

National Assembly Debates

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

60th SITTING

2.00 PM

Thursday 21 April 2005

MEMBERS OF THE NATIONAL ASSEMBLY (68)

Speaker (1)

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

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

The Hon. Samuel A.A. Hinds, M.P.

- *Prime Minister and Minister of Public Works and Communications*

The Hon. Reepu Daman Persaud, O.R., J.P., M.P.

- *Minister of Parliamentary Affairs*

The Hon. Clement J. Rohee, M.P.

- *Minister of Foreign Trade and International Co-operation*

The Hon. Harripersaud Nokta, M.P.

- *Minister of Local Government and Regional Development*

The Hon. Gail Teixeira, M.P.

- *Minister of Culture, Youth and Sport*

The Hon. Dr. Henry B. Jeffrey, M.P.

- *Minister of Education*

The Hon. Saisnarine Kowlessar, M.P.

- *Minister of Finance*

The Hon. Shaik K.Z. Baksh, M.P.

- *Minister of Housing and Water (Absent)*

The Hon. J. Ronald Gajraj, M.P.

- *Minister of Home Affairs; Region No. 3-Essequibo Islands/West Demerara*

The Hon. Rev. Dr. Ramnauth D.A. Bisnauth, M.P.

- *Minister of Labour, Human Services and Social Security*

The Hon. Clinton C. Collymore, M.P.

- *Minister in the Ministry of Local Government and Regional Development*

The Hon. Satyadeow Sawh, M.P.

- *Minister of Fisheries, Other Crops and Livestock*

(Region No. 5-Mahaica/Berbice) (Absent)

*The Hon. S. Rudolph Insanalty, O.R., C.C.H., M.P.

- *Minister in the Office of the President with responsibility for Foreign Affairs (AOL)*

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- *The Hon. Doodnauth Singh, S.C., M.P. - *Attorney General and Minister of Legal Affairs*
- The Hon. Dr. Jennifer R.A. Westford, M.P. - *Minister of the Public Service*
- The Hon. C. Anthony Xavier, M.P. - *Minister of Transport and Hydraulics*
- 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*
- The Hon. Carolyn Rodrigues, M.P. - *Minister of Amerindian Affairs*
- * The Hon. Dr. Leslie S. Ramsammy - *Minister of Transport and Hydraulics*
- 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. - *(Absent)*
- Mr Husman Alli, M.P. - *(Region No. 7 - Cuyuni/Mazaruni)*
- Mr. Komal Chand, C.C.H., J.P., M.P.
- Mrs Indranie 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, J.P., M.P. - *(Region No. 2 - Pomeroon/Supernam)*
- Mr Ramesh C. Rajkumar, M.P. - *(Region No. 6 - East Berbice/Corentyne)*
- Dr Bheri S. Ramsaran, M.D., M.P. - *(Absent)*
- Mrs Philomena Sahoye-Shury, C.C.H, I.P.M.P. - *Parliamentary Secretary, Ministry of Housing and Water*
- Mrs Pauline R. Sukhai, M.P. - *(Region No. 1 - Barima/Waini) (Absent)*
- Mr Zulfikar Mustapha, M.P.
- Mr Neendkumar, M.P. - *(Region No. 4 - Demerara/ Mahaica)*
- Mr Khemraj Ramjattan, M.P. - *(Region No. 6 - East Berbice/ Corentyne) (Absent)*

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Members of the Opposition (30)

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

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

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

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

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

Mr Ravindra Dev, M.P.	- (AOL)
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OFFICERS

Mr Sherlock Isaacs, Clerk of the National Assembly

Mrs Lilawtie Coonjah, Deputy Clerk of the National Assembly

PRAYERS

The Acting Clerk reads the Prayer

ANNOUNCEMENTS BY THE SPEAKER

Leave

Honourable Members, leave has been granted to the Hon Mr Rudolph Insanally for today's sitting, the Honourable Members Mr Robert Corbin, Mr E Lance Carberry, Mr Ivor Allen, Mrs Volda Lawrence, Miss Sandra Adams, Miss Lurlene Nestor, Mr Ravindra Dev, all for today's sitting and Dr Dalglish Joseph up to 26 April 2005.

PRESENTATION OF PAPERS AND REPORTS ETC

1. *By The Speaker (Chairman of the Standing Orders Committee)*

Report of the Standing Orders Committee

2. *By the Minister of Finance:*

Financial Paper No. 1/2005 – Supplementary Estimates (Current) totalling \$1,376,752,295 for the period 2005-03-30 to 2005-04-08.

I name the next sitting for the consideration of the Financial Paper.

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QUESTIONS TO MINISTERS

The Speaker: There is only one question in the Order Paper by the Honourable Member, Mrs Sheila Holder. The question is for oral reply and is for the Attorney General and Minister of Legal Affairs.

