Official Report

PROCEEDINGS AND DEBATES OF THE NATIONAL ASSEMBLY OF THE FIRST SESSION (2006-2010) OF THE NINTH PARLIAMENT OF GUYANA UNDER THE CONSTITUTION OF THE CO-OPERATIVE REPUBLIC OF GUYANA HELD IN THE PARLIAMENT CHAMBER, PUBLIC BUILDINGS, BRICKDAM, GEORGETOWN

127TH Sitting	Thursday, 22ND July, 2010

The Assembly convened at 2.15 p.m.

Prayers

[Mr. Speaker in the Chair]

ANNOUNCEMENTS BY THE SPEAKER

1. **Welcome**

Mr. Speaker: Hon. Members, I would like to acknowledge the presence today of Ms. Sheila Chaman who is an Author, Correspondent and Social Worker, and is associated with the ruling Congress Party of India. Ms, Marlyn Bohose who is a Cultural Worker and a Counsellor to the India National Overseas Congress. Welcome to our National Assembly.

2. Death of a former member of staff

Hon. Members, I regret to inform you that Ms. Desiree Grant, Telephonist of the Parliament Office, who was on leave in the United States, suffered a heart attack and died on Tuesday, 20th July, 2010 at 10 a.m. Ms. Grant was employed by the Parliament Office for over sixteen years during which she served as Maid/Receptionist and Telephonist. On behalf of Members of the National Assembly, and on my own behalf, I would like to express my deepest sympathies to the child, reputed husband and relatives of the late Ms. Desiree Grant.

QUESTIONS ON NOTICE

Written replies

1. THE SPORTS AND ARTS DEVELOPMENT AGENCY

Mrs. Holder: (i) Will the Hon. Minister list for which years audited accounts and reports were submitted by the body described as the 'Sports and Arts Department' fund agency (#6321) he assured the National Assembly were available last Wednesday, February 24, 2010, during consideration of his Ministry's budgetary estimates?

Minister of Culture, Youth and Sports [Dr. Anthony]: I did state on 24th February, 2010 when asked by Mrs. Holder that, 'Yes, that too. Once we get those reports I will make them available.' These reports are not yet available.

Mrs. Holder: (ii) Will the Hon. Minister make available these audited accounts and reports as promised which were submitted by the 'Sports and Arts Department' fund agency (#6321) named in the 2010 budget to receive $100,000,000?

Dr. Anthony: The audit statements for the 'Sports and Arts Department' fund agency will be made available upon completion of the audit.

Mrs. Holder: (iii) Will the Minister name the persons under whose authority these funds are managed in the disbursement of the contributions detailed in the budgetary estimates as the organisation receiving these subsidies and contributions from the Government's treasury?

Dr. Anthony: Currently the Permanent Secretary, who is the Accounting Officer, is responsible for the disbursement of the contributions detailed in the budgetary estimates as the local organisation receiving these subsidies and contributions from the Government's treasury.

2. THE ROLES OF THE PUBLIC SERVICE MINISTRY AND PUBLIC SERVICE COMMISSION IN THE EMPLOYMENT OF CONTRACT AND TEMPORARY EMPLOYEES

Mrs. Holder: Will the Public Service Minister please provide the House with an explanation of the roles of the Public Service Ministry and the Public Service Commission in the employment of contract employees and temporary employees?

Minister of Public Service [Dr. Westford]: The Public Service Commission is responsible for the appointment of Pensionable employees. Employment of all other categories fall within the ambit of the Public Service Ministry.

Oral replies

3. SPECIAL CONSTABULARY OF THE GUYANA POLICE FORCE

Ms. Kissoon: I beg to ask the Hon. Minister of Home Affairs question number 3 on the Order Paper standing in my name:

(i) Could the Hon. Minister of Home Affairs inform this National Assembly why Members of the Special Constabulary of the Guyana Police Force are not paid the same benefits as regular Members of the Guyana Police Force?

Minister of Home Affairs [Mr. Rohee]: I think the answer to the question is pretty simple and straightforward. They are not members of the regular Police Force, and, therefore, they cannot be paid the same type of emoluments – salaries and other benefits – which go to members of the Police Force. They come under a different regime and as such are paid according to that regime. Some of them are even privately hired or hired by private firms and then sworn as Special Constabulary or Rural Constables (R.C.s). So, as a result of that they fall under a different regime.

Mr. Corbin: Supplementary question: Could the Hon. Minister not agree with me that the Special Constabulary Unit which has its headquarters in Princes Street, I think, and has members of that Unit responsible for sensitive security duties of senior Government officials, I believe, even Ministers and the Commissioner of Police, carry out similar duties and have equal, if not, in some cases, greater responsibilities than members of the Guyana Police Force, that whether it would not be appropriate for him to ensure that orders be made with respect to remuneration – increases in the Police Force – should not equally apply to those who are in that Special Constabulary Unit and perform those specific tasks which I have just referred to?

Mr. Rohee: I do agree that there are cases where Special Constables perform functions at the residences of Ministers and at high level functions of Government, etc. We have commissioned a study to look at this matter - this matter has been around for quite some time - to see how best we can regularise the emoluments of the Special Constabulary's ranks. We have to also bear in mind that a number of them are retired and or on contract. It is a much more complicated and complex issue. That is why we have to hire a consultant - a local consultant, that is - to look at this matter. We are very much aware of the representation which has been made, from time to time, to address their concerns. That is precisely why we felt that a study will be required to address these matters, apart from the onerous security responsibility.

Mr. Corbin: Further supplementary question, Sir: Would the Minister, then, not agree that in the interim, since many of these ranks are involved in extra duty - long hours particular in times of emergency and in special occasions where they worked equally long hours - whether they should not be entitled to the same overtime, etc., which, I think, they deserve in view of what he has just said? Whether some arrangements could not be put in place for that, with immediate effect, pending this study which could take another, probably, ten years? I do not know.

Mr. Rohee: I do not think the study will take ten years. I do not even think it will take ten months. In fact, it is almost completed already. We have already started discussing the results of the study which was done. I will dismiss that cynical remark out of hand. But in respect of the specific question which was asked, all those are matters which were being addressed in the study – the question of overtime and so forth.

Mr. Corbin: Final supplementary question, Sir: Would the Minister then be in a position to give us an idea – is it one month, two months - when this study will be finished? I do apologise for suggesting that this study will take ten years. But could he then be more specific? Had he been, I would not have been so speculative. But if it is going to be in two months, would he say how soon after those recommendations would be acted upon?

Mr. Rohee: It is out of our concern for this matter that we commissioned this study. We did not have to wait for questions to be asked in the National Assembly for us to commission this study. It is out of our concern for the well-being of the ranks of the Special Constabulary that we commissioned this study. We saw the need to regularise these matters which have been

outstanding for quite a while. Therefore, I would think that in the same way that we gave due consideration to this study, I am quite optimistic that sooner rather than later we will conclude the discussions on the results of the study.

Ms. Kissoon: Thank you Mr. Minister. The second part of the question:

> (ii) Could the Hon. Minister inform this National Assembly why members of the Special Constabulary have not been paid the 6% increase in salary given to regular members of the Guyana Police Force retroactive to January 1, 2009?

Mr. Rohee: The 6% increase goes to the ranks of the Joint Services. The Special Constabulary is not part of the Joint Services.

Ms. Kissoon: The final part of the question:

> (iii) Could the Hon. Minister inform the National Assembly when members of the Special Constabulary will benefit from leave packages?

Mr. Rohee: That is also part and parcel of the study which has been commissioned.

INTRODUCTION OF BILLS AND FIRST READING

Presentation and First Readings

The following Bill was introduced and read for the first time:

RICE FACTORIES (AMENDMENT) BILL 2010 – Bill No. 8/2010

A Bill intituled:

"An Act to amend the Rice Factories Act of 1998." [*Minister of Agriculture*]

PUBLIC BUSINESS

GOVERNMENT BUSINESS

BILLS – SECOND AND THIRD READINGS

PROCUREMENT (AMENDMENT) Bill 2010 – Bill No. 6 /2010

A Bill intituled:

"An Act to amend the Procurement Act 2003." [*Minister of Finance*]

Minister of Finance [Dr. Singh]: I rise to speak in favour of the Procurement (Amendment) Bill 2010 and at the appropriate time it is my intention to move its second reading.

Just over one week ago I spoke at a small event, a small workshop, for a group of staff working within my portfolio and I made, on that occasion, the observation that almost every day steps are taken in various agencies throughout Government, and, indeed, beyond Government, to advance the cause of modernisation. And given the particular event that I was speaking at I gave the example of the use of information technology, the use of advanced software - like geographic information system, etc. - to improve the efficiency with which we operate.

This, I believe, is a fact that will be observed at almost every Government agency. Even if, in some cases, the steps in the cause of modernisation are modest, they are being taken gingerly, in some cases, and in others, more aggressively. We have witnessed, for example, a considerable advance in the computerisation of various functions in Government. If I were, merely, to confine myself to examples within my own sector, I will give the computerising of the Government financial management function in the form of what is now popularly called the Integrated Financial Management Accounting System (IFMAS), and the computerisation of the tax administration functions in the form of the introduction of the Total Revenue Integrating Processing System (TRIPS) as prime examples of this effort to mobilise and harness technology to improve efficiency, to improve the quality of services provided by Government, and to better enable us to achieve the objectives which we have set ourselves with tools available and amenable to use, such as information technology.

It would be recalled, in fact, that in my budget speech, 2010, presented to this Hon. House, on the 8th February, I devoted considerable attention to the issue of information and communications technology. Apart from speaking about investments being made by Government to enhance ICT and the role that ICT could play in our economy, I also made reference to our intention to use ICT to improve Government's operation in the discharge of Government's functions. It would be recalled, for example, that I spoke, first of all, of our policies as they relate to private investment in ICT-based industries, and, in particular, our

commitment to promote and to facilitate increased availability and improved affordability of electronic bandwidth. But I also spoke of the fact that ICT and ICT related services currently employ more than two thousand persons in Guyana. I spoke of Government's undertaking to establish fiber-optic connectivity for the purposes of E-government applications, and I elaborated on the investments that it is making in this regard.

Importantly, in the context of the current Bill, I stated very clearly, among our objectives, our intention, and I quote: "…making more effective use of ICT in the discharge of Government functions…" It is against that background that the current Bill can be seen. The current Bill is really a very simple one and it seeks to introduce in the Procurement Act a provision which would allow for publications, which are required by that Act, to be placed on a website. If I am to quote the language of the Bill, "on the website of free access where Government procurement opportunities are displayed." The intention here is to utilise the internet as a vehicle, an avenue through which Government procurement opportunities can be disseminated, and, indeed, I believe disseminated even more widely than they currently are. It could be recalled, of course, that the principal Act currently requires publication in a newspaper of national circulation, and, in some cases, also requires publication in prominent public places, and, indeed, in some circumstances, publication in international journals. This is where it is an international procurement of a specialised nature.

The current Bill seeks to introduce publication on a website as an option. I am pleased to announce that it is the Government's intention to launch very shortly a website dedicated to the publication of Government procurement opportunities. In fact, it is my expectation that this will be launched within a week or two weeks. The expectation is that the implementation of this website and the enactment of this Bill would allow for, as I indicated, wider utilisation of the internet as a means of publishing and disseminating of Government procurement opportunities which is an important step as it relates to modernisation. Indeed, it might even be regarded as the first step towards E-procurement, an objective which, eventually, we would, without doubt, wish to pursue.

But it is also, very importantly, the making available on an internet website of Government procurement opportunities, in my own estimation, that lends itself to improved access, greater ease of access, and I would have imagined that the manner in which it would have achieved this

is relatively obvious. As it stands right now, procurement opportunities are advertised in the newspapers, perhaps two or three times, and, rather obviously, I would think if one does not see an advertisement in a particular day's newspaper, maybe, to give a simplistic example, one might perhaps not be aware of that opportunity. But if one had a website which one could refer to and search for procurement opportunities of relevance and of interest to one's operation..., so that if one is a supplier of a particular service one could search for and have at one's ready disposal a listing of details of every procurement opportunity as it relates to one's area of interest. Again, to use a very simple example, I think it should be reasonably obvious how access to an electronic database of procurement opportunities would lend itself to better dissemination of information as it relates to procurement opportunities.

I might add that the provision of an internet facility, a website of free access, is, in fact, in many respects, not a novelty, because a similar provision, such as this one, already exists in the procurement guidelines and requirements of a number of our development partners and donor agencies. For example, in the case of the Caribbean Development Bank (CDB), its procurement guidelines stipulate publication in at least one newspaper of national circulation or in an electronic portal with free access, and, of course, on the CDB website. Similarly, the World Bank requires advertisement in the national gazette, or the national newspaper, or an electronic portal of free access. The Inter-American Development Bank (IDB) similarly provides for publication in a newspaper of national circulation in the borrower's country, that is, as in Guyana's case, if it is implementing an IDB project, or in the official gazette if it is available on the internet, or again, on an electronic portal of free access. Rather similar to what we are proposing, in the case of the IDB requirement, it goes on to say, "…where the borrower advertises all Government business opportunities."

So the provision that we are seeking really is, I would say, not one of great novelty, except that it does represent, in our estimation, an important step as it relates to facilitating the electronic publication of procurement opportunities. It would be remiss of me not to say, that notwithstanding, that I cast this Bill within the context of our commitment to the use of information technology to improve Government operations. It can also be seen within the context of all the work we have done to modernise our legislative and institutional framework for public procurement. It is widely known, and, I believe, fairly, widely acknowledged and recognised that

we have, in Guyana, one of the most, indeed, if not, the most comprehensive procurement legislation, certainly in the Caribbean. I go further – I hear the Hon. Member on the other side speaking of the Public Procurement Commission – to say that notwithstanding that the appointment of the Procurement Commission, without a doubt, is a desirable objective and one that we share, and one that I would very much like to see achieved, that notwithstanding, I hasten to emphasise that the non-appointment of the Procurement Commission, thus far, has not detained us from ensuring that we implement the strongest possible system for public procurement which we possibly can.

It is widely known that our public procurement opportunities are advertised publicly. Notwithstanding, they will be publicised more widely with the implementation of the website. It is widely known that the opening of tenders is an event which is open to all bidders. Indeed, it is open to anyone. On previous occasions we have said the media is welcome to attend and witness the opening of procurement opportunities. I have, myself, said that were the media to be told that they cannot attend an opening of a tender, I will, myself, intervene because that is a matter of Government's policy. We have said anybody can attend, and I am saying it publicly. The opening date and place are advertised in the procurement notice. Anyone can attend. Indeed, it is a standard practice that every bidder attends through a representative. The bidder, obviously, can attend himself if it is an individual. But typically if it is a company or a firm, or some such other entity, it is a standard practice that bidders are represented at the opening of tenders. So persons know who the bidders are, they know what prices are tendered and then, of course, they know what awards are ultimately made. So I want to make clear that this Bill can also be seen as yet another step in this regard: our efforts to ensure that we have a strong and robust, legislative and institutional framework for public procurement.

