like this, why can you not be like others? The more we try to compare the people who are experiencing the pain, the anxiety, the frustration and the depression, to be like others, we contribute to pushing them further down into that black hole.

There is a young lady that I know. When I met her, it was through the 2018 Local Government Election. She raised her hand to shake mine and I saw all these lines on her hand. To be honest, I have never seen it before; I only read and heard about it. On that day I took her under my wings and started to offer that moral support that she needs. I must say that today she is in a better place. Yesterday I called two young men and I was having a discussion with them. One of them said to me that he attempted suicide because he has had enough. I said what did you had enough of. He said that he has had enough of the beating, trashing and abuse at home and had decided that he was not going to cope with that no more and he drank the monocrotophos. What was lucky for him was that he had ate his dinner already, so when he started to vomit his mother asked him why he was vomiting, that no one else who had eaten the food had vomited, then he said that he drank monocrotophos. That was when he was 15 years old. He knelt on the ground, he held on to his mother's hand and he started to cry – this is the story he is telling me – and he started to beg her – mom I do not want to die, please save me. She rushed him to the hospital, and they pumped his stomach out and they treated him. Thank God, he is alive today to tell that story.

The other young man that I spoke to, his parents are separated and he is like a yo-yo between them and then he is left with the grandparent. One day he decided that, he is responsible for the separation, he is responsible for the fights, he is responsible for everything and if he is no longer there, then they are going to get back together and be happy. This is the level of mental illness that

exists in our society that triggers suicide. I remember growing up and hearing about suicide. I did not understand anything of it. The first experience I personally had was when I was about nine years old. I woke up one morning and heard someone hanged himself. Like all the children in the countryside, everyone converged in the home and we stood steering at the young man who was hanging from the sill under the house. It was a horrible experience. One cannot sleep after that; one is imagining this dead person.

Suicide ideation is a very serious thing, and it must be considered. I like the proposal of this is something that should be introduced at schools. When studying the psychologist theory on human development, Eric Erikson talked about the most difficult period in a human life, which is when he/she is an adolescence. If we are to look at suicide around the world, we would find that it is the young people who carry the largest percentage of those who would have ended their lives through suicide. This Bill is going to help a lot because when the plan of action comes into being, we will all participate and help to make it into a reality, so that it could reach everyone in Guyana – countryside, urban and hinterland. People used to believe in Guyana that suicide was a countryside thing, it is no longer so. It is across the entire country.

I want to say to the Minister that he has my full support on this Bill. I will do my part because I feel happy that suicide is no longer criminalised and that people who are going to need the help will not be punished by law but will actually be given the help they need. Thank you. [*Applause*]

Mr. Speaker: Thank you, Hon. Member Ms. Veersammy. Now, for the Hon. Minister of Health Dr. Frank Anthony.

Dr. Anthony (replying): Thank you, very much Mr. Speaker. First of all, allow me to thank all my colleagues on this side who spoke on the Bill – Dr. Persaud, Dr. Mahadeo and Ms. Veersammy. As we can all attest, suicide is really a serious problem and for many years it has been a major problem here in Guyana, but we strongly believe that the measures that we have put in this piece of legislation, the mechanism that would be developed out of the legislation and the expansion of services that we will offer would certainly have a big impact in reducing both attempted suicide and also people wanting to complete suicide. I want to emphasise that for a lot of people who would attempt or complete suicide, the system – the medical or social system – did not catch them early enough. If we could create a system where we could allow people to come to us to have

access and where we could make early diagnosis – if we make those early diagnosis – we would be able to treat people and prevent these suicides from happening. This Bill will expand those services across this country and, certainly, because we would be able to detect a lot more people, it would reduce the chances of us having so many suicides in Guyana. We also strongly believe that having these suicide prevention centres would certainly make a big impact because we know that cognitive therapy could help to reduce suicide. The innovations that we have in this Bill would certainly help us to make that impact.

We have started last year by bringing in a number of international experts to Guyana in what we call a 'Well-Being Conference'. This year we are also bringing both persons from overseas and locally together. Actually, next week they will be in this same hall talking about issues relating to mental health and suicide. Out of these discussions, we strongly believe that we will have a plan that will help us to move mental health and the issue relating to mental health forward and, therefore, we would be able over time to become one of the countries that people would look at as the example in how to manage mental health issues and suicide.

Next week, just for the information of colleagues, we will have 20 world-class experts in Guyana, including persons who… One of them has written the suicide and mental health laws in India. Another one who has written the Oxford textbook on suicidology from Sweden will be here in Guyana. And many other experts are coming here so that we could have these discussions and to further our agenda in helping to prevent this from happening.

Again, I want to commend all my colleagues for speaking on this matter. This is something that we have been talking about for many years now and finally we are able to bring it to this Assembly and pass it. Again, I want to express my gratitude to the AG's Chambers and all the persons who had worked on this, for the work they have done in a very compressed period of time. With these words, I would like to move the Bill and make sure that we get it passed so that we could help to save lives. Thank you very much.

Mr. Speaker: Thank you, Hon. Minister of Health. I now put the question that the Suicide Prevention Bill 2022, Bill No. 11/2022, be read a second time.

Question put and carried.

Bill read a second time.

Assembly in Committee.

Bill considered and approved.

Assembly resumed.

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

Mr. Speaker: Hon. Members, we will now proceed with the second reading of the Restorative Justice Bill 2022 – Bill 13/2022 published on the 18th July, 2022.

Restorative Justice Bill – Bill No. 13/2022

A Bill intituled:

> "An Act to provide for the use of restorative justice in the criminal justice system for victims, offenders and the community, the establishment of the Advisory Council on Restorative Justice and for related matters."

[*Attorney General and Minister of Legal Affairs*]

Mr. Nandlall: Thank you, very much, Mr. Speaker. This is yet another Bill that we are considering that can be described as a bill of a revolutionary nature, in the sense that it is introducing into our formal legal system a completely new component, that is, restorative justice. Like in every sector, the legal sector has been undergoing scrutiny and examination for decades with the view of improving the manner in which it does the business which falls within that sector.

6.37 p.m.

In the area of civil law, we have had concepts such as mediation, conciliation, and arbitration being introduced to ease the burden on the judicial system and to introduce methodologies that can be considered unconventional and, not outside of, but align with the conventional system. The conventional system of litigation, under our legal system, is an adversarial one with two sides or more than two sides and an impartial tribunal: whether it be criminal or civil. For centuries, litigation has been going that way and various obstacles have been met in the process. Those who

are experts in field have been trying new innovations and new measures to bring efficiency, effectiveness and speed to the system.

In the criminal arena, similar initiatives have been explored. Born in the 1970s was the concept of restorative justice. It is not intended, as I said, to operate as an alternative to the criminal justice system, but it is a concept that was introduced in countries all over Europe and in North America and adopted by the United Nations as one of the precepts and concepts which should be introduced into the legal system of all member states. What it does, is for a certain category of offences, it introduces a new dispensation in a formal legalistic way. It explores and promotes that softer side of penal sanctions. The conclusion that has been drawn is that the punitive and draconian types of sanctions, as a corrective measure, have simply not worked. The long years in prison, solitary confinement, flogging and all the punitive components of punishment have been used, but criminal behaviour persists. In fact, statistics would show that they have increased. Clearly, it means that those conventional methods used historically are not yielding the type of success that they were intended to yield. Therefore, rightfully so, experts in the area have begun to explore different mechanisms and different initiatives – restorative justice is one of those initiatives. First of all, it is used – both – before a charge is instituted, during a charge, if it is decided to be introduced, and even at the stage of sentencing.

What is restorative justice? Restorative justice is the application of a set of concepts that are intended to do many things. One, to divert away from incarceration as a form of punishment, to place emphasis on reform and rehabilitation of the offender and to make recompense for the harm done. To achieve those objectives, necessarily, there must be a coming together of a number of persons and sectoral interests. There is the police, there is the Director of Public Prosecutions (DPP), there is the Judiciary, there is the magistracy, there is the probation people, most importantly, there is the victim and there is the perpetrator with also society having a stake. Various objectives are pursued in this restorative justice concept.

First of all, it must be consensually done so the victim and the perpetrator must agree to the exercise. It brings together the two persons, with a view that the perpetrator first must or explore the possibility of the perpetrator expressing contrition and remorse; offering compensation if it is possible or making any similar forms of amends; repairing that relationship between the two – the offended and the perpetrator – so that a reoccurrence does not take place; understanding the

underlining currents and underlying causes for what may have caused or what may have produced the delinquent conduct. Those circumstances are also interrogated because it is believed that if those root causes are not addressed and what essentially is symptomatic of those root causes are addressed, with the root causes continuing to fester, then that delinquent will end up back in the prison system or back before the court because the underlying and undercurrent problem still subsist. If the home produces violent conduct for, familial conduct, sexual or other forms of abuses and that is what has led a child born and produced in that environment to become interfacing or to become a defendant before the criminal justice system because of the environmental factors or the factors in his dwelling. Then, he goes before a court; he pleads guilty or is found guilty; he goes into prison, if such a sentence is imposed; when he comes back out, he goes back into that environment that sent him in the prison in the first place. That vicious cycle continues.

Let us take domestic violence – if there is no attempt to bring the two people together, what we now have is a possession order or a protection order that keeps the people away. That may be something that may be immediately necessary for protection, but we know that it does not work in Guyana and that is why we are bringing a new Bill altogether. If efforts are directed to repair that human relationship in an institutionalised way and not in an *ad hoc* manner, then it is believed that it will have a positive impact on our legal system and on our criminal justice system in particular.

In fact, without even recognising it, even as I stand speaking, we have been practicing restorative justice, in particular, in our rural communities right across the length of this country before even knowing it. In the villages in the countryside, there are the elders who always try to bring reconciliation between neighbours and members of the community who are having disputes and altercations. Right there is restorative justice at work. In that context, the legal system is kept out. Here, the concept is now being imbedded into the legal system in a very formal, legal and statutory way, so it becomes part of the formal system that administers criminal justice in our country. That in essence is what restorative justice is about.

It is part of an Inter-American Development Bank (IDB) funded project being administered by the Ministry of Legal Affairs. One of the objectives of that project is to reduce our prison population, increase the use of noncustodial sentences, as well as place emphasis on rehabilitating and rehabilitatory type of punishment rather than punitive and dissuade against the heavy reliance on pretrial deprivation of liberty. There are many Bills on this agenda that are directly connected to

those objectives. The Bail Bill No. 14/2022, the Narcotics Drugs and Psychotropic Substances (Control) (Amendment) Bill 2021 and this Bill are all products of the same project.

We have overcrowding in our prison system. There is no doubt about that. That is not only costly to the taxpayers but incarcerating large number of people without a progressive and aggressive system of reform and rehabilitation does more destruction than construction. Unfortunately, our prison system is so structured and composed at this point in time. These new waves of improvement are intended to move away from that position which is to have our population who interact with the criminal law, negatively or positively, that we keep them away from the pinnal system and we find more progressive and socially acceptable methods of facilitating their obeying sanctions that are going to be imposed for the infractions of the law.

The restorative justice concept is not intended in any way to trivialise criminality or the commission of criminal offenses. There is a category of offenses to which this concept shall not apply and there is a category to which it will apply. Only offenses carrying a penalty of about three years and under are offenses to which this concept shall apply; it shall not apply to violent offenses; it shall not apply to offenses that carry the death penalty such as murder, manslaughter or any capital offence for that matter; it shall not apply to offenses in respect to the Sexual Offenses Act and offenses that are so socially offensive. It applies, as I have said, to what could be described as minor offenses that carry smaller terms of sentence.

6.52 p.m.

The Bill essentially sets up an infrastructure in which restorative justice will not only be introduced into our legal system but will be administered by those who are administering the legal system. As I said before, it involves the Director of Public Prosecutions' office; it involves the police, the Judiciary, the probation department, the prison authorities and, of course, the magistracy and the judges. We have already trained over 200 persons across the landscape in Guyana, in this area of restorative justice. We have trained, for example, the judges and the magistrates. We have trained the legal profession, in particular, the lawyers in the State sector. We have trained the probation department. We have trained the Guyana Police Force. We have trained the leadership in the Amerindian community. We have trained our regional leaders across the 10 administrative regions and that is a process that is still ongoing. We have also trained a number of persons who are now

licensed as trainers and who will continue to train personnel across the length and breadth of our country, as we begin to embed this restorative justice into our system and as we attempt to intensify its utilisation.

Significantly, we have begun to introduce it into the teaching profession because it is important that restorative justice starts to take place in our schools, because that is where delinquent criminal conduct can be first detected or early evidence of it if we are moving in the direction of stamping out the root underlying precipitating factors. It is there for the first time that one may be able to see the bruises on the child's skin that will be able to unearth the hostile or violent environment that the child is brought up in, which can lead to that child either becoming a victim of violence or a perpetrator of violence. That is the sort of training that we are doing to ensure that this concept works.

As I said, the Bill simply sets up the infrastructure and it is drafted in accordance with a model already existing in the Caribbean. We have the Law Reform (Miscellaneous Amendments) (Restorative Justice) Act, 2016 of Jamaica, the Restorative Justice Act, 2015 of Manitoba, Canada, and the Crime (Restorative Justice) Act, 2004 of Australia. These are all models that came out of the United Nations recommendation. There is a handbook that advises on what model one should use, having regard to the idiosyncratic nature of his/her peculiar society. As I said, the concept can be used even before the charge, during the charge and during sentencing. It is a voluntary concept and it brings together the different players in the administration of justice.

Clause 6 of the Bill, for example, sets out examples of the forms of Restorative Justice and includes:

> "(a) apologising to the victim or other affected members of the committee;
>
> (b) participating in mediation or reconciliation;
>
> (c) paying restitution to the victim;
>
> (d) engaging in community service work; or
>
> (e) participating in any rehabilitation, counselling, education or treatment programmes."

It is important for us to specifically make the nexus between the Bill and the Juvenile Justice Act, as this is in conformity with international law and best practices. For instance, Article 40 (3) of the *Convention on the Rights of the Child* provides that:

> "States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular; ...
>
> (b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected. ..."

Restorative justice allows us to recognise and enforce those provisions of the Rights of the Child Convention because it allows one to treat with a child in accordance with law but outside of the penal system as the Convention admonishes.

Part IV of the Bill sets out the procedure by which offenders will interact with the system and there is, as I said, an entire governing structure that will be established. There will be a director who will ensure that this Act is complied with and that there is a continuous flow of programmatic work of a restorative justice nature being unfold continuously, so that we have a series of methods, a series of avenues, a series of orders or procedures to which the Judiciary and other agencies engaged in restorative justice can resort in dealing with particular problems. Then, there is going to be a national body that will be chaired by the Minister and it will have various important state organs sitting on that body including the Judiciary, the DPP and several Ministers of the Government representing different State interest. That ultimate body will be administering, at a policy level, of course, how the Restorative Justice Programme will unfold under the Act.

