

# National Assembly Debates

**PROCEEDINGS AND DEBATES OF THE NATIONAL ASSEMBLY OF THE FIRST SESSION (2006-2007) OF THE NINTH PARLIAMENT OF GUYANA UNDER THE CONSTITUTION OF THE CO-OPERATIVE REPUBLIC OF GUYANA HELD IN THE PARLIAMENT CHAMBER, PUBLIC BUILDINGS, BRICKDAM, GEORGETOWN Part I of II**

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33<sup>RD</sup> Sitting

4:00h

Thursday 8 November 2007

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## ***MEMBERS OF THE NATIONAL ASSEMBLY (71)***

### ***Speaker (1)***

**The Hon Hari N Ramkarran SC, MP**

*Speaker of the National Assembly*

### **Members of the Government (42)**

#### **People's Progressive Party/Civic (41)**

#### **The United Force (1)**

The Hon Samuel A A Hinds MP - (AOL)

*(R# 10 - U Demerara/U Berbice)*

*Prime Minister and Minister of Public Works and*

*Communications*

The Hon Clement J Rohee MP

*Minister of Home Affairs*

The Hon Shaik K Z Baksh MP

*Minister of Education*

The Hon Dr Henry B Jeffrey MP

*Minister of Foreign Trade and International Cooperation*

The Hon Dr Leslie S Ramsammy MP - (AOL)

*(R# 6 - E Berbice/Corentyne)*

*Minister of Health*

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

\*Non-elected Minister \*\*Elected Member from TUF

The Hon Carolyn Rodrigues-Birkett MP

*(R# 9 - U Takutu/U Esseq)*

*Minister of Amerindian Affairs*

\*The Hon Dr Ashni Singh MP

*Minister of Finance*

\*The Hon S Rudolph Insanally OR, CCH, MP - *(AOL)*

*Minister of Foreign Affairs*

The Hon Harry Narine Nawbatt MP

*Minister of Housing and Water*

The Hon Robert M Persaud MP

*(R# 6 - E Berbice/Corentyne)*

*Minister of Agriculture*

The Hon Dr Jennifer R A Westford MP

*(R#7 - Cuyuni/Mazaruni)*

*Minister of the Public Service*

The Hon Kellawan Lall MP

*Minister of Local Government and Regional Development*

\*The Hon Doodnauth Singh SC, MP

*Attorney General and Minister of Legal Affairs*

The Hon Dr Frank C S Anthony MP

*Minister of Culture, Youth and Sport*

The Hon B H Robeson Benn MP

*Minister of Transport and Hydraulics*

\*\*The Hon Manzoor Nadir MP

*Minister of Labour*

The Hon Priya D Manickchand MP

*(R# 5 - Mahaica/Berbice)*

*Minister of Human Services and Social Security*

The Hon Dr Desrey Fox MP

- *(Absent)*

*Minister in the Ministry of Education*

## NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007

The Hon Bheri S Ramsaran MD, MP

*Minister in the Ministry of Health*

The Hon Jennifer I Webster MP

*Minister in the Ministry of Finance*

The Hon Manniram Prashad MP

*Minister of Tourism, Industry and Commerce*

Mr Donald Ramotar MP - (Absent)

The Hon Gail Teixeira MP

Mr Harripersaud Nokta MP - (AOL)

Mrs Indranie Chandarpal MP

Ms Bibi S Shadick MP

*(R# 3 – Essequebo Is/W Demerara)*

Mr Mohamed Irfaan Ali MP

Mr Albert Atkinson JP, MP

*(R# 8 - Potaro/Siparuni)*

Mr Komal Chand CCH, JP, MP

*(R# 3 - Essiquibo Is/W Demerara)*

Mr Bernard C DeSantos SC, MP

*(R# 4 - Demerara/Mahaica)*

Mrs Shirley V Edwards JP, MP

*(R# 4 - Demerara/Mahaica)*

Mr Mohamed F Khan JP, MP

*(R# 2 - Pomerook/Supenaam)*

Mr Odinga N Lumumba MP - (AOL)

Mr Moses V Nagamootoo JP, MP

Mr Mohabir A Nandlall MP - (Absent)

Mr Neendkumar JP, MP

*(R# 4 - Demerara/Mahaica)*

\*\*\* Mr Steve P Ninvalle MP

*Parliamentary Secretary*

Mr Parmanand P Persaud JP, MP

*(R# 2 - Pomerook/Supenaam)*

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Mrs Philomena Sahoye-Shury CCH, JP, MP

*Parliamentary Secretary*

\*\*\*Non-elected Member

\*\*\*Mrs Pauline R Sukhai MP

*Parliamentary Secretary*

Mr Dharamkumar Seeraj MP

Mr Norman A Whittaker MP

*(R# 1 - Barima/Waini)*

**Members of the Opposition (28)**

**(i) People's National Congress Reform 1-Guyana (22)**

Mr Robert HO Corbin

*Leader of the Opposition*

Mr Winston S Murray CCH, MP

Mrs Clarissa S Riehl MP

*Deputy Speaker, performing duties of Speaker of the Nat. Assembly*

Mr E Lance Carberry MP - *(Absent)*

*Chief Whip*

Mrs. Deborah J. Backer MP

Mr Anthony Vieira - *(Absent)*

Mr Basil Williams MP

Dr George A Norton MP

Mrs Volda A Lawrence MP

Mr Keith Scott MP

Miss Amna Ally MP

Mr James K McAllister MP - *(Absent)*

Mr Dave Danny MP

*(R# 4 - Demerara/Mahaica)*

Mr Aubrey C Norton MP

*(R# 4 - Demerara/Mahaica)*

Mr Ernest B Elliot MP

*(R# 4 - Demerara/Mahaica)*

Miss Judith David-Blair MP

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

*(R# 7 - Cuyuni/Mazaruni)*

- Mr Mervyn Williams MP  
*(Re# 3 - Essequibo Is/W Demerara)*  
Ms Africo Selman MP  
Dr John Austin MP  
*(R# 6 - East Berbice/Corentyne)*  
Ms Jennifer Wade MP  
*(R# 5 - Mahaica/Berbice)*  
Ms Vanessa Kissoon MP  
*(R# 10 - U Demerara/U Berbice)*  
Mr Desmond Fernandes MP  
*(Region No 1 – Barima/Waini)*

**(ii) Alliance For Change (5)**

- Mr Raphael G Trotman MP - *(Absent)*  
Mr Khemraj Ramjattan MP  
Mrs Sheila VA Holder MP  
Ms Latchmin Budhan MP  
*(R# 4 - Demerara/Mahaica)*  
Mr David Patterson MP

**(iii) Guyana Action Party/Rise Organise and Rebuild (1)**

- Mr Everall N Franklin MP

**OFFICERS**

- Mrs Lilawatie Coonjah  
*Deputy Clerk of the National Assembly*  
Ms Hermina Gilgeous  
*Assistant Clerk of the National Assembly*

## PRAYERS

*[The Deputy Clerk reads the Prayer]*

## ANNOUNCEMENTS BY THE SPEAKER

Honourable Members, I apologise for the late start which was due to some Parliamentary business to be concluded.

You may proceed Mde Clerk.

## PRESENTATION OF PETITION

The Honourable Member Mr Khemraj Ramjattan ...

**Mr Khemraj Ramjattan:** Mr Speaker, I beg to present the humble Petition of the undersigned citizens of Guyana against the Reading and Passage of Bill No. 21/2007 -

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Forest Bill 2007 and its retraction and withdrawal. I move that the Petition be read.

**The Speaker:** Honourable Members, I think I misled some Members in the Chambers a few moments ago when I indicated that the Reading of the Petition takes place after the vote that it be read. The Reading of the Petition takes place now and then the vote is taken. The vote means that the Petition is not laid on the table ... that is what it means. The vote is to determine whether the Petition is laid upon the table, and if there is a *yes* vote, the Petition is then laid upon the table as a document of the Parliament. If it is not, if the vote is *no*, the Petition is not laid upon the table. So, the Petition will be read and I now instruct the Clerk to read the Petition, please.

**The Deputy Clerk:**

*Petition calling for the Withdrawal of Bill No.  
21/2007*

**GUYANA**

**COUNTY OF DEMERARA**

*In the matter of the WITHDRAWAL of Bill*

*No. 21/2007 - Forest Bill 2007*

**PETITION**

*TO: The National Assembly of the  
Co-operative Republic of Guyana,  
Public Buildings,  
Georgetown.*

***THE HUMBLE PETITION*** of the undersigned citizens  
of Guyana against the reading, consideration and  
passage of Bill No. 21/2007- Forest Bill 2007 and its  
retraction and invalidation / withdrawal

*viz:*

*Pastor Sewnauth Punalal*

*57 Good Hope, East  
Coast, Demerara*



**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

*Rev Fr Compton Merabux*

*c/o The Roman  
Catholic  
Presbytery*

*Rev Fr Malcolm Rodrigues*

*c/o The Roman  
Catholic  
Presbytery*

*Rev Fr Harold Wong*

*c/o The Roman  
Catholic  
Presbytery*

*10 October 2007*

**The Speaker:** Honourable members, before the rebuttal ... the Clerk will now go into the Body of the Petition. It is a long document so I will ask you to be patient and allow the Clerk to read it without noise or interruption. Thank you very much.

You may proceed, Madame ...

**The Deputy Clerk:**

*Petition calling for the Withdrawal of the Bill No.  
21/2007*

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

*Respectfully submits:*

1. *That your Petitioners are citizens of Guyana*
  
2. *That your Petitioners are desirous of promoting a Motion to retract and/or otherwise invalidate and annul the provisions of the Legislation Bill No. 21/2007: Forest Bill 2007, scheduled for its Second Hearing in the National Assembly of the Cooperative Republic of Guyana on the 8<sup>th</sup> November 2007 and apparently on days thereafter.*
  
3. *Whereas the National Assembly should ensure that the key natural resources of our country on which the future sustainable development of Guyana hinges are managed as required by Article 36 of the National Constitution so as to maximise our country's net social benefit.*

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

4. *And Whereas a revised forest law should include wording which responds to forest Provision in the UN Framework Convention for the Conservation of Biological Diversity (CBD), and the Convention on International Trade in Endangered Species (CITES), which Guyana has signed and ratified, and maintain simplicity and clarity of language like the Present Forests Act 1953 rather than the convoluted and unclear wording of the Forest Bill 2007; and be in harmony with other Laws of Guyana, thus avoiding duplication, and removing inconsistencies which have the obvious advantages in harmonizing forestry and mining laws, especially as regards administration of concessions;*
  
5. *And Whereas these attributes were met in part through the draft Forest Bill of 2004 which draft was widely circulated and commented on and found broadly acceptable, although not now conforming to best international practices but which draft has had its provisions massively and systematically culled and excised of most*

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

*participatory process, oversight and best practice;*

**6.** *Now therefore be it resolved that your Petitioners implore that this National Assembly:-*

*i. Provides a law more appropriate to current and foreseeable needs in the forest and related sectors in Guyana, making use of appropriate United Nations conventions and other multilateral environmental agreements, and conforming to best international practices.*

*ii. That such law would be set in a framework of greater integration of laws, regulations and*

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

*procedures concerning this sector, especially as regards integrated land use planning, an integrated hinterland road network, and Amerindian/indigenous rights;*

**iii.** *That such law would also minimize administrative discretion, prescribe criteria where discretion is necessary, and enact for a public appeals process, so as to guide conduct in the forest sector;*

**7.** *Your Petitioners therefore pray that the Members of this National Assembly consider the negative implications of Bill No. 21/2007, and thereafter vote for its retraction and invalidation/withdrawal of the Bill No. 21/2007; and,*

8. *Further pray for its replacement by a full revision having due regard to, but not limited to the Draft Forest Bill of 2004, or a further refinement thereof through a Select Committee.*
  
9. *That your petitioners in order not to infringe the Parliamentary powers of the Select Committee, generally do not offer specific replacement wording, but having secured the cooperation and the voluntary services of Member of Parliament Khemraj Ramjattan who has agreed to present this Petition to the National Assembly and to provide such aid if the Select Committee would find this helpful.*
  
10. *Wherefore your Petitioners humbly pray that the National Assembly would be pleased to accept this Petition and permit due process for the withdrawal of Bill No. 21/2007.*

***AND YOUR PETITIONERS IN DUTY BOUND WILL  
EVER PRAY***

***Pastor Sewnauth Punalall*** (Sgd)  
***Sewnauth Punalall***

***Rev. Fr. Compton Merabux*** (Sgd)  
***Compton Merabux***

***Rev. Fr. Malcolm Rodrigues*** (Sgd)  
***Malcolm Rodrigues***

***Rev. Fr. Harold Wong*** (Sgd)  
***Harold Wong***

***Dated this 7<sup>th</sup> Day of November, 2007***

***10 October 2007***

**The Speaker:** Thank you very much Honourable Members, Madame Clerk!

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Honourable Members, I will now put the question which is, that the promoters be allowed to proceed and I just want to remind Members that the *allowing to proceed* means that the Petition will be laid on the table ... that is all. Any Member thereafter, after now, can decide to move a Motion or do something within the Rules of the Parliament, to promote the Petition in the Parliament, but for now, all that happens is, the Petition is laid on the table.

Question –

That the promoters be allowed to proceed

...

**Put and negatived**

**Mr Khemraj Ramjattan:** Division!

**The Speaker:** A Division is called, please.

The Clerk will now take the Division.

**FOR**

Mr Franklin

**AGAINST**

Mr Whittaker



**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Ms Budhan

Mr Seeraj

Mrs Holder

Mrs Sahoye-Shury

Mr Ramjattan

Mr Permanand Persaud

Mr Fernandes

Mr Neendkumar

Ms Kisson

Mr Nagamootoo

Ms Wade

Mr Khan

Ms Selman

Mrs Edwards

Mr Mervyn Williams

Mr Chand

Mrs David-Blair

Mr Atkinson

Mr Elliot

Mr Ali

Mr Danny

Ms Shadick

Miss Ally

Mrs. Chandarpal

Mr Scott

Ms Teixeira

Mrs Lawrence

Mr Prashad

Dr Norton

Ms Webster

Mr Basil Williams

Dr Ramsaran

Mrs Backer

Ms Manickchand

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Mrs Riehl

Mr Nadir

Mr Murray

Mr Benn

Mr Corbin

Dr Anthony

Mr Lall

Dr Westford

Mr Robert Persaud

Mr Nawbatt

Mrs Rodrigues-Birkett

Dr Henry Jeffrey

Mr Baksh

Mr Rohee

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21

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29

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**The Speaker:** Thank you Honourable Members

Honourable Members, there are twenty-one Members in favour of proceeding with the Petition and twenty-nine Members against. The Motion is therefore defeated and the Promoters are not allowed to proceed.

**PRESENTATION OF PAPERS AND REPORTS**

*By the Minister of Finance*

- (1) Financial Paper No. 1/2007 - *Supplementary Estimates (Current and Capital) totalling \$1,668,232,435 for the period 17 April 2007 to 7 November 2007*
  
- (2) Financial Paper No. 2/2007, *Supplementary Estimates (Current and Capital) totalling \$7,011,179,821 for the period ending 31 December 2007.*

**The Speaker:** Did you name the date, Hon Minister of Finance?

**Hon Dr Ashni K Singh:** Mr Speaker, if it pleases you, I beg to name next Thursday, 15 November 2007 as the date on which I would like these Financial Papers to be considered. Thank you.