If I might be permitted, perhaps, to pre-empt references, for example, to the Auditor General's Report where breaches of the Public Procurement Act might be identified and reported on, I will say that our Government's position is that there must be in full compliance with the Public Procurement Act. That is our explicit position. And where there is non-compliance, corrective, remedial and other appropriate actions must be taken to fix those instances, to reduce the likelihood of their occurrence and remedy them in whatever means and manner might be

appropriate. So, we, in fact, welcome the existence of strong systems to ensure compliance with good procurement practice.

As I indicated at the start of my presentation, I believe that the Bill is very simple one. I believe that it represents an important, even if modest, step in ensuring that our procurement system continues along the path of modernisation. I trust that the Bill will enjoy the support of my colleagues on the other side of the House. I, therefore, commend the Bill and at the appropriate time, as I indicated, will move the second reading of the Bill. Thank you very much. [Applause]

Mr. Murray: Thank you very much Mr. Speaker. I listened with rapt attention to the Hon. Minister of Finance as he presented to us a scenario in which we have the most modern legislation and legal framework for procurement; we are not detained in achieving good procurement practices - strong systems for compliance. But Sir, key to this issue of a transparent and an accountable procurement system is the establishment of the Procurement Commission. Notwithstanding… [**A Member:** Talk to Mr. Carberry.] You should know better than that. Sir, if "hypocritical" was a word permitted in the National Assembly I would have used it on this occasion. Since it is not, I shall not.

2.45 p.m.

The most critical element of this process and this system is absent and that is the presence of the Procurement Commission. With great respect to the Hon. Prime Minister, I thought it was rude of him to answer a question on the establishment of the National Procurement Commission by saying that Government has had the establishment of the National Procurement Commission on hold while seeking political consensus on its establishment.

The Constitution of the Cooperative Republic of Guyana makes provision and demands the establishment of a Public Procurement Commission. The number of persons to comprise this Commission is known; it is set out in the Constitution and numbers five. We of the People's National Congress Reform have submitted five names to the Public Accounts Committee for its consideration. The process is that the Public Accounts Committee has to make recommendations to the National Assembly for the appointment of these five persons. The Government originally submitted some names and has withdrawn them all and for years now, has not submitted a single name for consideration. So what is the political consensus? There are no names. The

Government has given no names for consideration. So what are we waiting for? This is a deceit on the people of Guyana and that is why I feel so upset about it. And more so, to have someone as honourable as the Prime Minister, not only does he carry that prefix, but I think he is honourable for all intents and purposes. Someone of that caliber using this kind of terminology about the failure to establish the National Procurement Commission is an indictment.

Why do I say that this is pivotal? In the absence of this Commission, the entity that oversees the Government procurement is something called the National Tender and Administration Board (NPTAB). This board is appointed wholly by the Minister of Finance; wholly and entirely! It therefore smacks of the perception of bias in it. Whether that is so or not, it is something for conjecture or proven fact. If people in the country are to have confidence in national institutions especially in an area as sensitive as public procurement on which I so do not have to detain this National Assembly on the number of complaints about the system, discrimination and marginalisation of people who apply for contracts, is legion. I am saying that until we fix it, that perception will remain as bias in the awarding of contracts and it matters not whether we say otherwise.

I thought that I should say that in fairness, given the Minister's amplitude of remarks about the progress and so on made, that I want it to stay within the framework of what is before us – the National Procurement Act Amendment – and to say that in that particular area, whatever progress maybe being made elsewhere that there is a huge gap in the system which needs to be remedied to create confidence in the institutions governing procurement.

As for the amendments themselves, I take as my starting point, the Explanatory Memorandum accompanying the proposed amendments. That Explanatory Memorandum says that the amendments that we are contemplating at this time are in addition to the present prescribed forms of publication. That is what is written in the Explanatory Memorandum and I take that as my starting point in dealing with this matter. And that element of "additionality" has to do with provision for publications on a website of free access where Government procurement opportunities are displayed. So no one who wants to ensure a more transparent process, no one who wants to ensure that the opportunities for participating in Government procurement are widened and enlarged for the broader population could, in fact, support these amendments. What I do want to say is that when you look at the intent of the amendment as set out in the

Explanatory Memorandum and the content of the amendment as proposed to the Act, they do not quite mean the same thing.

I will give you a couple of examples to illustrate the point that I am making. The first proposed amendment is to Section 27, Subsection 3 of the Procurement Act, says:

> "The procurement entity shall make its best effort to check prices on the internet, etc., shall publish the price of its most recent procurement at least once per quarter in a newspaper of national circulation…"

And then the amendment adds:

> "…or on a website of access where Government procurement opportunities are displayed."

In my respectful view, this does not introduce an enlargement; it introduces an option and it makes it sufficient.

With great respect, if instead of what is done now, which is publishing at least once per quarter in a newspaper of national circulation, instead of doing that one were to put it on a website. In my respectful view, if we really mean to introduce the free website, and as an element of "additionality", in all of the amendments that are before us, there should be not the word "or" but the word "and". The word "or" cannot connote a conjunctive, but rather it is disjunctive. It presents an option. There is in the General Clauses and Interpretation Act, the use of the word "and" which can be disjunctive or conjunctive depending on the context and we know with respect of penalties that that is the case, but not with the use of the word "or". That cannot be conjunctive; that has to be disjunctive.

I hope that it is not the case because this is a matter drawn to the attention by the Opposition and it will find disfavor. I hope that it will be examined on its merits. I wait anxiously to hear those who will respond to this because in every case. I argue that what is being introduced by the way in which the amendments are worded, are options to what exists and I dare say that that would be inimical to the objectives set out in the Explanatory Memorandum of widening the net of those who may be afforded an opportunity to bid. I also want to say that that is the case that for many people who are not yet familiar with the electronic age, that the newspaper is in fact a very

important source of the information upon which they rely on to for example, participate, if they can, in procurement.

I do not want to go through each one of these amendments, but simply say that we support the principle underlying these amendments, but we wish to observe that the amendments themselves as worded, do not achieve the principle or the objective set out in the Explanatory Memorandum and propose that in each case the word, the word "or" be replaced by the word "and" so that we really achieve the objective intended. Thank you very much. [Applause]

Ms. Teixeira: Thank you, Mr. Speaker. This Bill, I think, brings us into a new age of E-Governance and whilst there may be concerns that the Opposition raised, which I will respond to and for which I was about to, while Mr. Murray was speaking, say that he was not dealing with the Bill. However, I realise that he gave me an opportunity to speak on some issues and therefore I did not get up and object to you going off track. I believe that this Bill really reflects what we have brought to this House – the whole issue of connectivity of the fiber optic cables of the communication and information age that Guyana is entering and that with the fiber optic connections and everything else, we will be able to have the whole of Guyana connected.

One of the Hon. Members on the other side of the House, when this was discussed, felt that it was nonsensical for the Government to propose or to even suggest that we were working towards giving every household their own computer. However, the Hon. Member would live to see, as I would live to see, that day come through. We have to be careful as we get older that we do not forget about the new world and the changes and the advancement in our society. I was delighted to see that one can now have e-mail connection in Lethem. You can now have telephones on the Berbice River, on the Demerara River and so forth. **[*Interruption*]**

Mr. Speaker: Hon. Members.

Ms. Teixeira: I seem to be stepping on their corns. The first thing that we have to deal with in the Bill is how real it is, how relevant it is and in Guyana at this juncture if it is relevant. It is necessary as we make leaps and bounds forward. So what is it to stop now with parts of Guyana where there is internet connection and where in 1992 they would have been lucky if they had a phone right here in Georgetown? I do not know what all this fussing is about because I remember that when I lived in Kitty and had applied for a phone, I never got one until fifteen

years after. I am not talking about Georgetown, but far in the interior and so now we are entering a new age. Let us, Guyanese, have a vision. Let us see forward rather than backwards all the time.

I talked about the Opposition politics of No-itis. It is the same thing all over again, but the connectivity issues with the technological advances, with the two fiber optic cables that we are talking about is going to equalise in a vibrant manner, in a profound manner, the access to goods and services and opportunities for the people of this country.

It is unthinkable that right now for a man living in Rupununi to tender for something that the National Tender Board puts out, but with this and the combination of law and technology, these will open opportunities. Therefore I keep saying, as the Hon. Minister said in the Budget Speech, that this whole issue of connectivity and E-Governance is about equalising, reducing the unevenness or inequalities in our society.

There are donkeys on the road fetching carts and things like that and they have "blinkers", I leave for you to conjecture for some on the other side. I do not want to say anything un-parliamentary.

The second issue is that we have been told in this Parliament, from time to time, that we are not upholding certain international obligations. We, in Guyana signed and ratified the Inter-American Convention against Corruption (IACC). There are only three countries in the CARICOM region which do not belong to the IACC. Guyana is one of the countries that have signed, ratified and is a member of the Expert Committee against Corruption of the Organisation of American States and all the countries that have ratified, sit on that body. Guyana's reports are up to date and have been congratulated at the MESICIC which is the Expert Committee's name – that we are one of the few countries in the Caribbean that have a specific comprehensive law on procurement, specifically. In some countries, I will not name them, but they are there, you can look at the website and you will find out, that there are actually Ministers signing tender arrangements and evaluations. Ministers are the ones doing the evaluations. **[*Interruption*]** I said that Ministers are evaluating and signing. Listen and you will hear and learn. If you do not want to hear you will not learn. You are just "hard ears" as always. **[Mrs. Backer:** You sound like a dray cart driver**]** I could become that too.

Barbados, for example, has not signed the Convention. In fact, a number of people are copying and borrowing our Procurement Act as a model piece of legislation for them to establish. I am proud as a Guyanese to know that when you go to the website on the National Procurement Tender Administration you will find the Minutes of the meetings dating back to 2007 to June 2010 that have so far been posted. If you do not want to read then that is your problem. The awards are all posted and the Audit Office of Guyana has a website where you can get access to all of the procedures. By the way, on the NPTAB website you have the standard bidding documents. This was a very important issue that was raised in the Convention Against Corruption for all the countries of this hemisphere which are part of the Organisation of American states (OAS) and have signed and ratified that Convention, including the United States and Canada, that we should work towards having standard biding documents. Guyana has those, already posted, available and accessible.

We have the website on the Guyana Revenue Authority. We talk about accessing information, but the accessed information, and may I remind the other side because there is a Member over there who is making a lot of noise who did not have a problem when, for ten years no audited reports were presented in this House; ten years! You come to us and talk about accountability and transparency. You could not find any of the records that this Government had to write off ten years of unaudited reports relating to this country. Nobody knows the billions of dollars that disappeared and went into whose pockets; nobody knows! Maybe a few people on that side might know.

The Hon. Member introduced the Public Procurement Commission issue and this has been an issue that keeps getting flagged around. Mr. Speaker, since you did not object and I did not object, I will then, for the public's sake, because the Public Procurement Commission (PPC) and the National Procurement Tender Administration Board are both provided for in the Procurement Act of 2003, highlight this. Mr. Murray knows this well, in fact, I think he sleeps with this Act under his pillow, but the way the Opposition puts over the issue of the Public Procurement Commission is as if we are doing something illegal. The Procurement Act provides for the National Procurement Tender Administration Board and for the Public Procurement Commission.

Secondly, the Hon. Member spoke about how they are appointed. He is not telling the public that it is the private sector that puts up names for this NPTAB and so does the public sector. The private sector puts up three persons to be part of the NPTAB.

I ask you to go to section 16:

"The Chairman is appointed by the Minister."

It is not all of them that are being appointed by the Minister.

Mr. Speaker, I appeal to you, under Section 17 of the Procurement Act deals very clearly with the PPC and the NPTAB. It says that once the PPC is not established and here are the rules of the NPTAB; when the PPC is established the way it is conveyed to the public by the Opposition is that the PPC will assume the responsibilities of the NPTAB. **[Mrs. Backer:** Who said so?**]** You must listen to yourselves. The PPC will take over the oversight responsibilities – they investigate. The NPTAB will continue to carry out the tendering process, evaluation and the awarding and therefore it is important to make this very clear in this House because the Opposition is famous for mixing up things.

Mr. Murray is concerned about the word "or" and we could have a discussion on English, but the issue is that in normal parlance you put an advertisement in the newspapers, you put it on the radio, or you put it here, or you put it there. All this Bill is trying to do is to allow and make legal posting tender opportunities on the website. That is what it does and therefore, obviously, if there is a regional tender and you have a regional tender board, it will be posted as prescribed in the Procurement Act in relation to the regional tender processes. If it is relating to the district tenders, it will go through those procedures and therefore this Bill is not touching the issues of the regional tendering process nor the district nor any of the community-based tendering procedures. It is dealing with what are the national issues – the national procurement. Therefore, the point that Mr. Murray is making that makes it appear as if this will discriminate against people who have not been using the internet and not being able to access it. It allows for a variety of interventions to allow for procurement. Certainly, if one were to make the argument, as Mr. Murray did, that using the website will make it difficult for persons who are not literate or computer oriented, he must also remember that the issues of criticism to do with newspapers has

been that many people do not buy newspapers, except on Sundays and therefore many people may miss the opportunities as well.

I must remind the Opposition that in 1992, after the elections, they said that this Government would not last six months and actually encouraged contractors not to bid, not to tender and then when the six months ended and the Government was still here they said "Okay, two years." After two years they stopped talking about it because we have been elected in 1992, 1997, 2001 and 2006. So we are coming again. What are you worried about?

The Hon. Member, I believe is "making a storm in a tea cup". This is a very simple amendment to bring and to allow Guyana to move in the technological way and advance in the information age. That is all that it is doing. If you read the Procurement Act, under Foreign Tenders – tenders that require foreign funding – we already have to post those on international websites so that this is now doing it for the whole of Guyana. It does not affect the kind of tenders, suppliers or interested persons and companies that Mr. Murray is afraid of. I believe that this is a forward move because we believe in E-Governance. If one were to do a study of the number of internet cafes in Guyana, and the number of ordinary people using internet cafes, whether in Lethem, Linden, Bartica, Georgetown or Berbice these numbers are huge of people who are going to use the internet. Guyana is making quantum leaps and therefore this simple amendment is to allow us to move in a certain area without anybody "crying wolf" and saying "you post it on websites and you have not legally provided for it." This is a simple amendment that it provides.

I just want to conclude by saying that we are building foundations, we are building systems and structures and frameworks to be able to modernise this country and to strengthen its democratic foundations as well as the oversight of accountability and transparency. These things do not happen overnight and I have mentioned the Inter-American Convention because at that level, no country is sanctioned. It is dealing with a process and recognises none of our countries. None! The United States comes under that view and you should hear the criticism that that country gets. All the countries are trying to improve step by step and we are all expected to show improvements.

I did forget to say because these people on the other side distracted me, but one of the recommendations to Guyana as to many countries in the second round of the Convention Against

Corruption Review in 2008 recommended to Guyana and all the Caribbean countries and most of the Latin American countries that we:

> "Strengthen and increase the scope of electronic forms of communication such as the internet for publicising tender opportunities, status of bids and awards and the progress and execution of major projects".