Honourable Member Mrs Sheila Holder, you may ask the question now.

Mrs Sheila VA Holder: Mr Speaker, the question pertains to the National Presidential Elections published in Notice Paper No.91 on 2 of February 2004, and it is directed to the Honourable Attorney General and Minister of Legal Affairs.

The Speaker: You can ask the question now, Honourable Member. Do you have it?

1. NATIONAL AND PRESIDENTIAL ELECTIONS

By Mrs Shiela VA Holder

Will the Minister say how, when, and through which authority preparatory work on the electoral system for National Presidential Elections will begin, as was recommended in the final report of the Oversight Committee, dated Monday July 31 2000?

Oral Reply submitted by the Attorney General and Minister of Legal Affairs

CONSTITUTIONAL REFORM COMMISSION'S SPECIFIC RECOMMENDATIONS AS ADOPTED BY THE SPECIAL SELECT COMMITTEE AND ADOPTED BY THE NATIONAL ASSEMBLY

Hon Mr Doodnauth Singh: May it please you, Mr Speaker, despite

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the fact that I have difficulty appreciating the question, my response is as follows:

The Constitutional Reform Commission's Report and recommendations as approved by the Special Select Committee and adopted by the National Assembly, dealt with the various issues referred to in the question as follows:

*ELECTORAL SYSTEM - 9.11.3 Specific Recommendations
9.11.3(1)*

The Electoral System - Specific recommendations was that the Electoral System for General Elections should be a system of Proportional Representation, which ensures that the proportion of seats in Parliament achieved by each Party is as close as possible to the proportion of votes it receives from the electorate.

SSC Comment

The Special Select Committee consulted the verbatim records of the Constitution Reform Commission in arriving at its decision on the recommendation.

That recommendation has been dealt with in Article 160 (1) of the Revised Constitution.

The Amendment, which was done by Act 14 of 2000 provided as follows:

Parliament may make provision, for the division of Guyana in to such number of geographical constituencies, not being more than half the number of the elected members of the Assembly, as Parliament may prescribe and for the election in each such constituency of such number of Members of the Assembly, as Parliament shall ... subject to Paragraph 4, prescribe, et cetera.

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So that recommendation has been dealt with in Article 160(1).

9:11.3(2)

The other recommendation was that *the electoral system shall include an element of geographical representation.*

9.11.3(3)

Mr Speaker, Articles 160(2) and 160(3) provide as follows:

With respect to the recommendation, limits should be placed on the numbers of non- elected Ministers and Parliamentary Secretaries eligible to sit in Parliament.

Article 103, (3) provides that

Not more than four Ministers and two Parliamentary Secretaries shall be appointed by the President from among persons who are qualified to be elected as members of the National Assembly.

9.11.3(4)

Recommendation 9.11.3(4), *Proportional representation lists should be presented to the electorate in a manner that allows voters to be sure which individuals they are electing to the National Assembly. It is the Commission's view that this principle would be breached if lists are presented simply in alphabetical order, or if crossing the floor is permitted.*

Mr Speaker, this is provided for in Article 160(3) of the Constitution.

9.11.3(5)

The next recommendation was that

Only Guyanese citizens resident in Guyana should be per-

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mitted to vote in elections.

SSC Comment

The Special Select Committee noted that the recommendations included retaining Articles 59 and 159(2), and agreed that Article 59 should be reformulated in a more Constitutional-friendly language, as obtained in Article 159(2). Article 59 of the Constitution has been retained.

9.11.3(6)

Recommendation 9.11.3(6) -

The words 'Leader of the Opposition' should be substituted for the 'Minority Leader' wherever they appear.

This recommendation was incorporated in the Constitution.

9.11.3(7)

Provision should be made for the appointment of a Minority Leader (to be redesignated Leader of the Opposition).

This has also been provided for.

The Special Select Committee agreed to submit the following proposals:

For the revocation of the appointment of Leader of the Opposition, for approval by the National Assembly, as an adjunct to the recommendation, Articles 184(1) and 184(3) provide as amended. The revised Constitution makes the provision Article 63 for geographic representation.

Further, Article 160(3) (a) (iii) states that the Parliament may make provision "for the manner in which the number of seats to be allocated to each list shall be calculated in order to give effect to the provisions of paragraph 1 or

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paragraph (2), as the case may be;”.

Therefore, members of the National Assembly have to work out how the number of seats will be allocated by geographical representation and provide such formula by legislation and not by an amendment to the Constitution.

Sir, and with respect to the report that was presented and the resolution in this National Assembly.

Those are the answers I wish to give with respect to the questions that were asked.

The Speaker: Thank you, Honourable Member. Honourable Members, there is also another question on the Supplementary Order Paper by the Hon Member, Mr Raphael Trotman. That question is for written reply, and the answer has been circulated in accordance with the Standing Orders.

