

**THE EFFECT OF ARTICLE 78 (1) OF THE 1992
CONSTITUTION OF GHANA ON THE OVERSIGHT
ROLE OF THE PARLIAMENT OF GHANA**

KNUST

By

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DECLARATION

I hereby declare that this submission is my own work towards the Commonwealth Executive Master of Public Administration and that, to the best of my knowledge, it contains no material previously published by another person nor material which has been accepted for the award of any other degree of the University, except where due acknowledgements have been made in the text.

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Supervisor's Name

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Head of Depart. Name

Signature

Date

DEDICATION

I dedicate this work to the Almighty God, my lovely and treasured better-half, Mrs. Christiana Konadu Amoateng, my shrewd and cherished daughter, Ms. Christiana Konadu Amoateng, my astute and dearest sister, Mrs. Mercy Efia Boatemaa Owusu-Agyei and my entire family for their indefatigable support and prayers for me.

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ABSTRACT

The Study was undertaken to identify how the Parliament of Ghana performs its oversight role in relation to Article 78(1) of the 1992 Constitution of Ghana; to determine whether Article 78(1) affects the oversight role of the Parliament of Ghana; and to contribute to public debate on whether Article 78(1) of the 1992 Constitution should be amended. To address the objectives of the Study, The 1992 Constitution of Ghana, The Standing Orders of the Parliament of Ghana, books on how the Parliament of Ghana functions, the internet and other sources of existing literature on parliamentary oversight role and executive-parliament relations were consulted. Further, questionnaires were administered to one hundred and twenty (120) Members of the House to collect primary data on the subject matter. Interview guides were also used to tap the experiences of seven (7) key informants including three (3) veteran Parliamentary Staff. The Study indicated that the Parliament of Ghana performs its oversight role by using its Committee System to undertake investigations and scrutiny of policies; asking Ministers Questions; and moving Motions. Furthermore, the Study revealed that Article 78(1) which places an injunction on the President to appoint majority of Ministers from the Parliament of Ghana, undermines the oversight role of the Parliament of Ghana. This is evidenced by the fact that 54.2% of those to whom questionnaires were administered and six (6) out of the seven (7) key informants interviewed thought Article 78(1) affects the oversight role of the Parliament of Ghana more adversely than favourably. The conclusion of the Study was that, Article 78(1) of the 1992 Constitution of the Republic of Ghana should be amended to have strict separation of powers in order to strengthen the Parliament of Ghana to perform its oversight role more effectively.

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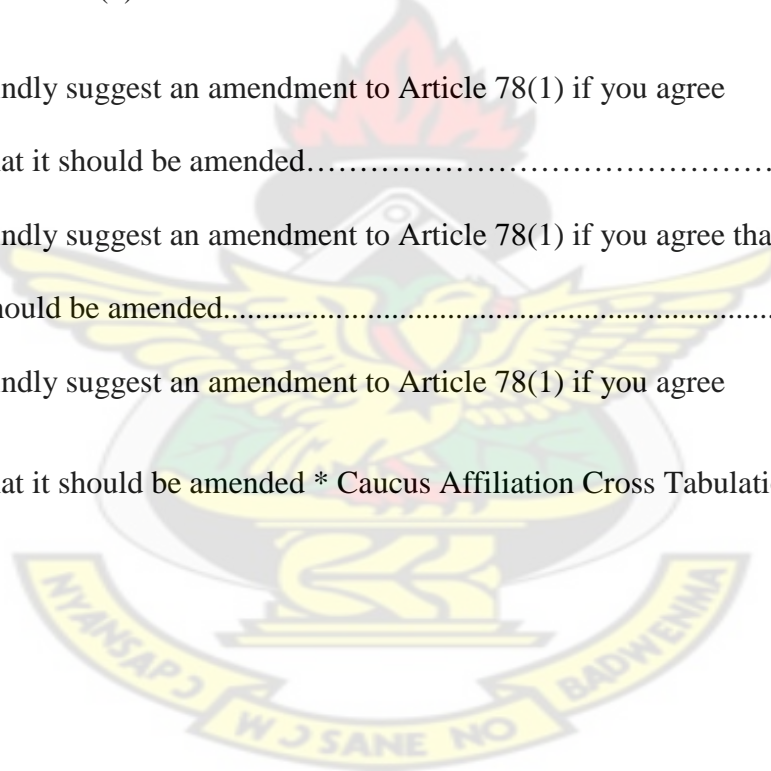
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CHAPTER ONE

1.0 INTRODUCTION

1.1 Background to the Research

Hornby et al (2000, p.677) defines a legislature as “a group of people who have the power to make and change laws”. Ghana’s Legislature is referred to as the Parliament of Ghana and it is established and mandated by the 1992 Constitution to perform certain roles, central among them are the representative, legislative and oversight. The oversight role feeds into all other roles of the Parliament of Ghana just like legislatures in other democratic jurisdictions. This is because the oversight role is guided by legislations or laws made by the representatives of the people. Further, the oversight role is a watchdog role which ensures that policies conform to approved developmental agenda and are implemented in accordance with approved funds (Adjetey and Techie, 2004, p.33-34). The oversight role is therefore regarded as very important because it is embedded in other parliamentary roles to ensure accountability which is one of the key elements of good governance.

It is worth noting that the 1992 Constitution of the Republic of Ghana creates some form of Executive-Parliament fusion with the injunction it places on the President in Article 78(1) to appoint majority of Ministers from the Parliament of Ghana.

In this Study, the Parliament of Ghana is used interchangeably with the House and Article 78(1) is used interchangeably with the Provision.

1.2 Research Problem

Few years after the inception of the Fourth Republic, politicians, researchers and constitutional experts among others in Ghana raised serious concerns regarding the challenges and prospects of the 1992 Constitution of the Republic of Ghana. The concerns attracted protracted public debates which evoked opponents and proponents on certain provisions of the 1992 Constitution of Ghana. The debates arose partly because some people felt the power of the State is heavily tilted in favour of the Executive, hence making it a colossus on the governance landscape. Among the provisions which generated a lot of brouhaha was Article 78(1) which in part stipulates that majority of Ministers should be appointed from the Parliament of Ghana.

Proponents of Article 78(1) argued that the provision should not be amended because it has the potential of promoting consensual politics and efficiency in the performance of overall government business (Sakyi, 2010, p.2). Opponents were of the opinion that the Provision has the tendency of stifling the ability of the Parliament of Ghana to exercise its oversight role (Sakyi, 2010, p.2).

The various arguments on whether Article 78(1) should be amended motivated Sakyi to conduct a study on the opinions of selected Members of the Fifth Parliament of Ghana on the challenges of blending the functions of the Executive and the House. Sakyi (2010, p.5) conducted semi-structured interviews which involved nineteen (19) Members of the Fifth Parliament of Ghana and the Director of Public Affairs of Parliament as a key informant bringing the number to twenty (20).

Sekyi (2010, p.9) was able to establish that the Provision affects the oversight role both favourably and adversely because his respondents had diverse and various opinions about the issue. He was however unable to determine from the findings of his study whether Article 78(1) of the 1992 Constitution should be amended. On this premise, Sekyi (2010, p.9) made a call for in-depth empirical studies to further interrogate the issue.

Perhaps, Sekyi could not address the issue of whether Article 78(1) should be amended because his sample size of twenty (20) was not representative enough considering the fact that the Members of the Fifth Parliament of Ghana were two hundred and thirty (230) in number.

In another development, on Wednesday, 30th March, 2011, the Parliament of Ghana was strongly divided during its debate on the issue of whether Article 78(1) should be amended (Parliamentary Debates, 2011, Fourth Series, Vol.72, No.45, Column 3854). This reinforces Sekyi's call for in-depth empirical studies on whether the Provision should be amended.

The afore-discussed background motivated this Study intended at empirically ascertaining from Members of the Fifth Parliament of Ghana, the effect of Article 78(1) on the oversight role of the Parliament of Ghana and whether the Provision should be amended.

1.3 Research Objectives

1.3.1 General

The general objective of the Study was to determine the effect of Article 78(1) of the 1992 Constitution of the Republic of Ghana on the oversight role of the Parliament of Ghana.

1.3.2 Specific

The under-listed were the specific objectives of the Study:

- a) To identify how the Parliament of Ghana performs its oversight role in relation to Article 78(1) of the 1992 Constitution of Ghana.
- b) To determine whether Article 78(1) affects the oversight role of the Parliament of Ghana.
- c) To contribute to public debate on whether Article 78(1) of the 1992 Constitution should be amended.

1.4 Research Questions

The Study was guided by the following research questions

- a) How does the Parliament of Ghana perform its oversight role in relation to Article 78(1) of the 1992 Constitution of Ghana?
- b) How does Article 78(1) affect the oversight role of the Parliament of Ghana?
- c) Should Article 78(1) of the 1992 Constitution be amended?

1.5 Significance of the Research

The Study would help develop the research capabilities of the Researcher. It would enrich the debate on Article 78(1). Being one of the entrenched

provisions of the 1992 Constitution, Article 78(1) can only be amended through a referendum at which event the Study would be useful to Ghanaians. Finally, the Study may serve as a reference material for anybody either in another parliament or in the academia who is interested in issues relating to the oversight role of parliaments and executive-legislature relations.

1.6 Brief Methodology

Relevant materials, particularly Hanzards, books on how the Parliament of Ghana functions, The 1992 Constitution of the Republic of Ghana and The Standings Orders of the Parliament of Ghana were consulted. Further, information relating to effective parliamentary oversight role and executive-parliament relations from the internet and other sources were also relied upon.

Field data was collected with the use of questionnaires administered to one hundred and twenty (120) Members of the Fifth Parliament of Ghana selected by simple random sampling based on the assumption that any Member of the House could provide information on the subject matter. Further, purposive sampling technique was employed to select four (4) Members of the House who previously held Ministerial appointments and three (3) veteran Parliamentary Staff who have worked for over fifteen (15) years as key informants. The key informants were interviewed for tapping their experiences.

Both quantitative and qualitative methods were used to analyse data collected. Microsoft Office Word and Statistical Package for Social Scientists (SPSS)

were employed as tools to process and analyse data collected. Charts and matrices were used for the presentation of the data where applicable.

1.7 Scope/Limitation of the Research

The Study covered the Parliament of Ghana as a legislative body and an important Arm of the State and focused on Members and Staff of the Fifth Parliament of Ghana with tenure from year 2009 to 2012. Other stakeholders such as the Media and Non-Governmental Organisations were not covered because their views had already been collated by the Constitution Review Commission of Enquiry through its consultative processes or activities.

The Study was constrained by time and finance and this explains the reason why primary data was collected from selected Members and Staff of the Fifth Parliament of Ghana.

1.8 Organisation of the Research

The Study was organized into five (5) main chapters. The Chapter One (1) discussed the background of the Study, the statement of the problem, objective, significance and the methodology of the Study. The Chapter Two (2) reviewed related literature. The Chapter Three (3) looked at the history of the Institution from its inception to date and also discussed and justified the methods employed for data collection and analyses. The Chapter Four (4) presented the data collected. Finally, the Chapter Five (5) provided recommendations based on conclusions drawn from the findings and the limitations of the Study.

CHAPTER TWO

2.0 LITERATURE REVIEW

2.1 Introduction

This chapter reviewed definitions and concepts including the theoretical framework which relates to Article 78(1) of the 1992 Constitution of the Republic of Ghana. Challenges and prospects of Article 78(1) were reviewed in relation to the oversight role of the Parliament of Ghana. Further, the chapter discussed issues relating to the review or amendment of the 1992 Constitution of the Republic of Ghana.

2.2 The Constitution and Parliament

The Hornby et al (2000, p.848) defines parliament as “the group of people who are elected to make and change the laws of a country”.

Barrows et al (2003, p.34) defined parliament as a representative assembly empowered to enact statute law. Barrows et al (2003, p34) also indicated that often representatives in parliament are constitutionally elected by a wide segment of the population of a country. He added that parliament is usually derived from the constitution of a country which stipulates the basic powers of parliament and its relationship with other arms of government and state institutions. Constitution therefore determines whether parliament would be unicameral or bicameral. A unicameral parliament consists of one chamber or house, for example, the Parliament of Ghana, Uganda, New Zealand and Sweden whilst a bicameral parliament has two (2) chambers or houses, for example the Congress (Senate and House of Representatives) of United States

of America and the Parliament (House of Commons and House of Lords) of Britain.

Barrows et al (2003, p.31) thought that a constitution is synonymous to an organic or a basic law and defined it as the fundamental principles governing a nation which are implied in laws and customs and may be expressed more explicitly in a single document or a collection of documents. This definition suggests that a constitution may be written or unwritten. Barrows et al, (2003, p.31-32) stated the following as some elements common to written constitutions:

- a) A preamble of introduction to the constitution;
- b) A statement of fundamental rights and freedoms;
- c) A description of division of powers or a system of checks and balances of arms of government and other governing institutions;
- d) An outline for selection or appointment of state and government officials or electoral systems; and
- e) A procedure for amending, revising and suspending the constitution.

