

# National Assembly Debates

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

## Part I of III

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24th Sitting

14:00h

Thursday 24 May 2007

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

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

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

*Speaker of the National Assembly*

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

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

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

The Hon Samuel A A Hinds MP

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

*Prime Minister and Minister of Public Works and Communications*

The Hon Clement J Rohee MP

*Minister of Home Affairs*

The Hon Shaik K Z Baksh MP - *(Absent)*

*Minister of Education*

The Hon Dr Henry B Jeffrey MP - *(Absent)*

*Minister of Foreign Trade and International Cooperation*

The Hon Dr Leslie S Ramsammy MP

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

*Minister of Health*

- The Hon Carolyn Rodrigues-Birkett MP - *(Absent)*  
*(R# 9 - U Takutu/U Esseq)*  
*Minister of Amerindian Affairs*
- \*The Hon Dr Ashni Singh MP  
*Minister of Finance*
- \*The Hon S Rudolph Insanally OR, CCH, MP - *(AOL)*  
*Minister of Foreign Affairs*
- The Hon Harry Narine Nawbatt MP  
*Minister of Housing and Water*
- The Hon Robert M Persaud MP  
*(R# 6 - E Berbice/Corentyne)*  
*Minister of Agriculture*
- The Hon Dr Jennifer R A Westford MP  
*(R#7 - Cuyuni/Mazaruni)*  
*Minister of the Public Service*
- The Hon Kellawan Lall MP  
*Minister of Local Government and Regional Development*
- \*The Hon Doodnauth Singh SC, MP  
*Attorney General and Minister of Legal Affairs*
- The Hon Dr Frank C S Anthony MP  
*Minister of Culture, Youth and Sport*
- The Hon B H Robeson Eenn MP  
*Minister of Transport and Hydraulics*
- \*\*The Hon Manzoor Nadir MP - *(AOL)*  
*Minister of Labour*
- The Hon Priya D Manickchand MP  
*(R# 5 - Mahaica/Berbice)*  
*Minister of Human Services and Social Security*
- The Hon Dr Destey Fox MP - *(Absent)*  
*Minister in the Ministry of Education*
- The Hon Bheri S Ramsaran MD, MP  
*Minister in the Ministry of Health*
- \*Non-elected Minister \*\*Elected Member from TUF

The Hon Jennifer I Webster MP

*Minister in the Ministry of Finance*

The Hon Manniram Prashad MP

*Minister of Tourism, Industry and Commerce*

Mr Donald Ramotar MP

The Hon Gail Teixeira MP

Mr Harripersaud Nokta MP

Mrs Indranie Chandarpal MP - (AOL)

Ms Bibi S Shadick MP

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

Mr Mohamed Irfaan Ali MP

Mr Albert Atkinson JP, MP

*(R# 8 - Potaro/Siparuni)*

Mr Komal Chand CCH, JP, MP

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

Mr Bernard C DeSantos SC, MP

*(R# 4 - Demerara/Mahaica)*

Mrs Shirley V Edwards JP, MP

*(R# 4 - Demerara/Mahaica)*

Mr Mohamed F Khan JP, MP

*(R# 2 - Pomeroron/Supenaam)*

Mr Odinga N Lumumba MP

Mr Moses V Nagamootoo JP, MP

Mr Mohabir A Nandlall MP

Mr Neendkumar JP, MP

*(R# 4 - Demerara/Mahaica)*

\*\*\* Mr Steve P Ninvalle MP

*Parliamentary Secretary*

Mr Parmanand P Persaud JP, MP

*(R# 2 - Pomeroron/Supenaam)*

Mrs Philomena Sahoye-Shury CCH, JP, MP

*Parliamentary Secretary*

\*\*\*Non-elected Member

\*\*\*Mrs Pauline R Sukhai MP

*Parliamentary Secretary*

Mr Dharamkumar Seeraj MP- (*Absent*)

Mr Norman A Whittaker MP

(*R# 1 - Barima/Waini*)

## **Members of the Opposition**

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

Mr Robert HO C

*Leader of the Opposition*

Mr Winston S Murray CCH, MP - (*AOL*)

Mrs Clarissa S Riehl MP

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

Mr E Lance Carberry M.

*Chief Whip*

Mrs. Deborah J. Backer

Mr Anthony Vieira

Mr Basil Williams MP

Dr George A Norton MP

Mrs Volda A Lawrence MP

Mr Keith Scott MP

Miss Amna Ally MP

Mr James K McAllister MP

Mr Dave Danny MP

(*R# 4 - Demerara/Mahaica*)

Mr Aubrey C Norton MP - (*AOL*)

(*R# 4 - Demerara/Mahaica*)

Mr Ernest B Elliot MP

(*R# 4 - Demerara/Mahaica*)

Miss Judith David-Blair MP

(*R# 7 - Cuyuni/Mazaruni*)

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

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

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

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

Mr Everall N Franklin MP

**OFFICERS**

Mr Sherlock E Isaacs - *(Absent)*  
*Clerk of the National Assembly*  
Mrs Lilawatie Coonjah  
*Deputy Clerk of the National Assembly*

## PRAYERS

The Clerk reads the Prayer

## ANNOUNCEMENTS BY THE SPEAKER

- (i) **Congratulations and best wishes to Mr Harripersaud Nokta, MP - 31 years of Parliamentary Service**

Honourable Members, today marks 31 years of parliamentary service for the Honourable Member, Mr Harripersaud Nokta. Mr Nokta first became a parliamentarian on 24 May 1976. From that time he served as an ordinary Member of Parliament until 28 August 1992. On 13 October 1992 he was appointed as a senior minister of the Government - a position he held until 31 August 2006. On 13 September 2006, he became an ordinary Member of Parliament until the present time. On behalf of the Members of the National Assembly and myself, I wish to extend congratulations and best wishes to Mr Harripersaud Nokta. *[Applause]*

(ii) **Welcome to Members**

**Hon Doodnauth Singh MP**

Honourable Members, while we are awaiting Mr Carberry's entrance into the Chambers ... [*Laughter*] he is somewhere outside, I would like to welcome back Honourable Member Mr Doodnauth Singh, the Honourable Attorney General and Minister of Legal Affairs, who has been on a short sojourn outside of Guyana. We hope that he is fully restored and will be able to make his usual contributions, once again, to the National Assembly.

**Mr E Lance Carberry MP**

I take this opportunity to welcome back Honourable Member Mr Lance Carberry, who has been abroad for an extended period of time. I hope that Mr Carberry is fully restored and replenished, and look forward to his continuing, significant contributions to the work of the National Assembly. I must say that the Assembly has not been the same while Mr Carberry has been abroad. [*Laughter*]

**QUESTIONS ON NOTICE**

Honourable Members, there are seven questions on the Order Paper, Nos. 1, 2, 3 and 4 are for oral replies. At the request of the Hon Minister of Foreign Affairs, and with the approval of the Assembly, Oral Questions, as at 1, 2 and 3, will be deferred, as the Honourable Minister is unwell.

Honourable Members, there are some new rules in relation to our questions, and the answering of questions and because new time restrictions have been added to the Standing Orders since the amendments. These questions have to be answered because, once they are not answered, they have a time limit of twelve days. It is suggested and advised that the only way to keep the questions on the Order Paper, and to prevent the Member who asked the questions from having to resubmit the questions, it is necessary to suspend the appropriate Standing Order so as to keep them on the Order Paper so that, as soon as the Minister is able to, he will answer the questions. I am sure that will meet with the approval members of the Assembly. The alternative is that the questions will lapse and the Member would have to resubmit them.

### **SUSPENSION OF STANDING ORDER NO. 22(9)**

The Honourable Prime Minister



**Hon Samuel AA Hinds:** Yes Mr Speaker and Honourable Members. As you have stated, I beg to move that Standing Order No. 22 (9) be suspended to enable Questions Nos. 1, 2 and 3 to remain on the Order Paper until they are answered by the Honourable Minister of Foreign Affairs.

**Question put and agreed to.**

**Motion carried.**

### **Questions for Oral Replies**

#### **1. CARICOM CHARTER OF CIVIL RIGHTS**

**Member Asking: Mr Aubrey Norton, MP**

**Minister Answering: The Minister of Foreign Affairs**

- (i) Can the Honourable Minister say whether his Government has established the mechanism at the national level to monitor the recommendations of the CARICOM Charter of Civil Right?

- (ii) If such a mechanism has been established can the Honourable Minister inform this National Assembly what results have been obtained to date?
- (iii) If the mechanism has not been established can the Honourable Minister say when this mechanism will be established?

*[Deferred]*

**2. CONFERENCE/RETREAT OF HEADS OF OVERSEAS DIPLOMATIC MISSIONS**

**Member Asking: Mr Aubrey Norton MP**

**Minister Answering: The Minister of Foreign Affairs**

- (i) Can the Honourable Minister inform this National Assembly when last a Conference Retreat of Heads of Overseas Diplomatic Mission was convened?
- (ii) Could the Honourable Minister say what is the date and venue for the

NA 24 MAY 2007  
next Heads of Overseas Diplomatic  
Missions Conference/Retreat?

*[Deferred]*

**3. HEAD OF A DIPLOMATIC MISSION**

**Member Asking: Mr Aubrey Norton MP**

**Minister Answering: The Minister of Foreign  
Affairs**

- (i) Could the Honourable Minister indicate if the disadvantages of having the Head of a Diplomatic Mission for more than five (5) years in one post outweighs the advantages?
- (ii) In such an approach useful in the present international situation?

*[Deferred]*

**The Speaker:** Hon Prime Minister and Minister of Public Works and Communications, you may proceed with the next question?

**4. EMPLOYMENT OF PANDIT GOSSAI**

**Member Asking: Mr Robert Corbin MP,  
Leader of the Opposition**

Is it true that Pandit Gossai has been appointed to a position in the Office of the President?

If so:

- (i) What is the specific nature of the appointment?
- (ii) What are his functions and duties?
- (iii) What are the terms and conditions of his employment, including his emoluments and the duration of the appointment?
- (iv) What are the qualifications of the Pandit for the Office?

**Hon Samuel AA Hinds:** Mr Speaker, Honourable Members. Question No. 4, relative to Pandit Gossai: What is the specific nature of his appointment?

- (i) Yes, he assists His Excellency the President in his dealings with the public.
- (ii) He handles meetings, appointments, and attends to engagements for and on behalf of the President.
- (iii) He serves at the President's leisure; and
- (iv) He enjoys the confidence of the President.

**The Speaker:** Honourable Members, Questions Nos. 5, 6 and 7 are for written replies. The answers to Nos. 5 and 6 have, in accordance with the Standing Orders, been circulated. No. 5 is in the name of Honourable Member Mr Anthony Vieira; No. 6 is in the name of Honourable Member Mrs Volda Lawrence.

**5. TAXES PAID BY MR BUDDY SHIVRAJ - 1999-2006**

**Member Asking: Mr Anthony Vieira MP**

Could the Minister of Finance tell this National Assembly how much taxes Buddy Shivraj has paid to the Guyana Revenue Authority for 1999, 2000, 2001, 2002, 2003, 2004, 2005 and 2006?

**Written reply submitted by the Minister of Finance:**

I am advised that under the provisions of the Income Tax Act Chapter 81:01 of the Laws of Guyana, the requested information cannot be disclosed.

**6. PROGRAMME FOR PRISON OFFICERS**

Member Asking: Mrs Volda Lawrence MP

Could the Honourable Minister of Home Affairs inform this Honourable House of the programmes other than security that Prison Officers are exposed to?

**Written reply submitted by the Minister of Home Affairs:**

Prison Officers are exposed to several other programmes that have improved their general work performances/competencies as well as meeting with several challenges associated with the department's administrative and operational posture. The framework "training for competencies" embodies such programmes as hereunder stated:

- Public Administration
- Sociology
- Social Work
- Industrial Relations
- Prison Management Courses
- Supervisory Management
- Government Accountancy
- Financial Procedures and Budgeting
- Procurement of Store Management
- Information Technology

- Vocational Skills
- Catering Services
- Nursing
- First Aid
- Secretarial Duties
- Agriculture
- Communication Skills
- Statistics
- Photography
- Emotional Intelligence
- Basic English Course
- Driving Courses
- Workplace Safety
- Conflict Resolution
- Customer Care and Work Place Ethics
- Managing Stress in the workplace
- Domestic Violence



- Disaster Management
- Fire Safety

**7. HOSTING OF CRICKET WORLD CUP  
SUPER EIGHT GAMES**

**Member Asking: Mr Raphael Trotman MP**

**Minister Answering: The Minister of Culture,  
Youth and Sport**

- (i) Can the Honourable Minister provide a breakdown of the total sum spent by the Government of Guyana for the hosting of Cricket World Cup Super Eight Games?
- (ii) How much of the amount spent is recoverable and how much has to date been recovered?
- (iii) Will the government be preparing and publishing a comprehensive report on all matters pertaining to the hosting of Cricket World Cup Super Eight Games?

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**The Speaker:** The Honourable Minister of Culture, Youth and Sport is asking that Question No.7 be deferred. Honourable Member, the question can be deferred only for seven days, so please note that. Do you wish to ask now, Honourable Member?

**Hon Dr Frank CS Anthony:** Mr Speaker, I beg to move that the answer to Question No. 7 be deferred.

**The Speaker:** Thank you very much.

*[Answer deferred]*

Honourable Members, we can now proceed with the next item on the Order Paper.

## **PUBLIC BUSINESS**

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

#### **Bills - Second Readings**

- (1) FIREARMS (AMENDMENT) BILL 2007 - Bill No.14/2007 published on 4 May 2007**

*A Bill intituled an Act to amend  
the Firearms Act*

The Honourable Minister of Home Affairs

**Hon Clement J Rohee:** Mr Speaker, I beg to move that the Firearms (Amendment) Bill 2007 - Bill No. 14/2007, be now read a Second time.

Mr Speaker, the Bill that we have before us, is relating to the Firearms Act, Chapter 1605 of the Laws of Guyana, makes provision for the importation, sale, possession and use of firearms and ammunition as well as for the registration and licensing of firearms and for matters connected there with.

Mr Speaker, as we all know, this Act was enacted in 1940. It has been amended several times, the last being in 1993. Of late, it has been noticed that there has been an all-time high rate of proliferation of illegal firearms in the country and if you recall, I believe, it was during the Budget Debate, the Honourable Member, Mrs Backer, *singing Debbie*, if I may respectfully suggest, composed a tune called *Guns, guns, guns; one a penny, two a penny; guns, guns, guns*. [Laughter] That song reverberated, not only throughout the halls of this hallowed House, but even beyond; and it has to be recognized that the proliferation of illegal firearms in this country, due to

smuggling of these weapons and ammunitions through our soft and wide borders and, in fact, many waterways, has resulted, to a large extent, in the current situation in which the country finds itself.

There has also been a noticeable rise in robbery, using firearms. Mr Speaker, the statistics show the used firearms in robberies is a matter of great concern to the citizens of Guyana. For example, if we are to look at robbery under arms, in 2006 there were 470 incidents of this kind; compared to this year where there have been 320 incidents of robbery under arms.

The use of firearms in relation to fatal shootings - last year there were six; this year there have been two.

Mr Speaker, in accordance with the Provisions of Article 32 of our Constitution:

*It is the joint duty of the State, the society, and every citizen of Guyana to combat and prevent crime and other violations of the law, and to take care of and to protect public property.*

That is a fundamental right enshrined in the Constitution. We therefore, cannot allow the citizens of our country to be under constant threat of loss of life and property, and to allow miscreants to have a free hand. In the circumstances, Mr Speaker, it is considered necessary to

take immediate steps to amend the Law, providing for stringent and exemplary punishment for violations of the Act, so that there would be sufficient deterrent effect.

The present Bill contains seven clauses, and has six operative clauses.

*Clause 2* deals with an amendment to Section 16 of the Act, relating to penalty for purchasing, or possessing of firearms or ammunition without a license.

The penalty provided in the Act, at present, is as low as \$3,000. As purchase and possession of firearms without licenses are the root causes of the proliferation of the illegal arms trade, and commission of crimes using such firearms, the Law, I submit, Mr Speaker, should reach the culprits with a heavy hand.

*Section 16* It is proposed, therefore, to amend Section 16, providing for a penalty, in case of a summary conviction, of a fine of not less than \$50,000; nor more than \$100,000, together with imprisonment for not less than two years, or more than five years.

In case of convictions or I should say that, in case the conviction is on indictment, the fine would be not less than \$150,000; nor more than \$500,000, together with Mr Speaker, if any person fails to comply with any imprisonment for ten years.

If any person fails to comply with any condition, subject to which a firearm license was issued, the penalty would be a fine of not less than \$50,000, or more than \$100,000, together with imprisonment for not less than one year, or more than three years.

*Section 32* of the Act, Mr Speaker, provides that only with the authority of the Minister one may manufacture, sell, transfer, purchase, acquire, or have in his possession prohibited weapons.

*Clause 3* of the Bill seeks to suitably enhance the penalty in respect of violation of this section.

*Section 38* of the Act deals with the use and possession of firearms, or imitation firearms, with intent to resist, or prevent the lawful apprehension, or detention, of any person. In this regard, Mr Speaker, it is proposed to enhance the penalty of imprisonment of fourteen years, and whipping or flogging; as at present, to a fine of not less than \$50,000, nor more than \$100,000, together with imprisonment of not less than five years, nor more than sixteen years.

*Section 39* of the Act, Mr Speaker, deals with shortening or possession of smooth-bore guns, with barrels of less than twenty inches. It is also proposed to enhance the penalty provided in this section.

Section 44 of the Act deals with the general penalties. Mr Speaker, it is proposed to enhance the penalty from \$5,000 and imprisonment for three years, as at present, to \$300,000, and imprisonment for five years.

*Clause 7* of the Bill seeks to insert, Mr Speaker, a new Section 44. The Act provides for regulations, or granting of bail, in certain cases. We know that the modern thinking is *bail and not jail*. However, Honourable Members of this House, will note that the violators of the Firearms Law deserve no sympathy, as they are a constant threat to a peace-loving society. The chances of them creating fear in the minds of the witnesses, tampering with the evidence, committing further offences in case they are set at large; and escaping arrest, are some of the important reasons as to why we should resort to this measure. Hence having regard to the seriousness of the situation, it is proposed to restrict the granting of bail, as in the case of the offenders under the Narcotic Drugs and Psychotropic Substances Control Act of 1988 and the Kidnapping Act of 2003. At the same time, Mr Speaker, it is proposed to give the accused person a fair trial within a reasonable time.

Mr Speaker, in the circumstance, I believe that this Honourable House would be doing the nation, and all the people of this country who want to live in peace, who want to work in peace, who want to enjoy leisure, and who want to be able to travel the length and breadth of this

country - for whatever reason it might be, to support, unanimously, this important measure. With this, I commend this Bill for the consideration of this Honourable House. *[Applause]*

**The Speaker:** Thank you Honourable Member

The Honourable Member Mrs Backer

**Mrs Deborah J Backer:** Mr Speaker, I am somewhat touched that the Honourable Minister remembered my singing of *Guns, guns, guns* to the nursery rhyme *Hot cross buns* and as he indicated, he thought that was the high-point of my presentation. I myself thought that my high-point was the callaloo connection, but it just shows that great minds can sometimes differ.

The People's National Congress Reform-One Guyana is on record as condemning the use of guns to terrorize, to maim and to kill our citizens wherever they live in this country. We are on record and in fact I think that we had also indicated that even if the Minister came on a Sunday – the Minister being the Government - to pass legislation to deal with guns, we would turn up to discuss, debate and support it, once it does not ... Of course, when we say that we will give support, it would not and it will never be blind support. It will always be support based on principles, and based on what is right, and balancing the rights and obligations of both victim and accused.



Let me say immediately that the People's National Congress Reform - One Guyana has, in principle, no problem with the proposed increased fines, and also the proposed increased terms of imprisonment, as they appear in the Firearms Amendment Bill that is before us - Bill No. 14/2007; so the Minister can be satisfied, even as I begin this short presentation, that he will not, nor will the Government, find any opposition coming from the PNCR-1G as in increased fines, and increased terms of imprisonment.

The Firearms Act, as it stood up to today, and in fact, of course it is still in force, because the amendments have not come into force as yet, two of the Sections, which it is being proposed to amend today, traditionally give the magistrate power to impose another sentence, apart from what is in the Legislation. Sections 16 and 32, as amended today - the proposed amendments, take away that discretion: And just for the benefit, perhaps I can read and this is the amendment coming from Act 23 of 19 91 which, in fact, as the Minister said, was the only major amendment we had for this Act since it had been enforced in 1940, I think it was 1 December 1940. Up to now the Magistrate has the power or he/she still has the power to prescribe a different term of imprisonment or a different sentence, but that had to be put in writing. It had to be recorded: So the Magistrate, up to now, has discretion. This Bill is seeking to remove that discretion.

Given the seriousness of gun-related crimes, it may seem slightly harsh to be taking away that discretion; but it is a

taking-away of discretion that in the circumstances, we feel that we can live with. So again, the Minister will not find us having a major problem there. However, life is never totally as you would want it.

*Clause 7*, which seeks to insert a new section in the Firearm Act, is the one that causes us some disquiet. Why does it cause us disquiet, Sir? It causes us disquiet because, in our respectful submission, it is too wide, and if I could invite Members of the House to look at it, it is the very last Clause - 44 (A). This is the new Clause that we want to insert, and it has been brought to this House for insertion. It says here:

*No person arrested for any offence under  
Section 16, Section 37 and Section 38 ...  
shall be admitted to bail ...*

And then comes this very strange clause:

*... Unless the Prosecution has had an opportunity  
to intervene ...*

And it goes on to say:

*... and unless there are special reasons for admitting the person to bail, which should be recorded in writing, and a trial ...*

Which Minister Rohee read in - *a fair trial*, which is not an unreasonable reading in

*... Shall be within a reasonable time ...*

Mr Speaker, I had hoped that Mr Rohee ... and I see my very good friend Mr Nandlall lined up here to speak. So I presume he will tell us, what *unless the Prosecution ...*  
[Interruption]

**The Speaker:** ... if he gets the permission of the Speaker.

**Mrs Deborah J Backer:** Sorry, Sir. I just presumed that he would have gotten that.

**The Speaker:** That is being presumptuous. [Laughter]

**Mrs Deborah J Backer:** Who? Mr Nandlall is being presumptuous? Then I am sorry, Sir. He has always had that tendency, Sir. [Laughter]

But Sir, back to the Bill on hand, the phrase:

*... unless the Prosecution has had an opportunity to intervene ...*

What does that mean? As we stand here now, if Winnie the Pooh is charged and Honourable Member Mr Nandlall appears for her ... [Interruption - 'Honourable Member...'] If Winnie the Pooh is charged and Donald Duck appears for her and he goes to the court, he will ask for bail. The Prosecution intervenes then, because the person is charged and you say not guilty. The Defence Counsel asks for bail because he is a good person, he does this, he has a fixed place - You know how it goes, and he never had any previous conviction; and then they would go into Compton English, which, through the learned Attorney General, is now what I would consider us classicist in the issue of bail: And the Honourable Attorney General, then Defence Counsel, was very prominent in that case. That is why I like to quote him, particularly in this House. But Sir, Defence Counsel will then make representation why his or her client should go on bail and the Prosecution will then have the opportunity to say no, no, no. It is not true. Mrs Backer is a known rogue and vagabond, and she does not live where she says she lives, and she has a long list of offences with arms, or other bad things, and she ought not to be given bail. The point about it is that the Prosecution, at that time, has an opportunity to intervene: So the position is that we would like some clarifications. It seems to us that it is redundant and unnecessary, and I would hope that a subsequent speaker, from the Government side, would tell us how this takes us any further than it would if those words were not there. In fact Sir, in doing so, I am indirectly speaking

to a proposed amendment standing in my name; where we have proposed that those words unless the Prosecution has had an opportunity to intervene and be deleted. It would do no harm to the section. Sir, then we goes on to the other part:

*... unless there are special reasons for admitting the person to bail, which shall be recorded in writing and the trial should be within a reasonable time.*

Minister Rohee was absolutely correct when he cited ... and he got the entire Act right – the Narcotic-Drugs and Psychotropic Substances Control Act, with the necessary amendments. And by that Act, you have to have special reasons before the person could be admitted to bail and if I can just read ... It is a very short sentence, and the main reason I am reading it is to show that there is Statute here, where these words *unless the Prosecution has had an opportunity to intervene and had been deemed unnecessary*. That is our position. At Section 94 now ... and this of the *Narcotic-Drugs Act*, as it is loosely called, says:

*Any person arrested for any offence against Part 2, other than offences against Parts 5 and 12 shall not, unless there are special reasons for so doing, which shall be recorded in writing, be admitted to bail by*

*any court, but he shall be tried within a reasonable time.*

So Section 94 of the Narcotics Bill, in essence, says the same thing as Section 44 (A) is proposed to say. *[Interruption: Narcotics Act]* Narcotics Act, yes. The Narcotic-Drugs and Psychotropic Substances Control Act; but the draftsman did not see the need to put in *unless the Prosecution has had the opportunity to intervene*; and we are saying that there is no necessity for that, and we use the Narcotics Act to strengthen our position. Sir, even if we take that out ... and I am hoping that it would be fairly easy to persuade the Government side that that clause can be deleted without any violence being done to the section.

*Section 16* - What this section does, Sir, is that anyone who is charged under Sections 16, 37 and 38, must show special reasons. Sections 37 and 38 do not present significant problems because of what they cover, but when one looks at Section 16 of the Firearms Act ... because, remember, what Section 44 (A) is now doing, is that if you are charged under Section 16, you shall not be admitted to bail, unless there are special reasons. Now Section 16 is very, very wide and it covers any person who acquires, purchase, or has in his possession any firearm or ammunition, to which this part applies, without holding a Firearm License in force at the time; so might be a licensed firearm holder, but due to creeping

Alzheimer's, or some such thing, at the time, I forget to renew my license for a month; in that month, if I am stopped; then I would be caught under Section 16, and the presumption is that I will not get bail.