**The Speaker:** Thank you Hon Member

## QUESTIONS ON NOTICE

Honourable Members, there is only one question on the Order Paper and it is for an oral reply. Honourable Member, Mrs Sheila Holder, asked the question on the last occasion and Hon Minister of Agriculture you may reply.

### GUYSUCO'S TENDER DOCUMENT

*Could the Honourable Minister say what action has been taken with respect to GUYSUCO's Tender Document, where GUYSUCO omitted to request NIS and PAYE compliance certificates that were submitted to him by Mrs Sheila Holder MP on 29 June 2007 for the supply of seventy (70) Desktop computers and fifteen (15) Laptop computers?*

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

**Hon Robert M Persaud:** Mr Speaker, in response to the Honourable Member's question, first of all, I wish to express my appreciation to her for bringing this matter to my attention, but I want to say that Section 5 of the Procurement Manual, of the Guyana Sugar Corporation mandates all suppliers to fulfil their obligations, be it corporate and employee taxes, as well as social security contribution. Also they are required to provide compliance both tax and social security compliance as it stands.

The fact is, in the Tender in question there was no explicit request for N.I.S. or PAYE Compliance Certificate in the original Tender document. However, that does not mean that they would not have been required to provide that, before supply is made. Notwithstanding, I have advised the Guyana Sugar Corporation, to ensure that in all future Tenders, that these requirements are explicitly stated and demanded.

**The Speaker:** Thank you Honourable Member ...

The Honourable Member Mrs Holder ...

**Mrs Sheila VA Holder:** Mr Speaker, a supplementary question ...

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

*I would like to ask the Honourable Minister whether he is in a position to inform this Assembly whether or not those compliance requirements were indeed submitted for that specific Tender.*

**The Speaker:** Thank you Honourable Member

The Honourable Minister of Agriculture ...

**Hon Robert M Persaud:** Mr Speaker, at this time I would not be able to provide any informed information on that specific supply because, as Minister, I do not want by choice to get myself involved in Procurement matters in such a detailed way. The Corporation has assured me that it will demand of suppliers that they provide those Compliance Certificates, NIS and PAYE, and that they will be explicitly stated. In that particular Contract they also told me that those were supplied, but that is subject to further clarification.

**The Speaker:** Thank you Honourable Member

The Honourable Member, Mrs Holder ...

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

**Mrs Sheila VA Holder:** Will the Honourable Minister promise to let this Assembly know whether or not that specific Tender was indeed in fulfilment of the requirements for the submission of those documents. Thank You.

**The Speaker:** Thank you Honourable Member ...

Honourable Minister of Agriculture ...

**Hon Robert M Persaud:** I have no difficulty in supplying the Member or the Assembly in writing with that information.

**The Speaker:** Thank you Honourable Member.

**INTRODUCTION OF BILLS**

**Presentation and First Reading**

**PROTOCOLS TO THE AGREEMENT  
ESTABLISHING THE CARIBBEAN COURT OF  
JUSTICE BILL 2007 – Bill No. 23/2007**

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

By the *Attorney General and Minister of Legal Affairs*

**PUBLIC BUSINESS**

**(i) GOVERNMENT BUSINESS**

**BILLS – Second Reading**

**ITEM 1 – THE FORESTS BILL 2007 – Bill No. 21/2007, published on 24 July 2007**

*A Bill intituled, an Act to consolidate and amend the law relating to forests*

**The Speaker:** Honourable Members, we are now due to proceed with the Second Reading of the Forest Bill 2007 - Bill No. 21/2007, published on 24 July 2007. The Honourable Minister of Agriculture has given me an indication of the manner in which he wishes to proceed.



The Honourable Minister of Agriculture ...

**Hon Robert M Persaud:** Mr Speaker, in so doing, in the approach that the Government intends to take regarding the Forestry Bill 2007, I would crave the indulgence of Members of the Assembly; I do not think the intention is to have a debate on the matter, but I want to use the opportunity to restate or, for the first time in this Assembly, state the overarching objectives of the Forest Bill 2007.

As we know, seventy-six percent of our total land mass is forested with close to 136 square kilometres classified as State forest estate. Commercial forest utilisation can be traced back to the initial days of the Dutch Settlement and Colonisation of Guyana. There was very little legal Government control over forest utilisation until 1887 when there was the promulgation of the Crown's Land Ordinance No.1887 and then there was a Revision of the Ordinance in 1903, which provided some legal framework for forest administration up to 1953.

By 1950, it was recognised that there was need for a complete reorganisation of the Forest Sector and one of the initiatives taken, was the passing of the Forest Ordinance No. 15/1953, by the Legislative Council.

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

The Forest Bill 2007 seeks to replace this currently outdated Forest Act which came into existence some fifty-four years ago. The Forest Bill 2007 seeks to ensure that Guyana's Forest Sector continues to contribute, to the sustainable development of our country and also meet the country's international obligations on the many conventions and treaties that we are signatory to.

Over the past decade, sustainable forest management and the need to ensure that the forests are used in accordance with economic, social and environmental best practices, as well as implications for global climate stability and climate change, have taken priority status locally, regionally and internationally.

These concepts, I wish to submit, are definitely not reflected in the existing outdated Forest Act, and it was therefore essential that the Legislation be revised thoroughly. To ensure that all and new emerging forest issues were captured in this Forest Bill 2007, it was drafted and finalised through extensive consultation, spanning ten years with relevant stakeholders, regionally and internationally, as well as a number of NGOs and Government Agencies.

Allow me to highlight some of the new areas and the modifications which are contained in Forest Bill 2007. These are:

## **NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

- A consolidated effort towards maintaining environmental integrity and social development in communities by using relevant sections both of the Amerindian Act and the Environmental Protection Act;
- The Forest Bill 2007 specifically recognises the importance of ensuring sustainability in forest resource utilisation and Part II of the Bill deals with the conditions that must be met by all stakeholders to encourage and ensure implementation of sustainable forest management practices.
- Forest concessions, agreements are categorised into specific size classes, more importantly, the system for granting and renewal of these Agreements in a much more systematic and transparent manner, and also in keeping with international best practices.
- The Forest Bill 2007 makes this mandatory for the submission of Annual and Management plans of operation, for larger concessions and stipulates that all harvesting activities are to be done, in compliance with the approved Plans.
- The Bill proposes competitive bidding in forest area allocation process, in the event of multiple

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

applications, thereby further improving the transparency of the process.

- The Bill also allows for the issuance of use permits for scientific research, education, training, recreation, eco-tourism, etc.
- It reaffirms the Government's policy of multiple usage of the forest resources in accordance with best land use options and practices
- The Forest Bill 2007 also provides communities with a clearer means of acquiring and securing rights to manage and benefit from neighbouring forest areas, whilst ensuring sustainability, stimulating income generation and fostering economic and environmental stability.
- Importance is given to areas such as carbon credit, sub-standing forest, afforestation, occupational health and safety, forest conservation, maintenance of soil, water quality and preserving biological diversity.
- The Bill allows for the management of forestry activities through use of code of practices, which will be drafted in a consultative manner, and in keeping with international best practices.

## **NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

- Pricing below the true market value is also addressed in the Bill with specific Provisions to guard against this Provision. The Clauses and Forest Offences and the recourse which may be taken, are also strengthened to reflect more severe penalties for abuse of power, negligence and misconduct.
- The Forest Bill also provides a robust mechanism to regulate and approve change in ownership and effective control of allocated Leases. Any change in ownership, or effective control over, has to be approved by the GFC following appropriate due diligence processes which are clearly articulated.

I have just outlined broadly, some of the objectives of the Draft Bill. I wish to state that the Forest Bill- 2007, the Draft, is not meant in any way as a replacement of the Draft of 2004; but rather, a refinement, a condensation, a re-organisation, making it much more coherent and user friendly. Also the Bill proposes to ensure that forest resources are managed in accordance with the relevant provision of the Constitution of Guyana. I have heard and read several statements, including the Petition which was just read regarding the Bill and in fact, on 18 September, at the public forum, I announced that, in the interest of greater stakeholder involvement, and more contribution

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

by Members of the National Assembly that the Government would refer the Bill to a Select Committee.

I now move that the Bill to be read a second time.

**The Speaker:** Thank you Honourable Member

I understand, Mr Murray, from Mr Persaud that his intention is to carry the Bill, to ask that the Bill be put before a Select Committee. Our rules which I studied very carefully and took advice on, do allow the referring of a Bill to Select Committee after the first reading but I have been advised that unless that application, that Motion is made at the time of the first reading ... and that is what my experts said, the Section strongly suggests, that unless it is made at the time, it has to be made after the second reading. Now, my view was, which I transmitted to those concerned, was that you do not have to have a Debate before you ask for the second reading but that, in accordance with the advice that I have received, there must be a second reading, and then a reference. The opportunity of a Debate will not be lost in this matter because, after it goes to a Select Committee, that Committee has to report and, the occasion of the Report, a Motion has to be moved for the adoption of the Report and that would be an occasion for a full-scale Debate if the Parties consider that that is necessary at that time.

Yes ...

The Honourable Member, Mr Murray ...

**Mr Winston S Murray:** Mr Speaker, I wish to say I deeply appreciate your information and explanation to the House and the PNCR-1G stands guided, by the information provided. I, nevertheless, Sir, rise to say that I support the process that the Minister has recommended to the National Assembly, namely, that this Bill goes to the Select Committee, prior to us having a full-some Debate on it and I and my Party, we are supportive of it Sir, because in our view this is a complex Bill and we do have a position of principle, emanating from the Parliamentary Management Committee that complex Bills should go via Select Committee Route.

I am also glad that we are not actually debating the Bill in any comprehensive way at this its Second Reading because we of the PNCR-1G are hopeful that many of the concerns which we have on our own and by ourselves and represented to us by stakeholders, could be taken on board in the Select Committee process and remove possible friction when we come later on to Debate the Bill.

I just want to say before I take my seat Sir, that I think it is rather unfortunate that the Government did not find the largeness of heart this afternoon, to support the Laying of the Petition. Sir, I think we must distinguish...I thing we

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

(I believe I need to say this Sir) that as we mature, I would like to see more of that maturity reflected in the way in which we conduct our business. All that we were being asked, and on two occasions before this thing was put you explained, Sir, that all we were going to do is take note of it, it would be laid, and that meant it would have allowed for this to formally come to the attention of the National Assembly. What does this say?

Finally there is the Petition that asks for the withdrawal of the Bill, but maybe these Petitioners will accept something less than withdrawal if we would lay it here (*it also asks for reference to Select Committee*). It asks for reference to the Select Committee and Sir, if I may in part say, it said they are asking for the provision of a Law more appropriate to current and foreseeable needs. Maybe this is what would come out of the Select Committee process. Why couldn't we accept this as something laid, that we can take account of in our deliberation in the Select Committee? It is rather unfortunate because in voting, Sir, we did not pronounce on the substance of the Petition. We merely wanted the Parliament to take notice so we could enjoin it, include it in the discussions and the deliberations of the Select Committee, and I think that is unfortunate. Nevertheless, Sir, be that as it may, I hope that the opportunity will be presented at the Hearings of the Select Committee, for these persons or Agencies that have drafted the Petition to come before us so we can engage in conversation and Debate to see what can. I do



**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

not agree ... I have seen online what their Petition is; I do not agree that everything in the 2004 Bill, which is not here, needed to be here; I do not agree. I have been online ... so it is not an acceptance of all of their propositions, but I hope they will have an opportunity so we can have interaction.

Similarly Sir, the Forest Producers' Association and all stakeholders, I hope that the Committee will not be shy to afford them opportunities to come before it and to make their case.

Thank you very much! *[Applause]*

**The Speaker:** Thank you Honourable Member

The Honourable Member, Mr Ramjattan.

**Mr Khemraj Ramjattan:** Mr Speaker, just allow me to make a short remark, as to what just transpired too and in the context of what I had been informed will be a neutral presentation by the Honourable Minister of Agriculture in relation to the matter of the Forest Bill.

It did turn out, after the contents were read and spoken to that it is obviously not neutral. That was an argument for the Bill as it is. So, if indeed now, we are going to in a

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

sense catch some of the ... what I am absolutely certain is the publicity for the Minister that he presented what the Bill was all about, then we should have a Second Debate as it were, or at least be given an opportunity, for me to read a couple of the things to say that there are not international best practices in that Bill of 2007. It does not match up to the high international standards we want for it, the convoluted language in it and all of that ...

When we were told that the Minister is going to simply make a neutral five minutes presentation, I thought it would have been something completely different. So, what the Minister does? He gets the Petition not to be tabled and yet manages to get a five minute in ... of support for the Bill so even if it goes to the Select Committee he is going to say that that must be the Bill. And, I thought that was very unfortunate. I am of the view ... because he is indicating that all of these things are what is in the Forest Bill ... I must say that it is very unfortunate what has happened here because we really cannot now rebut the Minister.

**The Speaker:** Thank you Honourable Member ...

**Bill read the Second time**

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

**The Speaker:** The Honourable Minister of Agriculture

**Hon Robert M Persaud:** Mr Speaker, I wish to move that the Bill which is entered through an Act to consolidate, amend the Law relating to Forests, the Forest Bill 2007 be referred to a Special Select Committee, to allow Members of the Assembly and other concerned citizens, including those respectable individuals who have signed the Petition, and others to make an input and I hereby so move.

**The Speaker:** Thank you Honourable Member

Honourable Members, the Bill is referred to a Special Select Committee.

Hon Minister of Home Affairs ...

The next matter on our Order Paper, Honourable Members, is the Motion on the composition of the Police Service Commission and I invite the Hon Minister of Home Affairs to move the Motion.

Hon Minister, you may now proceed ...

**MOTION:**

**ITEM 2 – COMPOSITION OF THE POLICE SERVICE COMMISSION**

The Minister of Home Affairs moved the following motion:

WHEREAS Article 210 of the 1980 Constitution provided for a Police Service Commission and its composition to be five Members, one of whom would be the Chairman of the Public Service Commission and one appointed by the President “after consultation with such body as appears to him to represent the majority of Members of the Police Force” and not more than three Members, exclusive of the Service Commissioners appointed by the President after consultation with the Leader of the Opposition including the chairperson being appointed from among these three by the President after consultation with the Leader of the Opposition;

AND WHEREAS Parliament agreed to the establishment of a Constitutional Reform Commission and the said Constitutional Commission presented its report to the National Assembly on 17 July 1999;

AND WHEREAS the report of the Constitution Reform Commission recommended that the Service Commissions should be independent and that Parliament should play a more definitive role in the appointment of the Commissioners;

AND WHEREAS the National Assembly appointed an Oversight Committee on Constitutional Reform to examine these recommendations and to ensure that the amendments to the Constitution are drafted and presented to the National Assembly for its approval;

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

AND WHEREAS the Report of the Oversight Committee on constitutional Reform on August, 2000, to the National Assembly on pages 285-286 attached, provided for amendments to Article 210 in relation to the composition of the Police Service Commission for a maximum of seven Members of the Police Force and any such body it deems fit”, and for a Chairman to be appointed by the President after meaningful consultation with the Leader of the Opposition from among the four Parliamentary nominees, the Chairman of the Public Service Commission and not more than three Members exclusively of the Service Commission who shall be appointed by the President after meaningful consultation with the Leader of the Opposition;

AND WHEREAS in the process of drafting Constitution (Amendment) (No. 3), Bill No. 6/2001, provision was made for four Members to be appointed by the President upon nomination by the National Assembly and the appointment of the Chairperson by the President acting after

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

meaningful consultation with the Leader of the Opposition from among Members appointed from the Parliamentary nominees, and the Chairman of the Public Service Commission, it omitted to include the clause “not more than three members exclusively of the Service Commission who shall be appointed by the President after consultation with the Leader of the Opposition”;

AND WHEREAS Constitution (Amendment) (No. 3) Bill No. 6/2001 was passed in the National Assembly on 31 May 2001 and assented to by the President on June 1, 2001;

BE IT RESOLVED:

That the National Assembly recognizes the error made in drafting Constitution (Amendment) (No. 3) Bill No. 6/2001 and approves of steps being taken to rectify this oversight;

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**  
**BE IT FURTHER RESOLVED:**

That this National Assembly refers this matter to the Parliamentary Standing Committee for Constitutional Reform to examine and make specific recommendations to this House on how to effect rectification.

