

# Official Report

*PROCEEDINGS AND DEBATES OF THE NATIONAL ASSEMBLY OF THE FIRST SESSION (2006-2010) 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*

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130<sup>TH</sup> Sitting

Monday, 9<sup>TH</sup> August, 2010

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*The Assembly convened at 2.36 p.m.*

*Prayers*

*[Mr. Speaker in the Chair]*

## **MOTIONS OF PRIVILEGES**

### **(i) Motion of Privilege against Hon. Dr. Ashni Singh, M.P., Minister of Finance**

**Mr. Ramjattan:** Hon. Speaker, I rise to seek to bring to the Hon. Assembly to Motions on Privileges. One against Minister of Finance, Dr. Ashni Singh, and the other against Minister of Housing and Water, Mr. Mohamed Irfaan Ali. I seek your leave under Standing Order 26, under the Privileges Motion.

**Mr. Speaker:** Could you read the motions one at a time Hon. Member?

**Mr. Ramjattan:** I will read firstly the one against the Hon. Minister of Finance.

WHEREAS, as the 109<sup>th</sup> Sitting of the 9<sup>th</sup> Parliament, held on the 11<sup>th</sup> January, 2010, the Hon. Member, Dr. Ashni Singh, Minister of Finance, presented in his name, Financial Paper No. 6 of 2009 in which approval was being sought for the supplementary appropriation of the sum of \$6,626,800,000.

WHEREAS, out of this sum of \$6,626,800,000 a sum of \$4 billion was being sought for provision for housing development in the said Financial Paper No. 6 of 2009, under Item No. 4, Agency Number 45, and Legend 1900900.

AND WHEREAS \$430 million had already been budgeted and voted for at the beginning of 2009 under this head as is evidenced in the said Financial Paper No. 6, 2009.

WHEREAS, by seeking approval of the National Assembly of this sum of \$4 billion on the 11<sup>th</sup> January, 2010, the Hon. Minister of Finance was representing to the National Assembly that the sum of \$4 billion was to be spent on a date after the 11<sup>th</sup> January, 2010, that is, after the Nationals Assembly's approval.

WHEREAS in the estimates for the year 2010, which was presented to the National Assembly by the Hon. Minister of Finance on 8<sup>th</sup> February, 2010, both under Capital Expenditure, page 429, Legend 1900900 and under Capital Project Profile at Reference 156, under the programme 451, Housing and Water, it is stated that the amount of \$4,430,000,000 was paid out and spent in 2009.

WHEREAS the Hon. Minister of Finance was present in the National Assembly on both the 11<sup>th</sup> January, 2010 and again on the 25<sup>th</sup> February, 2010, when the Financial Paper No. 6 of 2010 and the estimates for the year 2010 were being considered and was present when his colleague, Hon. Minister Irfaan Ali, fragrantly refused to answer questions put to the said Minister concerning when the said \$4 billion were actually spent or disbursed.

AND WHEREAS there is a patent contradiction as to the representation of the Hon. Minister of Finance made in Financial Paper No. 6 of 2009 as against what is made in the estimates of 2010 concerning these \$4 billion in that, in the former, representation is being made to the National Assembly that the \$4 billion had not been spent or disbursed in 2009.

WHEREAS in the latter the representation is that the said \$4 billion was indeed spent and disbursed prior to 31<sup>st</sup> December, 2009.

**BE IT RESOLVED:**

that this House signals its unanimous disapproval of the Hon. Member's misleading statement on the 11<sup>th</sup> January, 2010, as to the said \$4 billion and that the matter be referred to the Privileges Committee in keeping with Standing Order 26 and 32 for a finding of contempt of this Hon. House in relation to the said misleading statement and a determination as to the sanction that should be taken against the Hon. Minister Ashni Singh for misleading this Hon. House.

I proceed now in relation to that which is against Mr. Irfaan Ali and it is in similar context.

**Mr. Speaker:** Let me deal with the one first. Hon. Member. I had the opportunity of having this motion before me for a little while now and I have had the opportunity of studying it and I find that no prima facie case has been made out against Dr. Ashni Singh and therefore the motion will have to stand down. Mere presence, as is asserted here, cannot constitute a prima facie case and I have examined the Finance Paper No. 6 of 2009 and that does not support any such finding either. Thank you.

**(ii) Motion of Privilege against Hon. Mohamed Ally, M.P., Minister of Housing and Water**

WHEREAS the 109<sup>th</sup> Sitting of the 9<sup>th</sup> Parliament, held on the 11<sup>th</sup> January, 2010, the Hon. Member, Mr. Irfaan Ali, Minister of Housing and Water, during consideration of Financial Paper No. 6 of 2009 informed the National Assembly in response to a question from the Hon. Member Mrs. Sheila Holder that the provision of \$4 billion is ready to be spent for housing development.

WHEREAS specifically the Hon. Irfaan Ali was asked this question: "Hon. Minister could you indicate to the National Assembly how soon you will start utilising these funds?" The Hon. Minister's answer was, "We are ready." Thereby informing the National Assembly that the said sum is to be paid out or spent some time in 2010 and obviously only after approval by the National Assembly would have been obtained.

WHEREAS in the estimates for the year 2010, both under Capital Expenditure, page 429, Legend 1900900 and under Capital Project Profile at Reference 156, under the Programme 451, Housing and Water, it is stated that the amount was paid out and spent in 2009. More specifically the amount spent before 2010 totalling \$4,430,000,000.

WHEREAS the \$430 million has already been budgeted and voted for at the beginning of 2009 under this head as is evidenced in the Finance Paper No. 6 of 2009.

AND WHEREAS the estimates for the year 2010 under the said head, 451, Housing and Water, with Project Title: Infrastructure, Development and building, stated a total of \$4,430,000,000 necessarily meaning that the said \$4 billion was spent before 2010; therefore in 2009.

WHEREAS the Hon. Minister Irfaan Ali on both the 11<sup>th</sup> January during consideration of Financial Paper No. 6 of 2009 and on the 25<sup>th</sup> February, 2010, when the estimates were being considered, evaded, avoided and flagrantly refused to answer questions put to him concerning when actually these \$4 billion were disbursed, thereby failing to offer any credible clarification thereto.

WHEREAS the Hon. Member Irfaan Ali, by his remarks referred to above on the 11<sup>th</sup> January, caused the National Assembly to be misled into believing that the \$4 billion will be disbursed on a date after its approval on the 11<sup>th</sup> January when the sum was already spent in 2009 as is evidenced in the estimates of 2010. The Hon. Minister Irfaan Ali has since given no explanation to the National Assembly for his said remarks which contradict the estimates of 2010.

BE IT RESOLVED:

That this Hon. House single its unanimous disapproval of the Hon. Member's misleading statement and that the matter be referred to the Privileges Committee in keeping with Standing Orders 26 and 32 for a finding of contempt of this Hon. House in relation to the said statement and a determination as to the sanction that should be taken against the Hon. Irfaan Ali for misleading this Hon. House.

**Mr. Speaker:** Thank you, Hon. Member. Like the last matter, I had the opportunity of considering this motion for some time which I had before me. In this matter, I find a prima facie case has been made out and the matter is referred to the Privileges Committee. I want to make it quite clear that this is not a finding of guilt. This is an assertion, an allegation and the Hon. Member, Mr. Irfaan Ali, has not been heard on this matter as yet and the matter will be fully

ventilated and trashed out at the Privileges Committee where the Hon. Member will have an opportunity to make a defence which the Privileges Committee will then consider and may or may not accept that defence. The matter is referred to the Privileges Committee.

## **MOTIONS RELATING TO THE BUSINESS OR SITTINGS OF THE NATIONAL ASSEMBLY AND MOVED BY A MINISTER -**

### **SUSPENSION OF STANDING ORDER NO. 54**

“BE IT RESOLVED:

That Standing Order No. 54 be suspended to enable the Assembly to proceed at its sitting on Monday, 9<sup>th</sup> August, 2010, with the second reading and the remaining stages of the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Bill 2010 - Bill No. 16 of 2010.

*[The Prime Minister and Minister of Public works and Communications]*

## **INTRODUCTION OF BILLS**

### **Presentation and First Readings**

**Mr. Ramson:** Cde. Speaker, please permit me to, in a rather belated manner, apologise for the late arrival of the current Bill that stands in my name, the Anti-Money Laundering and Countering the Financing of Terrorism Amendment Bill 2010, Bill No. 16 of 2010.

In keeping with the tenets of transparency, accountability and good governance, I offer my apologies because it was drawn to my attention that the Principle Act that stands in my name or my predecessor’s name... the reporting entities which are the banks and the financial institutions have exhausted their attempts to meet provisions of Section 15 and the consequential...

**Mr. Speaker:** Hon. Member, if we can pause a minute, we are just dealing with the first reading.

**Mr. Ramson:** I am just dealing with the first reading, Sir, but I just wanted to make some prefatory remarks so as to avoid there being some attempt at...

**Mr. Speaker:** I understand that there is going to be a second and third reading. Do you not want to hold your remarks for the second reading?

**Mr. Ramson:** No. I will be deferring to my colleague, the Hon. Ashni Singh, who is much more conversant with this kind of activity. I said conversant. I am not saying that he practices that. Please be weary of the language I use – “conversant with”.

The following Bills were introduced and read for the first time:

**1. ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM (AMENDMENT) BILL 2010 - BILL NO. 16/2010.**

A Bill intituled AN ACT to amend the anti-Money Laundering and Countering the Finace of Terrorism Act.

*[The Attorney General and Minister of Legal Affairs]*

**2. INTOXICATING LIQUOR LICENSING (AMENDMENT) BILL 2010 - Bill No. 15/2010**

A Bill intituled AN ACT to amend the Intoxicating Liquor Licensing Act.

*[Minister of Home Affairs]*

**PUBLIC BUSINESS**

**GOVERNMENT BUSINESS**

**BILLS - SECOND READING**

**ELECTRICITY SECTOR REFORM ACT (AMENDMENT) Bill 2010 – Bill No. 11/2010**

A Bill intituled:

“An Act to amend the Electricity Sector Reform Act 1999.”

*[The Prime Minister and Minister of Public works and Communications]*

**Prime Minister and Minister of Public Works and Communication [Mr. Hinds]:** Mr. Speaker, Hon. Members, last Thursday when we met we enacted some amendments to the PUC

Act as it was enacted in 1999 and today we have proposals in this Bill No. 11 of 2010 for amendments to the Electricity Sector Reform Act of the same year, 1999.

As I said then, we have had various experiences since 1999 and therefore we think, some eleven years later, it is appropriate to sum up these experiences and bring some amendments.

In this one, we are making amendments particularly to deal with the theft of electricity. It is not our desire to fine people and to put them in jail, to imprison them. It is not our desire to do these things to our people, but we have been trying various methods of educating and encouraging people to desist from stealing electricity; to change a culture which is based somewhat on a feeling, I think, that electricity should be supplied as a right, but it costs a lot of money to provide electricity. In this amendment there is a large portion that deals with that, but we do not only deal with the issue of trying to toughen and enforce the prohibitions against stealing electricity.

In Section 2 of the Principal Act, we make an amendment which would remove the burden from persons who may want to supply electricity to the public supplier – GPL in this case. As the law now stands, someone who may want to supply electricity to GPL may find that they may be considered an independent power producer at the existing Section 2 (g), and in 2 (p) there is a definition of “public supplier” which means “any person who supplies electricity for public purposes which includes an independent power producer.” Once someone, such as “a Banks DIH” or “a DDL” or anyone else, as a saw mill which finds that they may have extra electricity that they may supply to GPL, as the law now stands they may find that they are required to meet all the burdens of a public supplier. This amendment exempts those companies which may supply electricity to GPL – in our case – once it is not their principal business and once they are not supplying more than 10 megawatts. This facilitates persons who are not in the electricity business as their main business, but who have extra electricity to supply to GPL with no fear of coming under some vary onerous requirements.