Sir, it cannot be that we want to equate that person, who has creeping Alzheimer's, to the hardened criminal, who has in his or her trunk AK 47s, smooth-bore weapons less than twenty inches, and that kind of thing. It cannot be that we want to lump them together. What is even just as frightening is that, when you look at the definition of ammunition ... because remember, this new proposed section is saying that, once you are charged under Section 16, and it speaks of ammunition ... Now, the definition of ammunition, which is in Clause 2, says this:

*Ammunition means every shell, cartridge case ...*

And then it goes on,

*Bomb and Grenade...*

Well, we understand those things,

*... bullet or like missile,*

But it says:

*... every shell, cartridge case*

And then, Part 3, not to be outdone, says:

*Every part of any shell [Laughter] any part of a cartridge case.*

I do not know if the opposite, in ballistic terms, is unspent ... [Interruption: 'spent'] Well, the shell that is spent. Thank you Mrs Riehl. So I have in my possession a handful of spent shells, and I am going to be lumped with the same person whom, as I said, has in their trunk AK 47s and bazookas and hand grenades? That cannot be the intention of the section, in terms of bail. It cannot be. So Sir, once you look at the definition, you would see that, as is, Section 44 (1) is too wide, and may catch people who you really do not want to catch. When I say that, I mean people who are not genuinely contemplated ... because, remember, the Minister prefaced his presentation on the proliferation of illegal weapons, increase in crime, which is very frightening. We all agree with that, but it can't be for that kind of person. In fact, it is with that in mind that the second proposed amendment, standing in my name, seeks to alleviate, when it says:

*Special reasons in relation to persons  
arrested for an offence, under Section 16 ...*

Because we are not talking about Sections 37 and 38 – we are talking about Section 16.

*... Shall include the quantity and types of  
ammunition ...*



But even that amendment does not take in the person whose license has just expired.

So Sir, yes, we support increased fines. Yes, we support increased imprisonment, if found guilty. Yes, we support bail not being necessary, as a right, for those people who have certain quantities of things; but it cannot be, and we cannot support a person who is essentially a law-abiding citizen, whom has forgotten, or whom has a miniscule amount of five shells, five cartridge cases, to be captured under this. I know that they may come back and say *special reasons*, but we know that we have had problems in the courts as to what *special reasons* mean, and what we are suggesting is that *special reasons*, as far as we could think of it, should be listed in this very Act – defined; so when the magistrate goes, and the Magistrate - timid or not timid, may see that he or she can send Mrs Backer home because she has only forgotten her license for a month; or he can send somebody else home, because they collected, or they found two shells which they have in their possession. When I say send them home. I mean send them home in terms of pre-trial bail. Of course, if they are found guilty, then that is another thing; but then the magistrate at least has discretion. And we know that with the interpretation clause, so it cannot be that they have to go to jail, but I would not want to go into that, because there are speakers after me.

So, in short, colleagues on the Government side, we agree that we have to do everything to bring to bring guns crimes under control. We agree with increased fines, and we agreed with increased imprisonment, but we cannot agree with lumping everyone together and, as such, we will table amendments at the appropriate time. There may be even more amendments that may come after we have spoken; and that is how it should be, as we seek to pass, in this House, the best possible legislation that the sixty-five of us can collectively come up with.

Mr Speaker, it would be remiss of me, was I not to mention, before I sit the report of the Disciplined Forces Commission; and Sir, when that Commission met and deliberated, Pages 137 to 148 of that report dealt with firearms licenses. That was the emphasis because, at that time as a result of the very ... I would say unacceptable practices under a previous Minister of Home Affairs, licenses were given out, or were authorized, willy-nilly, to people of highly questionable character, and I do not think that anyone can deny that. There was a turnaround, and I am going to give credit where credit is due. There was a turnaround beginning with Minister Gail Teixeira and she must be complimented, and I compliment her publicly; *[Applause]* but a lot of those people who had guns, who should never have gotten gun licenses, still have them. They still have the ways to commit these crimes that we are trying to stop.

Why have I said this? There is a particular person on the PNCR-1G side - not necessarily in Parliament who says, *I have said that to say this*. I have said that, Sir, to say that the recommendations made by the Disciplined Services Commission, as it relates to firearm licenses, are as relevant then, when they submitted their report in May 2004, as they are now; and I would respectfully urge that they be looked at, because this amendment does not necessarily have to be a one-off. It does not mean that we would have to wait ... The last Amendment was in 1993, and now we are coming in 2007. That is a gap of fourteen years. There is no impediment. We do not have to wait another fourteen years to amend again; but I want to very strongly suggest that the work of these fine Guyanese citizens do not collect further dust, and that their Report be looked at vis-à-vis the issuing of firearms licenses.

Mr Speaker, with these few and what I would consider non-contentious words, even if I say so myself, I thank you for listening. Thank you very much. *[Applause]*

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

The Honourable Member Mr Anil Nandlall ... Sorry.

The Honourable Member Mr Franklin ...

**Mr Everall N Franklin:** Mr Speaker, I too would like to give my support, in general, to this piece of legislation, which I dare say very few people can disagree with;

providing they are law-abiding citizens not intent on committing a crime. It would certainly send a strong message and, hopefully, would a deterrent be to those who would wish to disturb the peace, the sanctity of our homes and, basically, destroy our lives. However I think that, because this Bill is directed against the criminal, and those with criminal intent, like the previous Speaker I would like to suggest that, in addition to taking on board the recommendations of the Disciplined Forces Services Commission; that we, effectively and very quickly, review the licensing procedures that exist at present.

The Honourable Minister quoted Article 32 of the Constitution - the joint duty of the State and citizens to combat crime and so on. I do not believe, however, that the citizens and the State have equal measurable responsibility. I would like to suggest that the State has the overriding responsibility to the citizens to provide protection. That does not mean that we, as citizens of this country, Mr Speaker, do not have an obligation, and also a duty; but we must understand that the State has to empower citizens, so that they could be in a position to defend themselves, their own private property as well as the State's property; so therefore it is definitely, with this Legislation, seeing that it is directed to the criminal elements, and the would-be criminals in the society, because we have to support law-abiding citizens who are trying to eke out a living, and to protect what they have, with the necessary help; and ease, in terms of those

worthy citizens who should be given a license. I agree with Honourable Member Mrs Backer that a review should be undertaken, whilst this Legislation is going through, of licenses that were issued previously. From my personal experience, I have sometimes been very surprised when I saw who have been issued licenses. I also suggest that persons who have been charged and convicted of certain crimes - be it domestic violence or other criminal acts, that their licenses should be automatically revoked.

It is most unacceptable that the people, especially those in the Hinterlands, who are fighting to make a living; fighting against hustlers, fighting against people who attack them at their farms, and attack them at their mining camps. They should not have to wait five/ten years before they are given consideration to have the tools that our Constitutions say ... to have the tools that are necessary to protect themselves. This Legislation cannot really carry the weight that it ought to if we do not support the rest of the citizenry whom are trying to do what the Constitution says. *[Pause]*

Together with that, I think that this Legislation has to carry out a very short but intensive amnesty, and I say this, not for the criminals, because the criminals will do what they have to do. I say this for those people who are law-abiding, but found no way out to protect themselves and their families except by acquiring the tools necessary

to do so; especially people who are close to our borders where, I am sure ... The Honourable Minister has just pointed out the porous border, where a weapon can be had for half a bag of rice. It is that cheap ... *[Interruption 'Or a bag']* Well, if it was for a bag, then you will get the ammunition also. I think we need to be able to look after our citizens and protect them.

In relation to imitation firearms, I think additional legislation is needed to deal with these items at the ports of entry. Those that are already here, of course the legislation will deal with that, but we need to be able to stop the importation of such items, and I think it will go a far way in assisting law enforcement officers in their duty.

Mr Speaker, any legislation that has such harsh ... and justifiably so, penalties for crimes would also bring into question the ability of our law enforcement officers to resist the temptations of inducement to let the perpetrators go. In addition to this legislation, one would have to also raise the penalties for law enforcement officers who collude with the people who commit such crimes. If we do not do this, then all we would be doing is raising the cost to get off. It is important that we also send a message in order for this Legislation to be workable.

Mr Speaker, because of the measures herein stated, I believe that criminals will adapt. It is quite possible and probable that our juveniles would be the ones carrying the

weapons. I therefore submit that, in addition to what is already stated here, that persons found guilty of handing weapons to juveniles to commit the crimes, must face the same, or even stiffer penalties than are stated here, because that would be the logical move of a criminal. I will give it to somebody who can bypass this strict and stringent law. I was happy to hear that stiffer penalties are there for people who resist arrest. I think it would send the correct message to those who are bent on making our lives a misery.

In conjunction with easing, or expediting, the issuing of licenses to persons who are deserving of such, we must also have a sensible training programme for all persons who are licensed. Again, personal experience - A lot of persons who have attained licenses are incapable of handling the weapons that they are licensed for; and I suggest that persons who are issued license must have a three-year refresher course on the safety, as well as the use, of the firearm, for it to make some sense. I cleaned a weapon, not too long ago, for someone, and they had cobwebs in the breech. Obviously that is a weapon ripe for a criminal to just take away.

It is pretty difficult to speak after someone as experienced as Mrs Backer. She probably came by me last night ... Did you come by me last night? *[Laughter]* and peeped at my script. Therefore, Mr Speaker, I once again would like to reiterate that this is a good first step. I think we have to

deal with this particular issue in a much broader manner. I would say, again, that the State has the responsibility to protect its citizens; and the State has the responsibility to give the citizens the tools that are necessary for them to protect themselves, but we have to deal with this as a package, and not as a band-aid, and I hope that we would see very expeditious movement in that direction.

Therefore I, too, would like to support this Bill, taking into consideration the suggestions that were made by speakers before; as well as those that I have made in this short presentation, and we hope that it would go a long way in assisting us to curb the crime and the suffering that our people are going through. Thank you, Mr Speaker. *[Applause]*

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

The Honourable Member Mr Anil Nandlall

**Mr Anil Nandlall:** Mr Speaker, like the speakers who preceded me, I would like to register my support for the Firearms Amendment Bill 2007, that is currently before this Assembly.

Mr Speaker, the Honourable Minister went through the Bill in great detail - clause by clause and explained the intention of each provision, and also the effect of each provision. Therefore, it is not necessary for me to repeat that exercise.



But I would like to begin my presentation, Mr Speaker, at the risk of being pedantic, with a quote from *Smith and Hogan Criminal Law*, Chapter 1, under the heading *Crime and Punishment the 10<sup>th</sup> Edition* and this is what the learned authors had to say:

*Crime has always been regarded by the courts as a moral wrong, and conduct demanding retribution. The Law is based on an assumption that, in the absence of evidence to the contrary, people are able to choose whether to do criminal acts or not, and that a person who chooses to commit a crime is responsible for the resulting evil, and deserves punishment. The courts have generally seen their task as one of fitting the penalty to the particular degree of iniquity and dangerousness of the offender's conduct on this particular occasion. The sentence should adequately reflect the revulsion felt by citizens for that particular crime. Its purpose is seen, not only as punishment, but also as a public denunciation of the conduct in question. It may then satisfy the demand for retaliation by the public, or some members of the public, which serious crimes sometimes arouse.*

Mr Speaker, I am also fortunate to be a part of the Commission of Law and Order, which is chaired by the Hon Minister of Home Affairs himself and on that Commission, we are currently engaged in another countrywide exercise; where we are listening to the evidence and the complaints of people, throughout Guyana from various backgrounds; and again, the unmitigated plea and cry of our people is that we are living in a society where there is an increased rate of crime; and important to that increase, and a factor that contributes significantly to that increase in crime, is the use of illegal firearms. Mr Speaker, again from the persons from whom we are taking evidence and complaints we hear, regularly, a call for increased penalties for the persons who act contrary to the relevant provisions in respect of illegal firearms.

So the authors of *Smith and Hogan* explained that *the sentence and a penalty must reflect the revulsion that the society feels in respect of a particular conduct*. Mr Speaker, I have used two examples to show how our people feel about firearm, and about firearm-related offences. The speakers who spoke before me are in complete agreement that, in their experience that is also the sentiments expressed to them by their respective constituents. Our duty here is to make the wishes of our constituents a reality in this august Assembly. It is in that political and social context that this Bill must be situated.

Mr Speaker, as the Honourable Minister explained, the Firearm Legislation – the principal Act - that this Bill seeks to amend, was enacted in the National Assembly in 1940, sixty-seven years ago and that, by itself is something that we should take note of, because there is no ... Crime is recognized by all the sociologists refute as one of the most dynamic and evolving phenomenon in any society and there is no Law that can exist for sixty-seven years and deal with the phenomenon of crime, in the way that it is supposed to deal with it. What the situation was in Guyana in 1940 is radically different from what situation is now. That is why I would like to support the call made by the Honourable Member Mrs Deborah Backer and Honourable Member Mr Franklin that we must continue this exercise of updating our Legislation to meet the needs and the exigencies of a changing and developing society and it is in that context, I also endorse the views expressed that the proposals of the Disciplined Forces Commission should be taken onboard, and that they should be part of the firearm legislation, but that is for a different debate.

Mr Speaker, we have heard a lot about the bail and I suppose that those who will speak after me will also comment on the bail. I observed, in the press, that the Bar Association issued a statement, in which the Bar Association expressed the view that this Bill seeks to reverse the presumption of innocence, and they expressed the view that it may be unconstitutional. Mr Speaker, I

take this opportunity to respectfully disagree with the view expressed by the Bar Association, for it is my considered view that, yes, this Bill seeks to reverse the presumption of innocence, but there is nothing wrong, and there is nothing unconstitutional, in respect of reversing the burden of proof and the presumption of innocence. Mr Speaker, the presumption of innocence is birthed in the Common Law, and the offence of murder, and the offence of treason are offences that are Common Law offences, and they became offences around the same time that the presumption of innocence was born; and from time immemorial - from the very conception, murder and treason were always offences for which bail was not grantable.

The point I am making, Mr Speaker, is that the Common Law itself, which created the presumption of innocence - the Common Law itself, derogated from that presumption. In respect of the constitutionality, Mr Speaker, I respectfully submit that, though the presumption of innocence has received constitutional recognition in Article 144 of the Constitution, because it is there -144, and with your kind permission Sir, if I may be permitted to read it? Unfortunately, you are not the Speaker. Article 144 says:

*(1) If any person is charged with a criminal offence, then, unless the charge is withdrawn, the case shall*

*be afforded a fair hearing within reasonable time by an independent and important court established by Law.*

(2) *It shall be the duty of a court to ascertain the truth in every case provided that every person who is charged with a criminal offence -*

(a) *shall be presumed to be innocent, until he is proved or has pleaded guilty.*

So the Constitution also recognises the presumption of innocence, but I hasten to add that Section 11 of the very Article 144 provides as follows:

*Nothing contained i, or done under the authority of any Law, shall be held to be inconsistent with or in contravention of -*

(a) *Paragraph 2 (a, to the extent that the Law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;*

What this is saying is that, notwithstanding the presumption of innocence that is provided for in Paragraph 2 (a) of Article 144, the Constitution itself

authorizes this Honourable Assembly to pass a law, and to reverse that burden. Also this Bill, when it seeks to take away, or rather to circumscribe the power of a Court in respect of the granting of bail, this Bill is doing exactly what Article 144 Section 11 authorizes it to do; so the question of unconstitutionality does not arise.

Mr Speaker, it has been said in this Assembly that ... and the Honourable Member Mrs Deborah Backer has proposed an amendment. But before I deal with the amendment, I would like to say that I have looked at the Narcotics Act, which was cited before, and the section that this Bill inserts into the Act; that is, the section that deals with bail and requires special reasons for bail, is identical. Mr Speaker, it is identical to the Section in the Narcotics Act dealing with bail. The point, Mr Speaker is that this is nothing new to our statutory framework: And Mr Speaker, that very section was interpreted by our Full-Court sometime ago ... not very long - two or three years ago, in the Case of *Knights and De Cruise*; and that case, Mr Speaker, is reported at 54, West Indian Report; and that very section was interpreted by Chief Justice Kennard, as he then was, and according to the Full-Court what the section meant - what *special reasons* meant in that context is that special reasons must be reason that relates to the *offence*, and not the *offender*.

So when one looks at the Honourable Member, Mrs Deborah Backer's, proposed amendment, it seems to be

in collision with that interpretation; and that interpretation was not conceived by Chancellor Kennard. He borrowed it from English cases. My reading of the proposed amendment seems to say that *special reasons*, in relation to persons arrested for an offence under Section 16, shall include *the quantity and type of ammunition*. Mr Speaker, this, in my view, still seems to relate to the person, and not to the offence. For this reason, Mr Speaker, I would not support this amendment. Also, for this additional reason from the time you start to inject into Legislation, or a Bill, factors that a court must take into account, when it is exercising discretion, then a whole host of legal principles of interpretation comes in; because the mention of one, it can be argued, excludes the other; so that is why it is best to leave it to the sense of fairness of the particular judge, or magistrate, and let him determine what would, or what would not be special circumstances, or special reasons, in any given case. Mr Speaker, a case will come up where the quantity and the type of ammunition is wholly irrelevant, but they are highly mitigating and exacerbating types of situations, which will accrue to the benefit of the accused; but a magistrate ... and Mrs Backer used the term *timid* - a timid magistrate may feel that he is confined to these two elements injected by this amendment.

So my position is to leave special circumstances to be interpreted by the judiciary ... [Interruption: 'Special reasons'] ... special reasons to be interpreted by the

judiciary; and each case will be determined on its own merit. From the time you start to delimit, and start to specify what ought to be, and what ought not to be, *special reasons*, then we are interfering, with the judicial discretion of the magistrate, and I do not think that this Honourable Assembly should engage in any exercise in that direction. For that reason, I do not support the amendment that is tabled by Mrs Deborah Backer.

Mr Speaker, on the other amendment, as to *unless the Prosecution has had an opportunity to intervene ...* Well this clearly deals with two sets of situations, in my respectful view:

- *It removes from the police station the power of a police officer to grant bail.*

What they are saying here is that the Prosecutor must intervene. It means, therefore, that a person who is held in relation to a firearm offence, that person must be charged and put before the courts, and the question of bail does not arise prior to the charge; it does not arise in the magistrate courts. That is the first situation that this Bill, in my view, deals with.

The second situation is where there is no Prosecutor and that situation has occurred.

Assuming for whatever reason that a Prosecutor is not present and the case is called. Well, this Bill seeks to



prohibit the magistrate from going ahead with the case in the absence of the prosecution; because the Defence Counsel, Mr Speaker, advances *special reasons*, this Bill presumes, or offer the prosecution the opportunity, to reply to those special reasons. That is all that it seeks to do - to deal with those two situations, so there is no mystery behind the provisions or the insertion. Mr Speaker, contrary to the view of my learned friend, I think that the insertion of that phrase *unless the Prosecution has had an opportunity to intervene* is an important injection in the Bill, and ought not to be removed, as my friend is suggesting.

Mr Speaker, with those few observations, I wish to thank you for affording me the opportunity to speak, because you expressed certain views earlier [*Laughter*] which led me to believe that my presentation would not have been entertained. [*Laughter*] I thank you very much, Sir. [*Applause*]

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

The Honourable Member, Mr Raphael Trotman.

**Mr Raphael GC Trotman:** Mr Speaker, I rise on behalf of the Alliance For Change to speak to this Bill - Bill No. 14 of 2007 - the Firearms Amendment Bill 2007.

If I may, before getting into the substance of the Bill, just by way of statement, say that, as a practicing member of

the Bar Association, I would not want certain views to be adopted in this House as being the view of the entire profession, as stated by Honourable Member Mr Nandlall. Some views expressed by him ... and I will say this publicly, and I will speak to him about it afterwards, did cause me some concern; particularly those surrounding, the presumption of innocence, which we know to be sacred, sacrosanct, and hallow; and to hear that it can be derogated from, and has been derogated from, is not only troubling, but is very, very worrying.

I hope that even the examples cited will, with the benefit of time, experience, and the wisdom of experienced counsels such as Mr DeSantos and our very learned and capable Attorney General, Honourable Member Mr Doodnauth Singh that the Member will recognize, and realize, that the statements made were made in error. Mr Speaker, with those words, I wish to turn to some aspects of the Bill.

This Bill seeks to strengthen the Laws dealing with the illegal possession of firearms; in some respects, even legal owners of firearms are likely to be penalized, as was pointed out by Mrs Backer. Those who, for some reason, either being out of the jurisdiction of Guyana, or who inadvertently, through lapse of memory due to Alzheimer or otherwise, failed to renew their licenses on time, may find themselves before the courts being refused bail and having themselves incarcerated.

So, in my view, like Charles Dickens,, we do live in two cities, in two countries in Guyana, almost like two professions, which I and Mr Nandlall belong to.

- On the one hand, there are the offensive type of persons who, as Mrs Backer pointed out, roll around Georgetown and Canal No. 2 and Non Pariel with AK 47s and 9 millimetre weapons.
- On the other hand, as is very often the case, there is a person whom, out of fear for his/her life, and concern for his/her family, and having recourse repeatedly, to the police station without any redress, because either there are no vehicles to transport police officers to the scene, or whom are asked, whenever they call upon the police that *could you come and collect me?*

I recall the incident of the young lady in Linden who recently lost her life, or rather, the life of her infant in her arms. When she called the police to say that the perpetrator and this man were threatening her outside, they asked, *can you come and pick us up? And we will come and deal with the matter.* It was impossible for her to leave her doorway ... And the rest, as they say is history, because he fired vicious chops at her, which missed and connected with the nine-month-old baby, and now that baby is dead. Not to say that she should arm her with a firearm. Her first expectation is that expectation, as

espoused by the Honourable Members and Minister of Home Affairs, to turn to the security forces for protection; but, as is often the case, the security forces are either stretched to capacity, are unwilling, are unable, are in some rare instances ... and I hope only rare, are complicit themselves - involved in the courtroom for some of these crimes.

Only recently, I believe last week, in West Demerara, at an attempted robbery at a pawn shop, a policeman not only loaned his firearm, but also his uniforms, but luckily that attempt was foiled and he is now in ... *[Interruption]*

**The Speaker:** That is still an allegation, Honourable Member ... That is still an allegation ...

**Mr Raphael GC Trotman:** Yes, Mr Speaker. The fact is that one of the persons is alleged to have been wearing a uniform, but so all of these things are allegations, so we need to get that off of the records.

I thank you for pointing that out, Mr Speaker. Are you representing him by any chance? *[Laughter]* You seem to be very knowledgeable.

**The Speaker:** No. I got that from the Press. *[Laughter]*

**Mr Raphael GC Trotman:** I stand corrected indeed, that all of these are allegations: And you remind me, of course, of the presumption of innocence, Mr Speaker, which perhaps Mr Nandlall needs also to be reminded

about. [Applause] That presumption is to be maintained throughout. [Applause]

But we do have instances and I know this both as a citizen of Guyana and a practicing attorney, that there are cases where the police at some stations, particularly in rural areas, divert calls, do not answer calls, answer the phone half an hour after the incident has taken place; giving the perpetrators enough time to leave the district and to cover their tracks, so to speak. Again, these are allegations. So these are instances that we need to be concerned about and, in preparing for today's presentation Mr Speaker, I had a cursory look at some facts and I came across a most horrific story. On 29 August 2002, when the infamous *Inspector Gadget* was running wild and rampant on the East Coast ... and this is a story describing Muniram's house at Non Parel being ransacked and if one were to see a picture of Muniram's house, one would wonder why a gang of thieves would set upon it in the first place; but this gang not only went into the home; they beat, they terrorized, they sexually assaulted two young ladies in the home, and then made good their escape. What was left for Mr Muniram to do? In a month or two after no one had been apprehended; after he had been promised that he would be protected; while his wife and daughters shivered in fear, what was he to do? Was Mr Muniram to arm himself with a cutlass, or a bottle of acid, or if per chance, a man comes and asked him to barter half a bag of rice for a 9 millimetre

Taurus or Block would he consent to break the Law in an effort to protect his family?

So we need to weigh, as I said, between the types of offender; between he/she who is protecting their family and he/she who seeks to enrich him or herself. Mr Speaker, I recall the statements being repeated in the papers, now that we have another allegation before the court - the murder of Farouk Razack, who had said that he kept a cache of weapons because he was afraid of the infamous *fine-man*, also called *Rawlins*. Was that fear a justified fear or not?

So, I urge the Honourable Minister to consider some of these arguments, and I am going to propose to him that he takes the cumulative effect of what is being said here this afternoon and consider the possibility of sending this Legislation to a special select committee so that we may strengthen it, so that we may refine it, so that we may present to the nation of Guyana a bit of legislation of which we can all be proud, and which can stand the test of scrutinisers; which can stand constitutional challenges vis-à-vis the presumption of innocence and so forth.

Mr Speaker, I looked this morning at the newspaper at a most sad situation. News of a young girl aged fourteen, whom was shot by her seventeen-year-old boyfriend. She finally succumbed after two months of doctors fighting for her life. This is the other half of the equation, which I believe the Honourable Minister is trying to meet the

mischievous that he is trying to cure. We have just going through the newspapers again, *Farmer remanded for firearms possession*. Here alone farmer in Mazaruni is caught with a 16 gauge unlicensed shotgun; taken before the court, willingly acknowledges that this weapon is his, and that the cartridges are under his control; and interestingly enough the newspaper reports that he also seems not to know the difference between what is guilty and not guilty; because, in his mind, the fact that he was alone in Mazaruni in the interior, having to fight off both wild animals, as well as wild bandits [*Laughter*] he had crossed the realms of what is right and wrong; and all he knew was that he had to protect his life, his crops, his possessions, and his family; so even in court he could not comprehend, properly, the notion of right and wrong, guilty or not guilty. These are the types that we have, I believe, to protect. We have to bring them into the mainstream, into the reorganization of the manner in which firearms are issued or refused; but to condemn them and to criminalize them, in my view, is not helping the situation.