**Hon Clement J Rohee:** Mr Speaker, the justification for the action that is being sought by virtue of this Motion being placed or being laid in this Honourable House, is to be found in the evolution of the Constitution requirements for the establishment of Constitutional Bodies of this type, that is, the Service Commissions. The 1980 Constitution provided for a Body of this nature to be established comprising a Chairman and five Members. The Chairman at that time was to have been appointed after consultation with the Leader of the Minority and, of the five Members one was to be the Chairman of the Public Service Commission. In addition to that one other Member was to be appointed by the President after consulting with the Body that, in his view represents the majority of Policemen. Finally, the other three Members of that Body were appointed by the President after consultation with the Leader of the Minority.



## **NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

We know that the new Constitution was subsequently cumulated and in that new Constitution, provision was made in Article 119C for certain changes to be made. That Article provided for the establishment of a Standing Committee of the National Assembly which, I understand, is now called the Appointments Committee, which is required to discharge the functions entrusted with the National Assembly, in respect of the appointment of a Member of the Commission.

As a result of this Amendment, Article 210 of the 1980 Constitution was amended. With the amendment of the new Constitution, and the insertion of Article 210, the Chairman was appointed, as was the case under the 1980 Constitution, and the Chairman at the same time, came from the Public Service Commission, as a Member of that Body.

Now, with respect to the four Members, one which, in the past was appointed by the President, the three in the past appointed by the President, after consultation with the Leader of the Minority. In the current situation, the four Members are no longer appointed by the President or a Body representing the Policemen, and three after consultation with the Leader of the Minority ... sorry, Leader of the Opposition. Now, they are appointed by the President upon nomination by the National Assembly, after consultation with Representative Bodies. I think

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

some months ago we had a very stirring Debate on this subject.

I believe it was as a result of the evolution of these events that, direct consultation between the President and the Leader of the Opposition is no longer a provision, and that is why Parliament is now being requested to examine the situation via the Parliamentary Standing Committee on Constitutional Reform, to determine what steps should be taken to correct this anomalous situation. Thank you, Mr Speaker.

**The Speaker:** Thank you Honourable Member

The Honourable Member, Mr Murray ...

**Mr Winston S Murray:** Mr Speaker, we of the People's National Congress Reform- One Guyana, cannot understand why such a Motion is today before this House. It makes absolutely no sense whatever [*Applause*] and somebody or some group has scant regard for this Honourable House. And Sir I will ask you and the Honourable House, to kindly bear with me, as I seek to go through what essentially are three points but will require references to some of the documentation.

## NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007

First of all Sir, this Motion invokes this Meeting or Sitting if you wish, of the Parliamentary Standing Committee for Constitutional Reform. Sir, the Parliamentary Committee for Constitutional Reform has standing in Article 119A of the Constitution; it was given birth there. That birth was reinforced Sir, by Standing Order No. 83 which reads as follows:

*Pursuant to Article 119A of the Constitution, there shall be appointed a Standing Committee for Constitutional Reform for the purpose of continually reviewing the effectiveness of the working of the Constitution and making periodic reports thereon to the National Assembly with Proposals for reform as necessary.*

So Sir, if the Government, the Executive or some individual Member of the National Assembly feels there is a matter of import for consideration by the Standing Committee on Constitutional Reform then, I plead that that Committee meet and that Members are free to submit any subject matter to that Committee, for its consideration.

Let us also understand Sir that, we went through a process since the Ninth Parliament was convened, wherein on 14 December 2006, the Committee of Selection nominated Members for this Committee and on December 21, that Committee elected its Chairman, our distinguished and

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

learned Attorney General. This Committee has been born, this Committee is in being. Unfortunately Sir, this Committee has not really been fulfilling the task given to it in the Constitution within our Standing Orders, which is to continually review the Constitution.

In fact, in the year 2007 there has been no meeting, though there has been request for Meeting. In 2006, I have found Minutes for two Meetings so that Sir, this Body needs to bestir itself and the Government. It is a Representative of the Government that chairs this Committee. So, if the Government is interested in revisiting one Article in a Constitution whether for rectification (and I will come to that just now) or for reform or for withdrawal from the Constitution, then the thing to do would be to represent it to the Chairman, who is your Member and cause him to bring about a Meeting and have this matter considered.

So, this Sir should never be here and it should be forwarded to the Standing Committee for Constitutional Reform for its consideration. *[Applause]*

Sir, I do not know if it is believed that by going this route somehow, by some backhanded approach, they are going to get this National Assembly to agree to something. Let us understand; whatever mechanism is used ultimately to get the Constitution amended this particular Article, for which they are seeking amendment, we will have to have a two-thirds majority in this National Assembly. So,

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

sending it to, via this National Assembly and having it look like some big deal, the National Assembly is sending it to this Committee for its consideration and then the Committee is sending a report which is going to be a majority report if the other opposition Members do not agree, that somehow that puts some moral or other pressure on the other Side to concur, that is not going to happen. We are going to examine it on its merits, *[Applause]* and we are going to determine whether, on the merits we will support any reform, rectification or whatever you call it of the Constitution. So, I do not know if that is their feeling that causes them to come this route but, I am just drawing that to their attention that, at the end of the day we have to make that decision based on the merits of the case here in the National Assembly.

The other matter that I want to raise Sir, has to do with matters that have already been raised and put in the domain of the Standing Committee for Constitutional Reform, which have not been adequately, and in some cases, at all been addressed; but, we find this one peculiar item, which I am going to argue, should never even be considered for going there, finding its way through this elaborate mechanism, when this Committee had a number of issues. I just want to draw some of them to the attention of this National Assembly.

In May 2004, the PNCR-1G at a Meeting of the Standing Committee, registered its disappointment with regard to

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

the absence of Meetings over the past eight months and indicated its interest in reviewing the provisional electoral system, which had been used in the 2001 National and Regional Elections. Since the year 2004, this matter has been on the Agenda of the Standing Committee for Constitutional Reform. All kinds of fun and games have been played in this Committee with this particular issue. At one stage we reached the point where the Government, rather than putting the matter fully for consideration within the Committee, sought to extract the geographical constituencies issue, which is part of the wider issue of the Electoral System because they wanted to have specific consideration only to that aspect of the Electoral System and then they came here and hoist it upon the National Assembly, a Special Select Committee specifically to consider whether there should be an increase in the number of geographical constituencies, given that the Constitution makes provision for up to 50% of the total number of seats going the route of geographical constituencies, but never fully allowed the Standing Committee.

Let me say this quite clearly and unequivocally, Sir, that I am not in any way impugning the Chairman of this Committee because I know that there is a total and broader context within which he functions and this Committee works, because we knew from the run-up to the 2006 Elections that there was no interest in really

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

looking in any fundamental way, at the Electoral System as such.

Article 116 is identified in the Minutes of the Committee, as one of the matters that the Committee needs to consider, but it never considered, except the Government withdrew, extracted this particular aspect and went via a Special Select Committee. They had the good sense in the end not to recommend any increase, because I think they understood that it would have required a two-thirds majority, because it was going to be a constitutional provision that was going to be affected, and they had no hope in seeing it and getting it through the National Assembly.

I also want to say that, at the Meeting of that Standing Committee on Constitutional Reform, at its Meeting on 11 May 2005 the Chairman of this Committee identified certain Articles for consideration, for review. I can name them: Articles 127(i), 153(ii), 199(iii). Some very important and sensitive Articles: Article 128(ii), Article 197(iii). These all were put up as part of the suggested and approved work programme, for this Standing Committee. But, lo and behold! This Standing Committee went into abeyance; it went into hibernation; but suddenly, Sir, up comes this Motion to this National Assembly, because somebody believes that there is some particular matter that they want to have dealt with that they will invoke the support of this House to have dealt

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

with. I make that second point, merely to say Sir, that there are issues, a head in the cue, long before this particular matter that we are seeking to raise here today and I would say, fundamental issues, that should engage the active consideration of the Standing Committee on Constitutional Reform but which has not been engaging it. And therefore, we cannot support a Motion which seeks to single out one particular little aspect of one Commission for sending it to the Standing Committee on Constitutional Reform. If the Government would agree for us to say all the matters that have been outstanding would now go for the consideration, the active consideration of the Standing Committee on Constitutional Reform then, we will have a set of issues of which this may be a part which can go and that Sir, then raises a different consideration; we may want to consider whether that is something that we can support but it has to be in a broader context, if not this Standing Committee is being conveniently invoked to do specific things contrary to its own work programme drawn up more than three years ago.

Now Sir, I come to the specific matter that we are seeking to put before this Standing Committee on Constitutional Reform. The inference in this Motion Sir, is that somehow, there has been an omission in the drafting of the Constitutional Provisions, inclusion of the recommendations or the transforming of the recommendations of the Constitutional Reform



**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Commission into Articles of the Constitution that somehow there has been an omission and by this mechanism, the Motion is seeking to set up a procedure, for what they call a *rectification* of that position.

I would like Sir, to crave the indulgence of the House, to say that, I do not find that there has been any omission and therefore I do not find the need for any rectification, but we are willing, nevertheless, to keep an open mind on the subject, on the issue and I will tell you why we are keeping an open mind; hopefully I will remember and tell you before I take my seat. Let me start by saying that I took great pains to read afresh the report of the Constitutional Reform Commission to the National Assembly of Guyana, July 17, 1999, the final Report of the Oversight Committee on Constitutional Reform, born out of Resolution 33 of 1999-Section 8. Now, on the Commissions, on the Service Commissions, to use Honourable Member Rohee's term, and he is right, the Service Commissions, basically the Judicial, Public Service, Teacher's Service and Police Service Commissions; those are the four Commissions. In dealing with those Commissions in the Report of the Constitutional Reform Commission, Sir, there were two specific concerns that the Commission wanted to have addressed and this was born out of the fact of the consultations and hearings that they held with Members of the public and I would like, with your permission, Sir, to read what it is. There were several other concerns, but I

am talking here specifically about the Service Commissions:

*There was also concern about the avoidance of inappropriate influence of the Executive on how Commissions were constituted and made to function.*

So, that is one concern that they had. To put it more specifically, they put it under a specific recommendation as follows:

*Where Commissions are to be established, operating procedures and mechanisms for choosing the Commission's Membership should be carefully designed to minimise undue influence by the Executive and the consequent public perception of partisanship in their functioning.*

So Sir, it was clear that in putting forward their proposals, those were two concerns that they sought to have addressed. And so when we come to the final Report of the Oversight Committee that specifically address the question of the Constitution of these Service Commissions I would like to show you, I would like to demonstrate how they actually went about achieving that objective.

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

In the case of the Judicial Service Commission, Sir, they made provision, rather than the President by himself, appointing two persons, as was catered for in the 1980 Constitution. They say:

*... not less than one, and not more than two from among persons who are not Attorneys at Law in active practice, after the National Assembly has meaningfully consulted such bodies as appear to it to represent Attorneys at Law in Guyana.*

So, they were trying to minimise the influence of the Executive in the Constitution of the Commission, by removing this Presidential discretion and instituting a more active role for the National Assembly. But interestingly, and this is the point I also would like the Honourable House to note that the Constitution, the numbers constituting the Judicial Service Commission, remained exactly the same; they just altered the mechanism for getting the persons appointed.

Then Sir, I turn to the Public Service Commission, again here, and for those who are interested, I am reading from Article ... Page 264, the numbers remain exactly the same; six Members under the 1980 Constitution; six Members under the Revised, and again, though they say, two Members appointed by the President upon nomination by the National Assembly after it has

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

consulted, etc., thereby meeting their objectives of minimising Executive influence.

When we come to the Teaching Service Commission Sir, we find the same thing and that can be found on Page 279 of the Oversight Committee on Constitutional Reform. The number of persons constituting the Commission, the Teaching Service Commission, seven Members, 1980 Constitution, seven Members under the new Constitution, except for the way in which the membership is constituted.

And then we come, Sir, to this Body, the Police Service Commission and here I will spend a few more minutes on this one because, this is the one, where we are being told there is need for rectification. If you look at what is contained on page 285 of the final Report of the Oversight Committee on Constitutional Reform, in the 1980 Constitution there were five Members and, I say, by error and oversight in what was put before us, it is eight Members; it is the only one that shows an apparent hike in the number of Members constituting the Commission, from five to eight. What happened is simply this; in the 1980 Constitution there was a (*b*) which made provision for one person to be appointed by the President in his discretion and three persons, exclusive of the Service Commission, appointed by the President (Acting) after consultation with the Minority Leader.

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Under the new Constitution, or the revision of this Commission under the Revised Constitution, these (1) and (3) were put together in one Sub-Article, (c), and worded as follows:

*Four Members appointed by the President upon nomination by the National Assembly, after it has consulted with such Bodies as appear to it to represent the majority of the Members of the Police Force and any other such Body it deems fit.*

So, there was a consolidation of the (1) and the (3) into a number (4) and removing the discretion, which the President had and putting a greater responsibility on the National Assembly, to getting these four. And then in error, there was a repetition of what was in the 1980 Constitution that was merged with another Sub-Article; *not more than three Members*, was put back; that one was put back and so an error which was created. It was never the intention to increase the membership of the Commission from five to eight but by oversight, this was repeated and, I say Sir that the error along the way was picked up. I am not surprised, because it makes eminent sense, and is in keeping with the trust of the Report from the Constitutional Reform Commission that there was no intention to alter the numbers that constituted these various Commissions but simply to have a different system to bring about a Constitution that minimises ...

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

which is the concern that they had, *minimises the influence of the Executive in the appointment of the Members of these Commissions.*

Sir, the reason I said we keep an open mind is because while I am very sure...or put it differently, I believe that we stand on very firm foundation; we will never say that there is not a possibility for us to look at this thing to see, if per chance, that were not the case. But the way the Government has come with this Motion in this arrogant manner, saying to us that this is the case, and this Committee must rectify ... Sir, let me say, I am not making this up, let me read how they worded this thing; they have said here, it omitted to include the clause *not more than three Members*. The National Assembly recognises the error made in drafting the Constitutional Amendment Bill No.3 of 2001. We cannot go along with anything that says, we recognise an error being made there and then they go on that the National Assembly for the Constitution must examine and make specific recommendations to this House, how to effect rectification. They are not leaving the issue open. They are not saying, let us pass it to the Standing Committee on Constitutional Reform and have it examined, whether in fact, it is possible that there may have been an error and then to come back to the House and recommend:

- (a) Tell us whether there was an error and;

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

- (b) If there was an error how we may go about adjusting it.