2.3 The 1992 Constitution of the Republic of Ghana as the Supreme Law of Ghana

The 1992 Constitution of Ghana is the Supreme law of the Land and any other law and any action that is inconsistent with the Constitution is deemed void and of no effect (Constitution Review Commission of Enquiry, 2009, Project Proposal, p.10). The provisions of the 1992 Constitution of the Republic of

Ghana is found in one booklet which comes in different sizes including pocket sizes. The 1992 Constitution of Ghana has the following elements:

- a) A preamble which talks about the adoption and acceptance of the Constitution by the people of Ghana based on certain principles such as the commitment of the people of Ghana to freedom, justice, probity and accountability, rule of law and protection and preservation of fundamental human rights.
- b) Twenty-six (26) Chapters and a total of two hundred and ninety-nine (299) Articles and two (2) Schedules. The First Schedule contains transitional provisions and the Second Schedule contains forms of oaths relating to office and allegiance for the President, Vice-President, Speaker of Parliament, Judiciary, Members of Cabinet, Members of the Council of State, Members of Parliament and Ministers of State.
- c) Provisions for the protection and preservation of fundamental human rights and freedoms.
- d) Provisions for the establishment of the Executive, Council of State, Legislature, Judiciary and other state institutions such as the Police and Commission on Human Rights and Administrative Justice with distinct powers and functions to create a system of checks and balances on the Arms of Government and other governing institutions.
- e) Provisions for the establishment of the Electoral Commission as an independent body and also the procedures for the selection or appointment of state and government officials.
- f) Entrenched and non-entrenched provisions and procedures for amendment. Unlike the non-entrenched provisions, the entrenched

provisions cannot be amended by an Act of the Parliament of Ghana but by a referendum where 40% of registered persons voted and 75% of these votes were in favour of it [Republic of Ghana, (1992 Constitution, Chp.25, Article 290)]. Some of the entrenched provisions are Articles 1, 2, 3, 4, 5, 11, 42, 55, 56, **78**, 93 and 106 and Chapters 5, 8 and 25 and the non-entrenched provisions include Articles 94, 95, 96, 97, 98, 99 and 100 of the 1992 Constitution.

- g) The Constitution of the Republic of Ghana (Amendment) Act, 1996 (Act 527) placed before the preamble and which law was enacted to amend certain non-entrenched provisions of the 1992 Constitution of the Republic of Ghana.

The Act 527 is the only amendment to the 1992 Constitution of Ghana since it came into force. The Act 527 was enacted to among others:

- a) allow Ghanaians to hold the citizenship of Ghana and any other country;
- b) proscribe holders of dual citizenship from holding ambassadorial, service chief positions or any other position specified by 1992 Constitution of the Republic of Ghana; and
- c) proscribe founding and leading members and executive office holders of political parties to be members of the NMC.

The elements mentioned afore attest that the 1992 Constitution of the Republic of Ghana is a written constitution as opined by Barrows et al (2003, p.31-32). The United States of America uses a written constitution just like Ghana. An example of an unwritten constitution is that of Britain.

2.4 The Oversight Role of Parliament Defined

The oversight role is one of the three (3) main functions of the Parliament of Ghana just like Parliaments in other democracies. The other two (2) roles are legislative and representative.

Barrows et al (2003, p.35) defines the oversight role as a role that “involves monitoring executive activities for efficiency, probity and fidelity”.

Adjetey and Tachie (2004, p.33) indicated that the oversight role is a role Parliament performs by keeping a watch over the Executive to ensure that the implementation of policies conforms to approved developmental agenda and expenditure incurred is in accordance with parliamentary authorisations.

It can be inferred from the definitions stated afore that the oversight role is a watchdog responsibility and therefore has to do with making the Executive accountable to Ghanaians. Further, the oversight role feeds into all other roles of Parliament. This is because oversight and other parliamentary roles cannot be performed in isolation.

2.5 How does the Parliament of Ghana perform its Oversight Role?

The Chapter Ten (10) of the 1992 Constitution of Ghana provides mechanisms that enable the Parliament of Ghana to perform of its oversight role. The Chapter further gives the Parliament of Ghana the authority to regulate its own procedure through its Standing Orders. “Subject to the provisions of this

Constitution, Parliament may, by standing orders, regulate its own procedure”
[Republic of Ghana Constitution, 1992, Chp.10, Article 110].

a) **Constitutional Cum Standing Order Provisions that Mandate the Parliament of Ghana to Perform the Oversight Role**

Articles 103 and 110 of the 1992 Constitution are explicit on the oversight role of the Parliament of Ghana. “Parliament shall appoint standing committees and other committees as may be necessary for the effective discharge of its functions” [Republic of Ghana Constitution, 1992, Chp.10, Article 103(1)]. The Committee System of the House is basically an oversight structure. This is supported by the Standing Orders 151-155 of the Parliament of Ghana (2000). “Committees of Parliament shall be charged with such functions, including the investigation and inquiry into the activities and administration of ministries and departments as Parliament may determine; and such investigation and enquiries may extend to proposals for legislation” [Republic of Ghana Constitution, 1992, chp.10, Article 103(3)]. This is also contained in Orders 156-214 of the Standing Orders of the Parliament of Ghana (2000). “Every member of Parliament shall be a member of at least one of the standing committees” [Republic of Ghana Constitution, 1992, chp.10, Article 103(4)]. This is also provided for in Orders 153 and 154 of the Standing Orders of the Parliament of Ghana (2000).

The Parliament of Ghana performs its oversight role by way of scrutiny of policies and actions of the Executive through its Committee system,

Questions to Ministers, Motions, and Censorship of Ministers and other mechanisms provided for by its Standing Orders. Under Orders 151 and 152 of the Standing Orders of the Parliament of Ghana (2000), Standing, Select and Special/Adhoc Committees are established.

The Standing Committees deal with issues of continuing concern to the Parliament of Ghana (Adjetey and Tachie, 2004, p.57). They include the Standing Orders Committee, Business Committee, Committee on Privileges, Public Accounts Committee, Subsidiary Legislation Committee, House Committee, Finance Committee, Appointments Committee and Committee on Gender and Children. The Select Committees are subject matter related committees charged with the responsibility of scrutinizing the activities of Ministries, Departments and Agencies (Adjetey and Tachie, 2004, p.58). The Select Committees include the Committee on Health, Lands and Forestry Committee, Committee on Mines and Energy, Committee on Roads and Transport, Committee on Defence and Interior, Committee on Foreign Affairs, Committee on Communications and Committee on Education. The Special/Adhoc Committees are established to deal with any bill or matter that does not come under the jurisdiction of any of the Select Committees and cease to exist upon completion of the task (Adjetey and Tachie, 2004, p.58).

In pursuance to Article 103(6) of the 1992 Constitution of the Republic of Ghana and “for the purposes of effectively performing its functions

each Committee shall have all such powers, rights and privileges as are vested in the High Court of Justice or a Justice of the High Court at a trial in respect of:-

- (i) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;
- (ii) compelling production of documents; and
- (iii) the issue of a commission or request to examine witness abroad”
(Parliament of Ghana, 2000, Standing Order 155)

Types of Questions and procedures for asking Questions are stipulated in Orders 60-69 of the Standing Orders of the Parliament of Ghana (2000).

“Ministers shall, by Order of the House, be requested to attend Sittings of the House to answer Questions asked of them” [Parliament of Ghana, 2000, Standing Order 60(1)]. Also, “Questions may be asked of Ministers relating to public affairs with which they are officially connected, proceedings pending in Parliament or any matter of administration for which such Ministers are responsible” [Parliament of Ghana, 2000, Standing Order 62(1)]. Further, “Questions relating to matters which are under the control of a statutory body must be restricted to those matters for which a Minister is made responsible law or which affect the general policy of that statutory body” [Parliament of Ghana, 2000, Standing Order 62(2)].

The following question numbered Q.278 and dubbed “Armed Forces Housing Project at Ofankor (State)” was asked by Hon. Maj. Derek

Oduro (ret'd) and answered by the Minister responsible for Defence, Hon. Lt-Gen. J.H. Smith (ret'd) at the Plenary on 4th February, 2010 (Parliamentary Debates, 2010, Fourth Series, Vol.67, No.7, Col.412-415).

Question 278 by Hon. Maj. Derek Oduro (Retd.)

What is the state of the Armed Forces Housing Project at Ofankor which started over a decade ago?

Answer by Minister for Defence, Hon. Lt-Gen. J.H. Smith (Retd.)

In the year 1978, the Government of Ghana under Executive Instrument 82/78 acquired 1,720 acres of land at Ofankor in the Greater Accra Region for residential accommodation purposes under the Ofankor Town Planning Scheme. Out of the total acreage acquired, 482 acres which constituted 28% was allocated to the Ministry of Defence. A special housing project was designed in the year 1981 for the construction of bungalows to meet the accommodation needs of military personnel when they retire. Consequently, five (5) different prototypes of three (3) bedroom bungalows were constructed after the commencement of the Project. Interested personnel were to choose a prototype which cost would be factored into retirement and end-of-service benefits of beneficiaries. After the construction of the prototypes however, the Project stalled due to lack of funding. As a result the land allocated to the Ministry of Defence for the Project has been seriously encroached upon. The encroachment as at the time of the response to the question has

engulfed the five (5) prototype buildings and the only parcel of land left is less than two (2) acres and is located round the prototype buildings. The few acres left would be utilised to build houses for Senior Non-Commissioned Officers. A committee has also been set up to come up with a report from which necessary action would be taken the Ministry of Defence to deal with encroachers.

The question and response afore shows how the Parliament of Ghana gets information concerning challenges or otherwise of policies approved for implementation by the Executive so that suggestions can be made at the plenary with regards to way forward.

Motions can also be used to perform parliamentary oversight. A motion is define as “a proposal made by a Member that Parliament or a Committee thereof do something, order something to be done or express and opinion concerning some matter” (Parliament of Ghana, 2000, Standing Order 7).

The oversight role is also performed through the approval or otherwise of presidential nominees for appointment as Ministers and Deputy Ministers, Chief Justice and other Justices of the Supreme Court, Members of the Council of State and other public officials specified by the 1992 Constitution of the Republic of Ghana (Adjetey and Tachie, 2004, p.34). Just like other referrals for consideration by Committees with such mandates, the Approval or otherwise of presidential nominees

is referred to the Appointments Committee of the Parliament of Ghana for its consideration and report. The report of the Appointments Committee is then presented to the plenary for debate after which a decision for the adoption of the report or otherwise is taken.

b) Other Mechanisms

The Finance Committee of Parliament can use other quantitative analytical tools in exercising its oversight role. The quantitative mechanisms are listed as follows:

- (i) Gross Domestic Product (GDP) per capita.
- (ii) Budget allocations by Ministries, Departments and Agencies.
- (iii) Budget allocations by the various Sectors of the Economy.
- (iv) Inflation rate.
- (v) Operational expenditures and capital expenditures.
- (vi) Formulae for the distribution of the Ghana Education Trust Fund (GET-Fund), National Health Insurance Fund (NHIS-Fund), District Assemblies Common Fund and any other fund.
- (vii) Foreign Exchange Rates.
- (viii) Interest Rates.
- (ix) Balance of Payments.
- (x) Balance of Trade.
- (xi) Depreciation Rate.
- (xii) National Debt-external and internal.

The Public Accounts Committee can also use various accounting ratios to analyse financial statements of Ministries, Departments and Agencies so as to determine whether there are some financial malfeasance. Where financial malfeasance exists, appropriate recommendations are made by the Public Accounts Committee. Nowadays, the Public Accounts Committee sittings/hearings are no longer held in-camera but made public through live television coverage.

2.6 The importance of the Oversight Role

Adjetej and Techie (2004, p.33) opined that the oversight role ensures that the implementation of public policy conforms to approved developmental agenda and expenditure incurred by ministries, departments and agencies and other public institutions are in accordance with parliamentary approvals.

Barrows et al (2003, p.118) thought that effective parliamentary oversight is one of the focus areas for legislative development programmes because of its contribution to good governance which according to the United Nations, is an essential part of human development and a major poverty reduction strategy.

The oversight role ensures accountability of the Executive to citizens, reduces abuse of government power and corruption and increases value for money for government activities (Barrows et al, 2003, p.135-136).

Barrows et al (2003, p.170-171) indicated that oversight role ensures the following:

- a) Effective allocation of resources.
- b) Efficient utilisation of resources allocated.
- c) Configuration of resources in a manner that would aid the realisation of policy priorities and hence sustainability.

