

# National Assembly Debates

**PROCEEDINGS AND DEBATES OF THE NATIONAL ASSEMBLY OF  
THE FIRST SESSION (2001) OF THE EIGHTH PARLIAMENT OF  
GUYANA UNDER THE CONSTITUTION OF THE CO-OPERATIVE  
REPUBLIC OF GUYANA**

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27TH SITTING

2.00 PM

Wednesday, 29th May, 2002

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## **MEMBERS OF THE NATIONAL ASSEMBLY (68 )**

### **Speaker (1)**

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

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

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| The Hon. Samuel A.A. Hinds, M.P.               | - <i>Prime Minister and Minister of Public Works and Communications</i>            |
| The Hon. Reepu Daman Persaud, O.R., J.P., M.P. | - <i>Minister of Parliamentary Affairs</i>   |
| The Hon. Clement J. Rohee, M.P.                | - <i>Minister of Foreign Trade and International Co-operation</i>                  |
| The Hon. Harripersaud Nokta, M.P.              | - <i>Minister of Local Government and Regional Development</i>                     |
| The Hon. Gail Teixeira, M.P.                   | - <i>Minister of Culture, Youth and Sport</i>                                      |
| The Hon. Dr. Henry B. Jeffrey, M.P.            | - <i>Minister of Education</i>   |
| The Hon. Saisnarine Kowlessar, M.P.            | - <i>Minister of Finance</i>   |
| The Hon. Shaik K.Z. Baksh, M.P.                | - <i>Minister of Housing and Water</i>   |
| The Hon. Navindranauth O. Chandarpal, M.P.     | - <i>Minister of Agriculture (Region No. 4 - Demerara/Mahaica)</i>                 |
| The Hon. J. Ronald Gajraj, M.P.                | - <i>Minister of Home Affairs (Region No. 3 - Essequibo Islands/West Demerara)</i> |
| The Hon. Rev. Dr. Ramnauth D.A. Bisnauth, M.P. | - <i>Minister of Labour, Human Services and Social Security</i>                    |
| The Hon. Clinton C. Collymore, M.P.            | - <i>Minister in the Ministry of Local</i>   |

The Hon. Satyadeow Sawh, M.P.	<i>Government and Regional Development</i> - Minister of Fisheries, Other Crops and Livestock (Region No. 5 - Mahaica/Berbice)
*The Hon. S. Rudolph Insanally, O.R., C.C.H., M.P.	- Minister in the Office of the President with responsibility for Foreign Affairs
*The Hon. Doodnauth Singh, S.C., M.P.	- Attorney General and Minister of Legal Affairs
The Hon. Dr. Jennifer R.A. Westford, M.P.	- Minister of the Public Service (Absent)
The Hon. C. Anthony Xavier, M.P.	- Minister of Transport and Hydraulics
The Hon. Bibi S. Shadick, M.P.	- Minister in the Ministry of Labour, Human Services and Social Security (Region No. 3 - Essequibo Islands/ West Demerara)
**The Hon. Manzoor Nadir, M.P.	- Minister of Tourism, Industry and Commerce (Absent)
The Hon. Carolyn Rodrigues, M.P.	- Minister of Amerindian Affairs
The Hon. Dr. Leslie S. Ramsammy, M.P.	- Minister of Health
Mr S. Feroze Mohamed, M.P.	- Chief Whip
Mr Cyril C. Belgrave, C.C.H., J.P., M.P.	-(Region No. 4 - Demerara/Mahaica)
Mr. Donald R. Ramotar, M.P.	
Mr Husman Alli, M.P.	-(Region No. 7 - Cuyuni/Mazaruni)
Mr. Komal Chand, C.C.H., J.P., M.P.	
Mrs Indrani Chandarpal, M.P.	
Mr Bernard C. DeSantos, S.C., M.P.	-(Region No. 4 - Demerara/Mahaica)
Mrs Shirley V. Edwards, J.P. M.P.	
Mr Odinga N. Lumumba, M.P.	
Mr Heeralall Mohan, M.P.	-(Region No. 2 - Pomeroon/Supernam)
Mr Ramesh C. Rajkumar, M.P.	-(Region No. 6 - East Berbice/Corentyne)
Mr Kumkaran Ramdas, M.P.	
Mr Khemraj Ramjattan, M.P.	-(Region No. 6 - East Berbice/ Corentyne) (Absent)
Dr Bheri S. Ramsaran, M.D., M.P.	
Mrs Philomena Sahoye-Shury, C.C.H., J.P., M.P.	- Parliamentary Secretary, Ministry of Housing and Water
Mrs Pauline R. Sukhai, M.P.	-(Region No. 1 - Barima/Waini) (Absent)