Lastly, I turn to another sick situation *Tucville man accused of stealing pit-bull shot*; so one can be shot in the rear, just because one is accused of being in possession of another's puppy, or dog. That type of person I believe, and I agree, should be sent away, once found guilty; because he is presumed, of course, to be innocent of shooting the man for his dog.

So, yes, the Alliance For Change is concerned and rightly so, about the refusal of bail. We believe that Laws should be strengthened. We believe that, yes, forty-six years should not elapse, and Honourable Member knows that the Act, This is not the first amendment to the Firearms Act. It has been in constant review, and the fact that it has been in constant review since its inception in 1946 tells us that the nature of crime is changing in Guyana. We now have transnational crime, to which we cannot properly respond. Many of the characteristics of crime that we feel and experience now in Guyana are not unique to Guyana; because of our own peculiar, unique border situation; because of transnational crimes such as narco-trafficking and alien smuggling. Mr Speaker, according to statistics, and according to experts and reports, weapons accompany the perpetrators of narco-trafficking. So we are supportive of this Bill, but mildly disappointed that it does not address, in a more holistic way, the other concerns. This Bill should have been speaking, as Mr Nandlall said, to crime and punishment. What do we do after arresting these people? How do we strengthen the prosecution arm of the State? What is the penal system going to do with persons convicted of such offences? Would they be kept separately from other criminals so that they would not be contaminated by these types of criminals? How is the Drug Master Strategy Control Plan fitting into this legislation today? And what are we doing, not only to punish people, but what are we doing to curb the proliferation of small arms coming across our



borders? And, once they are here, how are we going to curb their use?

Two or more years ago the Alliance For Change, and I dare say other Members of this House, and of other Parties, suggested schemes such as amnesty as my colleagues and friend Mr Franklin has already pointed out that the Amnesty Programme is a good programme that has worked in other countries. It is not perfect; nothing is. I dare say that even this legislation once implemented will not, in and of itself, solve the problem. But, if we were to approach to problem in a more holistic manner, I believe we will have greater success.

Mr Speaker, amnesty has been looked down upon by some countries, some legislators, and some policymakers; and I refer this House to a Stabroek News article of Friday 20 April 2007 – headlined, and quite nicely so, *Government will take a shot at gun amnesty*; quoting the Minister of Home Affairs as saying that he will look favourably on introducing Amnesty and Buyback, or voluntary surrender Schemes to ensure that guns are taken off the streets. Alas, I am disappointed today that, one month after - today being 24 May, he having made this statement on or about the 20 April, and he has not mentioned it today. When he mentioned the amnesty scheme, he did so in conjunction with his announcement of this Legislation being imminently laid before this House. So we support the Legislation, but we urge that he

does more. We ask that the Legislation, even as it is being implemented - that time be taken to understand the nature of what is happening in our society.

In Jamaica much research is being done, for example, by learned sociologist, Mr Carl Stone, and he has found that the possession of a gun in the hand of a young Jamaican male, in particular, is almost like a rite of passage - a coming of age. In our days, I remember, as a child, trying to get a penknife, which made me, as a nine/ten-year old felt important, with my hand-kerchief in my back pocket. But what the evidence is showing in Jamaica is that it is now a rite of passage for young men to be armed with a weapon, and it is something that they gloat about. They treat these weapons almost as importantly, and as prized as if it were a BMW motor car, or a Mercedes 200E. So important is this firearm to the young male, and to his young psyche, that it is no longer seen as an implement for the commission of crime; but it is seen as an implement to empower him, to demand respect, to get food for his family and his lady friends, on the table and to look after his mother and so forth.

So we would expect, as I said, a more holistic approach. We would expect the Minister to take the comments given today in the context in which they are intended. That is to say that we compliment him for what it is that he is doing; that he is keeping his promises and I will say that many promises are made in this House and

elsewhere, which are not kept. The Minister said, since last year, that he will introduce stronger legislation, but we believe that more has to be done. He should know that there is the support. I believe that I can speak for the entire Opposition here, and I hope that there is no offence created by my statement; that we would support any measure that can curb crime; any measure, Mr Speaker, that can remove this scourge of gun crime on ladies and on infants and on the vulnerable people in their homes at 3 am being set upon.

I noticed, one of our capable journalists had a very strong commentary in Sunday's Newspapers about what should be done. That is an extreme position that may have to be revisited, but at the end of the day, we believe that more has to be done. This should be accompanied, we believe, by a public education programme; a revisit, of the Disciplined Forces Commission report. There are a number of other reports coming out of the United Kingdom and elsewhere, which can be used and so we urge that fair consideration be given to the possibility, this afternoon, of referring this Bill to a special select committee, with a limited timeframe of ... say a month, of seeing what - if anything, could be done to tighten it, to refine it, as I said, and to present it back to this House, and to the nation, as a strong Bill of which we can all be proud and feel safe that we are meeting the demands of the society.

Mr Speaker, with those words, I would like to say thank you; and to compliment the Honourable Minister, and those who have spoken. Also, and as I said, as a practicing Member of the Bar Association, I want to place on record our own concerns about the threat of the removal of the presumption of innocence, and the shifting of the burden, to cause a person to be denied their pre-trial liberty. And I know that, in times that I had the good fortune of practicing along side Mr DeSantos in particular, on matters pertaining to the Narcotics Act of 1988; we have always, as practitioners, bemoaned, lamented and fought against that draconian bit of legislation. And I will say as well, that I believe that the fact that it still stands, is because nobody has really taken a serious challenge to it; but all it would take is one enlightened judge and a strong challenge to remove that clause from the Narcotics Act, and so too would it be for this. With those words, Mr Speaker, I thank you.  
*[Applause]*

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

The Honourable Member Mr Bernard De Santos of television fame.

**Mr Bernard C De Santos:** Mr Speaker, I rise to support this Bill, but I have some observations of my own, which I would like to make. In fact, this Bill is the

Government's response to the concerns of its citizens at the indiscriminate use and possession of unlawful firearms, and it is in keeping with the Government's obligation under Article 32 of the Constitution.

Mr Speaker, my intervention here is going to focus differently from that which has been said by my colleagues before, most of which I agree with. But I want, before I start into my own intervention, to say that this argument of unconstitutionality is hopelessly misconceived. It is misconceived because bail has nothing to do with guilt or innocence. It does not interfere with that concept in the least. All it does is what no bail in murder does. It says, *look, a man as dangerous as you - let us keep you until we try you*. That is all. It does not say that you are guilty. It does not say that you are not innocent until proven guilty. It merely says that this is a serious offence and that we are going to keep you until we can try you. You will be subject to all the important safeguards the law gives you, but until such time, we are going to keep you. *[Interruption: 'Like Mark Benschop']* Whether your name is Mark Benschop or who, because he has no special place in the law of this country, he is an ordinary citizen, and if he breaks the law, he must get the penalties which the law prescribes. I hold no brief for or against Mr Benschop. The allegation which, when I heard the Honourable Member Mr Trotman speak, I thought the country was overrun by *alligators*. *[Laughter]*

Mr Speaker, much has been said - a great deal has been said, about increasing the penalties for this offence, and so it should be; but I have not heard a single speaker deal with the question of getting the persons who are infracting this law to the point where you can sentence them, where all these great provisions that we have been talking about becomes operative. You have to catch them, after which you have to try them, and then the bite of this Legislation will come into operation. And that is why, when I looked at this draft, I thought that, in a way, it was not helping the cause of bringing the criminals to justice. This is one of the most important aspects of the matter. We can put fines of millions of dollars, and years of imprisonment; but if we cannot catch the assailants, then, the legislation is idle. It is worthless.

That is why my mind went back to a provision which when the Members of the Opposition were seated on this side, they had passed something called *The National Security Act*; an Act which was draconian in its provisions, and which was almost a wartime legislation, and which they persisted in, although peace had been established. That legislation I think we had to do away with; but there is a provision in that Legislation, which I think is extremely useful. It is useful because it assists the prosecution in bringing the criminals to justice; I think it is contained in ... I have not seen the Act recently, but it was such a draconian piece of legislation that I remember

it. I think it is Section 23, and it says something to this effect. It says:

*If anyone is found in or on anything in which (and we would use for this purpose firearms or ammunition) if they are found, the person is presumed to be in possession until the contrary appears.*

So what that does is, in fact, assist the prosecution. Very often criminals are able to escape, because the police barge into a house, for example, and ten people are sitting around the table, and they find a gun in a cupboard. What are you going to do, charge all ten of them? You might think, *I can charge the householder*, but then the cupboard might be in a place where people would go in their normal intercourse in the house; and eventually all the defendant has to do is to show reasonable doubt and slip through the corridors.

This provision, to which I've hinted, in fact allows the prosecution to reverse the burden of proof, somewhat; but it makes the defendant only liable to a lesser burden in discharging the presumption. I would have thought that the Minister would have thought about that provision, because I am sure that he is not only thinking about the penalties, but he wants the convictions too; and if he is to get the convictions, then the prosecution will need to have this tool to work with. I have already dealt with the talk

about unconstitutionality, and I do not want to go back to that at all.

*Article 32* deals with the Government's obligations, and the citizen's obligations. You know, I think that our citizens must understand that they have an obligation because, very often, people see the Constitution as imposing obligations only on the Government, but this particular article spells out that it is a partnership. We must all get together and combat crime. And how does the citizen help? He can give information. If he sees people bandying about weapons, he can be willing to give evidence, but of course he must be protected. These are the ways in which the citizens can play their part too; because the citizens have as much, if not ... because they are directly in the line of the bullets and they have as much an input into discharging this obligation as the Government does. I do not agree that the Government has a greater obligation, but I agree that the Government has the primary obligation, but everybody must pitch in and ensure that this country is a safer place for everyone to reside in.

Mr Speaker, sixty-seven years ago there were more classic times. These are more perilous times. The Accounts recounted by my colleague Trotman over there bespeaks horrible situations, which makes us realize that a bullet has no friends. It does not discriminate in times of age, religion, creed or anything. But the point is that the



legislation must reflect the concerns and the revulsion at the populace of what is happening to our country. We did not want a situation in which we are overrun, the way Jamaica is, by the use of the gun. And I agree with the other speakers who have spoken of controlling the licensing of firearms. I do not think that has been handled very efficiently in the past, and I think that it is time that the Minister also look at those areas, as well as Mr Franklin's importation blockade. All of these methods, if they are holistically applied, must bring results. I will implore the Minister to examine very carefully, whether he does not think that the suggestion I have made is one which he can take onboard.

Clause 7 - As regards that last clause, the Constitution itself requires a criminal trial to take place within a reasonable time, and I would have thought that it is superfluous in the clause. I do not think it serves any useful purpose, but at the same time it does no harm. It may be that it reiterates something, which a lot of people may not even be aware of, and maybe it is good that it is there, but it does no harm. Although for me, as a lawyer, it does no good. It is there innocuously occupying some space. *[Interruption: Then take it out. If you are authentic, then take it out]* You can do a lot of those things. *[Laughter]*

The question of the *special reasons* - I agree with my colleague Nandlall that that has had judicial interpretation

already, and there is no use in our trying to confine it or encrust it, because it will only complicate matters; so the better thing to do is to leave it as it is. The Courts have pronounced already, and when the courts come to deal with it, the doctrine of Precedence will guide them in which direction they should go. Thank you, Mr Speaker.  
*[Applause]*

**The Speaker:** Thank you, Honourable Member. Honourable Members, permit me; it is now four o'clock – Mr Williams, when we return. It is now time that we can take the suspension.

I just want to read a brief notice before I rise:

*Members of the Parliamentary Sectoral Committee on Foreign Relations, please be informed that the meeting for tomorrow - 25 May 2007 at three o'clock, which was to be held in the Parliamentary Committee Room No. 1, has been relocated to the Speaker's Ceremonial Office.*

The meeting of the Parliamentary Sectoral Committee on Foreign Relations tomorrow is to be held in the Ceremonial Office instead of the Committee Room. Thank you very much.

**16:00 H - SUSPENSION OF SITTING**

*17:08 H - RESUMPTION OF SITTING*

Honourable Members, I apologize for the late start.

The Honourable Member Mr Basil Williams

**Mr Basil Williams:** Mr Speaker, this Bill is an attempt to deal with the mischief of the prevalence of firearms and ammunition in Guyana, and we cannot have any difficulty with such an attempt; except for maybe, going on the data presented by the Honourable Member, Minister Rohee himself. Rohee has indicated that killings in 2006 were six, and killings in 2007 are two; so one wonders if this Bill ought not to have come when there was the flood of killings in previous years; but that is notwithstanding. I hope that the Minister is not anticipating another deluge.

Mr Speaker, if I could address a contention of the Honourable Member, Mr DeSantos, that the National Security Act was repealed by the present Administration. In correcting him, I would respectfully refer this Honourable House to Act, No. 22 of 1991 – The National Security Miscellaneous Provisions Repeal Act, No. 22 of 1991, which effectively repealed the National Security Act and I see it was assented to by the late President, Mr Hugh Desmond Hoyte.

*Section 44 (a)* - Now Mr Speaker, the Provisions of this Bill comprise an add mixture of increased fines, increased

mandatory custodial sentences, and restricted pre-trial liberty in the cases of offences changed under the Firearms Act, if this Bill were to be passed in its present form. However, Mr Speaker, the provisions of Clause 44 (A), above all, requires deeper scrutiny, since its effect would be to deprive a person arrested under Sections 16, 37 and 38 of pre-trial liberty, in the following manner. In the first instance, a person so charged could not be granted station bail under Section 21 of the Police Act, Chapter 1601. He would have to remain in the police lockups, pending investigations, and if he is not charged within seventy-two hours as provided under Article 139 (4) (B) of our Constitution, he would therefore have to be released; whether under his own recognisance or some form of recognisance.

In effect, Clause 44, as currently drafted, would be limiting the Provisions of Section 21 of the Police Act. Why there would be a need to take away such a power, or discretion, from the police is not easily appreciated.

In the second situation when the person is charged for the offence, and is taken to the magistrate court, it is there that the prosecution would now first rear its head. If the prosecution does not have its file, or the file is with the DPP, then the magistrate could not go on with the question of bail, because the prosecution would not be ready: But once the prosecution has its file ... and in such a situation the prosecution cannot consent to bail in

relation to the provision of this clause, because of the special reasons provision, which the defence would have to attempt to establish the burden would be on the defence to attempt to establish these special reasons.

So immediately you see that, because of our experience as practitioners at the Bar, in the case of establishing special reasons under the 1988 Narcotics Act that was mentioned earlier, we found that was a Herculean task, because little or no pre-trial bail would be obtained for persons charged in relation to the provisions of Clause 44 under the Firearms Act. So, in other words, pre-trial liberty, in relation to this provision, would be illusory.

Mr Speaker, I am of the respectful opinion that Clause 44 must be considered in the light of the provisions of Article 144 (2) (a), which provides for every person charged with a criminal offence to be presumed innocent until he is proved or has pleaded guilty.

Mr Speaker, this constitutional provision is merely declaratory of a time-hallowed principle of the Common Law. It is nothing new. It has existed from time immemorial in the English Common Law system. It simply means that being charged with a criminal offence does not equate to being guilty. And so, when people say you are representing criminals, it really is a misnomer, because that person cannot be a criminal, unless and until his trial eventuates in a guilty verdict.

So, notwithstanding that the Members on the other side of this Honourable House are inducted from taking cases where they would appear to be representing criminals - and narcotic cases, *et cetera*. I hope my friend, the Honourable Member Mr Nandlall, would not be discriminated against, or punished, because I recently saw that he was very much involved in a fishy episode representing persons charged with the offence of having cocaine in fish. We want this Honourable House to know that, notwithstanding all the cocaine that was found in the fish, Mr Nandlall was representing an innocent person; that was up to the time that he pleaded guilty, if my recollection ... [*Laughter*] is not faulty. But Mr Nandlall can rest assured he has protection on this side. He can rely on protection on this side of the House. [*Laughter*]

Yes, there has always been, in the English Common Law system, a presumption in the favour of bail; and in Guyana, only in two cases - the two capital offences of treason and murder, bail could not have been awarded by a magistrate; although it is arguable, under Section 87 of the Criminal Law Procedure Act, a judge could grant bail for both murder and treason. I remember that, vividly, in the case of Mr Benschop, because it was argued strenuously, with all the relevant authorities, but to no avail. And as you all know, Mr Benschop is still there, languishing in prison. All other offences in this country, Mr Speaker, areailable, and wereailable, by virtue of Section 81 of Chapter 1001. Hand in glove, with the

presumption of innocence is the other provision which whereas in Article 144.1 of our Constitution, which entitles a person charged with a criminal offence to a fair hearing, within a reasonable time, before an independent and impartial court. But the present state of our system of administration of criminal justice makes a mockery of these pillars of our legal system.

The use of the weapon of no-bail by this Administration in fire-fighting aspects of crime is undermining these constitutional guarantees to the Guyanese people. For example, Mr Speaker, with the occurrence of kidnapping – a couple of kidnapping cases the other day, the Kidnapping Act was passed, embodying a similar provision to this one here that is under contemplation of no-bail unless special reasons were proved.

Piracy now is rearing its head, and already it is proposed to have piracy legislation with the similar provision of no-bail for persons arrested and charged with such an offence. *[Laughter]* It means, Mr Speaker, that we are quickly evolving our system of jurisprudence to be equated with that, as we say in loose terms, *Spanish countries*, in the sense that you would soon be presumed guilty unless proven innocent; because, as a practitioner I could tell you, when you go to the court you must have certainty when you instruct your clients as to the question of bail before you reach. And I could tell you that no practitioner has a difficulty, when he goes with a

narcotics case and the person is charged with trafficking, he knows that he has to deal with special reasons; but now, because of all these attempts to make special reasons an inhibiting factor to bail.

Even with a case of assault, you see the police starting to stand up and say *it a serious offence - no bail*. Theft or larceny they get up – *no bail*; robbery under arms, first offence, always remembering that the presumption of innocence obtains – *no bail*. That is what our system is coming to ... [*Interruption: 'Domestic Violence'*] *no bail*. When we expect that you have murder and you have treason *no bail* and drug *no bail*; but when you go to court, and this Administration keeps trying to fire-fight crime by having no bail provisions passed by this legislature, we are not going to go anywhere, and we will continue to undermine our criminal justice system.

In other words, employing legislation to fire-fight crime is no substitute for good police work in preventing and investigating crime. [*Applause*] The Government must therefore immediately implement those recommendations of the Disciplined Forces Commission, in relation to the Guyana Police Force, to engender a sustained capacity in our police to combat and stamp out the prevalence of any offence when it raises its ugly head.

Eroding the presumption of innocence by refusing pre-trial liberty for certain offences is not the answer, Mr Speaker. Refusing bail or pre-trial liberty, in Guyana



today, however, can result in a person serving a sentence therefore, or substantially doing so, before he is tried for his offence that he is charged with. The preliminary inquiry into murder cases currently takes more than a year to begin, and more than a year – and years to complete; likewise narcotics cases of trafficking, and cases of kidnapping, but they were not many: And I dare say any such cases charged under these offences of the proposed amendment of the Firearms Act, where pre-trial liberties would be refused, the effect would be for persons to serve a substantial portion of their sentence - being punished with that, before they could have their trial completed.

The effect of all of this, is that resections for offences of this nature can be instituted with prior knowledge that they would never be successfully proved, in a month of Sundays against a persons so charged; but equally secure in the knowledge that such a person would nevertheless be punished, because of the lengthy period of time it would take to complete his trial. So that's another grave danger that we find happening in the practice today. Therefore, Mr Speaker, in the light of these premises, I am respectfully submitting that legislating away the pre-trial liberty is not the answer; but a revitalized police force can be the solution, together with speedier trials in our courts today. I thank you, Mr Speaker. I do not wish to go further. *[Applause]*

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

The Honourable Minister of Home Affairs

**Hon Clement J Rohee:** Mr Speaker, I am happy to have noted that, in the course of the debate, the Honourable Members on the Opposition benches are, in a general sense, supportive of this Bill save and except with some reservations, in respect of certain clauses, or a particular clause, which attracted most of their attention, in terms of the debate.

I believe this is a very important signal for this Honourable House to send to the nation, that we are united in treating with the criminal elements, and those who may wish to pervert the course of justice, in so far as possession, sale, transfer, and other illegal activities pertaining to firearms. The unanimity and the unity of this Parliament on matters of this nature, particularly at the parliamentary and the political levels, Mr Speaker, are of the utmost importance, because it is not only the citizens of Guyana that would be interested in this debate, and the outcome of the debate, but the magistracy, the judiciary, the legal practitioners, even those who are involved in illegal activities in relation to firearms and so we cannot afford, Mr Speaker, to send mixed signals to these respective constituencies on this matter.

I think we will need, at some point in time, having regard to some of the points that have been made, to amend; for example, the Regulations under Section 31 (1) of the Firearms Act, having regard to the fact that today, in our

society, there are much more sophisticated weapons and ammunition in circulation, compared to what existed at the time when the Act was first promulgated and then, subsequently, the one amendment to that Act. So I concede that, in terms of the fact that we have much more highly-sophisticated weapons now in circulation, together with the requisite ammunition for the use of those weapons overusing this would require, at some other point in time, amendments to the regulations to bring them under the Firearms Act. I think that one of the points that I should emphasize is the distinction between the process in which we are engaged here at the level of Parliament, in terms of formulating and deciding on the Laws of Guyana, and the administrative side of treating with the granting of firearms licenses.

The revitalized police force that the Honourable Member, Mr Basil Williams, speaks of is a process which the present administration has embarked upon, and I have absolutely no doubt that with the commencement of the Citizens Security Programme that the police force, and the reforms which we intend to institute vis-à-vis the police force, that we would eventually end up with a revitalized, more dynamic and professional police force; so the views that were raised in respect of the granting of the firearms licenses have to be seen as somewhat different from an administrative point of view, in relation to the Legislation which we have before us at this time.

I also conceded that the report of the Disciplined Services Commission, as it treats with procedures for the granting of licenses, is a matter which should be kept under review, and be looked at again in the context of what the procedures are in the present Firearms Act.

The question of amnesties was raised ... and I am dealing with these general points because they have some political import and I do not want to get into the technicalities of these matters; because I believe Parliament is the forum to hammer out policies. It is true, as my Honourable friend, Mr Trotman said, that ... I do not have the specific clipping with me at this point in time, but I give him the benefit of the doubt when he quoted me as saying that *I will look favourably at the amnesty issue*. At that time I may have made that comment, but I did some research on the issue around the world to see the extent to which amnesties has been successful ... and I agree that you put in place systems, or have policies implemented and they may not all be perfect; but an empirical analysis of the amnesty policies that have been put in place - whether they were buy-hacks or whatever the case might be, would demonstrate that, by and large ... and I did not mean buy a large ... [Laughter] that these programmes did not reach the requisite successes. And I will deal with this when I come to the amendment to the Bill, which I intend to propose at the appropriate time.

Article 32 of the Constitution points out ... and I would like to emphasize this, and I think some of my colleagues have referred to this already. Honourable Member Mr DeSantos, as well as Mr Nandlall, had made reference to the Constitution - Article 32, which states that:

*It is the joint duty of the State, the society, and every citizen, to combat and prevent crime and other violations of the Law, and to take care of, and protect public property.*

And so, therefore, we find there is a partnership. I do not necessarily see one person taking precedence over the other. It is precisely this approach that I would take, in speaking to citizens around the country during the current outreach programmes of the National Commission for Law and Order, as well as the attempts to establish Community Policing Groups around the country. In fact, this is one of the hallmarks, and the foundation principles of the establishment of Community Policing Groups around the country, to vest in the residents this duty *to combat and prevent crime and other violations of the Law, and to take care of public property.*

Mr Speaker, on the question of a revitalized police force, we are already beginning to see manifestations of this. The law enforcement dimension of the Guyana Police Force has, within recent months I would say, manifested itself by bringing in greater results, in terms of convictions.

When we look at the prison population ... and reference was made to this by someone, and I am not talking here only of the remand prisoners; I am talking here of the population in general even in the Georgetown prisons. We see the successes which have been scored by the law enforcement agencies by bringing in a larger number of persons involved in one criminal activity or another. So I would say the law enforcement dimension of the Guyana Police Force has been strengthened significantly. When we look at what exists at the top of the police force, we will understand why this has happened.

Mr Speaker, as a result of this revitalized police force, and especially the law enforcement arm, between 2004 and 2006, in terms of unlicensed firearms being seized:

- In 2004, 91 unlicensed firearms were seized;
- In 2005, 132 unlicensed firearms were seized; and
- In 2006, 143 unlicensed firearms have been seized by the police.

So we see here, Mr Speaker, a very progressive advancement or actions by the police, in terms of seizing unlicensed firearms.

There is another important point I need to make and I think it is important for me to emphasize this in order to bring home this point, in relation to the arguments that

have been made about bail, and what has been described as *pre-trial liberty*. Mr Speaker, there have been a number of cases - four cases so far in 2007, where an offender was arrested, charged, and placed before the court for a gun-related crime, placed on bail, arrested, charged and placed before the court again for another gun crime.

Mr Speaker, in the *Stabroek News* of 19 May 2007, in an article entitled *Wanted man remanded over gun/ ammo at Ithaca*, written by one Keisha Mc Calmont. This article illustrates the gravity of the situation, where it states that:

*A wanted man, who was allegedly found in a house at Ithaca Village, West Bank of Berbice with a pistol and eleven rounds of ammunition, was yesterday remanded to prison.*

Now this individual was found, as I said, in possession of a pistol and eleven rounds of ammunition. Subsequently we are told, in the same article that an arrest warrant had been issued for this person, because he had other matters before the court of a similar nature.