2.7 Executive-Legislature Relations and Political Systems

Usually, executive-legislature relations are affected by the structure of a country's political system or its system of government. Barrow et al (2003, p.44) explained that the structure of a country's political system affects the relationship between its executive and legislature, the public and members of parliament and among members of parliament. Further, Barrows et al (2003, p.31-32) also indicated that the constitution of a country determines its political system. Most countries have any of the three (3) political systems: presidential, parliamentary or hybrid (Barrows et al, 2003, p.44).

a) The Presidential System of Government

In the presidential system, both political and administrative powers are divided among the executive, legislative and judicial branches. (Barrows et al, 2003, p.44). The president who is also the chief executive and head of government is elected separately from members of parliament and the president appoints cabinet members who are normally not members of parliament (Barrows et al, 2003, p.45). The presidential system of government is practised by the United States of America and countries it has influenced for example those in Latin America.

b) **The Parliamentary or Westminster System of Government**

Barrows et al (2003, p.44) indicated that in the parliamentary or Westminster system of government, parliament is sovereign and the prime minister and cabinet members are derived from the legislature. Parliamentary systems are used by the United Kingdom, former British colonies and most Caribbean countries.

c) **The Hybrid System of Government**

In the hybrid system of government, executive power is shared between a president and a prime minister who are both elected separately from parliament (Barrows et al, 2003, p.44). France, Poland, Bulgaria and Portugal are examples of countries that practise the hybrid system. Although Ghana's System has most of the features of the hybrid system, it does not have a prime Minister; the President and Members of the Parliament of Ghana are elected separately; and the President shares his Executive powers with the Members of Parliament who become Ministers by virtue of Article 78(1). Therefore on the premise of Barrow's definition, one cannot confidently describe Ghana's System as hybrid. This is reinforced by the Parliament of Ghana Enhanced Strategic Plan (2006, p.7) which stated that Ghana's System is of a hybrid nature due to Article 78(1).

2.8 The Principle of Separation of Powers

Baron De Montesquieu, a French Political Theorist is the one who propounded the theory of "separation of powers". He is therefore regarded as an authority

in issues relating to the theory. Montesquieu's book on "Spirit of Laws", published in 1748, was his famous work which outlined his ideas on how government would best work.

Montesquieu (1748) stated among others that;

- a) all things were made up of rules or laws that never changed and so set out to study these laws scientifically with the conviction that knowledge of the laws of government would reduce the problems of society and improve human life;
- b) there were "three types of government: a monarchy (ruled by a king or queen), a republic (ruled by an elected leader), and a despotism (ruled by a dictator)";
- c) a government that was elected by the people and where there was the right balance of power among three (3) groups of officials was the best and cited the case of England - which divided power between the king (who enforced laws), Parliament (which made laws), and the judges of the English courts (who interpreted laws) as a good model;
- d) the success of a democracy depended upon maintaining the right balance of power among the three (3) groups of officials;
- e) creating separate branches of government with equal but different powers was helpful in avoiding the placement of too much power in the hands of an individual or group of individuals;
- f) when one person or groups of persons take(s) charge of law making and law enforcement, democracy cannot be enhanced; and

g) the idea of dividing government power into three (3) arms, the “separation of powers” and this was the basis for the United States Constitution.

Montesquieu (n.d. cited in Sekyi, 2010, p.3) argued that

“when the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty... Again, there is no liberty if the power of judging is not separated from the legislature and executive. If it were joined with the legislature, the life and liberty of the subject would be exposed to arbitrary control; for the judge will then be the legislator. If it were joined to the executive power, the judge might behave as an oppressor. There would be an end to everything, if the same man or the same body, whether of the nobles or of the people, were to exercise those three powers, that of enacting laws, that of exercising public affairs, and that of trying crimes or individual causes”.

Further, Lord Templeton (1993, cited in Sekyi, 2010, p.3) thought that ‘Parliament makes the law, the executive carries the law into effect and the judiciary enforces the law’.

Barrows et al (2003, p.45) defined “separation of powers” as the extent to which government powers are separated functionally among the branches of government. He explained that unlike the parliamentary system of government, there is separation of powers in the presidential system of government.

“In a typical democratic system, the doctrine of dividing the power, functions and personnel among the three (3) arms of government has the potential to promote effectiveness and efficiency in the prosecution of governments’ business. By promoting division of labour through the doctrine of separation of powers, no one agency of government is overburden with work, this may logically improve the quality of governance. It is important to point out that no democratic system exists with an absolute separation of powers or an absolute lack of separation of powers. Nonetheless, some systems are clearly founded

on the principle of separation of powers, while others are clearly based on a marrying of powers” (Sekyi 2010, p.3).

It can be inferred that, prevention of arbitrariness and abuse of state power entrusted to rulers are the predominant concerns of the proponents of the principle of “separation of powers”. Due to this reason, parliaments may be striving for separation of powers to enable them effectively perform their oversight role but there should be collaboration and coordination among the three (3) arms of government to enhance the execution and management of government business. Further, in partnering the executive, parliaments should not compromise on its autonomy since it is crucial for the effective performance of its role in governance.

2.9 The Rational behind the inclusion of Article 78(1) as part of the Provisions of the 1992 Constitution of the Republic of Ghana

Ghana has its independent on 6th March, 1957 at which time the Independent Constitution (1957 Constitution) was introduced. Three (3) years on, Ghana became a Republican State on 1st July, 1960 with the coming into force of the First Republican Constitution (the 1960 Constitution). Regrettably, the constitutional rule of Ghana suffered several military interventions. The First Republic was interrupted in 1966; the Second Republic which commenced with the coming into force of the 1969 Constitution was interrupted in 1972; and the Third Republic which commenced with the coming into force of the 1979 Constitution was interrupted in 1981. After the 1981 coup d’etat, the Provisional National Defence Council (PNDC) was instituted and chaired by the military junta in power. The PNDC came up with several decrees to govern

the Country. One of them was the PNDC Law 252 which established the Committee of Experts mandated it to draw up and submit to the PNDC, proposals for a draft Constitution of Ghana. The Committee of Experts in its Report recommended that majority of Ministers should be appointed from among Members of the Parliament of Ghana on the premise that it was extremely difficult if not impossible for the Executive to get its policies and programmes approved for implementation. Further, the relationship that existed between the Executive and the Parliament of Ghana was hostile and so did not allow for easy consensus building under the 1979 Constitution [Report of the Committee of Experts (Constitution) on Proposals for a draft Constitution of Ghana, 1991, p.1]. In recognition of this, the Framers of the 1992 Constitution of Ghana made Article 78(1) part of the provisions of the draft Constitution. The draft Constitution was submitted to a referendum on 28th April, 1992 and it was upheld by the people of Ghana and dubbed the 1992 Constitution of the Republic of Ghana.

With the coming into force of the 1992 Constitution of the Republic of Ghana, the Fourth Republic commenced on 7th January, 1993 after elections in December 1992. Ghana in its history of constitutional rule has so far had four (4) transitions referred to as republics and the 1992 Constitution of the Republic of Ghana has since been the supreme law of Ghana. The Fourth Republic has so far spanned about twenty (20) years, an unprecedented situation in the history of the Country.

2.10 Article 78(1) of the 1992 Constitution of the Republic of Ghana and Ghana's System of Government

Article 78(1) of the 1992 Constitution of the Republic of Ghana provides for executive powers and functions. It stipulates that **“Ministers of State shall be appointed by the President with the prior approval of Parliament from among Members of Parliament or persons qualified to be elected as Members of Parliament, except that the majority of Ministers of State shall be appointed from among members of Parliament”**. The Provision therefore places an injunction on the President to appoint majority of his Ministers from the Parliament of Ghana. Members of Parliament of Ghana so appointed as Ministers in accordance with the Provision are not required to vacate their seats in the House. This apparently creates some sought of fusion or marriage relationship between the Executive and the Parliament of Ghana giving way to some combination of features of the presidential system and the parliamentary system but more presidential in outlook than parliamentary. It is worth reiterating that by the definition of Barrows et al (2003, p.44) Ghana's System of Government cannot be strictly referred to as a Hybrid one.

It is obvious that Article 78(1) does not create a political system of total separation of the powers of the Executive from the Parliament of Ghana. With total separation of powers, there should be no Executive-Parliament fusion of any kind but it is worth recalling that Sakyi (2010, p.3) pointed out that no democratic system exists with an absolute separation of powers or an absolute lack of separation of powers.

2.11 The Effect of Article 78(1) of the 1992 Constitution on the Oversight Role of the Parliament of Ghana

Over the years, Article 78(1) and other provisions of the 1992 Constitution of the Republic of Ghana has suffered a protracted debate from the public including constitutional experts, politicians and researchers. The debate has to do with how Article 78(1) affects the oversight role of the Parliament of Ghana and whether it should be retained or amended.

a) Perspectives of Proponents of Article 78(1)

As already mentioned, Article 78(1) was included in the 1992 Constitution of the Republic of Ghana on the premise of the experience of the conduct of the business of the House under the 1979 Constitution.

Some Ghanaians were convinced by the afore-mentioned reasons given by the framers of the 1992 Constitution of Ghana and so argued that it is in the right direction to place an injunction on the President to appoint majority of Ministers from among Members of the Parliament of Ghana.

This section of Ghanaians also thought that the 1992 Constitution has been successful for about twenty (20) years and so there was the need to wait for a little more time before considering any amendment whatsoever.

The proponents also cautioned that the 1992 Constitution is a very important national document and so should be operated for a few more years in order to have a much clearer idea of what a review process would contribute to our democracy and constitutionalism. They also

argue that the many problems associated with the 1992 Constitution appear to have come from the operators of the Constitution and not its provisions (Constitutional Review Commission of Enquiry, 2009, Project Proposal, p.11).

Supporters of the Provision further argue that the appointment of majority of Ministers from Parliament has the potential to promote consensual politics and efficiency in the performance of Parliamentary duties and that would enhance the performance of Members of the Parliament of Ghana (Sakyi, 2010, p.2).

The proponents felt that Article 78(1) has the potential for effective collaboration and Executive of Government business since it affords Members of the Parliament of Ghana the opportunity to get in-depth knowledge on imminent policies. Also, the proponents thought that prior knowledge on imminent policies would enable Members of the Parliament of Ghana make well-informed contributions in the Plenary and at the Committee level. The proponents further thought that the Provision in Article 78(1) enhances the effective performance of the oversight role by the Parliament of Ghana (Sakyi, 2010, p.2).

It can therefore be argued that Article 78(1) should be retained because it allows for synergy among the Arms of Government and enhances the capacity of the Parliament of Ghana to perform its oversight role effectively. Another interesting deduction that can be drawn from the

arguments of the proponents is that the 1992 Constitution should not be tempered with because it is the only Constitution in Ghana's history that has been successful for about twenty (20) years. Further, it can be inferred that the oversight role can be adversely affected by factors other than Article 78(1), for example the enforcement of the 1992 Constitution.

b) **Perspectives of Opponents of Article 78(1)**

The opponents of the provision in Article 78(1) argued that Article 78(1) contradicts the doctrine of separation of powers which is crucial for the success of Ghana's democracy.

Former President Kuffour called for constitutional review and mentioned some of the challenges of Article 78(1) as some of his reasons. In his address on the State of the Nation, Kuffour (2008) indicated that the provisions in Article 78(1) is tantamount to serving two (2) different masters and not being loyal to any of them and added that it "contravenes the separation of powers as well as supervision and effective execution of work".

Further, President J.E.A. Mills before his demise, made a commitment early 2009 in his address on the State of the Nation, to review the 1992 Constitution of the Republic of Ghana. In his State of the Nation Address, Mills (2009) promised to establish a Constitutional Review Committee to collate views on amendment proposals and to work towards the organisation of a National Constitutional Review Conference

which would serve as a platform for deliberations on proposed amendments.

During the Presidential Debate of year 2008, most of the flag bearers of all the political parties in Ghana also supported the called for the review of certain provisions of the 1992 Constitution of Ghana including Article 78(1).

Many experts, government officials, public advocates and commentators, the media, and the Africa Peer Review Mechanism (APRM) have recommended that aspects of the 1992 Constitution of Ghana such as Article 78(1) must be reviewed. They thought the review would remove contradictions and ambiguities, supply omissions, and make the Constitution more practical and relevant to the needs of Ghanaians in the twenty-first century (Constitutional Review Commission of Enquiry, 2009, Project Proposal, p.11).

The Centre for Democratic Development (CDD)-Ghana Statement (2009a) expressed worry among others that Article 78(1) could create problems for the President Mill's administration considering the representation of the Nat its effects on the Parliament of Ghana.

In the year 2009, several Members of the Parliament of Ghana were appointed to chair or serve as Members of Governing Boards and Councils of State Agencies and Corporations. A section of the public

condemned the appointments by President Mills. For example, the CDD-Ghana issued a statement condemning the appointments and called on President Mills to consider his decision in order not to erode the successes chalked so far under the Fourth Republic. The CDD-Ghana Statement (2009b) indicated that:

- (i) such appointments undermine efforts to promote good governance and consolidate democracy in Ghana and harmful to the already weak system of checks and balances that underpins Ghana's constitutional democracy;
- (ii) the action by the President perhaps, was against the background of Article 78(1) and it reinforces the dominance and influence of the Executive Arm of Government over the Legislative Arm which has always existed in the history of the country;
- (iii) appointing Members of Parliament to serve on Governing Boards and Councils is not a constitutional provision and so can easily be left out in order not to undermine the oversight role of the Parliament which is already weakened by the whip system of Parliament;
- (iv) some politicians, constitutional experts and peer reviewers including the African Peer Review Mechanism have noted the deleterious effect that Article 78(1) has had on the prospects for building a strong and effective Parliament;
- (v) the CDD-Ghana shares the same sentiment with some politicians and constitutional experts about the need to strengthen the

independence of Parliament and ensure appropriate separation of the functions of the Executive from that of the Legislature;

- (vi) such appointments deepen the perception that ruling-party Members of Parliament exist to serve the interest of the Executive rather than as a counter-check on the Executive;
- (vii) such appointments creates other layers of Executive–Legislature fusion which reduces the autonomy of the Parliament of Ghana;
- (viii) such appointments also weaken the already feeble systems of public accountability and integrity and impede the country’s progress towards good governance and democratic consolidation;
- (ix) Members of Parliament with such appointments are more likely to lose the independence and objectivity they are expected to exhibit in exercising appropriate oversight over these same Agencies, Corporations, and Boards within the Executive branch; and
- (x) the proper role of Members of Parliament is to investigate abuses and failures in State Organisations instead of drawing sitting allowances from such Organisations as Chairpersons or Members of Governing Boards and Councils.