\* Non-Elected Minister

\*\* Elected Member from The United Force

**Members of the Opposition (30)**

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

Mr. Hugh Desmond Hoyte, S.C., M.P.	- <i>Leader of the Opposition (Absent)</i>
Mr. Robert H. O. Corbin, M.P.	- <i>(Absent-on leave)</i>
Mr. Winston S. Murray, C.C.H., M.P.	- <i>(Absent-on leave)</i>
Mrs Clarissa S. Riehl, M.P.	- <i>Deputy Speaker of the National Assembly (Absent)</i>
Mr E. Lance Carberry, M.P.	- <i>Chief Whip (Absent)</i>
Mr Ivor Allen, M.P.	- <i>(Region No. 2-Pomeroon/Suppercarri)(Absent)</i>
Mrs. Deborah J. Backer, M.P.	<i>(Absent-on leave)</i>
Mr. Deryck M.A. Bernard, M.P.	<i>(Absent-on leave)</i>
Mr. C. Stanley Ming, M.P.	<i>(Absent-on leave)</i>
Mr. Raphael G C. Trotman, M.P.	<i>(Absent-on leave)</i>
Mr Vincent L. Alexander, M.P.	- <i>(Region No. 4-Demerara/Mahaica) (Absent)</i>
Mr. Andy Goveia, M.P.	- <i>(Absent-on leave)</i>
Mrs. Volda A. Lawrence, M.P.	<i>(Absent-on leave)</i>
Dr Dalglish Joseph, M.D., M.P.	<i>(Absent-on leave)</i>
Miss Amna Ally, M.P.	- <i>(Region No. 5-Mahaica/Berbice) (Absent)</i>
Miss Sandra M. Adams, M.P.	- <i>(Region No. 10-Upper Demerara/Berbice) (Absent-on leave)</i>
Mr. Jerome Khan, M.P.	<i>(Absent-on leave)</i>
Dr George A. Norton, M.P.	<i>(Absent-on leave)</i>
Miss Myrna E. N. Peterkin, M.P.	- <i>(Region No. 4-Demerara/Mahaica) (Absent)</i>
Mr. James K. McAllister, M.P.	- <i>(Region No. 3-Essequibo Islands West Demerara (Absent-on leave)</i>
Miss Lurlene A. Nestor, M.P.	- <i>(Region No. 4-Demerara/Mahaica) (Absent)</i>
Mr Abdul Kadir, J.P., M.P.	- <i>(Region No. 10-Upper Demerara/Berbice) (Absent-on leave)</i>
Mr Ricky Khan, M.P.	- <i>(Region No. 1-Barima/Waini) (Absent)</i>
Mrs. R. Bancroft, M.P.	- <i>(Region No. 8-Potaro/Siparuni) (Absent)</i>
Mr Nasir Ally, J.P., M.P.	- <i>(Region No. 6-East Berbice/Corentyne) (Absent-on leave)</i>
Miss Judith David, M.P.	- <i>(Region No. 7-Cuyuni/Mazaruni) (Absent)</i>
Miss Genevieve Allen, M.P.	- <i>(Region No. 4-Demerara/Mahaica) (Absent on leave)</i>

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

Mrs Sheila V.A. Holder, M.P.	- <i>(Absent-on leave)</i>
Mrs Shirley J. Melville, M.P.	- <i>(Upper Takutu/Upper Essequibo)</i>

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

Mr Ravindra Dev, M.P.

**OFFICERS**

Mr Sherlock E. Isaacs, *Deputy Clerk of the National Assembly*  
(Performing the functions of Clerk of the National Assembly)

Mrs Lilawtie Coonjah, *Principal Assistant Secretary (Finance)*  
(Performing the functions of Deputy Clerk of the National Assembly.)

## **PRAYER**

The Clerk read the Prayer

### **PRESENTATION OF PAPERS AND REPORTS, ETC.**

The following Papers were presented:

By the **Minister of Parliamentary Affairs:**

*Annual Reports of the Guyana Post Office Corporation  
for the years 1991 - 1996*

### **QUESTIONS TO MINISTERS**

For Written Replies:

#### **NO. 1 TRANSPORT FOR SALE OF LAND IN ANNANDALE**

By **Mrs Sheila Holder:**

*Would the Honourable Minister say when the transport for the sale of 49.9 acres of land in Block 4 Annandale (East), East Coast Demerara by the Government to the Eastville Co-operative Society, which was advertised in the Official Gazette on the 12<sup>th</sup> August, 1995 would be handed over?*

#### **ANSWER**

By **Minister of Housing and Water**

Transport of Block No. 4 containing an acreage of 49.923 and being portion of Plan Annandale (East) East Coast Demerara, was advertised on April, 1995 by the Government of Guyana to be passed to Eastville Cooperative Society Limited.

A condition for the passing of transport in favour of the Eastville Cooperative Society Ltd is that the house lots should be allocated only to those members of the Society whose applications have been approved



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by the Central Housing and Planning Authority and only to persons who are not, at the time of such allocation, owners of immovable property elsewhere in Guyana, and shall be for the purpose of self occupancy.

By way of a letter dated January 28, 2000 Attorney-at-law Deborah Osman-Backer, MP on behalf of the Eastville Cooperative Society Ltd confirmed the undertaking to provide the relevant information. To date, this has not been submitted to the Central Housing and Planning Authority.

## **NO. 2 COMPENSATION**

**By Mrs Sheila Holder:**

Has the Honourable Minister been consulted, or is he being consulted, on the issue of compensation to unfortunate victims of the post March 2001 national and regional elections disturbances?

*Will the Honourable Minister say whether he has been consulted, or is being consulted, on the issue of payment of compensation to the unfortunate Mr Norman Trotz, a citizen of Guyana, whose commercial building 'Toucan suites' was destroyed in the process of apprehending the notorious wanted criminal known as 'Blackie'?*

## **ANSWER**

**By the Attorney General and Minister of Legal Affairs**

The Attorney General and Minister of Legal Affairs has not been consulted and/or requested to tender advice on the issue of compensation to the victims of the post March 2001 National and Regional Elections disturbances.

On 15<sup>th</sup> January, 2002, Mr Trotz has filed a Notice of Motion together with Affidavit in Support intituled "N&R Company Limited vs The Attorney General, The Commissioner of Police and the Chief of

**Staff of the Guyana Defence Force No.5-M2002.**

On 8<sup>th</sup> April, 2002 an Affidavit in Answer was filed by the State.

The matter is fixed for hearing on the 24<sup>th</sup> June, 2002 before the Honourable Madame Justice Cummings-Edwards.

**NO. 3 GUYANA CONSTRUCTION COMPANY LIMITED**

**By Mrs Sheila Holder:**

What is the status of the Board of Directors of the Guyana Construction Company Ltd. (GCCL)?

Is the GCCL wholly owned by the Government of Guyana?

Is the Government of Guyana (GOG) indebted to the GCCL? If so, is there agreement on the amount of the debt between GCCL and GOG?

Has there been any free services demanded by the GOG from the GCCL?

*Is it the intention of the Government of Guyana to privatise the GCCL? If the answer is yes will the Government consider a take overbid from the GCCL's employees?*

**ANSWER**

**By the Minister of Transport and Hydraulics**

Since the expiration of the life of the last Board in 1993 no new Board has been installed.

Yes, General Construction Company Ltd. is wholly owned by the Government of Guyana.