In conclusion, we now have this new concept of restorative justice as part of our statutory landscape. As I said, it is a new concept; it is evolving; it is exciting; and it will allow our courts to make orders outside of the conventional penal nature of orders that it is now circumscribed to make and explore a whole host of potential opportunities to address in a real way, in a practical and pragmatic way, the circumstances that may have led to criminal conduct and also for that conduct to be rehabilitated, for compensation to be paid and for society to also benefit from the wrong committed because this concept is predicated upon the belief that when a criminal law is

violated or a criminal act is committed, the victim alone does not suffer but the entire society suffers. That is why community type service features prominently in this new dispensation because the community must also benefit from that delinquent conduct. Mr. Speaker, with those brief remarks, I commend the Restorative Justice Bill to this House. I thank you very much. [*Applause.*]

Mr. Speaker: Thank you very much, Attorney General. Now for his contribution, the Hon. Minister of Home Affairs Mr. Robeson Horatio Benn.

Mr. Benn: Thank you, Mr. Speaker. I want to support the intervention by way of this Bill for our criminal and in support of our criminal justice system, the concept of restorative justice. I want to note too, the support to Guyana through the Ministry of Legal Affairs of the IDB in respect of this issue and, particularly, to note again, our Hon. Attorney General speaks to historical issues, historical presence in the form of restorative justice in our communities. I am aware of it to a fair extent, in respect of peacemakers in communities, elders, persons who are respected in the community, persons who have perhaps had quite a bit of interference or engagement rather with the law, either as a policemen or persons working in the courts or as lawyers' clerks. To talk about it, sometimes one might be formalising what is and has always been considered ways of making peace when there are significant issues, large issues sometimes, or formalising the informal ways sometimes when issues come up, crime is committed, there are victims or a victim and where even at the level of the police station or in the yard of the courthouses, efforts are made to beg pardon, to make compensation and to have resorts to not have the tedium, the cost, the great expense and stress of going through the court system.

The Hon. Attorney General referred to the question of restorative justice impacting on the situation in the prison. I would have to note, at this particular time, the fact that our prison population has increased by 40% since I became Minister. The overcrowding is there; we are working on building new prison modules at Lusignan, at Mazaruni and at New Amsterdam to deal with this overcrowding. The overcrowding in itself is a result of the destruction of the Camp Street Prison by fire, during which some 19 prisoners and a prison officer died and, also, subsequently, the destruction of the Lusignan prison. Otherwise, in terms of the number itself, it reflects better work by the police. I would not be the first to say that there is some sloth in the force but it reflects, in the first instance, a more diligent work, more apprehending and passing through the courts of persons who have committed crimes…

7.07 p.m.

Restorative justice in itself and the way it has been designed and identified… I am aware of a particular report with examples from the United Nations Office on Drugs and Crime (UNODC). It has a handbook which speaks to various approaches and the levels of restorative justice in various countries. It speaks of building back relationships and respect, the responsibility to repair the damage and re-integrate into societies and communities. Particularly, it places emphasis on the question of the victims – the safety, support and needs of the victims; the material, financial, emotional and social needs of victims; and the opportunity to create encounters to help repair and transform situations, to determine the overall question of the amount of harm which has been done to persons, the community and the society at large as a result of crimes; to provide the opportunity to talk and determine how to respond to the particular impact, both at the level of the victim and also at the level of the community; and the question of the reintegration, rehabilitation of the perpetrators.

Yes, the questions too of mediation, conciliation and arbitration which the Hon. Attorney General referred to, will continue in this process and in this architecture as identified in the Bill. I might point out to him that in certain communities – of course, in our Amerindian communities – there are relationship issues which result in those communities, the Toshaos along with their councils, historically, have been involved in self-governance, particularly, in relation to crimes to deal with the point of the new approach, the resort of restorative justice. In some other societies, there is the question of what people term as 'blood money' but is in fact compensation. Since the Hon. Attorney General and Minister of Legal Affairs, Mr. Nandlall, has just came back from Rwanda, I want to remind us of the Gacaca Court which resulted out of the Rwanda Genocide, where more than one million people, perhaps, were killed and not all were accounted for.

The AG was telling me of some visitations he had at particular places where genocide occurred with the Hutu, Tutsi and Twa or those who did not agree with what they wanted to do – horrific things happened. At the end of the day, a neighbour who might have killed the husband of a neighbour, would come back and face the community. The community would have to sit and use the Gacaca Courts which in themselves represent large-scale restorative justice in the communities. It has perhaps been more difficult in countries such as Laos and Cambodia. They also had similar problems. The Pol Pot Regime in Cambodia was created by Khmer Rouge. It was a very, very

difficult situation for the communities and the people. Maybe, blinking on some of the issues and accepting at the levels of the communities and individuals, a great level of forbearance had to be adopted by persons who remained in the communities and the villages or returned after genocide and violence. It had to be adopted and it had to be taken on to make sure that somehow the community, the tribe and life go on. It had to be reintegrated to make livelihood wholesome, better and safe again.

For me, at those levels, the overall question of restorative justice is critically important – first as a concept at the schools, as was said. Particularly, having persons know that there is a formal way of resolving conflict by having mediation, getting victim support and compensation too. There is a formal system and a formal approach to resolve conflict without – perhaps, as was suggested by this architecture – the state, the people, and the taxpayer having to take on incarceration. This is by resorting to community service and other ways of dealing with infractions of a particular nature, as identified by the Attorney General.

The criminal justice system has its detractors and criticisms. Considered still mainly, is a question of retribution from the state and its architecture, as a result of the crime being a violation of the law. The violation creates guilt. The way of dealing with it is for the state itself to respond to the nature – whether it is the Royals or the Government – through the police and the court systems which will impose sanctions, impose punishment and, therefore, impose pain. In all of this, the central focus is that the offender must get what he or she deserves, as determined by the state. Restorative justice as contemplated here too relates more to the community and the victim being impacted by crime that is a violation of people and violation of the obligations of a person. The person who committed the crime did an act against victims and the communities, more than the consideration that it is against the state itself. Violation in terms of being, under restorative justice, deals more with the issues of the obligation to make good, to restore, to reintegrate and to make sure that the community and the persons – both the perpetrator and the victims – could benefit from the repair, the re-integration and the engagements which are more wholesome for the community.

Questions of recidivism at lower levels in terms of criminal acts could be dealt with in a way that would involve the community and the victim of course. Of course, the overall issue is that the central focus must be related to victimhood and the victims. Victims are the individuals who have

been harmed and victimhood is in the case of the community and society as a whole. There is a responsibility in the overall architecture and mission with respect to restorative justice, in terms of restoring and repairing harm in the communities – as I said before – to victims.

The question for us going forward in terms of… Again, this intent and this purpose are resident in this Bill of the People's Progressive Party/Civic (PPP/C) Government. It looks to establish more consultative and more progressive ways in terms of our legislative architecture or legislative resorts to bring about a more collective approach to deal with the issues of crime and violence in our country. We know a long time ago when people were bad in the villages – a badman who was disorderly and ran a person with a cutlass, a gun or whatever and repeat offenders in the case of thieves, burglars and so on – that there were times when the persons in the communities came together to collect that individual and took him to the police station, sometimes, a bit bruised. There were more collective actions at the level of individuals and communities to deal with those problems. There was also support through the Mandir, Mosque and Church in relation to taking action in the communities with the community councils. I think that has fallen to a great extent. An approach over the years by us – previously – has been to set up Community Policing Groups (CPG) and bring together groups of persons who patrol the communities and respond in support of the police in relation to these issues. Not that it did not work for quite a while, but under the A Partnership for National Unity/Alliance For Change (APNU/AFC) much work was done to undermine the work of the Community Policing Groups.

As I would hasten to say, even now at the Presidential Commission of Inquiry (CoI) in relation to the 2020 Elections, one will see that we identified the undermining, the disembowelling in parts and the abandonment of constitutional responsibility at various levels in the Guyana Police Force (GPF) is evident. This is being given now in evidence at the Commission of Inquiry into the events of the 2020 Elections. This effort will help to support the work of the criminal justice system overall. Earlier on, it tended to deflect, hinder, and put the brakes on errant and delinquent behaviours at a fairly lower level in the communities.

The questions of community service will provide a way for the community to observe, be involved, measure and express satisfaction in relation to the work that they do in the communities. There are the questions of victims' support which is set up in the architecture of the Bill, as was said by the Hon. Attorney General. The question of the victims, meetings, and engagements for both the

victims and the perpetrators to meet face to face to deal with these issues is critically important, here and now. It is critically important because we are not only rebuilding – I think in many ways – our understanding and our trust of what the law requires, but we are also somehow…

7.22 p.m.

Even though we had the support of the regional final court, which is the Caribbean Court of Justice (CCJ), in respect of what it should be in terms of a full understanding and determining in respect of breaches in the law at all and different levels and we have had a lot of experience with that even before 2020, in relation to elections matters, but in many ways, I think here and now, even though we are disappointed here by certain actions in the National Assembly like the stealing of the Mace and the assaults. The democratic undertaking and parliamentary undertaking. We are still at the moment of rebuilding trust and integrity in not only the parliamentary system but critical in the Criminal Justice System in the importance of our Constitution, in the question of respecting each other and empathising more with each other as Guyanese under our Constitution. Mr. Speaker and Hon. Members, the Hon. Attorney General has gone through in detail the questions stated in the part one:

> "… effect repair in communities and set up a system of restorative justice that brings together community residents, victims and offenders in a permissive, safe and carefully managed environment."

This was difficult in Rwanda in the very early days of the Gacaca courts. There is going to be this Director of Restorative Justice. I am glad that the Advisory Council which it speaks of will involve persons related to agencies under the Advisory Council and Restorative Justice will involve persons from the agencies under the Ministry of Home Affairs and the talks of the Restorative Justice Conference in part vii and Restorative Justice Agreement. A Restorative Justice Agreement sets out in writing a contract that sets out an approach towards dealing with the commitments to ensure that both the victim and the community are satisfied; the council or the convener has oversight on it and particularly that the offender is not simply contrite but actively involved in the requirements of the agreement to carry out obligations under that agreement.

Mr. Speaker and Hon. Members, with that, I want to say that I fully support this effort, this Bill and this new approach towards Restorative Justice in Guyana in terms of more formalising

approaches to it and to acknowledge that this is also another signal Bill that had been brought to this House today in terms reengaging and improving our approaches to legal justice issues in Guyana beyond the questions of… We are coming to the Narcotic Drugs and Psychotropic Substances Bill, but we considered two previously linked bills in relation to the overall question of having a better approach towards improving safety life and livelihood in our country. So, with that, I give the Bill my unreserved support. Thank you, very much. [*Applause*]

Mr. Nandlall (replying): Thank you, very much, Mr. Speaker. First, I want to extend my gratitude to the distinguished Minster of Home Affairs for his support and in particular, for reminding us of the Rwanda experience where over one million persons were brutally slaughtered. When you think about the magnitude of that genocide, we do not have one million persons in Guyana, and over one million persons were killed. Within a few years after, society healed, with the victims and survivors leading the charge of advocating for the non-death penalty as a punishment for the most brutal of killings and Restorative Justice was employed to heal that society that is now so cohesive that it is the fastest growing economy on the continent of Africa. So right there we have an outstanding example of what great achievements can be made through concepts such as Restorative Justice.

I want to make it clear, that if the impression was conveyed that Restorative Justice for these types of offences will be a substitute for imprisonment, then I want to say that that is not the impression that was intended to be conveyed. The objective is to reduce prison term and, perhaps, to avoid prison terms altogether based upon the facts and circumstances of the particular case, but it is not going to be a substitute. But, of course, if amends are made between the victim and the perpetrator, if compensation is paid, if an appropriate arrangement is arrived at acceptable to all the parties, then it may go towards mitigating the sentence, but it is not intended to be a complete substitute. It is not that penal sanctions will not be imposed any longer if Restorative Justice is resorted to in every case. It would be done on a case-to-case basis depending upon the extenuating and aggravating factors of each case. So that in the end, justice is done and a wrong that is committed is sanctioned, so that the right message is sent to society. Less we have the situation developing where because one can compensate, then one feels that through this mechanism of Restorative Justice, they will not end up in a prison cell. That is not the intent of this concept. Every case must be judged on its merits, the gravity of the wrong, and the gravity of the damage will have to be

accessed. Then the compensation or whatever form the Restorative Justice initiative may take will be a part of what the court will take into account in determining the penalty ultimately.

Mr. Speaker, as I said, this is an exciting new concept that we are introducing in our legal system, and I am happy that we have concluded the debate successfully on this Bill. I recommend that the Bill be read for a second time. Thank you, very much.

Question put and carried.

Bill read a second time.

Assembly in Committee.

Bill considered and approved.

Assembly resumed.

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

Mr. Speaker: Hon. Members, we will now proceed with the second reading of the Bail Bill 2022 Bill No. 14/2022 published on 18th July, 2022.

BAIL BILL 2022 – Bill NO. 14/2022

A Bill Intituled:

> "An Act to provide for the grant and refusal of bail in criminal proceedings and for related matters."

[*Attorney General and Minister of Legal Affairs*]

Mr. Nandlall: Bail has always been a very topical issue in our country, both at the level of the legal fraternity and to the members of the public. Our newspapers and the social media in recent times have longed been the forum for discussions in relation to bail. Some argue that bail is too generously granted, others feel that bail is too rigidly granted, others argue that bail is capriciously granted, and the grant of bail is inconsistent.

7.37 p.m.

Most countries in the world have moved in the direction of putting a statutory code in place to govern the grant of bail. Bail is always a discretionary power to be exercised by the tribunal before whom a charge is pending, and once there is discretion, there is going to be criticism regarding its exercise. We view things differently, such is the human mind, so what may appear a certain way to a certain person, may appear a different way to a different person, and that leads to problems when discretion is requested to be exercised. It assumes greater important when the liberty of the subject is involved. Two important concepts interplay when the question of bail arises. Firstly, the right to personal liberty, and secondly, that a person is presumed innocent until proven guilty by a court of competent jurisdiction. These two fundamental pillars find themselves in our Constitution as fundamental rights and freedoms and they are accorded the highest of protection. Article 139 (1) states:

"No person shall be deprived of his personal liberty save as may be authorised by law…"

Article 144 (2) states:

"… every person who is charged with a criminal offence-

(a) shall be presumed to be innocent until he is proved or has pleaded guilty;"

These two concepts - the presumption of innocence and the right to personal liberty - are two fundamental constitutional principles that underpin the concept of bail. Bail has been defined as the release of a person from the custody of the law into the custody of his surety, who is bound to produce him to answer any charge, if any, on his trial at a specified time and place. Sometimes we often forget that the arrest of a person and even the institution of charge is not a finding of guilt or a conviction. A person who is arrested must stand trial, but unless and until that person is proven guilty, then that person is entitled to that presumption of innocence. That presumption of innocence is intricately linked to that person's right to be freed. Sometimes we forget these basic principles. Bail is essential as it prevents the defendant from being remanded to prison while still being presumed innocent thereby preventing the infliction of punishment and the deprivation of personal liberty prior to conviction. In addition, the remand of persons to prison and keeping such persons in custody for excessive periods of time increase prison populations and aggravate the ills and evils associated with overcrowded prisons. Bail helps to alleviate the overcrowding of prisons while reducing the financial burden on taxpayers of maintaining prisoners on remand.