But, it is this arrogance, Sir, with which they come. Yes, it is unfortunate but it comes through to come and say, *And Sir, you were a Member of that Commission, and Sir you are the Speaker of this National Assembly, and I ought not to kind of drag you in this story, so to speak, because you sit above it all Sir.* So let me leave you alone. The learned Attorney General knows of this process; we all know of this process Sir. I was also involved and I know that this... what we have in the Constitution accurately reflects what we agreed should go in there. But you know, I am sorry, I do not know if I am precluded from calling the name of the President, but you know the President raised this thing with Mr Corbin and for a long time had been trying to lean heavily on him, suggesting that this was some error and we must rectify it and Mr Corbin was trying to be as polite as possible to say that we do not recognise that this thing was an error but we do not mind talking about it. Lo and Behold! This is what has been brought on us. So, Sir, I say the following things:

- (i) I do not see the need for this Motion to bring any matter to the Standing Committee for Constitutional Reform. It has birth, it has been constituted since this Ninth Parliament has come into being and all that needs to happen is for it to

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

meet and for this matter or any other matter to be placed on the Agenda for its consideration.

That is the pure and simple matter and if the Government is honest to itself it should agree that we should scrap this Motion. *[Applause]* This Motion should not be before us today.

But, I go beyond that, Sir, and say, because I know how they are, they are not going to do that; let us not expect that this afternoon. Then, if they want to save something out of this, I suggest the following be the approach:

- (i) We identify all the issues;
- (ii) We amend this Motion to identify all the outstanding issues and put them together as a bundle of issues, for the consideration of the Standing Committee on Constitutional Reform. *[Applause]*
- (iii) Included among this bundle of issues, to be the issue as to the composition of the Police Service Commission but not telling us that there was an error. That has to be withdrawn from here and it has to be written in a manner that is much more neutral suggesting that there be an examination as to whether there was an error and then, for them to consider what recommendations they may make to us.



**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Sir, if the Government is minded to take those suggestions on board, then I am sure we can find accommodation on a way forward to say for all of us, to find an acceptable Motion that we can support this afternoon. But if they insist on pressing with this Motion as it is, I dare say, Sir, we in the People's National Congress Reform- One Guyana, shall *not* support this Motion this afternoon. Thank you very much! [*Applause*]

**The Speaker:** Thank you Honourable Member ...

The Honourable Attorney General ...

**Hon Doodnauth Singh:** May it please you Mr Speaker, my learned colleague Mr Murray, referred to the work of the Constitutional Committee and the fact that it had identified several Articles of the Constitution for review. As Chairman of the Committee, I could not impose my will and I attempted to hold an even balance, so that, Members of that Committee could have expressed their views properly, having considered the issues. My learned friend Mr Murray also adverted to the fact that I had personally identified several Articles for review. Unfortunately, we were unable to arrive at consensus but, nevertheless, a Report was provided. I wish, very briefly, to refer to the Motion, because I agree with Mr Murray

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

that the several Articles of the Constitution which ought to be reviewed, that the active consideration for review, should be given. I wish to advert, Sir, to what is said in the various clauses at Page 5:

*And WHEREAS the Report of the Oversight Committee on Constitutional Reform on August 2000 to the National Assembly, on pages 285 and 286 attached, provided for amendments to Article 210, in relation to the composition of the Police Service Commission, for a maximum of seven Members: four Members to be appointed by the President upon nomination by the National Assembly, after it had consulted such Bodies as appeared to it, to represent the majority of the Members of the Police Force and any such Body as it deems fit and for a Chairman to be appointed by the President, after meaningful consultation with the Leader of the Opposition, from among the four Parliamentary nominees: The Chairman of the Public Service Commission, and not more than three Members exclusive of the Service Commission, who shall*

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

*be appointed by the President, after meaningful consultation with the Leader of the Opposition.*

And I wish to continue in the vein in which the Motion is worded:

*And WHEREAS, in the process of drafting Constitution Amendment No. 3, Bill No.6- 2001 provision was made for four Members to be appointed by the President upon nomination by the National Assembly and the appointment of the Chairperson by the President acting after meaningful consultation with the Leader of the Opposition, from among Members appointed from the Parliamentary nominees and the Chairman of the Public Service Commission is omitted to include the Clause “not more than three Members exclusive of the Service Commission who shall be appointed by the President after consultation with the Leader of the Opposition.*

*And WHEREAS, Constitution Amendment No. 3, Bill No.6/2001 was passed in the National Assembly, et cetera, be*

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

*it resolved that the National Assembly recognises the error made in drafting Constitution Amendment No. 3, Bill No.6/2001 and approves of steps being taken to rectify this oversight.*

I wish to advert to the mechanism whereby drafting instructions are carried out by the Chambers of the Attorney General. You will appreciate Sir that it is after instructions are taken and given, that the Attorney General's Chambers would then embark upon drafting the particular Bill. And, whatever may be thought about the drafting mechanism that is the fact of life.

Mr Speaker, you are now, the House in now being asked to deal with a particular, as Mr Murray says, a particular Article of the Constitution and from what I understand him to be taking, the position that the PNCR-1G has taken is that, assuming that there were to be an amendment to this Motion, to give to the Constitution Review Commission the power that it has, the obligation that it has under the Constitution that they would support an amendment to the Motion.

We have to recognise, Sir, that what is being sought here is a mechanism which will allow the Committee to review and to carry out its mandate and, if I could appeal to my learned friend that sometimes some things ... sometimes, on occasion, despite the fact that power resides to do

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

certain things, then perhaps ex abundante cautela there is no harm in supporting this Motion. I thank you, Sir.

**The Speaker:** Thank you Honourable Member.

The Honourable Member, Mrs Holder ...

**Mrs Sheila VA Holder:** I would like to say that, I have read this Motion several times and I believe I looked at it in great detail and diligently, in the hope and expectation, that its true intent would reveal itself to me. I regret to say that I am yet to understand the logic behind this Motion. In fact, having diligently read and re-read the Motion, it became obvious to me that, there is indeed an error on Page 4 in the *WHEREAS Clause* and it reads:

*And WHEREAS Parliament agrees to the establishment of the Constitutional Reform Commission and the said Constitutional Commission presented its Report to the National Assembly on 17 July 1994 (I believe it should read 1999) ...*

I have looked at all the documents, I have walked with them all, I have read them backwards and forwards and I cannot see the rationale, for what the Minister is asking us

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

to approve in this House, this afternoon. I have listened to the Honourable Minister as he presented the Motion, and I had hoped that he would at least pay us the courtesy, of explaining to this House the reasons for this. I have not heard it. The Honourable Attorney General rose and did likewise; I am no further enlightened about the logic of this Motion.

As I read through the final Report presented to this House in 1999 of the Oversight Committee on Constitutional Reform I noticed that, on Page 23 of Report ... no, on Page 19 of the Report, obvious concerns that existed then, remains today and it stated at 4.3. No Constitution can be good for all time; our Constitution may be thought of as a corner stone of our legal system. These systems provide a framework for the regulations of extant and emergent social and other relations and also influence the nature of such future relations. Given the dynamic character of the social relations, Constitutions by their very nature should be subject to continual review.

The Parliamentary Standing Committee for Constitutional Reform, a standing committee of a new type, is inscribed in the proposed new Constitution itself to ensure such continuity of review and renovation, always reaching into the future as the basis of the feedback, from its monitoring of the present.

We have sat in this House and we have witnessed a number of situations that created an impasse; that did not

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

allow the institutions of the people to be established. I would have thought that would have been one of the concerns of the Government and if they were really concerned about the business of the people, a resolution to that impasse should have been proposed here today. And I can site many other important circumstances; the situation with respect to Local Government, to name one.

The Judiciary ... but I have seen none of this and so, why hasn't the Government thought it fit to tell this House, why they have decided, that above all the other issues, this one is the most important at this junction. I do not think that the arguments presented today have convinced us on this Side of the House and therefore, unlike my colleague over there ... I cannot, regrettably, ask my colleagues to support it. I thank you.

**The Speaker:** Thank you Honourable Member ...

The Honourable Member, Mr Moses Nagamootoo ...

**Mr Moses V Nagamootoo:** Mr Speaker, I have been looking at the Motion as proposed, and I had asked myself ... as well as several of my colleagues, where is or was the controversy and I could not find any. When I listened to Members on the other Side, an attempt is being made to introduce a red herring, regarding this motion

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

and, as a Member of this House, who since 1994, have been a Member of the Constitutional Reform process, I could attest to the fact that, the error made in bringing forward part of the recommendation to a completed drafting stage, and to be drafted, was not in fact something we here could not rectify, if it was in fact an error, and I will say in a few words, why there could have been an error ... *could have been* ... and at the end of it, why there was in fact an omission which could be rectified; and an omission is an error deliberately or not deliberately.

In 1994, under the Presidency of Dr Cheddi Jagan, a Select Committee was established in this House to reform the 1980 Constitution. I was a Member of that Committee that was formed in 1995 in this National Assembly. The intention was to produce an autogenous Constitution, based on what we had perceived then, at the dawn of a new era, where our Constitution will come in line with more of the consociational behaviour hitherto not known in Guyana, but espoused very strongly by the then and now late President Dr Cheddi Jagan; a Government of national unity, a Government of inclusiveness, a Government based on consultation, based on a protocol of consultation with the Opposition, as I have said, hitherto not known in this country because, prior to 1992, we have all seen and witnessed the abnegation of every principle of democracy that would have included the word *meaningful*, where consultation was to be had with the



**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Opposition. The Opposition had been euphemistically dubbed *Minority* and the Leader of the Opposition had been intitled in the Act of Parliament and in the 1980 Constitution relegated to the position of Minority Leader.

Part of the rationale was therefore to bring in a Constitutional Reform process that will make our Constitution a different revolutionary national democratic document that would embody this feeling of the people of this country for reform that would involve all the political and other players of the society. However, many events had conspired to prevent the work of the Reform Committee and so, with the death of Dr Jagan we had had to go to new elections without these changes brought to the Constitution. Some changes were made along the way, but would not have constituted a radical reform of the Constitution.

So that the events after the death of Dr Jagan and the holding of the 1997 elections, had brought new dynamics to the society, new confrontational points, new points for mobilisation and dissent, new points for not only dissent but also insurgency, making the country ungovernable, that had taken us to certain processes that involved players outside of the country. *[Interruption: ...rrrrrng ... “You should, if it is my phone ringing ... You are calling me, there? ... Sorry, busy, cannot answer now”]* But the Herdmanston Accord and the St Lucia Agreement had placed statements, had placed timelines, by which the

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Constitutional Reform Committee should do its work and Your Honour, I may say so that you had had the distinction of being the Chairman of the Constitutional Reform Commission, what was then called the Constitutional Reform Commission but had been a Committee of this Parliament, set up by the Select Committee. The search for modalities for the Committee works had taken place in the absence of the People's National Congress, they had boycotted the Parliament and we had had to bring a Motion into this House to have them ... *[Interruption]*

**Mrs Deborah J Backer:** ... Order No. 41, Sir ... Contents of Speeches subject to these Standing Orders. Debates upon any Motion shall be relevant to such Motion and a Member shall confine his/her observations to the subject under discussion. *[Applause]*

**The Speaker:** Yes Honourable Member, I am sure you are aware of the Standing Order ...

**Mr Moses V Nagamootoo:** ... Yes Mr Speaker ...

**The Speaker:** Try to follow it as closely as possible.

**Mr Moses V Nagamootoo:** ... And not only am I trying to be relevant but coherent and chronological as well, but I shall not delve into the details of the 'chronology' because it hurts; history has a way of haunting us. But haste, what I am trying to establish before this

## **NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Honourable House is that when you make haste there is always room for mistakes, there is always room for omissions, perhaps not intentionally as I said, and that is the context in which I am trying to situate the 'chronology' but I will condense the 'chronology' to say that the timeline by which we had to deliver Your Honour, this Report, the Report of the Constitutional Reform Commission, which carries your imprimatur as Chairman and spoke to the need to go beyond the Constitutional Reform Commission Report, to setting up the mechanism for the hard work. The hard work of course, involves not only the People's Progressive Party/Civic, but the People's National Congress as well, the United Force, several other Parties that had taken part in Elections and Parties that have not taken part in Elections, civil society including business, labour, religious organisations, a host of organisations, and a number of institutions, including experts took part in this process of which, Sir, at that time, happily, I must say, I was appointed Chairman of the Oversight Committee on Constitutional Reform. What we are saying here is that eighteen months we were given, by the pressure of the political pressure, was ... the direction given under the Herdmanston Accord and the St Lucia Statement that, after this Report would have been tabled, in July of 1999, we would have had eighteen months to produce a final document brought before the Drafting Committee, and the drafting done, so that Elections could be held in 2001. It was indeed a very tight timeline that required the work of

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

many players, actively in this House. And I remember sitting in my Office with Mr Raphael Trotman as one of the Members, we were looking at the Executive powers and Amerindian land issues, that we worked beyond the call of duty, as other Members I knew had worked conscientiously and I do not want to go into all their names but, they are here sitting to bring forward these recommendations to drafting stage.

It is in that context that the recommendations of the Oversight Committee were appended to the Motion and circulated on the last occasion that there was an omission. It is clear that the Oversight Committee had to place before the Drafters the intention of the Constitutional Reform Commission which Commission Report was based on the recommendation of the Constituent, the people, if I may say so, throughout this country, the wishes of the people and therefore the Reform Commission ... the Oversight Committee brought the intention of the people to the Drafters. Like in any Legislation, one looks to the intention of the Legislation.

In this case, it was clearly the intention to have included in the Constitution, a proviso, a Clause - Section C of Article 210, that three Members shall be appointed by the President, after meaningful consultation with the Leader of the Opposition.

I would not differ from my learned friend and colleague Mr Murray, when he said it was eight Members

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

contemplated and not seven, because that Section that dealt with the Chairman of the Public Service Commission was unaltered; we have not displaced the Constitutional Reform Process, we have not displaced the inclusion in the Police Service Commission of the Chairman of the Public Service Commission. And therefore, there were four Members to be appointed, nominated, by the National Assembly after consultation to be sent up to the President and three Members to be appointed after meaningful consultation with the Leader of the Opposition.

I go back to what I had said, that the late Dr Cheddi Jagan in envisioning a reform to the Constitution had seen the necessity for an enhanced role, a meaningful role of the Leader of the Opposition and it will be a fallacy to assume that since it had been the guiding principle under which the Commission worked to have greater involvement, that the Drafter would have left out a fundamental role of the Leader of the Opposition to be consulted, because this was all about bringing the consultative process, the process of inclusiveness to a higher level and placing it into the Constitution, so that no-one can ...

**The Speaker:** Honourable Member, can you wind up this point, I need to suspend and then we will return.

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

**Mr Moses V Nagamootoo:** ...Sir, I probably would wind up everything. I just want to say, if I had Debbie here, it would be a better wine. *[Laughter]*

I do not see why, therefore, it is clearly set out here in this document what went before the tier to the Drafters and it is not being contradicted that that is what the intention was, to include that in the Constitution.