Yes discussion on the issue is in progress but there has been no agreement as regards the quantum.

No demands were ever made to the General Construction Company Ltd. by the Government of Guyana.

No it is not the Government's intention to privatise the General Construction Company Ltd. but to wind up the company - arrange the affairs of and dissolve the company at a future date.

#### **MOTION OF PRIVILEGE**

**Mr Donald R Ramotar:** Mr Speaker, I wish to refer to my request, and I rise on a Motion of Privilege to report to you and the National Assembly that there was a glaring and wanton breach of my right to enter the National Assembly for a Sitting scheduled and held last Friday. I was prevented from entering the National Assembly by protestors which included Members of this House. I wish to cite Erskine May's Parliamentary Practice, 22<sup>nd</sup> Edition which states on page 65. I quote:

*The House cannot perform its function without unimpeded use of the services of its members.*

May further states, and I quote:

*When any of these rights and immunities is disregarded or attacked the offence is called a breach of privilege and is punishable under the law of Parliament.*

I made two attempts, and on both occasions was obstructed and could not enter. This unlawful act impinged not only on my right of privilege of members but on the dignity of the Parliament. It is also a wanton disregard for the highest body of the land, which ought not to be tolerated and pardoned.

The Parliament symbolises the fabric of democracy and as such should not be defiled by any. Its sanctity ought to be zealously preserved and protected and you, Mr Speaker, are the custodian of the privilege of this Honourable House. I readily concede that in the execution of your authority you should receive the full support of all Members from all

sides of this Honourable House.

I wish to move that appropriate action be taken in this matter to prevent occurrences of this kind which constitute disregard and contempt for the highest court of the land. I move that this matter be appropriately dealt with. I wish to record my strongest condemnation of this behaviour.  
*[Applause]*

**The Speaker:** Thank you Hon Member. I find that a case has been made out and the matter is referred to the Committee of Privileges on Standing Order No. 26. Thank you.

*Motion referred to the Committee of Privileges*

## **PUBLIC BUSINESS**

### **BILLS - Second Reading**

#### **PROCUREMENT BILL 2002 - BILL No. 6/2002, published 21.5.2002**

*A Bill intituled An Act to provide for regulation of the procurement of goods, services and the execution of works, to promote competition among suppliers and contractors and to promote fairness and transparence in the procurement process.*

**The Speaker:** Hon Minister of Finance.

**Hon Saisnarine Kowlessar:** Mr Speaker, I beg to move that the Procurement Bill 2002 be now read a second time.

Mr Speaker, the issue of procurement has, in recent times, become a contentious and hotly debated issue at various levels in society. So much so that the Government has been on the receiving end of criticisms, accusations, counterclaims *et cetera*. However, Mr Speaker, it is no secret that Guyana has come a far way in the whole procurement process. Unlike what obtained in the pre-1992 period when there were no laid

out procedures or systems, today we can boast of a well regulated system which may not be perfect, as no system is ever perfect, but one which has clearly advanced the process of procurement and has won the respect of international agencies and organisations.

Mr Speaker, when this Government took Office in 1992 there was no history of public procurement as it was never brought into the public domain. There was no public process as decisions were made by individuals and, maybe, at the Cabinet level without ever referring to a tender process. If we check the newspapers prior to 1992 we will see very few, if any, advertisements for procurement. Most of it was done through single sourcing. Although there was a budget with a capital programme the public was never notified of the availability of contracts and, of course, no public disclosure of the engineer's estimates which are a measuring rod of awarding contracts. As a concomitant of the lack of information on the availability of Government works the body of contractors was very small.

Today, the short list of contractors for agencies like SIMAP and PEIP has grown tremendously to about eighty (80) to ninety (90). At the Tender Board openings, which is a transparent process, there are about twenty-five (25) to thirty (30) contractors who come to check on their tenders every time there is a Tender Board opening. Moreover, Mr Speaker, the public is made aware of what the Government intends to do as far as public works are concerned as the press is literally inundated with advertisements for works to be done on sea defenses, roads, schools, bridges and other infrastructure and for consultancies for these projects. All this, Mr Speaker, has resulted in greater competition which helps to lower the price or the cost of the contract. With single sourcing and a negotiated scenario which occurred with great regularity in the past, prices were usually very high. Competition on the other hand results in lower prices and these prices, as you know, are now publicly announced. Perhaps it will be apposite to point out an example of what we are talking about here. When we took Office the PEIP was already on board. Schools which were being built under that project were expected to cost about US\$2M to US\$3m per school. However, our

Government aborted that process and introduced new designs using localised conditions. We were able to bring down the cost of one school to about G\$60M to G\$80M which was less than half the price of what it was initially or what was originally charged. So by public tendering and competition we were able to bring down the cost of these projects. It is a clear example, at that time, of the level of wastage and extravagance that took place, that characterised the whole process of procurement because if one school was costing US\$2M to US\$3M then we could see that definitely something was wrong with the system.

Mr Speaker, also with respect to the disposal of assets there was no public tender process. Today, all public assets are publicly advertised for disposal. Even the private sector is now following suite in terms of disposal of their assets. Agencies like the NDC in the past did not have any record of public procurement. Today all these NDCs, including the 65 of them, are now having public procurement processes in terms of their public works.

Mr Speaker, may I also point out that the Auditor General previously did not have any role in auditing public procurement. Today he is able to pronounce on such procurement as the Government has restored that right for him to audit the public accounts of the country.

Mr Speaker, what we are seeking to do with this Bill is to enshrine and give legislative force to the good practice we have already been following. This Bill will consolidate and enhance the open, transparent and accountable process which we have begun since 1992. As you are aware, the procurement regulations which presently are in place were established since the 1950s and hence have become archaic. However, we have advanced the process in line with regional and international standards. The ground rules are pellucidly clear and we are now seeking to enhance this transparency in a manner that will maximize economy and efficiency in procurement, in other words, getting value for money. It will foster and encourage participation in procurement by suppliers and contractors regardless of nationality thereby promoting international trade. It will also promote competition among suppliers and contractors.

