

National Assembly Debates

PROCEEDINGS AND DEBATES OF THE NATIONAL ASSEMBLY OF
THE SECOND SESSION (2002-2005) OF THE EIGHTH PARLIAMENT
OF GUYANA UNDER THE CONSTITUTION OF THE CO-OPERATIVE
REPUBLIC OF GUYANA HELD IN THE PARLIAMENT CHAMBER
PUBLIC BUILDINGS BRICKDAM, GEORGETOWN

58TH SITTING

2.00 PM

Thursday, 31 March 2005

MEMBERS OF THE NATIONAL ASSEMBLY (68)

Speaker (1)

The Hon. Hari N. Ramkarran, S. C., M. P. - *Speaker of the National Assembly*

Members of the Government - People's Progressive Party/Civic (34)

The Hon. Samuel A.A. Hinds, M.P.	- <i>Prime Minister and Minister of Public Works and Communications</i>
The Hon. Reepu Daman Persaud, O.R., J.P., M.P.	- <i>Minister of Parliamentary Affairs</i>
The Hon. Clement J. Rohee, M.P.	- <i>Minister of Foreign Trade and International Co-operation</i>
The Hon. Harripersaud Nokta, M.P.	- <i>Minister of Local Government and Regional Development</i>
The Hon. Gail Teixeira, M.P.	- <i>Minister of Culture, Youth and Sport</i>
The Hon. Dr. Henry B. Jeffrey, M.P.	- <i>Minister of Education</i>
The Hon. Saisnarine Kowlessar, M.P.	- <i>Minister of Finance</i>
The Hon. Shaik K.Z. Baksh, M.P.	- <i>Minister of Housing and Water</i>
The Hon. J. Ronald Gajraj, M.P.	- <i>Minister of Home Affairs; Region No. 3 - Essequibo Islands/ West Demerara (AOL)</i>
The Hon. Rev. Dr. Ramnauth D.A. Bisnauth, M.P.	- <i>Minister of Labour, Human Services and Social Security</i>
The Hon. Clinton C. Collymore, M.P.	- <i>Minister in the Ministry of Local Government and Regional Development</i>
The Hon. Satyadeow Sawh, M.P.	- <i>Minister of Fisheries, Other Crops and Livestock (Region No. 5 - Mahaica/Berbice)</i>
*The Hon. S. Rudolph Insanally, O.R., C.C.H., M.P.	- <i>Minister in the Office of the President with responsibility for Foreign Affairs (AOL)</i>

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- *The Hon. Doodnauth Singh, S.C., M.P. - *Attorney General and Minister of Legal Affairs*
- The Hon. Dr. Jennifer R.A. Westford, M.P. - *Minister of the Public Service*
- The Hon. C. Anthony Xavier, M.P. - *Minister of Transport and Hydraulics (Absent)*
- The Hon. Bibi S. Shadick, M.P. - *Minister in the Ministry of Labour, Human Services and Social Security (Region No. 3 - Essequibo Islands/ West Demerara) (Absent)*
- **The Hon. Manzoor Nadir, M.P. - *Minister of Tourism, Industry and Commerce*
- The Hon. Carolyn Rodrigues, M.P. - *Minister of Amerindian Affairs*
- The Hon. Dr Leslie S. Ramsammy, M.P. - *Minister of Health*
- Mr S. Feroze Mohamed, M.P. - *Chief Whip*
- Mr Cyril C. Belgrave, C.C.H., J.P., M.P. - *(Region No. 4 - Demerara/Mahaica)*
- Mr. Donald R. Ramotar, M.P.
- Mr Husman Alli, M.P. - *(Region No. 7 - Cuyuni/Mazaruni)*
- Mr. Komal Chand, C.C.H., J.P., M.P. - *(Absent)*
- Mrs Indranie Chandarpal, M.P.
- Mr Bernard C. DeSantos, S.C., M.P. - *(Region No. 4 - Demerara/Mahaica) (Absent)*
- Mrs Shirley V. Edwards, J.P. M.P.
- Mr Odinga N. Lumumba, M.P.
- Mr Heeralall Mohan, J.P., M.P. - *(Region No. 2 - Pomeroon/Supenaam)*
- Mr Ramesh C. Rajkumar, M.P. - *(Region No. 6 - East Berbice/Coventryne)*
- Dr Bheri S. Ramsaran, M.D., M.P.
- Mrs Philomena Sahoye-Shury, C.C.H., J.P., M.P. - *Parliamentary Secretary, Ministry of Housing and Water*
- Mrs Pauline R. Sukhai, M.P. - *(Region No. 1 - Barima/Waini) (Absent)*
- Mr Zulfikar Mustapha, M.P.
- Mr Neendkumar, M.P. - *(Region No. 4 - Demerara/ Mahaica)*
- Mr Khemraj Ramjattan, M.P. - *(Region No. 6 - East Berbice/ Coventryne) (Absent)*

* *Non-Elected Minister*

** *Elected Member from The United Force*

Members of the Opposition (30)

(i) People's National Congress/Reform (27)

Mr. Robert H. O. Corbin, M. P.	
Mr. Winston S. Murray, C.C.H., M.P.	
Mrs Clarissa S. Riehl, M.P.	- Deputy Speaker of the N.A
Mr. E. Lance Carberry, M.P.	- Chief Whip (AOL)
Mr. Ivor Allen, M.P.	- (Region No.2-Pomeroon/Supenaam)
Mrs. Deborah J. Backer, M.P.	- (Absent)
Mr. Deryck M. A. Bernard, M.P.	- (Absent)
Mr. C. Stanley Ming, M.P.	- (Absent)
Mr. Vincent L. Alexander, M.P.	- (Region No.4-Demerara/Mahaica)
Mr. Raphael G. C. Trotman, M.P.	
Mr. Basil Williams, M.P.	
Mrs. Volda A. Lawrence, M.P.	
Dr Dalgleish Joseph, M.D., M.P.	- (Absent)
Miss Amna Ally, M.P.	- (Region No.5-Mahaica/Berbice)
Miss Sandra M. Adams, M.P.	- (Region No.10-Upper Demerara Berbice)(AOL)
Mr. Jerome Khan, M.P.	- (Absent)
Dr George A. Norton, M.P.	
Miss Myrna E. N. Peterkin, M.P.	- (Region No.4-Demerara/Mahaica) (AOL)
Mr. James K. McAllister, M.P.	- (Region No.3-Essequibo Islands West Demerara) (Absent)
Dr Carl Max Hanoman, M.P.	- (Absent)
Miss Lurlene A. Nestor, M. P.	- (Region No.4-Demerara/Mahaica) (AOL)
Mr Abdul Kadir, J.P., M.P.	- (Region No.10-Upper Demerara/Berbice)
Mr Ricky Khan, M.P.	- (Region No.1-Barima/Waini) (Absent)
Mrs. Rajcoomarie Bancroft, M.P.	- (Region No.8- Potaro/Siparuni)
Mr Nasir Ally, J.P., M.P.	- (Region No.6-East Berbice/Correntyne)
Miss Judith David, M.P.	- (Region No.7-Cuyuni/Mazaruni)
Miss Genevieve Allen, M.P.	- (Region No.4-Demerara/Mahaica)