Bail is, therefore, critical to the criminal justice system and, when utilised effectively, allows the justice system to balance the interest of both the defendant, the victim, and society itself. A Bail Bill is long overdue in Guyana. The rest of the Caribbean had gone this route years ago. We started this process of drafting a Bail Bill on or about in the year 2015, under the same Inter-American Development Bank (IDB) project to which my distinguished brother, the Hon. Minister of Home Affairs made reference. This Bill went through several incarnations, a consultant was retained from Trinidad and Tobago who held wide consultations with the legal fraternity and the Judiciary, and they came up with a draft. I inherited that draft, and I was not pleased with it. I sent it out for consultation again, not surprisingly the consultation, both at the level of the Judiciary and the level of the legal fraternity, and even my colleagues at the internal sub-committee of the Cabinet rejected that draft out of hand.

We then retained another consultant, Mr. Vidyanand Persaud, who has had experience in drafting of Bills, and he gave one of the most researched judgements on the issue of bail when he was an acting High Court Judge. He was given a consultancy, and he revamped the entire Bill. I also solicited the assistance of my friend Mr. Darshan Ramdhani, Queen's Counsel, and he also subjected the Bill to a great degree of analysis, making recommendations using Bail Bills or Bail Acts from the Eastern Caribbean circuit where he served as a Judge for many years.

We went back with the finished product of drawing from both Mr. Persaud and Mr. Ramdhani, culminated into a draft, and went out again to consultations both with the Judiciary and with the Bar Association. We received comments and recommendations, and they were incorporated into the final product that we have here. I give that procedural and evolutionary journey to put on the public record the fact that this Bill has received the widest possible consultation and it is a consensual product of both the legal fraternity, including the Director of Public Prosecutions (DPP), the practicing Bar, and the Judiciary who are the main stakeholders in administering, applying, and enforcing this law. The Bill is to provide for bail reform in Guyana and to regulate the grant and refusal of bail in criminal proceedings by doing a couple of things such as; respecting, protecting, and fulfilling the right to personal liberty, clearly establishing the right to bail, setting out clear circumstances under which bail may be refused, providing for conditions attached to bail and reasonableness of such conditions and setting out appeal and review procedures where a person may be aggrieved by a decision to grant or refuse bail.

This Bill philosophically positions itself as recognising bail and the right to bail as part of our fundamental rights and freedoms of Guyana. Nowhere in our legislation is that right recognised, and sometimes because it is not so expressly stated, tribunals charged with the responsibility of dealing with bail make decisions that can be considered erratic. We also stipulate the clear grounds upon which bail is to be refused. Hopefully, we would not have a Magistrate at Sparendaam granting bail on a particular factual matrix and the next day a Magistrate in Georgetown Magistrate Court on a similar factual matrix making the opposite decision in respect of bail.

We are putting it down in writing now, and it is becoming part of the law, so that discretion that appears to be wide and unregulated is now being circumscribed by law. We do so in recognition of the doctrine of separation of powers not to unduly fetter judicial discretion while at the same time we recognise the constitutional right of the citizenry to his liberty and to the presumption of innocence. Only recently, earlier this year, a provision of the Bail Act of Trinidad and Tobago was struck down by her Majesty's Privy Council on the ground that the act was unconstitutional in that it denied persons the right to bail when that right to bail is guaranteed by the Constitution. We took the learning of that decision on board here, and that mistake is not made here. The Act applies to any offence committed in Guyana or elsewhere and to extraditable offences under the Fugitive Offenders Act. The Act does not apply to juveniles since the issue of juveniles is dealt with under the Juveniles Justice Act No. 8/2018. I want to make that very clear.

Persons who are charged with an offence punishable by death, the Criminal Law Procedure Act and the Constitution will continue to govern those matters. There is already an adequate framework of clear and unequivocal rules in relation to those types of offences. Bail is not to be granted for offences that carried the death penalty by a Magistrate. That is as clear as day. Bail can be granted for those offences by a High Court, but they must be very exceptional reasons. We did not interfere with those aspects of our law because those are not the aspects that are posing the problem. Nobody in this country is in doubt of whether they can get bail for murder in the Magistrate's Court. It is not possible. They know they could get, in a highly exceptional circumstances, in the High Court. In fact, in only one recorded instance in the High Court, bail was granted for murder, and that was because the man was awaiting his trial for nearly or over 12 years and a judge found that to be an exceptional circumstance and granted bail.

7.52 p.m.

It was the first time in independent Guyana that that happened, and I do not think it has happened since. We did not try to fix that which is not broken. Police bail has always been a troublesome thing in Guyana. Any lawyer, and not even lawyers but politicians, those of us who walk the ground, do the groundwork, and interact with the ordinary grassroots people of our country will know of the problems that we face, and I say we face because the police force's problems are part of the society's problems, and the members of the public problems are part of our problem as well. There is a great lack of clarity in relation to bail at the police stations, and there is also a great preponderance of complaints of unlawful denial of bail, abuse of power when it comes to bail, or the issue of bail that is used for corrupt purposes. The policeman, under the current law, has wide discretion. That is a power that is vested in the officer in charge of the station, and only he or she could make that decision. So, a man or woman could be arrested for the most trivial offences...

Mr. Speaker: Hon. Attorney General, I have some powers because we have to seek a suspension of the Standing Order to go beyond 8 o'clock. Hon. Prime Minister or Minister Teixeira…

Suspension of Standing Orders No. 10(4)

BE IT RESOLVED:

"That Standing Order No. 10(4) be suspended so that the Assembly may, from time to time, alter, by resolution, the hours provided in this Standing Order for beginning and ending a Sitting." [*Prime Minister*]

Prime Minister [Brigadier (Ret'd) Phillips]: Mr. Speaker, I seek the suspension of the Standing Order as required to go beyond the time.

Question put and agreed to.

Standing Order suspended.

Mr. Speaker: Proceed, Hon. Attorney General. Sorry for the interruption.

Mr. Nandlall: Thank you. There is an officer in charge who is normally reposed with this power to grant bail. A person can come to the station arrested for a highly bailable offence, but the officer in charge is not there, so that person would go into the lockup because no other officer can make the decision. Then, if the officer is there, sometimes there is a capricious refusal of bail when bail

should be granted. You have that complaint all the time. On the other hand, in very serious offences when bail ought not to be granted, you would hear that bail was granted because of some unholy allegation, like somebody paid somebody. We are now putting our foot down in the law on that matter, and we are clarifying it.

We are saying in this Bill through clause 4 that the police cannot grant bail in relation to serious offenses, and the serious offence is the fine. It is an offence that carries, I believe, five or more years of imprisonment. Any offence below that, bail should be granted. Once the offence is a serious one, then there is a constitutional provision that is kicked in. We cannot interfere with that. It must be taken to a Judge or a Magistrate within 72 hours. In fact, we have put in the legislation a shorter period, but the Constitution has 72 hours, so you cannot limit the Constitution. If they need an extension under the Constitution, you could go for an extension to keep the person.

At the police station, it is now clear. For non-serious offences, the police could grant bail. For serious offences, the police cannot grant bail. They must take the person to the Magistrate or to the Judge within the earliest possible time. The outside limit is 72 hours. I want to make it very clear that not because the Constitution states 72 hours, it means that the police can sit on their hands and await the expiration of the 72 hours. If the investigation can be concluded within 72 hours, and there are certain investigations that can and there are certain investigations that cannot, it should be concluded swiftly, and the person should be placed before a Magistrate as quickly as possible and let the Magistrate determine whether bail should be granted or not.

The Act now tells you what factors the Magistrate is guided by or should be guided by. If the investigation requires detention for a longer period than 72 hours, then a prudent policeman ought to be able to make such an assessment early or as early as possible and inform the accused person to seek an extension of time before the expiration of the 72 hours, and not when the 72 hours is about to expire. These things are causing unnecessary problems in our country, and the law is not unclear about them. We have to start applying our Constitution and the laws of our country properly. As I said, clause 4 incorporates Article 139 of the Constitution that speaks to the 72 hours' period.

Clause 6 of the Bill establishes expressly the right to bail.

> "…every defendant is entitled to bail and the conditions of bail must be reasonable. This section also provides that the defendant may make an application for bail on each occasion that the defendant appears in court in relation to the relevant offences."

What we are codifying here is simply a right that exists in common law. A defendant, every time he or she goes to court and if not on bail, is entitled to make a bail application, but what is important here is that the right to bail is recognised.

> "… where the court is satisfied that there is substantial ground for believing that the defendant, if released on bail would (a) not attend trial, (b) interfere with evidence or witnesses, or otherwise obstruct the course of justice, (c) commit an offence (not punishable by fine) while on bail or (d) be at risk of harm against which he or she would be inadequately protected…"

Secondly:

> "…where the defendant should be kept in custody for his or her own protection or the preservation of public order…"

Then bail should be refused. Once a Magistrate is satisfied that there are substantial grounds to believe that any one of these situations exists, then bail should be refused. The reverse or the converse is obvious. Bail should be granted when these factors are not present. The point that is being made here, importantly, is that if bail is going to be refused, then in recognition of the presumption of innocence, the right to bail which has a constitutional underpinning– if bail is going to be refused– unless a statute states otherwise like the Narcotic Drugs and Psychotropic Substances (control) Act or the Firearms Act– in the absence of a statutory provision, then the *onus* is on the Magistrate to show the basis for the refusal.

The Firearms Act, the Narcotic Drugs and Psychotropic Substances (Control) Act, and the Piracy Act, are pieces of legislation that reverse the burden and put it on the accused person to show why bail should be granted. In the absence of those specific provisions, bail ought to be granted unless these factors are present, and if these factors are present, the Magistrate or Tribunal must show that these factors are present. We also inserted into this Bill a provision to deal with the case of a

defendant charged with an offence under the Domestic Violence Act or the Sexual Offences Act. We say to the court that the:

> "…the court's paramount consideration with respect to granting of bail shall be the need to protect the victim of the alleged offence."

Here, a Magistrate or any Tribunal dealing with the issue of bail when it concerns an offence under the Sexual Offences Act or the Domestic Violence Act, the paramount consideration must be the victim. We know of innumerable cases across the landscape of this country, in particular, domestic violence matters, when as soon as the defendant is released, he or she goes home and either maim his or her partner, the other person in the domestic relationship, or kills that person. There are many cases like that. Here the National Assembly is directing that we pay special attention to these types of offences.

[*Mr. Speaker left the Chair*.]

[*Mr. Deputy Speaker assumed the Chair*.]

Many of our statutes, for example, the Firearms Act, speaks to special reasons or circumstances in respect of bail, but the term is not defined. Over the years the legal fraternity used an interpretation given to that term in the Firearms Act by the late Chancellor Kennard. He had to interpret the words 'special reasons', and 'special reasons 'featured prominently in many of our statutes in relation to bail, and in the form that bail should not be granted unless special reasons were shown. Our legislation previously omitted to define 'special reasons'. We had to use judicial assistance offered kindly by Chancellor Kennard in a case of Knights v De Cruz in formulating a definition. Using this judgement as our guide, clause 8 of the Bill provides:

> "…where under any written law, including this Act, special circumstances or special reasons have to be shown before bail may be granted to a defendant, the court shall only consider those circumstances or reasons which are special to the facts which constituted the offence and not facts that are special to the defendant…"

What the then Chief Justice Kennard again said, in that case, was that if you were going to look at special reasons, those special reasons must relate to the offence and not the offender.

8.07 p.m.

We have basically codified that definition of the learned Chief Justice and have kept it now in our law. Many persons, during the Coronavirus disease (COVID-19) period, rushed to the court and used COVID-19 as grounds to get bail in narcotics cases. I recall distinctly the plane that came from Brazil. It landed in Guyana with a whole planeload of cocaine and two persons without any travel documents were held, not Guyanese. They were arrested and charged. A magistrate granted bail on the basis of COVID-19 being in the prison. The Attorney General (AG), for the first time, was forced to challenge a magistrate's decision. We challenged it in the High Court and got that decision overturned. The Coronavirus disease does not relate to the offence, that relates only to the offender. That is what Chancellor Kennard said – that it must relate to the offence, not the offender. We have codified that now as part of the Bail Bill. We have, however, added one exception to that. It is this:

> "Notwithstanding subsection (1), the court may grant the defendant bail where the defendant needs urgent medical treatment which would be impractical for the defendant to receive in custody."

We also have to recognise that a person may fall sick, fatally sick, and may die in there unless they get treatment. He is on bail; he is not convicted. He will die before his trial comes up, but because of the law, he cannot get bail; he cannot get medical attention. The medical attention sometimes is only available oversees. We had a case in the High Court recently where a man charged with murder was dying in the prison and the treatment he required was not available in Guyana. The accused family got certificates from the doctors; they got hospital documents from a hospital willing to admit him. The family had to pay advance money to demonstrate their bona-fides. In those exceptional circumstances, the honourable Chief Justice granted bail on firm conditions. We have now put that in the Act to allow, if there is a defendant who is in such a state that he/she requires medical attention - remember, they are still presumed to be innocent - they have not been convicted and they may not be able to prove special circumstances other than their health. You do not want to deny such a person the right to medical care, so we have ensconced that as part of the Bail Bill.

The Bail Bill speaks to bail pending appeal as well. Of course, here you have a different set of principles that will apply, because "bail pending appeal" means that there is a conviction. That is how you have an appeal. So, pre-conviction principles, obviously, would be radically different from post-conviction principles. Ante the conviction, you have the presumption of innocence and the right to liberty; post-conviction, you have lost that. You do not have a right to liberty anymore except in accordance with your sentence, and you do not have a presumption of innocence anymore, that would have been rebutted. That presumption would have been rebutted by the conviction. All of that is set out in the Constitution, if anyone is in doubt. The very Constitution that gives you the right of innocence and the right to liberty tells you that you lose that innocence when you are convicted, and that you lose that liberty in accordance with a sentence of a court of competent jurisdiction when you are convicted.

While the Bill provides for an application to be made to an appellate court for bail, it sets out the principles. Here, the accused person now shoulders the burden of proving that bail should be granted, and bail should only be granted if the tribunal feels that it is in the interest of justice to grant that bail. No other factors shall inform its opinion. This position is in keeping with caselaw authorities that have established clearly that there is no common-law, statutory, or constitutional right to bail in the face of a conviction. It is all dependent on judicial discretion and is based on the circumstances of the case. The Bill also outlines the bail process within the court. If bail is going to be refused or granted, the tribunal refusing or granting bail must state reasons in writing and must furnish those reasons, both to the prosecution and to the accused person. There must be a restriction, a written record of the bail. When bail is refused or bail is granted, whoever is the aggrieved party, whether it be the defendant or whether it be the State, either side has a right of appeal against that bail decision – not the decision and conviction, the bail decision itself. If one feels that bail is wrongfully granted, one can appeal that. If one feels that bail is wrongfully refused, one can appeal that while the case is going on. Such an appeal can go all the way to the Caribbean Court of Justice (CCJ).