2. COMPENSATION GIVEN TO VICTIMS OF CRIME

By Mr Raphael Trotman:

Can the Minister say -

- (i) During the period 2001 - October, 2004, how many victims of crime were given compensation by the Government of Guyana and what were the criteria used to identify such victims?
- (ii) What was the average value of the benefit received?

Written replies submitted by the Minister of Labour, Human Services

and Social Security:

- (i) None. The question of criteria becomes irrelevant.
- (ii) Also irrelevant, in light of the first answer.

PUBLIC BUSINESS

Bill - Second Reading

ITEM 1 - EXCISE TAX BILL 2005 - Bill No.4/2005
published on 2005-04-11

A Bill intituled, An Act, to provide for the imposition and collection of Excise Tax

The Speaker: Honourable Members, we can now proceed with the second reading of the Excise Tax Bill 2005- Bill No. 4/2005.

Honourable Minister of Finance.

Hon Saisnarine Kowlessar: Mr Speaker, I beg to move that the Excise Tax Bill 2005 - Bill No. 4/2005 be now read a second time.

As part of its reform of the Current Tax System, Guyana has taken steps to introduce a modern Value Added –Tax, know as VAT, effective in 2006. The VAT Bill No.3/2005 had its second reading in Parliament on 14 April 2005 and following a debate that was characterised by general support for the principle of introducing VAT, it was sent to a Special Select Committee for further discussions and scrutiny. However, as you would be aware, Mr Speaker, the VAT Bill proposes to repeal a number of taxes, including the Consumption Tax. The revenue yield from the VAT alone would not be adequate to compensate for the revenue loss from the repealing of those taxes.

The current Consumption Tax rate ranges from between 10 and 30

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percent on average, to a high of 128 percent in some cases. As such, with the single positive rate for the VAT, the yield from the taxes imposed on certain commodities with the application of VAT will be considerably less than the revenue yield on these same commodities from the taxes to be repealed.

It is with this view in mind that the Excise Tax Bill of No.4/2005, which was first read in Parliament on April 14 last, is to be introduced simultaneously with the VAT Bill.

This Excise Tax Bill, which is put before the House today, is one that will be able to compensate for revenue loss from the introduction of the VAT in 2006

Mr Speaker, an Excise Tax is broadly a Tax supplied on certain manufactured goods and on the supply of certain goods. It is a Tax that is also imposed directly on the values of imports of specific goods. It is to be noted that the Excise Tax will not be applied to exports, thus retaining our competitiveness on the export market with regard to the trading of these goods on the international market.

In the case of manufactured goods, those relate to the manufacture or produce and include the application of any process in the course of manufacturing or producing the goods. In the case of the supply, this means a sale of goods or a grant of the right to the use of any goods.

The Tax is to be levied on a few selected goods, commonly regarded as luxury items and on a few goods that would have the reputation, of being regarded as *sin* items, such as; tobacco products and alcoholic beverages.

For example, where goods that are subject to the Excise Tax are manufactured locally or imported into the country, the manufacturer or the importer pays the Tax when the goods leave the warehouse of the manufacturer or is removed from the wharf. In the case of imports the value of the goods would be determined on the Customs Act for the purpose of assessing *ad valorem* duty of the goods, whether *ad val-*

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orem duty is payable in the goods or not and includes the amount of any taxes or duties other than tax payable under this Act or the VAT, fees or other charges that are payable upon the entry of the goods into Guyana and in the case of goods that are manufactured in Guyana, the value shall be the amount of consideration in money, after deducting therefrom any amount of VAT payable.

Mr Speaker, the tax is charged on the importer in the case of importation and on the manufactured in the case where the goods are produced locally. There are provisions in the law to postpone the payment of the tax on raw materials, which are used in the manufacturing of taxable goods and in the case of taxable goods of high value, only in the cases where they are removed from the warehouse of the importer to be sold to the consumer.

Section 6 of the Excise Law speaks of where tax is imposed by this Act on the importation of goods into Guyana, the importer is required to pay the Tax to the Commissioner before the goods are cleared for use within Guyana. In both cases, the taxes are secured by the lodging of a bond, and when the goods are eventually sold, the bond is either forfeited or the taxes paid.

In relation to goods which are manufactured and removed from the warehouse or sold, the

Act provides for the payment of the tax to the Commissioner, to be made not later than 15 days after the end of the month during which the goods were so removed or sold. And in the case of goods imported to Guyana, the payment of tax to the Commissioner shall be made on importation or the removal from the warehouse.

Mr Speaker, while this new tax to be administered by the Guyana Revenue Authority, the law has been structured to take into account the existing laws that are already administered. As a consequence, similar provisions to those contained in the Customs Law exist in the Excise law for the proper administration of the tax. The law, for instance, allows for

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the temporary importation of goods to be exempted and goods which are to be used for export purposes or for ship stores are treated in a similar manner as what currently obtains under the Customs Act.