(ii) Guyana Action Party/Working People's Alliance Party (2)

Mrs Sheila V.A. Holder, M.P.	
Mrs Shirley J. Melville, M.P.	- (Upper Takutu/Upper Essequibo)

(iii) Rise, Organise and Rebuild Party (1)

Mr Ravindra Dev, M.P.

OFFICERS

Ms Lilawtie Coonjah, Deputy Clerk of the National Assembly

Mr Maurice B. Henry, Head Committees Division

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PRAYERS

The Deputy Clerk reads the **Prayer**

ANNOUNCEMENTS BY THE SPEAKER

Leave

Honourable Members, leave has been granted to the Hon Mr Rudolph Insanally, and Honourable Members Mr E Lance Carberry, Miss Sandra Adams, and Miss Lurlene Nestor, all for today's Sitting.

PRESENTATION OF PAPERS AND REPORTS ETC.

By the *Minister of Finance*:

Annual Report of the National Insurance Scheme for the year
2002

QUESTIONS TO MINISTERS

Flood Relief Package

The Speaker: The Honourable Member, Mrs Holder

Mrs Sheila VA Holder: With your permission, I would like to direct this question to the Honourable Prime Minister or to the responsible Minister. The question is: when will the flood relief package for the 70,000 domestic households, small businesses and farmers affected by

the recent flood disaster, which was announced by His Excellency the President, be laid in the National Assembly to allow the Assembly to perform its oversight role?

Hon Samuel AA Hinds: Mr Speaker, Honourable Members, we said, quite clearly in our recent budget presentation, that we would be coming back to this House with a supplementary budget to deal with the cost for relief that would be granted to persons who suffered from the flood.

PUBLIC BUSINESS

MOTION

1. CONFIRMATION OF THE CUSTOMS DUTIES (AMENDMENT) ORDER (NO. 6) 2005

BE IT RESOLVED:

That this National Assembly, in accordance with Section 8 of the Customs Act, Chapter 82:01, confirm the Customs Duties (Amendment) Order 2005, which was made on 26th January 2005, under Section 8 of the Customs Act, Chapter 82:01, and published in the Official Gazette dated 28th January 2005.

The Speaker: Honourable Minister of Finance, you may now proceed with the Motion.

Hon Saisnarine Kowlessar: Mr Speaker, I beg to move the Motion standing in my name. This Order, the Customs Duties (Amendment) Order, No. 6/2005 is seeking to amend the HS 2002 FIRST SCHEDULE PARTS 3B (I) and (II) to further enhance transparency and ac-

countability without harmful effects on revenue.

As you are aware, we recently passed the HS 2002 to bring us in line with International standards, in terms of classification, et cetera.

SCHEDULE B (1), Paragraph (iv), including sub-items 1 through 78 is being deleted and replaced by a new Paragraph (iv) as indicated in the Motion. This paragraph is used to grant exemptions for raw materials used in production. However, sub-items 1 through 78 did not capture every industry type, only certain types of industry.

This new paragraph is more general and all-embracing for manufacturing. It will serve to include those manufacturers who were not previously captured while facilitating new investment in this sector.

This new paragraph will also result in the deletion of paragraph 50 (a) and (b), which deal essentially with packaging materials. As I said, these are now captured in the proposed amendment. The changes to paragraph 11, in SCHEDULE B (1) are self-explanatory: The words:

... in accordance with the published guidelines and/or regulations specific to the industry ...

... are now being inserted. This serves to strengthen this paragraph, while setting out guidelines, et cetera, to ensure transparency with the administration with regard to the granting of concessions.

With respect to SCHEDULE B (2), paragraph 10(1) is deleted and replaced by a new paragraph - 10(1), in which the word *articles* is replaced by the word *goods*, which can have a wider interpretation to include vehicles, et cetera.

In addition, the paragraph is strengthened by the addition of the words:

... and other approved charitable, or non-profit organisa-

tions, in accordance with regulations and/or republished guidelines...

This gives wider scope for concessions and removes any semblance of discrimination that may hitherto have existed.

In SCHEDULE B (2), sub- paragraph 39, items (g) to (j), which deal with items in the tourism sector is deleted, since it is now captured in the new paragraph 11, which has been expanded.

Paragraph 45 is also deleted, as it is now captured in the new paragraph 11. As a result, it is necessary to renumber paragraph 46, 47, 48 and 49, as paragraphs 45, 46, 47 and 48 respectively.

Sub-paragraphs 50(a), 50(b), 50(c), 50(e) and 50(f) have been restructured. As already stated, 50(a) and 50(b), are now captured in the new paragraph 4 in the proposed amendment. Item 50(c) is deleted and reinserted as Paragraph 49(a). This was done to restrict the machinery and equipment for the generation of electricity from non-traditional sources for example solar energy, bio-gas, windmills, et cetera, to those used for household purposes only. Those qualified investors who intend to generate electricity on a commercial basis can benefit from concessions under paragraph 11, once they satisfy the guidelines.

Paragraph 50(e) is deleted as miners can now apply and be considered under (b) (1) item 11.

Paragraph 50(f) is deleted, and is now captured in section 3 (1) (d) of the Fiscal Enactments Amendment Act of 2003. This Paragraph only granted exemptions of duties for fuel from Venezuela and Curacao, and was in conflict with the Treaty of Chaguaramas.

Paragraph 50(d) is retained and renumbered as paragraph 49(b).

Paragraphs 51 and 52 are deleted, as these were inadvertently placed in the HS 2002.