Because we have a Judicial Review Act, which allows for the review of the exercise of discretion, as I said, the magistrate's granting or refusing of bail is an exercise of a discretion. Our Judicial Review Act allows for a review of the exercise of any discretion by either a public officer, a government minister, a public authority, a statutory tribunal, and, of course, a magistrate, who is a

statutory tribunal. That right of review, as opposed to a right of appeal, is also preserved, and provided for in this Bill, and that can also go straight to the Caribbean Court of Justice. The difference between the two: an appeal is a challenge of a decision on its merits; a review has to do more with procedure and whether the rules of natural justice were observed; whether the decision was fair, and whether a reasonable tribunal would have made that decision. It is more of a fairness pursuit rather than a technical, legal interrogation of the grant or refusal of bail. The technical legal interrogation is done by way of the appellate process. The review of the process and the fairness of the decision is what is done by judicial review, but this Bill grants the rights to both sides to do either if they choose.

Where there are serious offences committed and a person is granted bail, there is a duty imposed on the court to notify the victim. Let me recognise my brother, Minister Robeson Benn, for making this interjection while we were drafting. And let me recognise Minister Teixeira, Minister Manickchand, and I believe Minister Vindhya Persaud, for advising the insertion of the part of this Bill which speaks to sexual offences and domestic violence in relation to the consideration of bail. I know that I have spoken at great length, but this is a Bill that is monumental in its impact, it is broad in its scope, and it regulates a very important component of our criminal justice system: the right to bail, how bail should be granted and the appellate process that should be embarked upon by a party aggrieved by either the grant or the non-grant of bail.

As I have said before, this piece of legislation is long overdue and will positively impact our criminal justice system at every single level. In the circumstances, with no hesitation whatsoever, I commend this Bill to this honourable House. Thank you very much. [*Applause*]

Mr. Benn: Hon. Members, I want to stand in support of the Hon. Attorney General and Minister of Legal Affairs, Mr. Mohabir Anil Nandlall, in respect of the putting together and clear defining of all issues relating to tidying up the systems and bringing clarity to the question of the granting of bail in the court system and at the police stations.

As was said, particularly at the court systems, at the police stations rather, the overall question of discretion, which was inherited in the way things were dealt with previously, brought a great level of confusion on one hand, opportunities for extortion, and allowed for confusion and capriciousness. Regarding the question of tidying up and bringing the clarity, as was stated,

effecting that clarity in a clear new Bail Bill of itself is increasingly important and has been outstanding for a long time. The issue of the question… I want to address more particularly the elimination of the opportunities at the level of the police stations in relation to the clear identification of the way bail is allowed for – is granted. That is particularly important. Whereas was stated, the important issue of victim notification where the offences may be serious is an important one, because in many instances where bail is granted for any reason, wrongfully or rightfully, there is always a great outcry sometimes, and sometimes there is still the opportunity for the perpetrator to make renewed resorts or attempts to create harm on the victims or their families, to shut them up or intimidate them.

8.22 p.m.

It also poses risk to the perpetrator where the victims' relations may not be satisfied with the overall way in which the matter is being dealt with at the police station or even at the courts. Whereas stated in the Bill itself, where there would be clear cases, where reasons where a person may be held for their own safety and, also, for the safety in the community in relation to the question of the granting of bail. On the question of capriciousness itself, we have noted situations where it appears that people would have been granted bail for offences committed, where they could not have been, or it does not appear to have been a reason where bail should have been granted. This relates to issues relating to narcotic offences – the having of cocaine or marijuana in large quantities for trafficking or exporting and, also, in relation to firearms offences.

A few instances where bail was granted have been noted as particularly egregious to the overall effort to reducing crime, violence and identifying that the exercise of discretion has been badly mishandled in the courts. Still, on rare occasions, but on occasions where it brings distress, where a great deal of effort has been placed particularly in relation to bringing to justice, recovering illegal firearms or dealing with the question of the illicit narcotic strain in trafficking drugs, particularly. Mr. Speaker, I have to note, again, the importance of bringing all of the issues related to the granting of bail into one clear document. I have to note the questions in the Explanatory Memorandum where there is a clear opportunity, a clear resort for review of a decision relating to bail; that you could go to the High Court in accordance with the Judicial Review Act - clause 20 of the Bill.

Clauses 23 to 32 – clause 23 of the Bill itself, the issue of the offence of absconding in relation to a person who has been released on bail is a particularly important one. Where a person has failed to surrender to custody, committing an offence, unless the defendant has reasonable cause for failing to surrender to the custody, this is a particular issue and I think there is now a penalty for absconding to an appropriate fine of $200,000 and imprisonment for one year. The question of the issuance of a warrant for the defendant's arrest, where the defendant has absconded or fails to comply with the conditions of bail, in which case in certain circumstances, and without a warrant, a police officer has reasonable grounds to believe that the defendant is not likely to surrender into custody, that person could be arrested by a police officer.

Of course, the important one – clause 26 which provides for bail with surety and later on, at clause 27 the question of where that surety or recognisance could be forfeited for failure, if there is failure to surrender to custody under the Act or as is stated, where the court, in the interest of justice, order the forfeiture of any surety or recognisance lodged to secure the defendant's bail. I think in many cases in Guyana, the question of bail is taken lightly for particular issues in the system and where sometimes the police, perhaps too, in more remote areas, but not unsurprisingly even in the populated areas, the urban areas, they resort to bring in persons who have not turned themselves in.

As required to, the question of the forfeiture of assets, the forfeiture of that surety is an important issue which is now placed here and which I think will bring greater responsibilities, both in terms with the person who is on bail to turn him or herself in, with their lawyer, of course, and, also, in respect of the energy which the police and others have to place in terms of bringing those who may abscond or will abscond to reduce the occurrence of issues where people do not respond to the question of being on bail. Of course, the opportunity is always there and has always been there in relation to accounting for bail, accounting for bail money, making sure that the bail money is returned when it ought to be, when the matter is cleared up. Overall, I think these resorts, the ordered way in which the system, with respect to the granting and the management of issues of bail, would put a better framework in place to make it a fairer system. As I said before, the removal of discretion and clarity in respect of the position the police, the judiciary, the magistracy, the lawyers and the accountable persons have to take in respect of the overall question that bail may bring a much better system in place and better management in place. Of course, the Hon. Attorney

General and Minister of Legal Affairs pointed out the fundamental right in the basic law of the country, as to the establishing of the right of freedom and the question too of the responsibility of the opportunity for being granted bail.

[*Mr. Speaker assumed the Chair.*]

In clause 28 of the Bill, it provides for "where a defendant charged with a serious offence is released on bail.." as was said before, "…the court shall, as soon as practicable, inform the victim of that fact, and any conditions of bail".

The question – clause 29 "Where an appellant abandons his or her appeal…", sometimes there are inducements, sometimes there are other issues in relation to the abandonment of an appeal, his or her appeal, and has been released from custody and is "…liable to further imprisonment, the court shall immediately issue a warrant for his or her apprehension".

At clause 30, the necessary repealing of the sections of the Police Act, the Summary Jurisdiction (Procedure) Act which deals with deals with persons arrested without a warrant. Clause 30 of the Bill tidies up those issues in relation to giving greater clarity to the question of bail and the resorts before the court… the police and the responsible persons have in relation to the question of their determination of their positioning with respect to their freedom and with respect to the management of the system. Overall, and these are more things in respect to the lawyers and the Attorney General's Chambers and their very capable lawyers. The saving of other written law relating to the Bill, as expressed in clause 32, is important and speaks to where the questions of conflict could be resolved in that clause.

Mr. Speaker and other Members, the Hon. Attorney General and Minister of Legal Affairs has gone into great details on the particular and special legal aspects related to the Bail Bill 2022 – No. 14 of 2022. The Bill, as laid out here, sets out all the issues which are critical to bringing the clarity which we speak of. The questions of the right to bail, the conditions of the bail, the bail procedure, the miscellaneous and supporting other items are all laid out in good order. I believe that it establishes greater clarity, greater opportunities for benefit from all persons concerned and clarifies the question of bail and of freedom as guaranteed in the Constitution with respect to the legal justice system.

With that and in short, and without getting into areas where there is more surety in terms of persons who have clear legal training, I want to support the Bail Bill 2022 for our legal justice system and for support and clarity in relation to bringing a more efficacious way of treating with issues in relation to the provisioning and the dealing of bail in the courts and in the criminal justice system. Thank you very much. [*Applause]*

Minister of the Public Service [Ms. Parag]: Good evening, Mr. Speaker and Colleagues of the honourable House. I wish to support, or I stand in support of my Colleague, the Hon. Attorney General, in presenting this Bill to the House. I do believe that this Bill, much like the other Bills, is a progressive Bill. It does more than just address the issue of whether bail should be granted and at what point bail should be granted.

8.37 p.m.

It contributes heavily to the efficiency of the justice system because... I will state this immediately – the aim of granting bail or not granting bail was to ensure that the defendant or the person who is arrested attend their hearing, should there be a hearing. In serious offences such as those that carries imprisonment of five years and beyond or life imprisonment or the death penalty, those remain the same because they are guided by the Constitution as well as the Criminal Law (Procedure) Act and the Criminal Law (Offenses) Act. The Bail Bill does not affect those offences. However, there are cases where it is more of an injustice not to grant bail than it is justice done. This does not affect, as the Hon. Attorney General said, sexual offences or offences that are as a result of domestic violence. There is no injustice being caused to a victim or a perceived victim in those cases.

The issue of bail, again... As an attorney who would have practised criminal law, and as the Hon. Attorney General said earlier as well, it was not only tedious, but it was a very difficult process to have to go through. One may have had a client who was arrested and taken to the police station for a minor offence but would be held there for 72 hours, sometimes, and then taken to court. A lot of the times, they were held for 72 hours because the Constitution gave the police the power to do that. There was never a move, and there still is not a move to expeditiously take that person to court if there is enough evidence or they have gathered and completed their investigation. They would just let the 72 hours run out and sometimes even go for an extension.

I do believe it addresses an abuse of that process. Where one could have investigated and closed that investigation very quickly, one can take the person to court. In this case, the Bail Bill is seeking to remedy that by granting those persons bail or taking them to court. Wrap up your investigation and take them to court early. As the Hon. Attorney General said too, we cannot change the Constitution as it relates to the 72 hours, but we can bring amendments as it relates to the offences themselves and the nature of those offences.

This Bill seeks to also recognise the presumption of innocence. While the aim of bail remains that a person should not be a flight risk, or if a person is determined to be a flight risk, then one does not grant them bail, I do believe that magistrates and judges will still exercise their discretion on a case-by-case basis. The Bail Bill does not prevent that. If in the instance they find that someone is a repeat offender or if there is an issue of that person being a flight risk, then bail may not be granted. Where it is that person has no antecedence and one has all the conditions that one may have put, if one does not have that, then the Bail Bill addresses the issue of granting bail at the police station as well as the court. Again, realise now, on the presumption of innocence, as a person is innocent until proven guilty.

More often than not, we have seen the process from the time a person has been arrested and goes through a trial for that trial to come to an end. Sometimes months may go by before someone can be granted bail. Again, it is more of an injustice than a justice in the system. It is really to remedy one, the inefficiency of the process, and two, the injustices that may have been caused or may be caused. I promised, Mr. Speaker, that tonight I was going to be brief, as I was in the first Bill. That is because our Attorney General would have expounded on this particular Bill in detail, so much so, that he would have really gone past the 30 minutes in explaining. We have many clauses that he would have gone through as well as the Hon. Minister of Home Affairs. So, I am not going to spend much time just to say that in any legal framework...

Tonight, we may be able to get through seven or eight bills. All these bills are progressive in nature. Our country is moving to modernisation. It is moving to transformation. Therefore, our legal system needs to keep up with that. This particular Bill is one of those bills that will cure this and, also, the issue of overcrowding in prisons, when there are serious offenses, those persons may be in prison but then you are also packing the prison with persons who would have been first-time offenders of minor offenses, and holding them there when, really and truly, that is not only taking

up space and putting a burden on the prison system, but also creating an obstruction and an injustice.

Mr. Speaker, I, again, support my Colleague in presenting this Bill to the House. I commend him and, of course, the committee of my Hon. Colleagues who would have contributed to the amendments in this Bill. Thank you, Mr. Speaker. [*Applause*]

Minister of Culture, Youth and Sport [Mr. Ramson]: I am happy to share my support of this Bill that the Hon. Attorney General has presented to this House which he described, quite correctly, as monumental. Monumental because when we think about how important the rights of the individual to freedom and civil liberties, and how important it is being able to protect that in a free country. It is for leaders who assume the responsibility of leadership to use the office that they have to protect those civil liberties and the rights individuals have, for which, it is almost impossible for me not to once again take note of the fact that on this monumental day that this Bail Bill is being presented to this House that we have the absence of the APNU/AFC from their contribution to protecting the rights and civil liberties of the people of the country. I speak on behalf of all the people in the country when I say that this is a monumental waste of the responsibility that they have assumed when they constantly keep shirking the responsibility that they willingly undertook, especially when we have statements being made constantly about the respect for the rule of law.

It is important for them to appreciate that when you, as the Speaker, speak in this House and make a decision, that is a rule, and it is for everyone who took that oath of office. They have to respect the ruling. It is totally hypocritical to go into the public and parade as bastions of the righteous and obedient to the rule of law when, in this very House, they are unable to accept the ruling that you made. That is why we had the episode of the naked and rank attempt of stealing the Mace before our very eyes while there was a sitting. In fact, in many places, that would be larceny, for which this Bail Bill would now apply.

I want to take everyone back to the role of the State before we get into some important points which the Hon. Attorney General has comprehensively elaborated on and spoken *ad nauseum* on – many of the areas that are captured in this Bill. Taking one back to the origins of the State, it is important that everyone appreciates that when the State came into existence, it assumed the

responsibility of security. It told everyone that one should relinquish one's personal responsibility to protect oneself, and have this body called the State do that on one's behalf. It then sought to create a system of enforcement of which includes the security services or disciplined services and the justice sector, all of which evolved over time.

A balance has to be made between the role/power of the State and, also, the protection of the rights of individuals. Before one gets to the rights of individuals – the creation of those rights of the individuals. Before this Act… and this is why I agree with the Attorney General when he described this Bill as monumental, it is not that bail did not exist in the country. Everyone is familiar with bail. One may go to anyone of an adult age on the street and they will give a fairly good explanation of what the term bail means. Money paid, generally, to the State to secure one's freedom as an interim measure, while some criminal proceedings or investigation is ongoing. Everyone knows that the concept of bail existed long before this Bill, but it never existed in a written document that is codified and consolidated in an Act. This is a problem because in the absence of that clear codification and consolidation in an easily accessible document, it creates an opaqueness in the area. What does opaqueness create?