# National Assembly Debates

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24th Sitting

14:00h

Thursday 24 May 2007

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## **PART II (cont'd from PART I of III)**

For example, on 14 May, this is the same incident; he was found without lawful authority in possession of a 1.32 Millennium Pistol, and eleven rounds of .32 ammunition, without a firearm license in force. And then, subsequent to that ... he was charged, in September 2005, after he was caught robbing a Christian Book Store Money Transfer Agency of almost \$5 million in Barbadian currency. He was armed with a gun. He robbed the person of \$50,000 Barbadian currency and on that same occasion, he had in his possession, a .32 revolver, while he was not the holder of a license and, in addition, he had six live rounds of 0 .32 ammunition. Mr Speaker, prior to that he was involved in a robbery at the Very Adorable Sisters Gas Station - the same man.

Mr Speaker, In November 2004, he was found walking around the precincts of Stabroek Market and he had in his possession, a .38 Taurus Revolver and thirty-eight live rounds, and one .38 spent shell in his pocket.

So you see, Mr Speaker, for that crime he was given bail; that is, in November 2004, he was put on bail. The man,



in 2005, went out and committed three robberies. He is on bail, and whilst on bail, he goes and he commits three robberies, and then, after that, he goes out and he commits a third robbery, which is the recent one. Mr Speaker, this is what I referred to - of incidents where people who are found with unlicensed firearms being given bail, going back into society and committing these crimes, over and over again, and after a while they just simply disappear, and then arrest warrants have to be issued for them to bring them to justice. In the meantime, lives are being lost; people are being killed and we are hearing in this Honourable House that we must turn a Nelson's eye to these matters.

Mr Speaker, we have a number of homicides.

- In 2006, in 'A' Division, nineteen gun-related homicides were committed; in 'B' Division, six; and so it goes on.
- In 2007, persons killed as a result of weapons being used in 'A' Division - five; in 'B' Division - two; in 'C' Division - two; and in 'E' Division - 2.

Mr Speaker, there is a national call, an outcry, for an end to be put to the carnage on the streets and in an equally similar fashion there is an outcry for an end to be put to this kind of criminal activity.

Mr Speaker, reference was made to the National Security Act, Chapter 16:02 where it states:

*Section 4, Clause 16 (1) - what ammunition is defined as:*

*Every shell, cartridge case, bomb, hand grenade, bullet, or like missile - whether containing any explosive or gas of chemical or not, et cetera. Every part of any such shell, cartridge case, bomb, hand grenade, bullet or missile, whether such shell cartridge case, bombs, hand grenade, bullet or missile, may have been completely formed at anytime or not.*

What is the relevance of this? [*Interruption: 'We do not know, tell us.'*] The relevance of this is that, in the mid-1970s - sometime around 1977, in this country, Dr Cheddi Jagan was hauled before the courts ... [*Interruption: 'Hauled'*] ... hauled before the court, arrested and charged for a spent shell being found in his yard in Bel-Air, and this shell, [*Noisy Interruption*]

**The Speaker:** Honourable Members, please allow him to finish.

**Hon Clement J Rohee:** Mr Speaker, this shell was rusted and aged. What made the case even more ridiculous, Mr Speaker, was the fact that the .22 Pistol ... and I think the Honourable Mr Corbin is quite familiar with this case.

*[Interruption: 'Did he get bail?']* The Honourable Member Mr Corbin is quite familiar with this case.

*[Interruption: 'Did Dr Jagan get bail?']* Mr Speaker, the .22 Pistol, which Dr Jagan was licensed to hold, had been seized by the police and lodged at the station many years before, so the question was, Mr Speaker, this spent shell, which was rusted and aged for many years, in the yard of No. 6 Plantation, Bel-Air, what was it? Or ...

*[Interruption: 'Did he get bail?']* from whence did it emerge? ... *[Interruption]*

**The Speaker:** Mrs Backer, you are disturbing me, much less Minister Rohee.

**Mrs Deborah J Backer:** I apologize, Sir.

**Hon Clement J Rohee:** Mr Speaker, what was even more interesting in this case, was that then Deputy Director of Public Prosecution, Mr George Jackman was put to prosecute this case. End of story and we come to this House today to be lectured on matters without any historical reference point for us to understand the context in which this Bill is being placed in this House. Mr Speaker, we are simply running with what we inherited.

Mr Speaker, the Bill does make provision for the discretion by the magistrate - to grant bail in some circumstances. For example, according to the section:

*Bail shall not be granted unless the prosecution has had an opportunity to intervene, and unless there are special reasons which shall be recorded in writing, for admitting the person to bail.*

Mr Speaker, I wish to submit that this clause is broad enough to take into consideration the concerns that have been expressed. Getting into the details, as have been proposed, to examine the quantity and type of ammunition, we have to leave that to the courts. The learned lawyers must know ... attorneys-at-law must know that they have to sharpen their skills, so that when they go before the Bar ... [*Interruption: 'Not Bar. Bench'*] ..., bar, bench, stool, or whatever [*Laughter*] whenever they appear in court, their skills must be so sharp enough to be able to defend their clients and to try to get them off.

Mr Speaker, this question of presumption of innocence was raised. I have no legal background or training on these matters and I will never pretend to be one of them. I have been prosecuted by some sitting on that side too. [*Interruption: 'Did you get bail?'*] No, I did not get bail. So you might want to say that is retributive too. The question of presumption of innocence, may very well be an accepted argument in countries and I am not impugning or implying anything here, where the Bench is known to be exercising its discretion in accordance with

the Law, but our experiences in Guyana have been otherwise and as I pointed out earlier, there have been instances where persons, known for having committed previous firearms offences are granted bail, in subsequent charges, as was in the case of Gibson. Mr Speaker, this is a ground for refusal of bail, but this is not what has happened in some instances.

Mr Speaker, I feel that some of the proposals and suggestions that were made ... *[Interruption: 'Have merit']*... not merit ...; some do not have merit. But this is certainly not the time and the occasion, in respect of this particular Bill that is before us. I therefore, am fully convinced that this Bill will serve our country in good stead; that this Bill will send to the citizens of this country and to all interested parties and all interested constituencies in Guyana that ... speaking for the Administration, speaking for the ruling Party, that we are committed to controlling criminal activities in which guns and weapons - firearms are used to eliminate, to snuff out lives, and to create trauma in families - both in Guyana and out of Guyana. Therefore it is with this sense that I commend this Bill to this Honourable House. Thank you.  
*[Applause]*

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

**Question put and agreed to.**

**Bill Read a Second time**

**IN COMMITTEE**

*Clause 1*

**The Chairman:** The Honourable Minister of Home Affairs

**Hon Clement J Rohee:** Mr Chairman, I wish to move an amendment to substitute the following as Clause 1:

*Amendment :*

Short title and commencement 1. This, Act which amends the Firearms (Amendment) Act 2007 and s  
Cap. 16:05 date the Minister may, by order, appoint

**The Chairman:** Thank you very much, Honourable Member

**Question proposed, put and agreed to.**

**Amendment carried**

*Clause 1 as amended*

**Proposed, put and agreed to.**

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

*Clauses 2, 3, 4, 5 and 6*

**Question, proposed, put and agreed to.**

**Clauses 2, 3, 4, 5 and 6, as printed, agreed to and ordered to stand part of the Bill.**

*Clause 7*

Question proposed

**The Chairman:** The Honourable Member Mrs Backer

**Mrs Deborah J Backer:** Mr Chairman, I rise to propose the following amendments - Clause 7 which proposes to bring a new Section 44 A be amended firstly by renumbering it to Section 44 A (1).

**The Chairman:** Let me do the renumbering, because I have a suspicion that I mitigate what would happen. The renumbering should come at the end. Depending on the outcome it might not need a renumbering.

**Mr Deborah J Backer:** Yes. Thank you very much. Let me deal with the second part. I propose the words *unless the prosecution has had an opportunity to intervene and*, that those words be deleted from Clause 7.

**The Chairman:** Okay, thank you. I will put that first.

Question -

That the word *proposed* to be deleted be deleted

**Put and negatived.**

*Amendment:*

Delete from Section 44A (1) as renumbered the words *unless the prosecution has had an opportunity to intervene and*

**Amendment negatived.**

*[Interruption: What? I do not understand]*

**The Chairman:** You will get accustomed to it after some years.

The Honourable Member Mrs Backer

**Mrs Deborah J Backer:** Mr Chairman, I further propose ... Sir, I will now have to go to the renumbering, because I am proposing to add a new Clause.



**The Chairman:** Yes, go ahead. You are proposing a new Clause named 44 A (2) be inserted with the following provision.

**Mrs Deborah J Backer:** Clause 44A (2) as inserted will read:

*Amendment:*

Insertion of a new Section 44 (2) (a):

*Special reason in relation to persons arrested for an offence under Section 16 shall include the quantity and type of ammunition.*

**The Chairman:** Thank you. I now put the question that the words proposed to be added be added. [*Laughter*] That is taken right out of the book, if you wish to know.

**Put and negatived.**

**Amendment not carried**

**Clause 7, as printed, proposed, put and agreed to.**

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

## **Assembly Resumed**

**The Speaker:** Honourable Members, we had proposed in the amendments to the Standing Order that this entire procedure be eliminated, you know, and I have no understanding of why it was not. All we have to do is more on after the debate and propose, if we consider the Bill in detail, and proceed without of having to do all of this. That is the modern procedure, at least; but the Members of the Special Select Committee seem to want to retain this archaic reporting. Honourable Member Mr Rohee, you have to report now. You are required to report what we all know. *[Laughter]*

**Bill reported with an amendment, read the Third time and passed as amended.**

Thank you very much, Honourable Members.

We can now proceed with the next item on the Order Paper

## **2. JUVENILE OFFENDERS (AMENDMENT) BILL 2007 - Bill No. 15/2007**

*A Bill intituled, an Act to amend  
the Juvenile Offenders Act*

The Honourable Minister of Home Affairs

**Hon Clement J Rohee:** Mr Speaker, another measure which needs the consideration of this Honourable House is the Juvenile Offenders (Amendment) Bill 2007. Mr Speaker, this Bill seeks to amend the Juvenile Offenders Act, Chapter 1003 of the Laws of Guyana.

Mr Speaker, the Juvenile Offenders Act makes provision for proceedings in reference to juvenile offenders. A person under the age of 17 is a juvenile. The Act states that:

*A person under the age of 14 years is a child, and a person who has attained the age of 14, and is under the age of 17 years, is a young person.*

Mr Speaker, the Bill aims at providing the necessary legal framework for the establishment or recognition of holding centres for juveniles and for maintaining them for the reception, care, and custody of young persons, and children under the orders of the court or for any other appropriate reason as may be determined.

Clause 5 of the Bill seeks to insert a new Section 20 (A) in the Act, so as to provide for the establishment or recognition of as many centres as may be necessary, as

holding centres for juveniles. Mr Speaker, the proposed provision is self-explanatory.

The other opposite clauses of the Bill, namely Clauses 2 to 4, and Clauses 6 to 8, contain consequential amendments in the Act, consequent to the amendments suggested vis-à-vis Clause 4. As the practice of detaining the juveniles in police stations will allow them to mingle with adult criminals, it has become necessary to establish or recognize holding centres for juveniles as a safe-haven for them from the adult criminals. These holding centres will accommodate the following categories of young persons and children:

- (i) Juveniles awaiting their appearance before a court;
- (ii) Juveniles who have been committed by the courts to the New Opportunity Corps, but not escorted to the NOC; and
- (iii) Juveniles who have completed, or is approaching the end of their committal, and are ready to be rehabilitated or reintegrated, within their families or communities;

Mr Speaker, these juveniles are those who are, or were, accused of committing minor offences and not violent

crimes. The holding centres will offer to inmates an opportunity for preparatory interviews, initial healthcare, and other protection by collaborating agencies prior to their being escorted and admitted to the New Opportunity Corps.

The expenses in respect of the holding centres for juveniles provided by the authorities would be defrayed out of the money provided by the National Assembly.

Mr Speaker, I therefore wish to commend, for the consideration of this Honourable House, the Bill, with the expectation that it would be passed unanimously. Thank you. *[Applause]*

**The Speaker:** Thank you Honourable Member

The Honourable Member Mrs Riehl

**Mrs Clarissa S Riehl:** Mr Speaker; I rise to make a few brief remarks on this amendment to the Juvenile Offenders Act. Sir, this Bill, seeks to bring a more benign name-change to what, in fact, are remand centres for young people - children and young offenders who, in general, we lump here in Guyana without any clear distinction of who is a child and who is a young person. The Honourable Minister just read the definition section, which is contained in the Act itself. I would not go into that again.

Suffice it to say that this name change, substituting what would be a place of detention for Holding Centres for Juveniles; the words *Places of Detention for Holding Centres for Juveniles*; whilst, at the same time, still keeping the institution where they are housed on a long-term basis as places of detention, because not all the sections of the Juvenile Offenders Act have been changed in accordance with this name change; so it is only the centres where they would be remanded. As the Honourable Minister said, those whom are waiting to be transferred to the institutions which, I gather, are the only two institutions in the country, where juvenile delinquents are sent these days at the NOC, which is segregated for males and females, and some are sent to the Mahaica Home, I think, both of which are controlled by the Government services.

Let me say upfront, Sir, that we agree in principle that there is need for proper facilities to house children and young offenders who have fallen prey to criminal behaviour, but this Bill begs a number of other questions.

Firstly, the current state of juvenile detention in the country, the Minister said that the police stations are not the best place, but that is a situation that was left unattended for a very long time. And now, sad to say, they are the only places where young people and children who commit crimes are held, sometimes in the very same cells that adult or remand prisoners are kept.

The only remand centres existing are police stations. On the East Coast, young offenders are held at BV Police Station; boys and girls, for the entire East Coast, are taken to the BV Police Station. In Georgetown, the females, I understand, are taken to the East Ruimveldt Police Station and there is no segregation from the adult women. They are put with the adult women. And the boys are taken to the Ruimveldt Police Station. This pattern continues across the country, in all the divisions of the police stations. You can see them when you visit police stations. You see youngsters sitting on the benches, if you frequent country stations, all bleary-eyed from lack of sleep and things like that: So they take them out by day and put them on the benches, and at night they are housed back there. So this legislation is long overdue. When I say the legislation, I mean proper facilities, proper places where juveniles should be kept, and kept apart from their adult counterparts.

Once upon a time, I remember, in Georgetown, you used to house juvenile remand prisoners at the Salvation Army Hostel in Water Street, but I checked with them and they said that they no longer keep male delinquents there. I think they keep people who are on drug rehabilitation now and they just keep drug offenders. Also, once upon a time, we had the Bellfield Girls' School, which took care of all the females from the whole Demerara area. I am do not know and I am very distressed that that was changed to a Women' Leadership Institute, because I think it

should have been kept for what its originality was intended to be.

There is a number of other questions, Sir, that need to be asked. What kind of structures would be put in place for these holding centres for juveniles? The Legislation does not say what kind of structures. This new Section 20 just says that *the Minister may create* - He may establish these holding centres for juveniles, and recognize those sums of which are in existence already and I said that I know of any that is in existence, because the only two centres are now serving other purposes. So there is nothing to recognize, Honourable Minister. You may have to establish all of them afresh but I wish to know what form of structure would be put in place to run these holding centres. Would you have a Board of Governors or a Board of Directors? For instance, would they be given over to NGOs to run? Because they would have a history; they had the Salvation Army, as I said, so they would have a history of running places and looking after juveniles. Or would the State take upon itself to run these centres? And if so, who would be in charge of the day to day affairs of the centres? Would it be the police, as in the police stations, or some such pseudo or quasi trained, disciplined force person? How would you propose to run these centres?



And, taking into consideration what your needs are, as you rightfully put them in the new Clause 20 (A) of this Bill.

Clause 20A (4) says:

*Every Holding Centre for Juveniles, to which a child or young person is sent by a court under this Act may, in addition to providing such child or young person with accommodation, maintenance, health care and facilities for education or vocational training and rehabilitation, provides facilities for the development of his character and abilities and also give him necessary training for protecting himself against moral danger or exploitation and shall also perform such other functions as may be prescribed to ensure all-round growth and development of his personality.*

That is the reason, because of what is necessary here, and by your own admission of putting it under the new Clause 20 (A) of this Bill, what kind of person would you select to run these holding centres to give, as you rightfully decipher, is necessary for the wellbeing of a young person whom you will seek, I hope, to rehabilitate?

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Another question: How will the Honourable Minister gauge how many of these centres would be necessary? The Bill just says:

*The Minister may establish and maintain as many centres as may be necessary.*

I do not know how you would gauge how much would be necessary. I understand, that in the year 2005, the Ministry of Youth and Sport had a consultant here dealing with juvenile matters; and after assessing the signs and symptoms in the country, he gave a very negative prognosis of an upsurge in juvenile crimes. This was in the year 2005 that this gentleman - his name, which I did not get from my source, in the Probation Services - they could not remember his name. This gentleman gave a negative prognosis of an upsurge in juvenile crimes, based on the signs and the symptoms that he detected in our society in the year 2005.

I look to see whether that trend or whether the trend which he thought he detected was going to become a reality. And from the figures that I was given - also from the Probation Services, of the juvenile criminal offenders; they had for last year and this year ... I did not get for 2005. For last year ... and these figures are only for Georgetown:

In 2006, for the whole of Georgetown, they had fifty-eight juvenile criminal offenders. For the first quarter of 2007, Sir, seventy ... sixty in Georgetown alone ...

So for the whole of last year there were only fifty-eight; for the whole of Georgetown, and for the first quarter of this year, there are already sixty. So it seems that there is a surge of young criminal offenders in our country. The Hon Minister did not say so, but I suspect that there may be something behind him bringing such legislation at this time. As I said, the legislation is sorely-needed because of the current situation for holding young offenders, but I detect that there must be something else that has pushed the Government to come at this stage; and I dare say that it might be that they recognized, through the statistics, that there is an upsurge in young criminal offenders. And that is understandable. As the harsh economic conditions begin to bite more and more on the poorer people; and jobs for young people become more and more an elusive goal, one would expect a lot of delinquency among young people which, ultimately, would lead to serious criminal involvement; so the legislation is very, very timely. It is much-needed in the country, and we would support it.

Before I take my seat, Sir, I need to say something else about some of the other Sections on the need for regulation. The very section 20 (A), which is a new section proposed to be put into the Act, speaks about the

bringing of regulations. Now it says, in Section 20 (A) (3):

*Subject to the Regulations, as may be made in this behalf, the Holding Centres for Juveniles shall provide for the reception and custody of the following children and young persons...*

And the Honourable Minister read the categories:

- (a) Juveniles awaiting their court appearance;
- (b) Juveniles who have been committed by the courts, but not yet escorted to the New Opportunity Corps; and
- (c) Juveniles who have completed their period of sentence and are awaiting rehabilitation to their families or to the community;
- (d) such other category of juveniles as the Minister may determine

So the very new section that the Honourable Minister has put in place speaks of the bringing of regulations; but, Sir, the Act proper – the old Act in the Law Books, Section 24 of that Act, also speaks of regulations. And even though that Act was upgraded, as recent as 1972, now it does not have any regulations. It is very unusual for an old legislation, as old as this, not to have regulations; but

perhaps the need was not there and a lot of these things are already spelt out in the Act itself. But now that the new criteria for the development of the child – a young person, and his well-being is stated in the section, I think that it is time that the Minister should think seriously about bringing regulations to this House. Time and time again, Sir, I have spoken, and a number of my other colleagues on this side have spoken about the need for regulations. Many of the bits of legislation that we bring to this Honourable House, whether they deal with criminal matters, or pseudo criminal matters, or any other matters, the regulations, in many instances, would give teeth to the legislation; because many of the Acts have social ramifications, which will not be met unless these regulations are put in place. We have spoken on it ad nauseate; and I saw in the newspapers the other day that the Hon Minister Ms Manickchand is thinking of, or at least has undertaken to bring regulations to the Domestic Violence Act. That is just one of the needs; but over and over and over again I have spoken about having regulations. I have said it the last time, and I am saying it again. Apart from the VAT Bill, I do not know of any other Bill that came to this House with its regulations intact; because it is always that the Minister may make regulations, which are never made, so we limp along ... or the courts, or whoever else has to carry out the dictates of the Act, they just limp along without having the benefit of the legislation.

In this instance, Sir, one of the clauses that are amended ... one of the sections of the old Act – Section 16, which is amended by Clause 4 of this Amending Bill, in that section - Section 16 of the Act, it speaks of detention in a place - I think in a school; that is the one that deals with the school, and the detention can last for as long as one year. It says here in Section 16, which is amended also here by this Bill, it says:

*Where a child or young person is found guilty, or enters a plea of guilty to a charge of an offence punishable, in the case of an adult, with imprisonment, or would, if he were an adult, be liable to be imprisoned in default of payment of any fine, damages, costs, and the court considers that none of the other methods in which the case may legally be dealt with is suitable, the court may order that he be committed to custody in a school for young offenders...*

And now the legislation adds:

*Or holding centres for juveniles...*

The new Bill adds to that

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*...Schools for young offenders, or holding centres for juveniles, for a period not exceeding one year...*

So these holding centres can house ... and I am sure - I daresay *will house*, young offenders for as long as one year: And so, Minister, you will see the crying need for the legislation to spell out how the daily workings of these centres will take place.

I think that is all I wish to say on this Bill, and to say that we, on this side of the House, give our support to this legislation, which is long overdue. Thank you.  
[Applause]

**The Speaker:** Thank you very much, Honourable Member.

The Honourable Member, Mr Trotman

**Mr Raphael G**Trotman: Mr Speaker, this Bill, I believe is being piloted through the House as a perfunctory matter, but after listening to Honourable Members Rohee and, in particular Riehl, I believe that I have to add some substance to theirs.

Mr Speaker, the Principal Act - as Mrs Riehl pointed out a few minutes ago, was first incorporated in 1931 and has seen one amendment to some of its provisions in 1972. Whilst we support the idea of changing the name from detention centres, or making better provisions for the

detention, or the keeping of juveniles, we are somewhat disappointed that an opportunity has not been taken to have a more comprehensive review of the Act itself. Mr Speaker, 1931 to 2007, to look at the laws dealing with the whole behaviour of children and their care and custody, I believe that we are losing, and may very well declare, at the end of tonight, that we have lost an opportunity to review the way in which children and young persons and juveniles are detained. Mr Speaker not only detained, but imprisoned and dealt with, in terms of matters criminal.

If one was to look at the arrangement of sections of the Principal Act, there are very important issues dealing with the association with adults at police stations, as Mrs Riehl pointed out; remand or committal, procedures in the Juvenile Court itself, probation orders, attendance at court by the parents of the child, exemptions from imprisonment, detention in cases of certain crimes committed by children, as well as, of course, provision of places of detention for children. But I am more perturbed as to why we have not grasped the opportunity, because of two special reasons. The first one is that:

*In 1985, there came about something called the Beijing Rule, known more formally as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice;*



And I know that Guyana is also a signatory to that.

In 1990 as well, there came something, again, called the United Nations Rules for the Protection of Juveniles deprived of their liberty.

And one of the things that is accepted, endorsed by those rules is that, wherever possible, these rules should be incorporated into the municipal legislation of nations who are reviewing their Laws. So, as to why we are only looking at Section 20, and not the entire issue, bothers me. And if I may, with your permission, just quote some aspects of those rules.

*Rule 1 - The Juvenile Justice System should uphold the rights and safety and promote the physical and mental well-being of juveniles. Imprisonment should be a last resort.*

It goes on to say, for example:

*Rule 7 - Where appropriate, states should incorporate the rules into their legislation, or amend it accordingly, and to provide effective remedies for their breach, including compensation when injuries are inflicted on juveniles.*

It goes on and there are many rules.

*Rule 12 - The deprivation of liberty should be affected in conditions and circumstances, which ensure respect for the human rights of juveniles. Juveniles detained in facilities should be guaranteed the benefit of meaningful activities and programmes, which will serve to promote and sustain their health and self respect, to foster their sense of responsibility, and encourage those attitudes and skills that would assist them in developing their potentials as members of society.*

In this regard therefore, the whole issue of juvenile justice is not looked upon only as one of detention, but one looks at the issue of rehabilitation, the societal fallout and consequences; and that is why I would like to also hear the Honourable Minister of Social Services give her input on a Bill such as this.

In Australia and New Zealand for example, they have gone ahead and established their own structures of juvenile custodial facilities. And I may, with your permission again, repeat some of what is stated here and, hopefully, when our facilities are established, the Minister

may, by regulation, incorporate some of these. In New Zealand and Australia it is stated as follows:

*Nevertheless, as long as custodial facilities for juveniles exist, they should aim to maximize young people's chances of rehabilitation and integration into society and therefore young people in custody are entitled to:*

- *A safe and secure environment;*
- *Living conditions that meet duty of care requirements;*
- *Privacy and dignity;*
- *Programmes and services that meet their educational, vocational and gender- and age-related needs;*
- *Adequate health services; and*
- *Adequate recreational facilities.*

So the world has gone far ahead of 1931, where one just has a set-up of a facility;

- (i) Because morality requires it; and

- (ii) Because international conventions require it.

We cannot just set-up facilities without more. There must be, with this Act, I believe, as was rightly pointed out by Mrs Riehl, accompanying regulations to guarantee that juveniles are not allowed, as I have encountered and this is not an allegation. About three or four years ago there was a nine-year-old living at the Brickdam Police Station, running errands, buying cigarettes, buying beers for prisoners and police ranks, and allegedly - this is an allegation being abused; but he was nine years old, without a home, and he was just running around without being taken care of.

