

# Official Report

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

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120<sup>TH</sup> Sitting

Thursday, 11<sup>TH</sup> March, 2010

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*The Assembly convened at 2.13 p.m.*

*Prayers*

*[Mr. Speaker in Chair]*

## **PRESENTATION OF PETITIONS - GUYANA AND TRINIDAD MUTUAL FIRE INSURANCE COMPANY**

**Mr. Ramotar:** Mr. Speaker, I would like to ask that the Petition standing in my name be deferred to a later date.

*At the request of Mr. Ramotar the above Petition was deferred.*

## **REPORTS FROM COMMITTEES**

The following Report was laid:

Report of the Special Select Committee on the Court of Appeal (Amendment) Bill 2008 – Bill No. 12 of 2008. [*The Chairman - Attorney General and Minister of Legal Affairs*]

**Mr. Corbin:** Mr. Speaker, except that I would like to place on record for my report, that that Report does not have the endorsement of the Members of the P.N.C.R.-1G who participated in that Sub-Committee.

**Mr. Speaker:** Mr. Corbin, the Report has to be debated. You and your Members will have a full opportunity to give your views at that time.

**Mr. Corbin:** Yes Sir. I am also just putting a footnote early, lest the press do not take it immediately that this Report is a fully endorsed Report. That is all I am saying, Sir.

**Mr. Speaker:** I think the press, in particular the journalists who are here covering Parliamentary affairs, are fully aware that these matters have to be debated and approved.

#### **QUESTIONS ON NOTICE - For Oral Replies [Questions No. 1 & 2]**

**Mr. Speaker:** Hon. Members, these questions are directed to the Prime Minister, and he is unavoidably absent since he is performing the functions of President. He has asked me to defer these matters. I am sure you have no objections.

*Questions 1 and 2 have been deferred.*

#### **PUBLIC BUSINESS**

#### **GOVERNMENT BUSINESS**

#### **MOTION**

#### **SYMPATHY ON THE DEATH OF MINISTER IN THE MINISTRY OF EDUCATION, HON. DESREY CLEMENTINE CAESAR FOX**

**BE IT RESOLVED:**

That we the Members of the National Assembly of the Parliament of Guyana -

- place on record our shock and profound grief at the great loss to the Government and the Parliament of Guyana by the tragic death on Friday, 11<sup>th</sup> December, 2009, of the Minister in the Ministry of Education, the Hon. Desrey Clementine Caesar Fox, M.P.,
- pay tribute to the committed and distinguished service which she rendered to Guyana and to its Parliament;

**BE IT FURTHER RESOLVED:**

That the National Assembly directs that an expression of our heartfelt sympathy be conveyed to her sorrowing children and relatives. *[Minister of Education]*

**Mr. Baksh:** I beg to move this motion of sympathy on the death of the Minister in the Ministry of Education, the Hon. Desrey Clementine Caesar Fox, M.P. I now wish to speak to the motion.

The late Desrey Clementine Fox, nee Caesar was the eldest of seven children born to Gibson and Anita Caesar on January 2<sup>nd</sup>, 1955, and grew up in the Waramadong village on the Kamarang river, a tributary of the Mazaruni river, in the Cuyuni-Mazaruni Region.

She was an accomplished academic holding a Bachelor's Degree in Sociology from the University of Guyana, a Masters Degree in Environmental Anthropology from Kent University in the United Kingdom, and a Doctor of Philosophy in Linguistics from Rice University, Texas, U.S.A.

Before her appointment as Minister, Dr. Fox served as curator of the Walter Roth Museum of Anthropology, Head of the Amerindian Research Unit at the University of Guyana and lecturer in Linguistics and Amerindian studies.

She also taught special courses at the Universities of Oregon and Rice, and was the recipient of numerous awards and scholarships among which included:

- the European Union Scholarship to read for a Masters of Arts in Environmental Anthropology at the University of Kent at Canterbury, 1996 – 1997;
- the Dennis Irving Prize - University of Guyana, 1998;
- the Presidential Scholarship, Rice University, 1998 – 2003;
- the Robert Lowry Patten Prize, Rice University, Texas, 2000;
- the Rice University Women's Impact Award, Rice University, Houston, Texas 2001;
- the Who's Who among students in American University Award, Rice University, Houston, Texas, 2001 – 2002;
- the recipient of the postdoctoral National Science Foundation Grant – Rice University, 2002 – 2006; and
- the recipient of Guyana's 38<sup>th</sup> Independence Anniversary Service and Humanitarian Award, 2004, from the Guyana Mission Consulate and the Guyana Tri-State Alliance Inc.

Dr. Fox, through her extensive research, has measurably enriched public knowledge of the lives of the local indigenous peoples. The focus of her research was cross-cultural on a wide range of Amerindian issues and situations in Guyana, such as the prehistory, present history, spirituality, demography, geography, rights and rituals, kinship networks, language, music, and general aspects of their way of life. In fact, Dr. Fox, just before passing, had translated extracts from the Low Carbon Development Strategy into the Akawaio language to make it more comprehensible to older folks.

Dr. Desrey Fox was appointed Minister in the Ministry of Education in September, 2006, after the victory at the polls by the P.P.P. Civic. From the very beginning we developed a close working relationship since we both recognised the enormity of the task in reforming the education system in order to improve the standard of education for the benefit of the children of Guyana. We shared the

same vision of the Ministry of Education to be the main and most effective contributor to the development of the citizenry able to modernise Guyana, to support the citizens in becoming more productive and tolerant, and to live in mutual respects.

In the early months of her tenure as Minister, she recognised that support and advice from me, her senior colleague, were important for the effective discharge of her responsibilities. She did not hesitate to consult with me on a regular basis and to express her views on changes that she considered necessary for the development of education in Guyana. This was a quality which she evinced to the end.

In terms of assignment of responsibilities within the Ministry, she agreed to be in charge of technical and vocational education, health and family life education, school welfare services, schools sports and physical education, and, most importantly, the promotion of aesthetic education, cultural activities, music, dance and drama. This was her forte. She ardently took on oversight responsibility of the Unit of Allied Arts and worked closely with the staff, especially on national occasions such as Independence and Mashramani. I can vividly remember her moving along the roadway, majestically, with myself and other staff at the Mashramani children's parade, and again into the National Park as part of the Ministry's costume band. She was distinctively recognised in her indigenous attire, and quite rewardingly that band was later awarded the first prize.

Her passion for this area of education led her to take steps to re-activate the National Schools Choir and Steel Orchestra. She developed the plans and the programmes to roll it out across the school system. I wish to pledge that her work in this area will not be in vain, and that I will ensure it is completed as a tribute to her contribution to the education sector. Like me, Minister Fox believed that education was not only about perusing academic learning, but also moulding the minds of the children of Guyana by instilling values of nationalism, tolerance, integrity, respect and self-fulfilment.

Minister Fox had a special interest in health and family life education. She headed a task team to review the content and methodology of this programme to ensure its effectiveness, and that moral education was adequately infused in the curriculum.

The Education Strategic Plan caters for the development of an inclusive education system which provides quality and equitable opportunity to indigenous and Hinterland children, children with disabilities, gender equality and equity. It is in this area of education which the late Minister evinced keen interest and dedication. She attended several international conferences on inclusive education. She was active in Hinterland communities, and after her visits would take follow-up action on the promises made. At Bartica, Waramadong and Santa Rosa, she had linked with UNICEF to address stressful situations for students by organising psycho-social support, and ensure that learning was not

unduly affected. On the East Coast, she was active with the professional team in providing support to schools, parents and students in the aftermath of the Lusignan massacre.

The late Minister was especially interested in Special Needs Education and ensuring that education programme caters for individual needs and persons with disabilities.

The qualities of the late Minister which would be remembered most are her concerns for the plight of others, the caring and considerate ways of dealing with ordinary folks and their children, and the representation of their cases for resolution. The cases that come to mind are the placement of children in schools so as not to cause undue financial hardships and the re-integration of pregnant students into the school system.

The late Minister of Education, my colleague, on the sad day of December 11<sup>th</sup>, 2009 passed away at the High Dependency Unit at the Georgetown Public Hospital Corporation (G.P.H.C.) after suffering injuries in a three-vehicle accident just outside Camp Ayanganna, on Thomas Lands.

Guyana has lost an eminent daughter whose imprint will forever be felt in the countless lives she would have touched. She will be missed dearly. May her soul rest in peace. [Applause]

**Dr. Norton:** I rise to make my contribution on this motion before this Hon. House, the motion of sympathy on the death of the Minister in the Ministry of Education, the late Hon. Dr. Desrey Clementine Caesar Fox.

We, the Members of the People's National Congress Reform One Guyana (P.N.C.R.-1G.), unhesitatingly do support this motion and reserve to place it on record of our shock and profound grief at the great loss to the Government and Parliament of Guyana by the tragic death, on Friday, 11<sup>th</sup> December, 2009, of the Minister in the Ministry of Education.

The late Hon. Dr. Desrey Clementine Fox can best be described in her own native language, the Akawaio, as an *ipukenaton*, which means wisdom possessor. The late Dr. Fox belonged to a noble nation of people who called themselves the *Kapon* or the *Sky people*. It is my belief that it was only a matter of time that the late Minister, mother, friend, colleague and natural leader, spiritual or otherwise, would have gone back to her Region in the Upper Mazaruni area to take up her rightful place as the leader of the Hareruya church and carry on in the footsteps of its founder leader, priest/prophet Pichiwon. This church is described as the soul of the *Kapon* people, and its subsequent leaders of the headquarters, at the Mecca of Amakokopai, such prophets Abel, Kwiabong and Aibilibing, to name a few.

Speaking of Aibilibing, this Hareruya leader was brought down by the Government of that day from Amakokopai to perform the spiritual ceremony of the naming and opening of the National Airport, Timerhi, which was done in honour of the indigenous peoples of Guyana.

Yes, had the late Minister gone back into the Mazaruni to become leader of that church, I would have been one of her first converts, and most ardent follower. I say this, for I can recall, vividly, when I first met the late Hon. Dr. Desrey Fox, and it was at a conference of the Caribbean Organisation of Indigenous Peoples, in the Carib island in the West Indies known as Waitikabuli, but the Europeans came later and named it the Republic of Dominica.

I remember, carefully, at the spiritual smoke session of the opening of this conference, when the late Hon. Minister performed at that ceremony of chant and singing. I can never forget that strange feeling that overcame me during that ceremony. It reminded me of a line in the song made popular in 1977, by an American rock group known as *The Eagle*, a song entitled, *Hotel California*. The line which says “my head grows heavy and my sight goes dim.” That was the sensation I had when the late Hon. Minister performed that ceremony.

When one considers the great odds that were against the late Hon. Minister, growing up in that village of Waramadong, up to the age of 15, and for her to have achieved such heights, can only be described as being remarkable or extraordinary.

I can identify with the limitations one is faced with in the Hinterland Region during the time of the youthful days of the late Minister, especially in a villages like Waramadong, which is so far away from the capital city of Georgetown. I was faced with similar limitations growing up in my own little village as well. In such villages, one can run out of reading materials and find oneself reading the labels on bottles and other containers, because there were no other written words around which one did not read before. Newspapers and up to date magazines were a luxury to those who liked to read, not taking into consideration the temptation of country-living that does not permit one enough time to read, for the outdoor activity seems to be such an integral part of one’s life.

The late Minister was determined to succeed, and she did. For not only did she become qualified as nurse, which in itself was a feat of no mean order, considering the circumstances which prevailed at that time, but the late Minister did not stop there. She went on and furthered her studies, eventually matriculating at the University of Guyana, which led to qualifications that would permit her to read for her doctorate, for which she was successful. This achievement from some point of view is or was bordering on the almost impossible. That is not the case, however, for the late Hon. Minister. She was ambitious and determined enough and made the best of it.

In my short stint in the political arena I voiced in no uncertain terms that the time has come when the indigenous peoples of this country, in the political field, must no longer be looked at as only being capable of managing the Ministry which is responsible for indigenous affairs, but they must be evaluated and assessed to take on the portfolio of any other Ministry. It is for this reason that I was very pleased, but not surprised, to see that the late Hon. Dr. Fox was given that important position as a Minister in the Ministry of Education. This was history created and a very proud moment for the indigenous peoples of this nation. I think that was only the beginning. I am convinced that, with the qualification and the subsequent position that was thrust on her, the status quo of the indigenous peoples of this country of Guyana has changed for the good, and for all times.

Deep within me there was a feeling that, in terms of advancement, and her movement towards greater achievements, her zeal to drive forward was still very much there. There was still a bright road ahead for her. I am certain that had she still been alive she certainly would have conquered greater heights in her life, not only at a national level, but also at an international level.

The late Hon. Minister seemed not only to be the first child or the first grandchild of her family, but was the first in so many aspects of the entire indigenous peoples of Guyana. So much so that she had become an icon for the now young indigenous students, especially the females, to emulate, to look to as an example and to follow. They do not have to look outside of Guyana any longer. There is no need to look at the Rigoberta Manchus or the Evo Morales as indigenous icons. The late Minister can be just as good, or even more suitable, as an inspiration to them.

The late Hon. Minister was proud of her indigenesness, and articulated her language with total competence. She readily shared her folklore, an aspect of her culture, with anyone who was interested, quite unlike so many of other the indigenous peoples, today. One might even want to, in some part, refer to her relating of her culture as being an effort to *Akawaio-rise* the culture of the indigenous people of Guyana. What I want to say is that most of the culture she can explain from the Akawaio point of view.

There is another side of her character which I, personally, think was not given enough importance. I am speaking about the sporting aspect of her personality. The late Minister was a power champion lifter and had been so for many long years. Just demonstrating the discipline side of her life, which I think all of us, especially here as Members of Parliament, or the majority, judging from the contours and our body structures, should get more involved in, even if only it is to serve as an example for the younger generation to follow suit.

In spite of all her academic achievements and her busy life schedule, it is important to note that the late Hon. Dr. Fox was remembered by one of her brothers for her culinary skills. In that, according to

him, she was an excellent cook, which goes against the notion that one tends to lose that special skill as one spends more time pursuing academic goals.

From the benches of the P.N.C.R.–1G., we have resolved that the National Assembly directs that an impression of our heartfelt sympathy be conveyed to the sorrowing children and relatives of the late Hon. Dr. Desrey Clementine Fox. [Applause]

**Mr. Nadir:** I join the other speakers in supporting this motion of sympathy and to appreciate the contributions of the late Minister Fox, not only to the Government, but also to the nation. I must confess that prior to her joining the Cabinet we had a hi-and-bye relationship. After she had joined the Cabinet we became very close, having sat next to each other for a number of years in the National Assembly, and having worked together on trying to overcome some of the bureaucratic red tape that all of us have to face.

On the Tuesday, prior to her death, I was at a particular function and received that call that she had met with an accident. I proceeded on an overseas mission the next day and heard my phone beeping at around 4 o'clock that Friday morning with a short but shocking message that our colleague had just died. All of us who are close to people know what that feeling of numbness is. As I landed here, back in Guyana, the next few days I could not help but to be with my colleagues, the public, the indigenous peoples and her family as wake was kept in the honour of the late Minister.

*2.43 p.m.*

We heard from the two previous speakers of the academic achievements of the late Minister, her contributions to our culture, and in particular, our indigenous culture. But from sitting close to her, and speaking to her on so many occasions, it was clear to me that her contributions to Guyana and her legacy are going to be beyond what were said by the two previous speakers. Not to minimise what they have said, but I think we can also put them in another context.

As she joined the front row of the Government's bench, she spoke to me about how a rounded citizen can contribute to the development of our country and was using her own example of the benefits of exercise, engaging in sporting and recreational facilities, and other non-academic services, and how those enriched her own life and, certainly, she was able to share these experiences with others. She said, "I want to see our schoolchildren not only go to school, but to enjoy sport and play as I did." More particularly, she said, "I am going to be working very hard with Minister Dr. Anthony to ensure that music is again a prominent part in the curriculum of our school system." I know just before her passing, she and Minister Anthony launched the National Music Festival. I know, and I am sure, I can speak on behalf of Minister Dr. Anthony, that it was also at a lot of the urgings of Minister Fox, that



in the next few months, he will be cutting the ribbon to a National School of Music located in Brickdam, coincidentally, next to the Labour Department.

This rounded citizen that this country needs and has a responsibility to produce is, for me, one of the legacies which we need to ensure lives on indelibly among all of our people.

As we spoke - the late Minister and I - she also mentioned something that is pertinent to labour. We just heard how she changed from being a nurse, and I think she was a midwife, Hon. Member, came back to Georgetown with her children and was determined to do even more. So, that example of her life is an example for our workers of this country to emulate. Workers cannot sit by and produce the minimum through all the training opportunities that exist, and expect to draw Chief Executive Officer (C.E.O.) wages. But, like the late Minister Fox, one has to retrain, and if what one is doing is not giving one the satisfaction and the remuneration that one wants - switch careers! She has demonstrated how a nurse can become a Ph.D holder; can become recognised around the world for her skills; and can join in the Cabinet of the country to produce policies and to shape, positively, lives forever. That is a lesson for the workers of this country. Like the late Minister Fox, they can switch gears. If the job that they are doing right now is not going to pay them what they want or give them the job satisfaction that they want, then they can look for new careers, look for new training. It is going to be at some sacrifice, yes, and many times people may feel that the commitment to children and family will prevent them from doing new things. Clearly, the late Minister, and her children who are being here today can testify to that, proved that myth wrong. With the support of family and determination of citizens, we all know that the sky can be the limit.

The Peoples Progressive Party/Civic (P.P.P./C.) was honoured that the late Minister Fox had joined the list of the P.P.P./C. candidates for the 2006 Elections and it was also very honoured that she would have accepted the position in the Cabinet to serve at the highest level. So, I join in expressing sympathy, not only on behalf of the Cabinet and the P.P.P./C. Government, but also on behalf of The United Force (T.U.F.) and my family.

That chuckle of cynicism is perhaps...and we all know many times that the lone voice in wilderness proves out to be true. The late Minister Desrey Fox was a lone voice in the wilderness and strove to great heights that even the Hon. Member of the Opposition, Dr. Norton, would have joined in her flock as she tendered the flock into her religion.

We are in full support of this motion that the National Assembly pays due respect to her and to express its sympathy to her family. Thank you very much. [Applause]

**Mrs. Holder:** It is my privilege, albeit sad, to rise on behalf of my colleagues in the National Assembly, on the benches of the Alliance for Change (A.F.C.), to offer our support to this motion

standing in the name of the Hon. Minister of Education and, in particular, to enjoin the Hon. Members of this National Assembly to express our heartfelt sympathy to be conveyed to the sorrowing children, friends, relatives and colleagues on the passing of Minister Desrey Fox.

The deceased Hon. Member, Dr. Desrey Fox, former Minister in the Ministry of Education, has been snatched by that mysterious place called death. All we have left of her are treasured moments we shared while she was here on earth with us. She lived her life her way, which we must respect and honour. Indeed, she was an exemplary personality as a woman, as a member of the indigenous community from whence she was born, as a citizen of this country, and a Hon. Member of this National Assembly.

However, on occasions like these when we meet to pay tribute to a distinguish colleague, the purpose I believe is intended to pay... not only to providing solace to grieving relatives, friends and colleagues, but also in some ways for our own consolation. The suddenness and circumstances of her passing cannot escape us and ought to serve as a wake-up call to those of us who are left behind, particularly, in this National Assembly. That wake-up call should see us, the elected representatives of the people, more willing to deal with the people's business truthfully, honourably and faithfully in the execution of the office of Member of Parliament, as we all subscribed in taking the oath of office.

To the Hon. Minister of Health, under whose portfolio the Georgetown Public Hospital Corporation (G.P.H.C.) falls and for which he received some degree of censure as a result of the Hon. Member's passing, should cause, I believe, some redoubling of his efforts to improve the quality of our public health facilities.

To those of us on this side of the House, we too need to redouble our efforts to hold this Administration to the fire to deliver a more reliable public health service. Normally, we do not like to think about death; we would rather think about life. Why reflect on death? We may ask. Because when we start preparing for death, we soon realise that we must look into our own lives. Not on our death bed, but now, and come to face the truth of ourselves.

“Death is like a mirror in which the true meaning of life is reflected.”

Those were wise words provided by one Sogyal Rinpoche.

For some of us, Mother Teresa's words will resonate very well. She said, before her own passing, that,

“Death is nothing else but going home to God, the bond of love will be unbroken for all eternity.”

For others, Lucius Annaeus Seneca's words will resonate very well. He said,

“Those who do not want to die should not want to live. For life is tendered to us with the proviso of death. Life is the way to this destination.”

May we all ponder upon these words and may her soul rest in peace. I thank you very much.  
[Applause]

**Mr. Baksh [replying]:** I wish to thank the Hon. Members for their tributes to the late Minister, Hon. Dr. Desrey Clementine Caesar Fox, M.P. Although, I am a bit disappointed that one Member tried to politicise the tribute.

I wish to acknowledge the presence of members of the family of the late Minister who are here with us today. I also wish to acknowledge the presence of some of her students and teachers, which is so fitting on this occasion. I now move the motion.