When you look at the Constitution and I will try to be as relevant as I am, because Mr Murray, the Honourable Member had said about other Commissions that had been formed. You look at the Constitution of Barbados, which I have here, you look at the Constitution of Trinidad and Tobago, you look at the Constitution of Jamaica ... These Constitutions, insofar as they contain the provision for Police Service Commission, they have ... the composition is guided by consultation with the Leader of the Opposition and the appointments are made, not by the Prime Minister but, by the Executive. They have not defined in their Constitution a role for our Parliament, they have not defined in their Constitution a role for the Leader of the Opposition, they have between two to four, they will have consultations but not in the way our Commissions have now been formed after these reforms to the Constitution. These provisions require consultation with interested Bodies, consultation with such Bodies as may represent the interest of the particular area subject of the formation of the Commission, which shows the depth

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

of our democratic practice now being routed in a Constitutional provision. That makes us different and revolutionary. It is not just for a choice of language, that I say that we have a national democratic thrust in the country which requires that type of involvement, and the involvement and participation not only of the Opposition, but of social and other groups as are relevant.

So that we have come today to this Parliament to say that there has been an omission, to include the particular Section C or Sub-Section C within the Bill that had come to Parliament which was assented to, was passed, became an Act, assented to by the President and all we are asking, now that a Parliamentary Select Committee on Constitutional Reform has been established as a permanent institution; a mechanism to reform on an ongoing process, the constitution. We could have come here with an amendment but Mr Murray anticipated that and he saw immediately a role of the Opposition that if you come by way of that, in a capricious manner, then the Opposition will not support. We wanted this matter to be taken to the Parliamentary Select Committee, where the Opposition sits, the Standing Committee, where the Opposition sits and where the Opposition will have an opportunity to examine the contention, even if it is a contention at this stage that there had been an omission and, if there had been an omission there should be rectification. And that is the role I see a responsible Parliament playing, because we are the lawmakers. This

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Parliament is the Legislative Body that not only makes changes, adopts, reforms laws, and if we find that the intention of the people and the intention of lawmakers are being flouted and avoided, it is our duty to restate those objectives, those intentions, and to make those changes and reforms. It is not a matter that we should have a red herring dragged along the way, that there must be some strange Agenda behind bringing this particular Motion before the Parliament. It is because it has been the subject of public disputation, uncertainty and anxieties, as to what happens in the Police Force, in the ranks of the Police Force and we want to make that pellucidly clear, that there should be a Committee, a Commission that will cease all the issues, including the confirmation of the appointment of the Commissioner, in a way that reflects the frame of the Constitution, the reform of the Constitution, that you needed not only to have five Members but eight Members and the modality by which the eight Members should come on board should be, in fact, the modalities suggested by the Oversight Committee on Constitutional Reform.

Maybe there are others and the learned Attorney General has said that there are other areas that ought to be brought to the attention and placed before the Committee. Maybe there are other areas but this had been one area that had come before this House and it is no use trying to have a division on the issue, because it is clear, it is very clear when you read this document and you read the 1980



**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Constitution, Article 210, that it ended abruptly only with the 210 1(a) and (b) and the (c), omitted and that has not been the intention; it could *not* have been and therefore, I commend this Motion to this House and ask this House that there must be a time for battle and there must be a time when we bend our swords into plough shares. Today is not an occasion for battle; let today be, if I may say so, perhaps the first of many days when it would be an item, when we would see things in one way without suspicion, without rancour, without trying to find devious reasons why we approach this House to invoke the power of the House. We are the House, we are the power of this House and if we feel that a wrong has been done, a mistake has been done, let us politely give consent for it to be corrected and I commend this Motion and ask that the particular matter be referred to the Committee for consideration as to how it could be rectified. Thank you very much! [*Applause*]

**The Speaker:** Thank you Honourable Member

Honourable Members, I think this is an appropriate time for us to suspend for the usual half hour.

**16:15H - SUSPENSION OF SITTING**

**17:02H - RESUMPTION OF SITTING**

Honourable Member Mr Basil Williams ...

**Mr Basil Williams:** Mr Speaker, there are two clearly divided opinions on the question of whether there is an error or not. I would like to come down on the side of Mr Murray who posited that there was no error because, by omitting the reference to the three (3) persons being appointed by the President, that illustrated the *raison d'être* of the Committee to give primacy to Parliament rather than the Executive in the process. The other issue raised here too, was the question of whether the forum was convenient or not convenient. It would appear as a question of forum non-convenience because the field is covered, it does not make sense coming through a side door when one could go through the front door which would be to the actual Committee itself, the Constitutional Reform Committee. Without a doubt that Committee has been moribund ... I am, a Member of that Committee and I have never been summoned to a Meeting. Of course like Mr Murray, I do not blame the Hon Attorney General for the failure of the Committee to meet. We will have to blame everyone on the other Side of this House. But, it appears like most of the Speakers before me on this Side, there is no pinup for them in bringing this Motion but I would like to say that there are causal factors within which I could examine some other issues that would come in that bundle that the Honourable Member Mr Murray suggested, were he on this Side, to view favourably, any aspect of this Motion.

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

For instance, we were talking about an omission, a genuine omission occurs in relation to the Guyana Elections Commission where in Article 226 of the Constitution; that Article provides that in the execution of its functions, the Guyana Elections Commission would not be subject to any supervision, by our control or direction by any other person or Body. Article 222(A) of the Constitution consolidates that independence by making provision for Commissions listed in the Third Schedule in the Constitution to draw their monies directly from the Consolidated Fund.

In fact, in 222 A(a) reads:

*... the expenditure of each of the entities shall be financed as a direct charge on the Consolidated Fund, and ...*

*... each entity shall manage its subvention in such a manner as it deems fit for the efficient discharge of its function.*

In other words, GECOM under the Constitutional provision which came out of the Constitution Reform process was envisaged to be an independent Body. Provision was made in 222 A for that purpose, but then, when you go to the Schedule, what did we find in the Schedule? We find no reference whatsoever to the Guyana Elections Commission. It therefore means that this must have been a genuine error or omission because,

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

you have the Ethnic Relations Commission, Human Rights Commission, Judiciary, the Office of the Auditor General and, you say in Article 226 that, *the Guyana Elections Commission shall be independent and in the exercise of its function under the Constitution, shall not be subject to the direction or control of any other person or authority*. So, I am respectfully submitting that, that is a genuine error in this Constitution, which ought to be rectified by amending the Third Schedule to include reference to the Guyana Elections Commission.

I have always said that I have been very impressed with the structure of the Constitutional Reform process of which I was not a part, but I have found that notwithstanding some of the provisions mentioned by the Honourable Attorney General, to which the Honourable Member Mr Murray alluded, in practice, when we attempted to operationalize those provisions in the Constitution, we were beset by problems.

For example, there is an obvious absurdity in the Public Service Commission Provision that provides in Article 200 (1) (b) for the appointment of two Members by the President upon the nomination by the National Assembly, after it has consulted such Bodies, as appear to it to represent Public Officers or classes of Public Officers. What is important to note here is that, when you contrast this with the Police Service Association, you see they make reference to consultation by a majority, such Bodies

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

as appear to it to represent the majority of Members of the Police Force. But, this is not replicated in the case of the Public Service Commission so, there is no reference to Bodies representing the majority of Public Servants and so, the anomaly that we had recently was that from the largest Union representing Public Servants no representative was nominated by this Parliament to sit on the Public Service Commission; that had to be rectified when the Leader of the Opposition, in his meaningful consultation with the President was able to correct that.

What is clear is that this is an absurdity that the Constitutional Reform Committee, were it active, it would have had to address and correct. And, how do you correct it? This must be corrected because this ... you should not have speculation here, when the Trade Union Recognition Board certifies the majority Union representing any Bargaining Unit, as they put it, the recognised majority Union, means a Trade Union certified under Part 3 (a), as a Bargaining Agent for workers comprised in a Bargaining Unit. And, if we apply this to the Public Service, the Public Service Union would be the majority Union, certified. So, there should not have been this obscure provision about consulting some nebulous group of persons appearing to be, when there is a Statutory Body that actually identifies that Body to be consulted. So that also needs rectification but there is another great omission, the Public Procurement Commission. Perhaps some Member on the other Side could tell us about that,

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

but this Public Procurement Commission is yet to be constituted, and you know that is a grave omission indeed. Then, in practice this is a burning issue that we had to confront in the electoral process.

The question of whether Article 159 made provision for the question of residence ... qualification of residence of a person who would be a voter at an election. You will recall that Article 159 provides for who could vote at an election and that person is eighteen years old and over, who is a Guyanese citizen or a Commonwealth citizen who had been continuously resident for a year, but then there is no other provision in that Article itself that says who is resident in a registration division in Guyana for example. Even though we know the National Registration Act is an enabling provision that includes that, we still had this argument that since Article 159 does not provide that you must be resident, then anybody could vote and we all know that this is something that should be taken up and rectified by the Constitutional Reform Committee of Parliament but we have this thing festering. A lot of money has been spent on it, a lot of mobilisation has gone on around it, and it is still now in the Court for determination.

And then we come to another burning issue in practice, coming out from these provisions, emanating from the process, the question in Article 127, which is still unresolved, the appointment of Chancellor and Chief

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Justice. The Constitutional Reform Committee ought to have been dealing with these matters and, if it were to have done so for example, it could have included an amendment to the Constitution, providing that no person shall perform the functions of Chancellor and Chief Justice at the same time. Those things will go a far way in resolving this present impasse. For example, another provision could have been included, that if within a certain period the Presidential Nominee is not accepted, then that Nominee ought to be withdrawn and another name put forward, in keeping with the practice in the greatest democracy of them all ... [*Interruption: '... the United States of America' "What you thought I was saying, the United States of Guyana?"*] So these are only some of the matters that would go in that bundle for resolution, rectification or otherwise.

Not to leave out Article 154 which deals with Conventions, our attitude to Treaties that we ratify and that we sign and we ought to rectify certainly in the context of Human Rights, the protection of Human Rights, and Workers' Rights under the ILO Convention, et cetera. We ought to rectify that situation where when we ratify an International Treaty it does not become law unless we pass subsequent Legislation to reduce it to Municipal Law.

In fact, the Honourable Justice Desiree Bernard, former Chancellor of the Judiciary, on addressing this subject,

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

had said that one has to consider to what extent these undertakings are binding on State Parties and enforceable in their Domestic Institutions if violated. To put it more directly, how do International Treaties become part of the Domestic Law of the State? She said this depends on the relationship between the International Law and the Domestic Law. Other States regard International Treaty as once ratified as being part of their Domestic System of Law and enforceable without specific incorporation. And I am respectfully submitting that we ought to adopt this approach when it comes to the protection of Human Rights and certainly Workers' Rights under the ILO Convention. And you know in Trinidad, since I was in Law School ... You could say what you like about it but it has always been ahead ... since that time they had an Industrial Court because they recognised you cannot just ratify a Convention and then you ignore and breach it with impunity.

So, those are some of the things that our Constitutional Reform Committee ought to be grappling with ... and then why should the whole country become disturbed by how you interpret Article 61 of the Constitution? Why would we have to expend all this energy? If we had a constant review we would all recognise that you could not deal with Article 61 without dealing with Article 69; that is something also engaging the attention of our Courts but we all know that the Constitution operates in structures. Article 69 and Article 61 go hand in hand so, all these



**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

matters are matters that are very pressing indeed and so, I do not know how come we have the Government or somebody in the Government suddenly awoken with the acuity of a Rip Van Winkle and just decided to bring this single matter, and I know the genesis of this matter. This genesis was since the first Constitution of that Police Service Commission, when it was realised that Parliament in fact, had largely and overwhelmingly determined the composition of the Police Service Commission which I make bold to say is the best thing that could happen if we say we want to move forward in a democratic manner.

I do not want to say that my learned friend, the Honourable Member Mr Nagamootoo did not disclose that between 1994 and 1997 not a single thing was implemented by the Constitutional Reform Commission; nothing was done. It was not in fact, until some fillip was given to it by large demonstrations and regular large marches that some movements came after the advent of the Herdmanston Accord and the St Lucia Statement. But since he stopped, I do not need to go too much into that.

And so, the question is, what do we do with this Motion? It is my respectful contention that, with the clarity of the argument posited by my Honourable friend, Mr Murray, I find no occasion to differ from his arguments [*Applause*] and I would respectfully submit that this Motion ought to be withdrawn and we review our approach in dealing with the bundle of pressing matters that should engage the

Constitutional Reform Committee. Thank you, Mr Speaker. *[Applause]*

**The Speaker:** Thank you Honourable Member

The Honourable Member, Ms Gail Teixeira ...

**Ms Gail Teixeira:** I have heard a lot of concerns today about why this Motion is coming here. The Honourable Member Mr Murray, said it should have never been here and he cannot understand you know, why it is here. I have heard the citations by the Honourable Member Mr Williams pointing out areas of the Constitution that need to be addressed. But, I believe that it is a slip of the tongue or a matter of convenience when all the Members of this House know that Constitution Amendments require two-thirds and no matter how we all beef and strain and quarrel it requires the two-thirds majority to make any change in the Constitution. Unlike ... and some of them even require a Referendum but Sir, the ones we are dealing with, are major issues and the point in this Motion, and I think the Honourable Member Nagamootoo gave this House an idea of the gestation period that this House went through - 1994 right through to 2004 - in relation to Constitutional Reform. And I think it is important for the younger MPs (maybe it is of no use to the older MPs) but I think it would have been an interesting lesson on the gestation of how all this

## **NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Constitutional Reform took place and that certainly the magnitude of the work that was done, is extremely laudable. It is important I think in this House to recognise the number of actors, some who are here no longer, and others who are no longer here, who played a critical role in bringing these Constitutional Reforms that were fundamental, reducing what were called the imperial powers of the President and we know how that came about in 1980 creating a role for Parliament in the appointment of the Constitutional Human Rights Commissions, even creating Human Rights Commissions, even creating Human Rights, because Human Rights in the old Constitution could not have been enforced by a Court of Law; it had to become enforceable by Legislation so, we do not need to travel down that path again. I think Mr Nagamootoo has given us that background. But I believe that it would be rather deliberate on the part of the Opposition to try to indicate to this House that they are unaware of this issue, that they are very aware of the constructive engagements that took place prior to the death of former President Mr Hoyte and following with the present Leader of the Opposition, Mr Corbin, with the present President, Mr Jagdeo. That talks and constructive engagements in dialogue have been going on for years and, in fact there are accords signed which point out the areas where the PNCR-1G raises concerns because they feel those areas have not been adhered to or implemented and where the Government

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

has its list on those accords, which point out what have not been addressed.