So, I am urging the Honourable Minister to incorporate, as I said, what morality and society demands, as well as what international conventions demand, and not just tell us that they have facilities; but tell us that we care about our young people and that our primary objective is their rehabilitation and reintegration into society: So that we do not have the next generation, Mr Speaker, emerging as *nasty-men*, to borrow the sobriquet of the young man who paraded around Eccles and Bagotstown killing people recently, while only about twelve or thirteen years old. We need to spend more time, not just in detaining young people, but in understanding what forces are at work on them in society, that are turning them to pick up these AK-47s and committing heinous crimes.

So, in supporting the Bill, I do so with the certain knowledge, with the hope, rather I should not say *certain knowledge*, with the sanguine hope that the Honourable Minister of Home Affairs would adopt some of these international standards and demonstrate his Government's willingness ... nay desire, in fact, to take care of the needs of juvenile offenders. With those words, I take my seat. Thank you. [*Applause*]

**The Speaker:** Thank you very much, Honourable Member.

The Honourable Member, Mrs Volda Lawrence

**Mrs Volda A Lawrence:** Mr Speaker. This past January, the Gambling Prevention Amendment Bill 2006 was passed in this Honourable House, despite the widespread dissension manifested by a cross-section of the Guyanese population and, in particular, the religious bodies. This evening, as I stand to speak on this Bill - the Juvenile Offenders Amendment Bill 2007 - not with the same contentions as previously, I however, cannot refrain from pinpointing the anomalies existing in such an important amendment.

The proposed Clause 20 (A) (3) of this Amendment seeks to improve the housing facilities of our juvenile offenders either prior to their stints at the New Opportunity Corps, or on their return to their parents or guardians, as

determined by the courts or for any other appropriate and lawful reasons, as determined by the Minister.

Mr Speaker, what of those children who are held for loitering and wondering? Are we to presume that these children would be allowed to serve their sentences at these holdings centres? If that is so, then it should be inserted as (E) in Clause 20 (A).

We, of the PNCR-1G, will commend any step taken, especially if it seeks to address, in a positive way, the lives of those juveniles who would have fallen between the cracks of the system. However, we of the PNCR-1G have some concerns, which we would like to voice in this Honourable House. Mr Speaker, in drafting the proposal as I mentioned before, for the Gambling Prevention Amendment Bill 2006, several measures and provisions were put in place, with an authoritative body at its helm to oversee and ensure that all involved adhere to the regulations and provisions therein mentioned. The same cannot be said for the Juvenile Offenders Bill 2007. Mr Speaker, no concrete proposals have been put forward in this amendment to address the change over from detention centre to holding centres: So currently, these juveniles are detained in detention centres, as prescribed by the Law, where police officers are in charge of them. Does this mean that these holdings centres will be manned by persons outside of the law enforcement body?

Mr Speaker, this amendment seeks to empower the Minister to recognize and certify holding centres for juveniles. What selective process is being used to determine what, and where the holding centres will be? What qualifies a person to be a custodian of a holding centre? And more particularly, which authoritative body has been identified, as the Gambling Prevention Bill 2006 did, to oversee that the process is carried out efficiently and effectively? [Applause]

Mr Speaker, this amendment gives no clear indication of the way forward. Are we of PNCR-1G to assume that this amendment is merely an indication of a commitment by the Minister to translate this Legislation into a programme? If this is the case, Mr Speaker, then perhaps the Minister can enlighten us as from where the funding of this programme will be had, especially since this was not provided for in the estimates of the 2007 budgetary expenditure.

The PNCR-1G supports this amendment, as it seeks to make provisions for our juveniles, who often have to sleep on station benches, or in dark dirty cells with no mattresses. However, we would like to point out that these holding centres should not be seen as the solution, or remedy, to our juvenile offender; but that their situations should be continuously subject to review so that their issues could be adequately addressed, as is done in our Sister CARICOM Countries - Trinidad and Tobago, Jamaica, Grenada, Suriname, and further a field

in the Bahamas; where they have established homes - corrective homes, which fall under the directive of a Child Authority Body, which serves as that regulative arm of the State. Detention centres are a thing of the past for these countries; for in keeping with the UN Convention on Juveniles, they sought to promote restorative programmes for the rehabilitation of their juvenile offenders.

Mr Speaker, through you to the Honourable Minister, I would like to reemphasize the need for an authoritative body, and regulations to be put in place, as in the Gambling Amendment Bill 2006, to ensure that effective monitoring, licensing, and regulation of this process are done; where greater emphasis is placed on standards of care and rehabilitation; an authoritative body which would be responsible for keeping track of all children at risk and appearing before the court; a body, which can ensure that they are adequately and suitably cared for and protected. I thank you. *[Applause]*

**The Speaker:** Thank you Honourable Member

The Honourable Minister of Human Services and Social Security.

**Hon Priya D Manickchand:** May it please you, Mr Speaker. I thank you very much for allowing me to speak



here briefly this afternoon. Mr Speaker, I support the Juvenile Offenders Amendment Bill - Bill No. 16 of 2007 and, without actually looking at the Bill, and going through it, clause by clause, as my honourable colleague Minister Rohee did, I can say that this Bill is going to be very important for the children of Guyana.

To address concerns of the Members of the Opposition who spoke, who support this Bill, and for whose support I am grateful, I just wish to say that this Bill is coming in the context of child protection strategies that are going to be employed by the Government of Guyana in the entire country. These child protection strategies are guided by various international reports that we believe were written by experts after many detailed studies. Only late last year the United Nations put out a report the United Nations Secretary General's Report on Violence against Children, and it was not country specific. It reported on the status of children, and violence against them, across the world, and recommendations were made in that report, after pages and pages of observations about how children were affected negatively after being exposed to violence and one of things that were recommended in the report was:

*More care in justice and institutional settings and facilities.*

And of course, a recommendation coming out of that report was one that our country recognized, many years ago, to be something that was necessary, but was not

something that we had the legislation, or we did not pursue the legislation to do, and that is children should always be kept in facilities that are different from adults. The children who have been alleged to breach the Law, or children who find themselves in conflict with the Law, are to be held separate and apart from adults who find themselves in conflict with the Law.

And this is just one other step towards Guyana protecting children and that is how this Bill must be viewed. It is in that light that this Bill must be viewed. I do not believe that this is a lost opportunity. I speak for Dr Anthony, the Hon Minister of Youth and Sports, when I say that the Juvenile Offenders Act is going to be overhauled very soon. There is already resources allocated to doing that, and that is going to be a comprehensive, holistic overview that the Honourable Member Mr Trotman called for. That drafting of that new piece of legislation, though, should not prevent us from making moves, now, to hold the children who find themselves in conflict with the Law, separate and apart from adults who find themselves in conflict with the Law; hence, this Bill.

I wish to assure the Members of this Honourable House, and the people of Guyana, that the effort by the Government is going to be towards rehabilitation, rather than incarceration. I am firmly of the view ... and I am certain that I speak for my colleagues, Ministers Anthony and Rohee that our efforts will be towards rehabilitating

these young offenders – the category about whom we speak now, rather than incarcerating them and shutting them away; and that is why we need this particular facility.

What is expected in this facility, and it is spoken about in Clause 20 (A) (4), care and medical facilities and skills training. That is not a prison, and that is what we are moving towards; and this is just another step in our entire programme, which is aimed at protecting Guyana's vulnerable children. For that reason please, Mr Speaker, that I join the other Honourable Members, who spoke in commending this Bill to the Honourable House, in urging that they support it wholeheartedly. I thank you.

*[Applause]*

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

The Honourable Minister of Home Affairs

**Hon Clement J Rohee:** Mr Speaker, I wish to thank my colleague, Minister Manickchand, for supporting this Bill, and in putting the Bill in a proper context. A number of questions were asked that I believe require some clarifications and I will seek to do so as quickly as I can.

The holding centres that we intend to establish, I would like to state from the very outset, have to be looked at contextually, in addition to what Minister Manickchand

said, from the point of view that we, in this Administration, do not want to criminalize street children by including them in the Bill, and by broadening the categories of children that would be covered in the Act eventually. This is a question that was raised by the Honourable Member Mrs Volda Lawrence.

Section 20 (A) (1) of the Bill explicitly states:

*The Minister may establish and maintain as many centres as may be necessary as the Holding Centres for Juveniles for the reception, care and custody of children, and young persons under the orders of the court or for any other appropriate reason as the Minister may determine.*

So I think that this clause is quite broad enough to give some flexibility to the subject Minister to consider accommodating, at these centres, persons who, for *appropriate reasons, as the Minister may determine* could be accommodated at these centres; and that, I think, covers that. It is not the intention of this Bill to have children other than juvenile offenders, accommodated at the holding centres, where they would commingle with the juvenile offenders under the order of the court: And it is for this reason, Mr Speaker, that the Bill makes no reference to other categories of children. This Bill limits itself, Mr Speaker, to the law enforcement aspect of dealing with juvenile offenders only. Mr Speaker, the

intent of this Bill is not to provide a catchall arrangement for juvenile offenders, and other children apprehended or arrested by the police, but not charged. My understanding, Mr Speaker, and I think the Honourable Member Minister Manickchand did allude to this. I understand that specific bills - other bills to address such issues will come later. We had proposed legislation, keeping with electoral promises that are reflected in our Manifesto.

Mr Speaker, the question was asked about the administration by Honourable Member, Mrs Clarissa Riehl. It is envisaged that the holding centres will be the responsibility of the Ministry of Culture, Youth and Sport, in the same way as the NOC is the responsibility - administratively, of the Ministry of Culture, Youth and Sports. It is proposed that we will have a supervisor, who shall be assisted by two others trained in social work, and that only authorized personnel should have access to the buildings and their immediate proximity.

Mr Speaker, in the case where juveniles in the centres require special medical attention in Georgetown and other places, juveniles' movement to and from the centres would be the responsibility of the Guyana Police Force. It is proposed that escorting the juveniles to these centres should continue to be the responsibility of the police, since there already exists a system, and procedures of escort duties, in the Juvenile Branch of the Force. In the

case, for example of the New Opportunity Corp, it is the police that escorts them to the NOC, whether they are going there for a period of time, and whether they are coming back to be reintegrated into society. It is envisaged, Mr Speaker, that in the same way we have a visiting committee established to oversee, or to provide oversight of the New Opportunity Corps, we will also establish a visiting committee to play the oversight role in respect to the holding centres.

Mr Speaker, questions were asked about how we would make a determination as to where we establish the holding centres, or how would we identify centres. This will be done, Mr Speaker, depending on the catchments area, or the number of juveniles who have been arrested, depending on the divisions, and depending, also, on the local conditions in each of these divisions. But this is a matter that is to be determined, based on a number of considerations coming from various agencies and departments.

Mr Speaker, the Honourable Member Mr Trotman spoke about internationalizing the requirements for the detention and treatment of juveniles, or internationalizing these standards that exist in Guyana, with respect to juveniles. Mr Trotman, apparently, has left for a while; but I thought that I should say that I understand that the essential features of the Juvenile Justice System are set out in, as he correctly said, the Beijing Rules. And these

Beijing Rules were adopted by the United Nations General Assembly in 1985, and were then incorporated in the Convention of the Rights of the Child, which Guyana ratified in 1991. So that that takes care of the concerns, which the Honourable Member Mr Trotman raised, in respect of international standards, and adheres to these standard vis-à-vis the Juvenile Justice System that obtains in Guyana.

Mr Speaker, I believe that these are some of the issues that we wanted to bring to attention, in response to those concerns that were raised by the Honourable Members of the Opposition. Mr Speaker, I would therefore wish to commend this Bill to the House for a Second reading.  
*[Applause]*

**Question put and agreed to.**

**Bill read a Second time**

## **IN COMMITTEE**

**Clauses 1 to 8**

**Question put and agreed to.**

**Clauses 1 to 8, as printed, agreed to and ordered to stand part of the Bill.**

**ASSEMBLY RESUMED**

**Bill reported without Amendment, read the Third time and passed as printed.**

**The Speaker:** Honourable Members, it is now seven o'clock and, in view of the lengthy suspension on the last occasion, I recommend that we suspend for twenty minutes this time in order to make up time ... I am told that it is 19:30H ... Sorry. I was pre-empting. I am advised that the Standing Orders provide for the suspension at 19:00h but that on the last occasion I suspended at 19:30h. That may have been because we were discussing a particular matter; but this is a convenient time, because we are finished here with this matter.

I want to say, before the suspension, though, that ... I have said it before in the National Assembly, but Members generally ignore me unless I say it in a very serious manner.

It is that the courtesies of parliamentary practice demand that Members who speak to a matter, whether it is a Motion or a Bill, should remain in the Assembly until the debate on the matter is concluded; so that Members will hear the comments that other Members may have to make on what they said. That is the courtesy and the older



parliamentarians ... I remember when Mr Hoyte was alive and a Member of the House, he frequently sought my leave and had to come up to explain why he was leaving, even when he was not speaking on a particular matter. The older parliamentarians, like Honourable Member Mr Nokta, whom we just congratulated, and also Mr Corbin, would know of those courtesies. But we are losing them as time passes, and I just wish to reiterate that when Members speak to a matter, please remain and extend the courtesy to the other Members to remain until your matter is finished. Thank you very much. We will suspend for thirty minutes.

**19:00H - SUSPENSION OF SITTING**

**19:30H - RESUMPTION OF SITTING**

**The Speaker:** Honourable Members, we will now proceed with the next item on the Order Paper

**3. SUMMARY JURISDICTION  
(OFFENCES) (AMENDMENT) BILL -  
Bill No. 16/2007 published on 4 May 2007**

*A Bill intituled, an Act to amend  
the Summary Jurisdiction  
(Offences) Act*

The Honourable Minister of Home Affairs

**Hon Clement J Rohee:** Mr Speaker, the Law relating to procedures with respect to the offences punishable on summary convictions is contained in the Summary Jurisdiction Offences Act, Chapter 8:02 of the Laws of Guyana. The Summary Jurisdiction Offenders Amendment Bill 2007 seeks to amend this Act.

*Clause 2*, which is the sole operative clause of the Bill, seeks to insert a new section – Clause 151 (A) in the Act providing for punishment for harbouring of persons wanted by the police in connection with the alleged commission of an offence, whose photographs and names have been publicly displayed, or published, by the police.

Section 150 of the Act, inter alia, provides for:

*Everyone who occupies or keeps a brothel and knowingly lodges or harbours thieves or reputed thieves, or knowingly suffers them to meet or assemble therein, or knowingly allows the deposit of goods therein, having reasonable cause for believing them to be stolen, shall be liable*

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*to be punished with a fine of not less than \$15,000, nor more than \$30,000.*

Mr Speaker, this notwithstanding, the Act does not contain any provision, providing for punishment of persons lodging or harbouring, in their dwelling places, persons who are wanted by the police in connection with any alleged commission of a crime. In order to bring to the clutches of the law such persons, it is proposed to provide adequate punishment for those who are harbouring such wanted persons. The punishment would be only for:

*Knowingly lodging or harbouring persons whose names and photographs have been publicly displayed or published by the police as wanted persons in connection with any an alleged commission of a crime.*

Mr Speaker, having regard to the gravity of the offence, the proposed new Section Clause 151 (A) states:

*A fine of not less than \$50,000 nor more than \$80,000, together with imprisonment for a period, not exceeding more than three years, as the punishment...*

Mr Speaker:

*The court shall in addition to the penalty, order to be forfeited to the State any assets*

*derived by the commission of the offence, or property, including immovable property, owned and used directly by the person in connection with the lodging or harbouring, of the wanted person.*

Mr Speaker, the punishment is with a view to having a deterrent effect on the commission of the crime of harbouring or lodging wanted persons, and it has become necessary to resort to this measure. Mr Speaker, I therefore commend the Bill for the consideration of this Honourable House. Thank you. *[Applause]*

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

The Honourable Member Mrs Deborah J Backer

**Mrs Deborah J Backer:** Mr Speaker, it is not very often that the Honourable Member Clement Rohee is at a loss for words; but even he could find nothing much to say about this Bill. When the Honourable Minister sought, or when he did present Bill No. 14, which is the Firearms Amendment Bill, he set a scenario, quite rightly, of a country plagued by the proliferation of arms. He set a scenario of law-abiding people being terrified. Of course I am paraphrasing with the fact that there are so many gun crimes, and the fact that we have to show our condemnation, and deal condignly with these people who use firearms and ammunitions; and he also cited reference, which other people on this side of the House

agreed with, of the increase in crimes using guns and ammunitions: So he set the scenario, quite rightly, before he entered the playing field, so to speak.

I am not usually at a loss for words, but when I saw this proposed insertion of Clause 158 (A) to the Principal Act, Sir, I suffered such a loss, unfortunate to some people, it was only a temporary loss, and I have recovered completely. So much at a loss was I that I immediately sought to contact the Honourable Minister himself, because my reading of this Clause 151(A) tells me that there are three scenarios - three parts to it, if you will, and this is why I called, because I wanted clarification. My reading of it, prior to calling the Honourable Minister, was this ... and he glossed, I thought quite skilfully over these three limbs. These are the three limbs of Clause 151(A), as I understand it, and the Minister confirmed to me that I was correct:

- (i) If you knowingly lodge or harbour someone - a fine plus imprisonment.

I think that is clear. We know that; we understand that.

- (ii) If, as a result and I like these cartoon figures, Mr Speaker, so please bear with me, if I knowingly harbour Winnie the Pooh and, as a result of my harbouring Winnie the Pooh is disposed to giving me something (let us say) a car, or she gives me

cash, with which I then buy something; then you are talking about assets derived by the commission of the offence.

And that is the second limb. If I buy assets, or Winnie the Pooh gives me assets, they could be forfeited; if I am found guilty of this crime: But if that were not bad enough, there is then a third limb ... *[Interruption: 'You have a tree']* ... exactly, we have a tree. and that is where we need to put you, because you know who lives in trees. *[Laughter]* Anyhow, we then have a third limb, which is a very frightening limb:

- (iii) Anything that you may use to harbour or lodge that person; any assets that you may have of your own, prior to the commission of this offence, can also stand to be forfeited.

I thought I was wrong. In fact, when we met as a parliamentary caucus, some Members of the PNCR-1G said no, that cannot be the meaning of it. It cannot have that meaning, but. I was then mandated to call Minister Rohee, as I said, and he confirmed my worst fears - that this is right. *[Laughter]* Now, how can we possibly support a Bill in this form?

First of all, this is seeking to amend the Summary Jurisdiction Offences Act. The Summary Jurisdiction Offences Act is an Act that deals with minor offences,

and the long title says that this was in our statute Book since 1894 - An Act to Consolidate and Amend the Laws relating to procedures punishable on summary convictions. Summary convictions are your minor offences, as opposed to if you were charged indictable. So here we have, in the same Act, Cap 8:02 is what we are seeking to amend. And if one peruses 802, we see some very, very minor fines. So the whole tenor of Cap 8:02 is to deal with minor offences - cruelty to animals, Sunday labour, use of fire and keeping brothels. Well, some may say that is a big, or is not a big, offence against public order, like assembling in a very disorderly manner, unlawful possession of an animal, or part thereof. Those are the kind of offences that are in the Summary Jurisdiction Offences Act, Cap 8:02:

*... larceny by tenant or lodger of chattel or fixtures let with house or lodging; killing animals with intent to steal carcass...*

But it is that kind of offence that finds its way into the Summary Jurisdiction Offences Act, and today, in the 21<sup>st</sup> century, we are seeking to import into that Act an offence where, if you are found guilty, your assets that you may have had years before - which you did not derive as a result of the crime, but you have had it years before, can be fortified. Let us use a life, for example ... and of course I am confident that if I stray, if I go over that line, you will quickly draw me back. Neil Bovell's father has

been charged ... Well, it could not have been under this Act, because this section was not there; but this is a man, whose son was a notorious, wanted criminal, and he was found leaving the father's place; and he was subsequently charged.

Now, in a post-tonight situation, Neil Bovell's father, or persons like that, can be charged under Article 151; so you may have a man in an advanced age, in his 1970s or so, and you, in addition to fining him \$50,000 to \$80,000 plus imprisoning him; you are going to take away his house? That is so ludicrous. It is so ridiculous. It defies description, Sir, and I am very very serious about this because, if you look at the section that is to be inserted, it does not say what type of offence, you know. It says:

*Notwithstanding... anyone who knowingly lodges or harbours persons whose photographs and names have been publicly displayed, or published by the police as wanted persons in connection with any an alleged commission of a crime ...*

What if this is a person who is going around stealing things off lines of old people, or at homes; would you put a picture? In other words it does not say that the person must be wanted for serious crimes. It just says, *once the pictures are put up publicly*. What does that mean? Is it in newspapers, or is it in the police station? If it is in the police station alone; what happens if you do not go to the



police station? What does it mean? Is it going to be in the Chronicle alone? If it is, many people would not see it, because many people do not read the Chronicle; but if it is in the Kaieteur, perhaps more people may see it in *the Stabroek*, we are not sure. The Government apparently would not publish in the *Stabroek News*: But what is meant by *publicly displayed, or published by the police as a wanted person in connection with any alleged commission of a crime*? What is the nature of this crime? If it is a minor crime, where the person is fined; you are going to impose a penalty on the person who harboured them? You are going to jail them? You are going to fine them? And are you going to take away any assets that they have had from time immemorial, their car or their only house? If that is not draconian, Sir, I do not understand what can be.

As I said, the Minister spoke very briefly, because he could not position the necessity for this legislation. He positions, quite correctly as I said before, the need to amend the Firearms Act. Has there been a proliferation of people harbouring wanted criminals? I do not know, but even if there were; this cannot be, Sir, the way to go about punishing them.

Then, Sir, we get to this whole issue, which is of relatively modern concept, of due process - the right to be heard. Where is that right positioned vis-à-vis this Section? Because all it says,

*And the court may, in addition to the penalty, order to be forfeited to the State any assets...*

What is the procedure for forfeiting? Mr Speaker, if the Government was serious about forfeiting, while understanding about due processes, a right to be heard best practices ... because we are in the 21<sup>st</sup> century, and I see my learned friend, who deals with governance on the Government side, trying hard not to agree by nodding at what I am saying; but the reality of this is a complete absence of good practices, and we do not have to go very far for good practices.

Nineteen years ago, the Government that you all criticize that for twenty-eight years did nothing right, realized, in 1988, that you could not just take away somebody's property, but that you had to have procedures, and in great details, Sir, from Section 34 - Section 64, which is the whole of Part 6 and Part 7, deal with forfeiture of narcotics, implement and conveyance, and Part 7 deals with forfeiture of assets. Section 36 - Section 64 in the 1988 Act, sets out in details procedures before you can forfeit: And you remember, Sir that these are drug barons who would have benefited, and benefited heavily and directly, so you do not have to go and look. And this Act of 1988, when the big bad wolf - the PNC, who do not have any regard for anybody (I am pretending I am on the PPP side now) they saw the wisdom and they understood

that you could not just take away people's properties just like that; but being the PPP/C, they would not want to deal with the Narcotics Act. This is not our act, so let us throw it away. [*Interruption: 'Yes, throw it away'*] Throw it away; not over my shoulder, but just throw it away. [*Laughter*]

And we come to the Money Laundering Act of 2000. When they were in Government ... [*Interruption: 'Money Laundering Prevention'*] Money Laundering Prevention Act ... we want to launder you, but I do not know that you can be cleaned up. [*Laughter*] But Sir, when it deals with forfeiting ... I did not mark it as an exhibit: Part 4 - Freezing and Forfeiture of Assets in Relation to Money Laundering. Here again a procedure is set out spanning Sections 19, 20, 21 and 22; and this takes up above five pages, because they are fairly long sections; so again, you have the benefit of another precedent of best practises in the 2000 Act, where they laid out a procedure to forfeit someone's property. Yet we come in 2007 and merely say the court may, in addition to the penalty order to be forfeited to the State. Which is the court? In the Narcotics Drug Act, although you can be charged in the Magistrates' Court, the issue of forfeiture is dealt with by the High Court and the High Court only, because it is recognized that the forfeiture of someone's assets is a serious development and it must be guarded very strongly.

The right to properties, Article 142 of the Constitution speaks about the compulsory taking away of property. Of course, they said it can be taken away by the Law, so we are not saying that it does not say so; but it must be after due process! It can be by a magistrate, who has six months experience coming and saying *oh, they were hiding them between this property, that property and that property*. Well, that will only happen to PPP people who have three properties. But ... [*Interruption: 'That property, that property and that property; you are moving them around and we will take away all three'*] I mean, Sir, it cannot be that the Government is serious about this. It cannot be I refuse to accept that. I would be embarrassed to say that I am in the National Assembly and you may make use of whatever legislation may come to remove me ... [*Interruption: 'Has it come to that?' "Yes!"*] [*Laughter*]

But the point is, Sir, we cannot support this. We support the first amendments unapologetically. The fines are a little high, when you look at other fines under the Summary Jurisdiction Act, but the fines are not unreasonable; so we support that, Sir, but with respect to forfeiture, we cannot support this, and even if we were inclined to support it, we will have to see the procedure. We would have to see the procedure, and this cannot be cured, Sir.

Before I take my seat, may I indicate that I have moved ... which at the appropriate time I will, but I have placed before the House an amendment that we will move at the requisite time. Basically what it does is try to stop the paragraph and to insert a full-stop after three years, and Sir, the effect of it is to take away the latter part of the new proposed section, which deals with forfeiture. We feel that, in its present form, even if one could convince us that forfeiture is appropriate in this case; even if one could convince us of that, it cannot be just like this. We must see the procedures as we have precedents in the Narcotics Act, in the Money Laundering Act, and it may well be ... and that is in Guyana. If we use best practices, we will find best practices for forfeiture all over the Commonwealth.

