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AT THE
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Thank you, Mr. Chairman, for those kind words of introduction. These days that kindness is very scarce.

I am most delighted to be asked to give the feature address at this year's Transparency International Guyana Inc Dinner. I am a regular attendee at these Dinners for several years now, who would come to listen to the profound words of wisdom and wit from intellects like Mr. Deryck Murray, Dr. Trevor Munroe, and Chancellor Desiree Bernard.

When asked to deliver this address, it was a call I least expected. And when I realized I had said "Yes", a huge nervousness set in which is still with me right now.

Sometime ago in writing a major piece for the Guyana Bar Review of September 1998 entitled "***Our Media and the Law – Whither the Press?***", I had cause to warn that decision-makers must pay attention to the views of their citizens as expressed in the free press. I said then
"An interest group's protest, a splinter party's leaflet, even the controversial lyrics of a calypso, a critical artistic or

dramatic piece, or a biting commentary or viewpoint are essential messages which cognizance must be taken of in a democratic society”.

I still hold strong to those words today. And on that score I must commend Transparency Institute Guyana Inc (TIGI) for its biting commentary it expresses on matters of public importance. Our democracy will be half-baked if public interest watchdogs such as TIGI are not effective, and halts its digging into our decisions and public affairs. This group of dedicated patriots who exercise so much grit, courage and eagle instincts must continue to probe their flashlights into our affairs. Their investigative work and frank, sharp comments must stay here with us. We as a country will be enriched by your work. That is the democratic order this Coalition Government is committed to and will effect in good time.

TIGI is certainly an organization which goes after corruption in Government. And though this Coalition Government will part ways in certain instances with TIGI, one such being recently exemplified in the Hamilton Green Pension Bill, we are united on what corruption causes.

We both know that it is a threat to the sustainable development of people. It destabilizes and makes insecure the whole society, it destroys institutions and values of democracy, including ethical values, and jeopardizes the rule of law. It involves the illicit acquisition of wealth by a few to the detriment of thousands and even millions. I need not remind

you of what it has done to Zaire when Mobuto Sese Seko looted some \$5B US from the Treasury; nor Sani Abacha who looted some \$2.2B from Nigeria; nor in Mexico where the brother of former President Carlos Salinas amassed over \$120M which could have taken care of health costs of approximately 600,000 Mexicans for an entire year. Nor Imelda Marcus of the Philippines, Montesinos Torres of Peru, and Jean Claude "Baby Doc" Duvalier of Haiti.

Corruption has a capacity to seep into the judiciary of many countries too. A report examining the Judiciary in 48 countries found that judicial corruption was pervasive in 30 of them.

It also reduces foreign direct investment and local investment within countries where the levels are high. Whereas, on the other hand, nations which fight corruption could increase their national income by 40%, as asserted by the World Bank in its 2004 Report.

Knowing all this and being concerned about allegations of corrupt behavior and maladministration at state agencies and other Government entities was the reason why, upon taking office, our Government decided to conduct a number of forensic audits beginning in June 2015. The Forensic Audits total 49, and excepting for 5, namely, the Lotto Fund, CPHA (2), Lethem Power Company, National Sports Commission, and the Demerara Harbour Bridge, all have been completed and the results have so far confirmed these allegations of corruption and maladministration. Cabinet has

reviewed these reports and among the decisions made about them was to have them published in the Ministry of Finance's website. TIGI has supported this Government action.

Further, Cabinet decided that in those Forensic Audit Reports which required action to be taken by the respective Boards, such action must be taken by those Boards. And where criminality was suspected, those must be taken to the Commissioner of Police.

We feel that in as much as the Government had commissioned the Forensic Audits, it is the responsibility of the respective Boards to oversee the implementation of the recommendations of the Auditors. Many of these recommendations involved reviewing and tightening of systems and procedures. Boards must work with Management to ensure that that is speedily done. If I may proffer an opinion, it seems that the performance thus far on that score is satisfactory. But TIGI can help in making an unbiased assessment here by comparing what were recommended as against what have been implemented.

Those other Forensic Audits which required police investigation were referred to the Police Commissioner and then relayed to the Special Organized Crime Unit (SOCU). And as we all know, investigations are ongoing. Government, especially my Ministry, was concerned about the perception of bias and accusation of political motivation concerning those audits sent for police investigation. It is for this reason assistance was

requested from the British High Commission to have an expert in Dr. Sam Sittlington to come in to advise and guide as much as possible the Special Organized Crime Unit. Of course, the accusations from some of those fingered or called in for questioning will continue unabated, as we have seen.