The Institute of Economic Affairs (IEA) Paper (2008, p.26) argued that Article 78(1) of 1992 Constitution should be amended because the Provision weakens the Parliament of Ghana. The IEA felt that appointing Ministers from Parliament undermines efforts to promote good governance adding that such appointments are also harmful to the already

weak system of checks and balances that underpins Ghana's constitutional democracy.

Ninsin (2008 cited in Sekyi 2010, p.2) opined that the fusion of the Executive and the Parliament of Ghana has reduced the independence and stifled the growth of the Parliament of Ghana and made the Executive very influential on the House.

Following the issues raised by opponents of Article 78(1), it can be argued that the appointment of Members of Parliament as Ministers of State and Members of Governing Boards or Councils leads to role conflicts, encourage Executive influence on the Parliament of Ghana and makes the House less effective in the performance of its oversight role. It can be inferred that, prevention of arbitrariness and abuse of state power entrusted to rulers through "separation of powers" are the predominant concerns of the opponents of Article 78(1).

Notwithstanding the issues raised by proponents and opponents, the Parliament of Ghana may be striving for separation of powers to enable it effectively perform its oversight role but there should be collaboration and coordination among the three (3) Arms of Government to enhance the execution and management of Government business. Further, the Parliament of Ghana should not compromise on its autonomy in partnering the Executive since it will adversely affect oversight role performed by the House.

2.12 Perspectives on Effective Parliamentary Oversight

It is worth-discussing the following perspectives on the premise that the oversight role can also be affected by other factors including executive-legislature fusion.

Johnson and Nakamura (1999 cited in Barrows et al, 2003, p.35) indicated that most parliaments have oversight powers but performing effective oversight is difficult because it requires information about the activities of the executive (which is often secret), the legislative capacity to process that information, the legislative will to act and the power to back up demands for change.

“In a typical democratic system, the doctrine of dividing the power, functions and personnel among the three (3) arms of government has the potential to promote effectiveness and efficiency in the prosecution of government business. By promoting division of labour through the doctrine of separation of powers, no one agency of government is overburden with work, this may logically improve the quality of governance” (Sekyi 2010, p.3).

Often the oversight role put parliament into an adversarial relationship with at least some portion of the executive arm. Because of this, oversight tends to be less effective in parliamentary systems with dominant majority for example in the United Kingdom and Canada than in presidential systems where different parties can control different branches of government for example in the United States (Barrow et al, 2003, p.35).

Further, Barrow et al (2003, p.35) also indicated that oversight role is more effective in a bicameral parliament than a unicameral parliament and mentioned the following as useful oversight powers of most parliaments:

- a) The ability to remove the executive arm.
- b) The power to get information from the executive arm.
- c) Control of appropriations and expenditures of the country.
- d) A system of monitoring and assessing the executive arm.

Barrows et al (2003, p.118, 131-132) explained that lack of parliamentary oversight authority is one of the problems facing contemporary administrative systems and can be addressed by undertaking constitutional and rules reform, for example, changing the constitution as in the British Parliament. Another example is enacting laws to expand legislative authority such as the United States Budget and Impoundment Act to limit Presidential discretion.

Johnson and Namakura (1999 cited in Barrows et al, 2003, p.136) stated the following as factors affecting parliamentary oversight capacity:

- a) Inadequate access to information by parliament.
- b) Insufficiently trained members of parliament.
- c) Insufficiently trained staff of parliament.

Barrows et al (2003, p.136) explained that the institutional and political factors also hinder parliamentary oversight capacity.

From the perspectives on effective parliamentary oversight, it can be argued that the Parliament of Ghana can be constrained by any of the following factors in the performance of its oversight role:

a) **Constitutional Provisions**

As opined by Sekyi (2010, p.3) separation of powers has the potential for effective execution of government business. Article 78(1) creates a form of Executive-Parliament fusion and so can undermine the independence of the Parliament of Ghana and hence its capacity to effectively perform its oversight role.

Another provision which can be considered as a constraint is Article 108 of the 1992 Constitution. Article 108 stipulates that any bill which has financial implication can only be introduced in the Parliament of Ghana under the authority of the President. The provision does not give the Parliament of Ghana financial autonomy to appropriate funds for itself for the building of offices for Members and Staff, procurement of adequate office facilities like computers, printers, photocopiers and other internet facilities, undertake monitoring visits, scrutiny, probes and hire expertise to assist in deliberations in order to perform their oversight role effectively. In most cases, especially in Africa, the bulk of legislations are initiated by the executive arms because it is arduous and expensive for members of parliament to carry out countrywide consultations, drafting among other considerations.

b) **Availability of Information and Capacity to obtain Information**

Parliamentary business especially oversight, relies so much on information. When adequate, accurate, up-to-date and timely information can be obtained from the Executive, a well-resourced Parliamentary

Library and competent Members of Parliament and Staff, the Parliament of Ghana would be able to perform its oversight role effectively. However, lack of relevant information needed by the Parliament of Ghana as a result of non-cooperation of the Executive, poorly-resourced Library and incompetent Members and Staff of Parliament, would render the Parliament of Ghana ineffective in the performance of their oversight role.

Further, information needs of the Parliament of Ghana can also be met if Members and Staff of Parliament have the capacity to listen to citizens and process their inputs, seek and consider advice from experts on issues, draft technically sound amendments to legislations and manage its administration effectively.

c) **Political Will**

Studies have shown that constitutions and standing orders grant parliaments, especially those in Africa more powers than they ever use. Political will is the strength of the desire of members of parliament to exercise the powers reposed in them by constitution or other regulations. Political will can influence how the Parliament of Ghana exercises its powers to carry out its oversight role. If Members of the Parliament of Ghana have strong desire to exercise the powers vested in them by the 1992 Constitution, the House would be able to perform its oversight role effectively and vice versa.

d) **Political Space**

Political space refers to the willingness of other arms of government, especially the executive arm to cede or share political power with parliaments and other governance institutions. More political space has the potential of increasing the capacity of the Parliament of Ghana to effectively perform its oversight role.

2.13 Legislative Development Programmes

As indicated by Barrows et al (2003, p.118, 131-132), lack of parliamentary oversight capacity is one of the main problems facing contemporary legislatures. Legislative development programmes have been designed by Development Partners to deal with the constraints of parliamentary oversight capacity.

A number of external agencies such as Bilateral Funding Organisations including the United States Agency for International Development (USAID), Canadian International Development Agency (CIDA) and Multilateral Funding Organisations including United Nations Development Programme (UNDP) and the World Bank support parliaments, especially those in the developing world to undertake legislative development programmes (Barrows et al, 2003, p.118-121)

Barrows et al (2003, p.135) thought that effective oversight by parliamentary committees can improve government fiscal accountability. He stated that

according to the UNDP, technical cooperation strategies aimed at improving parliamentary oversight should consider the following:

- a) Political factors influencing executive-legislature relations.
- b) Structure and dynamics of political parties in parliament.
- c) Level of development of parliamentary committee systems.

The UNDP's country Poverty Reduction Strategy Paper (PRSP) process also aims at strengthening parliamentary oversight capacity for monitoring government poverty reduction targets and control over budgetary expenditures (Barrows et al, 2003, p.136).

It can be argued that most of the legislative development programmes are centred on strengthening parliamentary oversight capacity through constitutional reforms and training of members and staff of legislatures.

2.14 The Constitution Review Commission of Enquiry

Pursuant to President Mills's commitment to review the 1992 Constitution of Ghana, the Constitution Review Commission of Enquiry Instrument, 2010 (C.I.64) was enacted. In establishing the Commission, the C.I.64 provided for eight (8) members under the Chairmanship of Professor (Emeritus) Albert K. Fiadjoe, a Professor of Public Law. The tenure of the Constitution Review Commission of Enquiry was two (2) years after which its report was submitted to President Mills.

“The terms of reference of the Commission were;

- (a) to ascertain from the people of Ghana, their views on the operation of the 1992 Fourth Republican Constitution and in particular the strengths and weaknesses of the Constitution;

- (b) to articulate the concerns of the people of Ghana on amendments that may be required for a comprehensive review of the 1992 Constitution; and
- (c) to make recommendation to the Government for consideration and provide a draft Bill for possible amendments to the 1992 Constitution” (C.I.64, Section 3).

The Constitution Review Commission of Enquiry was inaugurated in January, 2010 to commence its enquiry in accordance with C.I.64 and Chapter Twenty-Three (23) of the 1992 Constitution of the Republic of Ghana.

2.14.1 Some Principles of the Constitution Review Process

The principles that guided the entire constitution review exercise included the following:

- a) Provision of equal opportunities for all Ghanaians to participate in the review process.
- b) Reaffirmation of the autonomy of the Parliament of Ghana by bestowing on it greater legislative and oversight powers to enable it act as an effective counterpoint to the Executive while ensuring that the Executive is not dysfunctional. (Constitution Review Commission of Enquiry, Project Proposal, 2009, p.11).

The guidelines recognised the fact that there was the need to strengthen the Parliament of Ghana to perform its oversight more effectively and also maintain the right balance of power between the Executive and the House.

2.14.2 Proposals Submitted to the Constitution Review Commission of Enquiry

The proposals received by the Constitution Review Commission of Enquiry, most of which had been in the public domain were compiled into a total of thirty-nine (39). The proposals were contained in the Constitution Review Commission of Enquiry (2009, Project Proposal, p.7-9) and those relating to the powers and strength of the Parliament of Ghana included the following:

- a) **A review of the Constitutional injunction in Article 78(1) that majority of Ministers should be appointed from Parliament.**
- b) A review of the Constitution to determine whether it should be amended to allow for easy tabling and passage of Private Members' Bills in Parliament.
- c) A reconsideration of the exclusion of Executive Instruments from the category of subsidiary legislation which require prior parliamentary approval for their validity [Article 11(7)].
- d) A review of Article 55(17) to provide for Parliamentary debate of the Annual Reports of the Electoral Commission and Chapter 18 to provide for Parliamentary debate of the CHRAJ Annual Reports.

The total amount of funds sought for the constitution review Project was Two Million, Seven Hundred and Sixteen Thousand, Six Hundred and Eighty-Five United States Dollars (US\$ 2,716,685.00). The Government of Ghana was to provide twenty per cent (20%) counterpart funding (The Constitution Review Commission of Enquiry, 2009, Project Proposal, p.20).

Out of the total number of thirty-nine (39) proposals submitted to the Constitution Review Commission of Enquiry for consideration, about fourteen (14) which constituted thirty-six per cent (36%) sought to give the Parliament of Ghana more teeth to bite. This means that many Ghanaians recognised the need to strengthen the capacity of the Parliament of Ghana to perform its oversight role to meet their aspirations. This reinforces the argument that the capacity of the Parliament of Ghana can be strengthened to perform its oversight role more effectively if Article 78(1) and other provisions believed to be impediments are amended.

2.15 Issues arising after the establishment of the Constitution Review

Commission of Enquiry

The inauguration of the Constitution Review Commission of Enquiry was welcomed by several Ghanaians including political parties, civil society organisations and constitutional experts.

2.15.1 Statements issued by the Centre for Democratic Development (CDD)

Not long after the Constitution Review Commission of Enquiry was inaugurated, CDD-Ghana issued a statement to commend the President for fulfilling his pledge within the first year of his tenure of office. The CDD-Ghana Statement (2010a);

- a) commended the government in solidarity with other Ghanaians including those in the diaspora;
- b) congratulated the Members of the Commission on their appointment;

- c) expressed conviction that the constitutional review exercise will result in the reinforcement of the principles of democracy, good governance and social justice; and
- d) expressed the readiness of CDD-Ghana to work with the Commission.

The CDD-Ghana formed the National Constitutional Review Coalition (NCRC) consisting of forty-eight (48) civil society groups co-chaired by Prof. Samuel Gyandoh, a former dean of the Faculty of Law, University of Ghana, Legon and Justice V.C.R.A.C Crabbe, a former Supreme Court Judge. The NCRC was generally intended to provide various platforms for civil society groups, the Media and other stakeholders to make input into the constitutional review process. The life span of the NCRC project was tied to that of the constitution review process (CDD-Ghana, News Item, 2010b).