It will provide for fair and equitable treatment of all suppliers and contractors and it will promote the integrity of, and fairness and confidence in, the procurement process.

Mr Speaker, as outlined in the Explanatory Memorandum to this Bill, we see that the Bill seeks to introduce new and comprehensive legislation on the subject of procurement. It is informed by the principles embodied in Commonwealth Caribbean Law that applies to this subject and to that of international organisations, of course, paying heed to competition among contractors and suppliers and the ethical considerations involved in public procurement.

In this Bill before us, Mr Speaker, we will see that Part I deals with definitional terms, what is procurement *et cetera*.

Part II deals with the general provisions regarding international obligations with respect to procurement, the power to make regulations, the qualifications between suppliers and contractors, the form of communication to be used, inducements from suppliers and contractors, the rules concerning description of goods, services, or construction and the language of solicitation documents which would be in English.

Part III deals with the administrative structure for public procurement. It sets out the national procurement and tender administration to be managed by the National Board with power to make regulations subject to approval by the Minister. This section also deals with the establishment of regional boards, district boards, departmental boards and ministerial boards. The National Board has the power to review decisions of the procuring entities. It is significant to note here, Mr Speaker, that the National Board will comprise seven members, five from the Public Service and two from the Private Sector. This is quite an innovation to have the Private Sector represented on the Board since the matter of public procurement has traditionally been in the domain of the Public Sector or the Government.

Part IV sets out the methods of procurement and the conditions

under which such methods may be used. These methods include public tendering, two stage tendering or request for proposals and selective tendering.

Part V deals with solicitation of tenders including international tenders and the submission of tenders including date, time and place, and the language to be used for such submission. It also deals with the issue of tender security and its application. In addition the issue of evaluation and comparison of tenders is examined, that is how and when tenders shall be opened for examination, evaluation and comparison. The rejection and acceptance of tenders are also dealt with in this section.

In Part VI the method of procurement of services is dealt with. It includes the right of the procuring entity to reject all proposals, and the criteria and procedures for evaluation, clarification of the requests for proposals and the choice of selection procedure with or without negotiation.

Part VII deals with other procedures for procurement involving restrictive tendering to be done in a non-discriminatory manner.

In Part VIII the subject of review is dealt with, that is, under what conditions the National Board may review a matter and the recourse to a higher authority including the Public Procurement Commission or the High Court.

Part IX deals with miscellaneous matters including penalties, breaches of confidentiality by a member of a board, a procurement entity or an evaluation committee. It provides for the Minister to issue general or special direction to the National Procurement and Tender Administration. This part also provides for such matters as staffing and funding and the issue of non-disclosure by members of a board of their interest in transactions with that board. Finally, in this part the subsidiary legislation is dealt with which will continue to be in force to the extent that their continuance is necessary for the administration of this Act.

So, Mr Speaker, the stage is now set for the introduction of a new



bill that will enhance the process of transparency which we have been practicing all along. It is a comprehensive document and addresses many of the concerns on procurement. And, as I said earlier, the objectives of maximising economy and efficiency, and getting value for money, the fostering of participation, international trade and competition, fairness and equity, integrity and public confidence in the process have all been enshrined in this document which we hope will be the springboard for greater accountability and transparency.

Mr Speaker, it is against this background that I commend this Bill to this Hon House. *[Applause]*

**The Speaker:** The motion is proposed, Hon Members.

Hon Member Mrs Melville.

**Mrs Shirley J. Melville:** Mr Speaker, I rise this afternoon to contribute to yet another piece of legislation that is going to affect the lives of people in our Guyanese society. The Hon Minister spoke about providing for participation, for fairness and public confidence. However, Mr Speaker, I would like to comment on Section 19 of this Bill. It deals with the regional aspect. On page 24, 19(i)(b) it says two members will be appointed by the Regional Administration. The people of Region 9 would like to make it clear that (by the Regional Administration) they would expect that it would be by the Regional Democratic Council which is elected by the people and not a political appointment. Mr Speaker, I say this because three members would be appointed by the National Board. And in the past our Regional Executive Officer has been the one who has dealt with quotations, passed the quotations, verified the purchases, did the purchases, and signed for the release of materials to the various projects. Mr Speaker, we need to have a bit more explanation on 19(i)(a)(b) by the Hon Minister.

Another point I would like to look at is 19(7). It says,

*Three members including the Chairman shall form a quorum.*

Mr. Speaker, this clearly does not reflect democracy if we are going to have three members appointed by the National Board and two by the Regional Administration.

Mr Speaker, the regional board should be the arm to elect the Chairman for this regional board because coming from the region and having to deal with the members there we would be fully aware of the capacity of the individuals who would be assigned to this board.

Mr Speaker, the Regional Executive Officer should not be a member of the Tender Board because the REO has already quite a large work load to deal with and he would also be the one dealing with quotations and the other financial sections which would be dealt with by the Board.

Mr Speaker, this is my contribution this afternoon, and I can tell you that the people of Region 9 are indeed disappointed that there is not reflected here in this Bill more democracy and participation because we have been hearing recently of a lot of inclusiveness, of democracy. I think the time has come for us to start putting it into action.

Thank you.

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

Hon Member Mr Ravi Dev.

**Mr Ravi Dev:** Mr Speaker, I too rise to make my contribution to this Procurement Bill which, I agree with the Minister, is an extremely important Bill in view of the fact that our Government contributes such a large percentage of our GNP in its spending that makes it so much more crucial for us to have rules and regulations to govern this procurement area. With this in mind, I would have hoped there that with such an important Bill the Government would have allowed much more time for there to be fuller consultations with the constituencies out there. Because here we have a Bill with seventy pages outlining it and this is given to parliamentarians on Thursday afternoon to debate the following Wednesday when in the middle of that one has a public holiday - not to

**mention the break-up of our bridge which prevented me from returning to me home on Saturday night.**

The serious point is that we all know that this area of procurement has elicited a tremendous amount of criticism on the part of the Opposition and other forces in society. And it is for this reason also I feel there should have been much wider consultations so that we can have a consensus in going forward in such a critical area. I come back to the theme that in a society as polarised as ours we must do all in our power to ensure that even in the setting up of our rules, or maybe especially in the setting up of our rules, we institute measures that would be seen as democratic where all forces would be consulted.