I want to here and now state this fact, and believe me it is not an alternative fact ... there has been no Government, Ministerial or political intervention whatsoever! The fact that I had some wine with Sam on Wednesday evening at Oasis was because I wanted to thank him for the great work he did at SOCU at his farewell function. He left the next day. I certainly will plead his return to High Commissioner Mr. Greg Quinn.

Apart from conducting forensic audits, the Government in relation to procurement matters also established the Bid Protest Committee last year so that aggrieved bidders can make their complaints and get declarations as to the validity of their claims and allegations. And after a whole decade, the Public Procurement Commission was finally established with the naming of the Commissioners and the present streamlining of its operational activities. This major constitutional prescription has now been satisfied and an extensive scrutiny of all major contracts for services and goods can now be undertaken, with necessary remedial action taken. I am very proud that the Procurement Commission is here with us after some 13 years in the making.

I rather suspect that because of these actions on the part of Government, Transparency International elevated Guyana's points to 34 in year 2016 from 27 and 29 in years 2014 and 2015 respectively. It was the third highest jump in points by any country, some 5 points, from the previous year; second only to Suriname and another country which went up by 7 points.

Our international obligations, under the United Nations Convention against Corruption and the Inter-American Convention against Corruption, were in the main kept. These two most important Conventions seek to control and repress corruption by requiring State Parties to, among other things:

- a) take legislative steps or other measures to prevent corruption in public and/or private sectors;
- b) criminalize specified actions and omissions and recognize criminal or quasi-criminal liability for these offences;
- c) cooperate with other States to help in detection, investigation, prosecution and punishment plus assistance in asset recovery;

In keeping with these obligations we have brought to the National Assembly recently the State Asset Recovery Bill, and, we have in Cabinet the Whistleblower Bill and the Witness Protection Bill which will soon be forwarded to the National Assembly for passage.

The State Asset Recovery Bill certainly meets in my opinion the requirement of our international obligations under the two Conventions,

especially the United Nations Convention against Corruption. It distinguishes itself in that it is a Bill which provides for a civil proceeding process that seeks to recover assets looted from the State by someone's unlawful conduct.

It has already caused controversy. But this has arisen as a result of major misconceptions and misapprehensions. Civil recovery of asset is an action against property and not the person; it does not carry any penal sanction against the person holding or in possession of the property but instead pursues recovery of property which is the product of unlawful conduct. Just think of it for a moment! A person in possession of proceeds of crime or in possession of property which belonged to the State can have no constitutional grievance if deprived of their use. So like the Anti-Money Laundering and Countering the Financing of Terrorism Act of 2009 with the relevant amendments in 2016, this State Asset Recovery Bill of 2017 will fill another gap in our anti-corruption legislative landscape.

It accords with one of the purposes of the United Nations Convention Against Corruption as stipulated in Article 1(b) ***"to promote, and support international cooperation and technical assistance in the prevention of, and fight against corruption, including in asset recovery"***. And it is consistent with Article 54 (1) (c) of that same Convention which allows for States to confiscate property without a criminal conviction where the offender cannot be prosecuted. Our Constitution article 142 (2) (a) (ii) provides the exception to the right to property when it allows for property acquisition ***"by way of penalty for***

breach of the law, whether under civil process or after conviction of a criminal offence under the law of Guyana”.

Since the golden thread running through this Bill is to go after the loot, and is not so much directed towards the person holding the loot in that strict sense so as to inflict punishment or establish guilt for specific offences, the presumption of innocence is not under challenge. To the extent then that a presumption of innocence is part of a fair trial, civil asset recovery that are calculated using presumptions of illicit acquisition is very much compatible with our Constitution and the UN Convention Against Corruption.

Civil asset recovery already exists in our AMLCFTA of 2009 and under this State Asset Recovery Bill will continue as part of Government’s policy to shape an environment for transparency, honesty and integrity and a deterrence against corruption. More of this will be said when the Bill comes up for debate in the National Assembly shortly.

When it comes to our bountiful extractive resources, this Government wants the scrutiny of international watchdogs such as the Global Witness which probes corruption in the environmental sector. But more than that we want our application into the Extractive Industries Transparency Initiative to be dealt with expeditiously so that another high threshold in matters of transparency and accountability will be met. The country’s EITI Secretariat has been set up, a Coordinator named, the Multi-Stakeholder Group launched and a number of requirements already have been met.

Our aim is to ensure responsible and transparent governance in our extractive resource sector.