The Act proposes to treat in a similar manner, those provisions that relate to filing of returns, the payment of the tax, the registration of the taxpayer, the payment of the refunds, and many other provisions used in the administration of the tax, thus reducing compliance cost by the affected taxpayer and the administrative burden on both the tax payer and the Revenue Authority. They also require relatively little administrative effort, and provide limited opportunity for tax evasion.

The Excise Tax is also being levied on products which are not considered essential and necessary items but on the other hand, are products which are considered harmful to the environment, the social fabric of society and on persons themselves.

In such cases, the main reasons for the charge of the Excise Taxes on these items is that they can potentially raise revenue with little distorting effect, creating in the process minimal regression and excess burden on the general tax population. The revenues raised from the Excise Tax can be applied towards the high cost of providing social and health services for the general populace.

Like the VAT, Mr Speaker, the Excise Tax is specially designed to be revenue-neutral. That is, the amount of revenue collected from these two new taxes should be the same as that collected from the taxes which are to be repealed. In addition, it is expected that the Excise Tax rates will be designed so as to maintain the current price levels on those goods to which the tax applies.

Mr Speaker, a sensitivity study has been undertaken in order to determine the impact on the revenues from the repealing of the various Taxes, as well as on imposing the Excise Tax and the VAT. The underlying consideration is that the new taxes imposed should maintain the desired revenue yields. The findings of this sensitivity study, which are

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expected to be provided shortly, will be taken into consideration when arriving at the Excise Tax rates and the few selected items which will be subject to the Excise Tax.

When these variables are determined, the necessary regulations will be tabled in this Honourable House for resolutions by Members of the National Assembly.

Mr Speaker, in relation to the Bill itself, it has 15 Clauses and issues addressed are:

- the imposition and payment of Excise Taxes on taxable goods imported, or manufactured in Guyana;
- the value and quantity of taxable goods imported or manufactured in Guyana,
- the payment of tax by a manufacturer on taxable goods sold in Guyana or removed from a warehouse;
- payment of tax by an importer before clearance of goods;
- tax administration provisions, with regards to the tax period and the filing of returns and such additional information as the Commissioner considers necessary;
- the granting of temporary importation of taxable goods without payment of tax;
- tax relief for raw materials which are taxable goods intended to be used for the manufacturing of other taxable goods;
- it provides for the carrying over of the money paid as security for raw materials against any tax that becomes payable on the sale of the taxable goods;
- refunds of excess tax paid which deals with the exportation of goods and the procedures necessary for the granting of

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speaking, because we could never be correct to the last dollar I think, as the Taxes that the VAT was going to replace; and listed as a schedule to the VAT Bill was the list of taxes to be replaced.

We are told today, by the Honourable Minister of Finance, that the revenues to be collected from the VAT would not fully compensate for the revenue lost from the consumption tax as hitherto applied. He would have to explain that, because the Consumption Tax is one of the taxes that the VAT Bill, when it comes into law, would automatically repeal, and the understanding was that the VAT Tax would recoup. And we were told, if not lectured that this VAT Tax that was going to be applied was going to have a neutral effect by virtue of the fact that it was going to be applied across a wider range of goods overall, so that persons not currently in the tax net would be brought into the net and that, as a result of that widening base of taxation, it would enable the application of a rate of VAT that was lower than what the current highest rate of the Consumption Tax was. And that the basis on which we left it on the last occasion.

Today, the Minister comes and he tells us no, no, that is not the case that the Excise Tax has to be used to supplement the VAT, because if we applied the VAT alone, we would have a revenue loss from the Consumption Taxes that are currently collected and so Excise Taxes are intended to be used to prop up the VAT system.

Now, you have to tell us which of these two situations it really is, because the two are inconsistent. This brings me really to the point that, for me, is at issue here. I do not see this Excise Tax as any innocent little tax intended to bolster revenue, I do not see it ... and he introduced another concept of the Excise Tax being revenue-neutral, well, the Excise Tax is not replacing any tax. What we were told is that the VAT was replacing a list of taxes in back, including the Consumption Tax. We now understand that the Excise Tax is going to revenue-neutral, but revenue-neutral against what? What is it replacing? It is not replacing another tax against which we can measure the revenue that was collected hitherto on that tax, and the revenue that will be collected on the

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Excise Tax, so that we can the revenue neutrality.

I remember very well, Minister Baksh who, when he spoke, said that one of the effects of the VAT was that it was going to lower the cost of goods. The Hansard will show that. That is what he said. The Minister is telling us now not to worry about that, because we have some selected goods on which we are going to put another tax, in addition to the VAT, so lo and behold, when we expected that the VAT across-the-board told by Minister Baksh was going to reduce the price of goods, we are now told that we will augment that VAT by the application of an Excise Tax, because we want to recoup revenue loss so that we will be taking back these goods, either to the current levels or to higher levels of cost.