So I close in saying that, in its present form, the People's National Congress Reform- One Guyana cannot support this; because to support this, Sir, would fly in the face of the right to property, and you be deprived without due process; it would be flying in the face of best practices; it would flying in the face of the right to be heard, before something as draconian as this is done: So I close by saying that we cannot lend support to this clause in its present form. Thank you very much. *[Applause]*

**The Speaker:** The Honourable Member Mr Raphael Trotman.

**Mr Raphael GC Trotman:** Mr Speaker, I rise on behalf of the AFC to speak to this Bill, but before doing so, I am told that, during my brief period of absence from the Chamber, the Chair may have expressed some consternation and concern about my absence; but as I pointed out during the recess, Mr Speaker, I did have to leave rather urgently; and by that I meant no disrespect.

**The Speaker:** I was under the mistaken impression that you had left the premises.

**Mr Raphael GC Trotman:** No, no, no. I would not do that.

**The Speaker:** You corrected that impression.

**Mr Raphael GCTrotman:** Yes and the record will so reflect.

**The Speaker:** The record will reflect that you were present on the premises, and that you had to depart from the Chamber on a matter of urgency. *[Laughter]*

**Mr Raphael GC Trotman:** Thank you, Mr Speaker. *[Laughter]* Mr Speaker, I am as concerned as my colleague Mrs Backer is about the wording of this clause. We believe that we appreciate the intent of the drafter, the intent of the Minister, and the intent of the Government in trying to curb the practice, wherever it may appear, of persons harbouring known felons whom are wanted.

My distress really comes by the manner in which that intent is reflected in this clause. If I may take us through a few aspects of it, the second sentence of their clause says:

*Everyone who knowingly lodge or harbours  
any persons whose photographs or names  
have been publicly displayed...*

I pause there. I am left to wonder now, as a lawyer on the one hand, and as a law person - a casual onlooker on the other, whether I *knowingly keep a person* is an offence; or that I *knowingly keep a person whose photograph has been published* is another; and I do not believe, with all due respect that that intent has been clearly defined here:

*Anyone who knowingly lodge or harbours  
any persons whose photographs and names  
have been publicly displayed...*

I think what was intended was that the person must have known that the picture or photograph had been publicized, and that is not stated here, so it could be ... and if I could go back to my farmer friend in Mazaruni, who one afternoon is tending to his crops, or working his brothel; or if he is a minor and a strange man, or two strange men entered his premises asking, as is the case, for lodging for the night and for food, which is also very common in those parts; and he does, as is common lend a helping hand. He has no idea that in Georgetown, or in Linden, or in New Amsterdam that those gentlemen's

photographs have been published in the newspapers, and that they are wanted. The police carry out a successful raid; and the men are apprehended. Is the farmer or the miner to be charged? And that, I believe, is not clearly delineated and defined in this clause and I am saying that we appreciate the intent, but believe that there is a lacuna here that needs to be plugged.

The other concern, as was pointed out, is that we already have the Narcotics legislation, which deals with forfeiture. We have legislation which deals with money laundering and the proceeds of crime, which also pertains to forfeiture; so the Law does allow in instances of due process for persons to lose property, because Article 143 (1) (a) (i), I believe, does deal specifically with the right to ownership of property, and it also vests in the State the right to take that property, away except, of course, in instances of due process, but if we are to read again with your permission:

I am reading from the fifth sentence from the bottom of the Bill:

*The court may, in addition to the penalty, order to be forfeited to the State any assets derived by the commission of the offence, or property ...*

I pause again, because these words seem to suggest to me that the intent of the drafters is to take away property that



has been derived from the offence. That is to say ... as an allegation recently in the papers, where a diamond trader was robbed in Main Street of some \$90 million worth of stone and money and his assailants were persons who were accused of purchasing motorcars. And even in Ithaca, I think somebody was recently arrested. That is different as Mrs Backer is saying, that your property is forfeited, so I believe, again, that when the Clause speaks to:

*Assets derived by the commission of the offence or property ...*

It is meant to say that if this property came about from the proceeds of crime, then you are entitled, I agree yes, to have it forfeited, but it goes on to say:

*... Including immovable property owned and used directly by the person, in connection with the lodging and harbouring of the wanted person.*

Again I respectfully submit that this is rather ambiguous and I have no doubt that, in a Court of Law, properly constituted by lawyers will have no hesitation in striking this aspect of the provision down, or challenging, or blocking any attempt to forfeit anyone's property; so whilst the Minister may be excited about his new-found legislation and about what is going to happen, I doubt whether it is going to get very far. I will again say that

the wording seems to have missed the mark, because it speaks about *deriving* and it speaks about knowingly lodging or harbouring persons whose photographs ... It does not say that you have to know that the person is wanted. I think that is what is intended.

Mr Speaker, Mrs Backer spoke about best practices and referred the House to our own *Narcotics Drugs and Psychotropic Substances Control Act of 1988*; but I have found in legislation in the Commonwealth from the Kingdom of Tonga, legislation dealing with criminal offence, Chapter 18 of their Laws and on the specific aspect of harbouring criminals. I will read how they dealt with the issue of Section 13 of their Chapter 18 of their Criminal Offence (Amendment) Act of 2000. Mr Speaker, this is what Section 13 says:

*Every person who knowing or having reason to believe that criminals or any person has:*

- (a) Committed an offence;*
- (b) Been charged by any particular authority with an offence;*
- (c) Been issued with a summon by any court in respect of any offence;*
- (d) Been remanded or is awaiting trial in any court, with respect to any*

*offence; or*

*(e) Been convicted of any offence.*

In other words, there are five categories, but the person must know or have reason to believe that the person has either committed an offence, has been charged and is awaiting trial, a summon has been issued for him or her, he has been remanded and, perhaps has escaped lawful custody or is a convicted felon on the run. In such a case, it goes on to say:

*If such person does, without lawful authority or reasonable excuse any act with intent to impede the apprehension, prosecution, or the execution of the sentence is guilty of an offence, and is liable, on conviction or indictment, to imprisonment.*

In other words, harbouring of criminals is a major offence, but you must vest in the courts that old standard of minstrel. We must know that the person is wanted, an arrest warrant is issued for him or her, he or she is an escaped convict, and they are awaiting trial. To simply deem a person a criminal, simply because they should have known that person's photograph or other information was posted by the police is not considered as best practice and I have cited legislation which is quite recent that have come out of the Kingdom of Tongo,

which is a Commonwealth jurisdiction and they have quite succinctly, I believe, and simply lead out the manner in which we should address it without lawful authority or reasonable excuse, does anything to impede that person's apprehension by harbouring them, *et cetera*.

Mr Speaker, we have already heard an analogy of Minnie Mouse or somebody ... Who is it, Mrs Backer? *[Interruption: 'Winnie the Pooh']* Winnie the Pooh ... but consider this which is a quite realistic situation. A hotel owner ... let us takes, for example, Buddy's International ... *[Laughter]* He accepts a gift. I believe a few years ago there was a hotel in Eccles, where the infamous *Blackie* was said to be holed up - the Toucan Guest House, which was a place in the business of running hotels ... I notice brothels are listed; I do not know whether brothels were lawfully allowed to operate in Guyana *[Laughter]* but that is another story. That is now news to me. *[Laughter]* *[Interruption: 'Have you used one?']* Not that I have ever entered one, but I have clients who frequent these places and I may now be able to advise them. *[Laughter]*

Mr Speaker, take the case of an hotelier, who may allow a guest into his hotel, and that guest is a wanted felon. The person at the front desk ... let us say it is ten o'clock at night, and a tired front desk receptionists receives the person and the person is admitted to Room 15 after paying. Two days later, it is discovered that the person was wanted by the law. And it may sound like an absurd

example, but should the hotelier *ipso facto* be deemed to be harbouring, and therefore subject to have his or her property seized?

I said, whilst I appreciate the trust and the intent of this legislation, I believe that it has missed the mark and needs tidying up. We would support, even at this stage, a late amendment to ensure that the person *knows* that the person has committed an offence; not that he knows that his photograph has been published. I know, ... and I will say this now without hesitation, that there are instances in Guyana where the police have issued wanted bulletins for persons, when they have, in fact, not been wanted, and the evidence of that came out in the infamous Thomas Carol case in Illinois, where the police would issue their own wanted bulletin for people; so one has to guard against these things.

In the past, you are aware ... I am sure that there are days when honest law-abiding citizens of this country went to the airport and heard that they were blacklisted and could not leave the jurisdiction of Guyana, not being aware that they had committed any offence whatsoever; so it is not just that the person's photograph is being displayed on some wall or a policeman says so. We have to do a little better, and I believe we will achieve what it is we are setting out to do; so if harbouring a criminal is a serious matter ... and we have not had any statement from the Minister to suggest this, but I believe it ought to be a

serious matter in Guyana now and we are prepared to support it, but we believe a late amendment to tighten up some of the wording will suffice to assuage some of our concerns. Thank you Mr Speaker. *[Applause]*

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

Honourable Member Everall Franklin

**Mr Everall N Franklin:** Mr Speaker, the Honourable Minister has presented a Bill that we can all assume that we know what his intentions are. However, if this Bill is passed in this form then I would humbly suggest that each and every one of you, and us on this side, check out your gardener, your cook, and every single employee ... *[Interruption: 'Your garbage collector ... I know that one was coming. ]* ... your drivers, *et cetera*, to ensure that nowhere in the jurisdiction were their photographs posted up as wanted.

My problem with the way this legislation was drafted is that it appears to be a rather lazy piece of legislation, and I am surprised that, with the amount of lawyers that we have, in and out of this House that they would allow such a Bill to come to the Assembly in this form. I would also ask what the procedure is. There are lots of lawyers here and they probably could answer that later for a husband, who is found in a house in which he has lived for a long

time, but he is now on the run; how are we going to deal with that? *[Interruption: 'His home']* Yes, he has gone back to the house. Is his wife going to be subject to criminal charges? I do not know if that is possible.

I have worked, on many occasions - giving voluntary help to the Guyana Police Force, and I can tell you that many wanted posters for notorious criminals are posted all over this city and the police themselves, whom are supposed to catch these criminals, have to enlist special persons, or there are just a few policemen who actually know these people; so how are we going to put that kind of pressure on the ordinary citizens of this country? Some of the photographs posted, when a criminal is actually caught, they have no resemblance to that person. There is also no timeline on this ... *[Interruption: 'What will timeline do?']* Well, he could get old; you understand? Well - he could get ugly too. But some of us are that way now. We do not need any time for that. *[Laughter]* How are we going to decide what is recognizable? This is so subjective and leaves such a big hole that the entire Bill should be reviewed. We have cases where some of our law-enforcement officers, who moonlight as minibus drivers, are transporting people who are wanted. They did not even recognize them, so why are we going to put this on us, on the ordinary citizens to know whether you have posted it or not? Taking into consideration ... and I think, the Honourable Member spoke about people in the interior, who does not even get the newspapers in months

or sometimes even in a year, because of their remoteness. So shall we leave them at the mercy of something like this?

This, I must reiterate is a very lazy, rushed, and clumsy piece of legislation. *[Laughter]* *[Interruption: 'You got gardener though?']* You better check your gardener. *[Laughter]* As I said before, I understand, quite clearly, what the intention is, but this piece of legislation, this is what people going to be guided by. This is what the law enforcement officers are going to use who is going to convince Constable Jones or Brown or Bahadur that I did not know this man? *You en know him nah? You en know him nah?* That is the end of it. That is what we are dealing with, right. I cannot understand that with the skill in ... and I have always said that apparently, we have too many lawyers and they are probably competing against each other to come up with nothing. We need to probably reduce the amount of lawyers so that we can get some sensible stuff in this Assembly.

The timeline, I think, is very important. You cannot just say that if the wanted person photograph has been posted; people changed their appearances. Instead of long hair, it is now baldhead. How are we going to deal with that? It is weak. We will want to see a strong picce of legislation come to this Assembly that take these things into consideration and make sense. As it is, it is a weak piece



of legislation fought with lots of holes that the rats are going to pick at.

Therefore, Mr Speaker, as presented ... we certainly understand the intension, but I think this Bill has totally missed the mark. Therefore, in the present form, we cannot support this particular Bill. Thank you, Mr Speaker. *[Applause]*

**The Speaker:** Thank you Honourable Member

Honourable Attorney General and Minister of Legal Affairs

**Hon Doodnauth Singh:** May it please you, Mr Speaker ... I have heard the Bill which is being debated being described by the last Speaker in rather unfortunate terms. *[Laughter]* Mr Speaker, this Bill is in response to a request by the police - to a request by the DPP's Chambers for this piece of legislation; so let us examine the legislation rather than the rhetoric that I have just heard.

Notwithstanding, anything contained in Section 150, or any other law:

*... Everyone who knowingly lodges or harbours ...*

Not transporting in a minibus

*... Any person whose photograph or name has been publicly displayed or published by the police as wanted person in connection with an alleged commission of a crime, or commits an offence ...*

The section creates an offence, which the courts have, on several occasions, dealt with in the Customs Laws with the phrase knowingly. There are several authorities which deal with that expression, so it is consistent with what has been declared by the Laws of Guyana.

We now proceed:

*... and shall be liable to a fine, et cetera,*

Which was stated therein, in addition to the penalty order, to be forfeited to the State any assets derived by the commission of the offence.

I wish to pause here, Sir. The concept of forfeiture of property is an age-old concept. Every criminal offence in which property is involved; there is an entitlement to forfeit. But it is only recently that there have been specific provisions which enact methods of forfeiture. Forfeiture is a known concept under the Customs Act, and it has always been there since the introduction of the Customs Laws. As a result, we have forfeiture ... and my learned friends have referred to it in several other aspects.

Let us examine how that forfeiture ought to take place.

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*In addition to the penalty order to be forfeited to the State, any assets derived by the commission of the offence ...*

Let us pause there, Sir. It is only *any assets derived by the commission of the offence* which is liable to the forfeiture, and [Applause] which may be *forfeited to the State* or: property including immovable property owned and used directly by the person, in connection with the lodging or harbouring ...

If there is a bulletin which has been posted for a wanted criminal, and you knowingly harbour that person; how does Shivraj the Hotelier become involved? How the front desk of a receptionist become involved and liable to be charged? So those concepts which have been spoken about are concepts which are known to the Law

Let us deal with the provision of due process. In every case which a forfeiture order can be made, the defendant has a right, and his counsel ... As the Minister said, you have to be on your toes and to be able to explain and say why the forfeiture order should not be made; so the due process is involved before the forfeiture order is made. Mr Speaker, there are several authorities which deal with the question of forfeiture and how it ought to take place. We have had examples of situation which are being projected. The courts are there to deal with each situation as it arises. What is so unacceptable about the provision which includes that there ought to be forfeiture? Mr

Speaker, I find it unnecessary to say anything further than I have said before. When, at the appropriate time, if there is any challenge to the Constitution about this Act then it would be dealt with in the appropriate way. Thank you.  
[Applause]

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

The Honourable Member, Mr Basil Williams ...

**Mr Basil Williams:** Mr Speaker, upon a proper perusal of this clause, I must confess that what immediately springs to my mind is not a template fire fighting; simply because ... and this is my considered view, as we say in the Law, *the field is already covered*.

Our Criminal Law, as it is now, can adequately deal with any situation that this provision wishes to speak to. Now, it has some anomalous provisions within it. For example, certain grey areas, certain things that make you uncomfortable when you read it come to mind, for example, in our practices. The police practice in this country is only to publish the picture and name of a person in the case of a serious criminal offence. That is the first thing: So what type of offences, since it is situating in the Summary Jurisdiction Offenders Act, Chapter 8:02, and not in Chapter 8:01; what offences are contemplated by this provision? Are you going to publish the name of a person who rides on the pavement of Bourda Market three times? Are you going to publish

him? It is inconceivable that you could publish a person in connection with the offence of murder in Chapter 8:02. It is inconceivable that you can publish anyone for kidnapping under Chapter 8:02 and we could go on.

It is clear that situating this provision in the Summary Jurisdiction Offences Act is misconceived.

That is the first thing, because I have no problem harbouring anyone who steals fishes from Bourda Market twice a week. This couldn't be any serious ... What kind of provision like this should come to this House? When I first heard of it I assumed that it is situated in the Criminal Law Offences Act, Chapter 801 that you are publishing. How could you waste the taxpayers' money to publish the picture, and photograph ... pay money to put it in the newspapers or on television, or even on the radio? No, it cannot be on the radio, on the television and in the newspapers ... *[Interruption: I was just about to ask you that.]* You can publish the name alone on the radio. The point is; why would you do that? What are the offences you wrote down – some of some of those offences? *[Laughter]* Bicycle lights, parricidal larceny, thieving a boulanger or a mango. We are bringing the law into dispute.

Mr Speaker, we are bringing the Law into disrepute, and therefore, as I said, they could not publish John Thomas in relation to the commission of rape, commission of murder, commission of treason, kidnapping, and robbery

under arms; in relation to this Chapter 8:02. Sir, in the first place it is inapplicable. Sharp lawyers, Mr Rohee, like I would throw this out of court right away ... [Interruption: 'You are a sharp lawyer?' 'Bring your money if you get into a story with your neighbour and you will know, Shirley.')] [Laughter] Shirley is asking if I am a sharp lawyer. [Laughter] [Interruption: 'She may very well need you because she is in disguise right now. I did not even recognise her.' "Ask your comrade two places from you"] [Laughter] I am sorry, Mr Speaker.

Now, really making this initial submission, I ought to stop here; because no serious offence, as I said, could be situated here. Now it follows that if you cannot publish a serious offence in relation to this matter, equally you cannot forfeit anybody's property. You cannot forfeit anyone's property, willy-nilly, because Article 142 guarantees the security of all property: And notwithstanding they gave you some exceptional situations ... let me go to the specific one, where they say in Article 142 (2) (ii):

*... by way of penalty for breach of the Law, whether under civil process or after conviction of a criminal offence, under the Law of Guyana.*

Our Constitution would certainly not contemplate you forfeiting the property of a citizen because they harbour, whether knowingly or unknowing by somebody who stole

two boulanger or two mangoes. It is inconceivable, so therefore, as I said, the whole basis of this provision is nonexistent. It is peculiar. If this particular provision was situated in Chapter 8:01, and then it would have been a different matter, because you know, they could only be talking about serious offences for which you publish people.

Now, every country has a history, and my senior colleagues on the other side would tell you that there was a time in Guyana when I see your picture; people are talking about how you would know if your picture published? You know in this country, when any criminal's picture made the newspaper, every lawyer worth his salt wants to know what is happening with them. Their family, their cousin, their aunty - everybody is suddenly seeing their picture in the papers; do you know why? Because they have to go quickly and get a lawyer to take the person into the station; otherwise the person often times comes in dead. We know that. So when you come now and you are reducing the efficiency of the Law by coming with this provision and situating it in a Summary Act; it cannot be efficacious; and certainly it ought not to reach forfeiture of property that has to do with nothing whatsoever but being derived from the sale of the stolen boulanger, or the bicycle, or the callaloo. It does not make sense. It is ridiculous.

My learned senior, the Honourable Attorney General is speaking to nothing being wrong with the form and content of the provision here, the clause here, in that knowingly being involved or knowingly harbouring somebody who is punished; it could be constituted an offence. If you want to argue it when you go before the court, then let the court resolve that because we know, as lawyers, it is a matter of proof. The question of knowledge will have to be determined on all the circumstances of the case; your conduct *et cetera*, whether the person is close to you or is his relation or whatever. That is a matter for the law, but in this particular case, it is improperly situated and it cannot be efficacious, and so I am respectfully submitting, Mr Speaker that, being misconceived, it really ought to be withdrawn. We really could not support it; certainly not with that high stake of forfeiting property that has nothing to do with the commission of an offence. Thank you, Mr Speaker. [*Applause*]

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

The Honourable Minister of Home Affairs

**Hon Clement J Rohee:** Mr Speaker, if there is one unique reason for the establishment of Parliament and the National Assembly, it is for the purpose of establishing the laws of the land. Parliament is supreme in this respect. That is why when we look at the Bill, how does it start out? It starts out by saying:



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*Notwithstanding anything contained in  
Section 150, or any other law, ...*

This is critical as the Honourable Member Mr Basil Williams was seeking to understand the context in which this Bill is being proposed. Mr Speaker, in this respect the Parliament or this Honourable National Assembly is the body that makes laws for this country and, contrary to the wishes of the Honourable Member Mr Williams, who said that such a Bill, were it to be presented in a court would have been thrown out. Well, we are happy that Parliament is not a court and we are happy that Parliament is the law-making body to direct the courts of this country.

I recall, Mr Speaker, as a Member of the Elections Commission in this country, up to 1991 that Commission at the time was chaired by Mr Bollers – a former judge - and whenever anyone would seek to encourage the Boller's Commission to make changes in the representation of the Peoples' Act or to interpret the representation of the Peoples' Act in a way that would facilitate and ensure free-and-fair elections in Guyana, Mr Bollers would say that the Elections Commission was not a law-making body, and that we must go to the Parliament. The point I am making here, is that this is the fit and proper forum for making laws in the country.

Mr Speaker, certain questions were raised in the presentations by Members of the other side of the House.

I find it difficult to understand how people, who pretend to be learned, fail to understand the intent, the logic, and the direction of this Bill. What we are seeing here with all due respect to all those who spoke, is simply politicking to cloud the issue, because I am sure, I am quite positive that, if you were on this side of the House, you would have brought something just like this.

Mr Speaker, they raised the question of forfeiture, and they made a song and dance about forfeiture. The Honourable Attorney General, I think, dealt quite fittingly with this matter. Mr Speaker, there are several Acts of this country where the question of forfeiture has already been dealt with; so what is the debate about? Now we are asked in the Timber Marketing Act, it says:

*Where a person is convicted for an offence against this Act the court may, in addition to any penalty imposed, order that the timber in respect of which the offence was committed be forfeited to the State.*

The Maritime Boundaries Act says that:

*The court may order any such boat, fishing gear, net, line, instrument or appliance to be forfeited to the State.*

The Mining Act ... [Noisy Interruption]

**The Speaker:** Honourable Members, let us have some order please.

**Hon Clement J Rohee:** ...The Mining Act, Mr Speaker, states that:

*Any aircraft, ship or carriage, together with all animals or things, or any dredge or machinery made use of in the commission of an act, or for a purpose prohibited by or under this Act, shall be forfeited, and the forfeiture of any aircraft, ship, carriage, animal, things, dredge, or machinery shall be deemed to include the cattle and furniture, if any thereof.*

Mr Speaker, the Foreign Currency and Security Gold Act states that,

*The court may, if thinks fit so to do, order the foreign currency, money, security, or gold, in respect of which the offence is concerned, be forfeited.*

Mr Speaker, in the context of the proposed Section 1<sup>51</sup> (A) of the Summary Jurisdiction Act, inter alia, provid for:

*... Forfeiture of assets, including immovable property, derived by the*

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*Commission of the offence of lodging or  
harbouring persons wanted by the police ...*

The question has arisen as to whether such a law is legal and constitutionally valid. Mr Speaker, the relevant provision of the Constitution is Article 142. Paragraph 1 of Article 142 of the Constitution of Guyana reads as follows:

*No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except by, or under the authority of a written law...*

and where provisions applying to that taking of possessions, or acquisitions, is made by a written law requiring the prompt payment of adequate compensation ...

However, at Paragraph 2 of the Article, *inter alia*, provides that:

*Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of the preceding Paragraph.*

To the extent of the law in question, makes provision for the taking of possession or acquisition of any property by

way of penalty for breach of the law; by way of penalty for breach of the law, whether under civil process or after conviction of a criminal offence under the Laws of Guyana. [Interruption: 'We know the Article'. "You know that article, but you chose to bypass." 'No. Basil referred to it'.] Basil referred to this in a sleight-of-hand way, by twisting the arguments. [Interruption: 'I presented the argument'] That is how he referred to it and by denigrating ... [Interruption]

**Mr Basil Williams:** On a point of order, Sir. Am I not entitled, Mr Speaker, to present the evidence at hand? The Minister is referring to my address as done in a sleight-of-hand way.

**The Speaker:** Well, I was considering the use of the phrase as immediately as it was made, but I do not think there is any Member of this National Assembly who would for one moment, think that you, Honourable Member, [Laughter] are capable of such an activity; quite apart from that, I think that the Honourable Minister was referring to a *sleight-of-hand* in argument; not in a dishonest activity. That was why I allowed it - for those two reasons.

**Hon Clement Rohee:** Thank you Mr Speaker. I know that I can always rely on you for your elegance in interpreting what a speaker on the floor may have said or may be about to say. [Laughter]

Mr Speaker, it is amply clear from the above that Parliament is competent to make a law providing for the forfeiture of property. The burden of proof that the property in question is the property derived by the commission of the alleged offence is on the prosecution, as the onus has not been shifted.

Mr Speaker, let me give a few examples as to why this Bill will fulfil the intent, which it sets out to accomplish, because there are certain weaknesses in the existing Act; and may I point out that this Bill in no way seeks to replace Clause 151 in the Summary Jurisdiction Offences Act, which treats with harbouring of thieves. We are not replacing this. What we are seeking to do is to add and insert a new clause after Clause 151, making it Clause 151 (A).

Mr Speaker, the question was raised about due process and comparisons were made with respect to what obtains in the Narcotic Drugs and Psychotropic Substances Control Act - That there is a long raft of procedures laid out there and that is why we should have similar procedures in this proposed Bill. Mr Speaker, this is a very simple and clear-cut matter. If you go into the premises, whether it is a lodging house, tavern, stopper retail shop or place; or any public resort where you harbour these people, and incidentally the existing legislation makes no provision for dwelling houses. *[Interruption: 'We do not deny that'. 'I have to make*

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these things clear.”] It makes no provision for dwelling houses. Now if, when the police enter a dwelling house and the wanted man is found in that dwelling house; you tell me what list of procedures you need to follow be able to say that this man was found in this place belonging to these people? You do not need procedures for that. The fact of the matter is that the police went into the building and the man who is wanted is there and you are also there at the same time; so what procedures do you need?