*Question put, and agreed to.*

*Motion carried.*

## **PRIVATE MEMBERS' BUSINESS**

### **MOTION**

#### **DEATH OF MR. NAZIR ALLY, FORMER MEMBER OF PARLIAMENT**

BE IT RESOLVED:

That this National Assembly records its deep regret at the death of Mr. Nazir Ally and pays tribute to his dedicated service as a Member of Parliament from 17<sup>th</sup> April, 2001 to 2<sup>nd</sup> May, 2006;

BE IT FURTHER RESOLVED:

That the National Assembly directs that an expression of its sympathy be conveyed to his bereaved family and relatives. [*Leader of the Opposition*]

**Mr. Speaker:** Hon. Members, I now seek your leave to move up, at this point, the next motion of a similar nature on the death of Mr. Nazir Ally, former Member of Parliament. Hon. Member Mr. Corbin, I will ask you to now proceed on this motion.

**Mr. Corbin:** Thank you Mr. Speaker. I rise to move the motion standing in my name under the caption of “Death of Mr. Nazir Ally, former Member of Parliament.” As I do so, I acknowledge the presence of his dear widow, Mrs. Ally.

Today, I feel privileged to have been given the opportunity to pay tribute to a fallen colleague and former Member of this National Assembly, Mr. Nazir Ally, Justice of Peace (J.P.), Member of Parliament (M.P.), who after lifelong service to his community of Corriverton, his Region of East Berbice and, indeed, Guyana as a whole, departed this earthly plane on November 14<sup>th</sup>, 2009, while still in active service to his community and country.

Born on January 7<sup>th</sup>, 1941, in the village of Bloomfield, Berbice, he spent most of his sixty-eight years on this stage of life using all of his energies in service to the people of his community and Guyana, in various and varying capacities, including as a dedicated teacher, community worker, party activist, member of the Corriverton Town Council and Deputy Mayor, Regional Councillor of the Regional Democratic Council (R.D.C.) of Region 6 - East Berbice/Corentyne, Member of his Masjid and the Council of Islamic Organisations of Guyana and indeed, as we know, as a Member of this Hon. House – the Parliament.

Mr. Ally devoted his early years acquiring the necessary education, training and skills to perform in his desired profession. Having successfully prepared himself, he entered the teaching profession in 1963. Despite his many other activities and challenges, he spent his entire working professional life in this profession, training Guyana's youths to face the challenges of the future. His sojourn saw him serving at several schools in Berbice until he retired from his teaching career in 1996 while serving as Headmaster of the Skeldon Primary School, formerly the Skeldon Scott School. His retirement from teaching, however, did not bring to an end the many other activities that he had undertaken, simultaneously, with his teaching.

He was, for us, a dedicated party activist who believed in, and struggled to achieve political independence. He demonstrated, by work and example, that he was committed to national unity and genuine national reconciliation and development. As an activist of our Party, the People's National Congress (P.N.C.) and later People's National Congress Reform (P.N.C.R.), he served at all levels, from the local groups to the highest forums – the Central Executive Committee and the General Council. He gave distinguished service, as Group and District Chairman of the Corriverton District, Regional Secretary and Regional Chairman of the East Berbice/Corentyne Region of the Party and an elected representative of Region 6 to the Central Executive Committee and General Council. He was last elected as a Member of the Party's Central Executive Committee at its 2009 Biennial Congress. It was shortly after this election that he left for a brief vacation in the United States. It was during this vacation that the Party received the sad news of his demise. His Islamic religion ensured that his burial was very swift. Many of the comrades with whom he toiled over the decades in Guyana were deprived of the opportunity of saying a final farewell. We, however, hope to do so on Sunday next, at the Corriverton Civic Centre, where a commemorative programme will be held from 2 p.m. in his memory.

Mr. Nazir Ally, J.P., M.P., was elected as a councillor of the Corriverton Town Council in 1986 and later served as Deputy Mayor where he worked for the development of that town and its citizens for several years. During this period, his capacity for giving greater service was recognised, and because of his other sterling contributions to the party and his community, he was later selected as a candidate on the Party's list of candidates for the 1997, 2001 and 2006 General and Regional Elections. He first served as Regional councillor after the 1997 Elections until 2001, during which time he made continued contributions aimed at promoting the development of the East Berbice/Corentyne Region. This dedicated service resulted in him being extracted from the P.N.C.R.-1G. list of candidates to become a Member of Parliament after the 2001 General and Regional Elections. He served in that capacity in this House from April 17<sup>th</sup>, 2001 to May 2<sup>nd</sup>, 2006, when, I believe, the House was dissolved for the General Elections of that year. He was also a member of the No. 78 Village Masjid and was well recognised among his Muslim brothers and sisters as a devoted brother. He was also a member of the Council of Islamic Organisations of Guyana.

As a person, Mr. Ally, was gracious, friendly, quiet but well spoken, and honest in his personal and social relations. He was constantly active in his community life and well known in his area for settling many disputes, and bringing about reconciliation among many people to avoid conflicts escalating to uncontrollable levels. I considered him a true peacemaker. Moreover, were he of the Christian religion, the teachings of Jesus on the Mount where the well known Beatitudes were pronounced would have been apposite. I think it is found at Matthew chapter 5, verse 9:

“Blessed are the peacemakers for they shall be called the children of God.”

In his religion, however, peace was a constant..., even in the regular greetings, as we know from *assalamu alaykum*. May Allah grant him a good judgement.

His private hours seemed dedicated to his religious practices and his granddaughter Salma – his obvious treasure in his latter years - whom he took pleasure in bringing along with him to many of the events he was involved in, in the latter part of his life. I can truly say that he was a Guyanese who had been a credit to his community and the nation - one of the many unsung heroes and patriots of our land.

He did not have exceptional wealth to give, but he gave of himself and he gave fully and continuously all of his life. He can be said to have taken the words of Kahlil Gibran in the *Prophet* very seriously, and I quote:

“You give but little when you give of your possessions. It is when you give of yourself that you truly give. For what are your possessions but things you keep and guard for fear that you may need them tomorrow? ... There are those who give little of the much which they

have and they give it for recognition and their hidden desire makes their gifts unwholesome. And here are those who have little to give at all. These are the believers in life and the bounty of life, and their coffer is never empty.

There are those who give with joy, and that joy is their reward... It is well to give when asked, but it is better to give unasked, through understanding.”

I believe that Brother Nazir Ally took these words seriously. This was the teacher, this was the community worker, this was the town councillor and Deputy Mayor, this was the Regional councillor, this was the central executive member, this was the parliamentarian, this was the devout Muslim, this was the man I knew, this was my friend and comrade, Nazir Ally.

*Bismillah-hir-rahman-nir-raheem. Allah-O-Akbar.* May peace and blessings reign, and may Allah grant him a good judgement even as we remember his contributions while on earth.

I now formally read and move the motion standing in my name.

Be it resolved that this National Assembly records its deep regret at the death of Mr. Nazir Ally and pays tribute to his dedicated service as a Member of Parliament from 17<sup>th</sup> April, 2001 to 2<sup>nd</sup> May, 2006;

Be it further resolved that the National Assembly directs that an expression of its sympathy be conveyed to his bereaved family and relatives. I have the pleasure in moving the motion. [Applause]

**Mr. Speaker:** Hon. Members, can I have a seconder for the motion, formally?

**Mr. Baksh:** Mr. Speaker, I wish to second the motion.

**Mr. Speaker:** Hon. Members I now put the motion to the House which is this National Assembly...How would I know there are other speakers if nobody stands up. I am not a magician. I will now put the motion, Hon. Members...

**Mr. Nadir:** Mr. Speaker...

**Mr. Speaker:** Hon. Members, this cannot be tolerated, please.

**Mr. Nadir:** Mr. Speaker, if you would permit me. I did not know there was a list, but I want to say a few words in support of this motion.

Like the late Minister Fox, I got to know Mr. Nazir when we joined this National Assembly after the 2001 Elections.

Between the period, while I sat briefly on the Opposition side, and then completing the term on this side, Mr. Nazir and I exchanged a number of opinions, but there was one that resonated with him and he said, "Mr. Minister, if there is one thing that you have to do, and I have to do, is to work hard with our people to respect people's views." He felt very strongly, and I am confident that Hon. Member Mr. Corbin in wrapping up the motion will echo this, that when persons of different races join parties that are not necessarily dominated by their race, they are many times ostracised. He was very sincere about that. He was sincere that we have to work to break down this barrier so that there is no inherent duty of a Chinese to join a political party that represents Chinese, or an Amerindian to join a party that appears to be dominated primarily by Amerindians, and we can go on. He said, "we have to work very hard and you are going to be here longer than I will, and we need to be more civil to each other, respect people's views, and also respect the rights of people for freedom of association." As we strive for a better country and a better citizen, as I spoke earlier, I think these words can also teach us some lessons.

*3.14 p.m.*

To his family and his widow, on behalf of The United Force and the P.P.P./C., we too join in support of this motion. Thank you very much. [Applause]

**Mr. Trotman:** On behalf of the Alliance for Change, I am, this afternoon, honoured to be able to address a few remarks in honour of the late Member of this Assembly, brother, the Hon. Mr. Ally. Like the other speakers - the Leader of the Opposition and Minister Nadir - I had been associated with the gentlemen in my erstwhile days as a member of the People's National Congress, both in its membership of the rank-and-file and as a Member of this Assembly, and had interacted with him, being a Berbician myself, and being assigned responsibilities there, from time to time.

Mr. Ally was the quintessential schoolteacher - very firm yet soft in manner and approach, very deliberate, very scholarly. I recall many times sitting with him as he presided over his Justice of Peace duties and responsibilities, and the methodical deliberate approach which he took to those duties led me to believe that he revered the fact and the honour of being a Justice of Peace.

In this Assembly, he did not speak often and did not speak much. Whenever he spoke he made very pointed remarks, particularly at budget time. He will be remembered, I believe, for being one of those Members of Parliament who never engaged in too much heckling, or engaged in too much discussion that was irrelevant, but always got straight to the point.

As I have said before, I am honoured to be able to join in the sentiments already expressed. Before closing, I wish to state that I am in some ways slightly troubled by the fact that we are only waiting until our comrades passed before we remember and honour them. There has to be something

fundamentally wrong about that. There is nothing political about this. The speaker who is to come after me, I note her name, her husband was reminded of this fact at a cremation last Friday at Number 74 Village in Corentyne. Why are we waiting until our comrades pass to remember that they have served, not only our respective parties, but this country more importantly?

I remember Martin Carter's poem, *Death of a Comrade*.

“A death must not find us thinking that we died”

In other words, we must make preparations during the lifetime, during the days when service has been rendered to honour and remember our comrades. I lament the fact that to date two former Presidents of this country portraits are not up in this Assembly. I have spoken about this in the past.

I repeat my sentiments of a few weeks ago that the investiture ceremony for which we had become accustomed to, for over twenty years and more under the People's National Congress Reform or People's National Congress government, seems to have just disappeared.

Yesterday, a son of the soil from Rupununi was honoured, Mr. Alicock. The Alliance for Change had already recognised him, a few months ago, when the award was first announced. I find it, particularly, laughable in some respect that Mr. Alicock could be honoured yesterday at a special ceremony because he has received a Caribbean award; yet this man has not been given a national award in his own country. But he is being recognised by those who have the power to give it, for an award that he has received from the Caribbean, for his work in Guyana. There has to be something fundamentally wrong with that.

As I close, I remind each of us that one day - I believe it was Mrs. Holder who has pointed out just now - life comes with a proviso that says, “You are going to die”. I believe that we owe it to ourselves and to those who have served, and yet are alive, to recall and recognise their works, and ensure that when they do die that we do not find ourselves thinking that they are just dead, but that we have ensured that their memories live on. So this is not only for those of us on this side of the House, but all of us here, Mr. Speaker. I would ask with your permission to refer these comments to you as well, to ensure that we do not allow our comrades to go unnoticed, and only turn up from time to time whenever there is a death to try to remember them and to pay homage to them, which is good, but there is much more that we can do while they are alive. [Applause]

**Mrs. Chandarpal:** Hon. Members, and wife of the late Hon. Member Mr. Nazir Ally, we, on this side of the House, would like to express our deepest regrets at the death of the late Member of Parliament, the Hon. Member Mr. Nazir Ally, who passed away on the 14<sup>th</sup> November, 2009, in the United States of America.



We are aware that the late Member was a schoolteacher who was later promoted to the position of Headmaster, a position he held until his death. My recollection of the late Member, during his tenure in the National Assembly, was that of a very quiet, a very reserved, as well as a very respectful person. I recall the discussion I had with him once when we were talking about some people we knew at Corriverton, and he then confided to me that as a young man he was a member of the Progressive Youth Organisation. During our discussions we also discovered that he had known my father-in law since they were headmasters alike, who were not living very far away from each other.

Mr. Ally was a Justice of Peace and a member of the Local Board of Guardian. Members who worked with him on the Local Board of Guardian remembered him as a very willing person who was always ready to visit shut-ins at any short notice. We are also aware of his role in the Regional Democratic Council as a councillor representing his Party.

On behalf of the P.P.P./C. side of this August Assembly, I would like, through you Sir, to direct my expression of heartfelt sympathy to the sorrowing wife and children of the late Member. [Applause]

**Mr. Corbin [replying]:** I would just like to acknowledge with appreciation the expressions of support of this motion as already read by me in the National Assembly. There is nothing more to be said except that the speakers have captured the essence of the personality of the quiet man that I spoke about. I think Mr. Nadir has confirmed my assertion that he was deeply concerned about national unity, reconciliation and, indeed, national development. I believe that in paying tribute to his service and supporting this motion of requiring that we send this express to his sorrowing wife and family, I trust that they will have consolation in the thought and in the knowledge that while he traversed this plane he made full use of the time he was given on this earth and served humanity well. I so move the motion.

**Mr. Speaker:** Hon. Members the motion which I will now read has been moved and seconded, and after reading it I will put it to the House.

Be it resolved that this National Assembly records its deep regret at the death of Mr. Nazir Ally and pays tribute to his dedicated service as a Member of Parliament from 17<sup>th</sup> April, 2001 to 2<sup>nd</sup> May, 2006;

Be it further resolved that the National Assembly directs that an expression of its sympathy be conveyed to his bereaved family and relatives.

*Question put, and agreed to.*

*Motion carried.*

## **INTRODUCTION OF BILLS AND FIRST READING**

## **BROADCASTING BILL 2010 – Bill No. 3/2010**

A BILL intituled:

AN ACT to make provision for the establishment of a Broadcasting Authority, to provide for the functions, and to provide for the licensing of broadcasting agencies and the encouragement of production and broadcasting of television and radio programmes having relevance generally to life and culture of the people and for consequential and related matters. [Mr. Ramjattan]

**Mr. Ramjattan:** I rise to seek leave of the Assembly to postpone and defer leave to present the following Bill. A Bill intituled an Act to make provision for the establishment of a Broadcasting Authority to provide for the functions and to provide for the licensing of Broadcasting agencies, and the encouragement of production and broadcasting of television and radio programmes having relevance generally to life and culture of the people and for consequential and related matters. I move that this Bill be postponed to a time later.

I do so, because I got from the Hon. Prime Minister, this morning, a letter indicating that his Government will not support this Bill at today's, Thursday, March 11<sup>th</sup>, 2010 sitting, and by that I understood him to mean that is today. So I am proposing that we defer it so that we can get his support on another day.

*The first reading of the above Bill was deferred.*

### **MOTION**

#### **REQUEST TO QUESTION, THROUGH COUNSEL, HON. DR. ASHNI SINGH, M.P., MINISTER OF FINANCE BEFORE THE COMMITTEE OF PRIVILEGES**

WHEREAS at the 99<sup>th</sup> sitting in the 9<sup>th</sup> Parliament held on the 22<sup>nd</sup> day of October, 2009 the Honourable Dr. Ashni Singh, M.P., Minister of Finance moved a motion which resolved that this Honourable House signals its unanimous disapproval of a statement purportedly made by me, and this matter be referred to the Committee of Privileges in keeping with Standing Order No. 32 with the view of finding me in contempt of this House;

AND WHEREAS at the aforesaid sitting the Honourable Speaker ruled that a prima facie case had been made out against me and referred the matter to the Committee of Privileges;

AND WHEREAS at my appearance before the Committee of Privileges on the 25<sup>th</sup> day of November, 2009 I enquired of my right directly or through counsel to question the Honourable Minister of Finance, Dr. Ashni Singh the mover of the aforesaid motion and the seconder of that motion;

AND WHEREAS by way of letter dated 15<sup>th</sup> December, 2009 the Clerk of the National Assembly informed me that “...in order to question the mover of the motion, the Honourable Dr. Ashni Singh, either directly or through counsel, you would be required to table a motion in the National Assembly requesting leave of the House to do so.”;

AND WHEREAS the rules of natural justice, dictate that an accused person be given an opportunity to question his or her accuser;

AND WHEREAS this National Assembly as the highest Court of Guyana, is duty bound to adhere to the tenets of natural justice,

BE IT RESOLVED:

“That this Hon. House grant me leave to question, through my counsel, Honourable Dr. Ashni Singh, M.P., Minister of Finance the mover of the motion dated 22nd October, 2009 citing me for contempt of the House.” [*Mrs. Backer*]

**Mrs. Backer:** Much obliged Mr. Speaker, coming after the two solemn motions which have just passed and the reasons for them being here. I am almost tempted myself, like Mr. Ramjattan, to ask for a deferral. There is a saying, “Things tend to happen in threes”. But we are here, and here is where we will remain.

The resolved clause of the motion standing in my name - the one resolved clause - is very unambiguous and given the fact that I am satisfied, despite differences that we have and despite the reality that our National Assembly is not where it ought to be. I think there would be a general agreement that we, who are sitting in the National Assembly, aspire to make our National Assembly as transparent, as progressive, and as fair and even-handed as it could be.

Given that I am fairly confident again, because of the level of unanimity displayed earlier, that this very simple motion standing in my name will have the support of the entire House; and because I say so, I am almost tempted to sit, but my legal training tells me that it is always better to err on the side of inclusion. I propose, confident that I am, to briefly share with this National Assembly, and by extension, the people of Guyana, the people that we all represent, to put this motion in context.

This motion (I dare say this is a historic and unprecedented motion, as far as our research goes in this National Assembly, post-independent) in which the subject matter has been sent to the Committee of Privileges as a result of a ruling by the Speaker, as I said, is historic. What is the genesis that led to this historic motion, first, had it been where it is now? This I speak about the substantive motion moved by Dr. Singh.

The first WHEREAS clause very clearly states what triggered the motion by Dr. Singh seeking to have me found in contempt of the House. It is a very short motion, and with your leave Sir, because it is germane to the resolved clause, I would want to read it. This is the privileged motion by the Hon. Member Dr. Singh, dated the 22<sup>nd</sup> October. I should say, because I want to put everything in context and everything as it was on the table, that proceeding the motion by Hon. Member Dr. Singh, the Hon. Prime Minister wrote the Speaker of the National Assembly, the Hon. Mr. Ralph Ramkarran, a letter dated the 21<sup>st</sup> of October, which would have been six days after this alleged statement was made by me in this House, and part of it said, and I quote: “I refer to her...”

“Her” is being referred to me.

“I refer to her rhetorical question as to whether the Government was sending Guyanese soldiers, GDF soldiers, to Trinidad to torture.”

That is in quote. So the Hon. Prime Minister, by way of letter, indicated to the Mr. Speaker that Mrs. Backer has said, and he quoted: “Guyanese soldiers GDF, soldiers to Trinidad to torture”. He said that I asked the rhetorical question whether the Government was sending them.

When one reads the Hansard on which the Hon. Member Dr. Singh’s motion is based on and I accept what is said in the Hansard. I was given a copy. There are no words to that nature. I read now from the Hansard, which would be the extract of what I said. I am grateful to Hon..., and I am speaking to the Speaker, because Ms. Teixeira had raised a point under Standing Order 41, “Contents of Speeches”, and said,

“I fail to see the relevance of Mrs. Backer intervention on the Convention against torture, to the issue of deployment...”

And the Speaker, quite rightly said, in my opinion, “Yes Hon. Members...”

It was not Member.

“Yes Hon. Members, let us confine ourselves to the matter in issue please.”

I then said,

“Sir, I am grateful to the Hon. Member for drawing the link, because, it is soldiers who we are worried about going to torture people. So it is very relevant. And that is the nexus. We want them as they go to represent Guyana to live within the law.”

That is my statement from the Hansard. Yet on the 21<sup>st</sup> of October, six days after the statement I made, the Hon. Prime Minister, in writing to the Speaker, said, and again I quote for emphasis:

“I refer to her rhetorical question as to whether the Government was sending Guyanese soldiers, GDF soldiers, to Trinidad to torture.”

It was a completely different set of words and a completely different context.

The reason I raise that is because in his motion - this now is the Hon. Dr. Ashni Singh's motion - it says, it picks up on the letter of the Hon. Prime Minister dated the 21<sup>st</sup> October, Dr. Singh's motion is being dated the 22<sup>nd</sup>, and said, and I quote:

“Mrs. Deborah Backer during the debate on a Government motion on the deployment of GDF personnel to Trinidad and Tobago for the Commonwealth Heads of Government meeting made a statement to the effect that Guyanese soldiers were being sent to torture.”

Whereas, as I said, my statement was completely different from that, and it said,

“It is soldiers who we are worried about.”

We, the Guyanese people, whom I presume, include the Government, and which did include the Government.

“We want them as they go to represent Guyana to live within the law.”

The confusion may have come from the fact that the letter which triggered this activity, for want of a better word, was written by the Hon. Prime Minister, and in it he indicated to the Speaker, quite rightly, within his right, that he intended to bring a motion. However, on the next day the Hon. Prime Minister was not here, on the 22<sup>nd</sup> October, and Dr. Singh moved the motion. That may have been where the break in communication came, because Dr. Singh did not write the letter to the Speaker indicating that he wanted to engage the Committee of Privileges. The Hon. Prime Minister wrote saying that I had said certain things. The Hansard said that I had said something else. Then the Hon. Member, Dr. Singh, submitted a motion that was saying what the Hon. Prime Minister said that I had said, which was not what the Hansard said that I had said.