So let us square with the public here what we are doing, that this is not as innocent as it is made out to be, that in fact there are going to be cost of living increase effects.

The Minister tells us ... as indeed did the acting Minister of Finance, when he spoke during the second reading of the VAT Bill - in fact, the Minister of Finance acting, when he introduced the VAT Bill, told us that one of the benefits of the VAT Bill was that it was going to remove the cascading effect of the Consumption Tax. The cascading effect of the Consumption Tax being that the Consumption Tax applied at the point of import, gave you a certain value, on which the mark-up was put that included the Consumption Tax, and that replicated itself, along the manufacturing and/or production chain, through to the consumer, so that the consumer was going to face a tax that was a multiple of the initial Consumption Tax, by virtue of this so-called cascading effect.

What do we have here? I think we have *cascading* in another form, because we are going to select some goods to which, having applied the VAT, after having told the public *no cascading effects* because you are only apply VAT on the added value of production, and manufacture, of goods or services. You are now saying that we are gong to

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them and then to pronounce. The fact of the matter, however, is Sir, that it will be much more preferable, that at the time you are asking this House to approve of this measure, that you should have brought those things simultaneously, even if it was by way of affirmative resolution - an order requiring affirmative resolution - they should have at least been tabled today so that we could have had an understanding.

Now, Sir, I would like to go on and point to some other aspects of this Bill, which indeed require some attention and comment. Now, the list of goods - clearly the list of goods may be expanded from time to time. There is nothing in this Bill that limits them in the way the Minister represents to us; so it is only his word that this shall be the case, because nothing is written herein that limits the application of these things. And I want to make a comment here about *sin* goods, because I know it is a term that has been used and bandied about by members of the Government at its very highest, highest level. Now it is strange, if not paradoxical, that these goods, which are referred to as *sin* goods, once the revenue yield on which you are going to put on this tax, they become something you are endeared to, because you see then not as sin, then but you see them as redemption for revenue needs or revenue losses. So sin leads to redemption and we should really... Sir, I see the holiness in some of my colleagues is surfacing, Sir. That is quite good. So sir, the fact of the matter is that, if you take the production of the yield from alcohol alone, the Consumption Tax yield from alcohol alone is more than 60 percent of the yield of Consumption Taxes of all manufactured goods in Guyana and that is how important it is. So when we speak of *sin*, it is not about *sin* goods. We must not give the impression of some how that we are taxing these things to prevent people from drinking, because I do not think that is the objective at all. [*Interruption: 'That is the object promised.'*] Well, Minister, you have succeeded in fooling all of this population a long, long time.

I bet, if the curve begins to turn back and the revenue begins to drop, somebody is going to get sensible enough to drop it so that the consumption could expand and revenue could increase, because at the end of the day, the purpose of imposition of taxes is not to curtail, but to

expand revenue and I suggest that *sin* here must be seen in that context.

Now, Sir, to some of these other matters in the Bill, which I believe require attention . . . I wish to turn first to Clause 5, which talks about the payment of the Tax. Sir, I wonder if it is that we are truly trying to encourage manufacture or to curtail it. Let me tell you what this says. It says, if there is tax payable on a good and the manufacturer or importer as the case may be, can not pay it, he has to enter it into a bond with security, which means the value of the security will be the factor - equal to triple the amount of tax that would be payable on the goods.

I want to ask, Sir, whether this is an absolute necessity to have the requirement for a bond with security that is equivalent to triple the value of the tax that is added, and why it could not be a more reasonable amount.

And then we go to Section 5(4), which is a section that is identical to a similar section in the VAT Bill; and what it says is that the amount of default interest shall be at the rate of two percent per month. You recall we made this point on the second reading of the VAT Bill, because that was discriminatory, in the sense, that once money was owed to the taxpayer, the rate applicable, until such monies were paid to the taxpayer, was one percent per month simple interest, only on the principal. Here it is two percent a month when you are in default compound interest, because it is two percent per month on what is the total outstanding, which means interest is added. And I would like this to be revisited and I hope that the Minister, having identified the Special Select Committee as the place to which this Bill is going to be sent, that we will have an opportunity to discuss this matter more fully.