One of the issues relates to the Police Service Commission and while we can say that it could have just gone to the CRC. I believe that it is important in this House, having gone through the whole record, and where ... the document that I think that is important in this discussion is the final Report of the Oversight Committee on the Constitutional Reform, Resolution No.33 of 1999 - Section 8, tabled in August 2000 in which it gave drafting guidelines based on all the work that was done and one of the luminaries and persons who I hope at some point will do a history of that period, which is the Honourable Speaker, who was integrally involved in all these stages and probably knows it better than almost anyone of us here, other than probably the former Minister of Parliamentary Affairs, Reepu Daman Persaud. But, in the Constitutional Reform, the final Report of the Oversight Committee, it goes through every Section of the Constitution (1980) and also the Sections that are brand new and it has three columns which are easy and that is reproduced in the attachment to the Motion which points out what the 1980 Constitution said, the recommendations and the actual changes to be made. So, when one reads it, and this is to answer Mrs Holder, the Honourable Member Holder, who wants to understand what is going on here. She does not understand why this matter is being brought ... it is that in the Judicial Service Commission a

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

pattern was developed in the Constitutional Reform process in which Parliament was given a responsibility to deal with appointments. The JSC had up to two, the Public Service Commission up to two, and the Police Service Commission up to four. In the JSC the President has an Appointee after consultation, meaningful consultation with the Leader of the Opposition. In the Public Service, I believe there are up to two, maybe one (I am not looking at my notes right now) and that again, with the Leader of the Opposition. In the Police Service Commission there is no provision in the present Constitution for the Leader of the Opposition and the President to name a Representative.

But in the Oversight Document which was the Draft in Guidelines, it clearly made it clear that a particular paragraph was (I am not casting aspersions, please understand me, Members of the House; I am not casting aspersions on anybody; the Attorney General's Chambers or the Legal Drafters or anybody). The amount of work that was going on at that time and the volume of amendments and changes and everything, it is human to err, but in this time, it we are going to bring this Service Commission into some level of standardisation therefore, the issue of this Clause which was inadvertently left out and belonged in the 1980 Constitution, needs to be examined, the documents examined. All this Motion is asking for is that ... the documents which this House approved, not you, because they were different MPs

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

maybe but this House approved, to check those records of 1999 and this voluminous document of 2000 which is the Draft in Guidelines and to be able to see, and to recommend to this House how, if it is to be rectified, how it is to be rectified. And it is a very simple issue. The Motion very clearly says ... I believe the Honourable Member did not have enough rest during the recess, he seems unduly agitated these days. But the last paragraph, and I think I am talking English, the last paragraph says;

*Be it further resolved that this National Assembly refers this matter to the Parliamentary Standing Committee for Constitutional Reform to examine and make specific recommendations to this House on how to effect rectification.*

Now, if it is that the Honourable Member is saying that I am lying, that what is stated in this document is not what I am reading, then I challenge him, let us go outside and check the records because this is English, I am not talking Russian, I am not talking Chinese or Spanish.

But you see, when the Honourable Members, and we all dealt recently with the recall Bill, I do not remember hearing anything about these kinds of quibblings that are going on in this House tonight, the recall issue ... I am not including the colleagues in the back; I think you understand which part of the Opposition I am talking about... thank you. But I do not recall there being an issue of dealing with the recall Bill, which was in fact,

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

referred to in the different Constitutional documents and in which in the Parliamentary Standing Committee of the Constitutional Reform of 2004 this was listed, maybe the Honourable Member Mr Murray does not remember because at a certain stage in the life of this Committee, he resigned from the House, from the Committee and was replaced with the Honourable Member, Mrs Backer, the Minutes are here, it is not Gail Teixeira's fiction, this is the Minutes.

The issue is that this recommendation is a very clear one. We have spoken at various levels with the PNCR-1G, on many issues, on the same Constitutional Amendment, my dear friend refers to. These are not issues only for the PNCR-1G; they are issues in the Constitution that we need to look at and change, some they agreed on the recommendations that we have not been able to affect and I remind this House that when we came to the Constitutional Human Rights Commissions and the issue of the Ethnic Relations Commission, where a Committee agreed unanimously to a list of entities to consult that it lost the vote because it could not get the two-thirds majority. So, when Mrs Holder talks about more important issues such as dealing with the political gridlock, I assure you, Mrs Holder, that I am sure there is a Draft somewhere on how to deal with political gridlock but, the challenge will always be how to pass it in a two-thirds majority and the issue will always be, the political discussions within this Parliament and outside of this

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Parliament to reach consensus. And therefore, having (what do the people say sometimes you go to your subject ... round and round and round) in relation to the Police Service Commission which is unlike any of the other matters raised by the Honourable Mr Williams or Mrs Holder or Mr Murray. Unlike all the other Constitutional Amendments which have been raised in this House today, this is the only one which can be pointed to where there was an oversight in the Drafting. All the others have to do with where we have a difference of views and therefore one has not agreed to exactly what we want and therefore, the wording of the Amendment has not been reached. This is a mechanical thing and I do not know why the PNCR-1G is so sensitive on this issue, so sensitive.

But Mr Speaker, you know, this House, the Human Rights Task Force under this same Constitutional Reform Commission. The history of Constitutional Reform Commission is dynamic and goes through many ups and downs even after we agree. I remind this House about, under this whole process, there were all these working groups working on rights and public administration and public officers and amazing...judiciary and so on during the process and I remember a particular group, the Human Rights Task Force which was Mrs Backer, myself, the now Minister Manzoor Nadir, and Gina Rose, representing the NGO Community and we drafted the Anti-Discrimination Clause and brought it to this House. It was unanimously supported in this House and then the



**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Bodies that had a concern for the particular phrase in the Anti-Discrimination Clause lobbied politically and then it came back to this House et cetera, and it is history.

So, the process of Constitutional Reform is a very dynamic one in which there are changes. The generation tomorrow will probably say what we did in the 1990s and 2000 is all wrong. And they will throw everything we did out, but there must be a mechanism of how politically we are able to find answers and so things just do not languish. The bringing of this Motion to this House is about recording in this House that this is a matter that requires the attention of the Constitutional Reform Commission. Certainly you could have called a CRC Meeting and put this on the order, you know, have it as an item and therefore, what would have happened after that? And it would have languished behind this door as the discussion on this issue has languished behind closed doors for over five years and therefore, it is the Government's right as it is your right on the Opposition that if you want to bring Motions to do with the Constitutional Amendments, you are free to do that. But, it is the right of this Government, having gone through discussions for years, at other levels on this issue that we are now bringing it into the House formerly, officially and notifying that it is now we wish it to go to the CRC.

It is unfortunate that the colleagues on the other Side are not happy with this arrangement but, you know what ...?

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

It will record in this House that there was an attempt to deal with the issue, whether it goes to the CRC and it takes a long time or not, we will see.

But the issue that Mrs Holder raised, about issues that are more important ... Mrs Holder, the issue of political gridlock, you have my 101% support on anything you draft that can break the political gridlock but, you and I both know that when, and you may not know, during the Constitutional Reform process, when this matter was pointed out, some colleagues on the other Side said that no, this would not happen that we were ... and please, watch the gender issue, that we were all *gentlemen* of honour and *gridlock* would not happen and therefore, I am glad as a woman who was not in the CRC, the Commission but who was on the outside in the working group and those women who were in the Constitutional Reform Commission were not included in this *gentlemen of honour* because the gentlemen of honour said this would never happen. But, we have lived to see in this Parliament, we cannot set up the Human Rights Commissions; we cannot do it! It is a stain on this... all the work that went in, all the dedication and sacrifice that people made to contribute to these changes and so, it is important that this matter go to the Constitutional Reform Committee; let us examine the documents. These are the official documents I got as a Member of Parliament sitting here in that period. If there are some other documents, fine! The Committee will examine all that

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

transpired, go back to verbatim notes, go back to all the records; they are free to do that. But, we are saying that there is no need to get unduly agitated. It is important that we recognise, that unlike all the other Constitutional Reform, issues that have to be addressed that are left over, that are outstanding which, in the realm of the political forum, that this one does not fall in that category, it does not fall in that category. Maybe it is an indication, as there was the camaraderie and the support of the majority of the House in relation to the Recall Legislation which is the Constitutional Amendment, that there will be a similar arrangement in the CRC.

I believe that the documents speak for themselves and that in the process, nobody should feel offended by this observation that this paragraph was left out. And as it says and it may have been because there was a turnover of the page, and they did not turn over the page, who knows? But, in 1980 the Constitution gave the President;

*The Police Service Commission shall consist of a Chairman appointed by the President acting with consultation with the Minority Leader.*

And it goes on;

*The Chairman of the Public Service...*

It goes on about one person appointed by the President,

*after consultation, etc are not more...*

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

The next Clause says;

*Not more than three Members exclusive of the Service Commission who shall be appointed by the President acting after consultation with the Minority Leader.*

The CRC kept the first Clause which said;

*The Chairman shall be appointed by the President*

And it added *after meaningful consultation* instead of just consultation and it changed Minority Leader to *Leader of the Opposition*. It left the Chairman of the Public Service Commission and it gave to Parliament the four Members that would come through the Parliamentary process. It kept that last paragraph that gave ...

*Not more than three Members exclusive of the Service Commission, who shall be appointed by the President (acting) after meaningful consultation with the Leader of the Opposition.*

Therefore, I would not have thought that this would have been such a problem to discuss today but, be that as it may, I believe that and I hope in particular for Mrs Holder who could not understand why this must be an issue, it is an issue, too, in terms of just saying this is not the big issues of deciding how you are going to compromise the PPC, who is going to make up the Members of the PPC? Who is going to be the Chancellor and the Chief Justice?

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

How are you going to resolve the Human Rights Commissions? It is a simpler matter ... a very simple, straightforward matter ... And therefore, I call on this House to support this Motion that is presented before you. Thank You. *[Applause]*

**The Speaker:** Thank you Honourable Member

Honourable Members, Mr Ramjattan has indicated that he wishes to speak for five minutes, his name was not ... I will hold you to the time Honourable Member.

The Honourable Member Mr Ramjattan ...

**Mr Khemraj Ramjattan:** I will try to do it even quicker. What is quite clear here in this Motion is that there is absolutely no transparency as to the reason why it is being brought forward and as to the reason why all of a sudden we want to have the President essentially to have the power to appoint some Members of the Police Service Commission.

The Constitutional Reform Commission had clearly indicated that there is need for non-executive characteristics and attributes towards appointments of these major commissions. It has made it quite clear, we know that when the President appoints, after meaningful consultation with the Leader of the Opposition, it is still a Presidential appointment. So, they could talk whatever

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

they want to talk and the Opposition Leader could talk whatever he wants to talk ... it still will come down. Yes, I have had meaningful consultation with you but I would like Mr X and Mr Y under that paragraph they now want us to fit into the Constitution. And that is basically what it is, that is the motive here but they are not coming straight with it to say that look, we want it that way. They are trying all the historical as against contextual arguments and that has always been a big Debate in constitutionalism.

They go back to the American Constitution, it never had a Bill of Rights, it was a mistake and it was left out, that it was corrected some time back. It is important that we understand that what we have as the text here is superior to the history that every one of the Members of the Government's Side is trying to bring. And if we were to deal with that history, I want to say that it is rather not a very proud thing for them to come here and say that they have made this omission and this big mistake. I heard my good friend Mr Nagamootoo indicating that indeed it is a mistake well it is a serious indictment on his Chairmanship of that Committee, the Oversight Committee. *[Applause]* It is very serious; Oh! Mistakes will be made but when mistakes of this nature are made, they should have come and ask the Opposition: *Are you going to support this thing?* Rather than make a mockery of over an hour and a half. It is rather surprising that they are going to come here and say, *Well look, we want you*

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

*all to support this thing*, because historically, when it is very much consistent that is, the text of the Constitution is very much consistent with what Mrs Sheila Holder indicated, that is that the Executive should play a minimum, its role should be diminuend. It is not nonsense, you have it now, you have it here and the whole idea is that if you want to have it corrected, set up the Constitutional Reform Committee, set it up and let us proceed; do not come pleading. It is rather uncouth to come pleading and not even dialoguing with those you want to plead with, very uncouth and very rather unparliamentary, and then go and say well, you know what? At least we made the attempt. What nonsense! We made the attempt. I am urging ...

**The Speaker:** Honourable Member, mind your language, *uncouth and nonsense* are not words for this...)

I want to say finally, that it is important that even if we have discovered that there was a historical mistake, even now that Ms Gail Teixeira is indicating that she got the text and all of that there, and we have discovered it, how do you resolve it? Come here by Motion? The Resolution of something like this is very simple ... Constitutional Reform Standing Committee ... Go there. Why do you want to have a whole unanimous support here? It is rather ... again I almost used the word that you just ... but it is rather not the method, not the manner in which we should

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

go and this Motion should not be supported. Thank you very much! *[Applause]*

**The Speaker:** Thank you Honourable Member

The Honourable Minister of Home Affairs ...

**Hon Clement J Rohee:** Mr Chairman, we have had a rather interesting Debate on this matter starting out with journeys into the history and the evolution of where we have arrived at today. Volumes were flaunted in this House, trying to impress others of the fact that they have done their research on matters of a rather profound nature, therefore, they ought to bring out these voluminous texts in order to impress many of us that they did their homework. We also heard some very interesting arguments about methodologies that should be used in order to bring matters like this either to a Committee or to closure and we have heard some very philosophical arguments as well in respect of democracy, and which is the greatest democracy on the face of the earth? What we have basically been told once again is that the Government by stilt through the back door, to use the electoral language, is seeking to bring a Motion in order to arrive at an objective which is aimed at putting in place greater Presidential authority on a matter that should not be. But I think the Honourable Members are missing a basic point in all of this, that at the end of the day you still



**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

have to go through a process to get this Constitutional Amendment done which by some means would require the support of the opposition. So the song and dance that we just saw before our very eyes bedevil one's imagination. One is left to wonder ... what was it all about? In the same way as they sought to query what was this Motion all about, equally I would say we were left to wonder what were those demonstrations of surprise all about on that other Side of the House?

We were told that there is no need for rectification yet the Honourable Member Mr Basil Williams gave us a lengthy presentation of the various measures where rectification would be needed. I was a little disappointed to tell you the truth, disappointed to say the least, when I heard my good friend, what some would call my learned friend, but since I am not a practicing lawyer as yet ... I would say the Honourable Member Mr Murray ... I was kind of disappointed. I was sorely disappointed when he accused the Government of being arrogant and coming with some kind of arrogance in order to get this thing through this House. I want to assure the Honourable Member that arrogance is not in our lexicon and, the mere fact that this Side, the Government is seeking to bring this issue in the open, we are bringing it to the House for discussion.

The Honourable Member Mrs Sheila Holder said she is in the dark, but we are on the eve of the Festival of Lights [*Applause*]; and she is still in the dark. Anyone who is

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

still in the dark on the Eve of the Festival of Lights, I would wish to say that they will always be in darkness.

They said there is no need for this Motion but, again we have the same syndrome, damned if you do, damned if you don't, I do not want my imagination to run away with me but I would not be surprised if the Government was to bring this Motion, was to take this issue directly to the CRC. Someone could easily put up their hand and ask the question, creating some form of mischief, that why are you bringing this here, why did you not bring it to the House? That question could very well have been asked because it would seem to me, that when you examine and listen, and I have been paying very close attention to all that has been said, I have been paying very close attention to it. When you listen to all that has been said, you know what we are being told? Do not do anything! Keep running on the spot! That is what we are being told.