In clause 3, we put here now that the public supplier, and in this case again it is GPL mainly, but there is also Linden Electricity Company Inc. (LECI) at the moment – we have not only GPL as a licenced public supplier of electricity – we have the Kwakwani Utilities Inc., we have the

Lethem Power Company Inc. and with our program of putting in a small grid in Mahdia and Port Kaituma we would also have them licensed as public suppliers of electricity in their areas.

Clause 3 of this Bill now allows or enables a public supplier of electricity to refuse a supply to anyone who has been convicted of three or more offences under the Act.

In Clause 4, we extend out of our experiences, the requirements of public supplier of electricity. This comes out of our experience and whilst GPL in its annual rolling development and expansion plan meets the requirements in here, it was thought that it should be enacted so that it is no longer a matter of choice, but that the PUC and the GEA, both of which review the development and expansion plans of public electricity suppliers, now have the authority to demand that certain things be spoken to in the development and expansion plan.

In sub-clause (a) there is a requirement now for not only looking five years into the future, but having a fifteen year perspective when the development and expansion plan of a public electricity supplier is made. In sub-clause (b) we have listed a number of things which are good practice for a public electricity supplier to think about explicitly and to write up in their development and expansion plans and which, as I said before, GPL has been doing. For example, they are now required to have a statement about planned acquisition of new generation capacity, loss reduction strategies, regaining industrial customers – provided that there are some of course – plans for providing electricity for development and redevelopment projects in urban areas, cost benefit analysis of each investment project – this would seek to prevent over investment in certain cases. Then there are the additional things. There is quite a list of things a well-run business would normally consider but which are now required to be placed in the development and expansion plan.

In clause 5, we make it clear here that, in case there was any doubt or uncertainty before, in the general case of a public electricity supplier, it has the right for easements, way leaves and rights-of-way for the placement, construction and so forth of its equipment – its poles, its lines and so on. They have those rights for easements, way leaves and rights-of-way only for the purpose of running the distribution networks and so forth, and not for any other purpose.

Section 6 – which is a very large part of this Bill – deals with amendments to enforce penalties for the stealing of electricity and in any other way corrupting the provision of electricity. In

clause 6 we are repealing Section 60 of the Principal Act and replacing it with this much longer and much more detailed section. We are specifying in more detail the criminal acts with respect to the stealing, wasting or diverting electricity, including tampering, damaging or destroying any meter or electricity line after disconnection; reconnecting by one's self or procuring any other person to restore it; gives, offers or promises anything of value to any official, employee or contractor for the purpose of influencing or inducing any such person to commit or aid or abet one in any offence.

In the first part of clause 6 we define with more certainty the range of criminal offences with respect to the provision of electricity and in the next section we are stiffening up the fines. We have a number of classifications of customers. In the case of fines we are making a separation between the domestic customers and the other customers. In the case of domestic customers or people who would be classified as domestic customers, if they had gone into GPL to enter into a contract with them or any other public supplier and in such a case there is a conviction for some offence then for the first offence they are liable to a fine for not less than \$50,000, and in the second offence not less than \$100,000, and in the third offence there is a mandatory imprisonment period. For the larger customers there are those fines and periods of mandatory imprisonments. The fines have been increased, but the period of imprisonment is the same. The fines are increased in the case of larger customers.

*3.06 p.m.*

In sub-clause 2, we have listed, in particular, aiding, abetting, and counseling as a particular offence in the stealing of electricity. We have put in here too that a current or former official, employee, contractor, sub-contractor, agent or representative of a public supplier shall be liable to double the fines and imprisonment that I spoke to earlier. People who have been working in the electricity sector, either for a utility itself, a contractor or anyone involved in the business of providing electricity, face twice the fine and twice the period of imprisonment when they become engaged in, and if they are convicted of being engaged in the illegal use of electricity.

Clause 6, sub-clause 3, deals with the case when fines are not paid. From experience, it seems as if some persons are not ready to pay the fines and in this sub-clause there are provisions made for periods of imprisonment if the fines are not paid.

Sub-clause 4- in any situation where electricity is being stolen at a premise, it is our position that people who are residents in the premise may well know that electricity is being stolen. And so every person over the age of 18 years occupying a premise at the time of such offence shall be deemed guilty thereof, providing that where there is an agreement with one person. If that person is also a resident in the premise, then the offence would be restricted to that person only.

Sub-clause 4 (b) speaks to the case where electricity is being stolen by a company. It says that the major officers of that company – director, officer, manager, corporate secretary, sole proprietor, partner and an individual acting under power of attorney shall be liable unless that person can show that the offence was committed without his/her knowledge and that he/she had exercised all due diligence to prevent the commission of such offence. It is something regrettable to note that the stealing of electricity in Guyana has not been a respecter of persons – maybe it should be reversed. People from all walks of life seem to have been in position where there has been good grounds to suspect that electricity is being stolen. Even in the case of companies, there have been good grounds to believe that electricity was being stolen. As such, it is necessary to speak to the situation of companies also.

Sub-clause 5- there have been disputes on the question of what moneys Guyana Power and Light or any public electricity supplier can recover when it has been shown that there has been some diversion of electricity - some acquisition of electricity that has not been metered, not charged and not paid for.

In the old arrangements, GPL had a right to back bill for certain times and so forth, but this was a matter that has always been in dispute. In this amendment, fixed sums are being put for different categories of consumers. For residential consumers there is a fixed sum of \$200,000. For small businesses the sum is \$500,000 and for the largest of businesses, \$2.5 million is fixed. There is a provision that a person in that position has a right to prove that for the sum that is standard, less electricity was abstracted, diverted, stolen, wasted, consumed, improperly registered or otherwise used. If he can demonstrate that these sums are more than what was involved in his particular case, then the fine would be reduced to that amount.

Regarding sub-clause 6, there have been disputes also about GPL – it is the one that we have more experience with - or any public supplier, but it is largely GPL so far, about their right to

enter onto premises, which I am told does not necessarily include the building, but even on the land, to do anything they need to do, such as removing any equipment or device that may be furthering prohibited activities. In the past, there have been challenges about the right of GPL to do so. In sub-clause 6, we now make it clear that GPL has a right to enter into premises to prohibit any furthering of activities that are related to the abstraction of electricity.

In the second part of that sub-clause, the public supplier is not liable to trespass, but it is liable for any damages that might have been caused in going to a meter. If a meter is suspected to have been tampered with, with the passing of these amendments, it is clearer now that the public supplier of electricity has a right to go on the land to check on and, maybe, remove any bypasses and so forth. If in the course of doing so the public supplier damages anything, then it is liable for that, but it is not liable for being charged with trespassing.

Regarding clause 7, let me note here that in the notations on the side, there is an error. At the listing of the sections, there is the correct term “repeal and re-enactment of Section 61 of the Principal Act” but in the notations on the side it is incorrectly listed as “amendment.” At the appropriate time, I will move that this amendment be made here.

Clause 7 seeks to remove the necessity on the Minister responsible, myself at this time, for signing or instituting every charge that is to be made against someone. At this time, Section 61 of the Principal Act says that for every offence, every institution of charges is to be initiated by the Minister. And so, maybe, in the last two weeks I sat and signed about 100 or 200 letters empowering the Commissioner of Police or someone else to initiate the charge on my behalf. These amendments enable the Director of Public Prosecutions, the Police or a public supplier itself to initiate proceedings in respect of any offence under Section 60. It is still required that charges for other kinds of offences be initiated by the Minister responsible.

As I said earlier, we bring Bill No. 11 of 2010 out of experiences that we have had over the last eleven years and we do this so as to make for a better electricity supply and to improve in some areas at least, the electricity supply in our country. If we look at the commercial losses, in particular, it may be argued by some that as much as 1/5 of all electricity generated is abstracted. We have been trying to educate and encourage the public at large to no longer continue in that behavior.

It is not uncommon in many developing countries for there to be a high commercial loss, but as we are on the road to development and as we develop, we have to change our ways. Unfortunately, tough action and a tough stance is often a requirement for changes in the way we behave. Our hope is that no one would be stealing electricity anymore in Guyana and what we are doing today, particularly, the largest part of this Bill would not be needed and we may just as well throw it away. Until I can get a guarantee of such, we do need this so that maybe we can hold up a big stick and then everyone will fall in line. That is what I hope. That is what this Government hopes and we will look forward for support from all sides of this House for the second reading and passage of this Bill. [Applause]

**Mr. Carberry:** The Electricity Sector Reform Act of 1999 was controversially debated and passed by the Government on 29<sup>th</sup> July, 1999 which is eleven years ago. This Bill was premised on the creation of the GPL Inc. out of the Guyana Electricity Corporation (GEC) in preparation for the introduction of a 50% strategic co-investor namely the Commonwealth Development Corporation (CDC), ESPI The Bill was intituled:

“An Act for the regular, efficient, coordinated and economical supply of electricity or for matters incidental thereto or connected therewith.”

Mr. Speaker, could the Hon. Prime Minister say whether the amendments now being brought are premised on their being another strategic investor? I ask this question because if we go back to the debate on 29<sup>th</sup> July, 1999 and with your permission I would like to quote what was said in that debate. For example, the Hon. Prime Minister stated very clearly:

“Mr. Speaker, this PPP/C Administration embarked on and is pursuing privatisation of the Guyana Electricity Corporation.”

That was one part of what he had to say. I find it most interesting that he went on to say:

“Mr. Speaker, we have not given up on our nationalism. We are not colonialists or neo-colonialists. We are pragmatists.”

I thought that was very interesting coming from the Prime Minister. My question on whether or not these amendments are really preparing the ground for another strategic investor has been informed by these statements made previously. In fact the Prime Minister, I believe, displayed

tremendous candor on that occasion when he said and I am quoting him again - I am quoting from the Hansard at each point here:

“We need to conclude this transaction for a very solid reason that matters to all of us in Guyana and that is money. In fact, I always feel somewhat of a resistance to a parrot and stick.”

I think he meant “carrot and stick”, but it is reported here as “parrot and stick”.

“When we look at the current situation, the conclusion of this negotiation makes available to us some US\$30 million as a carrot of balance of payment support.”

I do not know. Maybe there is another “carrot” that is available that has caused the Prime Minister to come with this alacrity to the National Assembly to make amendments to the Bill.

It is also interesting to note that the then Minister of Housing who was none other than the Hon. Shaik Baksh in that same debate made some very profound statements. For example, he stated:

“The Government has a very dynamic privatization programme since it came into office in 1992.”

He continued:

“The people of this country expect a safe, reliable and efficient supply of electricity.”

He went on further to say:

“What we have decided to do is capitalise the GEC. The capitalisation transaction it must be noted is not a sell-out. It is 50-50 joint venture arrangement. There is co-ownership for the new GEC known as the Guyana Power and Light Company between the Government of Guyana (GoG) and the investor, CDC, ESPI.”

Of course, we know that there has been a change in that and what I would like to find out from Minister Baksh relates to something else that he said in the same Hansard:

“What is also important to note is that within two years, a private placement will be made for the private sector of this country to participate by buying shares in GPL. Also, within

five years there will be an initial public offer in which the people of the country, including employees of GPL, will be allowed to purchase some 15% of the shares of GPL, that is important. After five years we will have a 40-40 “shareholdership” between the Government and the investor as well as the other interest groups in Guyana.”

Again, I am curious to know whether or not these plans are still in the pipeline or whether there is a change of heart. I suppose that given the amendments proposed in this Bill, we are dealing primarily with matters incidental thereto or connected therewith. However, however important these tidying up amendments are they do not address the issues which are of critical interest to the Guyanese people at this time.

The amendment to Section 2 (g) requires some clarification. The Prime Minister in this presentation did say something about it. Let me ask the Prime Minister: why is ten megawatts the upper limit? I ask that because the Prime Minister is aware that arrangements in the Bauxite communities and the expectations of supplies from GPL to Guyana Sugar Corporation (GuySuCo) would, in fact, be more than ten megawatts. Maybe there is an explanation and I would be very happy if the Prime Minister gives that explanation.