8.52 p.m.

It creates confusion, it creates the opportunity for abuse and there is no easily solvable solution for the citizen who may not have had extensive and esoteric training as an attorney would who, inevitably, when rights or unfair practices by the State…whenever those actions or exercises transpire, it is the attorney who one relies on. One seeks an attorney because he is more trained. Generally, it is because one does not have the familiarity or the accessibility of the laws. In fact, I recall that George III had said that it was not that lawyers knew more law, it was just that they knew where to find the law. I recall, in my personal experience, when I first hung up my shingle to practice as an attorney in 2012, not when I was first called to the bar but when I opened my chambers, I remember dealing…and maybe Mr. Sanjeev Datadin would remember some of this too because many times I spoke to Mr. Sanjeev Datadin at that time and my god sister Ms. Pauline Sukhai. I bounced some issues that I had and got some advice from them. On the most basic of applications, all of the other jurisdictions that I had been exposed to have this piece of legislation years and years and even decades ago. We did not have that here.

I am very pleased, today, to, first of all, share my voice and support for the passage of this Bill. I also want to just state for the record and reenforce some points that were made about this Bill. One is that it establishes and reenforces the right to bail. It also sets out clear circumstance where bail could be refused. Now, importantly, for what we in Guyana call station bail, what commonly known as station bail, the Bill explains exactly when station bail will be given. This is important especially for more of the younger people who are involved in minor offences, traffic offences, *et cetera*. A lot of times when a police officer stops them, let us say they ran a red light or something, where there is an imposing figure, it makes them nervous, and they wonder what the consequences of them are being stopped by the police. It is not unknown that some officers may not deal with the issues expeditiously or they may use the opaqueness of the area, in the absence of the Bill being presented now, for untoward purposes. It sets out very clearly when station bail can be given. It states here in the situation where… This is clause four of the Bill. In the Explanatory Memorandum, it states:

> "If the offence is not punishable with imprisonment, bail shall be granted with every convenient speed".

Then:

> "On the other hand, where the offence is one that is punishable by imprisonment, bail may also be granted as soon as practicable. Bail granted in both instances may be with or without sureties…"

It also states:

> "However, where the offence is a serious offence, the police officer shall not grant bail to the person."

Then it goes on to state what is a serious offence:

> "… a serious offence is defined as any offence for which the maximum penalty is death or imprisonment for a period exceeding five years."

Now, importantly as well, it does not seek to do anything that is in contravention or that is inconsistent with the Constitution, which is important too. We know that article 139 speaks about

the 72-hour period. It does not interfere with that. What is important as well is that even when bail is refused, a person could also appeal the decision that was made by the magistrate at the lower court, and one could appeal all the way to the Caribbean Court of Justice (CCJ). There is also the opportunity for a judicial review, which was another Act that was introduced by this People's Progressive Party/Civic (PPP/C) around 2014, which had existed in other jurisdictions many years prior to that. Again, it is not that judicial review …

Mr. Speaker: I may need to ring the bell to have a quorum.

Mr. Ramson: What do you need to do?

Mr. Speaker: I will need to ring the bell to have a quorum.

Mr. Ramson: All right.

Mr. Speaker: We will suspend for two minutes.

Sitting suspended at 8.59 p.m.

Sitting resumed at 9.02 p.m.

Mr. Speaker: Hon. Minister of Culture, Youth and Sport, it seemed like your colleagues have abandoned you.

Mr. Ramson: It is with good reason.

Mr. Speaker: They do not want to hear the facts.

Mr. Ramson: I would like to conclude. In the middle of what I was saying is that there are important parts of the Bill that include judicial review, which was another piece of legislation which was momentous, and which was introduced by this People's Progressive Party/Civic Government about 2014. Just like this Bail Bill, it was not that judicial review did not exist back then. It functioned under something called a prerogative writ, *Certiorari* and a number of the other mandamus orders that one could get. But it became codified under this piece of legislation, which is important as we continue to move our country forward so the judicial needs to transform.

Bail, as many people are unaware, particularly officeholders who are the ones in charge of the justice sector…They tend to forget that bail is only for the purposes of securing the accused and ensuring that the accused attends his/her trial or investigation. Essentially, it is so that he/she does not flee or in the rare instance where they may be harmful to other members of the society. Once the accused has been charged with an offence, it also clearly outlines the instances where bail may be refused. For the purpose of being comprehensive, I would like to state what the Explanatory Memorandum states for clause seven. It states that in these circumstances; one, is where the accused or the defendant would not attend trial, which was what I was referring to a moment ago. Two, interfere with evidence or the witnesses, or otherwise obstruct the course of justice; three, commits an offence not punishable by fine while on bail; and four, be at risk of harm against which he or she would be inadequately protected.

Those are the four areas that it outlines in clause seven, but it also states that bail maybe denied where the defendant should be kept in custody for his or her own protection or the preservation of public order. This takes me back to the original point that I started with, which was about the function and the role of the State assuming the responsibility for security for the citizens of a nation.

Quite importantly as well, in clause eight of the Bill, there are…especially in dealing with possession of firearms. In the Firearms Act, in one of the offences that was created there, possession of a firearm did not attract the right to bail. In fact, if a person was found with a firearm without a licence, bail was refused with the exception where there was this nebulous phrase called special circumstances. This was subsequently defined in the case of Knights and De Cruz. The Attorney General had also made reference to it, where it was explained what those special circumstances were. Essentially, it said that those special circumstances were not that which were relevant to the offender or the accused. It was relevant, particularly, to the facts of the case. That was important as a piece of case law, which lawyers refer to as common law, to explain what special circumstances mean in that situation. Importantly, this Bill captures that. It explains what those special circumstances would mean. So, for all of the Acts that exist for which the term special circumstances relate to bail, the possibility of bail and how it can be explained, it is captured in this Bill. It is a piece of legislation that is momentous. I am happy to share my voice on the support

and passage of this Bill. I would like to take the opportunity to commend this Bill to the House. Thank you very much, Mr. Speaker. [*Applause*]

9.10 p.m.

Mr. Datadin: Good evening, Mr. Speaker. I rise to support and commend the Bail Bill 2022 to this House for its consideration and passing. I have been in practice for a little more than 25 years and believe you me, Mr. Speaker, when I tell you that this, undoubtedly, is the most significant advancement in our criminal justice jurisprudence in all my years of practice. Bail is a right that must be respected by all who choose or control the power to take it away. Liberty is a right. All those public officials who exercise control or authority over one's liberty, must do so now in accordance with the Bill.

The Hon. Attorney General, who spoke before me, was quite diplomatic when he said that what happens is one would go to one court, and bail would be granted for something for any offence, and then one would go to another court, half a mile up the road, and it would not. It is worse. One would go to the High Court and the same thing would happen. One would go to the Court of Appeal and it would be the same thing. The reason was very simple. There was no equality of treatment for various reasons. Most of those reasons were not nefarious; some, of course, were. Most of those reasons had nothing to do with corruption; some did. The reason was very simple. There was no coercive set of rules that applied to everyone and to which everyone could refer. In a jurisdiction where written reasons and decisions are not easily available nor frequently published, essentially, judicial officers did not know what each other was doing or what principles were being applied outside of the very general principle. This is a landmark day because all of that mystery and all of that opportunity is lost, and it should be lost forever. We do not want judicial officers and police officers, at their *whims and fancies*, and their mood and attitude, to grant bail or, more importantly, take away one's liberty.

It is legislation that benefits an entire nation. God forbid one is involved in a minor traffic collision and has to wait three hours for a policeman to decide whether one would be placed on bail. For about two hours and 59 minutes of that time, one is sitting in a chair across from him, and he is telling you there is somebody he needs to speak to, that somebody is waiting on a report from him, and he is sitting there doing nothing. I know that might be an extreme example, but the reality is

the legislation now states, very clearly, that if the offence is not punishable with imprisonment, the person shall be placed on bail with every convenient speed. These are words that have very specific meaning in legislation. It does not mean that the police could decide to wait on a superior officer. It does not give them that latitude or discretion. Convenient speed means the person has come to the station, the police is aware of what the offence is, it is clear that the offence does not carry a custodial sentence, then the police is to make arrangements to release that person. That is what it means. It means nothing less or nothing more.

In legislation, as you would know, Mr. Speaker, we use phrases like ‘reasonable’, we use phrases like ‘in due course’ and ‘due process’. We use specific phrases. 'With convenient speed’ means that you do it as soon as you are aware. I commend the Attorney General and I have told him this privately and I wish it to be recorded. That is that it takes a lot of courage for a man in his position and with his responsibility to put this in legislation for the protection of the people. This is because he will be the one who appears before the judges to explain why policemen do not understand what he says by ‘convenient speed’. It is indeed what should happen. Not to get too technical, but at common law a magistrate could not refuse you bail either, if he or she could not imprison you. Magistrates and judicial officers need to understand that if the law provided for no imprisonment, they cannot, through the back door, take away one’s liberty. This piece of legislation gives effect to that.

If the offence is one punishable by one imprisonment, unless it is a serious offence, the police’s obligation is as soon as practicable. That obviously is slightly different from convenient speed and a slightly lower standard, because, again, it recognises that it is an offence that is punishable by imprisonment. It is not a serious offence, which is defined in Section 2 of the legislation as not carrying more than five years’ imprisonment. Again, it does not mean that the police could go and walk about and treat with it at their convenience. Soon as practicable has a meaning. That is just very close to and one step away from convenient speed. These are important aspects of the law which may have been in diverse parts, but in this particular aspect of the law, it is an advancement. It is legislation that does what legislation is supposed to do – protect the citizens’ liberty. That is paramount. Under all circumstances it does that.

Of course, the legislation recognises that there are serious offences and for those there may be no bail granted. There are serious offences for which the police have to take someone to a magistrate

and the Constitution provides that they have 72 hours within which to do that. This legislation allows someone to take steps. If they are not serious offences and if there is no imprisonment for the offence, one does not have to go through the lengthy process provided by the 72-hour wait and the rest of it of going before a magistrate. If one falls within what we would refer to politely as a minor offence, it means that one should have their liberty. One does not have to wait for all the rest of things to happen. One cannot be asked to remain in custody by a police officer in those circumstances. It is clear what the law states his duties are and what he should do.

The legislation does not make it a free for all. It does what is sensible. It takes serious offences and it takes offences that are not serious, separates them, and treat with them differently. It takes capital offences, where the penalty its death, and it separates it, again, from this legislation. As the Hon. Attorney General mentioned, there is a framework of statute and case law to deal with those. Importantly, clause 6 of this Bill states everyone has a right to bail. Everyone has a right to be released on bail. When one is charged, serious or nonserious, as long as it is not a capital offence that is, one is entitled to bail. Then it sets out what are the circumstances that should be granted for bail – whether one fails to surrender to custody, whether one is a habitual offender, whether one is likely to repeat what one did, whether there are several such instances, and whether it relates to protection of people and protection of the public. These are all things to be considered. It is important that this be put in the law so that it is not only lip service that is paid for it.

The prosecutors are not going to be able to turn up in court and rattle off an affidavit that says they believe someone is a flight risk. As the saying goes, *believe in God and nothing else*. If they know someone is a flight risk, then they should say why. If they have information that someone is a flight risk, they must say so, what the information is and the source of their information. Legislation, by setting these things out…it has to be for someone's protection. Whose protection? What is the likely risk? You are not allowed, as has been the practice for too long, to regurgitate these things into affidavit without any foundation. This law ensures that there is substance. Now, it has to be demonstrated to the court hearing the application for bail that these things exist. It is not merely the say so. These are the headings. You have to flesh them out and provide your evidence. This is important because far too often there may be uncertainty with judicial officers as to what are the matters and issues they are considering.

Additionally, there is consideration of bail pending appeal. Respectfully, I agree that the position must be that there is no right to bail once one has had a conviction. If one could show circumstances, there are such, which are listed in the section, then one ought to be granted bail. The special circumstances argument, which is a very vexed and troublesome issue in our courts, has always been whether it extends beyond the Firearm Offences Act.

9.25 p.m.

The Act, as the Attorney General indicated, is where the interpretation special reasons come from or whether it strictly applies to the Narcotics Act because that refers to the same special reasons. Mr. Speaker, we now have it clear. Special reasons are relevant to the consideration of bail in all matters to which this Bill applies. It states that it does not relate to the man or the offender; it relates to the offence. These are important advancements in the criminal justice system because it means now that every citizen should be assured that these rights are what they have. They do not have to ask anyone. These are their rights. They are set out in black and white, and one is not at the mercy of anyone for them.

Now, some of the legislation, as mentioned by the Hon. Member, Mr. Ramson, is a codification. That is because it has been difficult, in many cases, to have the law all in one place and in one cohesive document. There is only one case on the issue of bail that has reached the Caribbean Court of Justice from Guyana. There is only one case that has reached that Court on bail in the entire Caribbean as a matter of fact. In that case, the appeal in the Caribbean Court of Justice…Mr. Speaker, I was counsel in that matter, and you would be interested to know that the Hon. Member, Mr. Charles Ramson, was with me in that case in the Caribbean Court of Justice. That was a matter from Berbice. It found its way all the way to the Caribbean Court of Justice. It was Mr. Kevin Dhanpat and Mr. Mohamed. I believe the citation is 2014 CCJ 9.

The attorneys in Berbice who did the matter, the matter was from Berbice, made an error in the steps of the application. They had applied to the wrong court and the reason was they did not know. They did not know that there was legislation that provided how it was. It was not easy to discover it because it was in bits and pieces of amendments. In fact, when the matter got all the way to the Caribbean Court of Justice, Mdm. Justice Barlow appeared for the State, and she indicated that it was a troublesome piece of legislation to locate indeed. But now, that is no more. The process and

the procedure are set out. If an application is made to the Magistrate's Court and either side is not happy; they could go to the High Court, then the Full Court, then the Court of Appeal and then the Caribbean Court of Justice. All the steps are very clear. Simplifying it, there is even the form for the appeal that has to go to the Full Court in the Bill. So, it is a matter of filling it up.

This also involves amendment to what are really troublesome procedures that we would have experienced through the court. If it was an indictable matter, one had to appeal to the Court of Appeal and the bail application lay in the Court of Appeal. If it was a summary matter, the bail application had to be made to the High Court. These rules, which created havoc among young practitioners and experienced ones as well in where one would apply to the wrong court *et cetera*, are all gone. It does not matter which way it is. If one goes to the High Court judge, the Full Court or the Court of Appeal, the process is straightforward. There is the removal and the amendment by removal of legislation from the Court of Appeal Act which stated that one had to go to a judge in chambers as opposed to the full bench, which is a different application. All of these pitfalls of procedure have been eliminated. All of them have been removed. The process is very simple now. In this simplified process, one cannot make a mistake. From one court, one goes to the next. It is not whether one goes to the full bench of that court or one goes to a single judge. Those things are no longer applicable.