Now coming back to a substantive comment I have on the Bill itself, it would have to do with how do we not only ensure that we have accountability and we have transparency, as the Minister said the Bill seeks to institutionalise. One of the ways that we have seen that there is loss of faith in accountability and transparency is even though we set up institutions, that is the rules that are supposed to be followed, and I see there are very good rules that are enumerated and adumbrated in this document here, it is one thing to set up the institution. But the other side of the coin is the organisation which is the appointment of men and women, the appointment of individuals who would then ensure that those rules are followed. It is in this latter area that a tremendous amount of mistrust can be generated and when one looks at the various boards that are being set up, the National Board, where all seven of the appointments will be done by the President. There is also an ambiguity on page 21 where it says *appointed by the President* and *appointed by the Minister*. Maybe that ambiguity I am hoping will be clarified. But whoever it is, whether the President or the Minister that appoints all seven of those members this will then lead to questions of good faith because this puts a tremendous amount of power in the hands of the President or the Minister in the selecting or the selection of those individuals. This is when again questions of credibility, questions of transparency and questions of accountability can be raised. The point is, again, as we say in law, justice must not only be done, it must appear to be done. This is where I foresee

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that there can be questions arising. We see this trend in terms of all the appointments, so it is a kind of boot-strapping. The National Board, all seven are appointed by the President or the Minister, the Regional Tender Board three are appointed by the National Board, and in the Ministerial Boards, where the Ministry will procure directly, three are appointed by the Minister. And as my colleague pointed out in terms of the quorum for having the board in terms of the Region the three who are appointed by the Minister can constitute a quorum. All of these then lead one to the suspicion that while the institution, the rules of the game, might lead one to say, well at least, something is being done to correct some of the problems we have had in this area of procurement, in terms of the appointment, in terms of the setting up of the organisation, we again see this insistence on total control.

The other area I would like to speak about is in terms of sanctions. One of the problems we have in Guyana is when we have public officers taking gratuity for performing their job, that is in fact the classic definition of a bribe. Here again we have some criteria laid down. But I would like us to propose that in view of the reality in Guyana that there is a very simple trip wire, I think, we would like to propose. If the assets during the course as a public official, and in this case these members of the Procurement Board, if their assets seem to be out of sync with their income that creates a prima facie case for them to prove where these assets came from, meaning that right now there are many instances around the country where in fact you do have officials where their assets are very much out of sync with their income. But one now has to come and bring proof as to how they... the proof is on the other side. We are saying here that we have been burnt enough to suggest that they ought to be a burden of proof on the official him/her self if their assets are suddenly ballooning to such an extent that their income cannot explain that.

Those are my comments on this Procurement Bill. And again I would like to caution that so much of the political disputes in our country centre around the allocation of resources to various committees or to various sectors. So it is our hope that the Government will take our comments in good stead and, in the appointment of individuals to fill these institutions

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that there is not only the care but the certainty of consultation of other groups so that there cannot be suspicion of the Boards being corrupted.

Thank you.

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

**Hon Dr Leslie S Ramsammy:** Mr Speaker, I stand in support of the Procurement Bill 2002, Bill No. 6/2002 as presented by my colleague, the Minister of Finance, Hon Saisnarine Kowlessar. The PPP/Civic Government had promised to streamline and enhance the process of procurement. In reality there have been tremendous improvements in the efficacy and transparency of procurement over the last decade. Mr Speaker, there have been some questionable transactions but considering the thousands of transactions done buy this Government the PPP/Civic is proud of its record of transparent procurement. Yet, we see vast room for improvement. The present procurement Bill seeks to enhance and improve the environment in terms of accountability, in terms of quality and effectiveness, in terms of transparency.

During the last ten (10) years we have ensured that Tender Boards, National, Regional, Ministerial, Agencies et cetera function. The Auditor General has attested to the fact that procurement largely follows established procedures. If one were to look at the Auditor General's Report since 1992 one sees an improving performance in terms of transparency and accountability at all levels. Indeed this is a stark contrast to the years prior to 1992 when the record on procurement was so dismal. Mr Speaker, the procurement process was one with no transparency and no accountability. The Minister reminded us of this. The Auditor General had nothing in fact to audit and there was no way of determining the efficacy of the process. Corruption was widespread and allegations of unfairness abounded. This is where we started from in 1992. We started from ground zero. The fact that throughout the tenure of the PPP/Civic Government the process is open to scrutiny and that all procurement are subject to meticulous examination by the Auditor General - an examination by Parliament through the Public Accounts Committee

-is testimony to the vast improvement in the procurement process in Guyana.

The presentation of the Procurement Bill is another step in the accountability process and the strengthening of Guyana's democracy. The Auditor General has been making several recommendations over the previous decade pertaining to the strengthening of accountability and transparency - recommendations that he sees as important for greater effectiveness while some, perhaps, including the Auditor General bemoaned the fact that Government is slow in acting upon these recommendations but for certain no one can deny that over its tenure deliberately and incrementally the PPP/Civic Government has been adding to the effectiveness of the system and has been responding to inputs from various sources. In presenting this Bill today we have effectively responded to the Auditor General's recommendation for improvement. In his last report for 2000 he stated that reference was made to the need for a complete reorganisation of the operations of the Central Tender Board to reflect membership from outside the Public Service. He also recommended procurement legislation. Today, all Guyana ought to feel **more** comforted in that Government has responded to the concerns of the Auditor General, other local and international agencies, suppliers and contractors, and the Guyanese people by furthering the enhancement of the procurement process through the passing into law of the Procurement Bill. In keeping with his recommendations, the Public Accounts Committee, international donor Agencies, suppliers and contractors, Government has demonstrated his willingness to not only practice fairness but to open up the process by other inputs. The national procurement board, the regional procurement board and other level of procurement boards would include persons from outside the Public Service. All procurement boards would include persons from outside the relevant Ministries, Regions and Agencies as shown in Section 16(3), 19(2) and 21(1). This would further strengthen the accountability process and reduce the sometimes incestuous situation that we still often find.