The amendment to Section 24 with the introduction of the new Section 24 (d) and the new Sections 60 and 61 testify to the preoccupation with the theft of electricity from GPL. In that context, could the Hon. Prime Minister state how much of this theft is due to corrupt transactions by GPL personnel with large customers of GPL? What is more, is who will be prosecuted? Is it the small, poor and suffering consumer who because of the pervasive conditions of poverty is driven by poverty to satisfy his/her need for electricity through taking very dangerous risks?

The amendment to Section 42 (12) is by way of tidying up or housekeeping. We, on behalf of the people of Guyana, want to know when the Government, who is now the sole owner of GPL, will ensure that we enjoy the regular, efficient, coordinated and economical supply of electricity. The amendments which we find of great interest are those to Section 38 of the Principal Act. These go to the core of the arrangements for efficient and effective management of GPL. We hope that the relevant documents will be made available for the information of the National Assembly.

The new Section 38 (10)(c) is most interesting since it requires a 15-year rolling demand forecast. This is bolstered by the new Section 38 (2) (kp) which adds greater precision to the requirements from the management of GPL.

With your permission Sir, I would like to spend some time discussing the implications of this in the context of what I assume was the original intent of or motive for Section 38. Before I discuss some of the technical and managerial implications of the amendments to Section 38, I wish to place what I have to say in the context of some of the pronouncements made during the 29<sup>th</sup> July, 1999 debate and here again I turn to the Hon. Prime Minister who stated:

“We have, Mr. Speaker, a number of companies that are awaiting the outcome of this privatisation in order to make some important decisions. One such company has a plan with the provision of some five megawatts of power for its own operations and it has had that decision on hold waiting for this privatisation to be completed. It is important that they look to an electric utility to provide them with this power because it is this coming together and bringing together of all the electricity needs in Guyana that we have the opportunity to provide all of us with power lower than what we will be able to do by ourselves.”

I think it is important that we bear in mind that this is what the Prime Minister said was his expectations. The then Minister of Housing was very explicit on this matter and he said and I want the Prime Minister to bear this in mind.

“The next aspect I want to deal with, Mr. Speaker is the management contract. We know the weakness in the running of GEC and what the management contract will ensure is that there is a “Guyanisation” programme. Initially, fourteen persons will be coming to run the utility but after five years, the number will be reduced to four persons so we have a “Guyanisation” programme. This must be clear. There will also be training programme to ensure that finally the majority of Guyanese run the new utility.”

I think that the Minister was prophetic because in less than that time there was a total “Guyanisation”. The Hon. Minister also made another profound observation and again, Sir, I would like to quote him:

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“We want to see the economic development of this country and we know that byprivatising this entity on a joint venture arrangement this will be achieved.”

In other words this objective will be achieved; the language is a little funny. That is what he said and, therefore, again I come back to the question I started with: is all of this, premise on there being a new strategic investor?

Section 38.1, along with the new section 38.1(c) is very specific about what is required of the Guyana Power Management. Could the Hon. Prime Minister say whether the GPL management has presented the required five year sustainability programme to his office? And when they will be presenting the fifteen (15) year new rolling demand forecast that is required by the new Section 38.1(c)? I wonder if the Hon. Prime Minister would like to share with the National Assembly the forecasted electricity demand expectation of GPL over the next five years. Bearing in mind the expectations of the Prime Minister, as stated previously could the Hon. Prime Minister say what is the GPL programme to win back the suppress demand that the unreliability, instability and cost of electricity caused to be supplied by self generation? You might be aware, from a national economy point of view; self generation based on imported petroleum fuels imposes additional foreign exchange burdens on the national economy. Therefore, I agree with the Prime Minister that from an economic and technical point of view it would be better if this demand is met from a national grid. This is what is envisaged by the new Section 38.2(M). In accordance with the new Section 38.2

In accordance with the new section 38.2 (kp) the GPL should be presenting their planned acquisition of new generation capacity as a critical element of their sustainability programme. The Hon. Prime Minister could also let us know what the functioning installed generation capacity of GPL is and how many millions of Guyanese tax payers' money has been spent, to date, for the installation of the present GPL generation capacity since 1992? Assuming that we exclude the generating plants at Versailles and Cane Field further assuming that Wartsilla Plants were not previously installed elsewhere, the average age of GPL generating plant should be less than ten years. Therefore, could the Hon. Prime Minister kindly explain why we are experiencing the now frequent power outages? The new section 38.2(P) points to the presence of a loss

reduction programme by GPL, in particular, at the reduction of technical losses. In that context could the Hon. Prime Minister be kind enough to share his insights with us regarding the completion of 50 cycle conversion programme and the modernisation of the transmission and distribution system.

I want to conclude on the well publicised energy conservation programme which GPL has been promoting. This is a very laudable initiative by GPL but its credibility is dependent on consumers seeing positive benefits from their efforts at energy conservation. I will use my own experience to illustrate my concerns. Like most typical households I have the following: a refrigerator, a freezer, a washing machine, a microwave cooker- used for heating foods, televisions, external security lights etc. Now washing and ironing are done, according to the guidelines from, once a week, the external security lights all have energy saving bulbs which provide the equivalent to 75 watts, I have added no new equipment for more than two years, I personally manage my household energy conservation. Let me give you an idea of what my light bills look like that will tell you; and I am using the last six months so that you get an idea of why this programme is not taking off. There is not an incentive. I believe that GPL needs to look very carefully at ensuring that when people seek to conserve they will benefit. In March of this year my bill was \$24,786.

Now Sir I want to say this, I have been practising this energy conservation for the past four years. In April the bill was \$19,462, in May it was \$27,260, in June it was \$16,936, I was out of the country for six week and the only electricity used apart from the refrigerator and freezer was the external security lights, in the July bill the amount fell dramatically to \$12,578 and somewhere along the lines in August I now have a bill for \$18,010. How do we explain these variations? The fact of life is that the consumers of electricity who are very willing to conserve, because after all it is very expensive... there must be a programme which shows consistently how they are benefitting from these conservations efforts. Thank you very much. [*Applause*]

**Minister of Labour [Mr. Nadir]:** Mr. Speaker, I listened quite attentively to the last presenter, the Hon. Member Mr. Carberry. I listened to all of the questions he has for the Hon. Prime Minister and one must understand the scepticism that his presentation has in it and like any reasonable person, and I know Mr. Carberry is a very reasonable person, when one looks at the

debates in the National Assembly in 1999 with respect to the ESRA and what has happened ten years plus later clearly those questions would immediately jump out at you. In fact, in that debate I thought that privatisation would have been a cure for the problems of GPL. While we are seeing significant development in the supply of electricity to the consumers of Guyana we are still not satisfied. Ten years on from privatisation and from the passage of the ESRA there have been significant improvements in the supply of electricity to the people of our country. But in spite of that we still have a tremendous amount of problems.

On the passage of the ESRA in 1999, in spite of all that was said by the speakers on the Government side, we did have the privatisation, I think it was in October of 1999 and that privatisation process lasted until April of 2003. There were a number of problems and we all know of the several times that we have heard top officials of the country, at the highest level complain of the service. One very senior official once said that we must judge the performance based on when we could flick on the lights and electricity is there. Flicking on the light; meaning that the supply should be there and when you put on the switch you should get power. I think that situation today had changed. We get, yes, maybe too frequent interruptions but they do not last for that long in most cases. For example, this morning where I live in Eccles, the electricity came off at about 7.15 and when I was about to resort to lifting water it came back on in about 15 minutes. It is not a case where I woke up, put on the switch and there was no power; I waited for three hours and then there was no power. By and large we have seen an improvement and the Bill before us today addresses some of the major problems we have with the supply of power.

Let me continue on with the end of the privatisation contract. I remember being very involved with those discussions. In 2003, as the 50% partner owner was looking at significant increases in the rates of electricity. They had a number tided conditions and every time one went into the negotiations with them there was always a shift in goal post. I think, I said to one of the British Lords who came with the team at that time, one would be very wary in dealing with our partners because I said; I did not believe that they were dealing in good faith. That is history now and we had to resort to taking over the GPL once again, in full. I remember the Hon. Prime Minister saying on many occasions that we are looking for partners and he floated many models, at least two were floated during that period. But what can we do if they are not partners on the horizon? What do we do if we do have to repair an aged system? We have to take control of it and grapple

with it. Today the commercial losses are around \$3B; we have heard the principals at GPL say that over and over again. We also have, perhaps, half of that in line losses or technical losses but the commercial losses are \$3B and these provisions as outlined in Clause 6 of the Bill are addressing that. They are addressing that in collaboration with what GPL is doing in terms of greater inspection and policing, the disconnection campaign of illegal connections, dealing with public education campaigns and they are also looking at the technical losses. I know the same provisions that we would have imposed on a private operator; we have also imposed them on ourselves. These are in terms of meeting reduction in technical losses.

This \$3B that we have to address is not only by the fines alone. One would want to use the public education campaign, one would want to use the technical solutions including the conservation, and only recently the Chief Executive Officer of GPL mentioned that over \$1B will be spent in acquiring transformers within the next year just to deal with the conversion and another \$600M will be spent in dealing with other replacement of lines. That is \$1.6M, half of what is the annual estimated losses due to theft. From my knowledge and I have had the opportunity of sitting with the Prime Minister over the last eight years with respect to dealing with GPL. There are tons of reports. I think all are available to the Economic Services Committee if they ask. I do not know how many times GPL has been required to appear before this Committee but from my estimation the system could do in addition to the rectification of the technical losses, the transmission and distribution, perhaps another 30 mega watts of generation at this time. That is my estimation, and when I looked at \$3B which works out to about 15M US dollars, if you look at the technical losses and the new generation within two to four years if we can stop the theft GPL's own revenue can fix their problems.

Yes the Government has had 18 years to deal with fixing electricity but there were priorities. I remember sitting on that side when I said the first priority of the Government has to do with debt-their heavy debt burden and that was tackled frontally by not only seeking debt reduction in terms of debt forgiveness but it also dealt with the Government making payments on debt so that we can restore credit worthiness. Education is also important and the repair to the social and physical infrastructures was another area that requires priority expenditure. I also remember sitting when a white paper was presented on privatisation, and many times we are going to lose all of this history. I think there were 22 companies listed for privatisation including GPL with

State retaining three of them. That was Guyana Sugar Corporation (GuySuCo), Guyana Oil (Guy Oil), and the Guyana National Shipping Corporation (GNSC). By and large all of the 19, except GPL have been very successful privations. Companies, today, that have turned the corner; not only producing to provide a profit on their investments and a return to shareholders, but also making a significant contribution in terms of export revenues and so forth. Yes we have had, and we acknowledge that, a very slow turn around in terms of the Guyana Power and Light Company. What we have to note is that in spite of what was inherited we have seen the growth in the economy and the increase in demand for power. It is nothing like what happened between the period 1989 and 1991 because, I remember the International Development Bank lending the previous administration \$52M USD just to inject into GPL. 52M USD was then more than the education budget. At the end of that three year cycle the IDB, and it is in the IDB records, noted that the project was inefficiently executed. They complained of poor management and a number of other things. [Mr. B. Williams: Is that the Wartsilla thing?] Wartsilla had to come to the rescue; Dr. Jagan and the Wartsilla plants had to come to the rescue. So in spite of spending 52M USD in three years; 1989 to 1991, all that we had to show for it was a bunch of trucks running around with a bit on the back to drill holes to plant new poles. That is what the reality was.

The Government, I am confident the Prime Minister will stand up and say ‘yes we are still looking for partners and we are willing to work with any investors.’ What these provisions do is not only strengthen the prosecution with the penalties but they also, as Mr. Carberry said, speak to the issue of presenting the plans, the 15 years, the annual review, which I find most welcoming. I just want to deal with the penalties; I think there is a section here dealing with the penalties that puts double penalty to employees of GPL who are caught tampering or performing anything that is on the list of issues that is highlighted for penalties. What is also included on the list is vandalism because some of the public utilities - Guyana Telephone and Telegraph (GT&T) for example, will tell you that they are seeing something new, and it is not only the theft of their cables, it is just vandalism. GPL has been experiencing that also. I remember a few months ago having a complaint that in the space of two weeks there was vandalism in the Stabroek area, putting at risk not only the power but also the service from GT&T. I trust that this is not a trend. That some form of economic terrorism by vandalism is creeping in, as we come into this season

of trying our best to ensure that we continue to deliver a better service to the people of this country in all areas.