Mr Speaker, as you can see, these amendments are mainly consolidating, rationalizing, and further streamlining the fiscal concessions and exemptions granted and improve transparency on the whole. It is some house-cleaning and tidying up which have been done to make the granting of exemptions more transparent. I therefore commend this Order to this House for its approval.

The Speaker: The Honourable Member Mr Murray

Mr Winston S Murray: Mr Speaker, I would like to begin by refreshing the memory of the Honourable House that it was only in December of 2004 that we passed this comprehensive amendment to the Customs Act to give effect to HS 2002.

Sir, this Act came into full force and effected on the 1st January 2005. Here we are, right on the last day of the first quarter, a mere three months after the Act has come into force to consider making amendments to this Act. No circumstances have really changed since the original presentation of the comprehensive amendments that were done, and Sir, this seems to suggest to me and to the PNC/R that there was inadequate consideration, in the first place, of all the relevant matters to be considered and brought to this House for its approval at that time. I would then put this legislation as one that was rushed unnecessarily to the House and now we have reason and cause to revisit it a mere three months after it came into operation.

Secondly, Sir, what is represented by the Minister as enhancing transparency, I do not agree with. I believe, the amendments that are being made here today detract from transparency. Not all of them, and I shall identify those that we have contention with. The question I am minded to ask, because the Minister made no reference to this, is what kind of consultation, if any, took place with those industries, and the representatives of them, which are going to be directly affected by the new methodology that is being propounded, or put to this National Assembly today for its approval. I have done informal consultations with representatives across the manufacturing sector. I can say, they only tell the PPP/C truth

and not one of them affected by what is being proposed here today that I have spoken to has been consulted on this matter. So, Sir, that is, for me and the PNC/R, to be regretted.

I would now like to turn to the amendments themselves and to point out the concerns which we have. The first amendment that is being proposed is one of contention we have with this Order being put to us for confirmation today. It relates to Paragraph 4, in which items 1 through 78 are now being deleted. Let me indicate to the House what items 1 through 78 did by their retention in the Act we passed in the House in December 2004. A number of specific industries ... and I will highlight some of them for emphasis, were assured by the specific reference to those industries in this comprehensive Act, and the SCHEDULES thereto, that, once they imported raw materials which were not available or produced in Guyana for their specific industries, they would automatically benefit from a duty-free concession on the importation of those raw materials. So we have specifically stated in paragraph 4 ingredients for use in the manufacture of edible oils - substitutes, and margarine. Inputs for those things not produced in Guyana are guaranteed by specific reference to that industry - those ingredients - duty free. Chemicals for use in the tanning of hides - I am going to pick some random ones:

- ingredients for use in the processing of fish;
- glue, hardeners, resins and insecticides for use in the manufacture of particular board and plywood;
- caustic soda for use in the manufacture of glass and glass products - glass which the Commissioner General is satisfied is to be used in the manufacture of louver blades and other windows;
- materials for the manufacturing of sanitary napkins and toilet paper
- materials which are used in the manufacture of mosquito coils;

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- materials for the use in the manufacture of confectionery;
- materials for use in the manufacture of corrugated galvanised sheets;
- for candles and soap;
- for stock feed;
- For curry powder and ground black pepper.

Seventy-eight items, linked to specific industries, and identified in this particular SCHEDULE to the Customs Act, guarantee these manufacturers, once these materials were not available in Guyana, they will be imported duty-free. What have we done now? We have removed these specific references to these specific industries, and the Minister wants me to believe that he is enhancing transparency. He says, they are all now lumped in a new terminology worded as he referred them as follows:

Materials not obtainable in Guyana, but not manufactured or produce therein, which are considered to be raw materials and packaging materials for use in the manufacture of goods, by manufacturers and small businesses, and approved by the Commissioner General of the GRA.

To me that does not enhance transparency, Minister, that in fact reduces transparency, because an industry cannot now, after we have made this amendment today, cannot tomorrow feel assured that it can go the Customs and retrieve and collect its manufacturing inputs. We have now put in the way red tape, because it says guidelines ... this is what will now determine their eligibility *published guidelines and/or regulations specific to the industry*. But Sir, as we speak here today, there are no guidelines.

In a conversation I had with the Minister, prior to the House actually sitting, he said that the guidelines exist in draft. Well, in my respectful

view, and in my Party's respectful view, these guidelines should be simultaneously available upon the withdrawal of the specific concessions to these industries, because tomorrow morning they will not know where they stand. They have to wait and we have to wait Sir, the issue of some guidelines. I am sure the Minister when he gets up to respond will give us some idea of when these guidelines are going to be available; but if we do not know what they contain, we do not know how satisfying they will be to these people they are given to, and these guidelines are at a minimum. The general terminology that is being used here would have had to be available for a simultaneous examination and scrutiny by the House in order that we can fully understand, and accept, that the concerns of the manufacturers, when they get up tomorrow morning, would not be necessary, because every assurance can be gleaned from the guidelines. Certainly, we on this side of the House, the People's National Congress/Reform, specifically, believe that we are being asked to take a leap into the dark and we are not prepared ...

I have spoken to manufacturers who had no idea that tomorrow morning this is what they will face after we pass this Order. I want to suggest to the Minister that there is a better way to do this, if as he said, the intention is to expand this list. There is no need to remove what you have here. If your intention is to cater for industries that are not now specifically mentioned here, you can add a catchall. You can add that, do not remove what exists. You add this and you say *for industries not specifically mentioned, this procedure shall apply*. So two things are clear:

1. Those who now enjoy these benefits of duty-free concessions for the raw materials know that they will continue to do so.
2. Those who do not now enjoy the benefits, can tomorrow understand that guidelines will soon come to take account of them; but not by pulling this off the table and then putting them in some catchall category, you want to assure us that nothing untoward will take place of them.

And, Sir, anything which asks us to take this leap into the dark, we cannot support. I believe the Minister should further make a commitment to this House, because I know that whatever we propose here, by the way of amendment, will carry no weight. They will go ahead and press on with what they have here.

At the minimum I want to ask the Minister to bring to this Honourable House, for its consideration by way of motion, those very guidelines and regulations that he proposes to put in place to take account of the needs of the industries which currently have an assurance in the Act that we have.