It also said:

> "Develop and implement electronic procurement systems so that acquisition of goods and services may be carried out through these means".

With this amendment to the Bill we are now in compliance with one of the recommendations of the Inter-American Convention against Corruption. Thank you. [Applause]

Mr. Ramjattan: Thank you very much, Mr. Speaker. The Hon. Ms. Gail Teixeira indicated that the Opposition is making, out of this which we are discussing, "a storm in a tea cup". I want to respond by stating that such a simple amendment, which to a certain extent has certain limitations, that they are making "a mountain out of a mole hill". At the last Budget debate that we had here in this Parliament, I repeated that Transparency International said that we are doing very badly in relation to their index. Out of 121 countries we are, or there about, at the bottom end at 116th. We had expected, as a result of that, lots more substantive issues coming here for purposes of enhancing the transparency of the tender process in this country because we had what is called the Public Procurement Commission that cannot get started after almost eight years. What we have here now, and almost one hour of Parliamentary time, giving it simply to the additional thing of; instead of newspapers, a website of free access and that is what we have – fifteen minutes of the Minister's opening remarks, another twenty minutes of the Hon. Member Ms. Gail Teixeira speaking on it.

3.15 p.m.

As she said we are "crying wolf", I want to say this is literally, if we have to describe what is happening here after making this a mountain out of a molehill, something that is very "foxish." It seeks now to give the impression that the Government is now doing a whole set of good for transparency when it is not. To simply put the information on the website of free access,

whatever the tenders are, is not anything that we want as we talked about in the Budget and which, in a sense, we were promised.

Let me tell you what we want. Why do you not put on that free access website the explanations as to why persons lose contracts and do a rationalisation as in the case of Amalia Falls, as to why that person won? That is transparency. With this amendment, the Government comes here to say: "Look, we are going to put out tenders, but instead of only putting it in the newspapers, we are going to put it on a website of free access."

Then the Government gets on with this business of talking for fifteen to twenty minutes as though it is such a magnificent amendment or transparency regime that we must be proud of. I want to say that all of that which has been said about transparency is just politicising and propagandising. We of the Alliance for Change are stating that in the absence of the Procurement Commission, it is very much needed not only for the tenders to be put out on this free website, but it must also be explained to the public at large and rationalised as to why it is that the contracts were not given to those who lost out and why it was given to those who won. The point system and how much the person would have done after that at the tender board level by ticking off – he has good engineers, we gave him ten points; he has good equipment, a further ten points; this other person here has no equipment. When it is ticked out like this, it will be certain, as in the case of Amalia Falls, that the contract would not have been awarded.

In addition to that, we have this beautiful law, a very well advanced legal regime in relation to procurement, but some of the functioning arms of this law are dysfunctional or non-operational. For example; a tribunal to appeal decisions, like the Public Procurement Commission, has not been established. If one wants to appeal the decision as to why he or she lost the contract, he or she cannot go anywhere. So there is no Public Procurement Commission, there is no Appellate Tribunal and now the Government comes and states all of this simply because they come with an amendment here: "Put it on the website." This is like an incremental development and evolution out of "Jurassic Park" and Government wants to give the impression that it is an evolution into some kind of major way and "getting there." This is not getting us there, Mr. Speaker.

I want to urge that we do not, in a sense, misrepresent the magnitude of this amendment. This amendment, if it had to go the way that the Hon. Minister of Finance wanted it to go after we

talked all about transparency international in the Budget debate, we have to go that length. That is what I am talking about – rationalising the decision. Let the tender board be like a judge and then put the information on the website.

I want not to be as long as Members on the Government's side and to close with this point. I agree very much with the Hon. Member Mr. Winston Murray, who is always very good on these issues of finance. However, I wish to tell him that under the General Clauses and Interpretations Act, the words "and/even" means "or". That is why I propose that instead of the word "or" being changed to the word "and", it be changed to the phrase "together with" because that is largely how you do away with it to ensure that there is addition. We do that in relation to our criminal laws. In our penalty section we say, "A fine of $100,000 together with imprisonment for six months." I speak here as a lawyer who has some capacity although the Hon. Attorney General would never endorse that. With those points, I wish to say that this is more than "crying wolf", this is more like a "fox" than anything else. [Applause]

Minister within the Ministry of Finance [Ms. Webster]: Mr. Speaker, I rise today to lend my support to the Procurement Amendment Bill 2010. This Bill seeks to amend the Procurement Act 2003. It can be seen as another initiative whereby our Government continues to work towards the attainment of procurement reform goals, with emphasis being placed upon improved accountability, transparency and efficiency in accordance with Government's procurement strategy and, in a wider context, aimed at achieving objectives set towards E-Governance, in the not too distant future.

In the context of this Bill, an electronic procurement system allows for the entire procurement process to be completed electronically - from sourcing to purchasing - and Government procurement opportunities to be displayed on a website of free access. The benefits are quite significant and will transcend beyond limits of all sectors in the public procurement system. Through improved information management and transparency, it will position the public procurement system to benefit from the improved fibre optic technologies now available here in Guyana. It would also result in reduced paperwork, thereby allowing for an increased pace of project implementation, facilitate electronic documentation such as archiving and filing, improve the visibility and accountability of our Budget managers, reduce transaction costs and improve

supply chain management. It would also allow for the increased use of framework contracts for routine purchases.

This is a step towards the achievement of our objectives of E-Procurement as our Government seeks to further enhance the transparency of our system and moves towards the automation of paper transactions. Through this process there will be the posting on the website of all pertinent procurement documentation such as the Standard Bidding Documents which have been recently revised, procedures, annual Budgets, advertisements, bid proposal documents which, overall, will facilitate greater access and enable interested companies, individuals, contracting firms and the public at large, to download these documents. Even the details regarding the award of contracts will be disseminated through this medium along with other information pertinent to the public procurement process.

The foundation has been laid. The information technology sector in our country is now moving apace with the improved fibre optic technologies available and this has enabled an environment to support initiatives such as this. Since 2003 when our Procurement Act, the first of its kind in the Caribbean, came into effect and which provided for the establishment of the National Procurement and Tender Administration Board and the Secretariat, our Government has undertaken a number of procurement reforms aimed at supporting E-Procurement.

In 2006, the National Procurement and Tender Administration Board developed Standard Bidding Documents in accordance with international best practices. In 2007, Guyana completed a procurement system assessment with support from the Organisation for Economic Corporation and Development (OECD), the World Bank and the Inter-American Development Bank.

We must recognise where we were and acknowledge in this regard our achievement over the past years, which include the advancement of E-Tendering through the upgrading of the National Procurement and Tender Administration Board's website. In fact, a new website will be launched shortly. We should also acknowledge the ongoing process of training and building capacity of our public officers in the knowledge of the procurement law and other procurement best practices, which is critical. The development of three procurement manuals which are the standard evaluation criteria guidelines which are used by evaluators assessing contracts, a public procurement handbook for procurement officials and a tender board manual which is used by

members of the respective tender boards. In fact, the standard evaluation criteria as referred to earlier, clearly outlines the points system used in determining the outcome of awards. In addition, eleven revised standard bidding documents were developed in 2009.

The immediate benefits of this amendment will result in reduced transaction costs for bidders who may no longer need to purchase documents or the provision of additional information as it relates to instruction to bidders and engineer's estimates being accessible on the website at the time of advertisement. It will also enable web posting and will allow for wider access to a wider cross section of Guyanese populace, thus enabling potential bidders to judge and ascertain their own suitability and capabilities to undertake a specific project.

The People's Progressive Party Civic Government has been moving towards E-Procurement over the past five years and this has been an ongoing process which cannot be completed overnight, but can be described as on ongoing one. Mr. Speaker It is with these comments that I commend this Bill to the House as we continue to work together to improve the procurement process throughout our country and to facilitate a competitive and enabling environment. [Applause]

Dr. Singh (replying): Mr. Speaker, permit me to thank my colleagues on both sides of the House for their contributions to the debate on the Procurement (Amendment) Bill 2010. Permit me, in particular, to say that I wish to thank my colleague, the Hon. Minister within the Ministry of Finance, Minister Webster for sharing with this House details on the several initiatives that have been implemented by our Government as it relates to… [**Mrs. Backer:** It is not a motion it is a Bill, he cannot speak again on the Bill.]

Mr. Speaker: Hon. Member, if you have an objection, it is better if you stand and state it rather than disturbing Dr. Singh.

Dr. Singh: Mr. Speaker, as I was saying, permit me, in particular, to thank my colleague, the Hon. Minister within the Ministry of Finance, Minister Webster for sharing with this House details on the several initiatives that have been implemented by our Government to strengthen procurement systems over the years – efforts made and initiatives implemented by this Government to strengthen the public procurement system of our country. Often our colleagues on the other side of the House want to offer anecdotal, arbitrary and, often, unsubstantiated

allegations and cast aspersions on our public procurement systems without any shred or modicum of evidence and criticisms that are not grounded in facts.

We accept that the Public Procurement Commission has not been appointed. That is not news. I would say that one could scarcely argue with the desirability of the objective of that Commission be appointed. However, I made the point in my presentation earlier on this Bill that notwithstanding that the Commission has not been appointed we have not hesitated to implement the strongest possible systems to ensure that there is openness and transparency in our public procurement process. I am glad that Minister Webster spent some time speaking about it and sharing the details of the initiatives that we have implemented.

Permit me to say also that I was pleased to hear that the proposed amendment was in general welcomed, except the observation made by the Hon. Members Mr. Murray and Mr. Ramjattan as it relates to the word "or" versus the word "and" which I have noted. Let me say that the Bill as it currently exists presents options for publications. It speaks of alternatives, it speaks of publication in newspapers, where appropriate, it speaks of publication in international publications and where appropriate, it speaks of being posted in a public place. This Bill seeks to introduce another alternative or additional option for publication, that is, on a website. There will be circumstances when publication posting in a public place will be the most appropriate means and that is what we will use. For example, procurement as it relates to hard to reach or remote areas where access to internet and newspapers, might be difficult or not be enjoyed by everybody living in that area in a timely fashion. What this Bill seeks to do is very simple. It seeks to provide for another option as it relates to avenues and outlets for publication.

Let me also say that the Hon. Member Mr. Ramjattan spoke of a mountain being made out of a molehill and I suspect it is a reflex action on his part to be critical. Through you, Mr. Speaker, I urge Mr. Ramjattan to recall that I explicitly said – almost verbatim - that I believe this is an important step even if a modest step, I believe that those were the words I used – "even if a modest step, an important step in the further modernisation of our procurement system." That was said very clearly, but Mr. Ramjattan, obviously, either did not hear that point, or he conveniently chose to ignore it.

I believe that the arguments have been made, the Bill recommends itself in its merits, and it is my honour to move that the Procurement (Amendment) Bill 2010 be read a second time.

Question put, and agreed to.

Bill read a second time.

Assembly in Committee.

Bill considered and approved.

Assembly resumed.

Bill reported without amendments, read the third time and passed.

NEW BUILDING SOCIETY (AMENDMENT) BILL 2010 – Bill No. 7/2010

A Bill intituled:

"An Act to amend the New Building Society Act" [*The Minister of Finance*]

Minister of Finance [Dr. Singh]: Over the last eighteen to twenty-four months, the world has been transfixed by a global economic and financial crisis of unprecedented and historic proportions. Whereas, financial matters might have previously been followed closely only by persons who might be peculiarly interested in certain matters, we have seen how the popular and public consciousness has been seized by matters relating to this crisis. We simply have to cast our minds back, maybe eighteen months ago to the start of this period to which I referred, to recall that terminologies such as "credit crunch" became commonplace and suddenly persons who had previously paid scant attention to financial matters, became *au fait* and concerned with matters relating to the financial markets, institutions and performance of these institutions. For example, we saw spectacular difficulties being experienced by some of the world's largest, oldest and, some might argue, most reputable financial houses in the main financial capitals of the world. Indeed, names that had become almost sacrosanct, institutions that were seen as almost impenetrable and the hallmark of sound management practices, came under financial stress and experienced liquidity crises, were unable to lend any further and in some cases, were unable to return deposits and eventually encountered a crashing collapse.

As I indicated, this was experienced, interestingly, not in the first instance in small developing countries with young, regulatory frameworks, but actually occurred and had its genesis in some of the most sophisticated and, arguably, some of the most well regulated financial capitals of the world. One could scarcely argue that the financial markets of the United States and the United Kingdom were lacking with respect to the sophistication and complexity of their regulatory frameworks. Notwithstanding that, the crisis proved to teach us important lessons about those regulatory frameworks and proved to identify to us important gaps as they related to those frameworks.

We in Guyana, happily, were spared the direct brunt of that global financial crisis and, indeed, with one isolated example, all of our financial institutions continued to display striking strength and stability and continued to operate throughout the difficulties that were encountered in these larger jurisdictions and even, in some instances, within the region. Their continued operation is reflective of sound practice and good financial health. I do not believe that there is any who would believe that this happened by accident. I do not believe that the continued health, strength and stability of our financial system and that of the financial institutions within that system happened by accident. In fact, over the years we have consistently exerted as a Government, tremendous effort to ensure that the regulatory framework as it relates to the financial system is modernised in a manner that is reflective of and consistent with our realities. We have put in place strong prudential guidelines, and ensured that those are enforced and that our institutions remain strong. At the same time, I believe that it goes without saying that our licensed financial institutions responding to this regulatory framework that we put in place, have continued to be well managed and well governed by their respective Boards of Directors and management. In referring to this legislative framework, I speak here of Acts such as the Bank of Guyana Act. We now have in place a modern and strong Bank of Guyana Act that allows for the existence of a strong central bank and the discharge of central banking functions in an optimal manner.

3.45 p.m.

I speak here of a Modern Financial Institutions Act that itself has, of course, been subject to amendment over the years to ensure that it remains robust and relevant. I speak of the various prudential and other guidelines that have been issued by the Central Bank over the years to

ensure that the financial institutions that fall under that Act and fall under the supervision of the Bank of Guyana remain strong and healthy and that depositors' interest are protected.

I speak of legislation that we have recently enacted: a modern Anti Money Laundering and Countering the Financing of Terrorism Act passed by this House last year. Also a Money Transfer Agency Licensing Act that was passed by this House late last year. Earlier this year the Credit Reporting Act was passed. These are a few examples of steps taken to ensure that we have a modern, relevant and robust regulatory framework. What has been the result? The result has been that if one were to peruse any of the key prudential indicators, any of the key ratios, to evaluate the strength of our financial institutions one would see a striking result. For example the average capital adequacy ratio at the end of June 2010 was 18.8%; a comfortable 10.8% above the minimum required eight percent. All of the licensed depository financial institutions remained above the requirements.