One of the interesting things about the legislation is that it provides for an appeal against the decision, and it provides also for one to make an application for judicial review of the decision. They are two different prospects and two different approaches. The Judicial Review Act allows the decision of every public official to be considered by a superior court, a magistrate being a statutory body and an inferior court. Significant in the importance is that it is very difficult to appeal the exercise of a discretion. This means that if a discretion is exercised as to whether it should be $100,000 or $200,000, unless one can prove that the discretion is so excessive that no other person would make that mistake, you are bound by it. Even if the appellate judges disagree with you, they would be bound to follow the discretion. There is no such limitation if one goes for judicial review because the discretion itself is reviewable. So, the vexed problem among attorneys, litigants, defendants and accused of how to frame it or twist it to make it appealable or reviewable is no longer an issue.

This piece of legislation has taken all of the pitfalls, all of the chicanery, all of the little issues that denied justice on the basis of very frivolous grounds, such as procedure or not taking the right steps…All of that has been removed. As I said at the very beginning, in my 25 years, this is the most significant advancement of the criminal justice system. It really is and I commend it to this House. [*Applause*]

Mr. Speaker: Thank you, Hon. Member. Hon. Attorney General, you may conclude.

Mr. Nandlall (replying): Mr. Speaker, I want to begin by thanking all of my colleagues who spoke so elaborately and comprehensively on the Bail Bill, outlining the merits and highlighting all the improvements to the legal architecture which are brought by this intervention. What we are witnessing here, and it became very clear when I listened to the presentation of my colleagues so articulately expressed before this House is, considering the whole slew of Bills which we have debated here this evening and we are not yet completed, every single one of them is directed to the improvement of the rights and freedoms of our Guyanese people in a permanent, institutional and systematic way.

Mr. Speaker, we do not have to run around the place and issue statements and pay lip service to concepts. We are actually delivering concrete materials to improve the lives and livelihoods of our people and to advance their freedoms and their liberties. That is what we are doing every single day and it is patent and obvious in every single piece of legislation that we have promulgated here this afternoon. The Opposition who, as I earlier indicated, are representing and are paid to represent some 49% of our electorate chose to absent themselves from these important law-making exercises. They are completely absent. Their constituents deserve better. Their constituents and this process ought to have benefitted, all things being equal, from their contribution. Well, hopefully. Instead, despite accepting taxpayers' money as pay to represent their interest in this House, they are home, or they are sleeping, or they are at Sweet Point '*Bam Bam Alley'* instead of being here representing the peoples' interest in our country.

Again, I take this opportunity to highlight to the people of this country the gross dereliction of duty on the part of the Opposition, including the Leader of the Opposition. Yet you will hear them, as Minister Ramson said, as they will jump on every housetop to say that they are championing the cause of the rule of law, they are championing constitutionality and they are championing the legal

rights and freedoms of the people of this country. They only do that to get the press's attention and to pay lip service to those concepts. When it is to do real work to advance the peoples' welfare and interest in an institutionalised way and to put structures in place to guard against the very abuses that they are complaining against, they are absent. They make no contribution whatsoever. When we speak about allegations of police excesses and we condemn those excesses, whether rightfully or wrongfully, what we are doing here and what we are witnessing here is a menu of laws establishing systems and permanent structures in our legal architecture to guard against, to prevent and to prohibit those types of abuses. That is what we are working for. We are working every day to put systems in place to ensure that those things do not happen.

All they do is sit idly by and do nothing, but when those things happen, they jump upon every house top, exploit the issue for political advantage and make political mileage out of it, with no concern for either the victim or the perpetrator. There is no concern to correct the system. Were they concerned about correcting the system, they would have been here contributing to this debate. They are not here. I say that again to remind the people of this country of the type of representation or the lack thereof that they are receiving from the neglectful politicians they have elected to this House. There is another election coming within the next few months. I hope the people of Guyana and the electorate will register their protest, their sanction, their disgust and contempt at the neglect that they are facing at the hands of these Hon. Members of this Assembly.

9.40 p.m.

Mr. Speaker, I want to also thank Justice Charles Ramson, Senior Counsel and former Attorney General, for guiding discussions and for direct inputs made in this Bill. As a lawyer since the early 1980s, Mr. Ramson wrote an article titled, *Bail or Jail*. Since then – 40 years ago – he lamented the absence of a statutory framework for the grant of bail. He highlighted the excesses and abuses which take place, in particular, at the police station in relation to bail. In his book, *A Portrait in Justice, Liberty and Equality*, he revisited that article which he wrote, 40 years hence, and commented again on the failure to have this statutory mechanism in place. What he wrote in that book and that article has been embraced in this Bill which now forms part of the legal architecture of our country.

I know my drafting team is here and I have not paid compliments to them as yet, but we have another bill and I do not wish to be repetitive at this late hour. So, Mr. Speaker, I conclude by commending this Bill to this honourable House to be read a second time. Thank you very much.

Question put and carried.

Bill read a second time.

Assembly in Committee.

Bill considered and approved.

Assembly resumed.

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

Narcotic Drugs and Psychotropic Substances (Control) (Amendment) Bill – Bill No. 2/2021

A Bill intituled:

"An Act to amend the Narcotic Drugs and Psychotropic Substances (Control) Act.

[*Attorney General and Minister of Legal Affairs*]

Mr. Nandlall: Mr. Speaker, I commence the last leg of this marathon session or, as my Chief Whip is advising, she prefers the term, the last lap. In any given society, there are areas that require policy directives and legislative intervention where there are competing and colliding interests. Guyana, as we know, is a land of six peoples, different religions, different ethnic groupings, and different social orientations. In a society like Guyana, there are competing interests in relation to many things.

The Bill that is before us addresses the question of the use of narcotics in our country, in particular, the use of marijuana, and seeks to change the current law with respect thereto. Many Governments in the past in Guyana have tried or have made commitments to tackle this very vexed question. In fact, this was a campaign promise of the APNU/AFC at the 2015 General and Regional Elections. They promised the decriminalisation of small quantities of marijuana, and they made that a high priority promise in their manifesto. When they took Government, a bill to that effect was drafted

and laid in the National Assembly but died a natural death. It was never debated. [**Dr. Anthony:** (*Inaudible*)] My Minister of Health is advising that it is an unnatural death. I stand corrected. It died, whether naturally or unnaturally.

We made a promise in our manifesto, and in our election campaign for the 2020 Elections, that we will remove custodial sentences for small quantities of marijuana. We made that promise and we were elected upon that manifesto which contains this promise. Today, we are delivering on that promise, but the journey that we travelled, to arrive where we have arrived today, has not been an easy one. We believe in a process that is as consultative as possible on an issue like this which has a history of being controversial and where there are different segments of our society, all of whom are entitled to equal treatment, all of whom are entitled to fair treatment, and all of whom are entitled to their peculiar and idiosyncratic interests being addressed by the State, but where they are competing, we will have difficulties.

A responsible Government has to, therefore, skilfully navigate these competing interests in an effort to find that delicate, acceptable equilibrium in order to satisfy, placate or pacify, while at the same time accommodating these viciously competing interests. That is the task that had to have been undertaken in relation to this Bill. We have to speak about it and confront it because people whose interest in this Bill may not be reflected in the manner that they would like, are listening to us. Brother Bob Marley said, that you cannot please all the people, all the time; at least try to please some of the people some of the time. So, we have one segment of our population, for example, the Rastafari Movement which believes that marijuana is part of its divine practices, and it is part of its religious practices. Freedom of religion is guaranteed by our Constitution as a fundamental right and freedom. They believe that this is a product of the creator, Haile Selassie, Jah Rastafari. That it is an herb, a plant. As one comedian said in America, it is a plant but if it catches afire, it has some consequences.

Then, there is the other segment of our religious society which feels strongly that this should remain a prohibited substance. One such denomination describes it as a forbidden tree and says the use of this product causes wanton familial and social destruction in our country, which leads to crime, joblessness, and homelessness, *et cetera*. There is another set in our society, the middle and upper class, some of whom are smoking and keeping it a secret, but they would not enter the fray because they do not wish that to be known. They are following the debate, nevertheless,

because they have an interest in the outcome. The distinguished Minister of Foreign Affairs and International Cooperation is smiling. [**Mr. Todd:** Are you saying something?] I am not attributing anything to the Hon. Member. As a Government, we have to take all these competing interests and try to strike that balance. That is what is captured in this Bill.

9.55 p.m.

For not a moment do we on this side of the House think that we have come up with a perfect output. No, we have not. What we have tried to do, and that is all we can do in these circumstances, is try to strike an acceptable compromise. In so doing we have looked at North America where marijuana is now legalised in many States in the United States of America; at least a small quantity for one's own use. We have looked at Canada where the same obtains. We have looked at those countries and other jurisdictions, modern jurisdictions where the medicinal value of marijuana is recognised and very much sought after. We have looked at the Caribbean that has been grappling with finding a compromise like Guyana, because of the widespread use of marijuana in this region. We have examined a report commissioned by the Caribbean Community (CARICOM) Heads of Government titled, *Report of the CARICOM Regional Commission on Marijuana 2018*. It is a comprehensive report on possible reforms to the law regulating marijuana in CARICOM countries. The Heads of Government of CARICOM commissioned this Report because at some point in time they were and are facing the situation that we are confronting here tonight. This is what the Report says:

> "The Heads were deeply concerned that thousands of young persons throughout the region had suffered incarceration for marijuana use and consumption and many, after their first experiences with the law, resolved to continue with crime as a way of life. Inconsistent applications of the law had led to deep resentment and non-cooperation with law enforcement agencies."

This is what the CARICOM Report is saying. These are some of the very sentiments that informed our position. Currently, the law says that if one is found in possession of a small quantity of marijuana, one shall be sentenced to a term of imprisonment between three to five years. We thought that it was simply wrong to condemn our young people in particular, and our citizens

across the board, to such a harsh and potentially destructive penalty of three to five years in prison for the use of small quantities of marijuana.

The said CARICOM Heads of Government in their 2014 meeting, which established the Marijuana Commission, resolved to procced with care, mindful of the need to capture the complex, multifaceted, socio-economic legal dimensions of cannabis'/marijuana's legal policy and to divorce this sensitive issue from political partisan stronghold that often accompanies calls for change. This is an admonition from the Heads of Governments of CARICOM to thread carefully with a very complex issue. It is for that reason that, though our manifesto made a promise in broad terms, we did not agree on the quantity. We promised the principle, the skeleton, but we did not promise the flesh. We drafted a Bill here and we made it clear that it is simply a proposal which we planned to send to a select committee and charge that select committee with the directive to do public consultation.

On 28th January, 2021, we transmitted a Bill to a special select committee with the instructions to get the benefit of the widest possible consultations and views on this issue which, as I said, has indeed evoked desperate and deep-rooted sentiments. That select committee comprised of five Government Members and four Opposition Members. We met on number of occasions and there is a report that has been presented to the Assembly. The work of the Committee spanned over a year and most of the time was spent soliciting and enlisting public recommendations, advice, and interactions on the Bill which we made public. And we invited presentations in writing in relation to proposed amendments. We received submissions both from organisations as well as many persons. I want to put on the record of this debate, at least, the organisations with whom we interacted during this consultation process – The Bar Association of Guyana, Twelve Tribes of Israel, the Guyana Rastafari Council, Theocracy Order of the Nyabinghi, Healing the Nation Theocracy Party, Roger Edmonson Foundation for Herbal Rights, Assemblies of God in Guyana, Guyana Ahmadiyya Anjuman Isha'at-I-Islam (Lahore), The Central Islamic Organisation of Guyana, the Guyana Islamic Forum and the Guyana Hindu Dharmic Sabha. These organisations made submissions, and as I said, made submissions of a competing nature, which the Committee then had to decipher and then arrive at what the Committee thought was a compromised position, not consensual. That was the process we engaged in. As I said, the Committee used the *Report of*

CARICOM Regional Commission on Marijuana 2018 for guidance. That Report pivotally understood, and I quote:

> "The determination of whether or not the status quo with respect to the legal status of marijuana deserves to remain, or be changed, necessitates a deep inquiry into the several, multi-disciplinary dimensions of the subject: the scientific, medical, legal, social, religious and economic."

That is the type of inquiry that the Committee sought to embark upon. We looked at the entire Caribbean and the Caribbean is moving in this direction. There are some jurisdictions where very small quantities have been decriminalised and there is the hybrid position where it is still a crime but custodial sentence has been removed. We decided to strike the balance whereby we are in this Bill removing custodial sentence from one to 30 grams. Custodial sentence is removed but it still remains a criminal offence. In respect of one to 15 grams, the penalty is counselling, mandatory counselling; and from 15-30 grams, the penalty is community service under the Extra-Mural Work Act. Mr. Speaker, that is the crux of this amendment. Everything else is consequential. As I said, we did not arrive at this position lightly, we debated, we examined so many examples, so many jurisdictions, before we came to this position.

To understand what 30 grams are, the Committee requested the assistance of the distinguished Minister of Home Affairs to use his ministerial connections to get for us, from the Customs Anti Narcotic Unit (CANU), a quantity of the substance so that the Committee can have a good look at what 30 grams are or what 15 grams are. That is the type of detail which inspired the work of the Committee. Mr. Speaker, as I said, the Opposition, as is their norm, hardly attended the meetings. I think we had to issue public statements criticising them for non-attendance and it is reflected in the report. And when they attended, they did not have much constructive contributions to make.

10.10 p.m.

While the Committee was ongoing, Mr. Duncan, one Member, was suspended. In fact, the last version of the Bill had to be sent around. They were not coming to the meetings, and we enlisted the cooperation of the Clerk of the Committee to send the Bill around one final time for their input; of course, nothing came. As we are trying to navigate these difficult questions, we are not getting any help from the Opposition, but they will be the first to condemn what we have done, if they

have not begun to do so already. They were a part of this Committee; let them show what they did. I know that they promised decriminalisation of a small quantity of marijuana which they never delivered. We are delivering what we promised; we never promised decriminalisation, and I would like to make that very clear. We promised the removal of custodial sentence from small quantities of marijuana, and that is what we are delivering to the people of Guyana tonight. Again, I would like to highlight the track record of the People's Progressive Party/Civic in delivering promises that it has made to the people of Guyana and that is important in the realm of politics, in particular. In contrast, not only is there an Opposition who do not deliver on their promises, but they sign agreements and enter into arrangements that they later repudiate, but that is another debate altogether.

We have *taken the bull by the horns* here, and we have put forward a formulation to address this vexed issue of possession of small quantities of marijuana in a manner that we think accommodates, in the most compromising way, the competing, desperate and different interests within the four corners of our society. Jamaica may have a different experience and a different cultural and religious makeup, and would obviously be guided by that, so too would Barbados, the Republic of Trinidad and Tobago and the other smaller islands in the Eastern Caribbean. In fact, they have moved in that direction and their formulation has nuances that obviously were carefully nuanced to meet the peculiarities of their society. We are doing the same for our society. What you see, Mr. Speaker, is a position that reflects our attempt at finding a compromise on a very contentious question. *Without any further ado,* I commend this Bill to the House. I thank you very much. [*Applause*]

Mr. Speaker: Thank you very much, Hon. Attorney General. Our next speaker will be the Deputy Speaker of the House.