There is no mischief, do not look for mischief where it does not exist; it is only a mischievous mind invents mischief. We are still in this syndrome of conspiracy ... there is always some conspiracy and those who are well acquainted with creation of mischief and theories of conspiracy are those who speak most of it. I want to assure the Honourable Members of the other Side of the House that there is no mischief afoot here, there is nothing rotten in the Kingdom of Denmark here. They said ... I heard one of the Honourable Members saying

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

that they have no problem with the item being placed on the Agenda of the CRC. If you have no problem with the item being placed on the Agenda of the CRC, if you have no problem with the matter being placed on the Agenda of the CRC, then just support the Motion that is before us to facilitate it in moving in that direction.

I believe, that the Motion, *Be it resolved ...* the first Be It Resolved Section of the Motion says that this National Assembly recognises the error and my good friend Mr Murray said he is not recognising any error, and that we should withdraw the error or else ... Made in Drafting Constitutional Amendment No. 3, Bill No. 6/2001 *and approves of steps being taken to rectify this oversight.* Steps being taken, what they have done is like looking at a bowl of spaghetti, and picking out pieces of the menu, picking out pieces of the ingredient that suit their political objectives. That is exactly what they have ... that is the scenario. They sat down, plotted and planned a scenario which was to pick various pieces of the ingredients of the menu of measures that are to be taken here in order to ensure that this objective is reached in order to pursue/achieve political mileage.

But, the matter is we want the Parliament to approve of the steps to be taken; that is the softer side of this Motion which I believe is what is called the facilitatory side of the Motion. The Further Resolved Clause says that this National Assembly refers this matter to the Parliamentary

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Standing Committee for Constitutional Reform to examine and make specific recommendations to this House on how to effect rectification. Totally innocuous! Not harmful at all! Why are you making this upset your breakfast or your dinner or your Diwali celebrations tomorrow? We have to go into this season, in a mode of unity and I will speak about that later.

I looked at the dictionary for the word, *rectify* and what does the dictionary say? *To put right, to correct, to purify, to refine, especially by repeated distillation ...* This is what we are seeking to do. We are seeking to purify and refine and I think every one of the Members who have spoken on that Side of the House has admitted, if you listen to them carefully, they have all admitted that something must be done, they have all admitted that some rectification (they did not use that word) but they sought to get around, not using that word by some 'circumstitious' way, they sought to get around using this word *rectify*. [Laughter]

It seems I should have brought my Rogets Thesaurus rather than this dictionary but obviously these Honourable Members sought to get around this word *rectification*, knowing to themselves that something had to be done. What they could not reconcile themselves with was what is it that had to be done, that is what they could not reconcile themselves with. But they knew because Mr Murray, the Honourable Member, as quietly as he sits

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

there, you know what he said? He said we have an open mind and that we must do something. If you have an open mind to do something, it means you recognise that something is to be done about this thing.

But, I think this Motion caught our friends by surprise, because they never anticipated that we would have come with something like this. What they wanted us to do is to sit in some secret room and to agree on what is in this Motion, not to settle the Constitutional Amendment; that is another matter that has to be settled as Mr Murray said, at the possible political level.

So I would wish to call on the National Assembly to refer this matter to the CRC, to refer this matter to the Parliamentary Standing Committee on Constitutional Reform, to examine and make specific recommendations to this House on how to effect the rectification. Leave it to that Body; let us not pre-empt, let us not anticipate what will come out of this Body. Let us give the Body and I think Mr Speaker, you yourself have said time and again that we must allow the Parliament to work, we must allow the Body, we must allow the mechanisms in Parliament to work. So, let us give Parliament the opportunity to do its work and I believe that it is the duty of all of us who serve in this Honourable House to ensure that this Parliament functions in an effective way, and that it functions in a way that at the end of any process it ensures that good governance, democracy and

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

transparency are the hallmarks of our society. Thank you very much. *[Applause]*

**The Speaker:** Thank you Honourable Member

I will now put the question, which is that *this National Assembly recognises the error made in drafting the Constitution Amendment Bill, No.6/2001 and approves of steps being taken to rectify this oversight and that this National Assembly refers the matter to the Parliamentary Standing Committee on Constitutional Reform to examine and make specific recommendations to this House on how to effect rectification.*

**The Motion is carried.**

Thank you Honourable Members.

**ITEM 3 – REPORT ON DRAFT STANDING ORDERS**

The Minister of labour, on behalf of the Prime Minister and Minister of Public Works and Communications, moved the following motion:

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

WHEREAS on the 15<sup>th</sup> December 2005 a Special Select Committee of the National Assembly was elected pursuant to Resolution No. 85 of 2005 to consider and report on the adoption of the Proposed Draft Revised Standing Orders;

AND WHEREAS that Special Select Committee submitted its report on 13<sup>th</sup> April 2006 which was adopted by the National Assembly;

AND WHEREAS by Resolution No. 108 dated 2<sup>nd</sup> May 2006 the said Draft Standing Orders were adopted and came into force on the 2<sup>nd</sup> May 2006;

AND WHEREAS the Special Select Committee prior to making its Report to the National Assembly had sought certain advice in relation to specific clauses of the proposed Draft Revised Standing Orders from the Attorney General and Minister of Legal Affairs;

AND WHEREAS the advice of the Attorney General and Minister of Legal

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Affairs by letter dated 9<sup>th</sup> June 2006, a copy of which is attached hereto, was received after the revised Standing Orders had been adopted by the National Assembly;

AND WHEREAS this National Assembly as a result may wish to consider a consolidated inventory of the Revised Standing Orders that may require further examination in relation to whether there are inconsistencies with present day laws and Constitution be sent to a Special Select Committee;

**BE IT RESOLVED:**

That this National Assembly appoints a Special Select Committee to carry out a final review and re-examination of the revised Standing Orders and to submit a report on their findings and recommendations where required for the consideration of this House within three months.

**Hon Manzoor Nadir:** Mr Speaker, it is an honour for me to move this Motion which is in the name of the



## **NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Honourable Prime Minister for the adoption of this Motion which calls on the National Assembly to appoint a Special Select Committee to carry out a final review and re-examination of our Revised Standing Orders and to submit a report on their findings and recommendations where required for the consideration of this House, within three months.

We have just gone through a long Debate over the correctness, rightness of errors made or interpreted to be made over the Constitutional Reform Process and that was a very tedious Debate when I thought it was something simple. I trust that this particular Motion would meet with the support of the Opposition. Mr Speaker, as you yourself know when we went through the Constitutional Reform Process it took a number of years and several Special Select Committees before we (and not a big debate) reached to this position. You, Sir, during your term, have provided a lot of vision and changes for the National Assembly physically, and also in the way we operate and one of the legacies of that eighth Parliament was your work towards amending the Standing Orders. That process also, was a very long one, starting with Mr Davies' First Report, the Pinder Papers, the Davies Second Report, the Bradford Report, and a Special Select Committee.

Like the previous Motion, we feel also that there were some issues that needed greater clarity and as we were

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

rushing to ensure that the new Standing Orders would come into force before Parliament dissolved on 2 May 2006, we had questions over a few areas, one of them was the issue of the Evidence Act and we had asked the Attorney General; I think it was the Meeting of 5 May 2006 that the then Chairman, the Honourable Leslie Ramsammy had approached the Attorney General's Chambers. Unfortunately, we were not able to get an opinion at that time before Parliament was dissolved. I think there was another issue that caused Parliament, on several occasions, to be postponed and that issue was the issue of the seven clear days notice before a Motion is tabled for a first and second reading. I use those as two examples, as we move towards the process of publishing these new Revised Standing Orders for the opportunity to revisit the Standing Orders, see their congruence with the Constitution, seek some additional legal opinions, consult further on them and come up with a document that can withstand the test of the scrutiny of the legal minds and the learned people who will sit in the Assembly. And, also we need to look at the issue of how we can continuously re-examine the Standing Orders. So we are saying that, let us set up another Select Committee but giving a specific timeframe, a life to that Committee, three months, to report back to the National Assembly so that it does not live on in perpetuity. We want this to come to an end so that these new Revised Standing Orders can be presented properly, bound firm, electronically and we will be able to conduct the business

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

of the National Assembly with much more concurrence, conscience and bring a higher level to the management of the affairs of the people's business of Guyana. Thank you very much. *[Applause]*

**The Speaker:** Mr Nadir, just for my clarification and Members', could you explain what the last *Whereas* Clause means?

Actually, the Parliamentary Management Committee had had a notice ... we had prepared a Motion and the issue discussed there related specifically only to the advice given by the Attorney General's Office. I did not see this Motion before it was prepared on the notice paper but, try as I might, I have a difficulty comprehending what that *whereas* Clause means; maybe you can help me and other Members might be in the same position as I am.

**Hon Manzoor Nadir:** Mr Speaker, that is so drafted to give us the ability in the event that there are other collisions that could happen. We have the capacity here to deal with them. We are not going in the dark, it speaks of the inventory of the Revised Standing Orders and we have some agreements; we had some grey areas there. It also speaks of possible inconsistency with certain of our laws and I think here it speaks specifically to this Evidence Act on which we have had an opinion from the Attorney General's Chambers, Mr Speaker.

**The Speaker:** Thank you Honourable Member

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Mr Basil Williams, you are next and maybe you can help us.

The Honourable Member, Mr Basil Williams ...

**Mr Basil Williams:** In order for me to do that respectfully, it would require a leap into the dark on my part. But I will say that the general trend of the Motion speaks to reviewing certain Standing Orders that relate to public hearings when you have a public hearing ... as a person in camera ... where they propose to go through a procedure akin to a hearing, whether a Court hearing or a hearing before a Tribunal, whether some of the provisions are not provisions that would conflict with rules generally, attending to such hearings. So, the Attorney General's response really dealt with those situations where it would really impact or collide with provisions in the Evidence Act. I do not wish to go in-depth with dealing individually with them, save to say that I cannot see that there can be any harm in any Select Committee being convened to review the advice given by the learned and Honourable Attorney General with respect to the proposed Standing Orders. I have no difficulty with that, especially in the light of the fact that the advice of the learned Attorney General came after the work of the Committee or Select Committee, had been concluded. We are in agreement with it, notwithstanding the nebulous aspect of the last *Whereas Clause*. I think the intention is, since we did not have a chance to really relate the advice

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

to the specific block of Standing Orders that are proposed, to be introduced, we take the opportunity to do that now and we do not have any difficulty with that.

**The Speaker:** The resolve Clause, Mr Williams seeks to study and carry out a final review and re-examination of the Revised Standing Orders.

Anyway, maybe the next speaker the Honourable Attorney General can help us out. This does not confine ...

**Mr Basil Williams:** ...This relates back to 77(a) to 77(b).

**The Speaker:** The *Resolved Clause* does not confine to the Attorney General's advice...

**Mr Basil Williams:** No, it is not.

**The Speaker:** Maybe the Honourable Attorney General who is the next Speaker...

**Mr Basil Williams:** Yes ... so, we will have no difficulty.

**The Speaker:** I have the Attorney General on my list ... decline!

Is the Attorney General declining?

The Honourable Member, Mr Ramjattan ...

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

**Mr Khemraj Ramjattan:** Mr Speaker, again I would wish to restate a claim I had made earlier, I think, last week, whereby there is matter and manner of doing things. We have here a Motion in which we are not given the inside story, as to why the transparency, as to why it is required to do all of this big damage to that ... that is re-examine and revise all the Standing Orders. If indeed, as the Attorney General ... And by the way, he did not state anything, he deferred ... it does mean that there seems to be not any, and, by the way, that is unprecedented too. It does not seem to be in collision with anything except that little opinion ... not a little opinion but that is the opinion that he gave. Why do we then need, as you rightly pointed out this final review and re-examination of the revised Standing Orders? We seem to be missing the evolution of the laws of Parliament. Laws generally evolve when you have difficult hard-case situations and then you are confronted with how you are going to resolve it.

We have not had any hearings to the extent whereby there has been collision with any other Law or there is an inconsistency with any other Law to the extent now that we have to brainstorm to revise and re-examine those Standing Orders. These Standing Orders came after a whole set of intellectual Debate, a whole set of research in England, New Zealand and, I do not know how far, but it does appear all across the world. And, in view of the problems that have not even confronted us, we have a Motion now saying, let us go into some un-chartered

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

waters, we do not even know where we are going, it is un-chartered waters to the extent ... you have to now start thinking, start an imaginative journey. What it is that this thing is getting at, and as you were asking Mr Manzoor Nadir, what is it that it is getting at? A total review and re-examination! Is it literally going to chop down everything that we have built so far, simply because ... what? Mr Nadir or the Prime Minister would like to review and re-examine? We must learn to approach this thing on a case by case basis. That is how the Common Law evolved, that is how our Law has evolved when there is a loophole or a lacuna in the Statutes, we go around the world, look for something and then we are going to plug it in. But to go and give us a Select Committee because I noticed this thing about Select Committee; you get a Select Committee, you put something on them and you do not even know the hardship of the present regime that you want to rectify it, you do not even know that. Then they come here and ask for these kinds of *Resolve Clause* to be passed. It is hopelessly wrong, it is hopelessly irregular and it is hopelessly un-parliamentary for us to be doing this kind of thing. I want to urge this House that unless the other Side that is presenting this Motion come clearly, look we have a problem here, like in the Evidence Act. When somebody comes to a Public Hearing and is asked a question he cannot give an answer ... he has the right probably not to answer a question, if he is going to incriminate himself. But, I thought that even those types of answers at the Public Hearing, a Minister must answer;

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

he must not come here, sit back and say, *I would not answer that because I might incriminate myself*. That is good governance that is transparency. All the difficult questions at a Public Hearing they must answer, so it must be in accordance with our Rules rather than if it conflicts with the Evidence Act. How are we going to get Ministers who are going to be accountable and transparent if, when the hard questions are asked of them, they go to some Standing Order that has been reviewed and re-examined, *I do not need to answer that ...* Yes, they call it the Fifth Amendment. When you are in Congress, even at that stage you have to answer; this is Parliament and our Parliamentary Rule is that you just cannot go and say, *I am not answering that*. What kind of democracy and parliamentary procedures we want here? And, that is why it would appear that somebody over there feels that soon there is going to be a Public Hearing, a lot of serious questions are going to be asked of the Minister and the Minister must have a right under the Standing Orders to remain silent. *[Applause]*

It is sounding like that, and that is not what we must be doing in this Parliament. If we want, we must unearth all the nastiness, unearth all the irregularities and/or criminalities from Ministers. So, to go and do a big review and re-examination with the intent and purpose of trying to block those kinds of questions, I do not support, the AFC does not support. Thank you very much. *[Applause]*



**The Speaker:** Thank you Honourable Member

The Honourable Member, Mrs Pauline Sukhai ...

**Mrs Pauline R Sukhai:** As I make my contribution to the Motion before us, I would like to highlight the incredible progress made by Guyana in relation to parliamentary reform, and in particular the revision of the Standing Orders as a major achievement of the Guyana Parliament.

*[Applause]*

Standing Orders provide appropriate mechanisms and tools for the enhancement of the role of Members of Parliament, and credit must be recorded for this initiative, having the Special Committee reviewed in considerable length of time, the various Reports which informed them; the Pender, Davies, Sampson, Bradford, et cetera.