Total assets amounted to $272.6B; a six per cent rise over the end of 2009 levels. We would all recall a time when one might have described excess liquidity as a burden. I recall, for example, myself being told that our financial system had surplus liquidity and this being characterised in a manner that was somewhat unfavourable. We have all, having experienced the global financial crisis, come to view liquidity and the retention of a liquidity reserve as an extremely important characteristic of our financial system. Non-performing loans have continued to decrease, for example, we have seen at the end of June 2010 non-performing loans of licensed financial institutions amounted to five percent of total loans compared to 9% at the end of June the previous year. Interest income remains strong. Return on assets remains strong and as I indicated licensed depository financial institution remain highly liquid surpassing the statutory requirements significantly.

I believe, therefore, that it is an inescapable conclusion that the legislative framework and the regulatory and supervisory framework that we have put in place has served us well in preserving and protecting the integrity and strength of our financial system. And importantly we have learnt lessons. We have had the experience with Colonial Life Insurance Company (CLICO) as a result of which we have made certain changes including legislative changes. The Bill currently before us, the New Building Society (Amendment) 2010, represents yet another step in this regard, yet another step aimed at ensuring that our financial system remains strong and well regulated. That

is not to say that the New Building Society is not a strong institution or that it is not well managed. In fact, we have witnessed the manner in which this institution has grown, has remained profitable and importantly has contributed so significantly to not only access to financial services, often to persons who might not otherwise enjoy such access, but in particular how it has contributed to our national housing programme. In fact, today tens of thousands of persons enjoy the luxury of being the owners of their own home, literally because of institutions like the NBS, and the NBS has been a large contributor to this though of course not the sole contributor because other financial institutions also lend for housing purposes - has been an important part of this process and has literally brought financial services and financing to persons so that they can buy and own or construct and own their own homes. One has merely to visit areas such as Diamond or Grove, which just a few years ago were mere cane fields, today literally tens of thousands of house lots are owned there and homes continue to be built everyday by Guyanese people including thousands of young Guyanese person who just a few years ago would not have been able to own homes. I hasten to add that this Bill seeks to bring the NBS under the supervision of the Bank of Guyana and in that regard is an important next step in ensuring the universality of the coverage of our financial sector supervision arrangements. I emphasise, as I did earlier, that it does not suggest that the NBS is not a strong institution. On the contrary it is.

We believe that this Bill will ensure that in going forward the NBS is subject to the standard supervision methodologies that are applied by the Central Bank. We believe this will contribute to stronger management of the institution and enhance the strength that it already currently enjoys. I believe that it is widely known that the objective of bringing the NBS under the supervision of the Bank of Guyana is already widely embraced. In fact, we would have witnessed much advocacy of this over the years, so the Bill in a manner of speaking delivers on this undertaking. It would be recalled that the intention to bring this Bill to Parliament was signalled in my Budget speech for 2010 and we now have the Bill before us. Mr. Speaker, with those words it is my pleasure to commend the Bill to this Hon. House and I trust that it will enjoy as wide support as it possibly can. I thank you very much. [Applause]

Mr. Murray: Mr. Speaker, let me straight away say that, indeed as observed by the Hon. Minister, for some time now there has been a call to bring the New Building Society within the

framework of the Financial Institutions Act. It should be clear therefore that in so far as that aspect of this matter goes the Peoples National Congress Reform 1Guyana supports that action.

I think it will be useful to spend a few minutes to put this Bill in the special class to which it belongs. It belongs to that class of Acts of Parliament which includes institutions such as friendly societies, insurance companies and building societies in particular. We know that the origins of these Acts lay in the fact that they were brought to the National Assembly and approved as Private Members Bills. That is why you would see on the Order Paper, that item which is being carried forward for some time now; Hon. Member Mr. Ramotar listed to bring a petition on behalf of the Guyana and Trinidad Mutual Fire Insurance Company. When this Act was being debated back in 1940, just to contextualise the remark I made earlier, this is what the Hansard records in part, words spoken by the then Attorney General:

> "This Bill is a Private Bill not a Government Bill. It is a Bill in which the promoters have satisfied all the requirements of a Private Bill and on their behalf I am now bringing it before the council."

And later he says again:

> "The shareholders of the society at a meeting agreed, by a majority, to the provisions which have been incorporated into this Bill."

I give that background because it is my, respectful view, that these amendments brought to us today can be divided into two parts. For me, there is obviously a public interest aspect and that aspect has to do with bringing this society within the framework of the Financial Institutions Act. That is in the National Interest; therefore one can understand that, that is brought by the Government directly to address that aspect of the matter. There are, however, at least two aspects of the Bill before us which to my mind highlight the fact that certain aspects of the society's business require the approval of shareholders in making those changes. I did not hear the Minister say, in his presentation, that he has been approached by shareholders on those aspects, and I will highlight them, and what he therefore brings today is a reflection of the wishes and desires of the shareholders of the society.

The two particular amendments that, in my respectful view, are of high relevance in that regard are, first of all, clause 10 of the amendments. This clause deletes the word "or of 50 Members whichever is less..." Let me tell you what section 12 of the Principal Act provides for. Section 12 (2) of the principal says: "that the Board shall on the requisition of at least one tenth of the whole number of the members of the society or of 50 members whichever is less forthwith proceed to convene a special general meeting of the society." There could be a hundred and one reasons why members of the society could be concerned about some aspect of the society's business. What this Bill seeks to do, this is the Government moving it without making it clear to us, that this is a desire on the part of the shareholders of this organisation, is to remove "or of 50 members" so that what it does, it withdraws a very important aspect of the workings of the society which will allow a minimum of 50 members to call for a special General Meeting. In my respectful view and in the respectful view of the PNCR-1G, there has been no explanation provided by the Hon. Minister to the effect that this which does not have anything to do with the Financial Institutions Act but has to do with how members will organise their society and how they function... there is nothing in anything that the Minister has said to us today that points to fact that this is a request by the members of the society. In fact, I am aware that 50 members of the society, or some greater number I have not counted them, have since this law is still in existence made a request for a Special General Meeting of the society. Because it is their view that this is a matter which should be discussed at a General Meeting of the society and a decision taken by that General Meeting as to whether this is something that is desirable. I am aware that they requested a postponement on the debate on this Bill so that having requisitioned this meeting provided for in section 12 of the Act they would be allowed an opportunity, first, to interact within the society...

Mr. Speaker: Could you stop at a convenient point Mr. Murray?

Mr. Murray: Yes Sir, I would stop right now.

Assembly suspended at 4.03 p.m.

Assembly resumed at 5.00 p.m.

Mr. Murray: Mr. Speaker, when we took the break I was pointing out that I thought clause 12 of the proposed amendment was going to abrogate, not quite abrogate but abridge in a serious

way the ability of members of a certain minimum number to call for a special general meeting. I felt that that required an input from the membership of the society, and there has not been any indication by the Hon. Minister that such was the case.

In the same section 12 sub-sections 4, the current law provides that "if the Board neglects within 21 days from the date of the requisition to call the meeting then any four or more members may themselves convene the meeting. Any meeting so convened shall not be held until after three months from the date of the deposit." They are proposing, here among the amendments, changing the number from 21 to 42 doubling the time that the Board has to respond positively by way of the holding of a meeting. Again this, to me, is the business of the society and should come as a request from the society to have this amendment made. There has been nothing forthcoming from the Hon. Minister that indicates that he has had this made at the request of the membership of the Society.

As though that was not enough, in terms of abrogating or curtailing rights, section 19 of the Act as being proposed for amendment by clause 14 of the amendments proposed is being repealed. section 19 of the Act is being repealed. Section 19 says that "the Minister may if he thinks fit on the application of not less than one tenth of the whole number of the society or of 100 members whichever is less, either appoint an accountant or actuary to inspect the books of the society or to report thereon or appoint an inspector to examine into and report on the affairs of the Society. This alters, in a very fundamental way the ability of members to call for an inspection of the books of the society and again it would be my respectful submission that this is a matter which should come from the Society given the nature of the Act out of which it was born and its kinship with insurance companies and friendly societies which come by way of a petition through a member on the basis of a Private Member's Bill. Again, it is our respectful view and submission that this is a matter which should be represented from the membership of the Society as something which they wish to have done.

I was also saying before the break that I am aware that a requisition for a meeting has been made by the requisite number if members - 50, and, I believe, before we move further with these amendments in the interest of transparency, in the interest of good governance and at a time when the world is moving increasingly in the direction of liberalising these matters so individuals can have a greater say in the affairs and the running and managing of their

organisations, in all of that contexts I believe there is nothing to lose were the Government to agree to defer this Bill to allow for the membership of the society to deal with those matters which are of interest to them and to come through the normal channels for requesting and obtaining amendments to request the Government to make such amendments as they the members of the society wish. In the alternative because it is my understanding, and I am subject to correction that a request for a deferral of the second reading of this Bill was made to the Hon. Minister and that he was not willing to defer the second reading of the Bill was made to the Hon. Minister and that he has said that he is not willing to defer the second reading of the bill for today. I respectfully ask that the Hon. Minister revisits that decision, perhaps my understanding is accurate, and reconsider allowing a deferral of this Bill to allow in the interest of transparency, accountability, good governance and all the other things involved in ensuring that members' rights are protected and respected. I do not see that there is anything to lose by such a deferral. In the alternative I would, respectful suggest that this Bill be sent to a Special Select Committee because we are aware that under that mechanism opportunities are provided that will allow interested and relevant stakeholders to come to the Committee and express their views. It is quite possible that borne out of such interaction, we of the PNCR-1G could be persuaded that the amendments proposed are in order and therefore could at the appropriate time support them. We would urge that one of those two approaches be adopted.

The last thing I wish to say in respect of this Bill has to do with the public interest aspect of it. There is an amendment being proposed at the very end, in clause 20(1). The Minister has talked, at some length, about the strength and stability of the financial system, I have expressed this view publicly that I agree that our financial system is strong and stable but it is something that we always have to be mindful of. As we bring the New Building Society within the framework of the Financial Institutions Act, I am a little surprised if not taken aback by the proposed amendment in clause 20(2). First let me deal with clause 20 as a whole. Clause 20 in the proposed amendments really contains the essence of the public interest aspect of the Bill. It talks about interpreting the Financial Institutions Act in a way that would make the New Building Society Act consistent with the framework of the Financial Institutions Act of 1995, but then it goes on to make what I believe is a fundamentally wrong exception. It says in clause 20(2) "...notwithstanding the provisions of sub-section 1..." which I have just read "...the Society shall benefit from the exclusion of taxes on earnings, waiver of licensing fees and reserve

requirements." The last one shocks me because we know that very often if there is a run on a financial institution or an attempt of a run on a financial institution the reserve requirements are critical in coming to the aid of that institution and very often is a last resort of some substance to ensure that shareholders and depositors do not suffer complete loss. I believe it would be wrong in the framework of the Financial Institutions Act to exempt the new building society from the reserve requirements that other financial institutions are subject to. I believe such requirements are fundamentally necessary. They serve a very useful purpose and indeed as I said could in the final analysis act as a safeguard against run.

5.12 p.m.

I really do not understand the exclusion of taxes on earnings to the extent that the financial institutions which fall within the Financial Institutions Act (FIA) are not so exempt, or to put it differently, whatever is the regime that obtains for financial institutions that currently fall within the purview of the Financial Institutions Act, then that is the same regime that should be applied to the New Building Society when it falls within the framework of the Financial Institutions Act. I know that for purposes of lending and housing, to facilitate low interest rate mortgages, that the income earned from those is exempt from tax, but that, I believe, extends beyond the New Building Society but extends to Banks that currently engage in such lending as well. What I am saying is there should be an across-the-board application of the relevant provisions having to do with taxes, earnings, licencing fees and reserve requirements.

Sir, that is what I would like to say, and as I take my seat I want, once again, to appeal to the Hon. Minister to reconsider going further with the Bill, thus allowing the New Building Society's membership to pursue the course of action upon which they have embarked, so that at the end of the day what we have is the will of the members of the Society being expressed through whatever legal mechanism we will adopt for the benefit of that Society. Or, as an alternative, that the matter be sent to a select committee so that those aspects could engage relevant stakeholders with a view to having them resolved before we take this Bill further. Thank you very much, Mr. Speaker. [Applause]

Minister of Labour [Mr. Nadir]: Mr. Speaker, I rise in support of the second reading of the New Building Society (Amendment) Bill that is before the House. In his opening comments the

Minister of Finance mentioned that the soundness of our financial system today is as a result of the pressures that Government exerted for strong and prudential management of financial institutions, the oversight of these institutions and, also among those he mentioned, the number of legislations we have passed to ensure that our financial system remains very sound.

Mr. Speaker, I want to add that the architecture of our financial services sector has undergone enormous changes: from one which was almost totally state-owned, in the early 1990s, to one which is almost totally privatised today. In so doing, there had to be strong regulations and legislations to ensure that there are proper regulations of the financial sector. So, this foundation has been built on the premise of the private sector running the financial services area and the State exerting a tremendous amount of supervision and regulation of financial institutions. So concomitant with privitisation passed in 1995 was the Financial Institutions Act – not by accident. If you look at the Financial Institutions Act you will see in March, 1995 the late president Dr. Jagan assented to that particular piece of legislation.

When one looks at what has happened since 1995 the FIA governed the operations of banks through the Bank of Guyana. At that time that particular Act included a transitional arrangement where these banks had up to four years – the Minister of Finance can correct me if I got the period wrong - to ensure that the banks bring themselves in line with the provisions of the Financial Institutions Act.

In 2003/2004 our financial services had a signal challenge. That signal challenge also loomed large as a threat to this particular sector. Here I am speaking about what happened at Globe Trust. I am not raising Globe Trust because we want to throw stones at anyone. What happened in response to Globe Trust was an amendment to the Financial Institutions Act 2004. That amendment was significant and also put greater handiwork on this architecture that has been planned. In that 2004 legislation it spoke to financial institutions not lending to acquire shares in the same institution, it spoke to penalties for mismanagement, it also brought certain additional responsibilities for supervision by the Bank of Guyana. This is important because it shows how the Government has been responding to threats to the financial sector, not only by actions but, by ensuring that legislation is in place to govern the way we act and to ensure that those who act outside of the norms of doing good, prudent and honest business will face consequences.

Mr. Speaker, we know that – and the Minister of Finance mentioned it - there was this global financial crisis that started with the speculation with paper money. The insurance companies were integral in this new business of trading paper, and future incomes that were on paper. We were not isolated from what happened to the insurance sector. CLICO then also came under scrutiny. And last year, in response to this, amendments were made to ensure that insurance companies now fall under the supervision of the Bank of Guyana. It is important that whether a deposit is made in a recognised commercial bank, one that everyone recognises and does business with, or a financial institution like Globe Trust or CLICO, it is hard earned workers income that is at stake. Money did not fall out of the skies. Since the days of Moses manna did not fall, so it is hard earned income of people that has been deposited, invested… [***Interruption***] …I know when the last time was; I cannot tell you before.

For me, in supporting this motion, whether it has public interest or private shareholders interest, at the end of the day it is hard earned workers income that this State has a responsibility to protect.