Sir, there are terms that are used in many parts of this Bill, which have nothing that tells you precisely, at this point in time, what they are. I shall refer you to couple of them:

For example, Clauses 7 (1) and (2) say that every registered manu-

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facturer has to submit an accurate Excise Tax return for the month in the prescribed form, but there is nothing here in the Bill that is proposed which sets out what is the prescribed form. It also says that if you cease to be a manufacturer, you have to submit relevant information in the prescribed manner and in the prescribed form and there are others. For example, Clause 9 also talks *upon a certificate by a registered manufacturer in the prescribed form.*

Now one may respond to this by saying that in Clause 15 of the Bill ... I want to put everything on the table. This is not about concealment, but about revelation, *the Minister may, by subsidiary legislation provide for such matters that are to be prescribed under this Act.* So wherever matters are to be prescribed under this Act, it says here that *the Minister may, by subsidiary legislation, provide for such,* but I want to direct the attention of the of the Honourable Assembly that the word is used here is *may*, and somebody has to tell me that in the context in which it is used here that it is not an optional matter, but that it means *the Minister shall.* My interpretation is not that, and Sir, I want to use, as the basis for that interpretation, the Medical Council Act, which says, in Section 23 (2), that *the Minister may make regulations, and that such regulations may provide for ...* and among the things listed there are:

Regulations may provide for, *instituting disciplinary proceedings against a medical practitioner, in relation to any charge under Section 17.* To date, Sir, there have been no regulations made under this Act, and one can say that it is optional and therefore the Minister did not have to make them, but I want to point out that there is a serious consequence, even if that were the interpretation put on this Section by the Minister, because in the absence of such regulations, which would institute under which disciplinary proceedings could be instituted, then Section 17 of the Act has very limited application, because Section 17 of the Act very clearly says that a medical practitioner, guilty of professional misconduct, or malpractice, shall be subject to disciplinary proceedings. Where are the guidelines as to how these disciplinary proceedings are to be construed? And how are they to be conducted? We, of course, can

fall back on the rules of natural justice, which we in fact do at the appropriate time; but as an advocate attorney, I think this represents a lacuna in the law, and really, these regulations ought to be in place.

I gave that example, Sir, to point to the fact that we use *prescribed form* and *prescribed manner* in the Excise Bill without any framework, and we are told that we must rely on the fact that the Minister may make regulations pertaining to those *prescribed forms*, and the *prescribed manner*; and I have just shown you one example in which the Minister, on his interpretation of the *may*, has not made regulations with deleterious effects on the law itself. There is an even more poignant example that I would like to bring to the attention of this House, because it indeed has to do with a sitting Member of this House.

Article 156(3) of the Constitution says that a *member of the National Assembly, elected on a list shall be disqualified from being a Member of the Assembly if he or she, in the prescribed manner, declares that he or she will not support the list from which his or her, name was extracted or, et cetera*. Now a matter went to the courts and the courts ruled that because there was nothing setting out what the prescribed manner was, this Article of the Constitution could not be applied. So here the Will of the Parliament, the direction of the Constitution is being frustrated, because we use words like *prescribed manner*, which require of course, a clear context in which they should be operational and the failure to define *prescribed manner*, in the case of the Constitution, has led to an inability to give effect to that particular Constitutional provision.

Sir, back to the Minister and his *may make regulations*. I would suggest respectfully that in this case, we should use the word *shall*, so that it is without per adventure as to what the Minister is required to do.

And further, I would urge that this National Assembly insert in this Bill, a timeframe within which the Minister shall prescribe the forms, and prescribe the manner, in which the information required under the Excise Bill should be presented to the relevant authorities. And I would sug-

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gest six months as being a reasonable time within which the Minister would make those regulations. I say so, too, Sir, mindful that with the exception of the rate and the goods, these other regulations are going to be made not by the requirement for affirmative resolution, but simply by the Minister making subsidiary legislation; so that does not come to the House for affirmative resolution; In those circumstances, Sir, I suggest strongly that we use the word *shall* which makes it clear that it is mandatory, and that we set a timeframe within which - a reasonable timeframe - I will say six months, but it could be some other period, within which we can all look forward to these things not being a basis on which the Act could be frustrated, because the context of their use is not defined.

Sir, I also wish to refer to two other Sections where words are again used which leave a very vague impression as to exactly what the intention is. I refer specifically to Clauses 13(6) and 14 (3) in this Bill.

Clause 13 (6) says as follows:

A person on whom a notice has being served under Sub-Section 5 may object to the registration, conforming to procedures set out, in Part X of the Value-Added Tax Act 2005, which shall apply to the objection...

Now you would recall Part X, of the VAT Bill sets out the method of appeal - to whom you would appeal - within what timeframe you may appeal and the fact that you have to deposit a certain proportion of the tax prior to appeal or at the time of appeal; but this adds a set of words. Up to what I have read there is very clear and unambiguous, but then comes some words:

... with such modifications as the circumstances require.

Now that is no law. Who decides? Does the taxpayer decide whether the circumstances require modification or is it the authority? And if it is either, or both, what is the basis? What constitutes modifications must be tied to some more objective criteria? And these, I will suggest, should be subject to where such changes are intended. Those

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same words are used again in Section 14 (3), where it talks. If we wanted to question it, you can use the Tax Administration provisions in the VAT part 8 to 15, but it says *with such modifications as the circumstances require*.