What is interesting is that in the motion moved by Dr. Singh, when he spoke briefly on the motion, he quoted correctly from what I had said,

“It is soldiers who we are worried about going to torture people.”

The Hon. Member was aware of what I had actually said, but his motion did not say that. That is how the motion was brought.

The Speaker, quite rightly, because of the powers entrusted in him, ruled that a *prima facie* case had been made. There is no problem there, that is, the second resolved clause.

The third resolved clause, and this is coming to the issue which is now before the House, when I appeared as requested to do so by the Committee of Privileges on the 25<sup>th</sup> November, without counsel, I sought clarification on five issues. I sought them against the backdrop that this sitting of the Committee of Privileges was the first as far as we have been able to ascertain – we, meaning the P.N.C.R.-1G. Members - that this Committee has sat, and as such, there was no historic precedent to guide me as to how it would proceed, although, of course, I am aware that certain Standing Orders give some idea.

The five points of clarification which I sought were these:

- (i) The specific charge preferred against, me, the accused, by the Hon. Dr. Singh, the accuser.
- (ii) The procedure that would be employed by the Committee of Privileges.
- (iii) My right to legal representation of my choice.
- (iv) This is the one which is completely on point - my right, through counsel, to question the Hon. Minister of Finance Dr. Ashni Singh, the mover and the seconder of the motion, dated the 22<sup>nd</sup> of October, 2009.
- (v) My right to a hearing in the presence of Members of the National Assembly.

Those five points, which I remain firmly committed to the belief, all embrace the principles of natural justice, were laid in writing to the Committee by me, by way of a memorandum. At that meeting the Committee immediately said to me, through the Chairman, the Speaker himself, the charge was a breach of privileges, the procedure to be employed and it was listed.

My right to legal representation: the Committee immediately said to me, “you have a right to legal representation” and in fact, also said “you have a right to call witnesses.”

As regard my right to question the Hon. Minister, I was informed by the Committee, then at that meeting of the 25<sup>th</sup> October, it would have to deliberate on the matter, and I would subsequently be informed by it as to its decision.

In keeping with that commitment, given to me by the Committee, I did receive a letter dated the 15<sup>th</sup> December, 2009, signed by Mr. S. E. Isaacs, Clerk, in his capacity, I presume, as Clerk of the Committee of Privileges, and it basically said in essence that:

“According to the Erskine May Parliamentary Practice 21<sup>st</sup> Edition, in order to question the mover of the motion, the Hon. Dr. Ashni Singh, either directly or through counsel, you would be required to table a motion in the National Assembly requesting leave of the House to do so.”

That letter dated the 15<sup>th</sup> December, 2009 was received by me, if I am not mistaken, the following day. No deadline was given to me as to when my motion ought to be submitted. But in the absence of that, a reasonable time would be presumed. What I found slightly unsettling is that, in that same letter dated the 15<sup>th</sup> December, 2009, which I received on the 16<sup>th</sup> December, 2009, it went on to set the next meeting at the 23<sup>rd</sup> of December, 2009 at 4 p.m. So it left me to wonder, and I was forced to consult counsel, as to what would happen to this meeting of the 23<sup>rd</sup> if my motion was not yet in. I then hustled and I got my motion in on the 22<sup>nd</sup>. I heard nothing from the Committee, and out of an abundance of caution, I came to the meeting of the 23<sup>rd</sup>, because the letter did not say if I submit a motion it will stay this meeting.

Not wanting to fall foul of the Committee of Privileges, a great personal sacrifice, if I say so, two days before a significant event on the Christian calendar, I have been a practising Christian, I had arrived here on the 23<sup>rd</sup> of December, to find out there was no meeting. I had not been given the courtesy of a communication, whether in writing or verbally, to say Mrs. Backer, to say Madam accused person we have received your motion and there is no meeting. I think that if we separate the person from the procedure there must be something wrong with that, and I want to place that on record. At no time was I told officially, even by way of a telephone call, that the meeting was postponed as a result...I do not know why it was postponed, but when I got here there was nobody. When I enquired I was told that there was no meeting, and that was at 4 p.m. on the 23<sup>rd</sup> of December. That having happened, the motion was there, and the motion is now before this House.

The sole resolved clause, as I indicated, is my right to question, through counsel, the mover of the motion, Dr. Ashni Singh. The Committee of Privileges recognised that there were instances when the mover of a motion could be questioned. Had it not recognised that, it would not have said to me that you have to get leave of the House. Implicit in that letter that I have to get leave of the House suggests that the House has the power to grant me that leave.

Why is it that my counsel would want to question Dr. Singh on this motion? The reason is this, it is not *eye pass* as it is being said.

3.43 p.m.

The reason is that there is a clear contradiction in what Dr. Ashni Singh has put forward as what I said in placing his motion before the House and what in fact I had said. There could be no dispute about

that. I am hearing from the back that unless Hansard has been tampered with, I have no qualms about that. There is an inconsistency there. In helping the Committee itself and by extension, the entire Parliament, to get to what was actually said, it cannot harm natural justice, it cannot harm the Committee's deliberation and it certainly cannot harm Dr. Ashni Singh to go before the Committee to explain to them how he interpreted certain words that I had said in another way that I am submitting.

It maybe and Dr. Singh is here, if I am mistaken, he could stand and I will sit immediately, but that is what I know. It may be because when I was debating this motion in the National Assembly, Dr. Singh was not here. He attended the sitting, but left before I spoke on the motion. So what Dr. Singh had with him at best was secondhand information, but I would not want to say hearsay, it cannot be hearsay. [Member: Low blows.] No it is not blows. If Dr. Singh was here when I spoke, I would be... [Interruption] ...was that opportunity ever given to me as it was given to you? I am glad that the Assembly is alive. It is those inconsistencies as I said in another WHEREAS clause that it is natural justice that we as a National Assembly should be aiming at.

When one reads the New Zealand equivalent to Erskine Mays, and when one reads all the modern literature on natural justice in the Parliament, I am not talking about the Court, I know that Mr. Mohabir Nandalall will come with a whole set of case law, but we are going to respond to that after he speaks. When you look at New Zealand, their practice in the House of Commons, and so on and when you look at Mays, or when you read it in the literature, natural justice is an ever expanding field. The basic thing is that there should be no trial by ambush. There must not be any innuendos. There must be openness and as I said before, and I want to say this before I close because I am going to reserve whatever I have to say at the end. It cannot harm the Committee and that is the point that I want to make. I want to emphasise that by having heard from Dr. Singh, the Committee may say that this woman is crazy, she is even crazier than we thought. They may say that, but that is a risk we are willing to take because we know that would not happen. But the point is that it may seem as a simple motion, but it is unprecedented. It is historic. This National Assembly has a choice - should we take the high road on this historic motion and request Dr. Singh to come and share with us what words so offended him, he having not been here, to move this motion? We are saying that is a road that we feel very strongly this National Assembly should go down, rather than go down the narrow old-fashioned road where you have something, hang the accused without even having the accuser come to put into perspective why he wants the accused to be hanged. With those few words, I will stop and reserve my other comments as I rap up. Thank you very much. [Applause]

*Assembly suspended accordingly at 3.50 p.m.*

*Assembly resumed accordingly at 4.56 p.m.*



**Mr. Speaker:** Hon. Members, before I call on the next speaker I do not know if the floor of the National Assembly is the place to raise the issue of not being invited to a meeting or not being told about the postponement of a meeting. However, since the Parliament staff is involved, I must give an explanation. On the very day, 23<sup>rd</sup> December, 2009, we received the letter. I do not have it before me now. I will get it in a minute and I can read it for you. We received the letter from the People's National Congress Reform saying that it will be inappropriate having regarded the need for Mrs. Backer to file a motion. The motion having been filed will be inappropriate to hold a meeting on that day. I do not specifically remember what happened, but I am normally consulted in a matter like that and I would normally give instructions. But since the meeting was scheduled to be held the very day, the meeting was canceled by telephone to all Members. No records are normally kept of telephone calls made, time or to whom the message was delivered to. Quite often when calls are made, the persons to whom these calls are made are not available - quite often, but not every time - and a message has to be left with the person who answers the telephone or some other responsible person. Unfortunately, no log is kept, but that is what I am told happened on that day and clearly the message got through to all of the other Members of the Committee because Mrs. Backer was the only person who turned up that day. So either our staff did not inform Mrs. Backer, but informed everybody else, or who ever received the message for Mrs. Backer did not deliver it. So that is what would have happened.

**Mr. De Santos:** Mr. Speaker, for reasons which I shall decline to mention, but of one in which is patent by my croaking voice, I had hoped not to speak on this motion. However, I have persuaded myself that I need to say a few words on the matter- it being of some importance. I, however, do not wish to be very long because I do not think my voice will stand up.

This motion seeks to get this National Assembly to exercise what I consider is a discretion whether to permit the Hon. Member, Mrs. Backer, to be able to cross examine Dr. Singh before the Committee of Privileges either personally or with a Counsel of her choice. This is a matter with which you, Sir, with your vast experience in the law would not be unfamiliar. You will recognise that in the normal circumstances the rules of natural justice require that the person against whom an allegation is made is given an opportunity to be heard. This normally requires that he may be able to question his accuser. In two sentences, I have used the word "normally" twice and not without good reason because I wish to posit that these proceedings are far from normal. They cannot by any means be considered normal proceedings. If only for the passage of time, I do not recall, since being a Member of this House from October 1992 to the present time that we have ever had a similar situation. If there has been one, I am unaware of it. My only misgiving is that there seems to be some and I do not know if I can properly call it a dispute, as to some questions of what was said.

Mrs. Backer relies, it seems to me, on the Hansard and so it should be because it is the official verbatim record of this House. Speaking for myself, I would treat this matter as admitting of no dispute as to what was said. Because if the Hansard is not questioned and is not changed in the right way, then the Hansard will preponderate over any other version of what was said. It must therefore, in my view, and I humbly submit that the Hansard version should be and must be the correct version. The interpretation of that version is not a matter for this Hon. House. I would submit that is a matter for the Privileges Committee. What we have to consider here is whether in the exercise of this House's discretion, leave should be given to Mrs. Backer to pursue her request to have Dr. Singh questioned.

The nearest I can come in the absence of any actual authority in this House is to equate what is happening here to a contempt motion in the High Court done in the face of the Court where a person, whether it be a lawyer or litigant, utters something derogatory of the Court or the Judge in the hearing of the Judge in the courtroom or in its immediate environs. That Judge then becomes almost judge, jury and executioner because having heard what he heard there is no need for witnesses or any such thing. The fact is established as it is established here by the Hansard. The question is therefore whether if those circumstances, abnormal as I would think they are, unusual rather, may be a more appropriate word as I think they are, whether Mrs. Backer has a right as I think she thinks, she has I submit that she has no such right and the principle of which I try to extract from a case which I said I have been called to speak on in a very short notice. It is the case in which I remember was reported in the West Indian Report from Trinidad that went right up to the Privy Council of Maharaj against the Attorney General. In that case, Maharaj, who later I think became the Attorney General of Trinidad, (he was during my time), Lawrence Maharaj, is Senior Counsel (S.C.) now. Mr. Maharaj uttered certain remarks that I think attributed unfairness to the Judge or some other quality which a Judge should not have. The Judge told him what his offense was and asked him to make whatever representation he could. He insisted that he had a right to Counsel and to do all sorts of things, but the Privy Council in its final decision disagreed and decided that he had no right. The Judge in those circumstances was the be all and end all. So it is that the Committee will be hearing this matter, but I am sure it may afford Mrs. Backer an opportunity to say what she has to say, which may very well not go back to the fact to what she had said, but the intention in which she had said it. That is the only way that I can see this panning out. In the final analysis, I would submit that the mover of the motion is not entitled to cross examine, is not entitled whether by herself or Counsel to cross examine. I would move that this House refuses to exercise any discretion in favouring her to do so. Thank you. [Applause]

**Mr. Trotman:** May it please you, Your Honour. We have from the learned Senior Counsel his opinion having conceded that this matter is unprecedented in this Chamber.

**Mr. Speaker:** There was a convening of the Privileges Committee in either 2004 or 2005 on Budget day at the Ocean View Hotel when the Opposition boycotted Parliament, but showed up and created a great noise and banged on the door of the Chamber. This caused the Parliament to be adjourned for about two hours. The matter was reported to the Committee of Privileges which met under my chairmanship for several meetings, but the matter was eventually abandoned. That was one instance. The matter did not go to conclusion.

**Mr. Trotman:** Thank you, if I could resume please, Mr. Speaker. I believe that I was one of those Members of Parliament who caused the grave disturbance at the Ocean View Hotel and I would also state that we were engaged in just opposition to the events of the day - a certain death squad that has gained notoriety. I recalled that day very well.

Going on to say, and in continuance of what I have begun to say, this matter is unprecedented in so far, that never before has a matter come up for hearing, so to speak, with due respect to you. If I may recall, neither I nor Mrs. Backer was named or then Member of Parliament, Mr. Jerome Khan, were never summoned to appear. We never did in fact appear. We never got to the stage of questioning and witnesses and hearing of the complaint. The matter was not abandoned. I believed that the charges were withdrawn and Mr. Charles Ramson advised that they be withdrawn then, but they were withdrawn. I could be wrong.

**Mr. Ramson:** I do not know why, if I may say, continue to act in such a mendacious manner in this House. This is a Hon. House. On both occasions he is making this House into a laughingstock. Comrade Speaker I am addressing you, not the rabble over on that side. I am saying that the Comrade, who is making the assertion, is making a laughingstock of this House ...

**Mr. Trotman:** I rise on a point of order and I am asking you to rule if you think that I am making this House into a laughingstock because I will not stand or sit here and allow such a statement to be made against me. I have said nothing to bring anyone into disrepute and I will not stand for it from you or anyone else. I would ask you, Mr. Speaker, to rule if you think my presentation so far has brought this House into dispute and if so, if you may, lay the proper motion against me, and I will defend it.

**Mr. Murray:** On a point of order, Sir. Is it in order for a Member on the Government benches to refer to the Opposition Members on this side as “rabble”?

**Mr. Ramson:** Because you are interrupting me.

**Mr. Speaker:** Hon. Members please confine yourselves only to Parliamentary language.

**Mr. Ramson:** I apologise then, Sir. Once you rule, I apologise. I rose just now to take the point that the Hon. Member, if I may so refer to him, that he is guilty of mendacious conduct:

(A) He says that I had something to do with advising the Committee. That was quite wrong. I was not the Attorney General at the time, so he must know that. I do not care how loud he gets.

(B) He was one of the participants in the conduct of which caused this Hon. House to resolve itself into the Committee of Privileges on that occasion. He says it is unprecedented. Is either he does not understand the meaning of unprecedented or he is knowingly misleading this House and that is a breach of the rule. That is the point of order for those who wish to hear.

**Mr. Trotman:** I stand before you, Mr. Speaker, asking that you rule whether or not, I am being mendacious and have breached the privilege in this Parliament because all of us will have to take breaching this afternoon.

**Mr. Speaker:** Well in the first place Mr. Ramson was not a Member of the House on that occasion and had nothing to do with the proceedings. Hon. Members will you give me some time to rule, if not we cannot proceed in this way. Mr. Ramson was not a Member of the House...

**Mr. Trotman:** Well, Mr. Speaker, if you have clarified the matter, then that is the end of that, but I am asking you to rule. There has been a proper...

**Mr. Speaker:** Well, Hon. Member, let me put it this way. You know the Parliament of Guyana was grievously offended and disturbed by the behaviour of yourself and other Members of the Opposition on that day. It grieves me to listen to you standing up here and say that that conduct was justified. I wanted peace in this House so that we can continue the business for the people of Guyana. He was the one who chose not to go ahead with the proceedings in the Privileges Committee. I persuaded the Members of the Government side to drop the matter which they agreed to do and that is how it came to an end.

**Mrs. Holder:** If I may, Mr. Speaker, I am seeking clarification. I was a Member of that 8<sup>th</sup> Parliament and a Member of the Opposition. In your statement, you made a broad statement of the Opposition. I would appreciate it, if you made a distinction that I was not a part of it.

**Mr. Speaker:** My apology Hon. Member, you were not a part of it.

**Mr. Trotman:** May I proceed, Mr. Speaker?

**Mr. Speaker:** Yes.

**Mr. Trotman:** I thank you. I will resume where I left off when I was interrupted...

**Mr. Ramson:** I asked that this Hon. Member withdraw what he said about me. I urge you to make the ruling and insist so as to bring proper order to the House. The Hansard will bear me out in the future.

**Mr. Speaker:** I have already advised the Hon. Member that you were not present and he accepts that.

**Mr. Ramson:** Thank you. Once he accepts that, please record it in the Hansard.

**Mr. Speaker:** You can proceed, Hon. Member.

**Mr. Trotman:** Thank you. The point I began to make was that we were entering into unprecedented events to return so far as to actual hearing where these proceedings are concerned. We have acknowledged that in the past several Members of the House were cited, but for reasons known or unknown, based upon your intervention, some now know that those matters were not proceeded with. And so as the Senior Counsel has stated, there is nothing normal about these proceedings. They are known to all of us. I wish to say that we have come a far way since the *Magna Carta*. We have come a far way since 1966 when we began our Parliament under the Westminster style constitution. We have come this far way since Erskine May have written rules on some of these matters. It is time for us to, in a sense, develop our own jurisprudence, so to speak. In doing so, we ask ourselves a simple question. Do we deny certain rights because we have a special procedure or a special jurisdiction? Rights which are available to any citizen in any Court outside of this Chamber, that is to know one's accuser and to hear from one's accuser. But in this Chamber which is supposed to be the highest lawmaking body of the land, a Member is not entitled to those rights which as I say, obtained not too far away only in Magistrate's Court.

The Constitution of Guyana, the document which we all swore to uphold and to which we all agree is the preeminent law of Guyana, sets out certain inalienable and justiceable rights under the provisions to secure the protection of law, did very little to article 144 of the Constitution. I am sure that Mr. De Santos, I have no doubt, is well acquainted with this article. It says that any person who is charged with a criminal offense and of all my readings, both in the past and quite recently, tells me that this charge preferred against the Hon. Member, Mrs. Backer, is akin to a criminal charge and therefore she is to be presumed innocent. I believe that we accept that until the Committee of Privileges finds her guilty. She has, I believe, to be informed as reasonably practically as possible in a language that she understands and in detail and nature that she understand of the offence against her. She should be given adequate time and facilities to prepare her defense, I believe, we accept that. She should be permitted to defend herself before the Court, being of course the Committee of Privileges, in person or by legal representatives of her choice of these other rights enshrined in the Constitution of Guyana. She should be afforded the facilities to examine in person or by our legal representatives, the witnesses to be called by the prosecutions against her. Lastly, she shall be permitted to have the assistance if she does not of course speak the language, the services of an interpreter. The point is that there is no jurisprudence or precedence to which we can turn and despite the bellowing by others, we have to appeal to you and to each other to accept that a Member of this House has been brought before the Committee of Privileges.

5.20 p.m.

I am not here to debate whether she is rightly there or wrongly there. However, do we say to ourselves that once she is there she shall not have the right to challenge her accuser because we are in a special or abnormal circumstance? Then again, I go back to what obtains just one hundred metres away from here, even in the Magistrate's Court, every person charged has the right to face his/her accuser. Despite the reasoning of Council which I find to be sound, but I do not think is applicable in this case, that contempt in the face of the Court, I believe, is distinguishable for this reason: when there is contempt in the face of the Court, it is the Judge or the Court and in this instance, you, Your Honour, who should have cited the Hon. Member. But in this case, the citation, if I can use that term, came from another Member of the Assembly who was not present on the day. If she had been offensive, it would have been within the right of the presiding Speaker of the National Assembly, to cite the Member there and then. I believe then that the procedures from Maharaj and others would have been applicable, as they say abroad, apples to apples or oranges to oranges, here in Guyana on all force. But in a case where a Member who was not present brings the complaint on a subsequent day- what is so abhorrent, or different or difficult for us to accept- that that Member should be able to:

- 1) Substantiate his complaint before the Committee of Privileges; and
- 2) To be questioned and asked for clarifications or even to explain the nature of his complaint before the Committee.

That is what it simply comes down to. I believe that any Member as a citizen of Guyana should have the right, as every other citizen, if charged with something that carries a penalty - and this does - and could be considered, as I said, quasi criminal or akin to a criminal charge because all of the learning says so, should have all of the rights enshrined in the Constitution.

I have discovered what I believe to be another issue with this proceeding and it has to do – and I only discovered it today listening to Mrs. Backer- says the Member who intends to cite another Member for being in contempt, so to speak, shall first write a letter. Thereafter, when a letter is written to the Speaker that Member shall then be allowed to submit a formal motion to the House for the person to be cited. In this instance, the letter was written by the Hon. Prime Minister and then another Member brought the motion for reading.

**Mr. De Santos:** I wish to rise on a point of order. The Hon. Member is going outside the terms of the motion. The matters which he speaks of are matters which must be raised before the Committee of Privileges, not here. It is irrelevant to the issues for which we have to decide here.

**Mr. Trotman:** Mr. Speaker, would you wish to hear me articulate it and then you rule? I do not really know what he is saying.