I would like to know if the Minister is prepared to give such an assurance to this Honourable House so that we can together, examine them and together be satisfied and convinced that they will take care of the needs of our manufacturing sector. Sir, this is particularly critical at a time when our manufacturing sector is in all sorts of problems. I do not believe a message like this, going out from the National Assembly tomorrow morning, is going to do anything to boost their confidence. Sir, we are really playing with problems. Why do we want to pass these amendments today in a hurry and not have the guidelines simultaneously ready or the regulations simultaneously ready, which would give the assurance, which these specific industries are given, by way of their reference in the current Customs Act? Why is that not the better way to go? Therefore, my other suggestion will be for the Minister to withdraw this Confirmation he is seeking today, and bring back to the National Assembly the Confirmation simultaneously with the regulations and the guidelines, so that we can look at the package as a whole.

Further in this catchall with which he wants to replace these specific references, when we did the comprehensive Act, it was he who brought the items with respect to the hotels in paragraph 39. This was brought only then and if you were going to contemplate ... this did not exist before, you brought this in as a new feature. I thought it was an excellent idea, because it gave assurances to those who want to invest in the tourism sector for example building materials for first installation of approved

hotels, guesthouses and other facilities and attractions and approved renovations and extensions are going to get these duty-free concessions. Now, I do not understand why we want to appear to pull it, and I am taking the Minister's word that the guidelines will be reassuring. I have not seen them. Why do we want, at this stage, to send out that signal? Because that is what is going to psychologically register with the persons who thought, at the end of December 2004, or with effect from the 1st of January 2005, that they were assured of these concessions. Why do we want to change their state of mind in a negative way? I do not believe that that is a move in the right direction, so therefore we cannot support it, because we do not accept it.

Sir, paragraph 10 (1), which is being expanded, I want to say that we can support this fully, because this is a true example of not only an apparent, but a real, visible, written, expansion of concessions in this particular area - a real, written, visible expansion, for it leaves what was there before and it adds these words:

... and other approved, charitable or non-profit organisations, in accordance with regulations or published guidelines...

It adds to them. It did not seek to remove, or apparently remove ... if that is what the Minister want us to believe that, by striking out what preceded, which is goods imported for use by the Guyana Red Cross, St John's Ambulance Brigade, Guyana Society for the Blind, et cetera, it did not remove that ... This is a true expansion and a visible one, it added *and other approved* ... and I am suggesting that this same mechanism could and should be used to expand on the industries that would benefit from duty-free concessions for their inputs. In my respectful view that is not achieved by withdrawing the specific references to beneficiary industries and supplanting that with some catchall terminology which nobody knows the effect of which or the essence of which, at this time.

Sir, I accept the deletion of Sub-paragraphs 50(a), (b), et cetera, but I accept them with reservation - the reservation being that these

things are also deemed to be obsolete, and so there is no need for any specific reference to them in those categories. The principle that they are catered for elsewhere is reassuring, but it is not obvious in the words that the Minister gave to us.

I want to make a specific reference to Paragraph 52, which the Minister is deleting. The Minister says that was there in error, but I have to be convinced. The Minister does not tell the National Assembly where this is catered for elsewhere and I would like him to tell us that, because this item would be of great concern to me and to my Party, especially at this time in the wake and aftermath of the recent devastation by floods. This is what that item says, with reference to benefits from duty-free treatment:

goods, including foodstuffs imported for use in rehabilitation or relief, following natural disasters, as approved by the competent authority.

Why does this have to be removed? Tell me! Tell this National Assembly! Tell us of the PNC/R why? Where this exists elsewhere? If it does, tell us. Do not just get up and glibly say *provision is made for this elsewhere*, because it is you who put it here. You brought it here. Were you unaware at the time that it existed elsewhere or are you, today, trying to pull the rug from under the feet of those who may want to import, using this particular paragraph, in the aftermath of the floods?

You see, that is not clear, it is very unclear and indeed very unsatisfactory that the Minister cannot point us to the specific place where there is this provision that would guarantee that these imports can come duty-free.

I call upon the Minister to do so and to satisfy us that it is elsewhere taken care of. If not, we shall have no alternative but to vehemently object, even though it shall be of no avail. I want to say that. We vehemently object to Paragraph 52 being removed from the list of eligible things for duty-free treatment.

Mr Speaker, having said all of that, I want to put on record that anything I have said today on behalf of the People's National Congress /Reform is not an indictment in the confidence that we have in any official in the governmental system. In particular, I want to highlight the Commissioner General, because I want it to be placed on public record that I have always ... when I have made inquiries and sought understanding about matters having to do with Customs, I can go to the Commissioner General of the Guyana Revenue Authority and he is always willing to provide me with the answers to the best of his knowledge and ability. I want to say that, because I want it to be understood that the references to him or the passing to him of discretion is not something that ... We are not questioning his bona fide in that regard, but we are saying that if the Minister truly believes in transparency and if he would like to convince us that these things would enhance transparency, then they should not be left in the realm of unwritten guidelines, unpublished regulations, because that way we do not believe transparency is enhanced, but rather that things become more opaque. If the Minister insists, Sir, since we do not intend to call for a division on the a Motion, I want it to be placed on public record that unless we see the Minister can gave us the assurances of bringing the guidelines and the regulations to this National Assembly for debate and approval and bring them simultaneously with this Order that we are not supportive of those items that I have identified, whereas I have clearly indicated those that we are in a position to support. Thank you very much, Mr Speaker.

The Speaker: Honourable Minister of Finance

Hon Saisnarine Kowlessar: Mr Speaker, I listened very intently to the Honourable Member making his comments on the Motion. First of all, let me say that I do not agree that these amendments do not add to transparency. The main fact that we are committing to publishing the guidelines and regulations and circulating them widely, will definitely add to transparency. Previously, as we know, many of these things were done at the whims and fancies of the officer or the custom officer in charge. It is no leap in the dark any more. There is no discretion anymore. It is now going to be by publishing guidelines and regulations.

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Let me also say that since the Fiscal (Amendment) Act has come into place, there has been no discretionary power on the part of the Minister or anyone else for that matter, because we now have a system where no manufacturer is suffering at the moment and where they have an agreement with the Revenue Authority decides as to the nature of their goods and concessions.

So when the Member talks about those items, 1 to 78 being deleted and placed under this catchall. I think that is a good thing, because it now does not exclude any industry. No industry is excluded. Everyone will be included at the moment, so no one is suffering from any discrimination.