Clearly, the CDD committed itself to work closely with the Constitution Review Commission of Enquiry and was of the conviction that the constitutional review would reinforce the principles of democracy, good governance and social justice. Accountability is one of the attributes of good governance which require a vibrant Parliament and not Parliament can be vibrant if it has constitutional constraints to contend with. It can therefore be argued that in recognition of this, the CDD supported a constitution review that would among other things amend Article 78(1) to strengthen the capacity of the Parliament of Ghana to perform its oversight role more effectively,

2.15.2 A Communiqué issued by Political Party Representatives at the end of a Workshop held at Aburi

Institute of Economic Affairs (IEA) also committed itself to support the Constitution Review Commission of Enquiry by organising a two-day Workshop at Aburi for representatives of the four (4) Political Parties represented in the Fifth Parliament of Ghana. The Parties were the National Democratic Congress (NDC), New Patriotic Party (NPP), People's National Convention (PNC) and Convention People's Party (CPP). The Workshop was intended to deliberate on aspects of the 1992 Constitution that needed to be reviewed. At the end of the Workshop, the Party Representatives issued a joint Communiqué containing several statements including the one that says “there should be no ceiling on the number of Ministers to be appointed from Parliament” (Asiamah, 2010).

Obviously, the four (4) Political Parties thought that the President should not be compelled to appoint majority of Ministers from the Parliament of Ghana but it was not clear as to whether their opinion was in relation to the oversight role of the House.

2.15.3 Asare and Prempeh’s View on the Constitution Review Process

Asare and Prempeh (n.d, p.16-36) were in favour of the constitution review but argued that;

- a) the procedure for amendment outlined in the Chapter twenty-five (25) of the 1992 Constitution strongly supports the notion that the process of

constitutional revision is supposed to be initiated by the Parliament of Ghana and not the Executive;

- b) the amendment of entrenched and non-entrenched provisions in Articles 290 and 291 respectively requires the Speaker of Parliament to refer a bill for amendment to the Council of State for its advice before further action may be taken on it by the Parliament of Ghana;
- c) the Parliament of Ghana is the primary actor and agenda-setter when it comes to proposals to revise the constitution because it is the only body whose membership straddles the diverse political and regional demography of the Nation;
- d) experience has shown that Presidents in the Fourth Republic have had little difficulty getting the Parliament of Ghana to approve their initiatives and so it not enough to think that Parliament would get the opportunity to make its input when the amendment bill is presented before it; and
- e) Although the Parliament of Ghana has firm grounds constitutionally, it has taken a back seat conceding to the President the power to set the agenda for constitutional review perhaps because of the prevailing understanding of Article 278 that the President shall, by constitutional instrument, appoint a commission of inquiry into any matter of public interest anytime he deems it necessary. “The Supreme Court of Ghana has maintained that constitutional text must be read not literally but purposively”.

Asare and Peprah argued that the provisions in the Chapter Twenty-Five (25) of the 1992 Constitution of the Republic of Ghana require that the Parliament of Ghana is supposed to initiate constitution review process and not the Executive. Hence the initiation process by President Mills was therefore unconstitutional going by the argument of Asare and Peprah.

2.15.4 Study Conducted by Sekyi E.K.

It may be recalled that a survey of the opinions of selected Members of the Fifth Parliament of Ghana on the challenges of the fusion of the Executive and the Parliament of Ghana conducted by Kojo E. Sekyi in August 2010 could not answer whether Article 78(1) should be amended. The study by Sekyi therefore kindled the protracted debate on the Provision.

2.15.5 A Communiqué Issued by Some Members of the Parliament of Ghana on Constitutional Amendments at the end of a Workshop held at Akosombo

Some Members of the Parliament of Ghana attended a three-day workshop held from 25th to 27th March, 2011 at Akosombo to debate the proposed amendments to the 1992 Constitution of the Republic of Ghana. The Members of Parliament consisted of Members of the Constitutional, Legal and Parliamentary Affairs, Subsidiary Legislation Committees and select Members of the Leadership of the Parliament of Ghana. The theme for the workshop was “Giving Voice to the Voiceless in Ghana’s Constitutional Review Process”. The workshop was organised by the Institute of Economic Affairs (IEA) under the auspices of the IEA/UNDEF Project and was aimed at building the capacity of Members of Parliament on the Proposed

Constitutional Amendments. At the end of the Workshop, the Parliamentarians issued a Communiqué on several provisions of the 1992 Constitution of the Republic of Ghana. In the Communiqué, the Members of Parliament indicated among others that;

- a) Article 78(1) should be amended so that all Ministers would be appointed from outside Parliament; and
- b) Proper interpretation should be given to “financial implications” in Article 108 to enable Private Members’ Bills to be introduced without difficulties.

Alluding to the issues raised in the Communiqué, it can be argued that the Members of Parliament who participated in the Workshop were among those who think that the Parliament of Ghana is weak due to undue Executive influence.

2.15.6 The Report of the Special Committee on the Review of the 1992 Constitution

The Parliament of Ghana at its sitting on 16th of June, 2010, composed an adhoc Committee of about twenty (25) to examine the terms of reference of the Constitutional Review Commission of Enquiry and submit proposals in the form of a memorandum to the Commission. The Committee was dubbed the Special Committee on the Review of the 1992 Constitution. During the presentation of the Report of the Special Committee on 30th March, 2011, the Chairman of the Special Committee, Hon. Cletus A. Avoka, indicated that the Special Committee met with the Members of the Constitutional Review

Commission of Enquiry as well as other stakeholders across the country and came up with twenty-five (25) thematic areas.

Parliament of Ghana (2011, Parliamentary Debate of 30th March, Fourth Series, vl.72, No.45, cl. 3781) indicated the following as the observations of the Special Committee in the light of the information gathered from the submissions of some Members of Parliament, some experts and practitioners:

- a) A wholesale amendment or review of the 1992 Constitution would not be necessary at this time of Ghana's history.
- b) Most of the concerns identified during its deliberations were encapsulated in the organised data presented by the Constitution Review Commission of Enquiry on issues raised by the citizenry on the thematic areas.

Parliament of Ghana (2011, Parliamentary Debate of 30th March, Fourth Series, vl.72, No.45, cl.3784-3785) indicated that the Special Committee based on its observations recommended among others that Article 78(1) should be retained due to the following reasons:

- a) Retaining Article 78(1) would strengthen the multi-party system because appointing majority of Ministers from Parliament is an incentive for more competent persons and professionals to contest parliamentary seats.
- b) The Late Former President Limann's Budget was defeated in Parliament because of the attitude of the Ministers to Members of Parliament which resulted in apathy of Members of Parliament to

Government's Business. Members of Parliament by this attitude demonstrated their resentment for not being appointed Ministers although they spent their resources and energy for campaigning for victory.

- c) Even though in Britain all Ministers are Members of Parliament, business of the House does not suffer. In Ghana, poor time management by Members of Parliament who are Ministers contributes to Parliament's weakness and therefore blurs understanding of Article 78(1). A change in attitude and commitment to business of the House is expected to strengthen Parliament.
- d) Further, Article 78(1) of the 1992 Constitution may create co-operation between the Executive and the Legislature.

Parliament of Ghana (2011, Parliamentary Debate of 30th March, Fourth Series, vl.72, No.45, cl.3786) indicated on the contrary that some Members of the Special Committee were against the retention of Article 78(1) due to the following reasons:

- a) Majority of Members of Parliament who are appointed as Ministers become Cabinet Ministers who are more often than not irregular at Parliamentary Sittings. This drains the House of its human resource.
- b) Non-Minister Members of Parliament favour the Executive in order to become Ministers.

From the issues indicated afore, Members of the Special Committee had diverse opinions about whether Article 78(1) should be amended.

2.15.7 Parliamentary Debate on the Report of the Special Committee on the Review of the 1992 Constitution

Arguments by proponents of Article 78(1) are indicated by Parliament of Ghana (2011, Parliamentary Debate of 30th March, Fourth Series, vl.72, No.45, cl.3794, 3805, 3811-3812, 3834-3838, 3852-3853) as follows:

Hon. Kwame Osei-Prempeh (NPP Member for Nsuta /Kwamang/Beposo)

- a) In other jurisdictions such as Britain, Australia and New Zealand all Ministers are Members of Parliament but they are still able to work.
- b) Provision should be made for Ministers to be appointed from Parliament but not majority.

Hon. Hackman Owusu-Agyemang (NPP Member for New Juaben North)

- a) The best form of system of government is the Westminster/Parliamentary since countries such as Australia, New Zealand, United Kingdom, Canada and all the Caribbean countries are all doing well.
- b) Further there has not been any coup d'etats in countries practising the Parliamentary System of government and also there is always an opportunity for the Prime Ministers and Opposition Leaders to debate on issues in order to address them. The First Deputy Speaker who presided over the Debate interrupted shortly by mentioning that a World Bank Institute Report indicated that there is more corruption in the Presidential System than the Parliamentary System.

- c) Members of Parliament during campaigns make promises on behalf of their Parties to constituents and so when they become Ministers they can lobby to fulfil their promises in their respective constituencies.
- d) The task of a Member of Parliament can easily be combined with that of a Minister except that one has to be a good time manager.
- e) Even if Article 78(1) is amended, Parliament cannot be independent and strong as opined by some people because of the Whip System of Parliament.

Hon. Kobina T. Hammond (NPP Member for Adansi Asokwa)

- a) Article 78(1) should be retained so that Members of Parliament can also become Ministers which situation would be advantageous to Parliament as indicated by previous submissions.
- b) There is no need for any review whatsoever; rather we should allow the 1992 Constitution to work for some more time probably, 50-60years before we consider any amendment.
- c) The Supreme Court of the Land should be allowed to do its work of interpreting the Constitution.

Hon. Alhaji Mohammed-Mubarak Muntaka (NDC Member for Asawase)

- a) All Ministers should come from Parliament because Ghana is a developing country and so should be mindful of the cost of democracy if Ministers are chosen from outside Parliament.
- b) Quick decisions and actions can be taken easily when all Ministers are appointed from Parliament.

- c) Appointing all Ministers from Parliament would encourage the best brains to come to Parliament because they would consider the fact that the only way to become a Minister is to come to Parliament.
- d) Appointing all Ministers from Parliament would enable both the Opposition and the Government to have very committed people in Parliament because elections would be very competitive at the primary as well as the national levels.
- e) Appointing all Ministers from Parliament would prevent “antagonism in political party activism” .This is because the contrary would lead to a situation where efforts of Members of Parliament in their Constituencies are thwarted by those who could not win their primaries but are appointed Ministers and Parliament may lose its credible Members.

Hon. Osei Kyei-Mensah-Bonsu (Minority Leader and NPP Member for Suame)

- a) An empirical study by the World Bank/International Monetary Fund (IMF) has established that the Presidential System is more susceptible to corruption than the Westminster System in emerging economies such as Ghana. This notwithstanding, In order to develop career Members of Parliament, Ghana should either go strictly the Westminster way or the Presidential way but not a combination like we have now.

Hon. Cletus Avoka (Majority Leader and NDC Member for Zebilla)

- a) Having Members of Parliament as Ministers is not bad for Ghana but people complain about Article 78(1) because of the attitude, level of discipline and focus of Members of Parliament who are also Ministers.
- b) There are some Ministers of State who are more punctual in Parliament than some Members of Parliament who are not Ministers.
- c) If Members of Parliament who are Ministers would take the business of Parliament more seriously and manage their time better, Ghana would have no problems with Article 78(1).

Arguments by opponents of Article 78(1) are indicated by Parliament of Ghana (2011, Parliamentary Debate of 30th March, Fourth Series, vl.72, No.45, cl.3817-3821, 3824-3829) as follows:

Hon. Joseph Osei-Owusu (Independent Member for Bekwai)

- a) Article 78(1) should be amended because that is what accounts for the weak nature of Parliament.
- b) Because of Article 78(1), Parliament tends to support the Executive on most issues irrespective of their merits.
- c) Several times Parliament has taken a decision on a matter to which most Members of Parliament disagreed but voted for because they were desirous of becoming Ministers. Therefore, Article 78(1) created a situation where Members of Parliament do not vote according to their true conscience because they are desirous of becoming Ministers.

- d) Appointing Ministers from Parliament draws Members of Parliament into other assignments and as such do not make them punctual and regular at Parliamentary Sittings and that even during consideration of bills, Parliament may count only a maximum of 50 Members at its Sitting. This affects quorum which Parliament has to work with.
- e) Members of Parliament who are appointed Ministers debate only political issues and leave those who are not Ministers to work on legislations.
- f) Article 78(1) makes the loyalty of Parliament divided because of the dual role of Ministers appointed from Parliament.

Hon. Papa Owusu-Ankomah (NPP Member for Sekondi)

- a) The approach of the Late Former President Mills to the review process was not very helpful since the Constitution Review Commission of Enquiry is not one of those Commissions specified by Chapter Twenty-Three (23) of the 1992 Constitution of Parliament although the Commission has done a very good job. It would have been better to involve Parliament in determining the type of Commission that we wanted through an Act of Parliament in terms of bipartisanship so that the input of both the Executive and Legislature would be taken on board to fashion out the constitution review process.
- b) Ghana's situation should not be compared to that of UK because in the case of the Westminster System, the Government is located in Parliament and so if you lose a vote, the Government would fall.