Again Sir, and speaking frankly, I would call this intellectual laziness, because it is not beyond the realm of possibility for there to be attention paid to this in order to give it greater definition and clarity in law so that whatever modifications are necessary, will be objectively determined and can be seen in advance of the taxpayer having to make a claim or of the Authority having to apply a measure.

Finally or against that background, I want to say that the Bill, as is, cannot be supported by us. I have heard the Minister on the question of the Special Select Committee. I want to say that we have an open mind on the issues we have raised; we believe that they could be addressed if we put our minds to addressing them and we have absolutely no problem in supporting the process of this Bill going in a Special Select Committee in which we shall participate and give our best to bring a Bill back to this Assembly which we can all support. Thank you very much, Mr Speaker. *[Applause]*

The Speaker: Thank you, Honourable Member.

Honourable Minister of Tourism, Industry and Commerce

Hon Manzoor Nadir: Mr Speaker, we have just had an exercise in intellectual activism, because we just heard a very beautiful presentation from a learned economist, an experienced politician, an experienced Member of Parliament, a learned attorney. He painted a very good picture and he did an excellent job in creating, as my Honourable Member and friend Minister Rohee would say, the proverbial *storm in the teacup*.

Mr Speaker, one of the first things he said was that there is some contradiction with respect to the presentation made this afternoon by the

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Honourable Minister of Finance and myself when I introduced, last week, the second reading of the VAT Bill, with respect to neutrality of the taxes. But last week, Sir, he himself recognized that the VAT, which replaces the Consumption Tax in particular and several other taxes such as the purchase tax, entertainment tax, hotel accommodation tax, would lead some shortfalls and maybe we were not thorough last week in saying that neutrality would be achieved by the introduction of VAT and the Excise Bill, which was referred to last week as well.

And so we are the point today where I see no contradiction, because in the end, the Minister mentioned the issue of the completion of the sensitivity analysis, which would allow us to fit the rate for the VAT and then allow us to calculate the amount of taxes that would have to apply, *ad valorem*, to these specify goods and achieve that issue about revenue-neutrality.

Mr Speaker, a big issue was made in some dark corner or over some conversation about this issue of *sin* goods and this emphasises on *sin* goods. Well, a motorcar and the purchase tax is going to be repealed and an Excise Tax imposed. I do not think that is a *sin* good, but the issue here is that some goods that have some inelasticity ... [*Interruption: 'We must soak them.'*] ... We are not soaking them as such, but in an addition to wanting to decrease the consumption of some goods; there are some goods that you can easily put a unit tax on, have it easily accommodated and achieve this issue of revenue neutrality. So, I do not see this issue of *sin* goods being one that should have taken that many minutes to be presented on.

And then the issue of *definition* was raised and so we went through this issue that the definitions in the Bill were confusing, but what the Member actually tried to do is to confuse us. That is what he is trying to do, because instead of looking at the definition that specified *registered manufacturers*, meaning manufacturers of taxable goods under this Act, meaning goods which will attract Excise Tax. It did not mean all manufacturers. It means registered manufacturers and it is all clear. There are four terms very clearly defined. You have to turn from one page to the

next, but yes, lawyers are very famous for writing this way and studying the law that way. But it speaks of taxable goods, taxable supply. It speaks of registered manufacturers and it speaks of the tax, meaning the Excise Tax in this case. So it is clear. The issue of definition here cannot even kaffuffle the simplest of minds. There is the issue of *fifteen months* and we went through this last week, fifteen months for the implementation and the education of both the VAT and this Excise Tax.

We recognise that we have to do more work in terms of *prescribed forms*, in terms of rate, in terms of regulations, procedures, administrations and that is why we are coming very early with the principles of the Bill, precisely so, in order to start the work.

And so, Mr Speaker, I think that the Honourable Minister of Finance has done well in presenting this package of taxes to replace a complex system that we have had and to make it easier for the administration of tax in Guyana. And so I want to commend this Bill for a second reading. Thank you. *[Applause]*

The Speaker: Honourable Minister of Finance.

Hon Saisnarine Kowlessar: Mr Speaker, I just want to add to what my colleague, Minister Nadir, has made ... the comments that he has made in response to the Honourable Member, Mr Murray. I think the Honourable Member Mr Murray missed the point about revenue-neutrality, that there is no contradiction between the VAT and the Excise Tax. When we talk about revenue-neutrality, we are talking about the totality of the taxes, not separating VAT from Excise, but the totality of the taxes, when put together. So there is no revenue loss or revenue gain in terms of the totality of taxes; and we are not separating them in that respect. I also think that the Honourable Member, Mr Murray, missed the point about *cascading*, I think also he did not understand what *cascading* means in this context, that *cascading* occurs when one item is taxed more than once by the same tax, and here we are talking about two different taxes Value-Added Tax and Excise Tax. So the question about *cascading* does not have any merit.