I also want to make the point that the question of the hotel industry will be taken care of in this new amendment under Paragraph 11. So items like building materials, equipment and so on for expansion of hotels and for new hotels will be allowed. The concessions will be allowed under item 11. The items that the Member spoke of at Paragraphs 51 and 52, if we read the Fiscal (Amendment) Act of 2003, we will see that these items are now covered under the Fiscal (Amendment) Act.

So with those few comments, Mr Speaker, I now commend this Order for the approval of this House.

Question proposed, put and agreed to.

Motion carried

Mr Winston S Murray: Sir, Mrs Riehl was standing while your head was down

The Speaker: I was reading, so... *[Interruption]*

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Mr Winston S Murray: No, sir, but I thought she would least have an opportunity.

Mrs Clarissa S Riehl: Mr Speaker, I wish to ask for a division on this aspect.

The Speaker: Are you asking for a division?

Mrs Clarissa S Riehl: Yes, sir.

The Speaker: Honourable Member, Mr Murray, before the Clerk calls the division, the normal practice is that somebody shouts *division*. So, if Mrs Riehl was standing up and I was reading I would not know, but if she was to shout *division*, which is the normal practice, I would hear.

Mr Winston S Murray: It is not in her character to shout, Sir, but I do understand the point you are making, and accept it.

The Speaker: Proceed, Madame Clerk

AGAINST

Mr Dev

Mrs Melville

Mrs Holder

Miss Allen

Miss David

Mr Ally

Mrs Bancroft

FOR

Mr Neendkumar

Mr Mustapha

Mrs Sahoye-Shury

Dr Ramsaran

Mr Rajkumar

Mr Mohan

Mr Lumumba

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Mr Kadir	Mr DeSantos
Dr Norton	Mrs Chandarpal
Miss Ally	Mr Alli
Mrs Lawrence	Mr Ramotar
Mr Williams	Mr Belgrave
Mr Trotman	Mr Mohamed
Mr Alexander	Dr Ramsammy
Mr Allen	Mr Nadir
Mrs Riehl	Dr Westford
Mr Murray	Mr Sawh
	Mr Collymore
	Dr Bisnauth
	Mr Baksh
	Mr Kowlessar
	Dr Jeffery
	Mr Nokta
	Mr Rohee
	Mr Persaud
	Mr Hinds

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BILLS - Second Reading

VALUE ADDED TAX BILL 2005 – Bill No.3/2005

A Bill intituled an Act to provide for the imposition and collection of Value-Added Tax

The Speaker: Honourable Members, we move to the second reading of the Value-Added Tax Bill. I understand we are not proceeding today.

Hon Reepu Daman Persaud: Mr Speaker, I crave your indulgence to ask that this Bill be deferred for two weeks, and I suggest 14 April. This request came from Mr Murray and he pointed out the reasons to do some more research and consultation and we have agreed. I think, that is clear cooperation from the government.

The Speaker: Thank you, Honourable Member.

[Deferred]

MOTION

**ITEM 3 - SPECIAL REPORT FROM THE PARLIAMEN-
TARY STANDING COMMITTEE ON CONSTITUTIONAL
REFORM**

WHEREAS the Parliamentary Select Committee on Constitutional Reform has submitted a report on its work programme to the National Assembly.

BE IT RESOLVED:

That the National Assembly adopts the Report, and

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directs the Committee to move expeditiously to complete its work, giving special priority to the items concerning electoral matters.

Honourable Member Mr Ravindra Dev

Mr Ravindra Dev: Mr Speaker, I rise to move the Motion standing in my name. This Motion must be seen against the background of another motion which was carried in this Honourable House, which purported to set up a Special Select Committee to look in to giving effect to Article 160 (2) of our Constitution.

Mr Speaker, in our estimation, this is a very regressive stand. The warrant for my argument, and I will state it very, very clearly, lies in what I hope to be a common position held by the Government and the Opposition of this Honourable House - to wit, that we are to be governed by the rule of law as we try to instil democracy in our land.

The Constitution of a democracy stands as a bulwark, a tripwire, as it may be, against encroachment against the rule of law. So we have to be very vigilant, we have to be very careful when we see matters that affect the Constitution being treated very shabbily.

Mr Speaker, our Constitution is a living document, and this Honourable House itself confirmed that when it established a Parliamentary Standing Committee for Constitutional Reform. It is now part and parcel of our Constitution, Article 119A:

The National Assembly shall establish ... and it has established,

... a Parliamentary 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 Assembly, with proposals for reform as necessary.

Therefore, Mr Speaker, it follows that if there is an ambiguity in any of our Constitutional Articles, if there is any matter within those stipulations that are not being given force or given effect, then it clearly falls within the mandate of the Parliamentary Standing Committee for Constitutional Reform to inquire into the matter and to lay a report to this Honourable House for action as it may see necessary.

Mr Speaker, I must say, as a member of the Constitutional Reform Committee that the Committee as a matter of fact, did consider the matter of Article 162 being given effect and life and as a matter of fact, when it worked as a body to put together a work programme ... and this is stated in the report that was laid in front of this House; it says, in the column headed:

Prioritisation Of Issues, that your Committee has examined a number of issues that it considers falls within its Terms of Reference, and decided that it will deal with the following matters as prioritized below, and the number 1 item as prioritized is:

Article 160 of the Constitution, where we should look into the electoral system, with special reference to an element of geographical representation.

Therefore, Mr Speaker, when I say that the clearing-up, or giving effect, to Article 170 ... when I say it falls clearly within the ambit of the work of this Standing Committee, it is not only I, or my Party, who is saying this, the members of this Committee, which consists of some of the most Honourable Members from the other side, and I would like to read their names:

- Hon Reepu Daman Persaud, oldest-serving Member of this House, whom I am sure that his knowledge of Parliamentary Affairs is second to none, voted that this matter falls within the ambit of this Committee;
- Hon Ronald Gajraj, I do not think he took part in the deliberations for reasons that do not fall within the scope of my

presentation today.

- Hon Doodnauth Singh, our Attorney General;
- Mr Bernard De Santos, past Attorney General;
- Hon Dr Leslie S Ramsammy, who participated most fully in the Constitution of this Committee in its inception, voted that it falls within the ambit;
- Mr Ramesh C Rajkumar, another up-coming member of the legal profession across the benches; and

from the opposition:

- Mrs Deborah Backer;
- Mr Deryck Bernard,
- Mr Raphael Trotman,
- Mr Vincent Alexander, and
- Myself.