**Mr. Speaker:** Proceed.

**Mr. Trotman:** Yes. Thank you. I thought so. The point is that according to Erskine May, we may have a difficulty here. And whatever I say is couched with the belief that this matter is not beyond the pale that it could not and cannot still be resolved. Erskine May, Chapter 10:

“A Member who wishes to make a privilege complaint is required to give written notice to the Speaker as soon as is reasonably practicable after the Member has notice of the alleged contempt or breach of privilege. The Speaker then, exercising his/her discretion, would allow such a Member to move a motion in the House.”

I am saying that coming out of the debate this afternoon, I am hearing, and I am again subject to correction, that one Member wrote the letter and another Member moved the motion. That may be something that could be raised later. I am not, as I said, getting into the merits or demerits of the substantive issue, but it may based on what I have heard, lead to some issue later. Suffice to say at the end of this, I began that we have come far beyond the *Magna Carta* to the point where basic human rights as enshrined in the Constitution and available to every citizen and anyone present within the territorial jurisdiction of Guyana. This should, in my view, be extended to every Member of this House. It would appear that - I cited them - all of the various sub paragraphs of article 144, save and except one of them, is an issue where the Hon. Member Backer is concerned, and that is whether or not she has the right to Counsel and whether her Counsel shall have the right to enquire of the accuser.

I cannot, in all good conscience, support or rather vote against this motion this afternoon because it is a right which any of us as Members of this House would wish to be in our favour should the need ever arise. In our haste and because, as I said before, this to an extent, is unprecedented and uncharted territory, we should resolve any doubts, because there is no precedence in favour of the accused. That is the way I know it to be that if there is a doubt whether to go left or right, the one that favours the person who is accused is the one that we should go on. I believe the question has already been asked: What do we have to lose? What will the Committee suffer? What will the accuser suffer if he is asked to do so? The Committee may very well circumscribe the type of questions to be asked and the extent of the probe if there is any kind of cross examination. But to say that you shall not question your accuser at all, I am submitting, flies in the face of the Constitution of Guyana and of natural justice. The examples given of contempt in the face of the Court are distinguishable on the basis that you have the right to cite a Member in the face and at the point in time, but where there is a subsequent complaint laid. I am submitting that any amount of authority cited - and I believe that my learned friend, Mr. Nandlall, is armed with a flow of authorities, that the authorities are all distinguishable on that point - in the face of the Court by the presiding Chair or Judge is quite different from a Member coming several days afterwards.

We have had far worse and I have no doubt that when the history of this Parliament will be written centuries from now, we will have worse violations. In fact, I am reading some of Mr. Frank Narine's writings since he was here and read all kinds of things including an indecent of assault that took place, according to him. Nothing like that, I believe, has ever happened at the Ocean View Hotel. [Mr. Speaker: An indecent display.] Display. But all kinds of things have happened apparently in these Chambers. I am saying that it must not be allowed, but we must allow the right procedures whenever we proceed and ensure that justice must be done and be seen to be done. A person who is accused is given every opportunity to a fair and unbiased hearing and trial if you were to put it. We are not asking and I am not in any way saying that the proceedings should be halted. I am just saying that if a person is accused, they should have the right to face their accuser.

As I take my seat, I want to leave a little analogy. I remember when I used to look at the Chinese movies in the days of old. There used to be a character in those movies – I cannot remember the name that they called him – but he would be the kind who would go and make complaints and then he would go back to the master and the master would then deal with the matter condignly. And then the person will be behind. I was hoping that I could have addressed the Hon. Member, Dr. Singh, because I know him to be a strong person. And a person who makes a complaint of this nature should be strong enough. I am led to believe that he is quite prepared to just read out the details of his motion and that he has nothing to hide because he felt strongly about presenting his motion. And I would say that our jurisprudence would not in any way suffer, be affected or be set back if we were to allow persons making an accusation to come formally to make the accusation and to be questioned by their accused or the Counsel of the accused. That is a basic right available to every citizen and I am concerned that, depending on the outcome of this motion, whether it is accepted or not, some are of the view that Members of the Parliament are not entitled to that basic right which our brothers and sisters are entitled to on the outside.

With those words I wish to say that the Alliance For Change will support this motion and we expect that our brothers and sisters on the other side will put away the whip and allow conscience to decide because we are not here saying that the proceedings should not go ahead at all. I believe that the Member is asking for one basic opportunity to face and question her accuser and we believe that she is entitled to do so and that this House should allow it. Thank you very much. [Applause]

**Mr. Speaker:** Hon. Members, I now have the letter before me that was written to the National Assembly in connection to this matter. The letter was written by Ms. Cheryl Sampson and is dated Wednesday 23<sup>rd</sup> December, 2009. It was written to Mr. Sherlock Isaacs and it is intituled: *Appearance of Mrs. Backer before Committee of Privileges:*

“I wish on behalf of the P.N.C.R.-IG., Members of the Committee of Privileges to indicate that if the process adopted by the Committee is to be consistent with its decisions as noted at



paragraph 6.2.4 of the Minutes of the Meeting of Wednesday December 9<sup>th</sup>, then it is premature to invite Mrs. Backer to make a statement before this Committee today, Wednesday December 23<sup>rd</sup>, 2009. I therefore suggest that the appearance of Mrs. Backer before the Committee be deferred until the motion has been debated or decided by the National Assembly.”

This request came from Ms. Cheryl Sampson on behalf of the P.N.C.R.-1G. Having come on Wednesday 23<sup>rd</sup> December, 2009, I would have thought that it would have been prudent, to put it as mildly as I can, for either Ms. Sampson or Mrs. Backer to communicate with the Parliament Office to find out what was the decision taken as regards the letter. As far as I am aware, no such communication was made because Ms. Sampson was asking on Mrs. Backer’s behalf that the meeting for that very day be postponed or that the appearance of Mrs. Backer to make a statement should not occur on that day. So I would have thought that it would have been prudent for either one to find out what decision has been made. I am told that no such enquiry was made. In any event, I have just been advised by the Clerk to the Committee that the Assistant Clerk telephoned all of the Members of the Committee including the telephone number that they have for Mrs. Backer and left messages at every event.

The reason why I am taking so much time on this matter is because every now and again this accusation is made against the Parliament Office. The Parliament Office is an important place and we take great pains to ensure that Members are invited to meetings and that Members are told when it is not possible, to give written invitations or messages are left. It is not possible for us to make a written record unless the Government gives us more staff to do so for all letters that are delivered by the Parliament Office, or make a written note of all phone calls that are made, the time they are made, the persons to whom messages are delivered and what the messages are. We try to make the greatest possible effort to ensure that these events go very smoothly. I notice Mrs. Backer is very agitated and may want to say something.

**Mr. Corbin:** Mr. Speaker, I do not know who else would wish to speak, but I am not sure of the reason for all of these remarks by you except to say that in your remarks you spoke about Ms. Sampson’s writing you on behalf of Mrs. Backer. I just want to place on record that Ms. Sampson wrote on behalf of the People’s National Congress Reform, Members of this Parliament. We expect that when a letter comes to the Parliament that communication will be returned. I am not getting into details because I really do not know what it is that you are speaking about. I just want to place on record that the act is on behalf of the People’s National Congress Reform. That does not say that we are not appreciative of the great work done by the parliamentary staff. In fact, only today I commended your staff – they will tell you – of their excellent work in some sections of your office earlier today. We are conscious of the challenges that the Parliament staff has. We still have some

problems with notification of our Members who live in the Hinterland. We believe that should be improved, but nothing should be construed against the staff. I believe that things should be put in the proper perspective and I think Mrs. Backer was in her right to turn up if she did not get any communication to be sure that nothing ill should occur. I just want to set the record straight.

**Mr. Speaker:** Mr. Corbin, I was at pains to refer to the matter because this was a small matter which could have been treated at a private level - myself, Clerk or a member of staff. Mrs. Backer chose to raise it on the floor of the National Assembly when cameras are rolling and when the press is here to give it a headline tomorrow. I, therefore, need to clarify the situation. That is the reason why I raised it.

**Mr. Nandlall:** Thank you very much, Mr. Speaker. The matter which is engaging the attention of this Assembly is a serious one and must not be taken lightly. The breach of privilege of any National Assembly goes to the root of the authority and integrity of that National Assembly and must be regarded as a matter of the highest importance. I wish to begin my presentation by outlining the factual matrix out of which this matter arose. The facts that are available to me are as follows.

On the 15<sup>th</sup> October, 2009, a motion was tabled in this House by the Hon. Minister of Home Affairs in respect to the deployment of a contingent from the Guyana Defence Force to Trinidad and Tobago for the Commonwealth Heads of Government Meeting scheduled to be held in Port-of-Spain. During the course of her contribution to that debate, the Hon. Member, Mrs. Deborah Backer, made certain unfortunate remarks to the effect that Members of the Guyana Defence Force...

**Mr. Corbin:** On a point of order, Sir...

**Mr. Speaker:** Thank you Mr. Corbin. She made certain remarks, Hon. Member.

**Mr. Nandlall:** ...certain remarks to the effect that Guyanese soldiers or members of the Guyana Defence Force are going to torture. On Wednesday 21<sup>st</sup> October, 2009...

**Mr. Corbin:** Mr. Speaker, this is the subject matter...

**Mr. Speaker:** Thank you, Mr. Corbin. There is a dispute as to what is being said and Mrs. Backer has a Hansard record of what she said.

**Mr. Nandlall:** Very well. The Hon. Member made certain remarks. On Wednesday 21<sup>st</sup> October, 2009, the Hon. Prime Minister and Leader of this House dispatched a letter to Your Honour in which the Hon. Prime Minister not only deprecated and condemned the statement made by the Hon. Member, but also gave Your Honour notification that a motion of privilege would be brought on this matter.

On Thursday 22<sup>nd</sup> October, 2009, a motion was indeed tabled before this Hon. House not by the Hon. Prime Minister who was at that time performing the functions of the President of the Republic, but was tabled by the Hon. Dr. Ashni Singh who, I must emphasise, at that point in time and on that day was the most senior Government functionary in the House. That is a matter of some insignificance because I will speak about it later.

In that motion, Dr. Ashni Singh referred to the remarks made by the Hon. Member and referred to the high level of immunity which Members of this House enjoy and the concomitant responsibility that that high power carries. He called upon this Hon. National Assembly to signal its disapproval of the Hon. Member's published words and aspersions and requested that the matter be referred to the Committee of Privileges, pursuant to Standing Order No. 32, with a view of finding the Hon. Member guilty of contempt or breach of privileges. That motion was duly passed by this National Assembly and on that very day or shortly thereafter, pursuant to powers vested in you, Sir, by Standing Order No. 32 (4). Your Honour made a finding that a *prima facie* case was made out against the Hon. Member and Your Honour duly referred the matter to the Committee of Privileges for its consideration.

On Wednesday 25<sup>th</sup> November, 2009, the Hon. Member appeared before the Committee of Privileges and enquired of her "right" to cross examine Dr. Ashni Singh, personally or through Counsel. On Tuesday 15<sup>th</sup> December, 2009, the Clerk of the National Assembly, by way of a letter, informed the Hon. Member that if she requires to question the Hon. Dr. Ashni Singh, the mover of the motion, then she would be required to table a motion in the National Assembly requesting leave of the National Assembly to do so. The motion that is before the House is an application by the Hon. Member as directed by the Clerk of the National Assembly to seek the leave of this National Assembly to cross examine Dr. Ashni Singh. The fact that an application had to have been made to this House to seek this House's permission fortifies my contention that there is no right which resides in the Hon. Member to cross examine Dr. Ashni Singh. That is the first point I wish to make.

I wish to support learned Senior Counsel when he said that this House is resided with a discretionary power whether or not to permit cross examination in these circumstances. The Clerk of the National Assembly was perfectly in order when he advised the Hon. Member that she must come to this National Assembly to seek its leave to cross examine, in recognition of the absence of such a right, to cross examine before the Committee of Privileges.

A lot has been said about the novelty of these proceedings and many speakers before me have alluded to the fact that it is an unprecedented procedure. When Parliament is in session, Members of this Hon. Assembly are expected to behave with a certain degree of dignity, decorum and rectitude and perhaps that is why these proceedings are rare. As to the type of responsibility which Members of this National Assembly are required to display and discharge whenever Parliament is in session, I wish to

refer to Lord Denning, perhaps the greatest English Judge that ever lived. He wrote a number of texts as you may be aware and I wish to refer to the one titled ‘*What Next in the Law*’ by the Rt. Hon. Lord Denning, Master of Roles, published in 1982.

[**Mr. Speaker:** I like Lord Atkin, Hon. Member]

Well we have our personal preferences, but I think, objectively, Lord Denning is widely regarded as perhaps one of the greatest judges.

[**Mr. Speaker:** One of, he is in competition with Lord Atkin.]

In his book, Lord Denning wrote a little about Members of Parliament and I wish to share with this National Assembly what that great jurist had to say at page 325:

“Members of Parliament too have great powers which they should not misuse. Whatever they say in the course of parliamentary debate or proceedings is absolutely privileged. They cannot be sued for defamation in respect of it.”

This was enacted in the Bill of Rights 1689:

“Freedom of speech and debates on proceedings in Parliament ought not to be impeached or questioned in any Court or placed out of Parliament. This, however, is a power that can be misused. Take recently when a Member of Parliament accused a servant of Rolls Royce of improper dealings. He did not repeat it outside of Parliament so the injured person could not vindicate his repetition in the Courts. I would not suggest that the absolute privilege should be taken away, but it shows that Members of Parliament are expected and should act with a due sense of responsibility. You may be sure that if any Member should act irresponsibly, his colleagues in the House would bring such pressure on him to withdraw that the misuse of power would be rectified.”

5.50 p.m.

It is in that context that Dr. Ashni Singh’s motion should be situated. It is a Member of this Hon. Assembly exerting the type of pressures to which Lord Denning is alluding so as to bring order in this National Assembly. Because the matter that is before the House deals with the question of privileges, I believe, that it is germane to this discussion that I explain the nature of privileges and why privileges exist in this National Assembly. In this regard, I wish to refer to Erskine May, *Treaties and the Law, Privileges, Proceedings and Usage of Parliament* - the 20<sup>th</sup> Edition. He has a portion on privilege and this is what he says:

“Parliamentary privilege is the sum of peculiar rights enjoyed by each House, collectively, as a constituent part of the High Court of Parliament and by Members of each House, individually, without which they could not discharge their functions and which exceed those possessed by other bodies or individuals. Thus, privilege, though part of the law of the land, is to a certain extent an exemption from the ordinary law of the land.”

So that when we sit in this House, this privilege that we enjoy is an exemption from the ordinary law of the land, hence, the responsibility to take care in our conduct and to exercise due care when we speak on matters of national importance.

A necessary means of fulfilling this privilege has to do with the purpose of why this privilege exists. The privilege does not exist for the protection or aggrandisement of any Member. It exists for the protection and integrity of the House and this is what Erskine May has to say about it:

“The distinctive mark of privilege is its ancillary character. The privileges of Parliament are rights which are absolutely necessary for the due execution of its powers. They are enjoyed by individual Members because the House cannot perform its function without unimpeded use of services of its Members and by each House for the protection of its Members and the vindication of its own authority and dignity.”

In ruling that there is a *prima facie* case, Your Honour has found that the authority and the dignity of the House, to some extent, have been breached. Your Honour is then duty bound for the protection of the dignity and integrity of this House to remit the matter to the Committee of Privileges.

Erskine May goes on to say:

“Such powers are essential to the authority of every legislature. The functions, privileges and disciplinary power of a legislative body are thus closely connected. The privileges are a necessary compliment of the functions and the disciplinary powers of the privileges.”

The importance that we have accorded to our privileges that we enjoy in this National Assembly is contained in our most supreme law - the Constitution. Because we recognise the importance of these privileges, we have codified it not in any ordinary statute, but in the form of article 172 of the Constitution. The entire article 172 of the Constitution outlines the privileges that we enjoy as Members of this National Assembly. So that when there is an allegation that a breach of privilege has occurred, it is indeed a very serious matter.

Before I proceed, there are two aspects of the motion that I wish to take issue with. Firstly, and they appear on the motion *ex facie*, just above the resolve clause, there is this statement:

“And WHEREAS, this National Assembly as the Highest Court of Guyana is duty-bound to adhere to the tenets of natural justice.”

I wish to humbly submit that this statement is misconceived and wrong. This is an anomaly in Guyana because we have inherited a Parliamentary system of Great Britain. Earlier when I was quoting Erskine May, you would have heard me make reference to the High Court of Parliament because in England, for over 600 years, the Parliament in England is indeed a Court of law. When a person in

England refers to the Parliament as their highest Court, that is in fact legally correct because up to today's date, the House of Lords, which is one chamber of the Parliament in England, remains the highest Court in England. However, to transpose that situation in Guyana and to say that this Parliament...

**Mr. Ramjattan:** On a point of order. The House of Lords, as you know, has ceased to exist as the highest Court of England. It is now the Supreme Court of England. I just wish to correct that.

**Mr. Nandlall:** That is neither here nor there. It is the highest Court of territorial England. There is a European Court of Appeal. The point I am making is that it is a Court of law so when they speak of Parliament being a Court of law in England, that is accurate by whatever name or by whatever status of the hierarchical system of the judiciary. It still is part of the judiciary in England. However, to say that the Parliament is a Court in Guyana is simply an inaccurate statement because we have a constitutional system which separates our Court from Parliament. It is a great constitutional wrong if we were a Court because our constitution says that there are three branches of Government: the Executive, the Legislature and the Judiciary. If my friend is saying that this is a Court of law, then there is a serious separation of power breach in the Parliament. I am sure that that is not the position. That is a completely inaccurate statement.

The second statement that I wish to take issue with is the one immediately preceding the statement to which I have just referred and it is this:

“...and WHEREAS the rules of natural justice dictate that an accused person be given an opportunity to question his or her accuser.”

I humbly submit that that is not what the rules of natural justice dictate. That again is an inaccurate statement of law. It is trite that the rules of natural justice are two-fold. They are expressed in Latin maxims. The English translations of them are:

- (a) A man must not be a judge in his own cause
- (b) A person must be afforded a fair hearing

I submit to you that a fair hearing does not necessarily include a right to cross examine. In this Parliament, we are often moved by emotive considerations and not by principles. So when one speaks of natural justice – and I would have made that statement – I expected alarm bells to ring. As a result of that, I have walked with the most preeminent authority on Public Law in the Commonwealth Caribbean, and it is a book entitled “*Commonwealth, Caribbean Public Law*” written by Professor Albert Fiadjoe, published in 2007 - the latest edition. You are a public lawyer, Sir, so I am sure that you are acquainted with the authority. This is what the learned author says at page 239. Listen, Mr. Ramjattan: “Fair hearing...”

Let me repeat it. Let me put the microphone close. I am reading verbatim and I will pass it around for the learned lawyers here who do not read the law to understand what the law is.

“Fair hearing does not mean a hearing according to what would be required in a Court of law...”

I pause there because not every hearing one must subscribe to what a hearing is in a Court of law because hearing manifests itself in different tribunals. And the author continues:

“Fair hearing does not mean a hearing according to what would be required in a Court of law. Basically it means an opportunity to put one side of a case before a decision is reached. Accordingly, the legal requirement on the judicator is nothing more than a basic duty of fairness. There are no fixed rules nor is there a requirement that any rules of evidence should be followed or applied. There is no insistence either that there must be an oral hearing. It all depends on the circumstances of the case.”

I will demonstrate that the circumstances of this case does not include cross examination for a fair hearing to take place and I am not the one saying so, but Professor Fiadjoe.

You will recall the case of Burrows and Katwarou which is reported in Forty West Indian Reports. In that case, the facts are that the holder of a firearm license was written to by the Commissioner of Police. He requested the firearm holder to show cause as to why his license should not be revoked. The license holder replied and he attempted to show cause. The Police Commissioner wrote back to him and rejected the grounds that he advanced and revoked his license. That firearm holder challenged the decision and one of the grounds upon which he challenged the decision was that he was not afforded a fair hearing - an oral hearing - that he did not get an opportunity to cross examine anyone. The Court of Appeal of Trinidad and Tobago ruled that there was no breach of natural justice, that the exchange of letters constituted a fair hearing. Since my authorities are being doubted, I will refer to the very Fiadjoe who has a footnote at the bottom. He refers to a case in Trinidad and Tobago, Commissioner of Police against Mitchell, Court of Appeal No. 1 of 1992, and he quotes Chief Justice of Trinidad and Tobago as saying:

“It is well established that it is not essential in every case that a person should be given an oral hearing. It depends on the circumstance in each case. In the circumstances of this case, an oral hearing was not, in my view, essential. So by giving the respondent the opportunity to make representations in writing the Commissioner did satisfy the requirements of natural justice.”

When one speaks about a contempt motion in a Court and so on and refers to proceedings in a Court, I agree that the Court has a particular way by which it conducts hearings. As an integral part of a hearing before the Court of law is the right to cross examine. That is not the position here. That is not

the position in this National Assembly. For the purpose of this hearing before the Committee of Privileges, cross examination is not necessary and I will go on to explain why. The reason why natural justice does not include a hearing, a right to cross examine, manifests itself in the fact that this Parliament has the power to regulate its own procedures. We are the makers of our own rules here and we determine in this National Assembly how we will proceed. We do not have to refer to external sources and forum to justify the manner in which we act.