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The other question of bringing the list of goods, we can address that at the Special Select Committee level. The answer given by Honourable Member Mr Nadir about rates, regulations and administration and so on can be dealt with at the level of the Special Select Committee. I would assure this House that we will take into consideration those points which were raised by the Honourable Member and we will discuss them thoroughly and come to some compromising solutions.

Also, with respect to the definitional terms and so on about *prescribed manner and prescribed forms*, we will also deal with them at that level. So, Mr Speaker, against that background, I want to ask that the Excise Tax Bill be read a second time.

Question put and agreed to.

Bill read a Second time.

Hon Samuel AA Hinds: Mr Speaker, I would like to move that the Excise Tax Bill be sent to a Special Select Committee.

Question put and agreed to.

Bill committed to a Special Select Committee.

MOTIONS

ITEM 2 - ADOPTION OF REPORT OF STANDING ORDERS COMMITTEE

BE IT RESOLVED:

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That the Report of the Standing Orders Committee on the motion for the amendment of Standing Order No 73(5) be adopted.

The Speaker: Honourable Members, the Minister of Parliamentary Affairs or his nominee, will now move the adoption of the Motion relating to the Standing Orders Committee.

Hon Reepu Daman Persaud: Mr Speaker, my apology and may I crave your indulgence? I was just invited by the Opposition, who drew my intention to certain provisions in the Report. I wonder if I can ask you, Sir, very sincerely and very respectfully that we adjourn for fifteen minutes or even ten minutes to look at it in order that we can deal with it.

The Speaker: The Assembly is suspended for ten minutes, Honourable Members.

15:08H - THE SITTING IS SUSPENDED

15:35H - THE SITTING IS RESUMED

The Speaker: The Honourable Minister of Parliamentary Affairs

Hon Reepu Daman Persaud: Mr Speaker, this report was unanimously adopted at a meeting of the Standing Orders Committee. The intention was to have it approved today, and to proceed with this new opportunity of making four sectoral committees open to the public to make the work of Committees public. Certain issues were raised by the Opposition and he has agreed to have the matter deferred so that it can be re-examined in the Standing Orders Committee.

Mr Speaker, I therefore move that the matter be referred to the Standing Orders Committee for review and report back in Parliament.

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that the Report be recommitted to the Standing Orders Committee.

Put and agreed to.

Report Re-committed to the Standing Orders Committee.

ITEM 3 - AMENDMENT TO STANDING ORDER NO. 73(5)

WHEREAS Standing Order 73(5) provides that the deliberations of a Select Committee shall be held in private;

AND WHEREAS the said Standing Order also applies to Standing and Sectoral Committees;

AND WHEREAS it is desirable that the deliberations of some Committees be held in public or in private if they so decide.

RESOLVED that -

1. Standing Order 73(5) be amended to provide the meeting of the Sectoral Committees and the Public Accounts Committee be held in public except where the said Committees determine otherwise;
2. The said amendment be effected by:
 - (a) deleting the fullstop at the end of Standing Order 73(5) and replacing it by a colon;
 - (b) adding the following at the sentence as a new paragraph.

“Provided that (a) the deliberations of the Sectoral Committees

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and the Public Accounts Committee shall be held in public except where these committees determine otherwise; (b) meetings of the Parliamentary Management Committee shall not be held in public”.

3. After the amendment the Standing Order will read as follows:

‘The deliberations of a Select Committee shall be in private and shall be confined to the matter referred to it by the Assembly and extension or limitation thereof by the Assembly and, in the case of a Select Committee on a Bill to the Bill committed to it and relevant amendments”;

Provided that:

- (a) the deliberations of the Sectoral Committees and the Public Accounts Committee shall be held in public except where these Committees determine otherwise.
- (b) deliberations of the Parliamentary Management Committee shall not be held in public.

Honourable Members, Mr Persaud, there is an Amendment. The next item on the Order paper is an Amendment to its Standing Orders. If you remember that was a Motion which had been put and, pursuant to that Motion, it was referred to the Standing Orders Committee. That Motion is back on the Order Paper, to be amended in accordance with the recommendations of the Standing Orders Committee and passed as amended. Since we are now recommitting the report, you need to ask for this Motion to be deferred.

Hon Reepu Daman Persaud: And I so move, Mr Speaker.

Question put and agreed to.

Motion deferred.

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The Speaker: Honourable Members, that concludes our business for today.

Honourable Minister of Parliamentary Affairs

Hon Reepu Daman Persaud: I move that the National Assembly stands adjourned to a day to be fixed.

The Speaker: The National Assembly shall stand adjourned to a day to be fixed.

YOU-MAN-NABI

Before we depart, I wish all the Honourable Members, particularly members of the Islamic fraternity, a happy holiday tomorrow.

Adjourned accordingly at 15:40h