I therefore pose to this Honourable House that if these individuals, who had the confidence of their respective Parties to be placed in this Committee, which was specifically mandated to look to ensure that the Constitution was a living document ... and I digress a bit, Mr Speaker, to emphasise this point - that if we, at this formative stage of crafting a democracy, if on one hand we can establish a Committee, which tells the world that *yes, we are serious about looking at our Constitution, so it is not dry and arcane, so it is always relevant*; and we establish a Committee into which we put individuals of the highest calibre, then, if we are to pull the rug from under the feet of that Committee and give to another Committee the work that this Committee has already accepted as its own Mr Speaker I warrant that this is doing a disservice to any notion that we are advancing in the cause of democracy.

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At this stage, Mr Speaker, these institutions that we are establishing to enlarge democracy, they must be carefully nurtured and to take away a matter which the Committee in its own judgment with these eminent personalities felt that it falls within its jurisdiction, is to really give a vote of no-confidence in such a Committee, and it speaks not well of a stated willingness by the Government to enlarge democracy, which is to give its own members the ability to speak, to discuss, to debate matters on their merits without any other motive than to advance democracy.

Mr Speaker, you know, during the debate on the other Motion to establish the other Standing Committee, there was, what I called the straw man of elections that needed to be held, that was raised - that we needed to move expeditiously; but I would like to point put, once again, the phrase used by the Constitutional Committee, in that:

it will deal with the matters as prioritized before and the number-one priority was this matter of Article 162.

As a matter of fact, history has overtaken us, because since that Committee was set up because of the urgency, because of the necessary imminence to consider this Article, and to give it life, nothing has happened. It has fallen into what my children tell me is the *black hole*, where things enter and never come out.

Mr Speaker, this matter is much too important to be left to languish or perhaps to collapse, in a *black hole*, as I am told things in black holes do collapse.

In conclusion, I would like to propose that we, as a House, not give in to matters of expediency when it comes to matters of principle. Democracy may be sometimes messy and sometimes slow, but in the long-run, this - giving credence to institutions, will pay off, because it is only by the professionalism, and the upright standing of these institutions that we, as a country, will move forward.

So, Mr Speaker, I would like to commend this Motion to the House

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for its approval. Thank you. *[Applause]*

The Speaker: Honourable Member Mrs Sheila Holder.

Mrs Sheila VA Holder: Mr Speaker, both sides of this House profess to have this Nation's interest at heart. Yet, after four decades of Independence, our people continue to express their disenchantment and dissatisfaction with the rate of progress in the social, economic and political spheres.

They do so, Mr Speaker, by fleeing this land in droves, by hook or by crook, because our political system has failed them and as a consequence, the representatives on both sides of this House have to take some blame. This failure, Mr Speaker, will continue if this Eighth Parliament of Guyana does not do its duty in time for the upcoming elections by allowing this Standing Committee for Constitutional Reform to devise solutions to the blatant structural problems evident in the rules of the political contest played at national and regional elections.

I therefore compliment the Committee for taking the first step, prioritizing the issues of greatest need and taking full control the important Article 160 of our Constitution, which deals with the electoral system.

Mr Speaker, the next step is to get past the prevailing triumph of tokenism, so that the system of accountable representation could be introduced as the Committee proposes to do in looking at Article 160 of the Constitution as a priority.

The history of the struggle against tyrannical majorities enlightens us to the dangers of winner-take-all decision-making. Mr Speaker, the theory is that majority rule, which indeed represents an efficient opportunity for determining the public good, suffers when it is not constrained by the need to bargain with minority interests. This is so because the minority lacks any mechanism for holding the majority to account or even to listen to them. Such majority rule does not promote a culture of deliberation and consensus as our government professes to practice. That is what the struggle against the political systems, such as ours win-

ner-takes-all system has revealed - a zero-sum solution as we have experienced in this land for far too long. The political fallout is long and the people live with the scars to show it. It is pro-governance at every level, it is maladministration, unsatisfactory public services, uncaring action deleterious to the public good, and on and on it goes.

Fundamentally, the winner-take-all system promotes political instability since it does not encourage losers to continue to participate and play the game. Therein lies the difficulty facing our colleagues across the way as well as their supporters and if, after forty years, the PPP/C Government is not prepared to utilize the opportunity presented by the Standing Committee for Constitutional Reform, well then, somebody is going to hold them accountable in history.

Mr Speaker, after all we have gone through in Guyana, it really surprises me that I still hear the argument being advanced which assumes that majority winners, of any election, automatically rule legitimately - even when there is massive discontent in the society, even when there is abnormally low economic growth, high rates of joblessness, and uncontrollable crimes of all kinds even though they pervade the newspapers of today, such as decapitation and the drug issues.

Mr Speaker, if anybody thinks that going in this direction is not needed, they are sorely wrong, as wrong as can be. Political stability could only be achieved when the perception is ... *[Interruption]*

The Speaker: Honourable Member, I am straining myself ... *[Interruption]*

Mrs Sheila VA Holder: ... that the system is fair ... *[Interruption]*

The Speaker: Honourable Member, I do not wish to stop you, but I am straining myself to find some relevance to the Motion from what you are saying. I really do not wish to stop you, but I mean, you must have something relevant to speak to what is under discussion.

Mrs Sheila VA Holder: Mr Speaker...

The Speaker: I do not wish to stop you, so you can proceed Mrs Holder. I just want to mention that to you.

Mrs Sheila VA Holder: Mr Speaker, it is relevant to the society in which we live, because the reality is that we do not live in a homogenous society; we live in heterogeneous society so, to the extent that the Committee has put on its list of priorities the need to address, not only Article 160, but Article 71 of the Constitution, which deals with the establishment of Parliament, and recommendations 9.7.3.2 of the Constitution Reform Commission, is indeed very relevant to our situation.

The point I want to make is that in the final analysis, the responsibility of this Committee is to address the fundamental difficulties that manifest in this society, come election time. And so, in closing, I simply want to acknowledge that I am pleased to see that this matter has fallen squarely within the purview of a Committee that ought to address it. I thank you.

The Speaker: Honourable Member Mr Dev, you need somebody to second the Motion, please.

Mr Raphael GC Trotman: I rise to second the Motion.

The Speaker: Thank you Honourable Member.