A lot has been said that this case is novel, etc. and that there has not been a ruling and so on from Courts in Guyana in relation to this issue. That again is an inaccurate statement because I wish to refer to a Guyanese case, Jagan and Others against Gadraj. In that case, were Dr. Cheddie Jagan, the Premier of British Guyana; the second named plaintiff, Mr. Sheik M. Safie, Parliamentary Secretary to the Ministry of Agriculture, Forests and Lands; Victor Downer, and the plaintiff Mr. D. Jagan, who was the representative of Suddie and Victor Downer, the representative of East Berbice. They were found in contempt of this National Assembly by the then Speaker, Mr. Gadraj.

**Mr. Speaker:** The father-in-law of Mr. Jagan.

**Mr. Nandlall:** The father-in-law of Mr. D. Jagan. They were ordered out of the National Assembly and they took the matter to the Court. They retained eminent Counsel, Senior Counsel J. O. F. Hanes, and our Court, through Chief Justice Luckhoo gave a very long and informative ruling - a ruling which I recommend my learned friends read. This is what he said. He summarised the law with respect to Parliamentary Procedure in this country. The case reported at Five West Indian Report, 1963, at page 333... **[Interruption]** ...well you can always say it is old law, you do not know better. Nothing in principle has changed. This is what our Chief Justice at that time ruled:

1. "The Supreme Court has jurisdiction to enquire into the existence and extent of any privilege or power claimed by the National Assembly."

So they can enquire as to whether privilege exists and to what extent it exists in this National Assembly.

2. "The Legislative Assembly, having power under its Standing Orders to regulate its internal procedure relating to orderly conduct, is the sole judge of the occasion and the mode of the exercise of its privileges and powers in that regard.
3. Without statutory authority, the Legislative Assembly has no power to punish a Member for misconduct by way of committal, but has the power without statutory authority to order his removal or suspension for a time or to expel him.
4. What was complained of by the Speaker, if held to be well founded, clearly necessitated the use of protective and self-defensive powers.



5. The Legislative Assembly had power to enquire into the question of breach of privilege.”

All of this novelty and whether this thing exists and so on exists as our Court has pronounced.

“...brought to its attention by the Speaker...”

You have done so. You have found a *prima facie* case, Sir.

“...and to exercise its powers in connection therewith”

6. “The Assembly has power to suspend the plaintiff for a limited period and the Supreme Court cannot interfere in or enquire into the mode of its exercise of that power.”

That is the law of this country unless this decision is overruled or changed by some statutory provision, it remains the law. Of course those on the other side cannot cite anything to contradict what I am saying, but they will sit there and say that that is old law. I want them to cite a single authority that shows that there is a right to cross examine the mover of a motion in the Committee of Privilege.

**Mr. Speaker:** Your time is up, Hon. Member.

**Mr. Baksh:** Mr. Speaker, I ask that the Hon. Member be given 15 minutes to continue his presentation.

**Mr. Nandlall:** The Hon. Member, Mr. Raphael Trotman, has made reference to Article 144 – one of the greatest articles in our Constitution because it deals with protection of the law. But unfortunately, and the Hon. Member must know that Article 144 is directed to a Court of law and the protective mechanism that an accused person must be accorded whenever he is charged with a criminal offence before a Court of law. That is a trite, elementary, rudimentary principle. I do not expatiate any further.

**[Interruption]** Find a direct authority that allows you to cross examine in the Committee of Privileges and I will concede the argument. I am saying that you cannot.

Dr. Ashni Singh is a mere “preferrer” of the motion. Dr. Ashni Singh, as I explained when I was going through my factual recitation of the events, was not even supposed to be presenting the motion, but by a certain reason, he was asked to prefer this motion to the National Assembly. All the motion says is that the Hon. Member, Mrs. Debora Backer, has made certain statements and the motion was debated and at the end of the process, the motion was passed. After that process, Your Honour ruled that a *prima facie* case was made out. What is the problem? Why does one have to cross examine Dr. Ashni Singh? He holds no portfolio that relates to the Guyana Defence Force. He can produce no evidence. No evidence is required to be produced in support of this motion. As the Hon. Senior Counsel, Mr. Bernard De Santos, correctly posited that all that has to be done by the Committee is for them to examine the record of the proceedings of that day in Parliament. The official record of the

Parliament is the Hansard so that will be produced. If the Hon. Member did not make the statement, that is the end of the matter. If the Hon. Member made the statement then the question is whether it amounts to a breach of privilege. That is a matter for the Committee. That is not a matter for us here. What assistance can Dr. Ashni Singh give in that process? I humbly submit- none!

I wish to deal a little with the purpose of cross-examination because my learned friends are lawyers, but they seem to have confused or not know what the purpose of examination is. I wish to either edify them or remind them. I wish to refer to Cross and Tapper on the Law of Evidence. As you know this is the most preeminent Commonwealth authority on the Law of Evidence. At page 318 of the 8<sup>th</sup> Edition, published in 1995, under the caption *Cross Examination*, this is what the learned author has to say:

“The object of cross examination is twofold.”

I am not the one saying so. Cross and Tapper is saying so:

“First, to elicit information concerning the facts in an issue or relevant to the issue that is favourable to the party on whose behalf the cross examination is conducted, and secondly, to cast doubt upon the accuracy of the evidence in chief given by such a party.”

There is no evidence in chief which will be given. The motion has already been remitted to the Standing Committee to deal with. All that will now happen is for the Hansard to be produced and the Committee to determine whether or not the statement was in fact made, and if it was made, whether it amounted to breach of privilege. Cross examining Dr. Ashni Singh cannot enhance that process.

The other issue that I wish to deal with is there has been the argument advanced by two or three of the speakers who spoke before me from the other side in which they are labelling Dr. Ashni Singh as a witness. Dr. Ashni Singh is not the witness in this matter. Dr. Ashni Singh is the “preferrer” of the motion. Dr. Ashni Sing is in the position like that of the Director of Public Prosecution. She is the preferrer of the charge. He is moving the motion. There is no right and basis to cross examine him. The Hon. Member herself said that he was not even here, so why is it that you want to cross examine him? Obviously the Committee must be guided by the Hansard which is the official record. What Dr. Ashni Singh says or not is completely irrelevant. There is absolutely no basis for the application before this House. It is misconceived. It is wrong. I humbly submit that it should be dismissed, rejected or cast aside. Thank you very much. [Applause]

**Mrs. Riehl:** Thank you, Mr. Speaker. I would not be half as long as my learned friend. I stand in support of this motion brought by the Hon. Member, Mrs. Deborah Backer. She is seeking leave of this Hon. House to question the mover of that prior motion, dated 22<sup>nd</sup> October, 2009. This cites the Commission for breach of privilege which said that Mrs. Backer, during the course of the debate on

the 15<sup>th</sup> October, 2009, in this Hon. House, on the deployment of the Guyana Defence Force (G.D.F.) to Trinidad and Tobago for the Commonwealth Heads of Government Conference.

The mover of the motion, the Hon. Minister, Dr. Ashni Singh, stated in his motion and I want to just quote some of the “WHEREAS” clause:

6.20 p.m.

WHEREAS Members of Parliament’s freedom of speech in the House provides legal immunity, this freedom conferred over centuries in parliamentary practice must be used judiciously and responsibly with respect to the public trust given by the electorate to their elected representatives.

AND WHEREAS, the unfortunate and reckless statement made by the Hon. Member knowingly sought to denigrate the entire Guyana Defence Force entrusted with the protection of Guyana’s territorial integrity and public order, both in Guyana and in their assignment in Trinidad

BE IT RESOLVED that this Hon. House signals its unanimous disapproval of the Hon. Member’s aspersions and that this matter be referred to the Committee of Privileges in keeping with Standing Order No. 32 with the view to finding the Member in contempt of this House.

By letter of the 18<sup>th</sup> November, 2009, Mrs. Backer was required to appear before the Committee for an oral hearing and was further advised that she was entitled to Counsel and to call witnesses.

In the Parliamentary Practice of New Zealand, House of Representatives, Second Edition by Mr. David McGee, and which is akin to Erskine May of the United Kingdom, under the Chapter: *Proceedings in Matters of Privilege*. I want to quote from Page 502 what constitutes a breach of privilege:

"Only if the conduct complained of can genuinely be regarded as tending to impede or obstruct the House in the discharge of his duties, should the House bother to deal with it as a question of privilege".

I am going to the very fundamentals as to whether a breach at privilege has been committed at all before a move to the actual situation.

The Committee of Privilege has been convened and in my opinion, the stages that we have gone through are not quite regular based on reading of Erskine May and the Parliamentary Practice of New

Zealand House of Representatives. An oral hearing is in progress and it is only fair that the person who brought the complaint be present at that hearing.

I find that this Parliamentary Practice of New Zealand is much more helpful than Erskine May, at least on the procedural side of what happens when a Committee of Privilege has been convened. On page 499 it states:

“The Privileges Committee possesses the same powers and is subject to the same procedural rules as other Select Committees. It hears evidence in public. The Committee is concerned with allegations made against Members and other persons that have breached privilege or committed a contempt or, if the allegation is not specifically directed against an individual(s) that a breach of privilege or contempt has occurred. And that, by implication, the perpetrator ought to be identified and punished. In these circumstances, the Committee is called upon to conduct something akin to an inquest and to make findings, often adverse, against Members or others.”

And this is the important part:

"Therefore, it endeavours to act and to conduct its proceedings in accordance with normal judicial principles, including ruling on the standard of proof required to establish whether contempt has been committed."

The Committee of Privilege sitting as a tribunal is entitled to behave in the same manner, use judicial concepts and bring judicial aspect to the whole convening and behaviour of the Committee.

When you read into the rules of the Civil Court and the New Zealand rules, it goes on to say that a Committee of Privilege can operate purely by written documents. You can bring your motion to bear and you can bring your rules, verbatim records, affidavits and the matters of that nature. The Committee can behave in a civil aspect where Mrs. Backer can be asked to submit her affidavit or something akin to that and the Committee will decide. However, once you constitute an oral hearing, the judicial aspects of that hearing will come into play and a sense of fair playing. That is where the issue of natural justice resides - that an accuser - a person who brings the complaint, and the Hon. Minister of Finance, having brought a complaint against the Member on our side, now becomes like a virtual complainant in a Court in a criminal matter because there is punishment. **[Interruption]** Not the Director of Public Prosecution as my learned friend was saying. She is not the “preferrer” of a motion. He brought his motion citing the Member on this side for contempt of the National Assembly asking specifically, not just a breach of privilege and leaving the Committee, to decide whether there is in fact contempt. He goes on to say in his motion under Standing Order No. 32:

“...with a view to finding a Member in contempt in this House.”

So he is anticipating that contempt is there in the complaint. This matter is akin. Once you invoke the judicial approach to things, you will find that you can approach it from two standpoints- from a civil standpoint where you use documents only or an oral hearing. However, the rules pertaining to an oral hearing and the little rules of natural justice demands that an accuser presents himself to be cross examined, if needs be. In the matter of privilege, under the Parliamentary Practice in New Zealand, Chapter 45: *Proceedings in Matter of Privilege*, goes on to say:

“Persons appearing before the Privileges Committee...”

Persons appearing, so it is akin. And note the language:

“...are permitted, as a matter of course, to have the assistance of their own Counsel if they wish.”

And I think Mrs. Backer was told that.

“Indeed it is the practice for the Committee to ask witnesses appearing before it whether they wish to be assisted by Counsel.”

Dr. Ashni Singh can come because he, as far as I am concerned, is the virtual complainant. He can come with his Counsel. He is a witness. He cannot be the person of whom this paragraph speaks. He has to come by the rules of natural justice, if judicial approach is to be used in the Committee of Privileges. Once you open into an oral hearing, you have to use those rules.

“Indeed, it is a practice of the Committee to ask witnesses appearing before it whether they want to be assisted by Counsel, so that the matter is raised by the Committee and witness does not, by default, forgo the opportunity to be assisted. Counsel has been permitted to make submissions to the Committee on behalf of witnesses and to cross examine other witnesses appearing.”

If Dr. Ashni Singh was to appear with Counsel, he can request to cross examine any witness that Mrs. Backer may bring. These are the concepts that apply when you have an oral hearing. I know my learned friend has quoted from Professor Fiadjoe, but I wish to quote from the Seventh Edition of Wade and Forsythe on Administrative Law, the general heading is *Natural Justice*, and the paragraph is *Fair Hearing*, page 537:

"A hearing would normally be an oral hearing, but in some cases it may suffice to give an opportunity to make representations in writing, providing that adverse material is disclosed and provided as always, that the demand of fairness is substantially met.”

That is why I am saying that you could go in the way of documents. Page 538 continues:

"Where an oral hearing is given, it has been laid down that a tribunal must consider all relevant evidence which a party wishes to submit, inform every party of all the evidence to be taken into account. Whether derived from another party or independently, allow witnesses to be questioned, allow comment on the evidence and arguments on the whole case. Failure to allow the last two rights which include the right of cross examination, has led to the quashing of punishment."

This is Wade and Forsythe, the most up-to-date edition in the law library. As I said, the oral hearing opens up a can of worms for this Committee sitting there. I am submitting that the Hon. Member, who has been notified, reading from the letter dated 18<sup>th</sup> November, 2009:

"You are required to appear before the Committee of Privileges at 3.30 p.m. on the 25<sup>th</sup> November, 2009 in the Committee Room...

"You are further required to be prepared to give an explanation with respect to the attached self explanatory motion..."

There is no way this could hold water. You cannot on your side or on the other side have a set of documents and no persons and then require the person who is accused to appear to give all kinds of explanations in an oral setting. In my humble opinion, that is very wrong and should not be tolerated in an oral hearing which has a judicial flavour to it.

Your Honour, another aspect of this matter was covered by Mr. Trotman and I also want to state that if there was a breach at all, it was committed in the face of this National Assembly. We were all present here when Mrs. Backer made that statement. And if it was the Speaker who was present and who in fact did bring a sort of reprimand to bear in this situation, did not there and then, see a breach of privilege and did not cite Mrs. Backer. Such as in the analogy of the criminal case of Maharaj and the other one...

**Mr. De Santos:** Is the Hon. Member permitted to dispute your findings and to tell you how wrong you were and that you would remain content to allow her to go on? With great respect I submit that the Hon. Member is not allowed to do that and that Your Honour should take ...

**Mr. Corbin:** Your Honour, I do not know what standing order my learned colleague has risen from the floor. It seems that so many people would like to usurp your power, Sir. Even in the suggestion he is making, he is doing the same thing that he is accusing the Hon. Member of doing. He is trying to tell you how to adjudicate in this National Assembly. I think that the Hon. Member is pointing out a hypothetical situation, what did not happen. And I do not see that that could be impugning.

**[Interruption]** No, she is saying a factual situation that something did not happen and in such a case, what should happen. I do not see that is impugning the integrity of the Speaker as the Hon.

Member is suggesting. I know that if anyone were doing so, you would be capable enough to carry out your duty. Thank you, Sir.

**Mr. Speaker:** Just for the record Hon. Members. No Member is allowed to question a ruling of the Speaker unless by way of a motion. That is the rule. So please observe it if you have not been doing so.

**Mrs. Riehl:** I am not questioning that. I am just making a distinction that there are two types of privilege motions that could be brought. One; where things are done in the face of the House and two; where things are done outside of the House where a motion is applicable. If you go by the way of the motion and then you go by way of an oral hearing and all of that, then the whole body of the criminal law, because the bringer of the motion becomes like the virtual complainant in a criminal case and he has to present himself under the laws of natural justice. He has to face the person who he has accused, you could go the civil way, but you do not choose to do that. Generally, we are in uncharted territory. You yourself have said, Sir, that there was a previous motion brought and a previous convening of the Privileges Committee which was aborted. I do not want to say who was responsible for the abortion, but suffice it to say that this Privileges Committee has been convened and is in progress and we have to look at the precedence. And the precedence not so much from the case law, but such as we can glean from the older Parliaments – the Erskine May which deals with the whole history of the British Parliament, and the Parliament of New Zealand which appears to spell out the procedure much more in detail than the British Parliament has done.

The case of Maharaj is a classic case of contempt in the face of the Court. I would wish to distinguish that situation although the judicial has to come in because as I said, you cannot approbate and reprobate. If you decide to go on oral hearing, you are in fact looking at the judicial side.

As I said, the situation where the mover of the motion was not the sender of the letter is also another item. I think Mr. Trotman also dealt with that. I do not know how regular that is. We are hearing from across there and out of the corridors: Why do you not just apologise? I do not know what this apology should be for because in my humble opinion, standing from this point which is not much of a vantage point, it appears to me that the privilege is exactly what this motion is all about and not a breach of it. Because the words used at the time was after the fact that we had debated in this very National Assembly a motion on torture. Mrs. Backer's words as contained in the Hansard were not direct words saying that "the Government is sending persons there to", but "it is not sending." Mrs. Backer was saying what she was hoping they were not going to do that there. I mean torture is not something suddenly brought up. It was all over in the society. It was not new. It was debated in this National Assembly before all of this took place. I fail to see the aspect of a breach of privilege especially when you read what constitutes a breach of privilege. It must hamper the House and its workings. That is

the general tenor of what is a privilege. That is why it is confined to us and does not go out there to the law Courts.

Where does Mrs. Backer's conduct affront this House? Where does it impede the House and do all the things that this privilege is supposed to do? I fail to see that. That is not my realm of looking at things that is for the Committee having been convened, to look at those aspects as to whether there is truly a breach of privilege here or whether Mrs. Backer's words were not just the privilege that the Constitution 172 provides us to do. We have made the same accusation: "You might as well bring them up in the motion", and say all the things we have said in this House or worse in the motion.

Erskine May also supports what the New Zealand practice is saying that you need to have witnesses in this matter. I would not tarry longer in this matter, because much has been said and there are other speakers to come. Suffice it to say, firstly, I see no breach of a privilege here that impedes this House in any way in its workings. I do not agree with much of what my learned friends have said on this issue. I would advocate that this House support this motion as brought and allow Dr. Ashni Singh to be brought even if no cross examination takes place. He needs to come. Thank you, Sir. [Applause]

**Ms. Teixeira:** Mr. Speaker, having heard this afternoon's debate, I always feel that maybe I went into the wrong profession. Having heard all the lawyers speak today, except you, of course, Mr. Speaker, I am thankful that I did not choose that profession. You can put five doctors in a room and you will probably come up with different degrees of diagnosis and prognosis on a patient. The lawyers seem to have a similar tendency. This is a relatively simple issue. It is a matter of principle and of recognising the issue of what we are being asked to do in this motion by the Hon. Member, Mrs. Deborah Backer. On 15<sup>th</sup> October, 2009, fifty-nine out of seventy people who are Members of this House heard certain words. Some people were excused and some were just not here. The entire Alliance For Change (A.F.C.) and Guyana Action Party (G.A.P.) were absent. I am interested in the Hon. Member, Mr. Trotman's speech today, but he was not in the House that day. There are accusations about Minister Dr. Ashni Singh not being in the House that day, but the records show that Minister Singh was very present. He actually had Bills on the Order Paper that day to speak on. He was present at the time. **[Interruption]** You check your records. I do not know if every time we leave to go to the "loo" or take a smoke, or have a cup of coffee, someone on the Opposite side is checking, because that is the only way you will know that Dr. Singh was or was not there at the very moment when Mrs. Backer had said those words. Anyway we have gone far down that road and I do not think we need a postmortem to find out how we got to where we are.

The first point made that Dr. Ashni Singh was not here, is untrue. The record shows that he was here. Secondly, the point about calling people as witnesses being made in this motion is that the Hon. Member is being accused, and therefore requires us to call the person who is accusing her and to question that person. Well, she actually has to question the entire House, the fifty-nine of those who



were here that day, including the press desk, the cameras, and Mr. Dennis Chabrol over there with his Demerara Waves because it was all put on tape, on CD, and written. **[Interruption]** That is the roll of the Committee of Privileges to call the witnesses and the Hon. Member in accordance with her standing. **[Interruption]** Mr. Speaker, I seek the protection of the House. I have been very good at this sitting. I have tried desperately. I have been sorely tempted, but I have been trying to be very good.

**Mr. Speaker:** Hon. Members, please allow the Hon. Member to proceed uninterrupted.

**Ms. Teixeira:** Thank you, Mr. Speaker, I appreciate it. On that day we heard the words and I remember getting up and raising the Standing Orders. The Speaker cautioned the Member and then the Member uttered the famous words. They are in the records. After the Speaker said to Mrs. Backer: "Yes, Hon. Member let us confine ourselves to the issue please" Mrs. Deborah Backer said: "Sir, I am grateful to the Hon. Member for drawing the link, because it is the soldiers whom we are worried about going to torture people." Let me recall for you that this is a motion on the deployment of the G.D.F. contingent to assist the Trinidadian Government with the Commonwealth Heads of Government Conference. Similar to what we did at World Cup Cricket, the Summit and other occasions. Our law and constitution requires that every time our security forces leave the country, we have to come to this House. It was a very simple motion in the history of this National Assembly in which there has never been a problem. And why has there not been a problem? Because we had sent G.D.F. soldiers years ago overseas to help in other countries under Mr. Burnham, under Mr. Hoyte...

**Mr. Corbin:** Mr. Speaker, on a point of order. The contribution of the Member borders on the issues upon which the Committee would have to adjudicate as it relates the interpretation of the remarks made by the Hon. Member in the contextual circumstances. I believe she is bordering on interpretation of statements. I did not object to her reading what was said, but she is going on matters to which the Privileges Committee should rightfully be considered making objectively on their merits.

**Ms. Teixeira:** Should I proceed, Mr. Speaker?

**Mr. Speaker:** Well, you should proceed, but you have to be careful to make a distinction. The matter is, so to speak *sub judice*, that is to say it is before the Privileges Committee so we have to be careful that we do not make prejudgments. That is all.