- c) Article 78(1) makes it difficult if not impossible for Parliament to check the Executive and so has strengthened the Executive and weakened Parliament. Article 78(1) should therefore be amended.
- d) Article 78(1) has made Parliament so weak that the President can come to Parliament and tell Members of his intention to provide offices for them. Providing offices for Members of Parliament should lie within the power of Parliament but not the President.
- e) If Article 78(1) is not amended, Parliament will always be an approval Chamber for the Executive but not a Chamber that will tell the Executive to take certain actions and through no fault of anybody.
- f) What happened under Liman's administration was due to ineffective Executive and should a situation arise where a President has a minority in Parliament how would the President satisfy the requirement of Article 78(1).
- g) With Article 78(1), the allegiance of Members of Parliament who are also Ministers would first be to the Executive and this is natural and normal and so the provision undermines the effectiveness of Parliament as an Institution of Governance.
- h) Effective Members of Parliament who are appointed Ministers in most cases become ineffective Ministers.
- i) Article 78(1) should be amended so that we practise the American System which is the Presidential.

The House was strongly divided during the Parliamentary debate and this is evidenced by the various and diverse opinions raised by Members of the

Parliament of Ghana who made contributions on the issue. In recognition of this, the First Deputy Speaker of the Parliament of Ghana, Hon. Edward K. Doe Ajaho who presided, directed that the Hanzard of Wednesday, 30th March, 2011 should accompany the Report of the Special Committee which would be submitted to the Constitutional Review Commission of Enquiry (Parliamentary Debates, 2011, Fourth Series, Vol.72, No.45, Column 3854).

It would be imperative to note that even if the House had adopted the recommendation of the Special Committee to retain Article 78(1) without any controversy, it could have been attributed to the “Whip System” which mechanically ensures that Members belonging to the same political party vote along the same lines. The System makes it very difficult if not impossible for Members of the House to express their independent opinions. Therefore, adoption of the Report by the House might not be convincing enough to end the protracted debate on the issue of whether Article 78(1) should be amended.

2.16 Submission of the Report of the Constitution Review Commission of Enquiry to President Mills

In December 2011, the final Report of the Constitution Review Commission of Enquiry was submitted to President J.E.A. Mills. Although details were not put out in the public domain, certain elements in the Report were disclosed by the Chairman of the Commission, Professor (Emeritus) Albert Kodzo Fiadjoe on the occasion of its submission. Fiadjoe (2011) mentioned that;

- a) the recommendations in the Report were categorised into constitutional changes, legislative changes and administrative action;
- b) the submissions and corresponding recommendations in the Report covered twelve (12) thematic areas including the Executive and the Parliament of Ghana; and
- c) the Report contained two (2) draft Bills, one for the amendment of non-entrenched provisions and the other for the amendment of entrenched provisions of the Constitution after having being taken through a referendum.

President Mills was to study the recommendations in the Report of the Constitution Review Commission of Enquiry and come out with its decisions referred to as “White Paper” within six (6) months as required by Article 280 of the 1992 Constitution of Ghana.

2.17 Government “White Paper” on the Report of the Constitution Review

Commission of Enquiry

Before President Mills left Ghana for the United States of America for medical check-up in June, 2012, he appended his signature to the Report of the Constitution Review Commission of Enquiry. About 90% of the recommendations in the Report were accepted by President Mills in the “White Paper”. Among those accepted was the recommendation to amend Article 78(1) such that Ministers cannot be appointed from the Parliament of Ghana (Gobah, 2012, p.1, 3). However, his acceptance for the recommendation to amend Article 78(1) for strict separation of powers could not have been enough

to convince Ghanaians to follow suit in a referendum because the Parliament of Ghana which represents them in Government was strongly divided during its debate on the issue. Therefore, an empirical study was one of the surest ways of obtaining information which would afford Ghanaians the opportunity to be well-informed of the true position of the Parliament of Ghana so as to also decide, in the event of a referendum.

On 24th July, 2012 at 14.15 Greenwich Mean Time (GMT), Ghanaians were thrown into dismay and state of mourning, when news broke on the air waves that President Mills has passed on at the 37 Military Hospital. With this notwithstanding, those in favour of the amendment of Article 78(1) as indicated by the Government “White Paper” are likely to have the conviction that the initiative for amendment would see continuity and implementation by His Excellency, President John Dramani Mahama and others to come.

2.18 Conclusion

In this chapter, the theory of separation of powers has been discussed in relation to the provisions of Article 78(1) of the 1992 Constitution of the Republic of Ghana and oversight role of the Parliament of Ghana. Issues thought to be associated with Article 78(1) which impact on the oversight role of the Parliament of Ghana have also been discussed and supported with literature especially by Barrows et al, Sekyi and others with the aim of highlighting some perspectives to enhance the understanding of the Study title.

CHAPTER THREE

3.0 METHODOLOGY

3.1 Introduction

This chapter discussed and justified the research design used for the Study. These involved the population, sample size, sampling technique, where data was collected, data collected, tools and procedures used for data collection, presentation and analysis.

3.2 Research Design

3.2.1 Population

The Study covered the Parliament of Ghana which consisted of the two hundred and thirty (230) Members of the Fifth Parliament of Ghana and the entire Staff of the House. The Members and Staff of the Fifth Parliament of Ghana therefore constituted the population. The breakdowns of the total number of Members of the Fifth Parliament of Ghana with regards to political party affiliation and region are shown on Table 3.1 as follows:

Table 3.1 - The Composition of the Fifth Parliament of the Fourth Republic of Ghana according to Political Party Affiliation and Region

REGION	NPP	NDC	PNC	CPP	INDEPENDENT	TOTAL
Ashanti	34	3	-	-	2	39
Brong Ahafo	15	9	-	-	-	24
Central	8	11	-	-	-	19
Eastern	20	7	-	-	1	28
Greater Accra	9	18	-	-	-	27
Northern	3	22	-	-	1	26
Upper East	4	8	1	-	-	13
Upper West	3	6	1	-	-	10
Volta	1	21	-	-	-	22
Western	10	11	-	1	-	22
TOTAL	107	116	2	1	4	230

Source: Field Data 2012 from the Parliament of Ghana

3.2.2 Sample Size

Due to the exigencies of time and other limitations, data was collected from one hundred and twenty (124) Members and three (3) Staff of the Fifth Parliament of Ghana bringing the sample size to a total of one hundred and twenty-seven (127).

3.2.3 Sampling Technique

Simple random sampling technique was used to select one hundred and twenty (120) Members of the House and this gave each Member of the House equal chance of being selected. The simple random sampling technique was adopted because any Member of the House could provide information on the subject matter. Purposive sampling technique was used to select seven (7) key

informants to tap their experiences. These consisted of four (4) Members of the House who have been Members of the House have held Ministerial appointments before in addition to Parliamentary duties and three (3) veteran Staff of the House who have worked for over fifteen (15) years in the Parliamentary Service of Ghana. Purposive sampling technique was adopted in selecting the key informants because there was the need to select respondents who could give accurate and reliable information on the challenges of Members of the House who in addition held Ministerial appointments.

3.2.4 Data Collection

To ascertain from existing literature how the Parliament of Ghana performs its oversight role; whether Article 78(1) affects the oversight role of the Parliament of Ghana; and whether Article 78(1) should be amended, secondary information from Hanzards, Books on how the House functions, The 1992 Constitution of Ghana, The Standing Orders of the House, News Letters on constitutional issues, The Daily Graphic and the internet concerning parliamentary oversight role and executive-parliament relations were consulted.

Interview guides and questionnaires were used as tools to collect primary data from selected Members and Staff of the House on how the Parliament of Ghana performs its oversight role; the effect of Article 78(1) on the oversight role; and whether the provision should be amended. The questionnaires and the interview guides comprised of structured (close-ended) and unstructured

(open-ended) questions. The close-ended questions provided standardized responses and allowed for quick and easy analysis and interpretation. The open-ended questions gave respondents more room to express their views and make suggestions as well. The questionnaires were administered to the one hundred and twenty (120) Members of the House to get their views on the subject matter. The interview guides were used to conduct interviews with the seven (7) key informants to tap their experiences.

3.2.5 Data Analyses and Interpretation

Microsoft Office Word and Statistical Package for Social Scientists (SPSS) were employed as tools to process, analyse and present data. Suitable charts and matrices were used to summarise and present data collected. Both quantitative and qualitative methods were used to analyse data collected. Some qualitative responses were coded to facilitate interpretation.

3.2.6 Validity and Reliability

Greater part of the secondary data collected for the Study dates from the beginning of the 21st Century. Also, primary data was collected from more than one-half of the total number of Members of the Fifth Parliament of Ghana and very experienced Staff of the House. Further, the same conclusion was drawn from the views of key informants interviewed and other respondents to whom questionnaires were administered. For these reasons, the data can be said to be valid and reliable.

3.3 Profile of the Parliament of Ghana

3.3.1 The Evolution of the Parliament of Ghana

The evolution of the Parliament of Ghana dates back to the pre-independence era. The first legislative authority was experienced in Ghana the then Gold Coast during the reign of Queen Victoria from the year 1837 to 1901. Between the year 1850 and 1865, the Gold Coast had its own Legislative Council to only advise the colonial Governor in enacting laws mainly in the form of Ordinances. In the year 1888, John Mensah Sarbah was nominated as the first African Unofficial Member to the Legislative Council after which unofficial representation was increased even though European Official Members continued to dominate. In the year 1951, the Legislature elected Sir Emmanuel Charles Quist as its first Speaker. He was the first African to preside over a British Colonial Legislature.

Ghana became a Republican State on 1st July, 1960, under the First Republican Constitution and a National Assembly was elected consisting of one hundred and twelve (112) representatives with a five-year term. On 24th February, 1966, the Government of the First Republic was overthrown in a coup d'état, the National Assembly was subsequently dissolved and parliamentary democracy was interrupted. Ghana returned to constitutional rule again in the year 1969 where a National Assembly was constituted into one hundred and forty (140) elected Members with five-year term. On 13th January, 1972, the Government of the Second Republic was also overthrown in a coup d'état and the National Assembly was again dissolved. After this incident, Ghana was led again by a military junta and the National Assembly

was in abeyance until 24th September, 1979 when constitutional rule was reinstated and Parliament had one hundred and forty (140) seats and five-year tenure of office.

The military interrupted Ghana's constitutional rule again on 31st December, 1981 through a coup d'etat. The military junta established a Consultative Assembly to draft the 1992 Constitution for the Republic of Ghana which was approved by Ghanaians through a referendum in April 1992. Ghana returned to constitutional rule again with the coming into force of the 1992 Constitution of the Republic of Ghana which is sometimes referred to as the Fourth Republican Constitution. The Fourth Republican Parliament commenced on 7th January, 1993. The interventions by the military resulted in transitions referred to as Republics. The current Republic is the Fourth and the only one that has journeyed about twenty (20) years with five (5) Parliaments without any military interruption.

3.3.2 Fourth Republican Parliaments

The Legislature of Ghana consists of the Parliament of Ghana and the Parliamentary Service of Ghana (Constitution of the Republic of Ghana, 1992, Chp.10). Republic of Ghana [1992 Constitution, Chp.10, Article 93(1)] stipulates that the Parliament of Ghana shall consist of at least one hundred and forty (140) elected Members. The First, Second and Third Parliaments of the Fourth Republic had two hundred (200) elected Members but the Fourth and Fifth Parliaments had two hundred and thirty (230). The increment was as a result of the enactment and implementation of the Parliamentary

Constituencies Instrument, 2004 (C.I.46) which increased the number of Constituencies from two hundred (200) to two hundred and thirty (230). The composition of the Fifth Parliament of the Fourth Republic of Ghana in relation to party affiliation is found in Table 3.2 as follows.

Table 3.2 – Composition of the Parliament of Ghana under the Fourth Republic

PARTY	1ST PARLIAMENT (1993-1996)	2ND PARLIAMENT (1997-2000)	3RD PARLIAMENT (2001-2004)	4TH PARLIAMENT (2005-2008)	5TH PARLIAMEN T (2009-Date)
NDC	189	133	89	94	116
NCP	8	-	-	-	-
PNC	-	1	3	4	2
NPP	-	61	103	128	107
CPP	-	5	1	3	1
EGLE	1	-	-	-	-
INDEPE NDENT	2	-	4	1	4
TOTAL	200	200	200	230	230

Source: Field Data 2012 from the Parliament of Ghana

It is worth noting that as at the time of the Study, a Parliamentary Constituencies Instrument, 2012 purported to add forty-five (45) more Constituencies to the existing ones to increase the total number to two hundred and seventy-five (275) was under consideration by the House.

3.3.3 The Mission Statement of the Parliament of Ghana

The Mission Statement of the Parliament of Ghana is that the House shall “perform efficiently in the passage of laws; satisfy the needs of the public, be more independent financially and in exercising oversight; and the Parliamentary Service shall facilitate the work of Parliament, enhance its dignity and adequately inform the public on activities of Parliament” (Parliament of Ghana, Enhanced Strategic Plan-2006-2009, 2006, chp.3, p.11)

3.3.4 The Location of the Parliament of Ghana

Parliaments of the First, Second and Third Republics of Ghana were housed at King George V Memorial Hall also known as the Old Parliament House on the Accra High Street which used to be a recreational centre for residents of Accra. However, the Fourth Republican Parliaments have been housed at the State House located next to the Osu Cemetery from Osu towards Ridge on the Stadium Road and is opposite the Accra International Conference Centre. The State House was built by Dr. Kwame Nkrumah to host the Organisation of African Unity (OAU) now the African Union (AU) Summit in 1965.