From the last debate we had on GPL we know that the company had over a million complaints coming in. Almost 60% of that is people not uplifting their bills and GPL had to write bills for them. Much work has gone into refurbishing the billing system. I think there was a big contract ordered sometime last year and from my knowledge of GPL they have reduced that three to four month that backlogging to about one to six weeks, one month. So the investment, \$3.5 - 4M UDS, in that billing system has served to improve billing and to cut down the lap time between the meter reading and delivery of the bill by almost 200%. One can understand a utility like GPL now being able in a timely manner to collect its revenues and that is why, I think, we are seeing GPL instead of having to deal with a high overhead cost in terms of bank overdrafts, being able to deal, at least, with its current revenues and current cost.

The amendments that are tabled here... I think the Prime Minister will agree we have been working very assiduously to ensure that we can put real modern legislation in place, real-up-to-date legislation, reviewing the legislations. We have been working with international companies to bring the best practices to Guyana. I am sure that those companies that we have worked with, the Financial Institutions, would not write a report as they did in 1991-1992 about projects being inefficiently executed and poorly managed, but they will tell you frontally that the Government is dealing, as Mr. Carberry says, transparently with the reform of the electricity sector. These provisions will go a long way towards that goal. Thank you very much. [*Applause*]

**Mr. Ramjattan:** I yield to Mrs. Holder.

**Mrs. Holder:** Mr. Speaker, I think Mr. Ramjattan would prefer that I say something unexpectedly. I believe I can bring to the attention of this Hon. House the fact that many years ago, when I wore the consumer protection hat, I advocated very vigorously, that something should be done about the high level of theft of electricity. Now that I am in this House representing the Alliance For Change I can only say that we hold fast to the position that the high thievery that goes on is something undesirable for a society that claims to be a fledgling democracy. I must also make the point that the international financial institutions and the international consumer protection bodies have taken the position that public utilities are a basic

right of consumers. In this context we have to view the high level of thievery that takes place within the sector. It is right that many Guyanese have been denied, as a consequence of the inability of this administration to deal with the pressing issue of economic development and poverty alleviation.

I want to say that the amendments before the House today that seeks to penalise the small man, and indeed the bigger ones for stealing electricity is not necessarily a desirable act on the part of a Government that claims it is a Government of the people. Many people have to face the dilemma of whether or not to steal electricity to allow their children to study and read, whether to steal electricity...I mean it is just a basic right. I cannot over-emphasise that it is nothing but an act of degradation on the part of the Administration not to do more to bring it to a halt by channelling, as far as I am concerned, essential revenues in the most vulnerable sections of our society, also boosting an education programme in the most vulnerable sections of our society where the high risk associated with stealing electricity have caused the loss of lives. It just goes to show the desperation in those communities, when they would go to the extent of stealing electricity that will cause many of their own to die as a consequence.

I recall passing through Tiger Bay on Saturday morning, I was stopped by a number of young men who said to me 'I desire to be a responsible person in this society. I cannot find work. I want to work.' In no time at all a crowd built up and a young man came on a bicycle with a child and he said 'I want to feed my child! I want to work. Where can I find work for me? Do you have jobs for me?' That is the root cause, and so all the Hon. Prime Minister might have said in this House today he avoided the responsibility of this administration to address the needs of the people, to make sure that they can find work to pay for this electricity.

*4.06 p.m.*

I want to make the point that the Hon. Prime Minister who in anticipation of comments on this side of the House about the technical and commercial losses failed to anticipate my view of it, which is a foam of theft on the part of GPL on the backs of the consumers of this country. It is the consumers of this country who pay for these losses in their bills. When I asked the Hon. Prime Minister a question very recently about the privatisation of GPL, it was he who said, I believe very improperly, that the transfers to GPL are really transfers to the consumers. In that

these transfers offsetting say increases in fuel prices, and the provision of financing at a very concessionary rate, make for tariffs that are lower than there otherwise would have been.

I wish to make this point. It is not for the Prime Minister to decide how consumers must spend the money which they want. These transfers appear on the surface to be doing a good, but in actual fact, they are denying the right of the consumers of this country to decide how the funds which they put into utility services ought to be spent. They have a choice to decide whether they would want these moneys to be spent in this manner. So he has in fact robbed the consumer of a basic consumer right to choose. I do not think that this is acceptable. I believe that some effort should be made which would fundamentally deal with the problem of GPL.

A few years ago I recall having to complement GPL. In fact, I recall particularly identifying after the privatisation failed, complementing the local staff for improving the quality on the service that appeared to me at that time to have improved somewhat. I want to make the point today that we on this side of the House acknowledge that the Guyanese professionals who operate within GPL do so within tremendous limitations, and we would like to complement them for sticking to the task at hand, and to also express to them our expectation that they will get a handle on some of these problems and bring to a decisive end, the burdens that GPL has placed on the backs of the people of this country.

The other point I would like to make to the Hon. Prime Minister is that this administration has a responsibility to educate the public about these amendments. I made the point last week that many who ought to have been aware of these amendments did not have the privilege of seeing the bill because it had not been properly available to them. I believe that is a fundamental flaw that we acknowledge as we sit in this House and not understand that what we do here is the business of the people, and we are obligated to ensure that the persons in this country whose lives we affect when we present an argument on their behalf, they ought to be aware of it. They ought to be able to make a comment about it, and this has not happened.

I would like the Hon. Prime Minister to understand that he has an obligation to go into those deprived communities that traditionally will steal electricity, and to let them know that these draconian penalties have been introduced in the Ezra. That is an obligation that you have which I expect you will execute. With those few words I would like to say that we are sympathetic with

what you aim to do, but we are not satisfied with how you proceed to do it. We expect better of you. We expect better of GPL, and we hope that the next time we have to deal with GPL, we can be more complementary. I thank you. [*Applause*]

**Mr. Hinds (replying):** Let me thank the other Members who spoke, for their contributions, on both sides of the House. I think I will interpret the presentations on this occasion as being constructive. I can understand them as being constructive. There was a question raised by the Hon. Member Carberry about the expectations of privatisation. Privatisation foundered primarily on the lack of success in reducing losses, particularly commercial losses. We have been aware of the point made by the Hon. Member Mrs. Holder that there is sense out there in some quarters – at least for some people I think it matters – that public utility electricity is a basic right. So to some extent, some, particularly those who are needy, seem to excuse themselves about stealing electricity. We feel too that there are many others who steel electricity because they do not want to pay for the utility. They pay for many other things, but they do not feel they should pay for electricity.

We have here a bit of a circular argument quite often. People say “look, everyone else is stealing electricity. And, because other people are stealing electricity I have to pay maybe twenty percent more to cover the twenty percent loss, and therefore I have a right to steal electricity”. Now that is a circular argument that whilst it may sound somewhat fair in Courts, it is something that has to be broken. We have to get out of it.

I accept the Hon. Member Mrs. Holder pointing out that we need to have a very forceful, wide and broad education programme so that people know that they face these larger fines and penalties for stealing electricity. I emphasise again that the Government hopes and I hope that in holding up a big stick people do not steal electricity, and there is no need at least for that major section of what we are enacting here today.

Let me say also, I think in answer to some of the points made by the Hon. Member Carberry, that one of the arguments for privatisation was that with Government ownership, both the employees and the public feel that they cannot be touched, because for them to be touched by the Government there is the threat of non-support at elections and so on. That was one of the strong arguments for privatising the electricity sector.

I am particularly let down by many of my friends in the Sophia area. They used to come and say to me, “please do get electricity for us, and we will all sign up and behave well and so on”. Many of us know and have seen in the Newspapers the pictures, and if we go out there at almost any time we see poles in the air so that people can hook on and off and so on. Worst than that, they have even at times redirected some of the distribution networks so that electricity gets to the places that they want electricity to go. The difficulty we have is that there are some 50 or so people out of an area of at least 800 who have paid for electricity. But, on what we have seen, in providing those 50 with electricity is that all the others are likely to steal electricity.

Let me say, in the programme of extending electrification that we had, we were not to proceed to extend until about 50% of the people had signed up. We proceeded in good faith, and feel that my friends in Plum Park have let me down greatly. About two or three weeks ago, I think on a Saturday, Minister Robert Persaud got hold of me to get hold of the GPL people, because they had to go and do some relief work in draining the area, but the NDIA people could not proceed because of the mass numbers of electricity wires that were passing through the drain. So, we have to get to it.

On the question of people who are in real need; Government has taken note of that, particularly in the area of Lethem where there are people who are not yet fully into a cash economy, where there are still people who largely live more or less self-subsistent. We are taking an experiment and having out there an arrangement where the first fifteen kilowatt hours are available at no charge. Of course though, the whole utility has to cover its cost. Fifteen kilowatt hours provides at least for lights, for education and a little bit more than just lights. If that works well there, and as we get experience in the Lethem area – I think we have done it in Ituni and Kwakwani – we would consider bringing it into the larger utility here.

Just to say also to Mr. Carberry, everyone is being prosecuted here, both large and small. I spoke to arrangements that in the case of companies, the major officers are liable to imprisonment if the company is found guilty, unless they can show that they had no knowledge of it or that they tried to avert it or some such thing.

On the question of the fifteen year perspective, it would be part of the rolling five year plan. This is available on a number of websites, I think GPL’s website; OPM’s website at this time; I think

maybe at PUC's website also, because it is submitted to the PUC [Mr. Carberry: Why can it not be here instead of the website?] It could be here too.

On the question of winning back self generation, I will put the US \$40 million T&D (transmission and distribution) work which we are doing now, and the Amaila falls which we are also working at. On the question of the new generation we have had since 1992, we have had 64 megawatts of Wartsilla, but the first eleven are already fifteen years old. The next thirty-three are twelve years old. The 20 megawatt of last November is not yet a year, but peaks have grown over that period to at least 74 megawatts. With general standards we probably would have needed good reliable capacity installed of about maybe 74 plus maybe about 15 megawatts. We have now installed, the only reliable capacity, of about 64 megawatts. All the other old machines which we tried to keep running, and the CAT sets; they meet the need, but they are rather touchy, cantankerous and high speeds. [Mr. Carberry: Is 64 megawatts not a Wartsilla?] 64 megawatts is what? [Mr. Carberry: Wartsilla.] But the peak right now is 74 megawatts.

In response to Mr. Carberry's bills which he read out to us, I would like to encourage him to do a number of things; first of all, to realise that his average charge over the months is probably about where it should be. I would admit that there seems to be some significant fluctuation which calls into question the meter reading and whether the meter reader did not just concoct the readings. These things tend to be self healing after a while. When you get a real reading it brings it back in line. I would like to invite Mr. Carberry to consider a prepaid meter. Many persons who have taken up prepaid meters find that they reduce their consumption by 10-20%. The other thing he could do with his existing meter is to develop the habit of recording the meter reading every day at about the same time. He could then challenge the reading that is stated on his monthly bills. With those responses and with my recognition that the speakers on the other side have made some useful contributions; they have sought to be helpful in their comments, I would like to look for their support as we continue our work to pass this Bill and as we go to implement it. I move that this Bill be read for the second time. [Applause]

*Question put, and agreed to.*

*Bill read a second time*

**Mr. Speaker:** Thank you Hon. Members. We will resolve ourselves into Committee to consider the Bill stage by stage.

*Assembly in Committee of Supply*

**Mr. Chairman:** Hon. Prime Minister, to which section do you have an amendment?

**Mr. Hinds:** I think the very last one, seven, Sir.

*Clauses 1 to 6 agreed to and ordered to stand part of the Bill.*

**Mr. Hinds:** Mr. Speaker, there are two small corrections to this Section. The marginal note; instead of “*Amendment of section 61 of the Principal Act.*”, it should be as it is stated in the front “*Repeal and re-enactment of section 61 of the Principal Act*”. So, that marginal note needs to be changed.