6.50 p.m.

**Ms. Teixeira:** Mr. Speaker, with all due respect, I am making no prejudgment on the outcome. In fact, in my private discussions with the Hon. Member who is the subject of this motion and the mover of the motion had given my own personal views in the best interest as Members of Parliament. My whole speech surrounds that the Committee of Privileges has just begun its work. It needs to be

allowed to do its work. And that the work of the Committee of Privileges, according to our Standing Orders, is that it has a right to call witnesses. It has the right for the person who is brought before the Committee to have their Counsel. Under Standing Order No. 97 the same Comrade or Member can have their Client or Counsel. As for further witnesses, the Standing Orders of this House, Standing Orders Nos. 32, 47 and 97 are all very clear on a number of issues relating to how we manage issues in this House. We can go to New Zealand and other Commonwealth Houses and I think they are worthwhile using as examples.

At the same time, some of those quotations that are being used in this House are by Parliaments who have actual Bills that are Bills of parliamentary privilege. They make it very clear, step-by-step, of what you can and cannot do. In our House, we have a Constitution. We have our Standing Orders which is revised and which on the matter of privilege, makes it very clear that it is the Speaker's sole ruling that determines a *prima facie* case for matters going to Privileges Committee.

Mr. Speaker with due respect, I have heard many speakers here today border and more than border on the issues of the Committee of Privileges. I will try to keep within the confines as you have advised. I have heard here, and my personal opinion is that this motion is nothing but a subterfuge to try the matter in the public and not in the Committee of Privileges where it belongs. That is in no disrespect to you, but this motion is a subterfuge.

I want to say this also that I have the greatest confidence in the Members of this House. We banter across this House all the time, but when there is a Committee, it is a Committee of our peers. We are brought, if we are being disciplined, on a privileges motion or contempt. We are brought before a body of our peers - our own Members of Parliament, Government and Opposition with the Speaker or whoever is the Chair. We need to have some level of trust that the Members of the Privileges Committee will look at all the information. Therefore the issue that is deposited here in this motion is that someone brought a motion to this House and because it is sent to the Committee of Privileges, it now requires the so called "accused" to call and interrogate or cross examine that person.

For some people it may look very innocent. In fact, in all the Committees of the House people are brought before those Committees and questioned. They are all entitled to have Counsel if they so wish. In fact, the Standing Orders talk about dealing with matters that could harm a person's reputation in the questioning, if they are in public in these Committees. This is an in-camera Committee - the Privileges Committee. We actually have certain powers in this House. In fact, we have read during the debate that people must answer questions. We have had cases shared with us about when Permanent Secretaries do not answer questions. What is the position? We have the Public Accounts Committee Report coming up next which talks about some of the reporting persons in Ministries who are not being cooperative.

This is not about Mrs. Backer. The issue is a matter of principle. There is a Committee of Privileges that the matter is being referred to. The other part of freedom of speech, rights and immunities of this House has to do with the fact of not just the levity that we can have in being able to do our elected responsibilities in raising matters of our constituencies and matters of national importance. We are also warned in all the readings that you may have done for this motion. We are warned by the Speaker. We are warned by the Standing Orders that when we talk about people's reputations we need to have due caution. There is no right to reply if the person is outside of this House. In fact, the freedom that we have in this House to speak without breaching the Parliamentary language and so on, means that when the press goes out and verbatim carries what we said, they in fact can face matters of libel and defamation, etc, but not us. We are protected. We have more powers and rights than all of citizens in this country.

On this issue, the Member comes before us to say that she has the right to cross examine. This is not a matter as in other privileges cases where you could have read from other jurisdictions that talks about a Member going to the House about a matter that took place outside. There are privilege matters like that which has to do with bribery, corruption and intimidation. For example, the gates of this Parliament a couple years ago were blocked and Mr. Ramotar could not get in as a Member. We had a Sitting that day and he was advised to go around and come through the back. Many of our Ministers had to come around the back. We were very angry about it. We could have brought a privilege motion because that is intimidation, obstruction or preventing you from coming into the House. That is one aspect.

Not all breaches of privileges are contempt, but the issue of what happened here is not that something happened outside of Parliament or in the corridors or Parliament or in the Committee, but it was happening here in full view and hearing of the entire House. So it is not a person bringing accusation against another person. It is in fact the House on this side, made up of forty-one people, who are very upset about the statement and approached the Speaker through the Leader of the House, the Prime Minister, and when he was not Prime Minister because he was acting President, Dr. Ashni Singh was the Leader of the House acting on that day.

The motion was based on the Hansard and as the learned Hon. Member, Mr. Bernard De Santos, said that if there is no questioning of the validity of the Hansard, what proof story are you trying to say? What is the Committee of Privileges expected to do? In all the readings, the Committee of Privileges has to discuss whether there was a breach of privilege or not? Was there contempt or not? That is what they are going to deal with. They will do that by whatever means the Committee decides- calling witnesses, allowing the persons who have been brought to Committee to have their say, allowing the Member to say he/she wants more witnesses than what the Committee is saying. That is all in the due process. By the way, the Committee of Privileges as all Committees of this House and all the

Committees in most Commonwealth Parliaments, do not punish. It is the House that does so. When the Committee of Privileges finishes whatever it does, if it were to say its recommendations or its views that there is breach or contempt and therefore leave it to the House to decide, or like in previous examples of matters going to the Privileges Committee that it was decided in the course of peace to drop the matter, to just let it slide and let the Member apologise. There have been various cases in relation to privilege motion in this House. I have been around some of them, so I know that in all cases and in most Parliaments, there is a great attempt not to use the Privilege Committee as this enforcer. But it is definitely a Committee that signals to the House and to the public that this matter is of a serious enough nature to warrant further examination.

Therefore the fact of a Guyana Defence Force delegation going off on security duty and being said that their (a member's) concern was going to torture people was considered reckless and irresponsible on this side of the House. The Speaker examined this and felt that there was a *prima facie* case to allow the matter to go to the Committee of Privileges. That is the ruling of the Speaker. The Committee of Privileges is in its right and can call on any one of us to come before the Committee including Minister Ashni Singh. However, that does not mean that the Hon. Member has the right to cross examine the mover of the motion. That is a different issue.

I have sat in this House, forgive me if I begin to step out the line, but I have watched between 1992 to now and terrible things being said about some Members on my side. Where they have gone to places, the Committee meetings are held and no one turns up from the Opposition. In fact, they write letters in which all this attitude of natural justice and due process happens. Where you on the other side have tried and judged Members on this side with no due process at all. Not even having the courage to bring a motion in this House to the Speaker for a motion of Privilege. You have castigated Members on this side of the House. It is a reason now where you have set yourself, not the Committee of Privilege, not the Speaker, you have set yourself up as judge, jury and executioner so that certain Members of this House boycott every meeting. You do not go to the Committee meetings and you do not even want to be around. Is that your due process that you are bringing to this House?

I should remind the House about the Minister of Agriculture and accusations about people on a Saturday getting locked in an office. Do you remember that case? I wonder if any of the new Members remember that case of 1980 something. I did not say it, I said: "I wonder".

The Hansard is the evidence. The Committee of Privileges has their work to do. My concern about this motion despite all the highfaluting legal arguments is that I find it so strange that this is the first case of a Privilege motion because there have been several others before. I remember them. Where you want the right to question the mover of the motion and you do not want by inference, the Committee to have the authority to be the peers who with even hand, will look at the Hon. Member and whatever else there is. Therefore, by that little guffaw I just heard, in fact without insulting you, I

believe that Members of the House are signaling that they have no confidence in the Committee of Privileges which you Chair, Sir.

When you say this is a Committee of your peers made up of your Speaker, or Members of the Government and Members of the Opposition side, maybe your Members are not as active as they should be. Who knows! Please, this is an issue here that you are dangerously undermining in this House. That is when we sit in Committees, and I remember Sir Davis and Mr. Pindar were here. I remember all the nice speeches of Mr. Lance Carberry and my dear, Mr. Corbin, about the role of these Committees to scrutinise and oversight and be able to guide this House. Now, one that deals with one of the most sensitive issues, when a Member is called before Committee, all of a sudden one is not comfortable about this? You have the Public Accounts Committee where Permanent Secretaries and Regional Executive Officers are brought before it and who are questioned, where under the Public Accounts Committee they can also be sanctioned.

I believe as I said before that this motion has been a grand exercise, in fact, a total conundrum as far as I am concerned, to attempt to undermine the work of Committee of Privileges. Also to erode the role of a Committee of peers such as the Privileges Committee and therefore any other Committee of this House, to put distrust into it and to use levels of constitutional language and case law that are totally irrelevant. In this House, the most precious and most important thing that we have here which case law does not even give us is our freedom of speech. We can say things in this House which you cannot say out on the road, that you cannot say on television, that you cannot say in certain places. We cannot be brought to a Court of law because of what we say in this House. We have immunity. But a television station carrying it or a newspaper carrying it can be found in contempt and they can face litigation. We in this House know that we are protected. In no other part of Guyana is there such a privilege. And you are telling me about constitutional privileges?

In fact, in one of the same parliamentary bodies you have all been quoting, the British, set up a joint Committee to look at this whole thing of privilege. The British parliamentary group at that time, a special select group advocated that the word "privilege" was a wrong word. It sounded elitist, because Members of Parliament have more privileges than the regular citizens. Why do we have those? They then started using the phrase "rights and immunities" instead of "privilege." We have rights and immunities. But everything you read, see and everything our Speaker says is that we must guard that freedom of speech and balance it with our responsibility as elected officials of this country to be responsible.

As everyone has been quoting and I might as well quote too. We have had New Zealand and all different places - I will choose Canada. In the Canadian one, Speaker Fraser said the following:

“There are only two kinds of institutions in Canada, in this land, to which this awesome and far reaching privilege of freedom of speech extends; Parliament and legislation on one hand and the Court on the other.”

So please note, Parliament on the one hand and Courts on the other. The three branches of the Government are: the Executive, Legislative and the Judiciary. They are complementing each other, but they are independent of each other.

“These institutions enjoy the protection of absolute privilege because of the overriding need to ensure that the truth can be told and that any questions can be asked and that they can be free and uninhibited. Absolute privilege ensures that those performing their legitimate function in these vital institutions of Government shall not be exposed to the possibility of legal action. Such a privilege can first grave responsibilities on those who are protected by it.”

This is Speaker Fraser going on:

“By that I mean specifically, the Hon. Members of this place, the consequences of its abuse can be terrible. Innocent people could be slandered with no redress available to them. Reputations could be destroyed on the basis of false rumour. All Hon. Members are conscience of the care they must exercise in availing themselves of the absolute privilege of freedom of speech. That is why their longstanding practices and traditions observed in Parliamentary Houses counter the potential for abuse.”

He goes on to say that in the case that we are referring to which the Committee has to rule on, that the offence is an offence against this House. The offence that the Committee will examine is one that deals with the House. As I tried to point out, there are individual and collective rights. There can be breaches of privileges that relate to individual actions and there can be contempt in relation to individual action. There is also contempt when a breach of privilege impacts on the integrity and image of the House. In this particular case, it happened in the House, in full hearing of everyone, in which the offence of the House is the following, in case the Members are being particularly obtuse. That is that you have the right to raise issues of torture. You did in 2008. The difference between the 2008 motion on torture and the 2009 is like this, one is in 2008 and one is in 2009. They are one year apart. There is no synergy that it was just the week before as one of the speakers tried to just imply that that was the case. Since you brought it just a while ago, you can bring it back again. The Member was warned as many of us are warned by the Speaker, as I have just been warned, that we have some caution in relation to what we do. The issue here is that one may have accusations to do with the particular right, being abused, not adhered to, and not upheld. You cannot take an entire institution that is responsible for public order and the territorial integrity of this country and castigate them in that way. It is irresponsible. It is reckless.

I will repeat here for the House, what I said to the Hon. Member. I do not understand Mr. Corbin's take on all of this. I will say this to Mr. Corbin as Leader of the Opposition that I offer my advice publicly and freely. And Mr. Corbin that is that. If I were in your shoes on 15<sup>th</sup> October, I would have told your Member quickly to apologise. What is at stake here is the image of this country, the image of our troupes going in another country. That is the offence.

We must guard our freedom of speech. We must guard the Standing Orders until they are amended. We have the Draft Standing Orders. These Standing Orders went through a Special Select Committee in 2005 – 2006. It came back with a whole set of modern issues. It is now again before the Draft Standing Orders Committee where it is being amended once more. Therefore the Opposition has a right to bring amendments which it feels it wants to be included in the new Draft Standing Orders so that we can bring it to the House. But these are backdoor, surreptitious roundabout, conundrous way to bring this matter of a Member being brought before Committee and attempting now to make it in the public's eye as a matter of him and her. Dr. Singh and the Hon. Member - let us see who is going to go first. That is not the issue you are deliberating in this motion. It is a subterfuge to undermine a process. You talk about due process - the due process started from 22<sup>nd</sup> October. The point is that we are confident on this side of the House that the Standing Orders of this House, the Committee structures of this House, the Hon. Members who are part of that Committee, yourself as Chairman of many of these Committees, that we are capable in this House and in the Committees, on such an important matter that has been brought to them and on many other important matters brought to many other Committees, of being fair and balanced and allow examination of the entire issue in its complexity. This is an attempt to prejudge and undermine that process. Therefore, this side of the House will in no way support this motion. Thank you very much. [Applause]

**Mr. Murray:** Thank you very much, Mr. Speaker. I have listened very carefully to the last speaker and I am forced to begin my presentation by taking very strong objection to her saying that this motion is a subterfuge to try the matter here in public and to undermine the process.

**[Interruption]** Here goes another one who apparently does not seem to know the basis in which this motion is before the House. It is here by virtue of a letter written by the Clerk of the National Assembly to Hon. Member, Mrs. Deborah Backer, in which I will read the relevant part:

“According to Erskine May Parliamentary Practice 21<sup>st</sup> Edition, in order to question the mover of the motion, the Hon. Dr Ashni Singh, either directly or through Council, you will be required to table a motion in the National Assembly requesting leave of the House so to do.”

It is clear that the Member did not speak out of ignorance, but it is she who is seeking to sensationalise this motion before the House.

**Ms. Teixeira:** Mr. Speaker, I do not think I am a she. I think I have a name.

**Mr. Murray:** I am sorry, Sir. I immediately withdraw that - the most gracious and most Hon. Member, Ms. Gail Teixeira. You know grandstanding, we should avoid. I am rather surprised at that cheap shot which I could not allow to pass without mention. I want to begin this by taking up from where my colleague the Hon. Member, Mrs. Reihl, left off. When she referred to the New Zealand equivalent of Erskine May and read what, in the context of New Zealand was deemed to be a breach a privilege. May I just say that Erskine May has nothing to do with laws or acts of Parliament. It has to do with Parliamentary procedure. I am outlining here what Erskine May identifies as being a part of how Parliament behaves. This is what it says. It is talking about circumstances in which the House should exercise penal jurisdiction. It says very unequivocally:

“Only when satisfied that to do so was essential in order to provide reasonable protection for the House, its Members or its officer”.

These are the key words:

“From improper obstruction or attempt to act, or threat of obstruction causing or likely to cause substantial interference with the performance of their respective functions.”

I dare say that if you examine this statement, there is nothing either in the Hansard or what Dr. Ashni Singh had said in his motion that could be deemed to come remotely close to obstructing any function in this House. I am particularly drawing this to attention because the Committee of Privileges comprises Members of this House. I would not like them to go into the Committee misguided as to what really constitutes a privilege. Even if I err, I take my cue from people like Hon. Member, Mr. Mohabir Nandlall and Hon. Member, Ms. Gail Teixeira who spoke on all sorts of matters that had nothing to do with the substance of the motion. So I hope I am forgiven in that context.

Next, I want to deal with this question of discretion as against the right to cross examination. I could not agree more with the Hon. Member, Mr. Bernard De Santos, who said that the question as to whether the person being accused could have the right to cross examine is one of discretion that resides in the National Assembly. It is up to the National Assembly whether it will exercise such discretion in favour of the accused through her Counsel being able to question the accuser.

*7.20 p.m.*

There is no need for dispute over that so I do not know why my Hon. Friend, Mr. Nandlall who is becoming very vociferous now, takes issue with this. We never questioned it. But let me go on to say this: we have brought this Motion because we would like to persuade this House to exercise its discretion in favour of the accused being allowed to cross-examine the mover of the motion.



Let me say why; our basis is very simple. In his Motion, the Hon. Minister said in the first WHEREAS clause, that Mrs. Backer, during the debate, made a statement to the effect that Guyanese soldiers were being sent to torture. Sir, that is a grievous statement. The Hansard shows that Mrs. Backer said nothing nearly resembling that. In fact, what does the Hansard say? The Hansard says:

“I am grateful to the Hon. Member for drawing the link because it is soldiers who we, as Members of this National Assembly, and, we, on behalf of the people of Guyana are worried about going to torture people.”

There is good reason why this House should exercise its discretion in favour of the accused because we have, here, two statements that stands poles apart. And the only way to resolve two statements that stand poles apart... they cannot be resolved by the members of the Committee talking among themselves. They cannot substitute themselves for what the mover of the Motion said and they cannot substitute themselves for the Hansard. So what is the big deal, Mr. Speaker? What is the big deal if we ask that the mover of the Motion comes in order to provide clarification to this Committee, as to, exactly, what is the nature of the complaint being made against the accused? That is what we are asking.

Mr. Nandlall quoted from Fiadjoe and he quoted a very important phrase: that basic duty of fairness. I wish to say that I agree with him wholeheartedly. The basic duty of fairness suggests, Sir, with great respect, that this National Assembly should exercise its discretion in favour of allowing this accused member to question the mover of the Motion. That is what it means. That is what the basic duty of fairness means. And then, you know what? Mr. Nandlall goes on to say the following...what does he say? He says this:

“Parliament has a right to regulate its own procedures.”

I could not agree more with Mr. Nandlall. That is trite, for we know that. Parliament has a right to regulate its own procedures. He then goes on to tell us that Article 144 of the Constitution, referred to by Mr. Trotman, which deals with provisions to secure protection of law and tells how a person charged with a criminal offence ought to be treated and the rights that he should have.. [Mr. Nandlall: For the Court] Listen to me and then you will understand what I am saying.

Sir, I am putting this through ‘You’, to Hon. Member Mr. Nandlall. If it is, as he says and I agree, that this National Assembly has a right to regulate it own procedures, what if the National Assembly decides to adopt what is written in the Constitution. What is wrong with that? There is nothing that says that we are precluded, in determining our procedures, from adopting a procedure that exists in another arm of the State. So, what Mr. Trotman was doing, by virtue of this, was to draw an analogy that says in utilising this function of regulating its own procedures, pay attention, take account of the

fact that our Constitution gives a person charged with a criminal offence, certain rights and we should adopt those in our procedures, which we have the right to determine. I see absolutely nothing wrong, Hon. Member Mr. Nandlall, in our so doing.

Hon. Member Mr. Nandlall also said that one of the two purposes of cross-examination was to cast doubt on evidence in chief. Sir, what is the evidence in chief? The evidence we have is in the Motion. In the Motion, the Hon. Minister says that Mrs. Backer made a statement to the effect that Guyanese soldiers were being sent to torture

**Mr. Ramjattan:** Dr. Singh misrepresented what is in the Hansard.

**Mr. Murray:** That is the point. That is the point. This is a far cry from what is recorded in the Hansard so what is wrong with calling him to cross-examine him to find out the basis on which he came to that conclusion because that will help to clarify, in the minds of the Committee Members, whether in fact this is a case of breach of privilege.

Sir, I wholly respect and my party wholly respects your ruling that there is a *prima facie* case. But we do not know, whether in your deduction to come to that position, the statement by Hon. Member Dr. Singh in his Motion to the effect that Guyanese soldiers were being tortured, we do not know if that is what guided you, we would hope not. In fact, I would know not because you would not be so guided, you would be guided by the Hansard. But, nonetheless, we deem it necessary that this gentleman comes, so that he can vindicate to this Committee the basis on which he made a statement wholly different from that recorded in the Hansard.

I do not intend to delay the Sitting of this National Assembly. I thought I should speak to make those points on behalf of the support for this Motion. This is what I finally want to say. This National Assembly, in coming to a decision as to whether it should exercise its discretion in favour of the accused being given the right to cross examine the person who brought this motion, if it does so, what would it have lost as against what it would have gained. In my respectful view, it would have lost nothing; but on the other hand it would have enhanced its standing in the eyes of the public because it would be seen to be going overboard, if you want to use that term, to ensure that there is utter fairness in the discharge of the role and function of the Parliamentary Privileges Committee.

That at the end of the day should be a major concern to us, if not our primary concern. I, therefore, use all the will at my command to urge the obviously recalcitrant Members of the Government to see the light and to see that this National Assembly has nothing to lose but has an enhancement of its image to gain by allowing the Hon. Minister Dr. Ashni Singh to be questioned by Mrs. Backer. I, therefore, lend my voice in strong support of this motion and urge the House to adopt it. [Applause]

**Mrs. Backer (replying):** Sir, I will be less than four minutes; I just want to make two points because my defence counsel, for want of better words, have presented my case even more aptly than I could. But I want to make two points. One is that I brought this Motion, and I want people to be very clear, not on the advice given by Mr. Isaacs but on the advice given by the Committee of Privileges. Because it says that I have been directed. So when Mr. Isaacs was writing, had the Committee of Privilege said, “Mrs. Backer, yes you have the right, we will call Dr. Singh”, this Motion would have never been here. If the Committee had said “you cannot cross examine him”, it would not be here but what the Committee said was “look, we cannot make this decision on our own; you need to come to the House.” It is on advice of the Committee, Chaired by you that this Motion was brought. This Motion was not brought to sensationalise and to go on Demerara Waves or where ever. It was done, Sir, on the advice of the Committee of Privileges, a Committee I continue to respect. That is the first thing I want to say.