CHAPTER FOUR

4.0 DATA ANALYSES AND DISCUSSION OF RESULTS

4.1 Introduction

This chapter examined the views of Members of the Parliament of Ghana on how Article 78(1) actually affected the oversight role of the Parliament of Ghana. To gather this information, questionnaires were administered to one hundred and twenty (120) Members of the Fifth Parliament of Ghana. Key informant interviews were also conducted with seven (7) selected persons to solicit for further information and detailed explanation on the challenges that confronted Members of the House who in addition held ministerial appointments. The key information gathering involved four (4) Members of the House who have been Members of the House cum Ministers before and three (3) Members of Staff of the House who have worked for over fifteen (15) years.

4.2 Outcome of Data Gathered

The outcome of the data gathered are presented and discussed as follows:

Background of Respondents

Table 4.1 – Sex

	Frequency	Per cent	Valid Per cent	Cumulative Per cent
Valid MALE	117	97.5	97.5	97.5
FEMALE	3	2.5	2.5	100.0
Total	120	100.0	100.0	

Source: Field Data 2012

Out of the total of 120 Members of the House to whom questionnaires were administered, 117 (97.5%) were males and 3 (2.5%) were females as shown in Table 4.1 afore. This means that the Fifth Parliament of Ghana was dominated by males. This is attributed to the limited opportunities available for women to stand for both Primary and National Elections and their slim chances of winning.

Table 4.2 – Age

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid 31-40 YEARS	8	6.7	6.7	6.7
41-50 YEARS	17	14.2	14.2	20.8
OVER 50 YEARS	95	79.2	79.2	100.0
Total	120	100.0	100.0	

Source: Field Data 2012

8 (6.7%) of the respondents were of ages ranging from 31 to 40 years, 17 (14.2%) were of ages ranging from 41 to 50 years and a whopping 95 (79.2%) were of age 50 and beyond as shown in Table 4.2 afore. This implies that more than one-half of Members of the Fifth Parliament of Ghana were quite older. The reason is that Parliamentary Membership is a highly contested position and as such it is mostly won by elderly people because of their high level of maturity, experienced and wisdom.

Table 4.3 – Educational Level

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid TERTIARY	108	90.0	90.0	90.0
OTHER	12	10.0	10.0	100.0
Total	120	100.0	100.0	

Source: Field Data 2012

108 (90%) of the one hundred and twenty (120) respondents had attained tertiary level education and 12 (10%) of them were professionals as shown in Table 4.3 afore. This means that Members of the Fifth Parliament of Ghana were highly educated. The reason is that Parliamentary Membership is highly contested and therefore mostly won by those with high level of education.

Table 4.4 – Number of Terms in Parliament * Caucus Affiliation Cross Tabulation

		Caucus Affiliation		Total
		MAJORITY CAUCUS	MINORITY CAUCUS	
Number of Terms in Parliament	1 TERM	10	18	28
	2 TERMS	25	25	50
	3 TERMS	9	15	24
	4 TERMS	1	11	12
	5 TERMS	6	0	6
Total		(42.5%) 51	(57.5%) 69	(100%) 120

Source: Field Data 2012

51 (42.5%) of the respondents belonged to the Majority Caucus or Side and 69 (57.5%) of them belonged to the Minority Caucus or Side as shown in Table 4.4 afore. This implies that respondents from the Minority Side exceeded those from the Majority Side by 18 (35.3%). This revelation is quite surprising because one would have expected the contrary situation or at least a smaller difference between the numbers of respondents from both Sides of the political divide since simple random sampling technique was adopted. This situation has resulted from the fact that some Members of the House, normally those in power, that is the Majority Caucus, are appointed as Ministers and Members of Governing Boards and Councils and such positions make them busier and unable to attend to the House regularly. Further, it came as no surprise at all that no Member from the Minority Side had had 5 terms in the House as shown

again on Table 4.4. This is because the political party of the Minority, the New Patriotic Party (NPP) was not represented in the First Parliament of the Fourth Republic since it boycotted the Parliamentary Elections held in the year 1992.

Table 4.5 – Status in Parliament

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	MP ONLY	116	96.7	96.7	96.7
	MP AND MINISTER	4	3.3	3.3	100.0
	Total	120	100.0	100.0	

Source: Field Data 2012

116 (96.7%) of the respondents were Members of Parliament only and 4 (3.3%) of them were Members of Parliament who were also Ministers as shown in Table 4.5 afore. This situation has resulted from the fact that Members of the House who are not Ministers outnumber those who are Ministers. Here, it is worth-mentioning that all the four (4) respondents who were Members of the House and also Ministers, belonged to the Majority Caucus because as already explained Ministers are normally appointed from the Caucus that bear the ticket of the political party in power.

4.3 The Oversight Role of the Parliament of Ghana

On the issue of parliamentary oversight, the aggregate of the responses revealed that the Parliament of Ghana performs its oversight role by using the following:

- a) Committee System of the House to undertake investigations and scrutiny into issues and policies of the Executive
- b) Questions from Members of the House to Ministers
- c) Motions

4.4 The Effect of Article 78(1) on the Oversight Role of the House

Table 4.6 – Ministers appointed from the Parliament of Ghana are not regular at Parliamentary Sittings and Working Visits

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid AGREE	120	100.0	100.0	100.0

Source: Field Data 2012

Table 4.7 – Ministers appointed from the Parliament of Ghana are not objective when it comes to issues of the Executive because of their desire to maintain their status

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid AGREE	120	100.0	100.0	100.0

Source: Field Data 2012

Table 4.8 – Ministers appointed from the Parliament of Ghana are more committed to the Executive than the Parliament of Ghana because of their desire to maintain their status as Ministers

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid AGREE	120	100.0	100.0	100.0

Source: Field Data 2012

Table 4.9 – The appointment of majority of Ministers from the Parliament of Ghana allows for undue Executive influence on the House

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid AGREE	120	100.0	100.0	100.0

Source: Field Data 2012

All the respondents agreed that Article 78(1) has some demerits which included irregular attendance to the House and poor committed from Members of the House who also work as Ministers. (See Tables 4.6, 4.7, 4.8 and 4.9 afore). This implies that Members of the Fifth Parliament of Ghana thought that Article 78(1) had some challenges.

Table 4.10 – Ministers appointed from the Parliament of Ghana can provide the House with ready information from the Executive

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid AGREE	120	100.0	100.0	100.0

Source: Field Data 2012

Table 4.11 – Ministers appointed from the Parliament of Ghana have in-depth knowledge about the rules of Parliamentary proceedings and imminent policies of the Executive

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid AGREE	120	100.0	100.0	100.0

Source: Field Data 2012

Table 4.12 – The Parliament of Ghana benefits from the experience of Ministers appointed from the House

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid AGREE	120	100.0	100.0	100.0

Source: Field Data 2012

Table 4.13 – The appointment of majority of Ministers from the Parliament of Ghana creates a collaborative relationship and harmony between the Executive and the House

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid AGREE	120	100.0	100.0	100.0

Source: Field Data 2012

The respondents unanimously agreed that Article 78(1) created a collaborative relationship and harmony between the Executive and the House among other benefits (See Tables 4.10, 4.11, 4.12 and 4.13). This implies that the Members of the Fifth Parliament of Ghana thought that Article 78(1) had some benefits amidst its challenges.

Factors other than Article 78(1) affecting the Oversight Role of the Parliament of Ghana

On the issue of other factors affecting the oversight role of the Parliament of Ghana apart from Article 78(1), respondents pointed out the following:

- a) The Whip System of the House.
- b) Lack of competent research assistants for Members of the House.
- c) Lack of office accommodation for Members of the House.

4.5 The Issue of Whether Article 78(1) of the 1992 Constitution of the Republic of Ghana Should be Amended

Table 4.14 – Article 78(1) should be amended

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid AGREE	90	75.0	75.0	75.0
DISAGREE	30	25.0	25.0	100.0
Total	120	100.0	100.0	

Source: Field Data 2012

90 (75%) of the respondents agree that Article 78(1) should be amended and 30 (25%) disagree with any amendment as shown afore in Table 4.15. This means that Majority of the Members of the Fifth Parliament were in favour of the amendment of Article 78(1). The explanation is that many of the Members of the House felt that Article 78(1) did more harm than good.

Table 4.15 – Kindly suggest an amendment to Article 78(1) if you agree that it should be amended

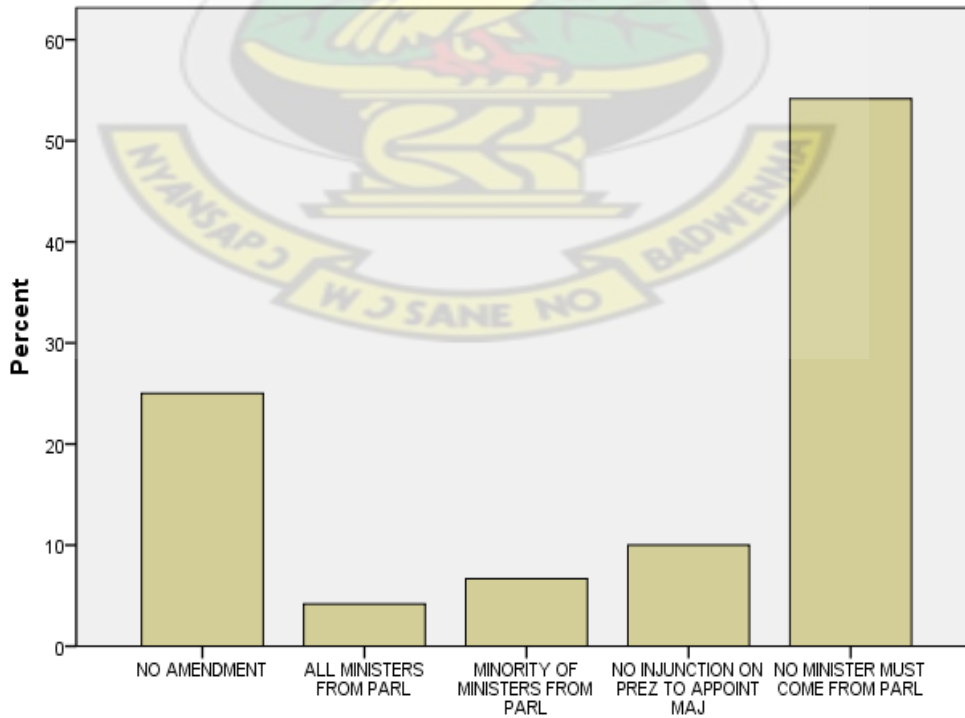
	Frequency	Percent	Valid Percent	Cumulative Percent
Valid NO AMENDMENT	30	25.0	25.0	25.0
ALL MINISTERS FROM PARL	5	4.2	4.2	29.2
MINORITY OF MINISTERS FROM PARL	8	6.7	6.7	35.8
NO INJUNCTION ON PREZ TO APPOINT MAJ	12	10.0	10.0	45.8
NO MINISTER MUST COME FROM PARL	65	54.2	54.2	100.0
Total	120	100.0	100.0	

Source: Field Data 2012

The information in Table 4.15 is under-shown in Figure 4.15 for purposes of illustration.

Figure 4.15

Kindly suggest an amendment to Article 78(1) if you agree that it should be amended



Suggestions given by respondents regarding the amendment of Article 78(1)

5 (4.2%) of the respondents were of the opinion that Article 78(1) should be amended such that an injunction is placed on the President to appoint all Ministers from the House. 8 (6.7%) of them wanted an injunction which would specify that only minority of Ministers can be appointed from the House. 12 (10%) wanted no injunction so that the President can appoint his Ministers either from inside or outside the House. 65 (54.2%) wanted strict separation of powers where no Minister can be appointed from the House as shown afore in Table 4.15 and Figure 4.15. This implies that most of the Members of the Fifth Parliament of Ghana thought that although Article 78(1) had some benefits, strict separation of powers would be more beneficial.

Table 4.16 – Kindly suggest an amendment to Article 78(1) if you agree that it should be amended

*** Caucus Affiliation
Cross Tabulation**

		Caucus Affiliation		Total
		MAJORITY CAUCUS	MINORITY CAUCUS	
Kindly suggest an amendment to Article 78(1) if you agree that it should be amended	NO AMENDMENT	10 (19.6%)	20 (29%)	30
	ALL MINISTERS FROM PARL	3 (5.9%)	2 (2.9%)	5
	MINORITY OF MINISTERS FROM PARL	3 (5.9%)	5 (7.2%)	8
	NO INJUNCTION ON PREZ TO APPOINT MAJ	2 (3.9%)	10 (14.5%)	12
	NO MINISTER MUST COME FROM PARL	33 (64.7%)	32 (46.4%)	65
Total		51 (100%)	69 (100%)	120

Source: Field Data 2012

Out of the fifty-one (51) Members of the Majority Caucus, 33 (64.7%) of them wanted strict separation of powers as shown afore in Table 4.17. In the case of the Minority Side, out of the sixty-nine (69) selected as respondents for the Study, 32 (46.4%) of them wanted strict separation of powers. Therefore a greater number of both the Majority Caucus and Minority Caucus wanted an

amendment of Article 78(1) such that there would be strict separation of powers.