**Mr. Chairman:** There are two marginal notes there; “*Amendment of section 61 of the Principal Act*” and “*Persons who bring proceedings, penalties for continuing offences.*”

**Mr. Hinds:** No. It is the one “*Amendment of section 61 of the Principal Act*”, which should be stated as “*Repealed and re-enactment of section 61 of the Principal Act*”.

**Mr. Chairman:** Hon. Member the question is that the word “amendment” be deleted from the marginal note. I now put the question that the word amendment be deleted from the marginal note.

*Amendment put and agreed to.*

**Mr. Chairman:** I now propose the question that the words “repeal and re-enactment” be inserted there for. I now put the question that the words “repeal and re-enactment” be inserted therefore.

*Amendment put and agreed to.*

**Mr. Hinds:** Our CPC (Chief Parliamentary Counsel) has also pointed out to me a very small punctuation.

**Mr. Chairman:** Where is it Hon. Prime Minister?

**Mr. Hinds:** At the very end of clause 7, where there is “supplier”, full stop and close inverted commas. There should be an additional full stop after the closed inverted commas.

**Mr. Chairman:** We will correct that. There is no need for an amendment.

*Clause 7, as amended, agreed to and ordered to stand part of the Bill.*

*Assembly resumed.*

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

*Sitting suspended at 4.30 p.m.*

*Sitting resumed at 5.18 p.m.*

**Mr. Speaker:** Hon. Members, I have to unhappily report that the hot beverages I arranged to be present were hardly made use of, and only dented by my own dint of circumstances. So I would urge you that they are still available. I don't know how late we will go tonight, but if we do go late – Mr. Norton I see you looking at me intently – I will invite you to make use of our facilities.

## **PUBLIC BUSINESS**

### **(i) GOVERNMENT BUSINESS**

#### **BILLS – SECOND READINGS**

#### **ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM (AMENDMENT) BILL 2010 – Bill No. 16/2010**

A Bill Intituled:

“An Act to Amend the Anti-Money Laundering and Countering the Financing of Terrorism Act 2009.” *[The Attorney General and Minister of Legal Affairs]*

**Minister of Finance [Dr. Singh]:** The privilege is mine to speak in favour of the Anti-Money Laundering and Countering the Financing of Terrorism Amendment Bill 2010 which has been tabled in this Hon. House, by the Hon. Attorney General, and has been moved for passage a first and second time.

Mr. Speaker, Members of this Hon. House would recall that the principal Act which we are now seeking to amend, that is the Anti-Money Laundering and Countering the Financing of Terrorism Act 2009, was itself a very comprehensive piece of legislation and one that benefitted from extensive consideration by a special select committee which deliberated extensively. Indeed Members of that Committee would recall vividly, and I hope not too painfully, the many, many long days and weeks spent examining the Bill clause by clause and eventually emerging, I believe, happily with a piece of legislation with which there was much satisfaction on all sides of the House. In fact, I was moved to comment on the effectiveness of the special select committee

mechanism when the report of that Committee was tabled in this House. I was on that occasion also moved to comment on the great value I recognised in the inputs of all members of the Committee, from both sides of the House, in ensuring we had an act that could withstand the strongest of scrutiny and that would enjoy the benefit of unanimous support in the House. The Bill, of course, having been reported back to the House was, in the course of things, unanimously passed into legislation.

Subsequent to the passage of the Bill in April, 2009 by this Hon. House, the Hon. Attorney General, in accordance with Section 1 of the Act issued a commencement Order bringing the Act into operation - if I am not mistaken on the 9<sup>th</sup> November, 2009 - providing the basis for the various agencies involved in administering the provisions of the Act to proceed with its implementation. They did exactly this.

Sometime in the first half of this year I should say, around the latter part of April or the early days of May, some of the institutions covered by the Act that fall under the rubric of reporting entities - Members of the Committee and Members of this House would recall what the term reporting entities is defined to mean - approached Government and made a request that consideration be given under Section 15 (10)(c) as provided in the Act to extend the time permitted for compliance with that section. Just to refresh the memories of Members of this House, Section 15 provides for reporting entities to identify and verify the identity of their customers. Again, Members of the Select Committee would recall that one of the cardinal principles underlying the Anti-Money Laundering and Countering the Financing of Terrorism regime that has been put in place is that described by specialists in this field as (KYC), know your customer. So, reporting entities are assigned by the Act a responsibility, under the law, to know their customer, to have a minimum set of information as it relates to each customer. Section 15 stipulates that reporting entities shall establish and verify the identity of any of their customers by requiring, amongst other things that such customers produce identification records, details of their address and other pertinent details stipulated in the section. Section 16 in particular provided that this requirement be put in place not only in relation to new customers but also existing customers. As one can well imagine, at the time that this law would have come into operation, every, or many, reporting entities would have had an existing population of customers. What the Act sought to do was to ensure that existing customers be brought in compliance, or the

relationship between the reporting entities and their existing customers be brought in compliance with the provisions of the Act. So the Act stipulated that for existing customers a reporting entity, at Section 15(10), and I quote:

“In the case of an existing customer at the time of this Act coming into force –

(a) a reporting entity shall verify the identity of the customer within six months from the date of commencement of this Act.

The Act having come into operation from the 9<sup>th</sup> November, the six-month period would have expired on the 9<sup>th</sup> of May. So as I indicated around the latter days of April, early days of May, an approach was made by a number of these reporting entities, particularly the financial institutions which have and continue to have very large populations of continuing customers, to the Government of Guyana that we consider invoking the provisions of sub-section (10)(b). That provision says:

“The minister (and the Minister concerned here is the Hon. Attorney General) may, if he thinks it expedient, by order extend the period of six months for a further period of up to three months.”

Having considered the matter carefully, having weighed the representations made to him by the institutions concerned, the Hon. Attorney General, proceeded on 6<sup>th</sup> May, 2010 to issue the Anti-Money Laundering and Countering the Financing of Terrorism Act 2009 (Extension of Time for Verification of Identity) Order 2010. This was published as Order No. 5 of 2010 in the 8<sup>th</sup> May, 2010 issue of the Official Gazette. In doing so the Hon. Attorney General extended the period for the full limit permitted under the Act. That is to say he exercised the option to grant the full three-month extension permissible under the Act. The effect of that, of course, would have been that the new deadline for compliance with Section 15 became the 9<sup>th</sup> August which is today's date.

Late last week we received further representation, again from reporting entities. In this instance there were three separate letters that I have seen from large financial institutions operating in Guyana, addressed to both myself and the Attorney General. These explained that notwithstanding the exhaustive efforts made by these institutions - and as I have come to

understand it by a number of other reporting entities - to ensure that they brought into compliance their entire existing database of customers, they have thus far been unable to complete this exercise. That is to say, they were unable to fulfill or comply with the conditions of Section 15 in relation to what they describe as a significant part of the population of their customers. They therefore asked that consideration be given to the possibility of a further extension of the period so that they would not have to suffer the consequences of subsection 10(c) which stipulates what happens if a relationship between a customer and a reporting entity is not brought within the ambit of the law within the deadline. Not wishing to invoke the provisions of subsection (10)(c) this request was made to us that we examine the options available and consider the granting of a further extension.

Again, having examined the matter exhaustively and, of course, in the interest of ensuring that the Act is implemented smoothly and fully, we were advised that an option for extension did not exist for the deadline by subsidiary legislation any longer because that was exhausted by the Order issued by the Attorney General. We were advised that the only and most appropriate remedy to this situation, would be an amendment to Section 15 to extend the time permitted. This is what the amendment Bill currently before us seeks to do: to extend the deadline or the maximum limit within which the Attorney General may grant extensions. In this instance the Bill specifically seeks to grant or establish a further period of 24 months. That is not necessarily to say that the deadline is being extended for 24 months, but that the Attorney General now has the legal authority to grant further extensions up to or to accommodate or allow for reporting entities to come into compliance with the provision of the Act, for such further extensions not to exceed a total or maximum of 24 months.

I suspect it is needless to say, but I will say it nevertheless, that we are indeed anxious that all reporting entities should come into compliance with this provision as soon as possible. The merits of the provision are clear and, as I indicated, all of the clauses have been debated and amended where appropriate and enjoy the full support of this House. So, we are and continue to be, anxious that every provision of this Act be complied with in a timely manner. It is our intention to give whatever encouragement, or urge as much as we possibly can, all of the reporting entities, in particular the financial institutions, to ensure they achieve full compliance as soon as possible.

Indeed it is my intention in my conversations with the institutions -once we would have secured the support of this House for this Bill- to engage them and in particular to suggest that they explore the option of imposing stringent requirements on account holders perhaps above a particular threshold to bring those larger account holders into compliance. This must be done while they continue their efforts, of course, to bring the thousands of smaller account holders, persons who hold relatively modest sums of money - where the tens of thousands in numbers are, not where the high value is. It is my intention to urge that they exert themselves, at the very least, to put in place an arrangement or utilise a strategy that would see the bringing into compliance, as soon as possible, customers above a certain threshold. But I hasten to emphasise that no customer or customer reporting entity relationship is excluded from this arrangement. The banks and other reporting entities have an obligation to ensure that they bring themselves in order as it relates to this provision as soon as possible.

I would also, given that we are debating this matter, take advantage of the opportunity to say customers of financial institutions and customers of other reporting entities that fall under the Anti Money Laundering Reporting Arrangements, that it is in their interest to ensure that the banks have up-to-date contact details for them. This should not be viewed only as a bureaucratic requirement imposed by the law or indeed a bureaucratic arrangement imposed by the bank. I believe it is reasonably obvious that it is in the interest of the customer to ensure that the bank or any institution with which they are dealing, have up-to-date identity and contact information. This is from the standpoint of protecting their interest; from the standpoint of being able to make timely contact with them in the event there is an inquiry on a transaction or on their account; from the standpoint of being able to communicate on a regular basis in a timely manner – whether it is the issuing of statements or information on new products, information on changes of terms and conditions of the relationship they enjoy. For whatever reason, it would seem to me to be eminently obvious that it is in the interest of customers to ensure that the reporting entities – the banks, financial institutions – have up to date information on them.

I would also use this opportunity - in addition to urging reporting entities such as financial institutions to bring themselves in order and to achieve universal compliance – to urge customers, the hundreds and thousands out there, to do what I indicated is required by law, to do

what is required by the institution with which they have a relationship, but most importantly to do what is also in their interest.

So, I believe the provision is a simple and straightforward one. It merely seeks to grant the Attorney General the authority to give further extensions beyond those permitted in the principal Act. We are seeking to have its passage because obviously today is the deadline, as I indicated. I trust that given its simplicity, given the unanimity with which the principal Act was approved in this Hon. House, and the very evident fact - I think that many of us in this House are customers of financial institutions or have relatives who are customers - we would all be aware of the efforts that have been made, and I believe of the fact that those efforts have not yet resulted in universal compliance. It is my fervent hope, that this simple amendment Bill will enjoy the kind of support the principal Act enjoyed, that is to say, unanimous support on both sides of the House through its passage. I thank you very much, Mr. Speaker. Speaker. [*Applause*]

**Mr. Murray:** Mr. Speaker, on behalf of the People's National Congress Reform-1 Guyana we were pleased at the time this Bill was debated and passed in the National Assembly sometime in 2009 to have given it our unequivocal support. Today, we also wish to state that we give the proposed amendment to this Act our full support.

However, are no words today that will qualify the support? We do want to say that we share the view that it is necessary that all reporting entities come into compliance with the law. If more time is required to enable them to do so smoothly, without disrupting customer reporting entity relationships, then we should facilitate them. In fact, today, driving around the city, I witnessed very, very long lines at particular banks and it was only upon inquiring that I discovered that the reason for those queues was the fact that today is the last day by which they could put themselves in order. I think this is appropriate and it is timely.

It would be useful for these reporting entities to embark upon an education or information campaign because I am not convinced that they have done enough to cause their customers to come in and provide the necessary information. Customers would have gone many times to the bank and I doubt whether there has been any occasion – maybe in the odd case – that the bank has used the opportunity to remind the customer of the need for this requirement to be satisfied. So I would call upon the reporting entities, most of which I believe to be financial institutions at

this time, to do what they can to encourage their customers to comply with the requirements of the new Section 15.