I am dismayed by the fact that both Hon Members in the Opposition, the Hon Shirley Melville and Ravi Dev would think that the provisions

made would detract from the democratic process. One of the complaints made over the years has been, and the Hon Ravi Dev also said this, that there has been some sort of incestuousness sometimes. And the procedure that we have provided for here would reduce that kind of incestuousness and maybe we need to do more but I will address that in a second.

The other idea that a quorum of three out of five, five members of the regional boards, would somehow detract from a democratic process because it is possible that the three members would all be those appointed by the National Board. Well, you know, everybody has to play a role in the democratic process. If the local representatives chose to stay away how could you blame Government and the other members? The local people, Mr Speaker, (I hope the Hon Member is listening) must adhere to their responsibility and play a role. If you stay away and then scream that 'you are inhibiting and suffocating my freedom and democracy,' it is you who have been abandoning your role, and I think it is irresponsible for members to do so. We have to work with our people - the democratic process has responsibility that comes with it. If we are appointed and we accept appointment we had better ensure that we are there.

Mr Speaker, the Government has already agreed to the establishment of a Statutory National Procurement Commission. This was one of the provisions resulting from the constitutional dialogue and the provision is already enshrined in law in our Constitution. The National Procurement Commission would have both oversight and advisory role. Its oversight function would add to the effectiveness of the Auditor General's and the Public Account Committees's work by annually and, as circumstances dictate, looking into the workings of the various Tender Boards and the operations of procurement bodies. We not only talk the talk, Mr Speaker, we walk the walk. We cannot do it alone, the enabling legislation to bring the National Public Procurement Commission into being awaits other agreements with the Opposition, awaits this House to act, and it is the Opposition that is preventing another advancement of the process. The absence of the PNC/R members is delaying the efforts to add to these important advances in ensuring maximum participation,



and, in fact, is disgraceful and in keeping with the dictatorial and anti-democratic tradition and legacy of the members of the other side. As we look back in time, Mr Speaker, we can see a tremendous difference between the procurement practices over the last decade and those of previous decades. The story of the infamous barge is but one example. Leading members of the PNC were involved, one of whom sits in this House and one of whom was responsible for stopping the Hon Member Mr Donald Ramotar from coming into this House last week. To this day no one could give account of the process leading to the acquisition of the barge for more than US\$2.85M. A barge that never indeed worked until this Government tried to put it into operation. The Hon Member Mr Corbin, as I said, was a key player in that secret transaction. In the end it was the present Leader of the Opposition, the then President who dismissed the whole shameful incident as a consequence of mere inexperience. Mr Speaker, permit me, for the Members of this House and the public, to remind them of what constituted procurement in the past. I want to read from the *Stabroek News of Saturday 19<sup>th</sup> June, 1990*. This was from the Commission of Enquiry that found and I quote,

*Two Government Ministers and several top GEC Officials were very negligent in their purchase and acquisition of the power barge.*

It continued that they negotiated with a Dutch company Boskalis through BIDCO for a loan to finance the purchase of the barge without going through any formal process. The negotiations for the loan, according to the report, was done by Minister Kranenburg and BIDCO Chairman Crawford and was concluded, this US\$2.85M deal, through a verbal agreement. We find this method of dealing with a purchase and a loan for US\$2.85M highly unsatisfactory. Indeed we find the entire approach to the negotiation financing and disbursement of this loan to be grossly unsatisfactory, and, indeed, Mr Speaker, scandalous. But that is what constituted procurement in the past. The report detailed in writing all the terms and conditions of the loan particularly the disbursement. And listen to this, Mr Speaker, \$1.85M from that loan was disbursed even before a purchase was entered into, even before a purchasing agreement was



entered into. Even before it was decided to purchase a barge we paid for the barge and we paid most of the money. Then, to make matters worse, the two Ministers, then Ministers Corbin and Kranenburg each denied responsibility and each said it was the other's responsibility. *[Interruption: It wasn't me. Yes, the famous Shaggy, it wasn't me.]* And Mr Speaker, I can go on and on, there is nothing in that process, but that is just one example, there are many more. Let me tell you the most shameful aspect of that. The Hon Member Mr Hoyte, on assuming the Presidency in 1985 said he was a different president and he would root out corruption. He said, when challenged by Mrs Janet Jagan then a Member of this House, to mount an investigation, and appointed the Brassington Commission and said that whatever the finding he will take appropriate action. When the findings came squarely putting the blame on the two Ministers, and not only putting the blame but also saying that the transaction was highly unsatisfactory and that there was no process involved, this was Mr Hoyte's response,

*The barge debacle was collective and cumulative and involved persons most of whom are senior functionaries*

but then he dismissed it all by saying,

there was no need for sacrificial lambs

This is the Leader of the Opposition today who is out there screaming about participation and about corruption. He said a number of things but that he finds that this does not constitute any kind of evidence of misconduct by anyone and therefore all that is required is censorship, censorship within Cabinet. This is it. I can go on and on but I don't want to, I think the point has been made. This is the difference, the stark difference between procurement today and procurement in the past. Today we work for accountability and transparency.

Mr Speaker, an examination of Part VI of the Bill demonstrates the efforts of the Government to ensure that no one is precluded from involvement. The intention to procure goods and services must be made

public and all conditions pertaining to such procurement must be made known to the public. Part IV details the various provisions. Already much of what is contained in Part VI really exist in practice. We seek today to give formal status to what we already do. We seek, however, to enhance further the process of transparency because we see that such process could also lead, as the Minister said, to greater efficiency, to getting the best for the least cost. And is the PPP/Civic Government that has been trying to maximize the openness of the process since 1992.