It is not just today that there have been calls for changes to the New Building Society Act. In fact, what the Minister of Finance pledged in the Budget Speech was as a result of considerable engagement with shareholders and the management of the institution; thus he promised this piece of legislation.

It is very important that this Bill be passed. As it stands right now, if we have to have the intervention of the Bank of Guyana it has to come through a request from the management, some of the shareholders and through the Minister of Finance. In fact by making these amendments the Minister of Finance is giving up, he is surrendering, a significant amount of the control he has over the monitoring of the New Building Society. This is true. The particular legislation that exists today, which governs the New Building Society, calls for shareholders to make an appeal to the Minister of Finance, and then for him to make an order so that the Bank of Guyana can do inspections either offline or online.

In fact, the Minister of Finance has made such orders in 2003, 2007 I think, and 2009. But now, with these amendments, it is going to become part of the responsibility of the Bank of Guyana to do these inspections as part of the routine in their daily activities. It will become a part of their

routine. Had we continued the way of special orders by the Minister of Finance, had we continued with the Minister of Finance having to intervene on special request, what could have happened - the jeopardy we could face - is that we may find irregularities long after they occurred, as in the case of Globe Trust. So I find this provision of putting this New Building Society under the supervision of the Bank of Guyana most desirable. [***Interruption***] I can give you five minutes of your time if you want the floor again.

Mr. Speaker, I think this is very significant. I have had the opportunity of being with the Minister of Finance when management and shareholders had spoken to him about these changes. The previous speaker condemned part of these amendments because we have removed ten per cent or fifty persons – the amendment that is being made. In 1940 when this particular piece of legislation was tabled in the National Assembly, (I will challenge anyone to tell me that 10 per cent of the shareholders were fifty). Today the New Building Society has over one hundred thousand shareholders. If we retain fifty we are speaking of .05%. Some people call this responding to the bullying minority. I say it is responding to the vocal minority. I know one particular party is accustomed to supporting minority rule over the majority. But we have to also look at democratisation. I can't see we would want, in this day and age, to insist that a minority - and not only a minority but a minuscule minority, as the Hon. man of words, the Attorney General, would say - will have such immense powers. No one is taking away the right of any shareholder to act.

In fact, the litmus test, would have been, if in our amendments when we changed to 21 days for the New Building Society instead of the 42, if we had changed and if the society does not act four persons out of that 10 percent could call a meeting, we were making it better for it better as we are.

We have been turning a blind eye to the realities at the New Building Society. Since the days when it was first established by legislation in the Council, the New Building Society's operations have moved away a bit from what was intended. I know there is one accountant/attorney/commentator that has spoken about our challenges to the two-third provision in the Society with respect to technical working capital or the capital base. There was a period when the New Building Society largely only accepted deposits and issued very little loans/mortgages. It is a bit different today. I think the Minister of Housing is most happy that the

New Building Society still exists and provides for ordinary people, especially workers and their families, an opportunity to acquire a home because of affordable rates of lending. It is important that in spite of them having over one hundred thousand shareholders that the Government moves now.

The New Building Society is an important pillar in the foundation of our financial sector. Today it has assets of over $40 billion. I think it might be the third largest institution that offers financial services - I do not want to call it a financial institution as yet - in our country. It is the third or fourth largest which cannot be ignored from supervision. I think the mortgage base of the New Building Society – Minister Ali can correct me – is over $21 billion, all workers money. So in spite of the concerns shared by Mr. Murray with respect to the interest of the shareholders, sometimes we have to call a spade a spade. Mrs. Nadir has a few thousand dollars, is she really a strong shareholder in the New Building Society? Are we really issued shares when we talk about shares? One cannot withdraw money if one buys shares. One has to sell them on the market; one cannot withdraw them. The shares would earn dividends. Someone's deposit, that is called shares in the New Building Society, will earn interest. So we have some technicalities but have turned a blind eye. Today, because of the good work the New Building Society has been doing - in terms of leading in lending in the housing sector, in terms of helping with infrastructure development in Guyana - and the growth in this particular institution, demand that it becomes a licensed financial institution.

Mr. Speaker, it is an honour for me to support this significant change in the legislation, tabled by these amendments to the Bill, laid by the Hon. Minister. Thank you very much. [Applause]

Mr. Ramjattan: Mr. Speaker, let me at the inception indicate again, like in the Procurement Bill debate, I fully concur with the remarks made by the Hon. Member Winston Murray in relation to the points made on those provisions he dealt with. I wish, however, to state that since this is but an enhancing of the governance regime of a very important financial institution - I will call it a financial institution because it provides, as the Hon Member just mentioned, over $21 billion in mortgages over the years, and with such a mortgage base like that it must be regarded as something very positive for this country – it necessarily means then that we must go directly to those persons who actually are the shareholders to seek their approval or disapproval with the amendments and then come here. This is exactly what we have in relation to the petition on

behalf of the Guyana and Trinidad Mutual (GTM) Fire Insurance Company Limited which is not being proceeded with at this sitting but that Hon. M.P. Mr. Donald Ramotar has proposed bringing here. Again, for the NBS, as the history of it was just related, a private piece of legislation brought its establishment into being, since 1940. There is a procedure in almost identical terms in relation to GTM being brought here by Hon. Member Ramotar, and suddenly what is applicable and is a precedent for GTM is not a fit precedent for the New Building Society.

It seems that because of certain differences, one of which it would appear now is that the Government is thinking they have proprietary interest over NBS, so they can come here without reference as to the thinking and thoughts of the shareholders of NBS to make these kinds of amendments – some of which are very positive but others not that positive. On that score I was asked by several members of the New Building Society Ltd from across the country to seek a deferral of this debate so that they, 'the members', can adequately consult among themselves and consult the board members to understand the ramifications and implications of these amendments and to make a determination as to whether they approve or not so they can share that with the legislators. To that extent, a few days ago, I sent a letter seeking that deferral to the Hon. Minister. The Minister, of course, read my letter as he said, and indicated, that he did not see the need for any deferral for that consultative process.

Well, we know article 13 of the Constitution states quite clearly that this whole process, especially when it pertains to stakeholders we must consult. Even in the preamble to the Constitution, which obviously we are not living in this example, it is stated that we must:

> "Forge a system of governance that promotes concerted effort and broad based participation in national decision making in order to develop a viable economy and harmonious community based democratic values and social justice and fundamental human rights, and the rule of law."

Article 13 states:

> "The principal objective of…" our system…

> "…is to establish an inclusionary democracy by providing increasing opportunities for the participation of citizens, and their organisations in the management and decision-making processes of the State…" whenever it deals with their well-being.

Additionally, Article 39, which must have a conjoint operation with Article 13, states in view of the principle in Article 13:

> "It is the duty of Parliament… to be guided in the discharge of its functions by the principles set out in this chapter…"

The one principle that I just mentioned includes inclusionary democracy I talked about in Article 13. We have the preamble, article 13 and article 39 saying that we, the legislators of this land, ought to consult before we make decisions that affect the well-being of our citizens. Narrowing it down, the shareholders are the stakeholders in NBS. The shareholders are pleading, "let us be consulted as to the implications and consequences of this amendment". I remember a long time ago, two or three decades ago, the same thing… that party over there was quarrelling when the trade union… [***Interruption***] ...The People's Progressive Party when in opposition in those days was indicating that indeed before you bring certain amendments to the Trade Union Recognition Bill consult the Trade Union Movement because they are the stakeholders. As a matter of fact because of that non-consultation, the Court Of Appeal ruled that it was a breach of article 13 as it was then. Why are we not - to forge this governance that we proudly proclaim in our preamble to the Constitution that we proudly want to see realised so we fixed it into Article 13 - giving way to those members asking for a consultative process in these amendments? Why not? This is but an abuse of those prescriptions and precepts we put into the Constitution but don't want to live by. It is not as if the government of the day or the NBS is going to be so fundamentally prejudiced to the extent that NBS is going to collapse tomorrow if the consultative process is not gone into.

Take for example the haste with which this was brought. Last week it was laid in the National Assembly and this week is the second reading. Why the haste and swiftness of approach here? I am stating, Mr. Speaker, that that is not the way to forge the good governance we talk about.

Although the Alliance for Change supports a majority of provisions wholeheartedly there are provisions here that are obviously a derogation of good governance.

Take for example the provision dealing with the argument just made – if I may just rebut that argument. Yes, indeed, in 1940 there might not have been so many shareholders so that fifty was a good number to work with. But for transparency sake - and since there was a lot of talk about the procurement that we should put contracts on the website.

5.42 p.m.

We have, for NBS, absolutely no register available. When they say 10% now, how do we know what 10% is of, whether 70,000? Is that the transparency we are talking about? You make a number; you delete the "50" which is more specific and you then put 10% of a number which we will never know. Assuming that you now go and get 800 or 900 people wanting a special meeting, you could easily say as board members who do not want the scrutiny and probity of the 800 members that you fell short, because you have 80,000 you have to get 8,000 as 10%.

It does no good when you now simply create the conditionality now for not knowing what then is the number for calling a special meeting. 10% of what, so this is where I think largely on these couple of provisions I want to talk about, an outfoxing of the shareholders by stating in very broad vague terms a 10%, of what? What we don't have and that is dangerous.

We are getting the impression from the Government speakers that this is but all part and parcel of an oversight to our finances.

Rule of thumb, the Alliance for Change regards legislation that comes in this hidden fashion with some suspicion. It would appear that because is the NBS is such a tremendously successful financial institution with a huge finance base that the Government is behaving like in the PNC days. Anything big, they want to nationalise. They want to take control of this thing. That is precisely why largely they are going to delete some of these provisions and put in like as happened with this one. It is again a dangerous thing to do by stating that we want an oversight.

When NBS was created and throughout the 60-70 years which it has been in existence, largely, finance regimes have evolved over that time. We can understand that. You must understand that the evolution of that financial regime does not necessarily mean that you must take away the

Minority Rights to the extent of fifty members or one hundred members wanting a special meeting so that you can probe and scrutinise. Has the Minister given a rationale as to why it is that 50 members calling a special meeting is a too-inordinately low number? He has not rationalised that. Fifty members knowing very well how institutions work in Guyana and how only a set of passionate persons who would like to see reform, and do not come in vast numbers, like 10% of 100,000, and come far and few, that it is indeed a good thing to have at least 50 or 100 members to call special meetings so that they can inform, scrutinise and probe. What is wrong with that?

When you have an amendment coming in this way, it obviously intends exactly as Mr. Nadir the Hon. Member said, that it appears that these fellows who he regarded as bullies... It is not bullies. Those persons are the ones who really enhance our democracy, when you can ask the relevant question. Now, to get that special meeting are going to have to get about one thousand people. You are not going to get it. So, that scrutiny and probity will not be forthcoming. That is but the sinister motive which I see in this Bill to deprive that institution from becoming more scrutinised by whom, some Minister here call bullies.

This kind of approach to good governance that we spout is a very bad development. We feel that indeed this is but an objectionable approach and an objectionable development in relation to the governance of the NBS. I want to concur specifically with the argument made, that the waiving of that reserve requirement, again, what I would regard as somewhat stealthily sneaked in with relation to Section 22. Reserve requirements as far as I understand it is necessary in relation to institutions that deal with such large sets of finances.

Though indeed it is an institution that lawyers will say: "sui generis" it is specialised; it does not necessary come under the category of a bank, but it has certain attributes and characteristics thereof. To waive that is very serious. We have seen what happened to CLICO. What is the use of having all these Instruments, Bills and Provisions when they are not worth the paper which they are on because of the non-enforcement? We had the CLICO debacle as a result of a breach. Fifteen percent must not be invested overseas or whatever it was. You have to have in reserve about 85% in the country and we have that in our regime and 85% or probably the whole 100% went to the Bahamas. What happened? That is the strength, they say. We had the laws. They had the laws. Then there was a certain CEO which just allowed the moneys to go, and thirty four or

thirty five million US dollars today has literally been lost. The other point I wish to make is that indeed we must enforce the laws. We can have the most advanced regime, but enforce it.

If you had a probing, scrutinising minority, even if it is 50 or 25, it helps. So, those board members that feel they have proprietary interest over all this money to the extent that they could put up that large fancy building which is going up... We know that our good Hon. Minister of Finance has been telling Mr. Giorgio Valentini that he is spending a lot of money, on all these fancy things, but they in NBS are putting a real fancy building. What is it if you did have that minority set of people who probe these institutions all the time? That is the democracy which I thought we all fought for. Not to exclude them now and say that they are bullies. Dissenting views are vital to a democracy. The whole legal and financial regime is made even more powerful when you have, what he calls, the bullies around. It is important, because what it creates is this dinosaur of total control. Control and they are going to exclude and we do not get any further with scrutiny, and that can be dangerous to the financial regime. I urge that this measure of wanting to deliver good governance be permitted... If now at this very late stage we cannot have a deferral, let it be sent to the select committee so that those members can bring their thinking as to what and what they would like to see so that we can live that which I quoted from the Constitution. [**Mr. Neendkumar:** Frustrate the Special Select Committee] It is not frustrating this National Assembly one bit. You cannot have constitutional precepts and not live them. It is so very vital.

I want to urge that when you have the deletion of so many of these Sections which were but there specifically for the existence of a society like this, notwithstanding that you have the Financial Institutions Act. These provisions there could have bolstered the regime. You do not make the simplistic argument, "oh, we have a new Bank of Guyana Act. We have a new Financial Institutions Act. We have a couple of Acts that came since 2000, and so we are going to restructure this NBS construct because it was since 1940" What was good in relation to 1940 about those scrutiny and probity is good today. So I urge my Hon. Minister of Finance that he does the correct thing and allow the members to have their say on this issue.

The other point I wish to make before I take my seat is that this Bill is but empowering and entrenching the board members. That is what it does, as against shareholders. That is what this Bill does. For those that do not know and who might want to heckle, that is exactly what it is

doing. It is narrowing down the power unto the board, entrenching the board rather than entrenching shareholders. That is not a good thing. We understand also from information that they abuse their proxies. That is again an important... [**Mr. Ramotar:** Who abused their proxies?] …All of them. You are going to shift, because the Minister is giving the impression that I do not want to have control, but the Minister is shifting the control straight back to the Bank of Guyana. That is alright. That is a good thing for certain provisions, but let also the shareholders like the Section 19 also have a say. Just as how you want to put the contracts in newspapers and also on a free website, let the Bank of Guyana have it, but also the shareholders under Section 19. Why are you repealing that? Let us have some *addition-ality*, as the Minister would say in relation to the Tender Board being publicised. Let us have some *addition-ality*. You do not want that, but you have them now coming to state that we do not want the control, and that we are going to give it to the Bank of Guyana. That is not true. That is the same thing we had in relation to the CLICO debacle. We had the then Hon. Minister of Finance, Mr. Jagdeo, arguing the case "we want a separate entity". Then, when the debacle happened, he transferred it over to the Bank of Guyana. Why did he have to do that – I do not know.