The hallmark of the previous review and work done on the Standing Orders can be described as amicable and cordial. The Special Select Committee, which was given the task to review the Report and the Standing Orders, can be described as *they deliberated extensively*. Many of the issues they had to deal with, some were set aside for further research, some were set aside for further legal review and some or the majority I wish to say, was accepted and retained. The New Standing Order was accepted and recommended by the Special Select

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Committee; it was laid in Parliament on April 6, accepted by the National Assembly and came into effect on May 2. However as was already said before by other Members there were a number of issues which we did not have the time to really incorporate into that Standing Order and therefore, the Motion before us sets out those tasks to another Special Select Committee which Honourable Minister Nadir, not the Prime Minister, but the Minister of Labour, just asked permission for this National Assembly to decide on.

I would like also to say that, having submitted that Standing Order to this House there were many new Standing Orders that became very useful for us and just to point out three, because I do not intend to be long on the Motion, I would like to say that:

- (i) Admissibility of Motion;
- (ii) The committal of Bills after second reading and we exercised that here just this afternoon with the Forest Bill;
- (iii) One very popular one, which is used by our Members, almost every Sitting, the Oral Questions Without Notice

Those are only three which I want to point out which the Standing Order that we are hoping to send to a Special

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Select Committee; is already being implemented and serving this House.

I will just give another simple example of how the Oral Question without Notice is enjoyed by Members of this House because it allows us to ask oral questions without notice however, with permission by the Speaker, just before the Sitting commence, for questions that are urgent, important and related to the business of the day. Subsequently Members have fielded that oral questions and an increasing trend is noticeable since May 2006. It is hoped that this trend will continue for the duration of the term of the Ninth Parliament and beyond.

The practice supports accessibility and responsiveness of Ministers and gives credence to greater parliamentary democracy and transparency emanating from this House and by extension, accountability to the Nation at large.

The Motion before us, in its fifth *Whereas Clause*, speaks to the response from the Attorney General on matters identified for clarity and consistency with the Evidence Act which was forwarded by the Chairman of the Special Select Committee on the Needs Assessment of the Guyana National Assembly for examination and advice from the AG. Recalling the issue these include the witness who may object to any question on the grounds that it is irrelevant; however, the advice provided by the AG noted that this is not in keeping with normal practice and procedures when giving evidence. However, he

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

suggested and submitted that the second part could also be included and that reads;

*The Chairman will take care to ensure that all questions put to witness are relevant to the Committee's mandate.*

He further stated that the Chairman's decision in this matter should not be opened to dispute.

The other issues were matters of concern before giving evidence and again, he provided very highly legalistic advice on these matters and another matter as it relates to the Witness Council and the Witness Council giving advice on the way or procedure for taking evidence from his client or from the witness.

Another item which is contained in the Motion which needed to be incorporated or needed to be examined by the AG and incorporated into the Standing Order related to evidence containing allegation and again, we benefited from the advice of the Attorney General on this. The sixth *Whereas Clause* which seems to evoke a few ... well, a number of comments and questions, for me. I would say that it posits an extended task for the Special Select Committee for the need to consolidate an inventory of the Standing Orders that may require further examination in relation to whether there is any more inconsistency with present day laws and the Constitution. I say this because the Special Select Committee that reviewed the Standing Orders did put aside a number of

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

Standing Orders when they examined them for further research because there were some contradictions. There were also other areas in the Standing Order which obviously needed to be re-checked in relation to the Laws on our Constitution and also there were some items or new proposals which were set aside for the Standing Order Committee to deliberate on further and incorporate it and I am sure that there are some of those still needing some clarity and therefore, I would posit that the *Whereas Clause* or the sixth *Whereas Clause* will allow the Special Select Committee to deal with those remaining aspects which the past Special Select Committee was not able to really pronounce and make a decision on.

Having noted earlier that Guyana's Parliament has advanced in a commendable degree of modernisation and democratisation of the Parliament, it would now be wise to strengthen this achievement. While recognising the effort expended on examining and revising the old Standing Order we must not fail to go the extra mile; we should cover all those issues. It is important that the National Assembly benefits from a Standing Order which is consistent with our current Laws and Constitution and should be complete in all its Sections.

I therefore support the Motion that the National Assembly agree and approve that the Standing Orders approved by the National Assembly on April 6 and put into effect on May 2, be sent to a Special Select Committee for further

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

examination for inconsistencies with present day Laws and the Constitution and the incorporation of those that are now to be put in line with the Evidence Act. Thank you Mr Speaker. *[Applause]*

**The Speaker:** Thank you Honourable Member

Mr Murray, you said you wanted to say something? Not more than five minutes?

The Honourable Member, Mr Murray ...

**Mr Winston S Murray:** Not more than five minutes. Mr Speaker, I rise to support what my colleague Mr Williams said which is that we of the PNCR-1G support this Motion that is before us. Nevertheless, we do not think we should put on the records of this Assembly a Motion that is internally inconsistent and I rise therefore to point to a couple of clauses in this Motion which I think point to some inconsistency.

We say in the third *Whereas Clause*, Sir, that the Draft Standing Orders were adopted, they were adopted and came into force on 2 May 2006. So that is the status of these Orders ... adopted and come into force. Could we

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

then properly say at the *Be It Resolved* Clause that we are setting up a Special Select Committee to carry out a final review? - Final review of what ... the Orders that we have already adopted? The question, *Are we carrying out a final review* suggests we are not yet at the stage of Adoption so I do not understand what is this final review and re-examination of Revised Standing Orders.

As a colleague who spoke said earlier, getting these Standing Orders meant going through a very long and tedious process and we consulted in many quarters. I remember, if my memory serves me right, we brought someone from Trinidad and Tobago, Ms Sampson, who helped and in my view we have done all that needed to be done to revise our Standing Orders and they have been adopted. In the process of the examination of the Standing Orders before their adoption, we had invited the Attorney General to make comments on aspects of the Standing Orders; our Chairman Mr Ramsammy did so. Unfortunately those comments were not forthcoming at the time we considered the Draft Standing Orders and adopted them. Since then, we have had the benefit of his comments coming post the adoption of these Orders and I thought Sir, that the focus of this Resolution was going to be limited to an examination of the Revised Standing Orders in light of the advice of the Attorney General on some specific matters and for us and for this Standing Committee to then suggest to the National Assembly how we could accommodate the inconsistency between what

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

we have in our Standing Orders and the specific points made by the Attorney General.

I would respectfully suggest Sir, that we limit the scope of work of the Special Select Committee to that function. If not, we run the risk of reopening issues that have already been dealt with and where would this take us? We have gone through an elaborate ... I plead, Sir, that we adopt that approach. The Standing Orders will always be under review constantly and if per chance we discover something then, we deal with that specifically, rather than give the impression here that we are embarking on some wholesale re-examination of Standing Orders we have recently adopted.

I certainly share in your view Sir, that in that *whereas* Clause at the bottom there, really...well it was not your view, I am expressing my view... but I really do not understand, it does not make sense to consider a consolidated inventory of the Revised Standing Order. Consolidated Inventory of the Standing Orders? What is that? It really does not make sense. I would respectfully suggest Sir, two things therefore; a withdrawal of that particular *whereas* Clause, the rest flows very logically that we had invited the Attorney General to render advice, the advice has come and received and we go then resolving that the National Assembly appoint a Special Select Committee to carry out, I would say, an examination of the Revised Standing Orders in light of



**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

the advice of the Attorney General and Minister of Legal Affairs and to submit a report on their findings and recommendations.

Sir, I hope that my colleague Minister Nadir would find favour would those comments which I think bring some better order to the Resolution we have before us and one that will help us all to support it rather more readily and easily. Thank you Sir.

**The Speaker:** Thank you Honourable Member

The Honourable Member, Ms Teixeira

**Ms Gail Teixeira:** After Honourable Member Pauline Sukhai's very good presentation, I just want to say that probably the approach that Honourable Member Mr Murray proposed about, as time went on you make corrections, would not have been ... would have been a possible approach. However, the issue is that under the FFMP, the Parliament component, there are funds put aside to print the Revised Standing Orders and therefore:

- (i) As a result of the comments made by the Attorney General;

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

- (ii) In relation to the experience in the Constitutional Reform where we just debated recently where there was an omission in the Draft and that is the opinion of the Government in relation to the Police Service Commission that we are saying, before we go to print and print the whole thing, let us do one final quick Review.

There is nothing ... no, this is not a print, this is a ... and even the Speaker will say this is only a temporary arrangement; this is a photocopy compilation of what came out of the work of the Special Select Committee and this is all falling apart and it is the Speaker's desire, and we have had at the Parliamentary Management Committee an examination of what we want the book to look like, so that it would stand up by itself and fold up by itself or whatever it does by itself but that we can read it easily. Therefore, for those of you who are PNCR-1G Members you know exactly what I am talking about; so that's what this has pre-empted. The move to this is, if we are going to spend a lot of money to print the version, let us just do a quick examination, make sure there are no mistakes that the issues raised on terms of inconsistencies and where there are issues to do with; are there contradictions with the Law and constitution, what is wrong with that? Why can't we have a last lick at this whole thing? What happen, you all do not believe in last lick anymore; you grow up and you get too old for that?

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

All we are saying is let us do this thing quickly so that the Speaker will have the pleasure of having a document which can be published in a nice format, using the FFMP, IDB Government of Guyana funds, that is all, just like the Draft Manual on the Rules and Procedure for the Committees. When you read that Draft Manual that is before a Special Select Committee there are again contradictions; when you read that Draft Manual and you read the Standing Orders, there are contradictions.

We are in a learning curve here, gentlemen and ladies, we have ... yes, technical people who can come and help us but in the end we have to be able to go through our learning curve and I cannot understand why the resistance to have an examination; let us go through it; it is not a big document; it would not take long; it is a very quick exercise in which the Attorney General and the luminaries among us who are lawyers can sit and look at the evidence issues because, as someone said earlier, it is not only Ministers, Honourable Member Mr Ramjattan will come before the Committee. Anybody the Committee wants to summon could come before it on an issue, therefore, the protection of an individual's rights ... because nothing in this Parliament can override the rights of a person in the Constitutional Laws.

And therefore in the Parliament we may have copied from the British Parliament or the Australian Parliament or the New Zealand Parliament, but you know what, the British

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

do not have a Constitution, we do and our Constitution says what you can and cannot do to an individual and it does not matter if it is in the Court of Law or whether it is in the House of Parliament. Therefore, those are the issues that the legal luminaries (I am not one) need to ensure that we are not doing a disservice. You are worrying, Mr Ramjattan; you have a preoccupation about Ministers.

The Committees can call Members of Parliament before them; the privileges of the Committee ... I think that is what it is called. The Committee can call a Member of Parliament for inappropriate behaviour, for all sorts of things and I would think that as Members of Parliament you would like your rights to be protected, not to say that you are untouchable. To say that you have rights does not mean that you are untouchable but you have rights, and therefore, this is all this is trying to do. Maybe as my colleague Minister Rohee said, it is the night of the lights, the festival of lights and therefore maybe some of our friends are getting rid of the darkness around them because there is so much darkness that a simple thing as saying let us have a last examination before we make the formal, hard back, beautifully copied document that our Speaker would like to see and all of us would like to see; let us have a last look ... maybe we are trying to ... The darkness is still hanging around us ... Get rid of that darkness! It is the festival of lights! Let us move on and support this Motion. *[Applause]*

**The Speaker:** Thank you Honourable Member.

Mr Nadir, I am troubled by something in this Motion. A lot in the motion troubles me but I will just point out one aspect. The penultimate *Whereas Clause* refers to a letter by the Attorney General and Minister of Legal Affairs dated 9 June ... I do not have the letter before me but I have studied it in great detail and I have written a paper on it actually, ready to be submitted to the Select Committee when it meets, but that letter refers to certain specific things.

The next *Whereas Clause* says ... *and whereas this National Assembly, as a result...*

What is the *as a result*? The *as a result* there is to review in effect the entire Standing Orders but the letter from which the *as a result* flows is limited to a small number of Standing Orders; I just wish to point it out to you, I am not permitted to do anything else other than that ...

Yes I can hear you now Mr Nadir, the Honourable Minister of Labour

**Hon Manzoor Nadir:** The intent of this Motion is not to limit the examination of the Revised Standing Orders just to the comments of the Attorney General, no, and this is what we are saying; the inventory of the Standing Orders that we now have before us, we want to have a final

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

review and final is correct in that sense. Before we go to print, like you have, Sir, your Law Revision Commission, before a new set of Laws comes about ...*[Interruption: ... "I have been fighting for that since about 1992, but we do not have it as yet...)* you know that before we go to print] ... because I think I did some work on the Revision that was supposed to happen during Attorney General Ramson's time that was going to cause some ... We looked at examining all the Laws, consolidating, reviewing, before we go to print and that is what we said. But apparently once this Side of the House says something the other Side of the House turns their ears off because nothing good could flow from here for them ... that is the issue. And, if we listen to the comment of one person, he introduced words like *nastiness of the Government* ... that is what he said, if we go back ... *nastiness*. You know there is an old saying about ... *[Interruption]*

**The Speaker:** I did not hear that word ...

**Hon Manzoor Nadir:** I did ...

**The Speaker:** I would have stopped him ... you should have pointed it out to me

**Hon Manzoor Nadir:** ... the Honourable Member Mr Ramjattan did introduce the word *nastiness*, yes and I was about to say, *there is an old saying you set a thief to catch a thief*, so who knows about cleanliness, who knows

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

about decency and beauty and rightness; who knows about that? And, I guess on the other Side, who knows about other words may have some experience.

We are not intending here to deal specifically with the issues raised by the Attorney General and I raised in my presentation the controversy we have had between the first and the second Reading of Bills when, if someone is interpreting seven days' notice to mean seven days' clear notice, whatever that is ... What we are saying is, this is the final Review; I do not have the dictionary now at my disposal that the Honourable Member Minister Rohee had at his disposal, but I understand that review and re-examination do not necessarily mean change completely, as what one person is saying. We review it, if we find some inconsistencies, the entire Committee which will comprise of Representatives from both Sides of the House and possibly from a Party which was not there when we looked at this, will have an opportunity to make some comments. So we are very clear with respect to the words *final review*, we are very clear with respect to *re-examination of these Revised Standing Orders*. I am here fifteen years and this is the first time we have had a revision of the Standing Orders ... this is the first revision of the Standing Order. So, I humbly ask that we support the Motion and I am heartened by the fact that we are limiting the life of this Committee to report within three months so that within three months the work is done and we can get on with printing these Standing Orders and

**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

then have the small re-examination that could come subsequently. Thank you very much!

**The Speaker:** Thank you Honourable Member.

Honourable Members, please allow me to put the Motion.

Honourable Members I will now put the question that this National Assembly appoints a Special Select Committee to carry out a final review on re-examination of the Revised Standing Orders and to submit a report on their findings and recommendations where required for the consideration of this House within three months.

**Motion is carried.**

Honourable Members, that brings us to the end of our business for today.

Honourable Members, before you rise may I just remind you that refreshments have been ordered and for those of you who do not wish to remain here and make use of the facilities which we have offered, you may take your refreshments with you. I am not sure if they are in proper packages that they could be taken away, but if they can, I invite you to do so.

Honourable Members, thank you very much for your patience.

Honourable Minister of Home Affairs ...



**NATIONAL ASSEMBLY DEBATES 8 NOVEMBER 2007**

**Hon Clement J Rohee:** Mr Speaker, I beg to move that the House stands adjourned until next Thursday, 15 November 2007.

**The Speaker:** Honourable Members, the House is adjourned until next Thursday. Thank you very much.

*Adjourned Accordingly At 18:45h*