*(see PART III of III Page 161)*

# National Assembly Debates

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24th Sitting

14:00h

Thursday 24 May 2007

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## **PART III (cont'd from PART II of III)**

Mr Speaker, I want to submit that it is the police's experience. The Honourable Member Mr Williams made reference to the police; but it is the police's experience that criminals are usually kept harboured, lodged, knowingly permitted to assemble or meet in dwelling houses or other places not captured in Clause 150, chapter 8:02. An example of this is where a female was occupying a house in front of the Buxton backdam, where Shawn Brown and Dale Moore were hiding out. She used to cook food for the bandits, whom the police were trying to arrest. The bandits used to come out from the backdam every day, go to her place for food, as well as for medicals and so on. They would come out armed with rifles and other firearms, which she could of course have seen. The police did not have the pictures of all those males; some of whom were young and therefore would not have been known to the police. The police therefore could not have published their names or their pictures. The woman could not have been charged with harbouring, because she was occupying a shack which could be termed a dwelling house or other place, which is



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not included in the present legislation, so the woman got off the hook. Speaker, we had a similar experience when a notorious criminal called *Six-head*, who was killed on the Essequibo Coast around 1997-1998, used to also be harboured by a female, somewhere in the Onderneeming area at her house. He sometimes used to go to her for food and other supplies and she at times used to meet him at a point, and give same to him. The police finally was able to confront him and, during the gunfire exchange, he died. After his death, the female was arrested, and there was again difficulty in instituting a charge against her, despite the fact that she was harbouring him before his death, and not assisting the police in having him arrested.

Then finally, there was the recent case of Neil Bovell, who was found by the police cutting up meat and cooking food in the yard at his father's home on the West Bank of Demerara. He was in the yard - some feet away from the bottom of the back steps, and back door to the house upstairs, which was wide opened. The father was found upstairs in the said house, on the said day, at the said time of his arrest. His father was therefore knowingly harbouring him. In this case, the police had his picture, and had published his name and picture.

Mr Speaker, the Constitution Article 142 (2)(a) (ii) says:

*By way of penalty for a breach of the law ...*

which is harbouring of the thieves, the criminals and the wanted men,

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

Shall take possession or acquisition, of any property ...

Mr. Speaker, I believe that this Bill needs to go forward. It is sending the right signal to the Guyanese community. We should stop playing political football with these issues that put people's lives in danger. The Government is constantly criticized by some, who sit and do nothing, and all they do is writing letters and going around complaining that nothing is being done to deal with persons who are harbouring these thieves. Now that we seek to bring a piece of legislation to address these matters, we are being told that it is draconian. *[Interruption: 'But it is!']* It is not! The people who have elected us to this House want such laws to be promulgated and so they shall be, *[Applause]* because the overwhelming majority of people out there want to see this Government - want to see this Administration - taking stern action against these matters, so that we could put paid to all the critics and cynics who say that this Government is weak and not doing anything to deal with the criminals and those who harbour them.

Mr Speaker, with these few words, I commend this Bill to the House. [*Applause*]

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

**Question put**

**Mrs Deborah J Backer:** Division!

FOR

Mr Whittaker

Mr Seeraj

Mrs Sahoye-Shury

Mr Parmanand Persaud

Mr Neendkumar

Mr Nandlall

Mr Nagamootoo

Mr Lumumba

Mr Khan

AGAINST

Mr Franklin

Mr Patterson

Ms Smith

Mr Trotman

Mr Fernandes

Ms Kissoon

Ms Wade

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Mrs Edwards	Ms Selman
Mr De Santos	Mr Mervyn Williams
Mr Chand	Dr Austin
Mr Atkinson	Mrs David-Blair
Mr Ali	Mr Elliott
Ms Shadick	Mr Norton
Mr Nokta	Mr Danny
Mr Teixeira	Mr McAllister
Mr Ramotar	Mr Scott
Mr Prashad	Mrs Lawrence
Ms Webster	Dr Norton
Dr Ramsaran	Mr Basil Williams
Ms Manickchand	Mr Vieira
Mr Benn	Mrs Backer
Dr Anthony	Mr Carberry
Mr Lall	Mrs Riehl
Dr Westford	

Mr Robert Persaud

Mr Nawbatt

Dr Ramsammy

Mr Rohee

Mr Hinds

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**Motion Carried**

**Bill Read a Second time**

**IN COMMITTEE**

**The Chairman:** There is an amendment. Mrs Backer, it is really to Clause 2 and not to 151 A, but let me just put Clause 1 first.

*Clause 1*

**Proposed, put and agreed to.**

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

*Clause 2*

*Proposed*

**The Chairman:** The Honourable Member Mrs Backer

**Mrs Deborah J Backer:** Thank you very much, Mr Chairman. Mr Chairman, I rise to move the amendment standing in my name. The amendment, very simply, is to insert a full-stop after the word *years that appear in Line 7*, and to delete the words thereafter.

Amendments -

New Section 151 A -

- (1) Insert a full stop after the word 'years' in line 7 of the section
- (2) Delete the words "and the Court may in addition to the penalty order to be forfeited to the State any assets derived by the commission of the offence or property, including immovable property, owned and used directly by the person in connection with the lodging or harbouring of the wanted person:."

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**Amendment put and negatived.**

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

**Assembly Resumed**

**Bill reported without amendment, read the Third time and passed as printed.**

**The Speaker:** Thank you very much, Honourable Members.

Can we move on to the next Item on the Order Paper?

**4. CONSTITUTION (AMENDMENT) BILL 2007  
- Bill No. 17/2007 published on 2007-05-04**

*A Bill intituled, an Act to alter  
the Constitution in accordance  
with Articles 66 and 164*

The Honourable Prime Minister

**Hon Samuel AA Hinds:** Mr Speaker, I beg that the second reading of this Bill be deferred to a later date.

*[Deferred]*

**The Speaker:** Thank you. Honourable Members, the question is that Bill is deferred.

**Put and agreed to.**

*[Deferred]*

Honourable Members, there is a Motion on the Manual of Rules and Procedures of Operation of Parliamentary Committees,

## **MOTION**

### **5. THE PARLIAMENT OF GUYANA MANUAL OF RULES OF PROCEDURE AND OPERATIONS OF COMMITTEES**

WHEREAS on 10<sup>th</sup> May, 2007 the Parliament of Guyana Manual of Rules of Procedures and Operations of Committees was laid in the National Assembly;



AND WHEREAS the said Manual contains the rules, procedures and operations of Committees functioning in the National Assembly;

BE IT RESOLVED:

That this National Assembly accepts in general the rules, procedure and operations of the said Manual;

BE IT FURTHER RESOLVED:

That a Select Committee be appointed to make recommendations to the National Assembly on the adoption of the said rules, procedure and operations.

The Honourable Prime Minister and Minister of Public Works and Communications

**Hon Samuel AA Hinds:** Mr Speaker; Honourable Members, it is my pleasant duty to bring before this House the Manual of Rules and Procedures of Operations

of Parliamentary Committees. This is one of the numerous initiatives to strengthen the National Assembly in the conduct of its business.

This Manual seeks to document and codify the rules, procedures and practices of the committees of the National Assembly, and this Manual, after review, will immensely enhance the work of committees, since it will enable them to carry out their work in a more standardized and rules-bound basis.

The Manual contains three parts:

- The first part outlines the structure and general procedures of committees;
- The second part describes the operations of the various committees. It describes the functions, powers and procedures of dealing with issues peculiar to each committee of the National Assembly; and
- The third part is described as *Committees Divisions Staff Operational Manual*, and provides detailed guidelines for committee staff to perform their functions efficiently.

The preparation of this manual was funded by the Fiscal and Financial Management Programme (FFMP), Sub-component 3, National Assembly - enhancing Fiscal and

Fiduciary Oversight, and it was done at the cost of GY \$3,011,250.

Mr Speaker, Honourable Members, as is stated here in the BE IT RESOLVED Clause, I am asking the House to accept in general the Rules, Procedures and Operations of the said Manual, and further, that a select committee be appointed to make recommendations to the National Assembly on the adoption of the said rules, procedures and operations after the committee would have given this proposed manual detailed review.

Mr Speaker, Honourable Members, I look to the support of all sides of the House.

**The Speaker:** The Honourable Member Mrs Riehl,

**Mrs Clarissa Riehl:** Mr Speaker, as the Honourable Prime Minister said, this is a comprehensive and well-documented Manual, with an Index, Appendices and even a specimen summon; and it would be a worthwhile complement to the Standing Orders which we have in this National Assembly. It is the embodiment of years of experience and research by Mr Maurice Henry, whom we all know in this Parliament. And I think we all should record our thanks; notwithstanding that he was paid for it; the Prime Minister told us how much this Manual cost, but I still think that we should record our thanks to Mr

Maurice Henry, who did an excellent job in putting together this Manual. *[Applause]*

I am sure that very little work will be needed to fine-tune this Manual for usage by the parliamentary committees, whom I know, and as the Prime Minister said, would rely heavily on this Manual:

But having said those few words Sir, I am wondering whether select committees is the correct route for this Manual, because it is a document which is complementary to the Standing Orders of the Parliament and I feel that this document should go directly to the Standing Orders Committee of the Parliament, rather than to a select committee. This is not by way of recommendations or any such thing that we had for the Disciplined Services Commission and with the Needs Assessment from Sir Michael Davies' Report and things like that. This is not a report of such that should be synthesized by a select committee. It is a manual, recording therein, the rules and practices and it is an adjunct to the Standing Orders itself. Therefore, it should really go to the Standing Orders Committee and not, again, to any Select Committee.

It is bound and everything – ready for usage as a manual which is, as I said, complementary to the Standing Orders. So we do not support it being sent to a Select Committee. It is not a report, and it should not go to a

Select Committee. It should go straight to the Standing Orders Committee. That is our stance on this matter. Thank you, Sir. *[Applause]*

**The Speaker:** The Honourable Member Mr Ramjattan ...

**Mr David Patterson:** Mr Speaker, with your leave, I would just like to speak on behalf of Mr Ramjattan.

**The Speaker:** Where is Mr Ramjattan? I have him listed here ...

**Mr David Patterson:** He is unavoidably absent.

**The Speaker:** But he did not seek leave of absence. He was here, and he is listed to speak. We have to start enforcing these rules where members flout the courtesies, which I consistently display to Members, and which some Members consistently fail to display to me. I have Mr Ramjattan listed here, and he has vanished.

Yes, Mr Patterson

**Mr David Patterson:** Thank you, Mr Speaker. Mr Ramjattan ... *[Interruption]*

**The Speaker:** He is supposed to seek my leave before he leaves the Parliament, and I hope you convey that to him, please.

**Mr David Patterson:** I will, Mr Speaker. I am in the position due to do a Bill that would be debated here

shortly. When the leader of your party request you to speak on his behalf, you should accept, lest you fall foul on him and you are recalled; so I was requested in light and so I am here and speaking. *[Interruption: 'Who is your leader?'* "The leader of our party is Mr Khemraj Ramjattan. The representative on the list is quite different.

Mr Speaker, I rise to endorse the sentiments of the Prime Minister and the previous Speaker, the Hon Mrs Clarissa Riehl, and on behalf of the Alliance For Change; and on this occasion, I have been informed that I can speak on behalf of GAP-ROAR, to signal our acceptance of this Manual of rules and procedures and operations of committees. As I am here, we would like to express our thanks and appreciation to Mr Maurice Henry and his staff for the preparation of this timely Manual.

As a new Member of Parliament and a member of two committees, I can see the need for such a Manual, since on occasions; we had cause to inquire from the chairperson of our committees what the correct procedures were. We also had to, on more than one occasions; seek the assistance of the Speaker or the Clerk of the Assembly to guide us on what the correct procedures are. With the introduction of this Manual on rules and procedures, everyone shall be operating on a standard footing.

I note the comments made by the previous speaker that there is in existence a Standing Orders Committee and it is also in our opinion, the correct and appropriate committee that this Manual should be referred to. However, we hope that you, Mr Speaker, as you have done so often in the past, would guide this Assembly, as to the correct route that the Manual should be referred to.

With these few words, on behalf of the Alliance For Change, and GAP-ROAR, we accept and endorse this Manual on rules and procedures. Thank you very much.

*[Applause]*

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

Honourable Prime Minister , would you like to respond?

**Hon Samuel AA Hinds:** Well, Mr Speaker, it is evident that there is support from all across this House for this draft rules ... *[Interruption]*

**The Speaker:** Could you address the issue of which committee?

**Hon Samuel AA Hinds:** Yes. I will address it. I have been advised that the gentleman who prepared this thought at the time that it should go to a select committee and we do support that it goes to a special select committee of this House. Thank you.

**The Speaker:** If there is an amendment to the Standing Orders, there is no doubt that that has to go to the Standing Orders Committee; but the Standing Order No. 88, which establishes the Standing Orders Committee, has a sentence which says:

*It should be the duty of the Committee to consider, from time to time, and report on all matters relating to the Standing Orders, which are referred to it by the Assembly...*

I suppose that leaves it open to the House to decide, whether it wants to send it to the Standing Orders Committee or to another committee. I do not believe that would mean that the Standing Orders Committee only is entitled to look at a manual. I do not know that this should create an issue. I will be happy if it does not go to the Standing Orders Committee, because I would have to chair it and that will be a tedious and long process. I would be happy if it goes to another select committee. *[Laughter]* I know Mr Carberry is very unhappy with this.

Yes, Mr Carberry, do you want to say something?

**Mr Lance Carberry:** Yes, Mr Speaker. I am very happy that you are indulging me on this occasion, because I know that you do not have to accept my speaking.



But, Mr Speaker, I sat in the Needs Assessment Committee. We did a thorough job, which resulted in the revision of the Standing Orders. This document, in fact, is taking the process forward by simply elaborating those issues that are in the Standing Orders. Now this document is not a substitute for the Standing Orders, nor could it be in conflict with the Standing Orders ... *[Interruption]*

**The Speaker:** It relates to the Standing Orders.

**Mr E Lance Carberry:** Yes. It is in adjunct and in fact, it elaborates and helps us, because it is a very useful Manual. There is no question about it, but it cannot be a substitute for the Standing Orders. Therefore, there is nothing in this document that should collide with the Standing Orders; and really and truly, Sir, I feel very strongly about that. This document cannot collide with, or substitute for the Standing Orders.

**The Speaker:** Well, Prime Minister, we do have a Manual for the Standing Orders, which are coming up, and I think that, appropriately, should go to the Standing Orders Committee; but this manual for the committees relate also to an aspect of the Standing Orders, which are the procedures in committees. I do not know ... Honourable Members; do you wish to reconsider it?

**Hon Samuel AA Hinds:** Mr Speaker, I think we hold to our ... *[Interruption]*

**The Speaker:** I do not know that this is a matter of big principles.

**Hon Samuel AA Hinds:** No. I think we hold to our view that we should better get it to special select committee, and I presume ... *[Interruption]*

**The Speaker:** Any special fundamental reason of principle why that should be so?

**Hon Samuel AA Hinds:** I think mainly to get a ... *[Interruption]*

**The Speaker:** You see, I am trying to avoid a ruling as to whether the matter must go to the Standing Orders Committee, but if you wish me to rule ... *[Interruption]*

**Hon Samuel AA Hinds:** When you think of the section you read there in the Standing Orders Committee; Rule No. 80-something ...

**The Speaker:** SO No.80.

**Hon Samuel AA Hinds:** It seems to suggest that the Standing Orders Committee should limit itself, or focus on the Standing Orders, so I would say that I would prefer that we go to a special select committee, where it could maybe get special attention. Concerning avoiding collision with the Standing Orders, one can seek to manage that in a number of ways; maybe by having administrative people who are familiar with the Standing

Orders; or you may have some of the people who are on the Standing Orders Committee being members of this special select committee also to avoid collision between the two.

**The Speaker:** Honourable Members, I would have to ask that this matter be deferred, because it is clear that I would have to make a ruling as to whether it should go to the Standing Orders Committee or not.

*[Deferred]*

**(ii) PRIVATE MEMBERS BUSINESS**

**PUBLIC BUSINESS**

**MOTIONS**

**4. AMEMNDMENT TO STANDING ORDER  
NO. 10**

WHEREAS the hours of Parliament are prescribed by Standing Oder No. 10 of the Standing Orders of the National Assembly to be 2.00 p.m. to 1.00 p.m. with suspension at 4.00 p.m. and 7.00 p.m. respectively;

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AND WHEREAS Members of the National Assembly have expressed varying views on the time for sittings of the Assembly with some Members favoring the commencement of sessions at an earlier time whilst others appear to prefer the strict observance of the prescribed times;

AND WHEREAS it would be desirable for a compromise to be found so as to allow for the hours of sittings to be varied from time to time by the Parliamentary Management Committee depending on the business to be disposed of;

BE IT RESOLVED:

That the Standing Orders Committee examines the issues of the times at which the Assembly shall meet including the right of the Speaker to suspend the Standing Orders to allow the time to be abridged or varied and to report to the National Assembly its finding and recommendations within three months.

Can we move to the amendment proposed by Mr Trotman, the amendment to the Standing Orders is the next matter? Do you wish to move Honourable Members?

**Mr Raphael GCTrotman:** If it pleases you, Mr Speaker, I move the motion standing in my name, regarding the amendment of the Standing Orders and circulated within the Assembly, by the clerk was the actual or proposed amendment, and I am asking that that be referred, without debate, to the Standing Orders Committee for consideration.

**The Speaker:** The Motion is so referred. Thank you.

*[In accordance with Standing Order No 110 (3) the Motion was referred forthwith, without question put, to the Standing Orders Committee.]*

**Mr Raphael Trotman:** Thank you, Mr Speaker.

## 5. AFRICAN SLAVE TRADE AND SLAVERY

WHEREAS THE 25<sup>TH</sup> DAY OF March, 2007 marked the bicentenary of the Slave Trade Act between Africa and the British Empire;

AND WHEREAS scholars estimate that between 50 and 100 million Africans were either killed or abducted during the

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existence of European slavery and the slave trade;

AND WHEREAS it is universally acceptance that slavery and the transatlantic slave trade were the most inhumane tragedies in the history of mankind;

AND WHEREAS our African fore parents, first as slaves and then as free men and women built the infrastructure of modern Guyana and made unparalleled contribution to the development of Guyana;

BE IT RESOLVED:

That this National Assembly unequivocally acknowledges the immense debt that all Guyanese owe to our African ancestors and recognizes the outstanding contribution they have made to the development of Guyana;

BE IT FURTHER RESOLVED:

That an African Land Commission be established similar to the Rights Commissions established under Article 212G of the Constitution of the Co-

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operative Republic of Guyana to determine the issue of ancestral land rights of African Guyanese.

**The Speaker:** Mrs Backer, I understand that you have an application on this.

**Mrs Deborah J Backer:** Mr Speaker, I move that the African Slave Trade and Slavery Motion standing in my name be deferred. Mr Speaker, as it is the second time that I am making such an application, I think that I owe it to both yourself and the entire House to indicate that the reason for my not proceeding this evening, is that there is an ideal hope that we look at the amendment tabled by the Government and see if we can come up with a consent motion; hence the request to defer; but I can say, that on the next occasion, whenever we meet again; if we cannot come to consensus, we will proceed.

**The Speaker:** Alright, very well, Honourable Member.

*[Deferred]*

## 6. CRICKET WORLD CUP

WHEREAS Guyana played host to Cricket World Cup Super Eight matches in

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March and April, 2007, and overall hosting of the event can be categorized as successful;

AND WHEREAS notwithstanding the overall success of the event, there are the issues of the future viability of the National Stadium including the means of recovering the financial outlay, and the servicing of the loan agreements and other facilities which were entered into to ensure the construction of the National Stadium and apparent facilities as such as bridges, roads and car parks;

**BE IT RESOLVED:**

That this National Assembly expresses its appreciation and extends congratulations to all the organizations and persons which were instrumental in making preparations for the successful hosting of the event including the Local Organizing Committee, the Disciplined Forces and Private Security firms, the Private Sector, the Georgetown Municipality and other Local Government Organs, the Guyana Scouts Association, volunteers and others; and



That this National Assembly directs the Economic Service Committee to conduct a review of all processes and aspects of the preparation and hosting of the games to make recommendations thereafter for future events for the viability of the stadium.

The Honourable Member Mr Raphael Trotman, will move the Motion on the Cricket World Cup.

**Mr Raphael GC Trotman:** Mr Speaker, I am grateful to you. Mr Speaker, given the lateness of the hour, and the day's business that has transacted, I will not seek again to have the Motion again deferred, but rather, I will try have to abridge the debate as best as I can, and hope that other speakers who follow will try to do the same, so that we may conduct the business and get it over within the prescribed time.

Mr Speaker, when this motion ... *[Interruption]*

**The Speaker:** That is very pleasing to hear at this hour of the night.

**Mr Raphael GCTrotman:** Oh! *[Laughter]* I am sure my wife will be more pleasing than you are, Mr Speaker.

But Mr Speaker at the time, when this Motion was conceptualized by me, I thought of achieving two objectives.

The first is, Despite whatever may have been said and has been said, and will continue to be said about the preparations and planning and execution of the Cricket World Cup in Guyana and the games, that is - that there are many, many – perhaps hundreds numbering into the thousands, those unseen and unspoken of persons without whom we would not have had any games at all; so I consider it our first act that we, as Parliamentarians, should set about doing is saying thank you to them.

Guyana, undoubtedly, was given great focus and attention; some of which were not too kind, but at the end of the day our name, what we stood for, and what we possessed stood out internationally, was broadcast on television, on websites, on blocs, on radio; and were we to have collapsed entirely, I dare say that we would have been in serious peril. So, for me, Mr Speaker, as I interacted with friends and relatives, who returned from abroad and as I interacted with friends who live here, and who attended or participated in one way or the other in some of the activities; many comments, I believe, need to be underscored. One was:

That the city appeared to be clean and orderly after many, many years;

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That the staffs at the airport were very efficient and people felt that the process worked very well;

That the stadium, once inside, looked beautiful; the grounds looked lush, and people felt a great sense of pride;

People commented, for example on the Scouts' Association, and the way they gave their voluntary services to deal with irate drivers, who tried to enter or leave the car park;

They commented on the scores of volunteers scattered throughout the city, and elsewhere, which assisted persons with directions and helped them to know things or to help them in many other ways;

So without more, Mr Speaker, and I believe that there are others who may speak and refer to some of those who made this possible, I think we need as a Parliament, as a body, to say thank you. Some names stand out, and will stand out for a long time to come:

Former Minister Anthony Xavier, who started the whole process before he departed;

Current Minister, Dr Frank Anthony;

Mr Walter Willis, who was there in his hat  
and vest;

We have had others like Mr Karan Singh and others, perhaps, too numerous to mention, like my good friend, Mr Manniram Prashad, Minister of Tourism, who played a part.

So it would be perhaps unpatriotic and wrong of us, Mr Speaker, not to acknowledge that good was done; that, against the odds, so to speak, we were able to have an event.

Mr Speaker, the second aspect of the Motion seeks to say that, notwithstanding the fact that we were lucky and managed to host the event that there still needs to be a review of what happened and what took place. We need to examine ways in which we can better utilize the facilities of the stadium. We need to have a fair and proper account of the money spent: And while I am on that score, you did note, earlier in the evening, that I presented to this Honourable House, a few weeks ago, questions intending or expecting that by today's date, they would have been answered - surrounding the exact amount of money spent on the World Cup preparations for Guyana; how much was disbursed; what is happening with the loans for the stadium, and so forth. Earlier this evening, the Honourable Minister of Sport indicated that he needed further time within which to answer. I would have expected him, to publicly, state the reason why. In

my private discourse with him, he indicated to me that he is awaiting information. But these matters are not matters that should be in the preserve of the Government or of only a few. In the same way, the President and the Government lauded the successes of the organizers of the world cup events and said that this was a national event; so too, we must be allowed to know what is happening in the hereafter. So it is important, for some people - it is the hereafter. It is important that we understand where the money has gone; how it has been spent; how we are going to utilize the stadium in the future? That, in my view, can come through a process in which a parliamentary committee can - to use the term - *investigate*, if it chooses to; but also make recommendations for the future use of the facilities, and for the future organization of events of this nature.

Mr Speaker, none of us should pretend that all was perfect so, even though I extend

congratulations to those who worked behind the scenes; we must appreciate that there was a scare and the days before the hosting of the first game, the nation awakened to a report in one of the daily newspapers about a terrible fate which seemed to await us all, that the likelihood was that there would be no games played in Guyana. I believe that my colleague, Mr Patterson, may touch in some of the specifics. But Mr Speaker, we were not alone. In Jamaica, for example, hundreds of chairs had to be

removed from the new stadium and were not replaced in time for their games. In Grenada, weeks before, the Taiwanese National Anthem was played to give thanks to the Chinese Government for the construction of the new stadium. So, throughout the entire event, and not to mention, of course, the last day, when the game ended in the dark and there was insufficient lighting at the Bridgetown Stadium for the successful conclusion of the game. So it is not to say that Guyana was without its own or was unique, rather, in having difficulties, but at the same time, we are not to sweep these difficulties under the carpet, but to accept that we pulled it off; and time now permits us the opportunity to do a comprehensive national review, because it was said to be a national event and to make recommendations for the national benefit.

Mr Speaker, because I have promised to make my remarks brief, I will not go into the long presentation that I had intended. Suffice to say that we owe a debt of gratitude to all those ... particularly to the volunteers, and to those who worked; and at the same time, we hold those responsible who spent, obviously, hundreds of millions of dollars, and we expect that they give a true and proper account. And when that account is given, and the committee reviews the report of the Minister and his other agencies, that recommendations will flow such that this country would not find itself ever again, in any embarrassing situations, or that we will be better prepared

and enabled to discharge our responsibilities when called upon vis-à-vis international sports or other events.

Again, Mr Speaker, in light of the time, and in light of the business that we have already transacted for the day, I thank you and commend this Motion to the House for its approval. Thank you.