We are stating that it is an important part of the financial regime, and that in addition to all those strong provision that the Bank of Guyana has and the financial institution, the inherent strength of this bill that has been tested by time, seven decades, why now do you now want to delete scrutiny from shareholders; that number "50"? You have not rationalised that. You want obviously; rule of thumb, the presumption is that you want to exclude shareholders. You know the fact of life at NBS is not very many of the members go and probe and scrutinise, and that is dangerous.

I simply am urging that there does not give rise this new culture of a denial of minority rights. All the company law texts indicate that it is vital for a genuine company. Only recently I got a text from a friend that came in from England which talks about that; its company law and introduction to the Common Wealth and Caribbean by Rambarran Mangal. I recently met him. He is indicating that the strengths of companies is as development of minority rights being there to give them that constant hammering if that is what you want to call it. When it becomes like Enron, and only a couple board members start controlling things, you are going to get the financial collapses that they had. This is what I see happening here. They do not want the bullies

around. They only want the board members around. Who are the board members? The board members might very well be those who do the bullying, and then you shift it across to the Bank of Guyana. Who makes up the Bank of Guyana's board? One of their chief propagandist, Prem Nazir. I understand; and then you have Mr. Paul Bhim who is your boss now, Mr. Ramotar; and then you have Dr. Gobin Ganga. Is that not necessarily but a set of people that at any stage could literally be instructed by the Hon. Minister? I am stating that it is not good for our country, what is happening here, and for our regime of good governance you are doing nothing to advance and develop that. Thank you very much, Mr. Speaker. [Applause]

Minister of Housing and Water [Mr. Ali]: Thank you Mr. Speaker. Today we are looking at an amendment that allows us to ensure again that another one of our financial institution falls within the framework of industry best practise; within the framework of good financial governance and within the framework of the laws governing companies and the financial sector here in Guyana.

Indeed we have heard a lot from the Hon. Member Mr. Ramjattan who I think was more dancing to the gallery than looking at the facts in the amendment. Let me give you an example. Mr. Ramjattan said that this amendment would empower and entrench board members more than ever. Let us look at the amendment itself in section 11. If you look at section 11 you will see the existing provision states, and I quote:

> "The management of the business and affairs of the Society shall be vested in the board."

That is the existing provision. "The management of the business and affairs" is very wide and very broad. Let us look at what the amendment states. I quote:

> "The policies of the business and affairs of the society shall be vested in the board."

That is the change. How does this entrench more power and authority in the board? When we have arguments like these presented it shows porous nature and the vested interest that you are trying to bring to the debate. What this does in fact is that it allows NBS to adopt measure in keeping with good corporate governance and practices. That is the effect of this amendment. The effect of this amendment is to bring the governance of NBS through the board in line with proper

corporate ethics and governance practice. It has nothing to do with greater powers. As a matter of fact, it is a reduction of powers.

Mr. Ramjattan the Hon. Member spoke about the haste and swiftness by which we are coming with this amendment. We need to spend time in this Parliament if we are to represent our constituents in a meaningful way in reading documents and listening sometimes. Let me refer him to page 49 of the budget speech by the Hon. Dr. Ashni Singh, the Minister of Finance. I quote paragraph 4.132:

> "In 2010, implementation of the financial sector reform agenda will continue apace. It is expected that the Credit Reporting Bill will emerge from the Committee stage and return to the House for consideration. Legislation to bring the New Building Society Ltd. under the supervision of the Bank of Guyana has been prepared and will be reviewed."

Listen to the language, "has been prepared and will be reviewed". I challenge the Hon. Member Mr. Ramjattan and any other public commentator, since this speech was made, to produce evidences that they wrote the Minister of Finance asking or suggesting to him changes in reviewing the legislation that will come here. I challenge you. To come here and make the point that this Government is pushing down amendment is far from the truth; it is distant from the truth.

Let us look at the whole issue of scrutiny. I do not understand the issue that the Hon. Member Mr. Ramjattan is raising about scrutiny. You are saying that they are a few, in your own words; few persons – the minority interest as you say – and we must ensure that the minority interests are not denied. Equally, we must ensure that the majority interests are protected. We must ensure that the majority interests are protected. Just as you might have been advised by the minority that they are not in support of the amendment, we too are advised by the majority that they need these amendments. The need the NBS to be under the strict financial management which we are speaking of. If you are really concerned about scrutiny, then you should applaud these amendments, because these amendments will be institutionalising scrutiny under the proper regulatory guidance of the Bank of Guyana. [**Mr. Ramjattan:** Like CLICO.]

The competent authority for regulations of the financial sector, like the NBS, lies in the hands of the Bank of Guyana and not in minority few commentators. These amendments will ensure that the scrutiny of NBS remains under the authority of the fit and proper competent regulator in the hands of the Bank of Guyana.

When we speak about the amendments, we must understand that business environment is not static. Business environment is subject to change. That is why we, after the financial crisis which we have seen and heard about, a lot of commentators speaking about more regulatory control, strengthening existing legislation and regulations. From 1940 to 2010 a lot would have changed. For example, in 1940 the society might have had approximately 500 members. Today, the society has more than 125,000 members. When we analyse the amendment, it has to be relevant to the factual and realistic position on the ground today and not based on 1940's position.

There is a principle. We have not changed the principle. The principle in 1940 was one-tenth. The principle today remains one-tenth; one-tenth of the membership. Again, we were misled by the Hon. Member Mr. Ramjattan. He said "it is one-tenth of what number?" He said, "one-tenth of what number?" The amendment makes it very clear that it is one-tenth of the membership.

I also want to make it very clear that the one-tenth that we are speaking of here is again bringing the society in line with the Companies Act. That is the provision of the Companies Act. When you are quoting from the Constitution you must also look at the Companies Act, and the Financial Institutions Act. The one-tenth is in the provision of the Companies Act.

We are bringing NBS within the financial framework of the legislative machinery. We must not forget that our role as legislators here must be to safeguard and protect the interest of our people through proper legislations. That is why we on the Government side are eager. We are eager to ensure these amendments are passed, so that the interests or our people, the thousands upon thousands of depositors, members of the society, their interest will be safeguarded and protected as a result of our action here today in passing these amendments.

I am very happy that the context in which we are debating these amendments are very different from the global financial crisis. If these amendments were at a time, assuming that NBS was in financial trouble, you would have heard the wavering and ranting from the Opposition that we were inactive, but this is a case of being proactive. At a time when the NBS is in strong financial

position; over the last 10 years total assets of the society increase by over 160% to $40.6 billion. Mortgage balance increased by 186% and is currently $21.3 billion. Savings balance increased by 157% and is currently $34.7 billion. General Reserves increased by 187%, and is currently $5.6 billion. Mortgages disburse increased by 1,126% and saw nearly $4 billion being disbursed last year.

6.12 p.m.

The New Building Society is holding in excess of one hundred and twenty-five accounts to the total value of $35B. This is the strength of the institution, where the amendments will be placed to tightly regulate and monitor the management of the institution.

And let me deal with this matter as it is raised again, and that is the matter of the reserves. We must remember that the NBS is a lending institution to the housing sector. The housing sector consists of both fixed based assets. Land and house are fixed based assets. They are not movable assets. If one wants to present the argument that a fire can destroy the house, the house is insured one hundred per cent on the loan. So there is a fixed based asset in land and house. That in itself is one hundred per cent collateral guarantee backing the loan. Is this not a built-in safeguard mechanism? This is simple and logical. But this fact was deliberately blinded from the presentations of the Members of the Opposition.

I wish now to turn to some of the arguments made by the Hon. Member Mr. Winston Murray. He spoke in connection with section 12, and that is the purpose of the general meetings or the calling of general meetings, specifically about the removal of the fifty members. I alluded earlier that it is not the removal of the fifty members. The principle of the one-tenth, as is required in the Companies Act, is upheld in the amendment. It is ironic to know that whilst the Members were presenting the arguments that they wanted the NBS to be brought under the control of the Bank of Guyana and in line with the Financial Institutions Act (FIA), the Companies Act and other Acts which govern the financial sector, when this particular clause falls in line with that Act they find objections to it. This is double standards. We cannot have double standards. We have to be consistent in our arguments. If we are arguing on a premise of principle then that principle must guide our entire presentation.

The second point the Hon. Member Mr. Murray made was about the whole issue of inspection, and the members requesting the inspection. The Financial Act, that we are so interested in bringing the NBS under, makes it very clear that that responsibility resides in the Bank of Guyana, not five or six members. In line with the financial provisions of the Act, that responsibility resides with the Bank of Guyana. We must allow, if we are going to have the amendments and say that we want to bring the NBS under the regulations of the Bank of Guyana, the Bank of Guyana to execute its responsibility in accordance with the law.

When we speak about changes we have to understand the context, as I said. I will give you an example. A whole long issue is made about the one-tenth, but no reference is made similarly to section 21, for example, "Payments of sums not exceeding $250 to members..."

The existing Act says:

> "If any member of the Society dies intestate, the Society may release subject to specified conditions a sum of money not exceeding $250 to a relative to cover funeral expenses prior to the grant of letter of administration."

That is what the existing Act says, that the Society would release a sum of not less than $250 for the funeral expenses. This is what the amendment says, "For this purpose it is proposed to increase the amount to a sum of money not exceeding $100 000..." But nothing is mentioned of this. The Hon. Member Mr. Ramjattan said that he supports that, he applauds that, because that is in line with reality. But in the same line of argument, when the one-tenth is in line with the Companies Act and with the realistic position of the membership today he does not want to applaud it and support it. It is double standards. It is more opportunistic.

If you look at section 26, "Penalties for gifts", the existing provision says:

> "Any person paying or accepting any such gift, bonus, commission or benefit shall be liable on summary conviction to a fine of $500."

The amendment says:

> "Any person paying or accepting any such gift, bonus, commission or benefit shall be liable on summary conviction to a fine of $50 000."

Every single clause that is amended here brings the New Building Society more in line with the realities and the provisions of modern financial management that the entire reform process of the financial sector in Guyana is seeking to achieve. That is the fact of the matter.

I can go through every clause and show what exists and what is amended, and I can show you the benefit. But I will stop here because I think that the point has been made and the Opposition, if not dismantled, will be removed, now, by the Hon. Member, Dr. Ashni Singh. Thank you. [Applause]

Dr. Singh: (replying). Thank you very much Mr. Speaker. I wish to thank my colleagues on this side of the House who have, through and in their own contributions to this debate, made my task considerably easier. They have comprehensively responded to all of the substantive issues raised by the Hon. Members on the other side of the House. Let me say, in particular, that I find it extremely unfortunate that our colleagues on that side of the House, instead of responding with objectivity to a matter that is clearly one which goes to the core of public interest and good governance, particularly as it relates to the financial sector, chose to rely entirely on misconceptions, if it is a matter of how they conceive or perceive these matters, or misrepresentations - distortions. I believe that if one were to look, clinically, at each one of the arguments made by the Members on the other side of the House, one would in fact see that for the overwhelming majority of cases their arguments were without basis, and, in fact, sought to, in a very subtle way, I believe, reinterpret and misinterpret, in some cases, what in fact actually obtains in extant legislation, standing orders, etc. - and I am going to come back and give examples of what I am referring to - and, in particular, sought to distort what the Bill seeks to do - almost all of the arguments.

Let us take, for example, the issue of a Private Bill and the assertion, the insinuation and the suggestion that some of the amendments being sought in the current Bill cannot be enacted by way of a Government Bill or a Public Bill. This is the insinuation. The insinuation is that there was somehow - I note my colleagues now are trying to play on words about "ought" rather that "should not" or "must not" - something inappropriate or incorrect, or wrong, or not permissible for the Government to bring this Bill as it relates to some particular provisions. Let us be clear, and I believe that from the rumblings which we are hearing from the other side that it is clear to them too, that there is absolutely nothing wrong with the Bill as it currently stands being brought

to the National Assembly by the Government. That is why we are hearing the rumblings now about "ought", "ought not" and "should not." Let us be clear, there is absolutely nothing wrong about the Bill in the current form and in its current provisions. There is absolutely nothing in the Standing Orders that in fact suggests, in even the remotest manners, that this Bill could not or is not permitted by the Standing Orders to be brought to the National Assembly. Let us be clear about that. The Standing Orders are very clear and Mr. Murray knows this. Mr. Ramjattan knows this too. That is why they are trying to play on words about "ought" and "should" and so on. The Standing Orders are very clear. This Bill is appropriately submitted by Government in the public's interest. One has simply to read the Standing Orders, such as Standing Order 25. I will give two examples which come to mind immediately. One has to read Standing Order 25 which says that, "…any Member may introduce any Bill or propose any motion for debate in the Assembly…" The Standing Order is crystal clear. Similarly, Standing Order 66, about Private Bills, clearly and explicitly excludes Public Bills or Government Bills from the provisions of that Standing Order. It is crystal clear. So the reference to Private Bill is really a red herring introduced by the Members of the Opposition for the purposes for opposing sake, and that I find most regrettable.

Let us go further. The Hon. Member Mr. Murray would have us believe that his reference to the history of the Bill somehow reinforces his position, but nothing could be further from the case. This is not the first time that the New Building Society Act is being amended. This is, as a matter of fact, far from the first time the New Building Society Act is being amended. It was, I believe, most recently amended in 2005 when my colleague Minister Baksh , at the time held the portfolio of Minister of Housing and Water, brought to this House an amendment to the New Building Society Act, and secured the enactment of that amendment without the slightest hint that that amendment could only have been done by way of a Private Member's Bill. That, I hasten to add, was not the only instance in which the New Building Society Act was amended.

What is more is that the New Building Society Act is not the only enactment that contains provisions which would have implications for its membership. In fact, almost every law that we peruse would have implications for individuals or entities. If I were to give an example, which is perhaps a direct parallel, let us take the provisions of the Companies Act. Section 135 of the Companies Act addresses the matter of convening or requisitioning of a special shareholders

meeting. That section includes a provision that a minimum of ten per cent of the shareholding of a company under the Companies Act is required to requisition a special shareholders meeting. The corollary, if we are to be guided by Mr. Murray's thinking, is that unless all of the shareholders of all of the companies which are covered by the Companies Act say to us that they wish that provision to be changed we could not possibly change it. That is the corollary.

The provision affects shareholders in an identical manner. It has to do with the rights of shareholders to requisition a special meeting. An identical issue! And if we are to be guided by Mr. Murray's thinking that some clauses of the New Building Society Act can be amended as Public Business, but other clauses, such as the clause as it relates to special meetings, cannot be amended by special business and must be the subject of a Private Member's Bill… I see evidently the Member is getting agitated. I take that as a sign that I am getting through to him. [***Interruption***] It follows necessarily then by his reasoning that the clause of the Companies Act could not be amended unless the shareholders of every company of this country say, "we would like it to be amended." Nothing could be more outrageous than that.