The words that are proposed for inclusion are as follows, and I quote:

“The Minister may, where circumstances do dictate by order extend the period for further periods not exceeding 24 months.”

With great respect, that is a little ambiguous or could be. By inserting after “not exceeding” the words “in aggregate” – not exceeding in aggregate 24 months – I think puts it beyond for adventure as to the maximum length of time that could be given for compliance with this particular law.

The last thing I wish to say is that this is one of those moments when we were consulted about the timing and the circumstances, and we responded immediately and positively. I am really making here a pitch for the usefulness of consultation. And to say that we, certainly of the PNCR-1Guyana, will always, discern the national interest and will always be willing to cooperate in pursuance of that interest. Thank you very much. [*Applause*]

**Mr. Ramjattan:** Mr. Speaker, I just want to indicate that indeed we do support the elongation period for adherence and abidance with the statutory provisions of reporting entities. But we also, unlike the PNCR, would state that we were not consulted. That was primarily why we wanted to know what were some the circumstances that the reporting entities were indicating they had difficulty with.

Mr. Speaker, the last Bill we debated was in a sense giving enhanced penalties, draconian provisions, in relation to people who were not going to abide by the law in relation to electricity and matters relating thereto; then we also had aiding and abetting, procuring and all of that. And who were they intended for? Literally the Sophia persons as even the Prime Minister indicated. Those who are largely because of need... what we have here however is a law that stated there is a certain time period and we are elongating that time period by 24 months.

We, in the Alliance for Change were never communicated with as to what were some of the circumstances that the reporting entities were talking about. That is why I will stand up here and indicate that indeed it does seem contradictory that you just now passed one law indicating you

are going to take certain draconian provisions to ensure there is a shaping of people wanting to pay and now you pass another law where you are extending to reporting entities, which are the big financial institutions. So, I am stating that there is inherent in this... [*Interruption*] It would apparently be because when you are going to terminate the relationship with the customer it is somewhat a penalty because you stop doing business with them. So, here there is what can be called a caste system of penalties, some draconian and now an extension of the time. That is the point I wish to make; and to state that at least if we were consulted as to what were some of the circumstances that caused entities to go to the Hon. Attorney General and Minister of Legal Affairs we would have known. But, of course it appears some are consulted and others are not. Thank you very much Mr. Speaker. [*Applause*]

*Question put, and agreed to.*

*Bill read a second time*

*Assembly in Committee*

5.48 p.m.

**Dr. Singh:** I am not sure if this is the appropriate time to do it, but I wish to indicate that we are in agreement with the amendment proposed by the Hon. Member and will vote in favour of it at the appropriate time.

**Mr. Chairman:** Which clause are you amending, Mr. Murray?

**Mr. Murray:** It is clause 2, Sir.

**Mr. Chairman:** Let me put clause 1 first.

**Clause 1**

*Clause 1 agreed to and ordered to stand part of the Bill.*

**Clause 2**

**Mr. Murray:** Clause 2 (a), the penultimate line, after the word “exceeding”, insert the words “in aggregate” before the word “twenty four”.

*Amendment put and agreed to.*

*Clause 2, as amended, agreed to and ordered to stand part of the Bill.*

*Assembly resumed.*

*Bill reported with amendments read the third time and passed as amended.*

## **COMMITTEES BUSINESS**

### **MOTIONS**

#### **ADOPTION OF THE TENTH REPORT OF THE COMMITTEE ON APPOINTMENTS IN RELATION TO THE APPOINTMENT OF MEMBERS OF THE POLICE SERVICE COMMISSION**

“BE IT RESOLVED:

That this National Assembly adopts the Tenth Report of the Standing Committee to address matters relating to the Appointment of the Members of Commissions established under the Constitution, and signify to the President that the following persons:

- Mr. Harold Martin
- Mr. Franchot Duncan Clarke
- Mr. Lloyd Alvin Smith
- Mr. Dennis Morgan, A.A.

having been nominated in accordance with Article 210(1)(c) of the Constitution, be appointed Members of the Police Service Commission.”

*[Ms. Gail Teixeira - Chairperson of the Standing Committee on Appointments]*

**Ms. Teixeira:** Thank you Mr. Speaker.

I wish to move the motion calling on the Assembly to adopt the Tenth Report of the Committee of Appointment in relations to the nominees of the Police Service Commission. The Tenth

Report highlights the process that the Committee used and the nominees it received from the various entities, and its final conclusion. I, therefore, ask that the House adopt this Report.

**Ms. Ally:** Thank you Mr. Speaker.

If we were to look at page one of the Report we will see the composition of the Committee of Appointments which is broken down thus:

PPP/C	-	6
PNCR-1G	-	3
AFC	-	1

Hence, it can be deduced that whatever decision the PPP/C wishes to make it would be carried. In keeping with the mandate of the Committee as adumbrated by article 210 (1) (c) of the Constitution, the Committee on Appointments commenced its task. The entities consulted were the Police Association, the Association of Former Members of the Guyana Police Force, the National Commission on Law and Order and the National Community Policing Executive, and these entities submitted their nominees. The Committee on Appointments carefully examined the submissions and interesting discussions ensued. I make bold to say, and as outlined in the Report, three proposals were made. I pointed to the composition of the Committee in my opening statement and I must say that the PPP/C representatives did not fail to surprise the Committee, rather the PPP/C tabled proposal one as contained in the Report and ensured that it was carried at its convenience with its majority.

One of the concerns we had, as a Committee, was the importance of ethnic and gender balance on the Rights and Service Commissions, to the extent that we wrote to some entities and requested of them to take note of that concern. This Government is guilty of double standards as it is clear that gender was not a consideration and not applicable for the Police Service Commission.

Two of the four entities submitted the name of Ms. Lynnette Carter, a female and a retired Senior Superintendent of Police, but as it came before the Committee of Appointments the gender question fell on deaf ears. Hence there was no consideration for a gender balance. However the

PPP/C wanted the vote to go its way and so it went... [*Interruption*] ...Yes, it is against the women. Hence the names of Mr. Dennis Morgan, Mr. Harold Martin, Mr. Franchot Duncan Clarke and Mr. Lloyd Alvin Smith - male dominated.

It must be noted that the PNCR-1G has nothing against these goodly gentlemen but it must take time out to highlight: (a) the double standard of the P.P.P./C, (b) an ineffective composition of the Commission, and finally (c) the total disregard for issues of that nature. Notwithstanding, the PNCR-1G supports the Report. Thank you. [*Applause*]

**Minister of Health [Dr. Ramsammy]:** Mr. Speaker, I have no desire to keep us back; I just want to say that the Members of the PPP/Civic had nothing against those candidates who were not nominated by the Committee of Appointments. I want to reiterate what I said the last time: the PPP/Civic Members did not make any nominations by themselves. Indeed we selected from among nominations made by the four organisations; so that I want to make that quite clear that we were selecting from among names that were nominated by other organisations. Two of the four names were nominated unanimously and two we voted on. We are Members in this House; all of us were elected by the people to exercise our rights in a democratic way. We sit on the Committee and we discuss; sometimes we agree, and sometimes we do not agree. Then we have to vote and we agree to disagree. On this occasion we voted and had four persons that overall, as the member said, we supported their nominations, and we hope that the process would end up as the last time with gender balance on the Commission.

So I just want to clarify that on this Committee on Appointments, we do not pick names of our choice but that we merely endorse names that come to us from persons that we consult with. This is a consultation process and those names that come through consultation we have to make a choice of limiting to the numbers that we have. So I support the report as presented. [*Applause*]

**Mrs. Holder:** Thank you very much Mr. Speaker.

I would like to start off by saying to my honourable friend, Dr. Ramsammy, though does protest too much. However you twist it and turn it in the final analysis the Appointive Committee made the choices. The names were submitted by the four entities associated with former officers of the Guyana Police Force. They submitted the names to the Appointive Committee, and we are Members of that Committee, and the majority on the side of the People's Progressive Party opted

to maintain the “old boys club”. There was a choice in the person of Retired Senior Superintendent Ms. Lynnette Carter and even though, let me say this, I admitted very honestly that I was not too *au fait* with the names that had been submitted and to a certain extent I allowed free reign to prevail between the two major political parties to make the choice. But it was striking, distinct, in the omission of a female; bearing in mind that the Committee had agreed on principle a pretty long time ago that it was important to seek balance, and gender balance was one that we had agreed to in principle. The fact that this name was not considered clearly indicated a preference for the “old boys club” and I would like to be disassociated with it and I voted with the PNCR in this regard to include a woman.

On the other matter I would like to emphasise that on all the Rights Commissions, a very important point to be made, that once we have made our selection and these individuals are appointed to the Police Service Commission, we expect of them independence in the decisions that they make. I want to emphasis that and I would also like to hold the society accountable to ensure that they respect this constitutional dictate that they operate independently and fairly. Thank you very much. [*Applause*]

**Ms. Teixeira (replying):** Mr. Speaker, as a Committee we do have to make choices and based on the nominations that we received, when we did the Public Service Commission and the Police Service Commission, and we will be doing in October the Judicial Service Commission, from the entities, and in our best judgement we have to put forward as a Committee, the persons we think would best serve on these service commissions and, therefore, the choices were made.

Two persons, as the report pointed out, had the unanimous support of all the Committee; all the members too had a majority support. Therefore it is important to point out that unlike what is being portrayed here, as if it was railroaded through, was not; it went through more than one meeting on this issue.

Whilst as a woman I would always like to see women on bodies, I am also Guyanese to recognise that the issue of ethnic, religious, geographic, and gender balance are all issues we need to take account of when we are dealing with representational issues. Therefore I have never been sympathetic to choosing a woman as a token, and I have never seen myself as a token other than a woman. I am very confident of my getting anywhere because I damned well fought for it

and, therefore, I do not like and I do not adhere to the view that we put a woman there for window dressing. I, however, believe that in the decision of the Committee we made a choice; we made a choice and to use the gender argument as a tool is a bit unfair. However if that is it, so be it. But I do wish to remind this House that we did not go into the same argument when in the Rights of the Child's Commission, we had two men and fourteen women, and in all the arguments through the Rights of the Child submissions we did point out that the Rights of the Child's Commission was so off balanced, as we really should have been championing the cause of men being on the Committee. In fact there was the view that someone needed to be thrown off that Committee who was a man by those who were putting it over on the other side.

The second issue on the Women and Gender Commission is that there is only one man and fifteen women. So what I am trying to say is that as we struggle... [*Interruption*] ...Mr. Speaker, I think I need to wet my throat as well, not only you, because trying to shout over persons becomes difficult. But I do want to say this, as we struggle, as a Committee, and as a country, with the issue of balance, of ethnic, religion, gender and geographic, we are making progress. With the Indigenous Peoples' Commission (IPC) we had an off balance again - four women and eight men - and I did not hear anyone there when we talked about IPC having an imbalance of women. We are struggling with this issue. Why? The representation comes from the entities and not from the Committee. We take what we get and we work with what we get and, therefore, I believe as this House and whoever heads the Committee, and in the future and in the years to come, we will get civil society in a position to better comprehend the issue of really putting forward a variety of persons that will represent the breath of Guyana's diversity. Until that happens we put forward the best of the people who come before us and, therefore, the four male nominees whose names are here, I believe will best serve us on the Police Service Commission and give the best that they can to this country. Thank you. [*Applause*]

*Question put, and agreed to.*

*Report adopted.*

## **ADOPTION OF THE REPORT OF THE SPECIAL SELECT COMMITTEE ON THE MARITIME ZONE BILL 2009**

“BE IT RESOLVED:

That the Report of the Special Select Committee on the Maritime Zones Bill 2009 – Bill No. 36 of 2009 be adopted.”

*[Minister of Foreign Affairs, Chairperson of the Special Select Committee on the Maritime Zones Bill 2009]*

**Minister of Foreign Affairs [Mrs. Rodrigues-Birkett]:** Thank you Mr. Speaker. As you are aware we debated this Bill on the 29<sup>th</sup> of October last year and at that time Members of the Opposition, in particular I can remember the Hon. Member Mr. Trotman, asking that owing to the nature of this Bill, national and international, it should be committed to a Select Committee. I think Mr. Norton made that same call and we agreed.