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

The Honourable Minister of Culture, Youth and Sport

**Hon Frank CS Anthony:** Thank you, Mr Speaker and Honourable Members. I would like to commend the Hon Mr Trotman for bringing this motion to the National Assembly. As he pointed out, the Motion seeks to do two things :

- (i) To congratulate all the persons who are responsible for the successful hosting of the CWC 200; and
- (ii) It seeks a review process on the hosting of the event.

I think both of these are quite laudable objectives. The Government of Guyana is extremely happy that the Alliance for Change has joined us in expressing congratulations to all the persons, who were directly or indirectly, associated with the successful hosting of CWC 2007. As you would

recall, His Excellency President Bharrat Jagdeo had a special press conference where he has expressed thanks and appreciation to all involved.

Having joined the hosting process, perhaps in its later stages, I have been able to witness, close-up, the inter-sectorial collaboration, and the public and private partnerships that emerged during the period. My job was made extremely easy by the enthusiasm with which everyone played their roles, and responded; and, to that, I owe my sincere gratitude to them. To my predecessors, Ministers Gail Teixeria and Anthony Xavier, who left me a good wicket to bat on, I would also like to thank them.

Allow me also, from the onset of my presentation, to thank all the Members of the National Assembly for their support in the preparation for, and during the hosting of the six matches. I think your tangible support was a key ingredient that set the tone for the successful hosting of the tournament. Your cooperation in passing various pieces of legislation was pivotal in establishing the enabling legislative and security environment necessary for the successful hosting of this event. For this, I would like to express my sincere appreciation.

The road to success was a long and challenging one. Starting with the formation of the LOC, putting together of the Bid and then developing the physical infrastructure needed, while putting in place all the arrangements for the hosting and management of this world-class event.



Indeed, it was quite a lifetime experience. We could not have done this by ourselves. We needed many of the governmental agencies, ministries and many private sector partners and I would like to single out some of them:

The *Ministry of Public Works* was the governmental agency responsible for the construction of the stadium, and their technical expertise and supervision of the works allowed us to construct a world-class venue within limited time. [Applause] I would therefore like to express my appreciation to the Minister and his Staff. There were many companies involved in the construction process: Shapoorji Pallonji, Terra Firma for the outfields, and many associated subcontractors and companies.

The *Ministers of Finance* and the various agencies within the finance sector were very supportive. As you know, we passed the Sunset Legislation and within that Legislation it allowed for the GRA to facilitate numerous transactions, which they did.

The *Minister of Home Affairs* established a high-level security committee, which included the Guyana Police Force, the Guyana Defence Force, Civil Defence Commission, the Guyana Fire Service and a private security sector to ensure that the games were held in a secure environment. I would like to thank him for his support, and to thank all the heads and their staff; as well as the Staff of these agencies for a job well done. I think

everyone who came to the matches were high in praise of the security services, in terms of the professional way in which they administered their duties.

As was mentioned, at the Airport the Immigration staff ensured that the visitors to Guyana had a hassle-free travel within the Common Domestic Space.

Many of the persons who attended the matches marvelled at the efficiency with which the traffic ranks managed our roadways. *[Applause]* I think, with such hard work, the least that we can do is to say thank you.

The Guyana Defence Force assisted us, both at home and abroad. They performed international duties, lending support to Barbados and, I think, our armed forces have done us proud, and we should commend them too.

The Ministers of Health and their staff provided healthcare at the stadium.

I would like to single out the public health staff, who was in charge of food safety, vector control and surveillance for epidemics.

The Staff of the Georgetown Public Hospital Corporation, who provided medical staff - both at the stadium, and on standby for any medical emergency at the hospital. I would therefore like to extend my appreciation for all these health workers who participated.

The *Minister in the Ministry of Tourism* was very proactive in mobilizing the hotel sector to make more accommodations available, and to upgrade their food, beverage and entertainment services. The first Guyana Gift and Craft Show were held during this period, and it surely helped to involve both visitors and vendors to get real Guyanese memorabilia. There were many tours that were organized, and I think many of the visitors were able to experience the uniqueness of Guyana. These tours and promotions would certainly enhance Guyana's International image.

Members of the *Utility Services* have worked hard during this period - Guyana Water Inc. Guyana Power and Light Company, Guyana Telephone and Telegraph Company, have all worked around-the-clock to ensure that the essentials in hosting these games were all provided.

The *Private Sector* played an integral role in providing many of the ancillary services of food, beverages, entertainment, accommodation, transportation, and shipping, among others. Apart from providing these services, many of them got together to help with the enhancement of Georgetown.

One such a group is the Downtown Improvement Community, headed by Mr Christopher Fernandes. There were many other such initiatives that helped to beautify our city and neighbourhoods.

Many Private Sector firms also provided us with some of their top managers to assist us in the preparation of hosting these games. The endless hours had a cost, and we surely appreciate their contributions.

Many private persons heeded our call to be part of the Bed and Breakfast Programme. We were able to create a good programme. Unfortunately, for this event, many of the visitors did not use these facilities; but I would like to thank these home owners, who responded to our call; and I am sure that as tourism develops in Guyana, this programme would also grow.

The *Guyana Cricket Board* and all the members of the cricketing fraternity were not only supportive, but were also very proactive. They were always there to lend advice, and to assist in one way or another. I must single out the two clubs – Everest and the Georgetown Cricket Club, for allowing us to use the grounds for practice sessions.

The highlight of hosting the CWC Games was people volunteering, and during the period we had 1,350 volunteers. These volunteers really helped to showcase our traditional hospitality.

*The Scouts*, who worked with the park and walk operators, also did their part in making this event a success.

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Most of the local and international media were very helpful in highlighting the CWC matches in Guyana. I think everyone played their part, and this has been truly a national venture, and its success belongs to all of us.

To my staff, who has worked long hours, I think they all feel gratified by the outcome.

I know the success of these events would not have been possible without the unstinting support of His Excellency the President and I would like to thank him for his guidance and optimism in us.

I would therefore like to congratulate all of us, and to all the spectators who supported the matches, because that support was also important.

Mr Speaker, I think that we can all felt rewarded when, on the First Match on 28<sup>th</sup> March, when the Sri Lankan bowler – Lasif Malingga, took four consecutive wickets in four balls, making a new record in One Day International. This is such a difficult and rare feat that it would be remembered for decades to come that it happened at the Guyana National Stadium at Providence.

Each of the other matches was memorable for different reasons. For example, on Sunday 1 April 2007, when West Indies and Sri Lanka played at the stadium, we had a record attendance of more than 12,250-something

persons attending. While the West Indies did not win and I am sure that those of you involved in cricket would be pleased to know that the West Indies Cricket Board has established a Committee, under former Prime Minister P.J. Patterson, to look into governance in the West Indies Board and, as you all would know, they have also started taking some measures to revitalize West Indies Cricket. Among those is the appointment of our own Ramnaresh Sarwan as the captain of the West Indies team.  
*[Applause]*

The match on the 17<sup>th</sup> April, between Bangladesh and South Africa, saw a huge upset - with Bangladesh winning. Then, of course, the one with New Zealand and Ireland, which saw a New Zealand player hitting a six and breaking the glass on the media centre. These are all memorable things, and proud moments, which makes cricket what it is in the Caribbean. I think they would give us many talking points and bragging rights for a long time to come.

Mr Speaker, the second part of the Motion is to review the process by the Economic Services Committee. We are in agreement that there should be a review and we would like to facilitate the process by providing a report on the hosting of the ICC-CWC 2007 Games here, with the lessons learnt, and the recommendations, but as you can see the many reasons that I have thanked - this long list of persons that I have shown appreciation to, we have to

collect information from many of them and we have to do this in a timely manner, which has been quite challenging. Nevertheless, a first draft of the report was circulated to all the LOC Board Members on 4 May 2007 for their comments and inputs. Additionally, there are several aspects of the report on which we are dependent on CWC itself. These areas include:

- Resolution and final settlements of some of the cost allocation, which were not clearly defined by the Host Venue Agreement;
- We also need information on anti-infringement and Ambush Marketing in Guyana;
- We need some of the information to put on the report on the information on Common Domestic Space and Regional Security Arrangements, as they relate to Guyana;
- We also need information on what are the final numbers for ticket sales, because this was something that was done by CWC on behalf of the various LOCs across the Region, and we still do not have the details of this.

The ICC would also be producing a report and I think we can benefit from their findings.

We have also asked our Auditor General to audit the accounts of the LOC so that we can put this in the final report.

So, once we have all these bits of information, we would compile the final report and we are willing, and we would be laying ... first of all, we will be taking it to the LOC Board for a final review, and then we would be laying it in the Parliament. I anticipate that this can be done within a few months.

It is therefore my humble suggestion that we amend the second BE IT RESOLVED Clause to say that to consider the Government's Report on the hosting of ICC-CWC West Indies 2007 in Guyana, and its recommendations, and to consider these, I think that would help to facilitate the report. Mr Speaker, I have spoken to the mover of the Motion, and I think that he is in agreement with that amendment, so I think that he would be satisfied with that amendment. I would therefore like to support the amended Motion.

As I conclude, Mr Speaker, one of the buzzwords during this period was the word *legacy*. It was widely-used, and I think that, if there is one thing that we can hold on to as a legacy and it is my hope that we can do this, is that, during this period, we were able to have culture of



cooperation, and I think that if we can hold on to that, and continue in that spirit, then I think this would be a legacy worthy to have. Therefore, Mr Speaker, if cricket is the thing that can bring this culture of cooperation, then I would recommend that we have annual doses of cricket, so that we can bring that spirit of unity. I thank you.  
*[Applause]*

**The Speaker:** Thank you Honourable Member

The Honourable Minister of Transport and Hydraulics,

**Hon BH Robeson Benn:** Thank you Mr Speaker. I would like to join with my colleague, the Honourable Frank Anthony, and with Mr Raphael Trotman, Honourable Member, with respect to offering congratulations on the hosting of the Cricket World Cup 2007.

Mr Speaker, it is said that sports develops a nation, and develops strong minds and bodies. I think, particularly with the experience that we have had; we have had a tremendous coming together of the Guyanese people - of the physical capacities, of the energies of the Guyanese people, with respect to the building of the magnificent edifice, and to creating the type of environment which allowed for the excellent hosting of the Cricket World Cup 2007 in Guyana.

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The assurances given by the Government of the Republic of India, on a visit by His Excellency President Bharrat Jagdeo to India, allowed us to begin, in 2004, with the site preparations for the Guyana National Stadium at Providence, and we had, thereafter, in March 2005, the signing of a contract. In April 2005, we had the beginning of site preparation, and then beginning of driving plies in the foundation piles in May 2005. By December 2006, we had substantial completion of the stadium, and essentially, in a fairly short space of time, with tremendous effort, we were able to convert what were once muddy cane fields - fairly swampy into the type of structure that we see there today.

The structure was constructed by Shapoorji Pallonji as was already mentioned, out of a loan and grant agreement - US \$6 million of grant agreement; and US \$19 million of loan agreement from the Government of India through its Exim Bank, and I would have to say that there is a certain grace, a special partnership that exists when a country, which has provided a significant portion of its people to this country, or when any country, such as India gives monies from its own resources - its own finances, which is limited in its own way, to build any edifice, or any project of the kind that we have at Providence.

The visit of His Excellency Mr Byron Singh Shekawat – the Vice President of India, on 8 November 2006, to hand over and to dedicate the project, encapsulated the feelings

that we had, with respect to that country on the creation of the project, and we would continue to be very grateful to the Republic of India and its people with respect to all the assistance and help they have given us for the construction of the project.

At times the maximum amount of persons who worked on the project was in excess of eight hundred persons. At some times the maximum number of persons who worked, from India itself, in terms of experts and specialist workers and labourers were somewhere around three hundred and seventy-five persons.

The Ministry, as the executing agency for Guyana for the project, was very pleased to have worked along with these persons and to have learnt and become more competent with the type of expertise that was needed for the type of heavy construction, and was happy to have been able to gain the type of experience which allows to pass on and reinforce the type of knowledge that we have, with respect to similar type of projects. This knowledge would be used in any heavy civil construction works in Guyana.

The information, as the Hon Frank Anthony said with respect to the second part of the Motion, in terms of the reporting and all the details and so on, as was said, is still being garnered. There is a lot of information which has to be clarified, a lot of audits and so on which have to be done, and it is yet early days, in terms of trying to come

up with a comprehensive final report, with respect to all the things which have been done, in finality, with respect to this project. So I would say that I support the position that it is still too early to come up with the type of comprehensive, detailed report, which would satisfy everyone at this time, as to the detailed final information on the project.

In closing, Mr Speaker, I would again like to say that we have had an excellent coming together of Guyanese people, in terms of the building, and the working together on this project. I have to note, too, that in the difficult days, towards the end, when people in fact suffered from some exhaustion - both mentally and physically, in terms of completing this project, we even had young Buxtonains working with us in draining the fields, in putting the finishing touches towards getting it to work; in getting Seeram Brothers and others, in terms of finishing the highways, and getting the airport fixed; and the highways ready, for the type of event that we wanted to host. It did signal what we can achieve when we all work together, and how important a healing processes this project was for the country.

In closing too, I would like to thank the Honourable Prime Minister, Mr Hinds, for his assistance with the communications with respect to of the project - all that was needed to go together to get it done; and the AG, too,

for the drafting on time of the necessary legislation, with respect to having the event go forward.

So with that, Mr Speaker and Honourable Members, I would like to commend, again, and to thank all those who have worked on the project and to recommend that we wait until we have sufficient information to give a certain, sure report, with respect to all the issues on payments and information so as to give a good report on the project and its execution. I thank you. *[Applause]*

**21:58H**

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

### **SUSPENSION OF STANDING ORDER NO. 10 (1)**

Honourable Members, we have three more speakers. Mr Trotman had asked that one member speaks. I will agree, provided that he gives up his right to reply. We have three more speakers, and I will agree to an extension of time to 10:15h. At 10:15h, if anybody is speaking, I will adjourn the Parliament for the next occasion.

Honourable Prime Minister, do you wish to make an application for the extension of time?

**Hon Samuel AA Hinds:** Yes, Mr Speaker. I was hoping that we could extend the time until the end of the business.

**The Speaker:** No. We will extend until 10:15pm. The last time we extended it, and every time we are extending it; and every time we extend it, it goes a little further. So we will be extending until 11:00 pm, and then 12:00h, and then we are back where we started. So we will go until 10:15h. If anybody is speaking at 10:15 pm, we will adjourn the Parliament to the next occasion. I am granting you a facility; because we are supposed to stop a 10:00 pm.

**Hon Samuel AA Hinds:** Yes, Sir. But I was hoping that you would have been ... *[Interruption]*

**The Speaker:** We can always live in hope, Honourable Prime Minister. Hope brings things to a lot of people...

**Hon Samuel AA Hinds:** Alright, I will duly move ....

**The Speaker:** ... out of respect for the rest of people.

**Hon Samuel AA Hinds:** I very graciously accept the extension up to 10:15 pm. I will take my seat, Sir.

**Put and agreed to.**

**Motion carried**

**The Honourable Member Mr Neendkumar**

**Mr Neendkumar:** Mr Speaker, I would like to join with the Honourable Member, Mr Raphael Trotman and the Minister of Culture, Youth and Sport, Dr Frank Anthony, to congratulate all Guyanese who contributed towards Guyana hosting of Cricket World Cup Super 8 matches in Guyana.

It was indeed a most successful activity. Mr Speaker, Guyana did not inherit any top sporting facility from our former colonial masters. As a poor developing nation, we are struggling to build at Belldrum a cycling and a synthetic track for athletes. We are in desperate need for an Olympic-size swimming pool. However, we are indeed proud to know that today we have a modern, state-of-the-art national stadium.

The Caribbean countries were totally united in hosting the 2007 ICC World Cup. Hosting of the World Cup meant that the regional Governments had to prepare to spend large sums of money to develop the specific facilities for cricket fields and stadiums. Mr Speaker, hosting such a mega-event demanded support from all our people and that is why I would like to thank the Opposition for their support in making the event a success.

The preparation for Cricket World Cup matches was more than the preparation for building the Guyana National Stadium at Providence. Hosting the Super 8 Matches meant that all Guyana had to be prepared and involved. Hence, preparations had to start with the

development of the Cheddi Jagan International Airport; the development of the main thoroughfare – The East Bank and Georgetown roads; transportation, security and safety; accommodations and communications; preparing a volunteer programme. The work was tremendous.

Mr Speaker, after the West Indies accepted the Task and honour of hosting the 2007 ICC Cricket World Cup, Guyanese looked at the possibility of developing the Georgetown Cricket Club Ground and facilities. However, that was ruled out. The land at Providence was identified and it was agreed that the Government of Guyana will make a genuine effort to build a new stadium. Fortunately, His Excellency President Bharrat Jagdeo was able to solicit \$19 million from the Indian Government and a Grant of \$5.7 million. These were indeed major contributions towards Guyana building a state-of-the-art stadium.

Mr Speaker, we must be cognisant of the fact that the land at Providence was raw cane field. Hence, work had to start from scratch to clean and prepare the foundation for the construction of the stadium. The Government did not spare any effort to aggressively do all the preparation for the construction, as we had to satisfy and meet specific deadlines. Mr Speaker, while the construction of the stadium was in operation; simultaneously, the other developmental works had to take place. Today, all Guyanese are extremely proud of the urban development



in our country in general and they cannot deny that our Sporting and Tourism Sectors are much more developed.

Mr Speaker, I would like to assure all Members of this Honourable House that the future viability and sustainability of the Guyana National Stadium is of utmost importance to all lot of us and I can also assure all Guyanese that we have already appointed a stadium manager, and several key staff members to ensure that the Guyana National Stadium is well taken care of. It will be viable and sustainable. This fantastic venue is a major achievement for Guyana.

I would like, Mr Speaker, to say that the money spent was carefully monitored Transparency and accountability are the hallmarks of our Government. We will make sure that all expenditure would be put together and would certainly be made available to the public. Thank you, Mr Speaker. *[Applause]*

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

The Honourable Member Mr Mervyn Williams

**Mr Mervyn Williams:** Mr Speaker, the Honourable Ministers of Sports and Works, capitalized on their public relations opportunity allowed for by the first BE IT RESOLVED Clause, while skilfully avoiding the provisions of the Second RESOLVED Clause; never

addressing the important issue of the viability of the stadium.

Mr Speaker, in speaking to this Motion, let me firstly say that the fact that the Super-8 Matches of the ICC Cricket World Cup were hosted in Guyana at the Providence Stadium by itself Sir, is an accomplishment. It is, perhaps, Guyana's only accomplishment, as far as the ICC Cricket World Cup is concerned. It is an accomplishment, Sir, which was realized through the collective will of the people of Guyana; and for this, we should all pat ourselves on the back. If we should say so ourselves, Sir, the People's National Congress Reform-One Guyana played its part here in this National Assembly, at the level of the LOC, and wherever else the opportunities became available. In this, we believe that all were involved, and all ought to be commended.

Mr Speaker, to support the point made that the actual games being staged was, in a large measure, the only success, I quote from the Economist of 3 May, which had this to say, in an article captioned *Stumped*: and I quote Sir,

*The first Cricket World Cup to be held in the Caribbean began in tragedy, and ended in farce. The stadiums are there, but for most of the fifty-one matches they were nearly empty. Average attendance was below 9,000 per match; even that was*

*achieved only by discounting. Grenada pulled crowds by charging \$10 to \$75 seats, and Guyana organized giveaways for schoolchildren. The tournament organizers hoped for 100,000 visitors from outside of the Caribbean. British consultants upped that figure to 225,000, but the best guess is that no more than 35,000 came. Hotels had empty beds. Families in Guyana, who took out loans to provide Bed And Breakfast Rooms, may struggle to repay them. Public debt ...*

It continues, Sir,

*... in most of the countries involved was already high, averaging over one-hundred percent of GDP. The new stadiums may be useful for future sports events, concerts, or religious rallies...*

I am quoting from a newspaper article ...

*But that will take canny marketing. Some of the Islands' economies may face a sticky wicket.*

Mr Speaker, local newspapers quoted local officials as saying that: *Tourist arrivals to Guyana numbered as much as 16,000*. This suggests that Guyana had about half of the visitors to the Caribbean, here at our games. From the available evidence, one wonders, Sir, whether this could in fact be so.

There was heavy investment by the Government of Guyana in World Cup Cricket as well - the advances to Buddy's, Cacique, and the acquisition of the BMWs. The people of Guyana anxiously await the report of the Government on the state-of-play, as it relates to the recovery of the sums advanced. The weather report in this regard, Sir, is however not promising, and the light meters are out. The people also want to be fully informed of the terms and conditions of the loans to Buddy's and Cacique; having regard to the fact that Cacique failed to comply with the timeline set for completion.

We believe Sir that after this Motion, which we support, would have been carried; the Economic Services Committee would be in a position to get answers to the many questions which linger in the minds of the people of Guyana. Of the sum advanced to Buddy's, for example, what percentage was recovered by the Government from ICC payments to that Hotel? Where there any revenues garnered by the incomplete Cacique? How do these transactions impact on the debt to the Government, and by extension, to the people of Guyana? The Government

must tell this nation whether the US \$50 Million Bond Fund which formed a part of the Host Venue Agreement has been released? We need to know why the feasibility study into the construction of the stadium was never done. There is need to inform this nation of the full impact of the preparation costs with respect to World Cup Cricket, on the nation's public debt and why the Price Water-House Study on the sustainability of the stadium has not been made public. There is also an urgent need to make clear the reasons for the LOC's failure to submit itself to an audit, especially as the fixed assets acquired for the hosting of CWC 2007 have never been inventoried. Explanations must be given for the time overrun and the consequent costs thereof.

Mr Speaker, we must protect the national interests and national investments. To this end, it is essential that the sustainability of the Providence Stadium be placed on the front burner of the agenda of the subject Ministry. *[Applause]* It is also necessary that the principle of transparency prevails, especially in the appointment of those persons who will be tasked with the responsibility of managing this huge investment. Mr Speaker, the preparation for hosting the games, according to a *Stabroek News* report of Monday 23 April, was put at US \$54 million. Projected maintenance costs per annum, Sir, were put at US \$1.2 million per annum, by the Guyana Association of Professional Engineers; according to another *Stabroek News* report of Tuesday, 1st May.

It is therefore absolutely essential that an investment of this magnitude be placed in the hands of a competent and committed team of professionals, who are appointed in a fair and transparent manner. I say *fair and transparent*, Sir, because it is our hope that situations such as the unilateral and unjustifiably termination of a sub-contract awarded by the principal contractor to a local contracting firm, by the Manager of the stadium's operation, will not be a feature of future operations at the stadium. We believe, Sir that the employment criteria should be made public, so that the expectations of the populace could be grounded in something of substance. For example, had the arrangement which allowed for the importation of labour from India been made public, Sir, then the belief that those who came here are still here and are not likely to return, would have been a non-issue?

We believe that when issues, such as legal action being instituted against the management of the stadium for non-payment of accounts of goods and services, as well as the severing of employment relationship shall have arisen, as they have the responsibility must rest with someone, or some office, for making clear, in a public way, the reasons and remedies, as necessary. No longer should we get letters from officials, such as Mr Deryck Jones, who by letter dated 17 March said among other things, and I would like to quote from that letter, Sir. It says:

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*Additionally, CWC has lost confidence in the ability of LOC to provide proper site management for the project up to, and through the tournament period. The proposed site management, former Chairman of the LOC Mr Anthony Xavier and Stadium Manager, Mr Walter Willis, have not participated in CWC's Site Management Programmes whatsoever; they have failed to attend our workshops in Barbados on 17<sup>th</sup> February, and have missed all of seven conference calls conducted by CWC for the site management teams during the tournament period. Their appointments are accordingly not approved.*

The procurement process for the CWC 2007 must be examined and reported upon and a clear policy put in place for the future. As part of that process, attention should be paid to the reported concerns of the Guyana Association of Professional Engineers, as presented by the *Stabroek News* of Tuesday, 1 May.

Mr Speaker, it is my belief that we had the opportunity to benefit from informed opinions of many professionals, but chose not to seek or even entertain such opinions, in some cases, Sir, to our detriment. The projected early cost of the replacement of plastic seats due to inadequate

canopy cover is but one such issue, which could have been avoided. It is indeed sad that, even after our local administrators refused the Guyana Association of Professional Engineer's visit to the stadium, the Barbadian authorities encouraged such a visit to the Kensington Oval where they, according to the *Stabroek News* of Tuesday, 1 May said this:

*They also went into details of the project ...*

And so, in closing, Sir, I wish to once again state that the PNCR-1G supports this Motion and we recommend that it be favourably considered by this House. I thank you. [*Applause*]

**The Speaker:** Honourable Member Mr Trotman, we either close at this stage or return at another date to conclude, or you conclude in a minute or two.

**Mr Raphael GC Trotman:** Mr Speaker, a promise is a promise. You said that we would close at 10:15h and continue on the next occasion, and I think we should do so. Thank you.

**The Speaker:** Thank you.

The Honourable Prime Minister ...

**Hon Samuel AA Hinds:** Mr Speaker, I move that we stand adjourned until 7 June.



**The Speaker:** 7 June?

**Hon Samuel AA Hinds:** Yes.

**The Speaker:** Thank you very much.

### **ANNOUNCEMENT BY THE SPEAKER**

Honourable Members, before we rise, there is an announcement I have. Unfortunately, if you will bear with me for a second ... I forgot about it and packed it away in my papers. Mr Isaacs, can you give me a hand to find it please? [*Pause*]

Honourable Members, please bear with me for a second.

Honourable Members, the Clerk has circulated information on the Commonwealth ... [*Noisy Interruption*] Please pay attention ... [*Pause*]

Honourable Members, could you pay attention for one minute, please? [*Noisy Interruption*]

*[The Speaker vacated the Chair]*

*The Assembly adjourned abruptly*

*Adjourned Accordingly At 22:15H*