The Attorney General and Minister of Legal Affairs

Hon Mr Doodnauth Singh: Mr Speaker, may it please you, the Special Report from

The Parliamentary Standing Committee for Constitutional Reform was presented to this Parliament and I wish to very briefly refer to such aspects of the report.

I wish to draw attention to the fact that since the constitution of the Committee on 5 June, 2003 that for several reasons which I do not wish to refer to, the Committee was unable to function properly.

However, in some of the deliberations which took place and particularly on Friday the 7 May, 2004 dealing with the electoral system, you will observe that Mr Dev suggested that the review of the electoral system should be the Committee's first area of priority.

The Chairman, however, pointed out, on that occasion, that, due to the absence of the PNC/R Members, it may not have been appropriate to discuss that matter. You will observe that the minutes are attached to the report and several matters were discussed - the business of the meeting, the prioritization of issues relevant to the working of the Committee. In addition, and this has not being included in the report which is being presented, I presented suggested Amendments to the Constitution to the Committee and they were circulated to all members of the Committee. Included in the suggested amendments, were those dealing with the judiciary, the electoral system, the Judicial Service Commission and the enabling legislation.

Mr Speaker, I am a little puzzled, and in a little dilemma, with the respect to the prioritization of the work of the Committee, specifically with respect to the electoral system and the geographical representation. The Committee has considered that as an area it should embark upon with the assistance of experts. But then, looming larger over the Committee's decision is the dilemma that the political parties have to arrive at a consensus, with respect to that issue. If, however, there is no consensus in the issue with respect to the political parties, then the Committee will have to probably devise some way to deal with that system. As I understand, Mr Dev's Motion is that it is calling upon the Committee to ensure that that matter is dealt with expeditiously, and as a matter of priority.

The Speaker: Honourable Member Mr Vincent L Alexander

Mr Vincent L Alexander: Mr Speaker, Members of this Honourable House, I rise to support this Motion on behalf on my Party and to mention that the passing of this Motion may well represent a historic moment in the life of this Parliament.

Mr Speaker, we have a Constitution is the most talked-about Constitution in the Caribbean; we have a Constitution that is the most boasted-about Constitution in the Caribbean. There have been many doubts about the actual working of this Constitution, notwithstanding the fact that it is much talked about and much boasted-about.

Mr Speaker, the adoption of this report, but not only its adoption, the works which may be result from the adoption of this report, may well provide an opportunity for our Constitution, not only to be a boasted-about document but a working document. Article 119 A of our Constitution:

(1) The National Assembly should establish a Parliamentary Standing Committee for Constitutional Reform for the purpose of continually reviewing the effectiveness of the working of the Constitution and making periodic reports to the Assembly, with proposals for Reform as necessary.

Mr Speaker, this report provides an opportunity for the Committee to truly embark on that task. In that regard, I would like to make the point, that when we speak about the Constitutional Reform, we are not necessarily speaking about amendments to the Constitution itself. When we speak about reviewing the Constitution, we are not necessary speaking about amendments to the Constitution. We are speaking about the effectiveness of the Constitution, and to the enabling legislation, which makes the Constitution operational and realizable. And in that regard, Mr Speaker, Article 160 of the Constitution and more specifically Article 160 (2) of the Constitution states as follows:

Parliament may make provision for the division of Guyana in such number of geographical constituencies, not being more than half the number of elected Members of the Assembly, as Parliament may prescribe and for the election in each constituency of such number of Members of the Assembly, as Parliament shall, subject to para-

graph(4) prescribe ...

Mr Speaker, it is clear that the Constitution does not itself contain or prescribe the details of our electoral formula, but that those details are found in enabling legislation. And so, Mr Speaker, as this Committee goes to work, it does not mean that the Committee has to look at changes in relation to Article 160 (2), but it may look at changes in relation to legislation which is founded on Article 160(2). In that regard, I wish to reiterate the point that Constitutional Reform in this context, does not necessarily ... and I emphasise *necessarily mean* going to the Constitution and making amendments to the Constitution itself, because the Constitution is the base of our legal system. It is the fundamental law and in many instances the fundamental law itself does not bring to fruition the spirit of the law unless there is enabling legislation to do so.

So, Mr Speaker, I do look forward to this Committee convening in keeping with this priority, engaging in deliberations on the question of the electoral system and, as the report says, some special attention should be paid to the issue of geographical representation and if this Committee proceeds as is suggested, then we can truly say that our Constitution is at work. In addition to that, we can truly say that the Committee itself would have exemplified the potential there is in the Constitution Reform process, which we have gone through insofar, as the Committee would have been an example of how our Committees are intended to work and what they are intended to achieve.

And so, Mr Speaker, on behalf of my Party, we look forward, not only to the acceptance of this Motion, and this report but to the Committee embarking on its work, and to the Committee being an example to the rest of Committees as to the manner in which it is envisaged under the Constitution, we should conduct the affairs of this nation. Thank you, Mr Speaker.

The Speaker: Thank you, Honourable Member.

The Honourable Member Mr Ramotar

Mr Donald R Ramotar: Mr Speaker, I rise to say, first of all, that Mr Dev's statement at the beginning of his speech, about the question of the straw man. The point which he had made during the last debate we had, and a point I thought that was effectively countered, but he has once again sought to raise this issue about elections being the question of a straw man.

I want to say that elections are very serious business and it is not we alone on this side who are saying that there is need for some urgency in order to have these things put in place as early as possible so that the Elections Commission can finish the preparation for their work. The Chairman of the Elections Commission himself is on record as publicly stating this that there is a great need and a great urgency, to finish all the work as it relates to the elections, so that we can have elections in 2006 and not have a problem. Mr Dev, once again, seems to say, by probably repeating this thing that this is not important.

Moreover, the Honourable Member Mr Alexander, admitted in his presentation just now that some of these matters, as they relate to the Elections, are not constitutional matters and we went through these issues in a full debate. The Constitution is explicit. The Honourable Member and the Party to which he belongs, played a full role in writing the Constitution. We thought about the urgency of this matter and because there was need for speed and urgency, it was very important for us to have a full debate. *[Interruption]*

Mr Vincent L Alexander: I want to correct a misrepresentation of what the Honourable Member is saying. On a point of order, I made it explicitly clear, Mr Speaker, that Constitutional Reform is not restricted to amendments of the Constitution and in that regard we are in a process of constitutional reform. The Member is seeking to represent that I did not say that.