Reasons given for the retention of Article 78(1)

Members of the House who said Article 78(1) should not be amended gave the reason that the framers of the 1992 Constitution took into consideration Ghana's experience with past administrations. They cited the incidence of the rejection of National Budget in the Third Republic by the House as a prime example. This group added that the fusion has been successful for twenty (20) and so should be left untouched since it is unprecedented in Ghana's history to have such a situation. They also said that even if Article 78(1) were amended, the Parliament of Ghana could not be independent as argued by some people because of the Whip System which ensured that Members of the same caucus tow the same lines in the House.

Reasons given for the various amendments suggested for Article 78(1)

Members of the House who thought that Article 78(1) should be amended such that all Members of the Parliament of Ghana could be appointed as Ministers gave the reason that the Parliamentary System of government is the best for Ghana since it is less expensive considering the fact that just a little more money was added to the salaries of Members of the House when they were appointed as Ministers. This group added that the Presidential System is more expensive and therefore would be more susceptible to corruption especially in developing countries citing Nigeria's situation as a typical example. They also thought that if other countries like Britain have been quite successful with the

Parliamentary System, Ghana could also do the same if Ministers concentrated on their core functions and allowed Chief Directors and other technocrats to take charge of the day-to-day administration of the various Ministries.

Members of the House who were of the opinion that Article 78(1) should be amended such that minority of Ministers would be appointed from the House gave the reason that the effects of the demerits of the fusion on the oversight role was more intense and so has the tendency of whittling away the merits. This group were of the conviction that if Members of the House were allocated offices both in the House and Constituencies and assigned competent research assistants, the Parliament of Ghana would be more effective in performing its oversight role provided minority of Ministers are appointed from the House.

Members of the House who said that Article 78(1) should be amended such that the President could either appoint from inside or outside the House gave the reason that the issue of majority or minority of Ministers from the Parliament of Ghana should be left to the President to decide because he would be in a better position to determine where to get his “good brains”. This group added that there is no need to put an injunction on the President to appoint majority of his Ministers from the House since it would be difficult to comply with the Provision if it so happens that the President has minority seats in Parliament or an independent presidential candidate wins the Presidency.

Members of the House who said that there should be an amendment to Article 78(1) such that no Minister can be appointed from the House gave other

reasons in addition to those given by Members of the House who said minority of Ministers should be appointed from the House. This group said that Britain faces several problems with their fusion, the most serious being irregular attendance to Parliamentary Sittings like what is happening in Ghana but Britain finds it difficult to change its System because it believes so much in its heritage. They argued that even though the fusion may seem cheaper, Ghana stands to lose in the long-run since it weakens the Parliament of Ghana and makes it ineffective in performing its oversight role which ensures accountability, one of the key elements of good governance. They also said that if no Minister is appointed from the Parliament of Ghana, the House would be robust and more effective in performing its oversight role since Members of the House would be regular, committed and able to represent constituents better. They added that most effective Members of the House become ineffective when appointed Ministers due to workload and higher expectations from constituents and as a result of these, most Members of the House lose their seats at the end of the term in which they held Ministerial appointments. Further, they disclosed that some Members of the House preferred the fusion not because of any genuine reasons that will ensure effective performance of the oversight role by the Parliament of Ghana but because of higher remuneration that Ministers enjoy. They were of the conviction that if Members of the House were paid the same salaries and allowances and also made to enjoy the same benefits as Ministers, no Member of Parliament would advocate for the fusion, whatsoever.

4.5.1 Interviews with Key Informants

Three (3) Staff Members of the Parliamentary Service of Ghana with more than fifteen (15) years of experience in the Service and four (4) former Ministers who were Members of the House were interviewed as key informants for the Study.

The four (4) former Ministers and two (2) of the three (3) Staff Members of the House argued for strict separation of powers and so wanted Article 78(1) amended such that no Minister would be appointed from the House. Their reasons were similar to those given by other Members of the House who were in favour of strict separation of powers except that they said the fusion put too much pressure on Members of the House who in addition held Ministerial appointments.

One (1) out of the four (4) Staff Members of the House interviewed argued on that Article 78(1) should be amended such that all Ministers would be appointed from the Parliament of Ghana. He gave similar reasons as those given by the Members of the House who were in favour of the Parliamentary System of government.

4.6 Recommendations on How to Strengthen the Capacity of the Parliament of Ghana to Perform its Oversight Role

Respondents identified the following as measures that could be undertaken by the Parliament of Ghana to counter the factors other than Article 78(1) affected its oversight role:

- (i) Strengthening access to research and information by Members of the House.
- (ii) Building the capacity of Parliamentary Staff.
- (iii) Building the capacity of Members of the Parliament of Ghana.
- (iv) Providing well-equipped library for the House.

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CHAPTER FIVE

5.0 SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 Summary

The Study was undertaken to identify how the Parliament of Ghana performs its oversight role in relation to Article 78(1) of the 1992 Constitution of Ghana; to determine whether Article 78(1) affects the oversight role of the Parliament of Ghana; and to contribute to public debate on whether Article 78(1) of the 1992 Constitution should be amended.

To find answers to the issues mentioned-afore from existing literature, secondary data was collected from Hanzards, books on how the Parliament of Ghana functions, The 1992 Constitution of Ghana, The Standing Orders of the House, News Letters on constitutional issues, The Daily Graphic and the internet concerning parliamentary oversight role and executive-parliament relations were consulted. With regards to primary data, questionnaires were administered to the one hundred and twenty (120) Members of the House to get some responses and interview schedules were used to conduct interviews with seven (7) key informants to tap their experiences.

The Study indicated that the Parliament of Ghana performs its oversight role by using its Committee System to undertake investigations and scrutiny of policies; asking Ministers Questions; and moving Motions. Further the Study revealed that, Article 78(1) affects the oversight role of the House both

favourably and adversely. However, 54.2% of those to whom questionnaires were administered and six (6) out of the seven (7) key informants thought that the Provision undermines the oversight role of the House and so should be amended. They therefore advocated for strict separation of powers to strengthen the Parliament of Ghana to perform its oversight role more effectively.

5.2 Conclusions

As evidenced by data collected, most Members and very experienced Staff of the House were in favour of an amendment of Article 78(1) of the 1992 Constitution such that no Minister can be appointed from the Parliament of Ghana because the fusion weakens the House. It may be recalled that the position of the Constitutional Review Commission of Enquiry, President John Evans Atta Mills, Ex-President John Agyekum Kufour, major political parties in Ghana, the Institute of Economic Affairs (IEA), the Centre for Democratic Development (CDD) and some constitutional experts in Ghana is no different from that of Members of the Parliament of Ghana. All arguments in favour of strict separation of powers point to one main reason that Article 78(1) weakens the House because Members of the House who in addition hold Ministerial appointments are not regular and committed to the House. Those who wanted Article 78(1) scrapped therefore argued that Members of Parliament who also hold Ministerial appointments are unable to represent constituents better to ensure more effective performance of the oversight role.

Ghanaians would be certain in their minds in the event of a referendum since the position of the House on the mind-boggling issue of whether Article 78(1) of the 1992 Constitution of Ghana should be amended has been ascertained to be the same as that of the Late Former President Mills, the Constitutional Review Commission of Enquiry as well as many other stakeholders in Ghana.

5.3 Recommendations

Article 78(1) of the 1992 Constitution serve as an incentive for Members of the House whose party is in power. This is because Members who belong the ruling party kowtow to the desires of the Executive so they can catch the eye of the President for Ministerial appointments. Because of this, the Provision makes the Parliament of Ghana very weak and less effective in the performance of its oversight role. Therefore, Article 78(1) should be amended such that no Minister can be appointment from the Parliament of Ghana. This would make the House very strong and more effective in the performance of its oversight role which is critical for accountability.

As already indicated, the “Whip System” also contributes to the weakness and ineffectiveness of the Parliament of Ghana in the performance of its oversight role since it compels Members of the House to vote or express their stands based on party lines. Thus, amending Article 78(1) such that fusion becomes unconstitutional would not make the House any stronger if the “Whip System” exists. It is high time Ghana considers doing politics without parties as a way of making the “Whip System” absolutely unnecessary. Further, doing politics without parties would ensure that development plans prepared by the National

Development Planning Commission (NDPC) are accepted by all Ghanaians as part of the Country's National Agenda which would be implemented even when governments change.

Unfortunately, it was found out in the Study that the strict separation of powers, in other words the Presidential System of government, is more susceptible to corruption than the fusion. Corruption, a menace which can whittle away the gains of strict separation of powers, can be reduced to its barest minimum by ensuring that other institutions of governance are strong, that is independent and very effective without political interferences or considerations with regards to especially appointments. This was how the United States of America chalked its successes though there is no perfect system the world over.

As evidenced by the Study, other factors such as availability of offices and competent research assistants for Members of the House and the level of capacity of Members and Staff of the House also affect the oversight role of the Parliament of Ghana. It is therefore recommended that the Parliament of Ghana continues to solicit for support from Development Partners such as the Canadian International Development (CIDA) and the United Nations Development Programme to build the capacity of Members and Staff of the House using a comprehensive model to ensure more effective performance of the oversight role by the House. Besides capacity building, the Parliament of Ghana must equip its Library and assign competent research assistants to all Members of the House to ensure easy and quick access to information needed

by Members of the House for effective performance of the oversight role. Also, the Parliament of Ghana must ensure that offices are allocated to Members of the House as intended should the “job 600” be completed for use. The Majority and Minority Caucuses should also ensure that offices are built for Members of the House in their Constituencies to facility their work.

Further, the Study revealed that some Members of the House supported the retention of Article 78(1) because of the higher emoluments Ministers get. Therefore, Members of the Parliament of Ghana must be made to enjoy the same emoluments as Ministers of State to discourage the fusion whatsoever.



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APPENDICES

Appendix 1: Questionnaire

INSTITUTE OF DISTANCE LEARNING, KWAME NKRUMAH UNIVERSITY OF SCIENCE AND TECHNOLOGY, KUMASI

NB: The Researcher is an Executive Masters Student of the Institute of Distance Learning of the Kwame Nkrumah University of Science and Technology. In partial fulfilment of his Commonwealth Executive Master of Public Administration, the Researcher is conducting a Study entitled, **“The Effect of Article 78(1) of the 1992 Constitution on the Oversight Role of the Parliament of Ghana”**. Article 78(1) stipulates in part that majority of Ministers should be appointed from the Parliament of Ghana.

The Study aims at determining how the appointment of Ministers from Parliament affects the oversight of the Parliament of Ghana and how the House can be strengthened to perform this role effectively.

This questionnaire is solely for academic purposes and so any information provided would be completely treated with strict confidentiality and anonymity. You are respectfully requested to assist the Researcher by completing the questionnaire. Thank you very much.

A. PERSONAL INFORMATION

1. Sex: Male [] Female []
2. Age Group: 21 – 30 Years [] 31– 40 Years []
41 – 50 Years [] Over 51 Years []
3. Educational Level: Basic [] Secondary [] Tertiary [] Other []
4. Caucus Affiliation:
Majority Caucus [] Minority Caucus []
5. Status in Parliament:
MP only [] MP and Minister []
6. Number of Terms in Parliament: 1 [] 2 [] 3 [] 4 [] 5 []

10. Ministers appointed from the Parliament of Ghana are more committed to Executive work than Parliamentary work because of their desire to maintain their status as Ministers.

Agree [] Disagree [] Unsure []

11. The appointment of majority of Ministers from the Parliament of Ghana allows for undue Executive influence on the House.

Agree [] Disagree [] Unsure []

12. Ministers appointed from the Parliament of Ghana can provide the House with ready information from the Executive.

Agree [] Disagree [] Unsure []

13. Ministers appointed from the Parliament of Ghana have in-depth knowledge about the rules of Parliamentary proceedings and imminent policies of the Executive.

Agree [] Disagree [] Unsure []

14. The Parliament of Ghana benefits from the experience of Ministers appointed from the House.

Agree [] Disagree [] Unsure []

15. The appointment of majority of Ministers from the Parliament of Ghana creates a collaborative relationship and harmony between the Executive and the House.

Agree [] Disagree [] Unsure []

16. In your opinion, apart from Article 78(1), what other factors affect the oversight role of the Parliament of Ghana?

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D. WHETHER ARTICLE 78(1) OF THE 1992 CONSTITUTION SHOULD BE AMENDED

17. Article 78(1) should be amended.

Agree [] Disagree [] Unsure []

18. Kindly give reasons to support your answer in question 17.

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19. Kindly suggest an amendment to Article 78(1) if you agree that it should be amended.

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E. RECOMMENDATIONS ON HOW TO STRENGTHEN THE CAPACITY OF THE PARLIAMENT OF GHANA TO PERFORM ITS OVERSIGHT ROLE

20. What can be done to strengthen or enhance the capacity of the Parliament of Ghana to perform its oversight role?

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THANK YOU VERY MUCH