The Select Committee met on eleven occasions to consider the Bill. On this Committee, we had a shortage of men attending; in this case we had the women attending. In this regard, I want to especially thank my colleagues, the Hon. Members Mrs. Clarissa Riehl, Ms. Gail Teixeira and Ms. Bibi Shadick, who were there throughout this process.

I thought that owing to the nature of the Bill and the request, I would have seen some other persons attending more frequently. Nevertheless, I think that the Members of the Committee are a bit richer with the knowledge they have gained in the Select Committee on the Maritime Zones of Guyana. We had excellent presentations from Mr. Keith George, Director of Frontiers, and we also had excellent advice from the Attorney General’s Chambers through Mrs. Ananda Dhurjon, Principal Parliamentary Counsel. I should also commend the staff of the Parliament Office - the Committee Division in particular - who was always there to help us.

We tried our best to ensure that what we have before us today the Bill that we took to the Select Committee and the changes we have made. They are in here in table form along with the Bill as it would be printed - the new Bill. We wanted to ensure that we covered everything so that Members of this House and indeed members of the public would be able to access this Bill once it is assented to.

I also want to say that in our deliberations in the Select Committee (indeed before we took the Bill to the Select Committee) we consulted legislation from other CARICOM territories and we did not find a lot of things there that could have helped us. So what I would like to say is that this

Bill as amended in the Select Committee is not only a big step forward for Guyana but also for the Caribbean Community. With those words I would like to ask that the report be adopted and at the appropriate time I would ask for the third reading. I thank you. [Applause]

**Mr. Norton:** Mr. Speaker, I am a bit worried that the women wanted to crucify the men. But I believe that the men made their contribution succinctly, laconically and early. I want to say that firstly I believe the People's National Congress, when it passed the Maritime Boundaries Act 1977, laid the basis for this Act or this Bill which will become an Act. So with that base there was a situation in which we had to adopt it to UN Convention of the Law of the Sea and I would say that a good job was done of adopting it.

This Bill enjoyed our support and for the times when we were there it was cordial, even though I am feeling that something else did occur; but it was cordial. But there are few things which I want to say. One, the Bill brings with it responsibilities and the need for human resource capacity development and I hope that the Minister will address this question, because the efficacy of the Bill is dependent on increasing capacity.

The second point I want to make very quickly is the question of education of stakeholders. I thought the Minister would have made that point because, again, when one looks at the Bill its efficacy is dependent on education of the stakeholders, particularly I would say equipping the coast guards and giving them the required knowledge.

I want to make those points. But it also addresses the question of other matters related to the Convention of the Law of the Sea.

There are some issues that I want to raise very quickly, as it relates more to the extended continental shelf than the Bill, because I believe all should be taken together. A quick reading of the documentation will show that Guyana submitted its proposal in keeping with Article 76 of the United Nations Convention that is laudable. But the submission is preliminary and I just want to draw to the Minister's attention that the rules of United Nations Convention on the Law of the Sea (UNCLOS) sets out clearly, particularly the Committee dealing with the rules of procedure; it is called *The Rules of Procedures and the Scientific and Technical Guidelines for the Commission on Limits the Continental Shelf*, that if a submission is preliminary then it would not be addressed. That leaves us in the position where Barbados, Suriname and Trinidad will have

issues addressed, but Guyana will not. Therefore I am seeking an explanation as to why Guyana's submission was preliminary unlike Barbados, Trinidad and Suriname.

I want to also say that cognisance should be taken of the fact that Venezuela is not part of the Law of the Sea Treaty, but that it is fairly well established that Guyana, Venezuela, Suriname, Trinidad and Barbados accept that there is going to be overlapping and convergence and, therefore, these issues need to be addressed. It is in this context I want to suggest that the Ministry of Foreign Affairs takes a diplomatic initiative to start working within CARICOM to deal with these issues so that when they are taken to the United Nations Convention on the Law of the Sea there will be clear areas of understanding.

I want to congratulate the Government for making the submission though I worry about the preliminary.

The other element I want to deal with quickly is the fact, I support the position, that in the submission we should not list the Venezuela matter as a dispute. I support that position because I think it is keeping with good foreign policy. What worries me is that: One, it appears as though an explanatory note was not sent to those states which we should have sent them so that they understand their position. Two, to the extent that it was dealt with in that fashion, and we note that Venezuela is not part of the Convention, I worry that we need to send that information so that the principle of the land dominating the sea redound to our benefit when we actually come to dealing with the issue.

So I am saying that in large measure I think Guyana has done well. I am saying that I think the People's National Congress Reform progress provided a good base. I want to congratulate the Minister, and I want to congratulate the ladies for being as regular as they were, but I want to also point out that men can, in a very penchant way, present their views and do what we did. I want to thank you.

I believe the Select Committee process is a good process once we are listening to each other, and I believe the People's National Congress Reform has no reservation in supporting the Report and subsequently the motion. Thank you. [*Applause*]

**Ms. Shadick:** Thank you Mr. Speaker.

I will be very brief. I would just like to say what a great experience it was for those of us who were Members of this Committee, and what a joy it was to work together. Even though we only had twelve meetings over a fairly long period of time. We have to thank you Minister of Foreign Affairs, who is always otherwise occupied being out of the country and so on, for making yourself available.

I am never ceased to be amazed at the capacity of the Hon. Minister, the skill that she has with a computer that whenever this Committee met we had matrices which were very clear as to what happened at the last meeting and what changes were made and differences there were. As you know, like the fathers of this world, they came and made their contribution nine months before child is born and then they forgot all about it and the child... **[Interruption]** ...That is what happened in this Committee.

On this Committee there were six men and four women; the four women stuck to the task and I would like to really say how much we appreciate the experience of Mrs. Riehl in her dealings with those Venezuelan fishermen who were caught fishing in Guyana's waters. We learnt quite a lot about what happens in the Courts and the necessity for matters to be heard expeditiously, hence in a summary matter, rather than indictable which could take years and years.

I would like to say that working on this Committee made me remember - and some of you will now guess my age - the whole issue of the Korean trawlers with which we had that long trial in the Magistrate's Courts with blackboards and experts, and all these things. I am saying if some of this information were there then the trial might not have been so long.

*6.18 p.m.*

It was a long and enjoyable learning experience, and I think we are now in the 21<sup>st</sup> century when it comes to the law regarding Maritime Zones and I think Guyana has done very well. I would like to thank all the Members of the Committee who were there for the very conducive atmosphere of all our deliberations. *[Applause]*

**Mrs. Rodrigues-Birkett (replying):** Thank you very much Mr. Speaker.

I just want to make a few points with respect to the Hon. Member Mr. Aubrey Norton's comments on the continental shelf. In fact, Mr. Speaker, I was invited to appear before the

Parliamentary Sectoral Committee on Foreign Relations that I know had some difficulties in arriving at a date which would have been suitable for all. Nevertheless, I appeared before the Committee and I went into this issue in dept. Unfortunately, no Member of the Opposition was there on that day. I guess there were lots of clashes of events and they could not have been there, but let me just say that indeed the submission was preliminary. We are working to get the full submission made shortly. Unfortunately, the consultant who is very good at what he does had a death in the family and that delayed it a bit, but we are working towards that.

I want to also let you know, Mr. Aubrey Norton, and, in fact, all the Members of the National Assembly that in our work which we had to do before our submission, we had consultations with Trinidad, Suriname and Barbados on it, and all of the submissions were made without prejudice to each other. I should also mention - because I guess it would be public knowledge soon - that for Guyana's submission, it shared data with Suriname so that both countries know what information they have. In terms of Venezuela - and we are aware that Venezuela is not a party to UNCLOS but we also... The day before for the submission I made a presentation to the Venezuelans and gave them a copy of our submission. They were very thankful for that submission and have not commented since. I guess the response is implied.

In terms of the capacity and the education of stakeholders, I agree fully that a Bill, soon to be an Act, as comprehensive as this one, we need to educate our people and ensure that we bring regulations very soon. We have already started working on those regulations. Hopefully we will be able to make a submission of those regulations in the not so distant future, of course appreciating the very nature of this Bill where regulations would have to be made for a lot of sectors and we would be in consultation with those Ministers. With that, I would like to thank Mr. Aubrey Norton for his succinct and laconically contributions, as he said, and all the other Members of the Committee, but I guess if those were the rules of the Committee then I could have attended the first and the second meetings too and then after those... Nevertheless, I am very thankful for further submissions. I ask that this Report be adopted and that the Bill be read for the third time. I thank you. [*Applause*]

*Motion put and carried.*

*Report adopted.*

*Bill read a third time and passed as amended.*

## **ADOPTION OF THE SECOND PERIODIC REPORT OF THE PARLIAMENTARY SECTORAL COMMITTEE ON NATURAL RESOURCES**

“BE IT RESOLVED:

That the Second Periodic Report of the Parliamentary Sectoral Committee Natural Resources be adopted.”

*[Mr. E. Lance Carberry - Vice Chairman of the Parliamentary Sectoral Committee on Natural Resources]*

**Mr. Carberry:** Thank you Mr. Speaker.

I note your concern about timeliness at this point, but I want to make a few points on this particular Report, and I want to make a general comment, first of all, that I have noticed that WHEREAS we have had a tradition of seeking to make decisions in Committees by consensus, we seem to be rapidly moving in the direction where decisions are being made by the majority vote. I do not believe that is a progressive step; I believe it is a very regressive step. I want to make that point very clear that we ought to try to find consensus and not just majority votes.

The mandate of the Committee - not just the Parliamentary Sectoral Committee on Natural Resources but all of the Committees - is established and recorded in the Standing Order 86. The fact is that the allocation of the ministerial functions is something that has to be done on a periodic basis. Unfortunately, I do not believe that the changes in the ministerial responsibility have been captured in an updated document and from time to time it creates a problem. So I would ask, very seriously, that we try to update the allocation of ministerial responsibility between the Committees.

The second point has to do with the question of Ministers insisting that officials cannot appear without their presence. The Constitution’s Commission established article 119 as a means of promoting accountability to the people through the National Assembly, and what we are seeing is the long and very obstructive sometimes, and very manipulative sometimes, arm of the Office of the President in these Committees. I am saying to you, Sir, that that is not a very healthy sign.

I do not mind their protesting; but I want them to protest, because it is not a healthy sign. I believe it should be the right of the Committee to invite officials to appear before it, and I believe that the rules of courtesy would demand that, in fact, the Minister is informed about what it is we are asking them to come for. But the fact that the Minister is saying that they cannot appear without his presence, or her presence, is, to me, a backward and not a very progressive step. It is, in fact, contrary to the principle of accountability and, if one looks at the mandate of the Committee, it is not consistent with the mandate of these Committees.

The third point I want to make has to do with access to technical expertise. The fact is that Members of the Committee may have capacity in some areas, but these Committees are technical committees and they need from time to time to have the benefit of expert research.

Looking at the communiqué of the 6 May, the section 1.1.5.2., and the heading is *The Provision of Research and Documentation Support for the Work of the Committee*, let me just read what was said:

“The President and the Leader of the Opposition agreed that the Parliament Office would provide adequate, professionally qualified, experienced and competent research and documentation support as essential needs to facilitate the effective functioning of all of the National Assembly’s Committees. This would include the early appointment of a Research Coordinator supported initially by two professional researchers, qualified in disciplines to be determined by the Parliamentary Management Committee. In addition, a bank of at least six committee...”

That part of it has been satisfied. The documentation support is good and I do not think we have any complaints about that. The Parliament Office has provided good documentation support. What is missing is that professional research capability that we should have. Sir, if a Committee system is to be effective it has to be supported by very serious technical work, very serious professional work, and there is no point in our pretending because we have a meeting attended by a Minister and we get the presentation, and that is all. That is not what these Committees were established to do. These Committees are an integral and important mechanism for ensuring accountability by the Executive to the Parliament.