Let us be clear that the provision as it relates to the requisitioning of a special meeting is no different from the provision in the Companies Act. If I were to give other examples where the arguments which were selectively chosen by Members on the other side in support of their attempt, even if somewhat feeble, to criticise this Bill conveniently chose to ignore the dramatic changes that the New Building Society has undergone over the decades of its existence. When it started in 1940, as my colleagues on this side of the House have said, it was a relatively small society with a very limited number of members, with a very modest level of activity. Today the New Building Society is an institution of a completely different scale - more than one hundred thousand members, billions of dollars of deposits and of loans. So the suggestion that we must ignore these changes and preserve the provision as it relates to fifty members, at the time that the Society was founded in 1940, chooses conveniently to ignore the dramatic changes that the Society has undergone.

In fact, I will go further and say that there are some who might argue that it is inevitable that a more comprehensive examination will have to be done of the legislative framework within which the New Building Society operates. There are some, for example, who might argue that it is time to consider whether entities such as this might not more appropriately be placed under the

Companies Act. And I have heard very cogent arguments in that regard. I would not necessarily say that I have arrived at the point where I am completely convinced by those arguments. But I have heard very cogent arguments that it is time that serious consideration be given to these entities - the entities established by what one might regard as charter or statute dating back to the early part of the last century. There are very cogent and compelling arguments which I have heard that it is time to consider whether they should not be brought under the more comprehensive framework of the Companies Act. There are examples which are cited where a more comprehensive piece of legislation, like the Companies Act, would be more suitable and better applicable to large complex institutions such as these operating in today's environment. There are very compelling arguments. So to dismiss the Companies Act as irrelevant is most unfortunate on the part of the Opposition.

It was striking, too, the notable selectivity and double standards displayed by my colleagues on the other side of the House. Let me give an example. They would have us believe that the Members should be consulted on some matters, the matters described as Private Members matters. **[Mr. Ramjattan**: It is on all the matters.] Well let Mr. Ramjattan have his way. They would have us believe that the members should be consulted on all the matters. [**Mr. Ramjattan:** Did you read my letter properly.] Let me ask Mr. Ramjattan, through you, Sir, which member he consulted about the reserve requirement. He is happy coming to this House to pronounce that the New Building Society should be subject to reserve requirements without having consulted with anybody. Both Mr. Ramjattan and Mr. Murray are happy to form a conclusion on the reserve requirement without asking any member. They have concluded that the imposition of a reserve requirement on a Society which is not currently subject to any reserve requirement is appropriate. The New Building Society is not subject to any reserve requirement. I challenge them to say who they have consulted with. Have they consulted with the majority of the members? But selectively they have already arrived at the conclusion that the reserve requirement should be imposed on an institution which is not currently subject to the reserve requirement. These are examples of selectivity and double standards which I would describe as most unfortunate.

But let us go further. The Hon. Member Mr. Murray would have us believe that the imposition of a reserve requirement is a public interest matter. I wonder whether Mr. Murray has done a proper

analysis of the composition of the portfolio of the NBS as against other financial institutions. I wonder whether Mr. Murray has considered the peculiar nature of the NBS's portfolio. As my colleague, Minister Irfaan Ali stated, the NBS has a portfolio of a very peculiar nature. Its entire portfolio is secured by legal instruments attached to immovable property. In striking contrast with other licensed financial institutions which have far more complex lending portfolios, with very different risk profiles, the NBS's entire lending portfolio is fully secured by legal mortgages and liens on fixed immovable property. That is the point that Minister Ali made. So its portfolio is of a very peculiar nature.

But Mr. Murray went further. His argument about public interest ignored completely the fact that the institution has this peculiar portfolio that is far more secure than the lending portfolios of most other financial institution by its very nature. But he does not consider what a reserve requirement would imply for the Society; what it would imply for the cost of lending; what it would imply for the implications of the Society to be able to lend to people. Those are not relevant to him. He has already concluded that the Society must be subject to reserve requirement without consulting anyone, and ignoring the implications for the members. I cite this as an example of selectivity. When it comes from the Opposition it is right. It does not need to consult anyone.

The same applies to the arguments about taxation and exemption from taxation. Every Member of this House knows full well we have brought legislation to this National Assembly to exempt any financial institution which is participating in the special low income housing programme. For any such financial institution, income generated from loans granted for low income housing, will be exempt from corporate taxes. The intention is to promote and to make as affordable as possible lending for housing - absolutely no different from the manner in which the NBS is being treated here; because, as a Government, we are concerned about ensuring that the cost of lending is kept as low as possible, so that all Guyanese can have access to financing for the purposes of buying or constructing their own home. It is for that reason that we have enacted provisions such as this. But those are discarded by the Hon. Member Mr. Murray, treated as irrelevant.

I could go on, but I will say this, and I cannot permit it to be said and not respond to it in the National Assembly, that there are a few things we have heard today which came nearly as close to the vulgarity. I do not know if that is a permissible word. There are a few things which were

distasteful, as the Hon. Member Mr. Ramjattan was cherry-picking members of the Board of Directors of the Bank of Guyana so that they could be on the receiving end of his lampooning. I will not belabour or elaborate the point, but all of the Members of this House, and those who are watching, can judge. It was very distasteful. I cannot stand in this House and not object to and register my concern and displeasure at the very distasteful cherry-picking of the members of the Board of Directors of the Bank of Guyana for his peculiar brand of lampooning.

As I said earlier, there may very well be a case for a far more comprehensive examination of the entire legislation, and, indeed, of the framework within which institutions such as NBS and other institutions which have their own Acts setting them up. There may very well be compelling arguments, notwithstanding that, as I indicated, some work has to be done before I am to be completely convinced.

Having said that, it is incumbent on us that we make sure that we move in incremental steps and this Bill represents exactly that - a step forward. As far as we are concerned on this side of the House, and, I believe, as far as the overwhelming majority of the objective people observing and assessing the Bill themselves, the Bill is resoundingly in the public's interest. It might not be perfect, but in keeping with our commitment and indeed our hallmark as a Government it represents a steady improvement and a steady move in the right direction.

As I said, I could take every point and go on and respond to it and demonstrate its vacuous nature. I thank my colleagues who have spoken on this side of the House in favour of the Bill. I thank my colleagues on that side of the House for the support which they expressed for some provisions of the Bill, and I move that the Bill be read a second time and be passed as printed. I thank you very much. [Applause]

Question put, and agreed to.

Bill read a second time.

Assembly in Committee.

Bill considered and approved.

Assembly resumed.

Bill reported without amendments, read the third time and passed.

6.42 p.m.

MOTIONS

CONFIRMATION OF THE PETROLEUM (EXPLORATION AND PRODUCTION) (TAX LAWS) (YPF GUYANA LTD., FORMERLY MAXUS GUYANA LTD.) ORDER 2010 – ORDER NO. 9 OF 2010

"BE IT RESOLVED:

> That this National Assembly, in accordance with section 51 of the Petroleum (Exploration and Production) Act 1986, confirm the Petroleum (Exploration and Production) (Tax Laws) (YPF Guyana Ltd., formerly Maxus Guyana Ltd.) Order 2010 – Order No. 9 of 2010, made under section 51 of the Petroleum (Exploration and Production) Act 1986 and published in an Extraordinary Copy of the Official Gazette dated 26th June, 2010."
>
> [*Minister of Finance*]

Minister of Finance [Dr. Singh]: I am sure Hon. Members would recognise that there are in fact three very similar Orders and associated motions before us. I refer, of course, to Orders Nos. 9, 10 and 11 of 2010 – Confirmation of The Petroleum (Exploration and Production) (Tax Laws) as they relate to a number of companies. In the first case, Order No. 9 of 2010, that Order and motion relate to YPF Guyana Ltd., formerly MAXUS Guyana Ltd.), the second Order No. 10 of 2010 relates to (CGX Resources Inc.) and the third Order No. 11 of 2010 relates to (Canacol Energy (Guyana) Inc., formerly Groundstar Resources Inc.)

Notwithstanding that I recognise that these motions will have to be moved individually. I will make some general remarks as it relates to all three of the motions, and it is not my intention to speak again, in any substantive way, on the individual motions as they come up for consideration. These Orders have their genesis in the Petroleum (Exploration and Production) Act, an Act which is dated back to 1986 and which provides for the execution of agreements

with companies licensed or granted concessions under that Act - the execution of agreements with those companies as it relates to their exploration and production activities.

It would be recognised that Guyana has long held the view that it has the potential to become a producer of petroleum products. It would be, indeed, recognised that an abundant amount of geological and other scientific surveys, and related studies and works, have confirmed that possibility that Guyana has the ability to become a petroleum producer. Indeed, this is borne out by the fact that companies, large and small, have seen it fit to come to Guyana, over the years, applied for concessions for the purpose of exploration in the first instance, and have invested significant sums of money in pursuit of those exploration activities with the aim, of course, of establishing proven fields and subsequently proceeding into production.

The principal Act under which these Orders are now being made, provides, as I said, for the execution of such agreements and provides further that as far as the fiscal provisions are concerned, that certain laws which are listed in section 51 of the Act may be varied so as to accommodate the provisions of the agreements concerned. Guyana has, in fact, with the benefit of considerable internal domestic expertise, and it does have very considerable expertise, and I must confess that it was only in recent years that I became acquainted with the abundance of this expertise resident domestically, and with the support of considerable external assistance, including work done by such entities as the Commonwealth Secretariat, etc., developed a framework within which these agreements have been executed. Indeed, there is in existence, and I believe this is widely known, a standard agreement and companies approaching Guyana are well aware of what the standard agreement looks like. They are well aware of the terms contained in that agreement. Government has promotional literature which it has prepared and made available to the industry; which it circulated at industry specific events – I use the word trade fair loosely – aimed at attracting investors. Government has standard promotional literature which was disseminated on the matter of the standard terms of agreement.

I believe it is widely known that Government has a framework which involves a profit sharing arrangement. That profit sharing arrangement typically proceeds along the lines of relatively standard approaches used in the industry. There is a production sharing arrangement whereby there are ceilings on what is described as cost oil. Those ceilings are in the vicinity of seventy-five per cent. Then there is a sharing arrangement between the state and the investor, or the

producer, as it relates to what is described as profit oil, or that which is left after cost oil is deducted from gross production. This is the framework which is in place and the agreements that Government has executed are in accordance with it. The Orders which are currently before us seek, as required under section 51, to give effect to this framework.

I will say that there was a time, some years ago, when considerable latitude existed as it related to waiving and exempting of taxes, and so there may have been at the disposal of policymakers other mechanisms to address such matters. There existed, for example, just a few years ago, the right for the Minister and the President to exempt certain types of taxes. Those provisions do not exist anymore. The non-existence of those provisions creates an added impetus and attaches an additional importance to the needs of the Orders. Hence, the Orders are now being made to give statutory effect to the terms contained in these agreements, and as I indicated, they are in accordance with Government's standard framework.

I do not believe that this would merit contention. Petroleum exploration and production is an industry which holds, as I said, much promise for Guyana. I trust that my colleagues on the other side of the House would see it fit to add their voices of support to the affirmation of these Orders, so that we can proceed to give them effect. I thank you very much. [Applause]

I am not sure if now is the time at which I move the motion that the Orders be affirmed. But I suspect that I will be given an opportunity to speak at the end of the debate of this Order. It is my intention at that time to move that Order No. 9, in the first instance, be affirmed and I will do the same for Order No. 10 and Order No. 11.

Mr. Speaker: At the end of your remarks the motion is proposed.

Mr. Murray: Like the Hon. Minister of Finance, the arguments which will inform my presentation on Order No. 9 or the motion which is currently before us will be the same argument that will inform the position of the PNCR-1G in subsequent of the two Orders. Unless, for very good reasons, there is anything said in the presentation of the other two Orders which it is felt needed to be responded to, then I do not proposed to speak again in respect of the other Orders because the arguments shall be to same.

Sir, as the Minister explained, I wish to confirm that it is also my understanding that the intention of these Orders before us is to give effect to the contents of agreements which exist. Well, I should put it differently. It is to waive certain tax requirements provided for in certain taxation laws of Guyana, and made provisions for section 51 Petroleum (Production and Exploration) Act. The Orders, as I understand it, are intended to waive those tax provisions, in whole or in part, and in place of those tax provisions will be whatever the agreement said the companies shall be subject to, or to whatever obligations they should assume which are inherent in the agreement entered into between the respective company and the Government of Guyana.

I merely wish to observe at this stage that such petroleum assets, as may exist, and I think we have good reasons to believe that exists in Guyana, are the patrimony of all Guyanese. The Minister of Finance told us that the agreements which have been entered into between the Government of Guyana and these specific companies have been based upon model framework agreements which exist. So they are more or less standard, I would suggest, with some exception for any peculiar circumstances of a particular country. Having said that and having told us that, I wonder what would have prevented the Government from laying these agreements in this National Assembly. These are the assets which are the natural national patrimony of all Guyanese. In fact, I believe what the Minister said that these are standard agreements - framework agreements. They are of a usual ilk. The late President Regan said, in dealing with the Soviet Union and in talking about the question of disarmament, "trust but verify", and I would suggest that is what I would like to say here. I trust what the Ministers said but I would like to verify by seeing the agreements placed before this National Assembly, so that we can conduct a personal assessment as to whether the trade-off between the taxes, that is suggested be foregone for a production sharing agreement, which is what is referred to here in the Order, is in fact something worthy. So we trust but would like to verify.

We have a recent experience, this House would recall, of concessions being granted to Queens Atlantic Company not brought here, not seen by this National Assembly, but turned out to be agreements which were illegal and, post-fact, the Government had to bring legislation to seek to correct the illegality that existed. I am not saying by any stretch of the imagination that there may be or that there is such illegality here, but I pray that this Government will understand one day that it is not enough to get up and shout from the rooftop its belief in transparency. It has to live

it. The way to live transparency in the case of these agreements would be to lay them before this National Assembly, because they are the patrimony of all Guyanese, so that the representatives of the people will have an opportunity to access them and form views on them.

Alas Sir! I would have thought that that would have been done, if not before the bringing of these Orders, at least simultaneously with the bringing of these Orders. I thought it is so obvious. At the minimum, bring these agreements at the time these Orders are being laid and let us see for ourselves what the contents are, so that we can satisfy ourselves that the trade-off is worth it. But we are asked to buy *pork in the bag* as they say. **[A Member:** It is *pig in the bag.*] Thank you Sir, you are more versed on these matters than I am. We are asked to buy *pig in the bag*. I say that that is not good enough. I say, Sir, with great respect to the learned Minister and the Government of Guyana, that that is not good enough. I, therefore, feel that we have been robbed of the necessary opportunity of seeing these agreements so that we can sensibly support the request which is before us.