Prior to this time, Mr Speaker, there was no such mechanism, only lip service was paid to this significant prerequisite. I did a review of the publications of tender notices in the newspapers during 1991 and 2002. The average number of tender notices in a Sunday Edition of the Chronicle in 2002 so far for this year has been twelve (12), in fact last Sunday's there were seventeen (17) such publications. During 1991 I had to look for the whole year in order to make a calculation because half of the time there were no publications of tender notices and when they were they were never more than four (4) in a Sunday's newspaper. This is the stark difference in terms of transparency. Thus, Mr Speaker, while the Opposition speaks about the lack of transparency we see an improving environment. The PPP/C is responsible for this. I will make no apology for standing on this side and taking credit that we have, indeed, provided leadership and we have, indeed, driven the process for transparency. *[Applause]* We are proud that today we continue to build on this rich tradition.

Mr Speaker, we have seen this in the past with the privatisation processes that occurred then and the ones that occur today. We have made mistakes, no doubt, but we must remain diligent and watchful as thousands of people must work to execute Government's policies. Not everyone, Mr Speaker, shares the Government's enthusiasm for public accountability, for transparency, for efficiency and, therefore, there would be examples of the system going wrong. But, constantly, every day, we add to the process, so we could reduce these examples to a minimum if not eliminate them. Guyana's fledgling democracy is in the right hands, in the hands of the PPP/Civic Government.

Thank you. *[Applause]*

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

The Attorney General and Minister of Legal Affairs.

**Hon Doodnauth Singh:** May it please you, Mr Speaker. On the occasion when I spoke in this National Assembly I made reference to the fact that the Government would be seriously considering the announcement of appropriation mechanism within the near future. I became intimately involved with that announcement due to the fact that at that time there was litigation out of an award of a contract in which I represented the Government in the Guyana Court of Appeal in the case of Raffudeen against the Attorney General.

Over the years there have been a number of consultancies, a number of reports with respect to the procurement process. And it is consistent with the view that it is a requirement of transparency that that mechanism is now brought to this Hon House in the form of this Bill. I do not wish to go through the various stages and what is referred to in the Bill, but what I wish to say to this Hon House is that it provides a mechanism and institutionalises a process. That is all that legislation can do. It is left to those who have to put it in place and effectively administer it to ensure that it is consistent with that institutionalisation, that the administrative process is pure, simple, straightforward and transparent.

I wish to advert to what Mr Ravi Dev said with respect to Section 16 of the Bill. Section 16 states,

There is hereby established an agency reporting to the Minister of Finance to be known as the National Procurement and Tender Administration.

*The Administration shall be managed by the National Board which shall consist of seven members, appointed by the President from among persons of unquestioned integrity who have shown capacity in business, the*

professions, law, audit, finance and administration.

I understand that that formal appointment will be made by the President but the mechanism to achieve that is set out in the following Subsection.

The members of the National Board to be appointed by the Minister shall comprise

- (i) five persons from the Public Service
- (ii) *two persons from the Private Sector*

Mr Dev has made the observation, and, perhaps, some may feel that it is an appropriate observation, that there appears to be some ambiguity between Sections 1 and 2. If, however, there is such an ambiguity then I am certain that steps will be taken to resolve that ambiguity. I, myself, when I looked at the section felt that it was something that needed much more thought.

I want to state to this House that as a result of the non-functioning of a procurement mechanism the awards of contracts have been challenged in three jurisdictions within the Caribbean. You have had a challenge in Barbados to the award of a contract, you have had a challenge in Trinidad in the award of a contract to the Seeram brothers and we have an award challenged in Guyana by Ravi Dev. It is the circumstances that there was no procurement mechanism that there was as a result of the failure of that mechanism that those challenges could have been made. I am not submitting that in view of the fact that you will have this procurement legislation that someone may not find it possible to challenge the award. But, certainly it would be much more difficult to have a situation where a contract is awarded and it could be held up, and in fact, on occasions international donors are hindered and the Government, which is the reciprocating state, is hindered in the allocation of the award or the enforcement of the award of the contract.

Mr Speaker, I am sure that both my friends, Mr Dev and Mrs

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Melville, as representatives, appreciate the significance of this legislation, the introduction of this Bill.

Representative Melville has spoken about the fact that a quorum can be only three persons. My colleague, Minister Ramsammy has referred to that fact as well. It is a mechanism in any type of legislation, any part of the world, that there is a constituent body, that there must be a provision where a certain membership of that constituent body can form a quorum. So if you have seven (7), you have three (3), you have five (5) or whatever it is. There is nothing wrong with that concept as such. It doesn't prevent all those who are members of that constituent body from being present at any particular meeting. I don't wish to go in, as my friend Dr Ramsammy has done, to what has happened in the past or to refer to instances where there have been unjust criticism. The fact is that this Government has, over the last ten (10) years from the introduction of the democratic process in this country, put mechanisms in place for the award of contracts for the provision of services and goods. But, what I want to say is that unless members of this Assembly can find and point to areas in the Procurement Bill that need modification, that need some sort of amendment or otherwise, it will be a total waste of time for them to make any other contribution because this is consistent with what is required in the international community.

My friend Mr Dev also spoke about the fact that there must be a kind of penalty for those persons who, as a result of their positions, might be able to gain benefit. You might have read that three (3) Ministers in the Canadian Government are likely to fall because of the corrupt practices. Mr Dev has spoken about the fact that there must be some kind of reverse onus. Those of us who have practiced at the criminal bar for a number of years understand what that significance is. What is significant is that there has been a lot of discussion on what reverse onus means and whether it is constitutional or not. In fact, I have in my hand a report of a crime watch sent out by the Commonwealth Secretariat for two decisions emanating out of the European Court of Justice in which it has been stated that the reverse onus is inconsistent with Section 6 of the European Convention. So those of us who want to legislate in that area

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have to be extremely careful as to how we reverse the onus of proof.

Mr Speaker, I wish to commend this Bill to this Assembly. And I wish to commend my colleagues in the drafting section of the Attorney General's Chambers who have worked untiringly night and day to have this Bill in this House. *[Applause]*

I thank you, Sir. *[Applause]*

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

The Hon Minister of Transport and Hydraulics.