Mr. Shuman] Thank you, Mr. Speaker. I first want to thank the Hon. Attorney General and his team for tabling this piece of legislation in this House. I want to ensure that the people, once again, who are listening to this debate understand, as the Attorney General so aptly put it, the balance that needs to be struck between what society needs and what some of the other competing interests want.

I have, much like many of my colleagues on the other side of the House, been around to many communities and there are a lot of fears. In those conservations, one hears about the potential destruction to the young minds, the somewhat lethargic nature that sometimes ensues after someone smokes marijuana. One listens to their concerns about how it is going to affect their small communities. I have seen some of the effects having lived in Canada for a while, a country that has legalised marijuana. I have personally experience, within the work environment, some of the restrictions that comes with legalisation. I offer my own profession as an example to demonstrate, or to let the world and this country know about the technicalities of legalisation coupled with one's profession.

In aviation, imagine there is have a pilot who deals with legalisation that hops into the cockpit and decides to take off, except that the response time has been degraded – any aircraft that one flies has to perform to a certain specification – and you suffer from a critical failure, and you sit there. It takes one literally seconds, very important and critical seconds, to respond to certain emergencies. It creates a limit to what one can achieve if we are to go down a path where cannabis becomes legal. Imagine the effects that come with doing the maintenance on an aircraft or a car and because the persons become a little bit lethargic, maybe a little bit *laissez faire*, they fail to tighten up some screws or maybe fail to secure a brake line. Imagine someone in surgery, and surgeon is saying that he is going to go and take a smoke because it is legal. I am going to perform a surgery.

What this Bill does is put the break on the people who may otherwise be overzealous in wanting to use marijuana and think that the same professional environment exists to them, that is one. The second, and in my humble view one of the more important things, is that it keeps people who want to consume small amounts of marijuana out of jail. It is something that we have seen repeated over and over, where someone is caught smoking a small joint and instead of addressing it through some community service, he/she is sent to jail. Essentially what the system would have done, historically, was to send young offenders to jail to become harden criminals; they are going to jail to graduate as a full-fledged harden criminal. I think what this Bill does is that it balances societal needs. It may not be perfect, as the Attorney General has said, and I quite agree with him on that.

It is my sincere hope that people who consume or smoke, that they do not look at this as a final step. I borrow from the words of Mr. Neil Armstrong when he landed on the moon, this is one

small step for marijuana, a large step for the Rastafarians – not that I can speak on their behalf – and all of the other young people who otherwise would have been caught into a trap where they walk into jail and come out harden. I would like to ensure that the Attorney General understands that he has my full and complete support on this Bill and, once again, it may not be the final resting place, but I look forward, in the future, to what revisions will ensue as society evolves. Thank you, Mr. Speaker. [*Applause*]

Mr. Speaker: Thank you Hon. Deputy Speaker, now for the contribution from the Hon. Minister of Home Affairs, Mr. Robeson Horatio Benn.

Mr. Benn: Thank you, Mr. Speaker. Hon. Members, I would like to join the debate with the discussion as it were on the question of the Narcotic Drugs and Psychotropic Substance (Control) (Amendment) Bill 2021. In so doing I would like to congratulate the Attorney General and Minister of Legal Affairs, Mr. Anil Nandlall, for the work that he put in, particularly at the level of the Committee on which I served, in respect of coming to a determination after the various consultations that he mentioned, in respect of arriving at a consensus as it is positioned on this matter. Of course, the work of the Committee was too long, disruptive, dysfunctional, largely because of the lack of attendance by the APNU/AFC Members who were a part of the Committee. In spite of the dignified presence of the support staff from the Parliament of Guyana, and in spite of our being there on many occasions and having to wait, minimal work was done on many of the days when we attended.

I would like to confirm, as the Hon. Anil Nandlall did, and to support the position that it is not a decriminalisation of the use of marijuana, or ganja as it is commonly known in Guyana, but that the step has been taken to have counselling for persons who may be found with small quantities, zero to 15 grams; for those beyond 15 to 30 grams, community service; beyond that, the penalties which are already in the law remain. It would not have gone unnoticed to most of us driving around the city, or going to certain events perhaps, to see that there is apparently a much greater increase and open public usage of marijuana. In fact, much of the work now of both the Guyana Police Force and the CANU, is not only being done in respect of the areas where it is being grown, that is, on the Berbice and Canje River, behind Ituni and other places.

10.25 p.m.

While much of the work, as we understand it, is being done to create products for shipment to other countries, the result has been, by a lot of frequent use of marijuana, particularly, amongst young people and perhaps too amongst the more defiant criminalised or semi-criminalised elements in the city than the villages – the bad fellows. The Hon. Attorney General referred to other jurisdictions where there are differences and perhaps more permissiveness and decriminalisation, to use the word loosely, in respect of the use of small amounts and sometimes large amounts as compared to the 30 we are speaking of marijuana.

The suggestion, by persons in society, about the medical usage, the benefits and so on are far outweighed by the interventions that have to be made by the State, both in terms of the criminal justice system. In respect of the responses, the medical and psychiatric counselling services have to put in place. In terms of rehabilitation of those who started with a precursor drug such as marijuana, who went on to cocaine, heroin, methamphetamines and many of those other things that are now available, including the synthetics of course... Of course, we know about the big problem in the United States of America where there are a lot of deaths and disruption, as a result of the use of certain synthetics and other drugs which are creating big medical, social and economic developmental problems in certain areas in the United States of America particularly.

It is not my personal view that the use of these drugs is a good thing. I disbelieve that there is any benefit really for them in Guyana itself as compared to other countries. We have a still poorer society; we have a lot of poverty; and we have a lot of people who are away from their homes, particularly the men in stressful conditions in the farms, in the mines, in the lumber and the forest concessions and all sorts of other places. The behaviour nowadays seems to be that if one wants to destress beyond drinking alcohol, he/she will partake in marijuana, he/she will partake in drugs and if he/she wants to stamp and enjoy yourself, the best way to do it these days is by the use of illegal narcotic substances. The result has been, as we know traditionally, when people use alcohol and narcotics they have or they create for themselves the excuse, the Dutch courage we speak of, to cover up for bad behaviour or to make use of it as the excuse for disorderly conduct for getting into fights, disruptive behaviours, and using knives, guns and so on each other. It gives them the strength, the courage – false of course – to conduct deliberate criminal acts. We had the experience. We had the situation of someone called Baby Arthur in Buxton who killed a number of people

after drugging up himself on cannabis sativa, marijuana. There are many others – many others – examples.

Marijuana itself is a precursor drug. We talked about hemp itself. I remember as a young fellow going to the shop in Ogle, where it was sold openly in those days across the counter in the shops, it sort of died away and things got better. It was sort of normal but then people lost interest in it and it was not being used anymore. There was a resurgence in the 70s and 80s I think more or less driven by issues relating to tourism in the Caribbean and perhaps the continued interest in increasing and moving the levels of decriminalisation in the Caribbean have to do with the foreigners who come to Barbados, Jamaica and other places to enjoy the big spliffs in those countries.

I must say one of the issues with the use of marijuana has to do with the potency of it. Even in Guyana now… Recently, we discovered and tossed out of the country a Jamaican who was supposedly bringing in new strains of the substance. There is a new strain from Colombia, a new strain from Jamaica, and they are not concentrating on the leaves but on the buds which have a much higher potency than what the normal user in Guyana is expected or thought to use. The production in Guyana, most of it, and it is directed towards exportation to the Caribbean and over to the Republic of Suriname. Speaking again about the precursor element beyond marijuana itself, the question is, where do we go from here even while we support the resorts to prevent more or many young people, particularly from being imprisoned as a result for having in possession small quantities that now move from 15 to 30, and with respect to avoid doing community service?

I just want to say a few things about the question going forward if we do think beyond protecting public health that the... Even in Canada itself where the Deputy Speaker spoke of some issues relating, where there is decriminalisation for small amounts of marijuana, but beyond that if there are small amounts, one would get what is called ‘tickets’ for being over the limit, penalties, for up to five years less a day in jail for being over the limit that they prescribe. For illegal distribution or sale, tickets for small amounts are up to 14 years in jail; producing cannabis beyond personal cultivation limits, tickets for small amounts are up to 14 years in jail; producing with organic solvents is up to 14 years in jail; taking cannabis across Canada’s borders is up to 14 years in jail; giving or selling cannabis to a person under 18, again, is up to 14 years in jail; using a youth to commit a cannabis related offence is up to 14 years in jail; and then of course there are further and

similar penalties with respect to Lysergic acid diethylamide (LSD) and heroin, cocaine and psilocybin magic mushrooms.

While we contemplate and accept, here and now, the resort we have with respect to reducing the incarceration and getting the counselling for young people of 15 grams possession and community service for up to 30 grams, we have to consider the legislation and issues beyond what we are resorting to here and now. The containers of both the police and the Customs Anti-Narcotics Unit (CANU), here and now are filled with bundles of marijuana, dried and processed which it has captured along with guns too that it seized from the persons who are involved in the trade.

I want to still say – I want us to remind ourselves – that when the sugar estates were shut down in Berbice, both the Corentyne side and on both sides of Berbice itself, the impact that has had, has allowed people to get in more exotic forms of agriculture. The agricultural interventions, the plant husbandry and all of those things are perhaps at the highest level amongst those persons who are growing ganja in Guyana. Our Hon. Minister of Agriculture I think is under some serious competition, with respect to matching up the effort they are making in that endeavour. I hope and we have been talking about encouraging some of those people to go to some other… give them the seeds, the plant, and the materials to grow cabbage, cauliflower, tomatoes, and other things as a replacement to that which they are using and doing now and to get a livelihood and money coming in. We are working to breakdown the criminal links for those who are deeply involved in the trade at this moment.

It would also be true to say that some of the most heinous crimes that are occurring is as a result of disputes, contest and lack of trust in respect of the trade. The significant problem of the blocking of the roads related to the murders of youths on the West Coast Berbice shortly after we took Office, by our understanding, was related to marijuana issues that went wrong. They had nothing to do with politics and they had nothing to do with the problems between communities. They had simply to do with issues related to marijuana crops, the cultivation and the distribution of assets related to marijuana. I also wanted to say that. With all of that, in concluding, I want to particularly in his absence, praise the Hon. Attorney General and Minister of Legal Affairs, Mr. Anil Nandlall, for his efforts and insight in spite of some related opposition and criticism on the matter – because it is not all well fully settled even on our side, but this is where we are now at the point of consensus – and for his work, and particularly too for the work of his legal support team from his Ministry.

Also, to thank those who were positive in support at the level of the Committee who examined this matter at the behest of the Parliament, and to forget the contributions from one particular Member from the other side who suggested the Hon. Member, Mr. Anil Nandlall that the amount of marijuana which should be permitted should be, I think, 3,000 grams – 3,000 grams. That was the contribution from the APNU/AFC at the committee stage. Three thousand grams, which is about seven or more pounds.

10.40 p.m.

With that and on that note, I want to again join on the issue to look forward or the further development of the best and most efficacious way to approach the question of the use of marijuana in this country and how we deal with it in a legal and proper way. I want to commend the Bill to the House. Thank you very much. [*Applause*]

Mr. Speaker: Thank you, Hon. Minister of Home Affairs. Now, for the Minister of Culture, Youth and Sport, Hon. Charles Ramson.

Mr. Ramson: Thank you very much, Mr. Speaker. I want to start by letting everybody in Guyana know that this is not an easy debate. It is not an easy decision or position for anyone who is involved in Government to take on behalf of the people of the country. There are very strong views on either side of the debate or the many sides of the debate in this regard. There are some people who feel that the penalties should remain exactly the way that they are; there are some people who feel that the penalty should increase; and there are some people who feel that there should be no penalties at all for the use/possession of marijuana. There are a number of views that fall anywhere along the spectrum that I have just outlined.

Now, it is very important for us to trace the history of what we know in the world as "the war on drugs". It is a phrase that was coined sometime around 1971 in the period of Richard Nixon. It became the policy of the Government of the United States of America, an established position, where they wanted to make this a universal fight, the war on drugs, that took it to many other countries in the world. Prior to that, it must be noted in this debate, especially amongst the older generation where one would find a more common view that there should be no changes to the harshness of the penalties in relation to the possession of marijuana or that they believe that it may be not harsh enough. Prior to that period in 1971, there existed no war on drugs. In fact, you may

be very familiar with the term 'hippies'. You would also be very familiar with the word 'psychedelic'. It was not that these drugs, particularly marijuana, did not exist prior to this so-called war on drugs. They existed for as long as human beings have been alive. They have been used by human beings for hundreds, probably thousands of years, or maybe even more but there is no record to say how long there are being used. In fact, in many cultures, they form part of their rituals. That is correct, that is the right word, their rituals.

Many times, even today, in other parts of the world, if a person is looking for answers about his/her life, about his/her children's life and what is wrong with them, the person would go to a "doctor" of the village. He would consume some things and start to prognosticate and diagnose in all sorts of terms and tongues. I am saying this because I wanted to trace the history of the criminalisation of the possession of drugs.

Mr. Speaker: Hon. Minister, apparently, someone does not like you. You have no quorum, again. I will take a short suspension.

Sitting suspended at 10.46 p.m.

Sitting resumed at 10.54 p.m.

Mr. Speaker: Hon. Members, please, be seated. Hon. Minister of Culture, Youth and Sport, once is an accident, but twice? I think they are doing this deliberately. You may continue.

Mr. Ramson: In conclusion… I would prefer to have stuck with that, but I cannot on this instance because I feel that this is an important piece of amendment that the country requires that explanation. In relation to one of the strong issues that we gleaned when we were in Opposition ... Actually, even for the entire period before we went into the Opposition, it was something that was being hotly debated amongst young people.

I left off where I wanted to trace the history of when the possession of marijuana became a crime in Guyana. Not surprising and consistent with what I outlined earlier, which was the war on drugs which emanated from the United States of America under the Nixon period, one would see that in the Narcotics Drugs and Psychotropic Substances (Control) Act, Chapter 10:10, the year when it was first passed. It was in 1988. Why that is important? It is that marijuana had existed in Guyana and was used in Guyana many decades prior to that. In the world, it was also being used many

decades prior to that without anybody identifying it as a substance, first of all, that required the creation of an offence that can put people into incarceration until that policy emanated from the United States of America. Over this period of time you had seen, since that 1970s period and then in Guyana when it was first established in the 80s, the world has gone through an evolution in its willingness to adopt a more enlightened approach to whether it ought to keep drugs as an offence, particularly marijuana as an offence and to start studying what have been the consequences of its use and also whether the institution of and the creation of the offences have caused its decrease.