The Speaker: Proceed Mr Ramotar

Mr Donald R Ramotar: The fact is that we had a full-fledged debate

on this matter and we even went so far as to establish a Special Select Committee to deal with this issue. The Opposition did not see it fit. They are now talking about the urgency and how important it was, but they did not see it fit to participate in the work of the Special Select Committee of the National Assembly. The Committee has met and it will be meeting once more to finalise the report which is to be brought to the National Assembly in the very near future.

However, Mr Speaker, I also want to point out that our country has a very rich history in the struggle for constitution and constitutional changes and progressive constitution.

In the more recent history of our country, our Party has always played a very important role, and even before the PPP was formed, Dr Jagan distinguished himself in the National Assembly between 1947 and 1953 in fighting for constitutional change within our society. And even in 1952, it was the PPP that led the fight and the delegation to the Bowen Constitution Commission in order for us to have a constitution where we will have universal adult suffrage and a more progressive constitution, which we won in 1953.

After 1953, we have had several constitutional changes, most of which was designed to attack the PPP. The 1980 Constitution - the controversial 1980 Constitution itself - we had fought against the way that Constitution came into being, with the whole question of the rigged referendum and all the other things that brought that Constitution into being.

However, our Party always took a very principled position on that Constitution. We never said that everything in the 1980 Constitution was bad. We always said that there were positive things in the Constitution. What we were opposed to was the powers of the President that were established in that Constitution. What we were opposed to, also, was the way in which that Constitution came into being - the lack of consultation. Today we are hearing a lot of talk about consultation, but we recall, Mr Speaker, that no less a person than the late Mr Joseph Pollydore, who headed the TUC for a number of years, was on record

as saying that not one iota of suggestions coming from the TUC, and he could have spoken for every single person in this country, because not one iota of recommendations made to the 1980 Constitution by our Party and other forces was accepted in this National Assembly. Mr Speaker, even that being so, our Party upheld the progressive parts of the 1980 Constitution.

We said in 1980, we had made a pledge to this nation in this National Assembly - that if we come to Government, we will change those powers of the President [*Applause*] and we have done so. We have done so in many, many instances. It is we who led the Motion. We could have done so a long time before if you had not boycotted the 1992/1997 Constitutional Commission that was there, which was led by the Hon Mr Bernard De Santos, and which you refused to participate in. Mr Speaker, since we came into office, I will say that we have had a revolution as far as constitutional changes and constitutional methods are concerned in our society.

The ideas came from several parts of our society, but if you go back and read, as you should, the 1992 Manifesto of the People's Progressive Party/Civic, you will see many of the things that are in today's Constitution, were there in the 1992 Constitution of the People's Progressive Party/Civic. [*Applause*]

Mr Speaker, while we accept the report, I want to point out that there is still a great urgency in settling the matters relate to the Constitution that the Special Select Committee elected by this Parliament is about to continue its work and present to the National Assembly. Thank you for the attention. [*Applause*]

The Speaker: Honourable Member Mr Dev

Mr Ravindra Dev: Mr Speaker ... [*Interruption*] Oh, I am sorry.

Mr Robert HO Corbin: Only the Speaker can rule. Did you take over the Speaker's work?

Hon Reepu Daman Persaud: On a point of Order, Mr Dev rose and he said, Mr Speaker ... he commenced his reply that was the end off the debate. The Standing Order is very clear.

The Speaker: Mr Dev ... *[Interruption]*

Mr Robert HO Corbin: I had assumed that since three speakers had spoken on this side of the House that there were more speakers from the other side of the House, and I was giving them an opportunity, but if the House proposes to silence me on this important matter I will remain silent.

The Speaker: Once I do not receive a list I make no assumptions and if that is your position, Mr Corbin ... Mr Dev

Mr Ravindra Dev: Mr Speaker, I will make two points. Mr Ramotar implying that I did not see the matter of elections in an urgent light, we simply have to refer to the Honourable Attorney General's statement that, at the very first meeting of the Committee on Constitutional Reform, I brought up the matter and explicitly put it on the Agenda or asked for it to be placed on the Agenda, as the most urgent matter for us to deal with and it still remains so. So Mr Ramotar is merely deflecting from the central point I want to make. Today's historical digression by Mr Ramotar which, I believe points specifically why it is so important that this matter be dealt with within the Committee of Constitutional Reform, because in the evolution of democracy, in the evolution of the workings of Westminster, it was seen that this definitional parting of this House as *us* and *them* needed to be ameliorated. Committees were set up where individuals would be able to work in a more collegial manner, in a more professional manner, dealing with issues on their merits. So it comes back to us as to why did we establish a Committee on Constitutional Reform? We simply have to go to the Constitution to whitt - *for the purpose of continually reviewing the effectiveness*. This does not in any way confine it to changing the Constitution and the Committee as a creature, so to speak, of this Assembly, cannot pronounce on matters that will then automatically become law.

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I wish to remind my friends from across the House that all that will occur is that the deliberations of the Committee will be put into a report, and then the recommendations will be placed before this House for its vote.

I know that the Government has rejected the Davies Report, but I hope that they have not rejected the spirit that calls caused upon any Party to allow their members, especially their back-benchers to get involved with matters that come before them and to deal with such matters in a principled way for the future of this country.

So again, I do believe at a very minimum that form does influence function, and therefore the form of the Committees was intended to enable consensus to be generated. The Honourable Attorney General, Chairman of the Committee on Constitutional Reform, talked about the need for the political leadership to come to a consensus on these crucial matters. I could not but concur wholeheartedly, but the point of fact is that it is obvious that in the body politic of Guyana, we need to use whatever mechanism that is given to us to move that process further.

It is said that some little boy told an emperor that he had no clothes on and I do believe that it lies within this Committee on Constitutional Reform to perchance put together a proposal on electoral reform that the leadership of the political parties of this country may see merit and may go along with. Again, I commend that this House may approve this Motion. Thank you, Mr Speaker.

The Speaker: Thank you Honourable Member.

Question put and agreed to.

Mr Robert HO Corbin: Division.

The Speaker: Everybody said aye, Mr Corbin, so there is no need for a division.

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Motion carried

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

Honourable Minister of Parliamentary Affairs

Hon Reepu Daman Persaud: Mr Speaker I move that the National Assembly stands adjourn to Thursday April 14 at 14:00h.

The Speaker: The National Assembly shall so stand adjourned.

Adjourned accordingly at 15:35 h