**Hon C Anthony Xavier:** Thank you, Mr Speaker. Colleague Ministers and Members on this side of the House, Hon Members of the Opposition, I too rise today to give support to the Procurement Bill No. 6/2002 as presented by the Hon Minister of Finance on 24<sup>th</sup> May, 2002. The purpose of this Bill is to provide for the regulation of the procurement of goods, services and the execution of works, to promote competition among suppliers and contractors, and to promote fairness and transparency in the procurement process.

Mr Speaker, for some time now there have been much criticism from certain quarters in both the print and electronic media in relation to Government's procurement system. Many of these criticisms have been frivolous, unfounded and unjustified while others have some degree of merit in them. The Government in its quest to provide a level playing field, and to ensure fairness and transparency in the procurement process, thus removing any cause for criticism, has brought this Bill to this Hon House for consideration and approval. The presentation of this Bill, Mr Speaker, could not have been more timely to allay and remove the fears of some whose perception is that the system of procurement of goods and services is flawed and needs to be corrected. This Bill sets out a detailed and comprehensive procedure to be followed in the procurement of goods and services. It includes principles from those embodied in the Commonwealth Caribbean countries as well as a number of international funding organisations. The Government of Guyana is committed to

transparency and fairness and the presentation of this Bill to this House is ample evidence and demonstration to this fact. Notwithstanding the delays which may occur as a result of the detailed and comprehensive procedures to be followed, it is nevertheless better to have all parties in the process feel a sense of satisfaction that an award was made in a fair and transparent manner. Also it is evident and crystal clear from the provisions in this Bill that there has been tremendous improvement in the procurement system and what exists at present. The technicians will now be in charge of the procurement procedures and Cabinet will now be only requested to give 'no objections' as it is in the case right now with the international funding agencies. In addition there will be a permanent body to deal with matters on a day to day basis at the National Board. Evaluation will be done by personnel with the necessary expertise and chosen from a pool of evaluators both public and private sector. Tender Boards will be comprised of personnel from both private and public sectors. Detailed procedures must be followed by each Tender Board in the award of a contract to a supplier or contractor. An agreed supplier or contractor also has a right of appeal right up to the High Court in Guyana.

Mr Speaker, most of the speakers that came before me covered a lot of the aspects of the Bill and I really and truly would not want to go through that again. So I just want to end by saying that we are committed to the system of transparency, fairness and good governance and this Bill is ample testimony to this fact.

Thank you.

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

**Question put and agreed to.**

*Bill read the Second time.*

### **In Committee**

**The Chairman:** Hon Members the Bill has sixty-nine clauses. If there

is going to be no amendment to the Bill I will put, with your consent...

*[Interruption]* Hon Member could you just indicate which clause you wish to amend?

**Hon Saisnarine Kowlessar:** Mr Chairman, Clause 16 on page 21 which seems to have some ambiguity. Two members have referred to it.

**The Chairman:** Is that the only one? Well, I will put Clauses 1 to 15 then deal with Clause 16 separately.

### **Clauses 1 to 15**

Clauses 1 to 15 as printed, agreed to and ordered to stand part of the Bill.

### **Clause 16**

**The Chairman:** I propose the question that Clause 16 stands part of the Bill.

**Hon Saisnarine Kowlessar:** Mr Chairman, the issue of appointment of the seven members of the National Board, the appointment of the Board should not be done by the President but by the Minister. So the word President should be removed and be replaced by the word Minister.

Mr Chairman, I just want to crave your indulgence at this point of time to say thank you to the Members who identified that ambiguity. And I wish on behalf of the House to thank both Mr Dev and Mr Doodnauth Singh for that. I don't know if you will permit me to make a few comments at this point in time.

**The Chairman:** Proceed Hon Member.

**Hon Saisnarine Kowlessar:** Mr Chairman, the Members have raised a number of issues in relation to the process of democracy and consultation.

**The Chairman:** Hon Member, if you wish to... Well, you ought to have



replied at the end of the debate.

**Hon Saisnarine Kowlessar:** I was hoping that you would have asked me to make the reply.

**The Chairman:** Proceed Hon Member.

**Hon Saisnarine Kowlessar:** Mr Chairman, on the question raised by Mrs Melville with respect to the Regional Board having two members appointed by the Regional Administration, if we check the document itself we will see that three (3) members will be appointed by the National Board and that in itself will guarantee that there is, at least, some amount of democracy in the system as well as in the appointment of the quorum.

Regarding of the comments made by Mr Dev I would like to say that in respect of consultations with regard to the Bill we have had a number of consultations. This process did not start yesterday or a few days before. The process of doing this Procurement Bill started a number of years ago, three (3) to four (4) years ago. I was not even here or in this position when it started. There have been a number of studies done, a number of reports written and from time to time comments made at the Public Accounts Committee level, and so on, all have been taken on board. So this document itself represent those views which have been expressed from time to time, over a long period of course.

I would like to also thank Mr Dev for saying that we have good rules in the Bill itself. The rules there as set out, as adumbrated, are quite good but the question is manning the system, so to speak. But we can't guarantee that anybody will be above corruption. We will try our best to, as the document itself says, appoint the people with integrity, with high integrity, which can guarantee, at least, there will be minimum corruption in the process. So we have had mechanisms in place, it is just a matter of this document improving on the system itself.

Thank you Mr Chairman.

**The Chairman:** Thank you Hon Member.

**Amendment that-**

the word *President* in Clause 16(2) be deleted and the word *Minister* substituted therefor

**put and agreed to.**

Clause 16(2) as amended, agreed to and ordered to stand part of the Bill.

Clause 16 as amended agreed to and ordered to stand part of the Bill.

**Clauses 17 to 69**

Clauses 17 to 69 as printed, agreed to and ordered to stand part of the Bill.

**Assembly Resumes**

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

**ADJOURNMENT**

**The Speaker:** Hon Members, this concludes our business for today.

Hon Minister of Parliamentary Affairs.

**Hon Reepu Daman Persaud:** Mr Speaker, I move that the National Assembly stands adjourned to a date to be fixed.

**The Speaker:** The National Assembly is adjourned to a date to be fixed.

*Adjourned accordingly at 15:14 H*