The second and final point I want to make is: we are hearing a lot of murmurs and, in fact even when they are speaking, the three Members of the Government who spoke which would be Senior Counsel Mr. Bernard De Santos, Hon. Member Nandlall and Hon. Member Gail Teixeira all said that if there is an ambiguity, the Hansard would prevail. If in the Motion, the Hon. Dr. Singh had accurately recorded what the Hansard said we would not be here because there would be no need to examine him because... [Ms. Teixeira: You are splitting hairs.] It is not splitting hairs; it is an essential point and I want to use one home spun example before I sit.

**Ms. Shadick:** Your 4 minutes are up.

**Mrs. Backer:** I have half an hour, at least.

**Ms. Shadick:** You said you will only be 4 minutes.

**Mrs. Backer:** You cannot trust everything that people say. Sir, this is the difference. If I say: “we are sending Mrs. Backer to break up the meeting” that is completely different from saying... I am using myself as the example; I am the accused, I am the person who is being slaughtered. What I am trying to say is if I... and I am trying to show that it is completely different and why we need clarity from Dr. Singh. It is completely different to say “we are sending Mrs. Backer to break up the meeting” than to say “we hope that Mrs. Backer does not go or is not going to break up the party.” That is a completely different context statement, particularly, when *immediately* after that, I say, and that is the nexus

“...we want them, as they go to represent Guyana, to live within the law.”

And at the very end:

“We unhesitatingly support our soldiers and we call on the Government to honour in totality, all Treaties.”

There is obviously a contradiction in what the Hon. Dr. Singh has said that I said and what the Hansard said that I said and this is why we need clarity. Is it that he misunderstood? Is it that the Hansard was made available so quickly that Dr. Singh did not have the time to deliberate and to read because and it is a credit to the Hansard Department that Dr. Singh was able to get the Hansard in six days, including a weekend. Whereas we have a notice that was given today, saying that in the near future, we will be able to get our Hansard in a couple of weeks. And I read Sir... this is dated March 11, 2010.

“...not later than 20 days from beginning and thereafter 15 days...”

And this is in December 2009. But Dr. Singh was able in six days, including a weekend, to get the Hansard and I commend the Hansard team. But it may be, while in his haste to read it having gotten it so hurriedly, he may have misunderstood the very clear words that I said. This is why, as I said, we need to clarify. He may say, “I misunderstood this thing.” And, heaven forbid, he may be the person ending up having to apologise.

I just want to close by saying that this motion is not here to sensationalise anything. This Motion is here because I was advised by the Committee of Privileges, which I am currently before, that I need to come to the House and that is the only reason I am here.

As Mr. Nadir – I am glad he is here, would say: “well, you all have your say and we are going to have our way.” So we understand where it will go. We hope as Mr. Murray said, that there will be some wind of reasonableness that would pass across, starting from Mr. Nandlall, which would cause them collectively to see, as the Hon. Member Mr. Murray, said that there is absolutely nothing to lose by us going the way of this Motion. And I ask, in closing, that every Member of the House support this Motion. Thank you Mr Speaker. [Applause]

**Mr. Speaker:** The question before this House is: That is Hon. House grant me, Hon. Member Mrs. Backer leave to question, through my Counsel, Hon. Member Dr. Ashni Singh, M.P., Minister of Finance, the mover of the motion dated 22<sup>nd</sup> October, 2009, citing me for contempt of the House.

### **Division**

#### **Ayes**

Mr. Everall Franklin

Mrs. Latchmin Punalall

#### **Noes**

Mr. Lloyd Perreira

Rev. Kwame Gilbert

Mr. Khemraj Ramjattan  
Mr. Raphael Trotman  
Ms. Dawn Hasting  
Mr. Desmond Fernandes  
Ms. Vanessa Kissoon  
Ms. Jennifer Wade  
Dr. John Austin  
Ms. Africo Selman  
Mr. Mervyn Williams  
Mrs. Judith David-Blair  
Mr. Ernest B. Elliot  
Mr. Dave Danny  
Mrs. Cheryl Sampson  
Ms. Amna Ally  
Mr. Keith Scott  
Mrs. Volda A. Lawrence  
Dr. George A. Norton  
Mr. Basil Williams  
Mrs. Deborah J. Backer  
Mr. E. Lance Carberry  
Mrs. Clarissa S. Riehl  
Mr. Winston S. Murray  
Hon. Robert H.O. Corbin

Dr. Vishwa Deva Budhram Mahadeo  
Mr. Norman A. Whittaker  
Mr. Dharamkumar Seeraj  
Mrs. Philomena Sahoye-Shury  
Mr. Parmanand P. Persaud  
Mr. Neendkumar  
Mr. Mohabir A. Nandlall  
Mr. Moses V. Nagamootoo  
Mr. Mohamed F. Khan  
Mrs. Shirley V. Edwards  
Mr. Bernard De Santos  
Mr. Komal Chand  
Mr. Albert A. Atkinson  
Ms. Bibi S. Shadick  
Mr. Harripersaud Nokta  
Mrs. Indranie Chandarpal  
Ms. Gail Teixeira  
Mr. Donald Ramotar  
The Hon. Mohamed Irfaan Ali  
The Hon. Dr. Bheri S. Ramsaran  
The Hon. Priya D. Manickchand  
The Hon. Manzoor Nadir  
The Hon. B.H. Robeson Benn

The Hon. Dr. Frank C.S. Anthony  
The Hon. Kellawan Lall  
The Hon. Dr. Jennifer R.A. Westford  
The Hon. Shaik K.Z Baksh

**Mr. Speaker:** Hon. Members there are 26 members for the motion and 30 against. The motion is therefore defeated.

*Motion put and negative.*

Hon. Members, we can now move to the Motion moved by Mrs. Volda Lawrence, Chairperson of the Public Accounts Committee, that the National Assembly adopt the report of the Public Accounts Committee for the year 2004 and 2005 and refer to the Government for consideration

“Be it resolved that this National Assembly adopts the Report of the Public Accounts Committee on its examination of the Public Accounts of Guyana for the years 2004 and 2005 and refer the Report to the Government for consideration” [*Notice Paper No. 424 (M123 Opp. 34) published on 2010-02-10*]

**Mrs. Lawrence:** Mr. Speaker, this 2004 and 2005 Report of the Public Accounts Committee on the Auditor General’s comments comes in the wake, of several articles published in the media which indicate that all is not well with the safeguarding of public funds. Therefore, this Report must not be subject to fleeting glances or take refuge on a bookshelf. Rather, it should be treated with the seriousness which, we the members of Public Accounts Committee took our task. For herein lies not only the weighty matters, but also recommendations which are pertinent to the safeguarding of public funds.

Having said that, allow me to apprise the Minister of Finance, the Hon. Dr. Ashni Singh, of the expectations of the Public Accounts Committee in the tabling of the Treasury Memorandum as stated in the Standing Orders within 90 days of this Report being laid in this National Assembly.

Let me first draw attention to the way in which this report has been prepared. Unlike others, this report is very specific in its details and while it identifies those problem areas, it also identifies those specific ministries, departments and regions where the major problem lies and those where improvements have been recorded.

We would like to see, therefore, the Minister setting out in detail what actions the Government has taken or proposes to take in relation to the findings and recommendations of the Public Accounts Committee.

Mr. Minister please spare us this time around the generalities which you have graced us with in the past. Because as in Guyanese language we will say “the boat dun gone afall already.” We cannot bring it back, we know, but we can ensure that we put measures in place to stop any other boats from going over. Surely, this situation cannot be allowed to continue. A clear message must be sent to those who are bent on bending and most times breaking the laws, that such actions will not be tolerated.

Mr. Speaker, during our deliberations, several general issues were identified as stated on page 3, paragraph 3.1 in this Report. Ten main issues have been identified. Tonight, however, I would like to speak on a few of those issues such as overpayment to contractors, breach of tender board procedures, capital expenditure being met from current allocations, outstanding police reports, abuse of extra budgetary funds and variation of contracts.

Overpayment to Contractors: It is a foregone conclusion that with the introduction of the Integrated Financial Management and Accounting System, officers and contractors have engineered a new way to abuse the system, that is, through overpayment. This is the fastest growing discrepancy within the system. While one must make allowances for persons making mistakes from time to time, noted are the several incidents of overpayments which go unnoticed or unchallenged until they are about to come before the Public Accounts Committee or after they have been there.

Mr. Speaker and for this National Assembly, I just want to point out a few cases. In the 2005 Report for the Ministry of Agriculture, it was not until May 2008 that the officer took the relevant action in firstly to purview a building for which monies were allocated and which was reported in the Auditor General’s Report that this building was not complete and that there was an overpayment to the contractor. May I propose the letter and I quote the first paragraph?

“As per your request during the P.A.C. consideration of the 2005 Auditor General’s report, an inspection visit was made to ascertain the installation of windows at the Suddie Amerindian Hostel on Saturday, 28<sup>th</sup> April, 2008.”

The second paragraph, the first line says:

“...the visit was made in order to address the issue of overpayment made under the contract for the construction of the hostel.”

Mr. Speaker, I will not bore this House, but here again for Region 3 in 2008, in July, this is when the accounting officers are writing to contractors with regards to overpayment that took place during the year 2005 – three year hence.

Then we have Region 4. They tried to do something before they came. They wrote in 2007 about overpayment to contractors which took place three years before - in 2004. It goes on like that and this is what the Public Accounts Committee is faced with. In most cases, the claim is that the persons cannot be found.

On page 3, several agencies are list among which are three ministries which, usually, are allocated large chunks of monies in our National Budget each year.

*7.50 p.m.*

They are the Ministry of Agriculture, the Ministry of Health and the Ministry of Public Works and Communications. Even seven of the ten Regions are culpable of this very act. They are Regions 1, 2, 3, 6, 7, 9 and 10. Many of the Regional Officers when reporting to the P.A.C. love to use the remoteness of these areas as an excuse. The two recommendations made by the Public Accounts Committee; I wish to submit to the Ministers for their consideration and in particularly recommendation (i) (a) which reads:

“Not only should the contractors be held accountable for sums overpaid but also the Officers who certified the payment of these sums.”

It is the view of the Public Accounts Committee that the contractors do not walk into the office and pick up their cheques. It is the officers who must ensure that the works has been verified in order that payment can be made. And hence, we are saying that there is collusion between the officers and the contractors.

Breach of Tender Board Procedures: Regions 3, 8, 9 the National Communications Network, the Ministry of Health for the years 2004 and 2005 including the Ministry of Home Affairs for the year 2004 only with knowledge of the Tender Board Procedures. Let me repeat, with knowledge of the Tender Board Procedures; proceeded to operate noncompliance with the Law for both Capital and Current Expenditure. While the Ministry of Home Affairs corrected this in 2005 the others continued to act in violation. This Sir, once again is unacceptable. In some instances the Public Accounts Committee noted that amounts are unrealistic, given the increase in prices over the years thus, suggests that the question of limits be addressed. P.A.C. has made recommendations for such. This brings me to the Appointment of the Public Procurement Commission. Irrespective of the Kaieteur News article today, I wish to take this opportunity to call on the Hon. Donald Ramotar, General Secretary of the P.P.P./C. to submit forthwith the resumes of their five nominees since several moons has pass since this has been promised. Let us stop playing the blame game. The only person you can point to is the man in the mirror Hon. Member since the other parties have submitted their nominees a long time ago.



For the records allow me to quote from Article 212 X of the Constitution which speaks to the composition of the Public Procurement Commission and this is what it says:

“The Public Procurement Commission shall consist of five members, who shall have expertise and experience in procurement, legal, financial, and administrative matters.”

We do not need to go down any long road. I think the Constitution gives the Public Accounts Committee good guidance and is very detailed. So it is only left for us to receive those resumes so that we can continue with the work of putting in place the much needed Public Procurement Commission.

The work of this Commission is of extreme importance to this country and given what is outlined in the Constitution no other body can and must be allowed to act in its place. Let us have our Public Procurement Commission as stated in our Constitution.

Capital Expenditure being met from Current allocation: Accounting Officers who are found in violation of appropriation by the Public Accounts Committee are always asked what expense you forwent in order for you to utilise these funds. In most instances the answers are not forthcoming. That speaks a lot to the Budgets that are presented to this National Assembly.

However, what is more glaring is that acknowledgement at the breach and lack of any effort whatsoever in correcting it through the system. The P.A.C. has made several recommendations and we trust that the Minister will give them his attention.

Outstanding Police Reports: This is another area of concern; like the overpayment to contractors I wish to put this in the same kettle. Public coffers suffers two fold; moneys or assets are unaccounted for and Officers even though some are sent on leave continue to enjoy paid salaries while awaiting police reports and the outcome of court matters which languish for many years in the courts.

That is a matter which given the attention needed can and will safeguard the misuse of public funds.

Abuse of Extra-budgetary Funds: This is another area for concern, the Constitution is lucidly clear on this matter. I need not read it. Every officer knows that all unspent moneys at the 31<sup>st</sup> December of any year must be refunded to the Consolidated Fund. Yet the Guyana Office for investment, the National Cultural Centre, the Ministry of Housing and Water kept moneys in separate bank accounts long after the 31<sup>st</sup> of December and in some cases for over three years.

The Ministry of Finance has not only kept moneys after the 31<sup>st</sup> of December but continues to operate in breach of the very Constitution others are told to adhere to. The Ministry continues to place the moneys from the Lotto Funds into a separate bank account and is in further violation since these moneys are spent without first being brought to the National Assembly in the National Budget. I look forward anxiously to the Minister of Finance addressing this matter in the Treasury memorandum.

Be it variation of contracts by Regions 10 and 4, outstanding advances for hotel expenses for ministerial visits by Officers of the Ministry of Foreign Affairs, late arrival of remittances to the various missions, non-submission of financial statements by municipalities, district councils and those receiving subsidies and contributions to local organisations all these are violations against the laws. And we of the Public Accounts Committee are very dissatisfied with the manner in which these incidents are being treated.

I just want to give the National Assembly an indication of what we are talking about. In Region 9, a region which I always have to ensure I take a long rest when they are going to come before us, because nothing changes. They come before us, the Officers along with the Permanent Secretary for Ministry of Agriculture. We speak to them about the issue, we seek to find solutions, they make promises to submit reports and I must inform this House that, that is never done. In the 2005 Report of the Auditor General; I would like to point you to two things in particular for this region. It speaks to stores and other public property and this is what it says:

“An examination of the loans registered revealed 194 instances where items were loaned to several agencies and private individuals during the years 1995 to 2005. An examination of the loans registered revealed that items were being loaned without the proper authority. The head of the budget agency gave the assurance that efforts would be made to recover some of the items loaned and that the Finance Secretary was written to, with a view to having the outstanding items written off. Below is a breakdown of some of the items loaned:

- Gasoline 890 gallons
- Diesel 1500 gallons
- Lubricant 161 gallons
- Cement 165 sacks
- Zinc Sheets 54 lengths
- Fence Post 136 lengths”

When we questioned the Officer about this particular incident it was so disturbing to hear the answer which was proffer Public Accounts Committee. It seems as though the public assets and goods were there for the taking by all and sundry. These things were being taken by persons in the Regional Office, by friends, by contractors and the list goes on. This is not anything nice but this is what is happening. Therefore, these matters need to be addressed and addressed seriously.

In another instance the officer went on to indicate that many times what they do is that they seek the help of the Police and the Guyana Defence Force, but could proffer no evidence of giving such materials over to these agencies. Mr. Speaker I just highlighted that, so that you and the Members of

this Hon. House can understand what is happening in our country and especially what is taking place with our Officers.

With regards to overpayment this is a very classic case and I do not think I will ever forget it; in Region 6 in 2005 I read:

“The contract for the rehabilitation of Galaxy Street, Canefield was awarded to the most competitive bidder in the sum of \$3.393 million there was a variation of \$60,000 giving a revised contract sum of \$3.405million. As at the 31<sup>st</sup> of December 2005 the full revised contract sum was paid to the contractor. A physical verification of the work revealed that amounts totalling\$2.175 million were overpaid to the contractor in respect of bitumen works not done to the street”.

It is a street we are talking about and anyone could have seen the street did not have bitumen, that it had burnt earth. The other question is since when do we go about giving contractors lump sum of money from the beginning of a contract? These are things the P.A.C. is worried about. That is why we are asking the Minister that this report be looked at and be considered and given the attention that will seek to curb these very incidents of which I speak of.

On the other hand it is very heartening to note the improved situation with regards to the logbooks maintenance and Tender Board adjudications by the Ministry of Home Affairs and the Guyana Police Force. The establishment of an Internal Audit Department by the Guyana Defence Force and the recruitment of adequate personnel within Washington, DC by the Ministry of Foreign Affairs; and more so the steps taken to introduce competitive tendering for catering services by the Parliament Office. These small but significant improvements have indicated to the Members of the Public Accounts Committee that somewhere some things are changing and more so for the betterment of Guyana.

I think I will stop here and give the other Members a chance to give their views, thank you Sir.  
[Applause]

**Mr. Nokta:** Mr. Speaker, Public Accounts Committee when we look at the history of it prior to 1992 and now, we can see that we have come a far way. I would not want to tire this House about the functions of Public Accounts Committee in the period before 1992, the record is there. When we look at the present day in comparison with the past, while we can say that things are not perfect they are better than what it was. Reading this report as the Chairperson of the Public Accounts Committee did just now, reveals certain shortcomings. But what I want to say is, the Audit General in reports prior to this one was just reporting the observations and not the explanations given by the various Accounting

Officers. So here is where we have a one sided report. You only report your observations. This is what it is. The Public Accounts Committee in page 3 is saying:

“General Problems Observed...”

But it would have been better if the Auditor General at the same time, while observing these general problems were putting in that same report explanations by the various Accounting Officers as to the things which were observed.

I would want to say that it did not give a true picture; although the Public Accounts Committee recognises that there have been shortcomings. I want to say that the P.P.P./C. Government is always and will always observe accountability and transparency in the affairs of Government Businesses. That is why I can say that while Public Accounts Committee Reports never came to the Parliament before 1992, now we can take credit as a Government that Public Accounts and Auditor General's Reports come here every year. And here is where we can see the Auditor General's Report for the years 2004 and 2005 are assessed.

The ten points mentioned were observed and I want to say that the Public Accounts Committee with Members on both sides of this House have been working together with one objective and that is to ensure that the funds and properties of the State are properly accounted for and addressed. That is the final objective.

I want to say, examining the Auditor General's Report of 2004 the Public Accounts Committee met 19 times, it is in the Report. Regular meetings and at each meeting out of concern for the observations made by Auditor General, Accounting Officers were invited, not invited but was summoned to give an account and explanation as to the Report on the observations made. Having done so, the Public Accounts Committee got a clear idea as to how things are happening in the Regions and the various Ministries. We were all concerned because we went through all of that. We did not only listen to their observations and their explanations but the Public Accounts Committee gave advice and recommendations which are contained in this Report. I want to say that having examined the Accountant General's Report and met for so long, I just want to say in brief and to quote page 16 paragraph 6.1:

“The Committee also noted that some Ministries, departments and Regions have shown improvements in the management of their financial affairs over the two years. Detailed below are some of the comments made by the P.A.C. to Ministers, departments and Regions which recorded improvements in their affairs.”

It means that despite shortcomings by Accounting Officers and the various sectors. The fact that the Public Accounts Committee have been meeting and is working we are able to address these issues and

we are not only questioning them but the Public Accounts Committee is giving advice and making recommendations as to what has to be done in the future.

I want to say: in the spirit of cooperation and in the spirit of wanting to have transparency and accountability in running the affairs of the Government the Public Accounts Committee is looking on carefully to the various agencies and Accounting Officers. Having presented this report, we look forward that wherever there are shortcomings they will be corrected, so as to have improvements in running the affairs of the country, I thank you. [Applause]

**Mr. Ramjattan:** Thank you very much Mr. Speaker. I want to state that the works of the Public Accounts Committee as part of the scrutinisers of the finance of the country is an important adjunct to that of the Auditor General's scrutiny of Ministers, ministries and agencies. Being a Member of the Public Accounts Committee for several years myself I must commend the activism of this one to get a report of previous years knowing very well that in certain agencies there have been huge difficulties getting officers to come and of course sometimes bringing the documents and the documentary evidence. The Public Accounts needs to scrutinise these agencies and these other Government departments. I commend the work notwithstanding this is a somewhat backdated Report in the sense of in 2010 coming up with the Report of 2004/2005.

Indeed as Mr. Nokta mentioned and the P.P.P./C. will always mention that this is but a development and progress and advancement as against pre - 1992 years. And that is true, we must commend that. But I want to state that we must not only use those years as that benchmark, because that indeed is not the very best benchmark. We must start using benchmarks that are far more advanced than what I would call bad financial years or financial accounting years. We must not give ourselves kudos and try to glorify ourselves that yes at least we are doing well simply because some 20 or 30 years ago they never use to have reports, that is wrong.