Cabinet is in the process of fine-tuning, under the ministerialship of Prime Minister Nagamootoo, amendments to the Integrity Commission Act and the Schedule thereto to include an expanded Code of Conduct which will incorporate the 'The Ten Principles of Public Life' or what is popularly known as the Nolan Principles. We paid keen attention to the UK Parliamentarians at the Anti-corruption Workshop held under the auspices of the Commonwealth Parliamentary Association on 10th and 11th November 2016 in Guyana.

The Ten Principles of Public Life

Accountability: A person in public life shall be accountable to the public for his or her decisions and actions and shall submit himself or herself to scrutiny and criticism.

Dignity: A person in public life shall, in the execution of his or her official functions, conduct themselves in a manner which engenders the respect of their peers and the public.

Diligence: A person in public life is expected to be effective, efficient and reliable in the performance of their duties.

Duty: A person in public life owes a duty to the public and shall consider themselves servants of the people.

Honour: Members of Parliament shall regard it as an honour to serve in the nation's highest legislative forum. They have a moral responsibility to preserve the reputation of their office.

Integrity: A person in public life and members of his family shall upon assumption of office declare their private interests relating to the duties of the public official, and other interests as required by the Integrity Commission Act and any other law.

Loyalty: A person in public life shall display allegiance to the State and shall demonstrate concern for the well-being of the people of Guyana.

Objectivity: A person in public life, in executing public business, shall make decisions based on merit when making public appointments, awarding contracts, or recommending individuals for rewards and benefits.

Responsibility: A person in public life shall have a basic responsibility to take decisions solely in the national interest without any benefit of personal gain, or material benefit for themselves, their family, friends and associates.

Transparency: A person in public life shall exercise his or her public decisions and actions with full and frank disclosure and shall provide when demanded by the public an explanation for his or her actions and decisions.

Other proposed amendments seek to deal with a number of prohibitions for those in public office like, for example, not indulging in sexual harassment and/or misconduct, avoid being in conflict of interest positions, the non-acceptance of bribes and gifts, and a general debarment of using of office in an improper manner, among others. I am informed by the Prime Minister that these proposals are already with TIGI and a number of other stakeholders for their comments. I make mention of three of them here.

Article 1....Bribes

No person in public life shall in return for anything done, or to be done, or omitted to be done in the execution of his or her duties, ask for or accept for himself or herself or any person, any money, property, benefit or favour of any kind over and above that which he or she is lawfully entitled to receive for the performance of his or her duties.

Article 3.....Gifts

No person in public life shall for himself or herself or for anyone else accept any gift, benefit or advantage from anyone, save personal gifts from a relative or friend, or personal gifts given otherwise than as a motive or reward for doing or forbearing to do anything in the performance of his or her official

functions or causing any other person from doing or forbearing to do anything:

Provided that this provision shall not apply to gifts received on behalf of the State by any person in public life in the course of the performance of his or her official functions or to gifts of a symbolic nature.

Article 10.....Use of office in an improper manner

No person in public life shall-

- (1) use their office in an improper manner to gain a direct or indirect personal advantage for themselves or any person or entity not enjoyed by the general public but rather shall maintain appropriate confidentiality of the information they receive in the official course of their duties and this obligation continues subsequent to their resignation, retirement or dismissal;
 - (2) use information obtained in the course of their official duties to gain a direct or indirect personal advantage for themselves or any other person or entity and this includes insider information of any activity in any public or private entity;
 - (3) in the course of the performance of his or her official duties, aid, abet, counsel, procure or command any other person to commit a breach of any of the provision of this Code of Conduct.
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The recommendation has also been made by Cabinet to give the Integrity Commission teeth to investigate all disclosures made by public officials. Another recommendation is that the Commission should have its own corruption prosecution division. Your Government has been working hard on this issue.

There is, however, so much unjustified public cynicism and criticism out there that these things do not matter. But I believe that this is a movement forward when these prohibitions are adumbrated. They do have a deterring

effect. But that does not mean perfection will be created. People in public offices, as I have repeatedly stated recently, are humans, not angels! Look we have laws against murder and theft from time immemorial, yet these laws are violated the world over every day and will continue to be. It is, I suppose, as a consequence of the nature of the human. But it is important that we institutionalise against these repugnant activities so that those who commit them can suffer consequences.

Ladies and gentlemen, we have all had a wonderful dinner, and now a mouthful from me. And so prudence dictate that this is about an appropriate point to end. I wish to end on this note.

Sometimes I really feel that there is nothing wrong with this beautiful, bountiful land that could not be cured by the implantation of all those ethical standards I just mentioned into all of us...leaders and followers. But until that time comes around, until that becomes doable, watchdogs such as TIGI, and the Free Press are the best things we have going for us.

Thank you.