Let me say one other thing. The Minister of Finance has developed a penchant for replacing affirmative resolutions with negative resolutions. I remember, in the Value Added Tax Act, under the previous Ministers, whenever there was going to be a need for exemption or zero rating regulations had to be made, and under the Act which has been originally passed they were all to be subjected to affirmative resolutions. Affirmative resolution provides an opportunity for this National Assembly to debate the issue and the Government is not delayed in anyway, because under the Standing Orders provisions are made for it as it brings a motion to have it be debated without the passage of time as is required in the case of an Opposition's motion. So Government could get it to be debated immediately. There is not an issue of delay in bringing it to the National Assembly and obtaining the affirmative resolution. In fact, we know the only reason that this issue has come before us, to give us some semblance of transparency of what is taking place, is because of the safeguard in section 51 of the Petroleum (Exploration and Production) Act which says "…subject to affirmative resolutions of the National Assembly…" That is how we come to have a debate on this matter and to have a say. I hope and I pray - I deliberate raise it that way - that the Minister is not going to come post- fact today to try to change and amend this Act from the requirement for affirmative resolution to one of negative solution. That is why I am throwing it out in the open so that it is known that we are mindful of

that possibility. [**Ms. Teixeira:** That is a red herring.] I know you are very colour conscious Madam. I hear you, if it is red herring. I am more like a black herring.

Let me say very unequivocally that the People's National Congress Reform One Guyana understands the need to make its agreements competitive because there is a vying for Private Sector investment in this, as indeed in the other Sectors. Let me say very unequivocally I do not question the motivation of the Government. I believed that it is well intentioned and I believe that if we had the opportunity to examine those agreements it is more than likely that that will not alter our position to support them. But we say in the interest of transparency and good governance, which are being touted as tenets that are embraced, that we should have had these agreements before us today.

Before I take my seat there is one other matter which I wish to draw to attention, and it is this, in section 51 of this Act, it is written as follows:

> "The Minister assigned responsibility for finance may, by order, which shall be subject to affirmative resolution of the National Assembly, direct that –
>
> (a) any or all of the written laws mentioned in subsection (2) shall not apply to, or in relation to a licensee, or
> (b) any or all of the written laws mentioned in subsection (2) shall apply to, and in relation to, a licensee subject to such adaptations, exceptions, modifications and qualification as may be specified in the Order."

The Minister has before him one of two options which he may bring to the National Assembly by a way of seeking an affirmative resolution. The first option is to waive "any or all of the written laws" and not have them applied in totality. Then it says, "or" to waive them with "…such adaptations, modifications, exceptions, qualifications…", as may be necessary.

But what has the Minister done? In the Order which he has brought here seeking our affirmation, he has included both. So he has come to this National Assembly and he is asking us to waive any or all of the provisions of those laws as appropriate or so applied with modifications, adaptations, exceptions, etc. I do not think that is in accordance with the Act. He has to choose one of two options, either to waive in entirety what section 51 requires or to waive with such adaptations as

are necessary. I would like to have an answer as to why one or the other is not presented to us. I would respectfully suggest that the more relevant one would be the second alternative, to "direct any or all of such written laws… shall apply to, and in relation to, a licensee subject to such adaptations, exceptions, modifications …", and not the alternative of waiving them all together.

With those remarks - I note that the Minister is notably absent - I beg to say that we support the principle and we should do nothing, with a voice, to express any objection to this matter because we are very interested in petroleum exploration and production taking place in Guyana in a regime that makes Guyana an attractive place in which to make such investment. Thank you. [Applause]

7.12 p.m.

Minister of Transport and Hydraulics [Mr. Benn]: Thank you Mr. Speaker. I am very happy that the Opposition, with the exception so far as to the two points made by the Hon. Member Mr. Winston Murray, is fully in support of our petroleum development. This is being promoted by way of these orders in relation to the company which is just now at the point of drilling. We hope before the end of this year and by early next year that a new round of drilling in our two petroleum basins will be on the way.

In the first instance, in respect of the offshore blocks, in relation to CGX/Repsol, there is the anticipation by the end of this year that a well will be drilled. Specifically, I think they have gotten into an arrangement with Atwood Oceanic Pacific resources to bring a jack-up rig out here in their block at a rate of US $115,000 a day, for 210 days minimum, to undertake drilling and there is a package of drilling which will be done by this rig over the offshore blocks in Suriname and then under our portion of the Guyana/Suriname Basin to insure that all the resources are optimised with respect to having the most efficient way of doing this type of drilling, which is extremely expensive.

I think that we are all aware, and I repeat, that the energy term in our national development equation from the point of view of national resources is that which is sorely lacking and that this is an effort in terms of finding indigenous energy resources in sufficient quantity, not only to meet national needs, but also to export. This is why successive Guyanese Governments starting under the time of the PNC have been paying attention to issues of hydropower development and

issues of petroleum exploration. It is a fact that the development of the very same petroleum sharing agreements, which the Hon. Member Mr. Winston Murray refers to, was developed under the People's National Congress Government through its agency, the Guyana National Resources Agency (GNRA), which I had the good fortune at some point in time of working with on the very same issue of petroleum development and exploration. In some ways, it is surprising that there may be a suggestion that there is a state awareness as to the nature of these agreements and as to the comment relating to the agreements.

It is a fact that the production sharing agreements and I have a draft model agreement here… [**Mr. Murray:** I want the agreement you signed, not a draft.] The draft model agreement was developed, not in 1992 or any time after, as was mentioned, but by the Commonwealth agency, petrol consultants and other experts who were brought in along with our own national experts to help to develop these documents. This approach is an internationally acceptable approach with respect to the development of petroleum resources worldwide. It is the same Vietnam, it is the same for Angola, it is the same for Ghana, and it is the same for every other country.

Fundamental to the issues of the Act and to the agreement are issues of confidentially and the Petroleum Exploration and Production Act of 3 of the 1986 which was signed: "I assent, H. D. Hoyte, President, on the 14-06-1986" has a clause in terms of restriction of disclosure of information with respect to the details of the agreements so as to preserve the very competitive environment from underexplored virgin petroleum territory which is what Guyana is so that we do not have a situation where we would torpedo the very opportunity that we want to develop. This is in the Exploration and Production Act 1986 which, as I said, was assent to by the President H. D. Hoyte.

The point is that of all the examinations and I have here two of them; an upstream inside done by Wood McKenzie, who are one of the leading experts in relation to physical regimes for petroleum and other hydrocarbon exploration. On evaluation, they speak to our physical regime in Guyana in terms of its relatively straight forward production sharing contract system. And I quote from this document… [**Mr. Murray:** I want to read it for myself.] You can do so. It is on the net. It is a publicly available document. I have it here. I will be happy to provide a copy to the Hon. gentleman, but allow me to quote:

"The exact terms vary from license to license, but the following can be taken as a reasonable approximation:

COST RECOVERY: Following the start of commercial production the contractor will be able to recover all capital and operating cost per a month to a maximum of 75% per a month during the first three years. After this period, Contractors will be able to claim a maximum of 65% of recoverable capital and operating cost per a month.

PROFIT OIL: The Contractor's share of the remaining production- profit oil- during the first five years will be 50% of the first 40,000 barrels of oil produced per day and 47% of additional production. After this five-year period the Contractor's share will be reduced to 45%."

Basically, it says that the production sharing and agreement relates to a 50/50 split of the profit oil to maximum of 75% of the value of all oil produced in the first instance over 3 years and after that, it falls 65% and after the first 5 year period, the Contractor's share will be reduced to 45%. This is basically the standard throughout the industry.

There are many tweaks to these agreements; however these slight variations are important in respect of the confidential company information which is protected by the legislation in terms of the petroleum legislation in terms of the Petroleum Exploration and Production Act and… [**Mr. Murray:** You just said that it is on the net] …I said, Sir, that this document is on the net – the document from Wood McKenzie. The point however, for the competitive environment, is the fact that we need to preserve and protect. The fact that we have had, over all these years, great difficult in terms of progressing our petroleum development means that we have to stick to the position of the agreement where we have signed to confidentiality clauses in the agreements and according to the laws, with the developers who are investing huge sums of money in terms of an issue of an activity that is of critical national importance.

I want to speak somewhat of the potential of the Guyana/Suriname Basin, which is our largest basin. It is the offshore basin and, where the US Geological Survey has indicated since 2000 that it has been the second most attractive under-explored basin in the world, as well as, ranking 12 among all the world basin either explore or unexplored. It has a mid-point potential in terms of oil resources of 15.2 billion barrels, a gas resources potential of 41 trillion cubic feet. It has the

discovery of the Tambereda Oil Field and at Calcutta in Suriname where you have 170 million barrels recoverable and 15 million barrels identified.

There is talk of the rampant exploration in Trinidad and its burgeoning petrochemical industry and the 4 billion explorations and development on the Plataforma Deltana in Venezuela. 117 million fields are greater than 1 million barrels of recoverable oil are prognosticated. 24 fields would be greater than 100 million barrels of recoverable oil, termed "elephants", are also estimated along with 6 fields which have a potential of 500 million barrels of recoverable oil, termed "giants". This is at the 50% probability level.

In terms of the net present value, the value of oil in place on a discount model at 15% for an economic field Guyana ranks, in terms of an upside field which is what we anticipate our fields offshore will turn out to be the large fields, a the net present value of $4.10 is what is assume in place, in terms of the production of oil fields of this kind.

I am aware that we have had situations in the past and I do agree and acknowledge that the Hon. Members are in support of the initiative. I think I want to point out that issue of waiver as characterise by the Hon. Member is not exactly that. The 50% profit oil going to the Government as a general model stands in place of what the company would be required to pay otherwise as duties and taxes for other situations. It is not simply a waiver. The Government is undertaking to cover those issues as a result of the Government taking its 50% share of the profit oil. It is not simply to say that it is a waver in the strictest sense of the word.

I do not think I need to continue further on this issue unless there is a particular point that I could respond to. I do not think that the Hon. Members would shame themselves as we have had in other issues like the "Beal Deal" and other issues where some backroom abortions were performed on the deal, but I want to commend the orders to the House and hope that we continue to work on what has been a very difficult process with sovereignty issues with respect to the Eastern Maritime Bounder – if we may remember that. We have to continue to work on what has been a very difficult process to have important and critical success in this area. And with that, I command the Orders to the Hon. House. [Applause]

Mr. Ramjattan: Mr. Speaker I really do not know, basically, the terms and conditions, we have now been told that because of the commercial privacies we have to just trust the Government of

the day and, as close as possible, go back to read that model document. It is an extraordinarily difficult thing, and if I may also use the description "appalling", for transparency, but if in relation to getting the investors this way, we have to do that and I mean that we really need investment in our oil sectors if there is a potential for it. So really there is hardly anything that I can talk about, excepting that we would want exploration and production of oil and it is like debating in the dark and so I am hamstrung to that extent and I keep my remarks to that which I have just stated.

Dr. Singh (replying): Mr. Speaker, permit me to respond very briefly. First of all, I place my appreciation to Members on both sides of the House for the support that they have expressed for these Orders. On the matter of the tabling of the agreement, I move to recall a Bill that we, just a few days ago, enacted in this Hon. House, that is the Fiscal Enactments (Amendment) Bill; the Bill that paved the way for the establishment of the small business lending facilities and for companies providing such facilities under the arrangement contemplated by that Act for the agreement executed between the Government and those companies to be tabled in Parliament. The Bill requires that. We wrote that into the Bill. The Bill was passed and it has been enacted. We have executed one such agreement and, indeed, it is only as recently as last week that I brought to this Hon. House the first and indeed only agreement executed thus far under that Act. I make this point to say, first of all, that our commitment to transparency is abundantly exemplified by this example. We wrote into the Act the requirement that the agreement be tabled and we brought the agreement to Parliament. I go on to say that this Petroleum Exploration and Production Act, if I were to pay deference to the architects of this Act, I would have to say that those architects must have recognised some compelling reason why they required the orders to be brought to Parliament and not the agreements.

They must have recognised some compelling reason to have required in the Act that the order should come to Parliament, I believe that the Hon. Member, Mr. Murray, was in this House at that time. He might, in fact, be best able to tell us why the architects of that Act thought it appropriate that the order be brought to Parliament and be subject to affirmative resolution but that the agreement not be required to be brought to Parliament. If one were to pay any deference to the architects of that Act one would conclude and my colleague, Mr. Robeson Benn, has provided abundant information on the frame work of the agreement which is already available –

I believe many Members of this House here are familiar with those provisions – and Hon. Minister, Mr. Robeson Benn, I believe, has also provided compelling arguments why, for various reasons, there may be commercial considerations as it relates to the specifics of the agreement.

Suffice it to say that I am pleased that having placed the arguments on record, whether for political purposes or otherwise, that good wisdom prevailed and my colleagues on the other side of the House saw it fit to express support for these Orders and I thank them because I believe that the petroleum exploration and production, as I indicated earlier, holds great potential for this country and these orders help to advance us in that regard and so I thank again my colleagues and I move that, firstly, Order No.9, I believe it is, of 2010 be affirmed by this Hon. House. I thank you very much.

Mr. Speaker, might I enquire whether it is possible for me to move all three of the motions at once?

Mr. Speaker: No, we will do one at a time.

Dr. Singh: I move that Order No. 9 be affirmed.

Motion put and carried

Mr. Speaker: Hon. Members, we can now deal with the next motion which is the Confirmation of the Petroleum Exploration and Production Tax Laws, CGX Resources Inc., Order No. 10 of 2010.

Dr. Singh: I move that Order No. 10 of 2010 - the Petroleum Exploration and Production Tax Laws, CGX Resources Inc., Order 2010 be affirmed by this Hon. House.

Motion put and carried

Mr. Speaker: We now move to the third matter: Conformation of the Petroleum Exploration and Tax Laws, Canacol Energy Guyana Ink., formerly Groundstar Resources Inc., Order No. 11 of 2010.

Dr. Singh: I move that Order No. 11 of 2010- Petroleum Exploration and Production Tax Laws, Canacol Energy Guyana Inc., formerly Groundstar Resources Inc.,- Order 2010 be confirmed by this Hon. House.

Motion put and carried

Mr. Speaker: Hon. Members, we have a Private Motion and an Adoption of the 8th Report, are we Dr. Leslie Ramsammy, Ms. Gail Teixeira, Mr. Everall Franklin proceeding with both,?

Mr. Franklin: Mr. Speaker, Thank you. The Government has requested that we defer the motion in my name and I have agreed to that.

Mr. Speaker: You are requesting that it be deferred and you are acceding to a request of the Government.

Mr. Franklin: I am acceding to a request by the Government to defer this motion.

Mr. Speaker: We understand Mr. Franklin. The motion is deferred. Thank you very much.

The next motion stands in the name of Ms. Gail Teixeira, I think, the Adoption of the 8th Report of the Standing Committee on the Appointments. Are we preceding with this one?

Ms. Teixeira: No, Mr. Speaker, defer for the next sitting.

Mr. Speaker: They are requesting that this be deferred also for the next sitting. Hon. Members, this brings us to the end of our business for today.

ADJOURNMENT

Mr. Baksh: Mr. Speaker, I ask that the House stand adjourned to Thursday 29th July, 2010.

Mr. Speaker: The House will stand adjourned to Thursday 29th July. Thank you very much.

Adjourned accordingly at 7.39 p.m.