The work of the Committee...and I want to make a few comments here. I have already discussed the business of the Ministers. I want to make another point. The Committee established, as a priority, climate change issues and that provided the opportunity for the Government to present the details of the Low Carbon Development Strategy (LCDS) to the Committee. That was never done. It seems as though every obstacle was put in the way of doing that. Of course, a motion was brought to Parliament, but a motion is not a substitute for that detailed work which a Committee can do. I want to make that clear.

The other thing is the reluctance of some of my colleagues on the other side to exercise the flexibility which is necessary for us to conduct our work more efficiently. I leave it at that. Nevertheless, we were able to do three important things. First of all we had a presentation by the Prime Minister and his cluster. I must say that the Prime Minister has been always very cooperative in appearing before this Committee. That presentation was very useful. Unfortunately, the time ran out on us and we were not able to complete that.

The second thing that we did is that we had the Minister of Agriculture appearing with the Guyana Forestry Commission's staff. Unfortunately, the Minister had a time constraint and, therefore, he did make it clear to us that he could not spend more than an hour with us. As far as I am concerned, I went ahead with that meeting but I did it, understanding very clearly, that that was not satisfactory. I want to make it clear. I am saying it was not satisfactory. The point about it is that the Committee has a right to have the Guyana Forestry Commission's staff appear before it and give explanations. That is its right.

We had a very productive and useful visit to Iwokrama International Centre for Rainforest Conservation and Development, and I believe the Members of the Committee who attended that visit are richer by the knowledge and experience which they have gained from it. That visit included a discussion with the Members of the Board for the North Rupununi District Development Authority and a visit to the village of [*inaudible*]. I thought that was extremely useful. The Members of the Committee, who went on that trip, I believe, found it useful.

On the final note, I want to recognise that there has been a change of mood and cooperation since the chairmanship has been reverted. I believe that it is a very useful thing that people are recognising that we need to work cooperatively. Thank you very much. [*Applause*]

**Mr. Lumumba:** Mr. Speaker, first of all I hope that Mr. Carberry's last statement reflects the fact that I have been trying to work with him in every manner. As a matter of fact, I think all decisions which have been made were by consensus. I hope that statement would not be misinterpreted because it would be a very sad day in this National Assembly.

My understanding, Mr. Speaker, is that the Sectoral Committees' responsibility and the nexus in that responsibility have to do with the Minister of the Government, not the Head of the Agency. If I am incorrect, then I think the Standing Orders need to be changed or clarified. It is not the Head of the Agency who represents the Government's philosophy or position. It is the Minister. I want to emphasise that what bothers me is that no time, at least not during my chairmanship, has the Vice Chairman raised this issue as a problem. We have sat down and raised other issues, and where I agree with him is that we both feel that the Standing Orders reflects some of the old views and some of the new positions in this society are not part of the Standing Orders. When we attempted to correct and amend it we were told by the Clerk of the National Assembly that it needs to be done differently, and we agreed with that. We are going to ask the Standing Orders Committee, Parliamentary Management Committee or whichever Committee is the proper Committee to correct this situation so that we can discuss other issues like hydro, LCDS, harbours, and roads.

We believe that the natural resources of this country are the driving force and future of this country. It is fundamentally what is going to take this country over the top. We want to point out that in that Committee there is total discourse. We have never voted in terms of consensus, and no Member of the PNCR1-G can state that he or she has ever been railroaded in any decision by that Committee. If that was done that, we will bring that issue up again and discuss it.

Secondly, we are not afraid to deal with the LCDS I, as Chairman, have emphasised that every Minister of this Government must come before this Committee when it is required - must come! It is not an opinion; it is not a view. There are the rules and the laws of Parliament to make them come and they have to come, so that is not the issue. The issue is that some of the Ministers have a problem with time. Minister Persaud is going to return. Every Minister who is supposed to come will come.

I agree with Mr. Carberry in many areas, but I also would like to emphasise that if we cannot agree to work together on a Committee, how are we going to work together as a Government? How is the Member going to tell us that he wants shared governance and power sharing, when on a Committee of eight persons he cannot agree? What is fundamental is that we have agreed on everything in this Committee, and I am amazed that my friend came to this National Assembly and said there have been problems. Every issue that was raised in this National Assembly we have agreed to, except the ones which he had not raised in the Committee. He has not mentioned this issue of the Minister versus the Head of the Agencies. If he had raised it, I have no problem to take it to the Parliamentary Management Committee. At this point his position is very clear. The Minister of the Government is responsible. When the PNCRI-G does not get to the Minister but the Head of the Agency, it claims that the Minister is hiding. Now the PNCRI-G Members get the chance to see the Minister for five - six hours, they are complaining, saying, "We do not want the Minister. We want the Head of the Agency." What do they want? Mr. Speaker, please, we need some directions in this area. Thank you very much. [Applause]

**Mr. Neendkumar:** Thank you very much Mr. Speaker.

I rise in support of the Second Periodic Report of the Parliamentary Sectoral Committee as presented by Mr. Carberry. The Natural Resources Committee functioned very well during the period under review. I would like to remind Mr. Carberry that he must understand that Mr. David Singh addressed this Committee on *The Goals, Objectives and Status of the Iwokrama Rainforest Programme*, which was a good address. We also had the Prime Minister and Mr. James Singh addressing the Committee. Mr. Carberry, when he talked about consensus, should be honest in telling this National Assembly that at the first meeting held on the 21<sup>st</sup> December, 2006, the Committee elected Mr. Odinga Lumumba, M.P., and Mr. Mervyn Williams, M.P. as Chairperson and Deputy Chairperson, respectively.

“At the election held on the 9<sup>th</sup> March, 2009, Mr. Mervyn Williams and Mr. Odinga Lumumba were elected Chairperson and Deputy Chairperson respectively of the Committee.”

Mr. Carberry was talking about consensus and votes.

Shortly after, on the 16<sup>th</sup> April, 2009, Mr. Mervyn Williams, in all the problems, demitted office. He laid low. Thereafter Mr. Lance Carberry solicited our votes and *he rode on his back* to become Chairman. So Mr. Mervyn Williams had to run. *He rode on his back* [Interruption]...

**Mr. Speaker:** Order Members!

**Mr. Neendkumar:** That was democracy. That is where we appreciate the problems with the PNCR1G. Eventually, Mr. Carberry ran him out of the Committee. He had to go with Ms. Teixeira on another Committee and now we have the pretty Mrs. Judith David-Blair with us. We welcome her. Thank you. [Applause]

**Mr. Speaker:** Could the Opposition Members pay some attention, please?

**Mr. Carberry:** Sorry Mr. Speaker. Mr. Speaker, this din coming from a certain side of the House is always disturbing.

**Mr. Speaker:** Well, the din was coming from your side. That is why you could not hear me.

**Mr. Carberry:** Mr. Speaker, I have nothing more to say on the matter.

**Mr. Speaker:** Thank you Hon. Members. I just want to make one comment and that is that Mr. Carberry has been interested for a very long time in promoting the issue of Research and Research Assistants for the National Assembly - a point that is of great importance. I think Mr. Carberry read an excerpt from an agreement the President and the Leader of the Opposition. We had implemented that agreement by having a Research Chief and two Research Assistants who were employed by the Parliament Office and stationed here. The problem was that they were sitting here and had nothing to do. They were not getting assignments from Committees; they were not getting assignments from the National Assembly; they were not getting assignments from Members. After a while, they were just sitting here, drawing very high salaries and we, therefore, terminated that arrangement. What is in place, however, is a budget. There is a budget - a significant budget - and I have announced it more than once that any Member of Parliament or any Committee who or which wishes research to be done or researchers to be employed, that facility is available. There is funding for it. I would urge Members - we have a short period remaining for the year - to make use of that fund. If Committees need help and assistance in doing some research, the Parliament Office has the capability of providing for that. If you do not

use it, you will lose it. That is a popular saying that many male persons would be interested in, but it is something for the entire National Assembly. If we continue to not use these funds, who can blame the Government for withdrawing them at some stage? I hope that it remains next year [Mr. Franklin: Now I know.] That is why I am making this long speech. I made this speech before. Members have forgotten it, so I am making it again so that Members will be refreshed; so that if we get funding again it will be available next year for the same process to go through. I wish that Members will utilise these funds to enhance and improve the work of Committees and the National Assembly as a whole. Thank you very much.

*Motion put and carried.*

*Report adopted.*

**Mr. Speaker:** Hon. Members, that brings us to the end of our business for today and this session. I would like to take this opportunity to wish Members...many of you go on your annual vacation at this time. For those of you who have the capacity, ability, and time to do that, I wish you and your families a happy vacation period. Many Members also take this period to reflect upon their work in this National Assembly, to plan for the next session, to prepare whatever strategies and issues they have for the next session of Parliament, and to review their past performances. I wish Members a very productive period in this regard. I would like to wish you and your families a happy vacation and I look forward to your coming back next year with full vigour. It is likely to be our last year for this Parliament so I look forward to much productive work during that session.

**Mr. Hinds:** Mr. Speaker, I would like to join you in noting that our recess is about to begin - a period for many of us to take some needed rest and to prepare for the session when we resume in October. Many of us will know too that the holy month of Ramadan begins on Wednesday, and we would like to extend to our Muslim Guyanese, the best wishes for them to be faithful to and be able to make all the observations that are required of them. I take this opportunity to note that we will be adjourned until a date to be fixed some time in October.

**Mr. Speaker:** Thank you Hon. Prime Minister. Before I invite Mr. Carberry to say a few words, and maybe he will stress on this aspect, I omitted to thank our parliamentary staff - the Clerk and the staff for their sterling performance during the course of the year. We work very hard to

continually upgrade the quality of the staff by training sessions and by all kinds of means and methods. The word is – that is the unofficial word, but I hope it is true - that the improvement in the quality of the staff is being noted by the Committee Members.

I also wish, Mr. Carberry, and hope you will join with me on that, to thank the press for their attention and for faithfully, not always faithfully for everybody, but generally and broadly, representing the work of Parliament. I look forward to the day in the future... It will not happen in this term, but I am sure down the road it will be possible for Parliament to have its own press team to make its own recordings and reports and to pass them out to the public. For the time being, while we are developing the resources to do all of that, we have to rely on the press that we have here. They have been doing a fairly good job and I would like to thank them for their service over the past year and look forward for the future.

**Mr. Carberry:** Thank you very much Mr. Speaker. I endorse your view. I believe all of us who have had the privilege of working with the Parliament staff are satisfied that there have been significant improvements. I believe that we can only expect further improvements. I am happy about it. I believe that Members of Parliament are not using some of the facilities that are there, for example the banks of computers. The library is now equipped that people can do a lot of online research, and I believe Members of Parliament have to make use of it. I spent many hours negotiating for those benefits, and unfortunately the Members of Parliament are not using them as effectively as they should. I was a bit taken by surprise when the Speaker said that the Parliament Office had employed the Senior Researcher. I must confess that I was not aware of it, because if I were I would have ensured that we used him or her.

I wish to take this opportunity to say that we are moving in a direction where there are improvements. I made a few points and, I believe, my colleagues are rattled by the fact that I made those points, but I will continue to make certain points because I believe that if we are talking seriously about accountability and democracy, there are some things that we have to do. We cannot fudge the issues. We have to deal with them.

As far as the media is concerned, I want them to understand that it is not only about attending the sittings of the National Assembly but the sittings of Committees are also available to them, especially the Sectoral Committees. The fact is that the media have not been very present at these

Committees' meeting. If they take the opportunity to attend those meetings, they will be better informed and better able to deal with some of the issues which they have to deal with.

Let me take this opportunity, Sir, to wish my colleagues on the other side the ability to regenerate and reorient their minds so that when we come back the next time we will find a more positive orientation on their side. In the meantime, Sir, I am looking forward, like you, to enjoying those warm refreshments that you have been so kind to provide for us. Thank you very much.

### **ADJOURNMENT**

**Mr. Speaker:** Thank you Hon. Members. The House is adjourned to a date to be fixed.

*Adjourned accordingly at 6.50 p.m.*