For the folks who are very strong on the position to say that nothing should be done in relation to the harshness of the penalties or for the folks who think that the penalties should be harsher, we are about to amend this law – not decriminalise it, which is important that I establish –that existed since 1988. This law very clearly states that drugs, marijuana, fell into the category of a narcotic, possession of it was punishable by an offence, of which one of the penalties was imprisonment. So, taking away your civil liberties and what has been the consequence of that creation of the offence? It did not eliminate the use of drugs; it did not eliminate the use of marijuana in Guyana or any part in the world.

In fact, if penalties alone had affected whether there was the commission of an offence… It is something that I spoke about in one of the debates that we had. If the creation of penalties, and just the share harshness of the penalties, had affected whether a particular act continued, then there would be no murder. The most or the harshest of all penalties is when the state says that it will take someone's life. Even though the death penalty is not used in Guyana – and this was maybe in the last 30 years or so it has not been used... [**Ms. Teixeira:** (*Inaudible*)] I am being advised by Minister Teixeira that the last time was in 1998 – in other parts of the world, the death penalty still exists. The reason it is used is because that Act that was categorised as an offence, for which the consequence is death if convicted, still occurs. The commission of those offences still occur.

11.01 p.m.

Just from the sheer point of view of logic, for the ones who are on the side of the debate that Guyana should not start to examine what position we take, as to how we can protect our citizens in the best way, for which every government has overall responsibility to balance all of the interests. While we are not being Laissez-faire or cavalier or insouciant about the welfare of

children, young people or people who are interested in possessing/using marijuana, we also have to examine very carefully what everyone else in the world is doing. We also have to examine, very carefully, whether the measures or policy we implemented is fit for purpose and whether, indeed, it would be working as intended.

There are many locations where billions of dollars are spent on the fight on drugs – billions of dollars spent on the fight against drugs – and that war has never ended. It does not mean that one should stop fighting. That is not why I am making reference to it. If we have to protect young people in the country, in this regard for which, particularly, I could not conclude the debate, we cannot punish them by putting them into a prison because they are in possession of a joint. We cannot do that; that is not protecting them. By exposing them to the same sort of criminality that exists in the prisons and surrounding them with persons who have done far more serious crimes is not the way that one would get the best response in treating with this issue. It is very important that in examining this enlightened approach, we also examine what other places have done.

We know very clearly what other places in Europe have done. We also know what other places in the United States of America and Canada have done. I want to examine, as well, closer to home the places where there are of a similar culture what have been their approach to examining their respective policy position in their laws. I want to share some data or some information about other countries, just for the sake of reference and for completeness, as far as providing the public with the information that they need so that they can know that this was not an easy decision for us. This was not an easy position for us to take and that we are not treating with the issue in a cavalier or insouciant way.

The Republic of Trinidad and Tobago have decriminalised the possession of cannabis for 30 grams or less – decriminalised. In Jamaica, it is 56 grams that is decriminalised as well. In Antigua and Barbuda, they also decriminalised up to 15 grams. Belize decriminalised up to 10 grams. Dominica decriminalised up to 28 grams. I am sharing this with you, Mr. Speaker, with Members of the House and with the public at large, just as a reference point as to what is the distinction in Guyana. Not in relation only to quantities which ours ranks amongst the lowest, it is because we have not decriminalised. It is not that this is the final position for the country but we also have to take a responsible position because we are not willing to experiment with the lives of young people – we are not willing to experiment with the lives of young people.

Just like my Learned Friend the Hon. Member, Minister Robeson Benn, I also share his view that there is no – This is my personal view – benefit for the use of marijuana for casual purposes. There may be some medicinal purposes such as glaucoma. There may be some benefits for the usage there. I am also extremely concerned that for the stronger strains of marijuana, which is commonly referred to as skunk, some people, young people, if they are exposed to it, it can create cognitive issues that linger. In rear instances it happens. I am aware of it. I am also mindful of what that can do. I do not believe that driving it on the ground makes it easier for us to engage with young people to explain what the dangers are. We have all been there at some point, where we were young and willing to be rebellious or experiment. Even though I have never experimented with any sort of narcotics, and I want to state that on the record, I never tried, I cannot say that I can speak on behalf of everybody in the House.

I also know that there are many professionals who also use narcotics or marijuana casually and socially – lawyers, doctors, you name it, businesspeople, *et cetera*. Just as many other drugs, they can create addictions and it is no different in that situation than alcohol which can also create addictions and have severe consequences as well. I want to just frame this debate that we are having here and to explain that this enlightened position where we are allowing ourselves the opportunity to examine and re-examine the measures and the policy that have been implemented over a long period of time is important, especially when it comes to evaluating how best to chart and share the direction for young people and to protect them. For which many young people who may have experimented, they realised that this is not something that is good for them or they want to continue. They leave it aside and they continue doing what they would have wanted to do in their life. There are others where it severely impacts them.

I know, my sister, the Hon. Member, Ms. Veerasammy, has shared in our meetings, some of the horror stories that exist for some of the addicts when their families come to say how they felt that they are losing them. That is one of the reasons the Government of Guyana – this Government of Guyana – did not want to go further and maintain the position that it remains a criminal offence. Those horror stories are real. Ask any family who experienced their son, their brother or their nephew seeing them grow with them from a child; rear them; invested in them; built all sorts of stories and memories with them and because of their addiction, it also became a horror story that

they have to live with, as well. That is one of the reasons when we hear those stories it is not an easy decision for us.

I have to very clearly call out the Opposition in this situation because, just like every other important issue that we have had in this country, with the exception of the Deputy Speaker, the A Partnership for National Unity/Alliance For Change (APNU/AFC) Opposition, they have shirked their responsibility and they have betrayed the people of the country. They have had one contribution at the Committee level, at the Select Committee, where they were suggesting that the position of up to three kilograms is what they would like to see in the law, without there being an offence. Three kilograms is what they proffered as what they want to see inside the law – possession of it being an offence.

Other than that, they had no contribution to this debate on a very important issue that affects the country and affects, particularly, young people. They have 3,000 grams – three kilograms – on a very important issue for which affects young people, and for which requires the leadership of the country, a leadership that they willingly undertook they left and they disappeared. The country is taking note. I wanted to come to share my views on this, as well as on some of the important facts in relation to the debate on the possession of marijuana and the use of marijuana. It is something that we, on the Government side of the House, take very seriously. It is a commitment that we made on the solicitation of many, many young people all across the country while we were in Opposition and even before that.

For everything that I have outlined earlier, Mr. Speaker, this Bill, this amendment, has my support. Thank you very much. [*Applause*]

11.16 p.m.

Mr. Speaker: Thank you, very much, Hon. Member. Now, for the Hon. Member, Mr. Sanjeev Datadin.

Mr. Datadin: Good evening again, Mr. Speaker. [**An Hon. Member:** (*Inaudible*)] It is still evening. Someone in here is smoking.

Mr. Speaker: Why does it have to be smoking?

Mr. Datadin: Mr. Speaker, the subject of this debate makes me think… There is a saying that my dearly departed mother used to say – *no good deed goes unpunished*. The issue of cannabis, marijuana, and ganja has been referred to, romanticised, put in songs, films, and stories. I am sure every Member of this House has a story that he/she has either experienced or has been told about that involves the subject of cannabis. There are popular slogans with celebrities worldwide about legalising cannabis.

We have to live in the real world. In the real world, a consensus is important. Governments should be instruments of the wishes of the people, principally. They should govern in a responsible way, but they should also pay heed to the wishes of the majority. It is the foundation of democracy. In this debate, it was unlikely that any one group would have their way. It turns out that, perhaps, no group would have had exactly what they wanted. I believe that is because they did not see what the problem really was and what needed to be fixed. We cannot keep imprisoning young people for the use of cannabis. Thirty grammes is now the limit for which there will be no imprisonment. For the first 15 grammes, there is counselling, and for 15 to 30 grammes, there is community service.

We were all young at one time, and we all may have made mistakes of varying degrees. Cannabis given – as I said before – is placed in popular culture and society, has been at least tried by most persons. Could one imagine the consequences and how different life would be if instead of going to the University of Guyana, one went to the university of crime? That is what the prisons are. One would send young people who smoked a token amount of weed or cannabis and ended up in prison for three years because that is what the law said should happen. A draconian and difficult law to explain at the best of times and at the worst of times, a law that absolutely destroyed the lives of so many young people. The focus – and this is what we have to look at – is that imprisonment is reduced. The focus is that exposure to jail sentences is reduced. The opportunity for help is enhanced and helping young people in an organised way is perhaps the best and most responsible way to steer them in a different direction.

There is the yin and yang of everything and this one in particular has a lot. The downside of addiction is faced with the other side saying that it is part of a religion. The crime that follows addiction and the sale of personal and family assets in achieving ‘junky status’ is met on the other side that there are medicinal benefits. The destruction of families, on one side, is met with the

obvious health benefits, the alleviation of pain, some people claim a cure, but in many cases, for persons who are terminally ill, it provides end-of-life care that would otherwise not be possible. These are real issues in the real world. Real issues have to be confronted by leaders, and leadership is how one navigates it. We cannot all have our own way, and we should not. At one stage in the 70's, following what the Hon. Minister Ramson referred to as the psychedelics and the hippies when the developed world thought there was just too much abuse of narcotics, so they criminalised it. It had not been criminal before, but they criminalised it. As a result of which, there was pressure on the developing world and the poorer countries to do likewise – that followed. Now the developed world is thinking, well, let us not criminalise it anymore, and there is, of course, pressure on the developing world to, again, follow.

Criminalising cannabis is entirely different from the punishment and the imprisonment that follows. It is a situation whereby one has to decide whether one simply wants usage to go unchecked in a small developing country like Guyana and whether we have the social mechanisms to cope or does one want to try to help persons who may be using. They fall under the criminal justice system. Under the criminal justice system, there is provision for treatment and mandatory counselling. The opportunity of health exists, provided for by the State. One would have thought the opportunities for change would exist, and that would be obvious.

The effects of narcotics can have catastrophic consequences, but if one were to decriminalise narcotics and allow persons to use it without supervision, without consequences... [**Ms. Teixeira:** (*Inaudible*)] Thank you. I am referring to cannabis and not the other ones. If one were to allow the usage to go unchecked, then one really has no opportunity of regulation. We may not be able to regulate the way the developed world does with putting deoxyribonucleic acid (DNA) markers in the plants that they plant and sell – a very expensive process. We may not be able to do that. But what we may be able to do is this, for the young people who may decide or maybe use marijuana and are caught - I do not want to say caught - when the police put them before the courts as a result of it, there is now the opportunity for help. The real opportunity that help will get to them and they can then take advantage of that.

We all know the counterargument – it may make no difference. That is a real possibility. It is easy to say that it will not make a difference if one do not have to try. Try is all one can do in these situations. They can be very difficult to appreciate and very paralysing for the people who are

experiencing it, especially the family members. This Bill, stripped of everything else, simply seeks to reduce incarcerating our young people and incarcerating people who use marijuana. That is, essentially, what the Bill is seeking to do. There is no decriminalisation, as has happened in other parts of the world, because, as the Hon. Attorney General was at pains to point out the wide consultations over more than a year, and these are the views that have been received. Views that are on both sides and views that are in the middle. This is the, perhaps, unhappy consensus but consensus all the same. Anything that reduces the prison population is useful. Anything that reduces imprisoning young people, I think, is absolutely exceptional. Any chance that could be given, especially to young people, for the... Any chance or opportunity to take a different path than the use of recreational drugs is, of course, in my mind, the absolute best that can be achieved.

In those circumstances, I support the Narcotic Drugs and Psychotropic Substances (Control) (Amendment) Bill of 2021, and I commend it for passing to the House. [*Applause*]

Mr. Speaker: Thank you, very much, Hon. Member Mr. Datadin. Hon. Attorney General, you have the floor.

Mr. Nandlall (replying): Mr. Speaker, I rise to conclude this debate and to begin the conclusion of what has been a very long and exhausting day. I believe that we have set a record in this House today of debating to its completion, seven Bills at one sitting of the National Assembly. I do not think any Parliament has achieved such a feat in Guyana. I want to thank all the speakers who spoke in support of all the Bills including the Bill that we are currently debating. I just saw a statement from the Leader of the Opposition in which he makes a very clumsy attempt to explain its walkout, saying that the National Assembly is not serving the best interest of Guyana and Guyanese. I wonder whose interest he is serving. He is not here, period. Simply because he did not get a ruling in his favour in a palpably misplaced and inadmissible motion.

11.31 p.m.

He must have observed the amount of work that we have accomplished tonight, and he must have received the adverse impact it is having on its political status quo. Belatedly, he comes up with an inexcusable and feeble explanation for its walkout. He blames the cost of living as well. He blames the rising cost of living for his walking out of the National Assembly. You have to actually read these things to believe them. In light of the rising cost of living, and because he cares so much for

the Guyanese people, rather than stay in this House and debate their business and represent their interests, he condemned them to further misery by drawing their moneys and absconding his responsibilities.

I want to thank all the Members who spoke in support of this important Narcotic Drugs and Psychotropic Substances (Control) (Amendment) Bill. It has been a very difficult task in explaining the balance having regard to what we know has been expressed as different views out there. I want to thank the Members of the Special Select Committee who worked assiduously in concluding the business of that Committee and, last but not least, the staff of the Drafting Department of the Attorney General's Chamber, who must be recognised for their outstanding hard work in completing all these Bills and making them ready for debate. Also, for being with us and remaining vigilantly here with us at this unholy hour as we approach midnight. With those few remarks, I move that the Bill be read a second time. Thank you, very much, Mr. Speaker.

Mr. Speaker: Hon. Members, I now put the question that the Narcotic Drugs and Psychotropic Substances (Control) (Amendment) Bill – Bill No. 2/2021 be read a second time.

Question put and carried.

Bill read a second time.

Assembly in Committee.

Bill considered and approved.

Assembly resumed.

Bill reported with amendments, read the third time and passed.

Mr. Speaker: Hon. Minister of Parliamentary Affairs and Governance, I see the adoption of the Eighth Periodic Report of the Parliamentary Sectoral Committee on Social Services.

Ms. Teixeira: I would suggest the three reports before the House, be deferred to the next Sitting, please.

Mr. Speaker: Thank you, very much.

Reports Deferred.

Hon. Members this concludes our work for this sitting. I now call on the Hon. Minister to move the adjournment of the Assembly.

ADJOURNMENT

BE IT RESOLVED:

"That the Assembly be adjourned, *sine die*, to a date to be fixed."

[*Minister of Parliamentary Affairs and Governance*]

Ms. Teixeira: Thank you, Mr. Speaker. I wish to adjourn the sitting to a date to be announced. A *sine die* date. Thank you, very much.

Motion put and agreed to.

Mr. Speaker: Hon. Members, the Assembly stands adjourned to a date to be fixed.

Adjourned accordingly at 11.44 p.m.