I want to state, too, that this report and I must say Mrs. Lawrence, the Hon. Member Chairman of the Public Accounts Committee, have indicated that they are indeed some extremely serious indictment about Ministries and I would say Ministers too. They have an obligation, whenever they read these reports after they are circulated... they have an obligation to ensure that their ministries and their Accounting Officers do the right things and adhere to the recommendations made in these reports. But constantly we come here, the last time it was the 2002/2003 report, and have a repetition. And that is why you have to see at page 5, this is "lack of maintenance of log books" despite being previously notified. The agencies continue to ignore these recommendations. Accounting Officers although being advised to set up mechanisms within their building engineering departments to improve the verification of projects to ensure accountability, do not do so.

Moreover, we have a whole set of other recommendations that the Public Accounts Committee have been constantly making over years gone by and there seems to be a “hard-ears” attitude with certain Officers within ministries and agencies. I want to state that it was because from 1992-2003 that we have noticed this kind of attitude happening, that the Fiscal Management and Accountability Act was indeed approved in this House.

8.20 p.m.

So what use to be largely rules and practice governing us, we then had serious statutory rules now governing accountability and management of our finances. But notwithstanding all of that, we have seen that the exemplary conduct to be followed by junior ranks is absent. Take for example, senior government ministers still argue that the Lotto Funds ought not to be scrutinised by this Assembly as well as, not going into the Consolidated Funds. Why that is so? If senior ministers are going to break the law, then we are going to have accounting agents and accounting officers not performing, notwithstanding what the Public Accounts Committee are going to get there. We had in this Assembly only recently, a breach of that 2003 Act. Ministers coming here and indicating that they have already spent the money when it now comes for approval in this Assembly. That is the big story we have had recently, \$4 billion with the Minister of Housing and \$1 billion for electricity from the Prime Minister! The Act provides that immediately after you get contingency funds, you have to report it to this Hon. Assembly. Hon. Minister Westford hired a plane that was an emergency, but did not come immediately after, it was about seven sessions of Parliament there after then she came to report about that. **[Interruption]**

No, I am talking about the un-exemplary conduct that is causing the junior ranks not to want to perform. At least I was honourable enough, when I misquoted the Hansard I apologised. Dr. Singh Sir, is now saying not what is reflected in the Hansard, he said something else. Is he going to apologise? No, he is not going to. But let me just say that indeed this Public Procurement Commission is another thing. We passed a constitutional reform provision for ensuring that there is going to be no corruption in the public tendering process by strengthening even another tier of the scrutiny, Public Procurement Commission. To date we cannot have it functioning. Why? If you have a Government that does not want to set up the hierarchy of scrutiny, a constitutional commission that is going to look after the tender board and to scrutinise it what are you going to have?

Mr. Speaker, it is the point, because when tax-payers moneys, 40% in my opinion, are leaked through all kinds of substandard work and what is said here in the 10 points. Let me say - overpayment to contractors - when 40% approximately of our taxpayers money can be leaked like that, we are not going to get the service that we are coming every year to budget for. “Breach of tender board’s procedure” that obviously relates to a lot of money being spent, abuse of budgeting funds, variation of contracts and high cost of maintaining vehicles, what do we have here?

And so I am urging that if we start behaving ourselves at the highest level we are going to have better conduct that we are going to see within these circles of officers and accounting officers within the ministries. Because if they see the *big ones* doing that which is wrong, by-passing the laws that we made, not adhering to them, we are going to have reports like this coming right up to 2010, when they are going to come with the 2010 reports. As a matter of fact, they do not have to wait for that 2010 report, you just have to read in the newspapers about all the manner of things that happened within the region, within that ministry, with this contract and all of that. So I am urging, please, if we could get our laws abided by and our senior ranks in government ministries, inclusive of Ministers and the Prime Minister, too, not in anyway contravening them, even here in the Assembly we are going to have a better financial architecture which is going to be properly managed to run with the principle of accounting ability and transparency being those prime pillars on which it rests. Thank you very much Mr. Speaker. [Applause]

**Mr. Nadir:** Thank you Mr. Speaker. It is with much interest that I received the report from the Public Accounts Committee for the years 2004 and 2005. Why I said with much interest is because of this keen interest that has been established because of the many changes that were made by the administration and the P.P.P./C. Government to improve on transparency and accountability. This first P.A.C. report could be considered a watershed report because it is coming at a time being the first P.A.C. report after significant changes have been introduced in 2004, in 2005 to ensure that we can have even more transparency, we can have more value for money in terms of our expenditure and more particularly, we can have even more scrutiny when it comes to the accountability of the administration. The P.P.P./C. Government remains steadfastly committed to eliminating corruption and upholding transparency and significantly improving accountability. The improvements in the legal and institutional frameworks during the period in terms of changes to our laws, the Auditor General's Office, the systems within the Ministry of Finance and also within the other administrative arms of Government, Ministries/Region, have proven to work significantly towards achieving these goals of reducing corruption, eliminating any vestiges of lack of transparency and improving accountability.

What I want to speak of and we cannot deny this and in fact the report also speaks to the improvements that have been made to the Auditor General's Office. We all know that in 2004 enacted in 2005 the new Audit Act was introduced. And not only did we introduced the new Audit Act but in support of the introduction of this Act, the Government not only committed more resources in hiring more people in improving the management information system, the I.T. system but the government also negotiated for two loans from the Inter-American Development Bank totalling 1.2 million US dollars. I think they were two charges one, 600,000 and then the second one of... and we have just confirmed that Mrs. Backer cannot count. *You cannot count.*

We have had significant changes in the legal framework in which the Auditor General work and this comes based on the changes made earlier in the decade when we removed the Auditor General from reporting to the Minister of Finance and we provided more autonomy so that the Auditor General's Report is presented to the National Assembly by the hands of the Speaker, that the Public Accounts Committee mandate has been expanded to offer general directions over the Audit Office that used to be exercised by the Ministry of Finance. And not only that Mr. Speaker, in the preparation of the budget of the Audit Office we have also seen that responsibility going to the Public Accounts Committee. I mentioned that we had these significant changes in the years, because the years 2004/2005 are exactly the years in which these new changes were introduced and so that now we have the evidence. Having been five years late, and I am going into that too, the new evidence, to see if these changes have been working and how well they have been working.

When I listened to the Chairman of the Public Accounts Committee she said these small but significant changes, but when I look at the Minutes, and there are over 300 pages of the Minutes of the 42 meetings of the Public Accounts Committee, I did notice, the Minutes of the meeting confirming the report included, I think it stopped at 42 or 43 but we did not see it, we normally get the benefits also of the Minutes of the meeting which confirms the report that is presented. In this case it may have been an oversight.

**[Interruption]** When a report is presented to the National Assembly, it is not only for the Members of Committee to speak... any Member of the House could stand up, once he gain the recognition of the Speaker, and make a contribution to any report that is tabled for approval in this House, so you do not have to be a Member. We do not have any red herrings here about who is on the Committee and only Committee Members should speak. Mr. Ramjattan was not a Committee Member, I did not notice his name here. I thought Mr. Patterson was, he stood up and spoke. I did not hear a chorus asking him to sit down because he was not a Member of the Committee. Mr. Speaker whether it was a chorus, a side comment, or an echo of a side comment, I did not hear any rumbling from any side, any noise that Mr. Ramjattan was speaking out of order or out of term and I would say it again, that we as Members of the National Assembly, every single one of us, have a right to stand up and speak on a motion to adopt any report and I am duly exercising that right.

We are talking about these significant changes that were introduced and it was not only in terms of the Audit Act, but we also had changes in the Standing Orders. It was convention in the past that a Member of the Opposition chairs the Public Accounts Committee; there was convention. I am trying to look for my Minutes. If we look at page three, paragraph 2.6, the report boldly says now and it can say so because it is now written into our standing orders, that the Public Accounts Committee must be chaired by a Member of the Opposition. We cannot change that unless we change the Standing Orders. There have been significant changes in the laws governing the Auditor General, in the development of the Auditor General's Office to make it modern and the Government has sent



members of the Auditor General's Office for training all over the world. Senior members have gone to the best of seminars run by the best of institutions so that they could upgrade their skills.

But not only that, there has been institutional changes in terms of the management of public finances. I am referring particular to the introduction of the Information Management Accounting system. IFMAS by itself has been helpful, it is necessary but not sufficient. A company in the IFMAS system has been a more rigorous and robust internal system within the Ministry of Finance and I will go a little bit late, I hope not too late into how the IFMAS operates. In the Public Accounts Committee, if we took the time to read these Minutes, we would have seen in the those proceedings the Finance Secretary made mention to the Public Accounts Committee that with the introduction of the IFMAS system many of the observations made in 2004 would be eliminated – many. No system is full proof, or as someone said, burglar proof – none. And we will always have in any future Public Accounts Committee, any future Auditor General's Report some discrepancies. We will still have findings that do not confirm to the rules and regulations and we will still have findings that do not confirm to the law.

What I guarantee you, Mr. Speaker, is that with all the changes that have been introduced by this P.P.P./C. Government, they will be vastly eliminated. And I can say so from the evidence... [Mrs. Backer: E-vidence.] ...where there is evidence or E-vidence it points to a fact. Because when one looks at the Public Accounts Report for 2004 and 2005 one will see the commentary pages of the Auditor General running to about 350 to 370 pages and comments from the Audit Office. Mr. Speaker, I know you have just received the Audit Report for the year 2008. I do not think it has been circulated as yet. But I have in my hands the Audit Report for 2007 and the Audit Report for 2006. In these two reports, the commentary by the Auditor General's Office has decreased by over 120 pages. When we used to get...and I can go through, in fact I have marked them all, and seen the changes. Right now, the Ministry of Labour, Human Service and Social Security, if one checks the current Audit Office Report for the Ministry of Labour, and this is replicated throughout Government, is only one page today. So that the changes that have been introduced by the evidence, by the *E-vidence*, as my comrade here would say, points to the fact that because there is a decrease in the number of complaints, possible irregularities and the better management of our finances, we have seen a much reduced Auditor General's report coming to this House.

While the Hon. Chairman of the Committee mentioned that fact that there were small significant improvements, I see vast improvements in the operations of Government. I want to point to an example, every year we have the consideration of the estimates. We spent hours perusing each expenditure of the Ministry of Local Government. I want to note that nobody other than the Chairman of the Public Accounts Committee in one of the Minutes, in fact it is the Minutes of the 30<sup>th</sup> of June – I think I can find it - this is the Chairman submitting the report tabled on the 15<sup>th</sup> of January, 2010 and

in the Minutes this is what the Chairman of the Committee noted and these are the Minutes of June 20<sup>th</sup> –I have it in my hands every Member has a copy –pages 3 and 6, paragraph 4.1.6:

the Chairman alluded to the Auditor General in the 2004 Public Accounts where there were instances of noncompliance of tender procedures by the Accounting Officer, and indicated that there was no such comment by the Auditor General in 2005 Public Accounts.

In the space of one year she concluded, and this suggested, that there were improvements in that regard. As the Chairman mentioned some small improvements I see significant... [Mrs. Backer: You said that already.] ...vastly improve measures, I said that already too, that eliminated lots of the comments we have had and none of us, including the Finance Secretary said that everything is perfect. He did mention that we still have some breaches and that was also captured in one of the earlier Minutes of the proceedings of the Public Accounts Committee.

I just mentioned one issue and we all know that one swallow does not a summer make. The P.A.C. Report for 2004 and 2005, in paragraph 6.1 to 6.7 do make references to improvement in some Ministries and some Departments, but I think that this Report is doing, this particular comment, is neglecting some of the more significant improvements that we have seen. I found that again in the Minutes 2004 and 2005 that there have been real profound comments in terms of the better improvement of our financial management system in Guyana. If these Minutes that we have here Mr. Speaker, if we go to page 112... [Mrs. Backer: Read the whole report.] ...I can do that, the Ministry of Finance page 112, paragraph 8.1.6

The Committee noted the vast improvements of the remittances of funds to various Missions and the overall accounts of the Ministry of Foreign Affairs and congratulated the Accounting Officer, the Finance Secretary, and the Accountant General in their collaborative efforts in this regard. The entities were also urged to continue their efforts to further improve the accounts of the Ministry of Foreign Affairs.

[Mrs. Backer: She said so.] No she did not. What she said was that she noted the improvements in providing adequate staff for the D.C office. What I am saying I do not want to blame this Committee, but sometimes we have to be very careful and while at the same time we do not want to shout and say everything is okay, but we should recognise the vast improvements not only in the Minutes, and it did not go in there, it went on in examining the public accounts for the Ministry for Foreign Affairs for 2005. Mr. Speaker, the Committee again expressed its satisfaction with the improvements made at the Ministry of Foreign Affairs, I do not want to end here but the Minutes and the Auditor General's Reports for 2004 and 2005 are replete with these improvements. If we go to

page 136, I know that the Hon. Member, Mrs. Backer will want me to read it, I know she will, of these Minutes and this is the compendium of the last two meetings or so of the Minutes of all of the meetings held. There is a little error there. I took keen interest in these reports because I said before it was a watershed year, and in the Minutes I think it is a replication of some pages. So we do have on page 136 that the Guyana Elections Commission was congratulated on its improvements in its accounting and tender procedures, we can go on again.

Page 135: I had an interest in looking and seeing if the Ministry, I shared with the Hon. Minister Manickchand has also been the recipient of such good recommendation and on page 135, paragraph 8.1.

[Mrs. Backer: Page 136.] I read that already, was the Elections Commission, you talk too much, empty vessels make the most noise... [Mrs. Backer: We have that in common

with the Hon. Member Ms. Priya Manickchand.] ...so sometimes when those noises are made,

Members cannot hear properly. I can repeat that, it was page 112 rather than I read it back again.

Sorry is page 136, Guyana Elections Commission of these Minutes. Page 135 it says in terms of examining the accounts of the Ministry of Human Services and Social Security. It says that the Chairperson encapsulated the Auditor General's comment for 2004 and informed the Accounting Officer that the Auditor General had indicated there was a reduction in the discrepancies within the Ministry. The Accounting Officer was advised in future his written responses to the Committee be more detailed.

There was a problem in 2004/2005 and it had to do with the issue when audits were conducted. Auditors have a responsibility to ask Accounting Officers, who are responsible for explanations of discrepancies found. But in that particular year, there was no opportunity given to many agencies and that is the reality. This morning at 9 o'clock I called the Permanent Secretary. I said last night I read this issue about responses and by 11 o'clock all the written responses to the Public Accounts Committee were here. I am confident that somewhere in terms of the Registry our documents are received and I can share this with the National Assembly that something have been misplaced and this last comment about the responses and the adequateness may have been a little misguided, because of the lack of information reaching the Committee.

*8.50 p.m.*

Mr. Speaker, I was talking about the many improvements which I saw in the Auditor General's Report. If we go to Page 380 in the Minutes, we read about expressing satisfaction, the Chairperson recognising the great improvements, replete in Ministry after Ministry. But, not all! I wanted to tell Minister Ramsaran that the Committee did not find the appearance of his officers too helpful; they found them evasive and this Government will not condone that. Yes, there have been a few negatives, but by and large when you examine these Reports, when you examine the Minutes of the Reports,

when you examine all that has been done in Government, one has to say the changes that have been introduced by this administration has really worked well towards reducing discrepancies.

When you look even at the Ministry of Home Affairs, as the Hon. Member Volda Lawrence said in 2004... I found that when you looked at 2005 there was a comment about the Ministry of Home Affairs not adhering to Tender Procedures. So I went back and read the Auditor General's Report. For that period the Auditor General's Report said they scrutinised 100 transactions of the Ministry of Home Affairs and found that 92 of them, abided by the tender procedures. They found that two of them had special waivers, i.e. also abiding by. And they found in that six cases tenders went to a sole trader, and for a reason. The reason being there were emergency works. There was a contractor on-site and the contractor was asked to do the work. So out of 100 cases cited in the Report... **[Interruption]** ...That is in the Minutes and in the Auditor General's Report.

The fleeting references to improvement in certain Ministries. I think at least in terms of the efforts of all those officers who are working diligently to ensure that we have transparency, that we comply with Tender Procedures, that we have good financial administration it is certainly a dishonour to their services when we just make fleeting comments about their significant efforts and commitments. This is not only in terms of these few, but I found this to be widespread, over all Ministries and Agencies since the introduction of all these changes, legal, institutional and policy changes.

The issue was raised by someone about the public debt. When we have debates, in the press you would hear all the commentators talking about the public debt being misrepresented, not verified. In this report, you will see the Auditor General verifying or certifying, the state of the public debt. **[Interruption]** Yes! Go back and read the minutes.

I contend that there were not only fleeting improvements in terms of the administration of government and the finances but there were significant major improvements that have taken place, especially since these new changes were introduced in the period 2004 and 2005.

Mr. Speaker I want to speak a little about the IFMAS system and the robustness with which the system now deals with certain issues that arose in this Report. There were observations made in the Report about the unspent balances. I think of the 10 items it may have been... I don't think it's particularly here, but it was raised, and in her presentation the Chairperson did mention the issue of unspent balances.

The IFMAS system shuts down on the 31<sup>st</sup> December at midnight. Minister Singh could correct me if I'm wrong. So if there are unspent balances these are all now summed-up and you cannot get access to it anymore. Before any cent is inputted into the system so that the accounting units can pass through payments you have to go to the Ministry of Finance and get a release. That release system is robust

and vigorous. You get a release based on your presentation to the officers at the Ministry of Finance. If you say you're going to repair the Ministry of Labour, Human Services and Social Security in April and want \$5 million you must tell them what you want it for, present the quotations. After that is done, you still do not have the money. The money is put into the line item and you have to comply with all of the procurement procedures. When you send your request for payment to contractors, the examiners at the Ministry of Finance will ask: where is the contract and the approval of the National Procurement and Tender Administration? I am very careful in raising that because we no longer have a National Tender Board. Part of the Procurement Act is the establishment of the National Procurement and Tender Administration. I can deal a little bit with that too. So unless you have those approvals, the Ministry of Finance will not allow any inputting of any payment to pass through, unless every single document is there. So if it comes to capital, and you have \$5 million there you cannot pass through a payment voucher that was supposed to be current under capital. It will not go through. So this significant process of introducing the IFMAS system and having a robust system in the Ministry to provide more checks and balances and has not slowed down the system but has allowed for more transparency, accountability, and a reduction of possible corruption. - A goal of this P.P.P. administration. The IFMAS system needs I think to do a bit more P.R. of how well it works.

**Mr. Speaker:** Your time is up Hon. Member.

**Mr. Baksh:** Mr. Speaker, I ask that the Hon. Member be given 15 minutes to continue his presentation.

**Mr. Nadir:** I am very pleased with the introduction of that system. There is another benefit of that system. In the Audit Act of 2004 we introduced a concept, very pellucid, that the Auditor General's Office will now do 'value for money audit'. The IFMAS system the Deputy Clerk of the National Assembly can tell if I ask her right now how much money was spent on the maintenance of buildings as of four o'clock this afternoon, she can go on that system and tell you right now, at the touch of a button. What has this system helped to do? It has helped to ensure that we do not overspend. It has helped to ensure that we monitor the projects. I hear Minister Singh, the Finance Secretary, the Director of Budget, and I see the circulars telling us that it is the duty of everyone to get constant reports of the IFMAS system so that you can know how much the budget was, how much you have spend so far, how much you have balance on releases, how much you have balance on budget. You are better able to programme value for money, better 'bang for the buck'.

I heard someone mention that 40% of the moneys we have are leaked. [Mr. Murray: More.] Well, if there is the evidence there I will be happy to receive and investigate and also bring the Auditor General. The Auditor General under the new powers can even get an outside auditor to come in. The Auditor General has the power to audit any resources by himself or to certify an independent

audit forum to do it. So the IFMAS system has been working really well to bring value for money to our expenditure.

Much has been made about the issue of contract overpayment. I think it may have been item number one. But we have some systemic problems among us. I don't subscribe to the view, as the Chairperson said in her presentation, that it is collusion between officers and contractors. She made that quite clear in her presentation but I don't subscribe to that view. And I don't think the report of the Public Accounts Committee made that pellucid. They mentioned about overpayment to contractors. And I will speak of a systemic problem we have. Why? We have a project and a contractor winning the tender will get as low as 20% in a mobilisation advance. So from day one there is overpayment on a contract; they will get 20%. There is a system, as the work is certified, and the value of the work is determined, that we continuously have deductions on the mobilisation.

I am confident as of today that the Government through Minister Webster will confirm that we have over 800 projects running in the country at any one time. And I do not doubt that as the P.A.C. has found in many instances, I would not say 'most instances', we have not seen proper sign off. Those who are culpable ought to pay the penalty. We have to have some distinction between responsibility and culpability. Because, yes, Minister Manickchand and I have to stand responsibility for everything that happens in our Ministry. If there is a fraud in the pension scheme and she and I do not sign any vouchers are we accountable, are we culpable, should we face jail, should we face prosecution? We have to do the honourable thing and say yes, I am responsible, if a major fraud occurs and tender one's resignation because it should not happen under our watch.

We have to be very careful about the responsibility and culpability. I am confident with the new procedures we are putting in place. We have been working on this over the past eight months, to provide for new bidding documents, new protocols in terms of certification of work done, and valuation of work done. We have been working assiduously to ensure that those who are culpable... and I really want to commend the Committee for saying that two things happened. They said one: they are going to exercise their prerogative to call officers to give evidence of who may have left the job or have gone to another position. I think the Hon. Chairperson of the Committee mentioned that in Paragraph 2.3 of the Report. This is a good thing.

We have no control over how fast the police act, and the evidence that is collected by the police which are tendered in terms of advice from the D.P.P. We have no control over that. You can say yes, we have control over the police via the ability of the Minister of Home Affairs to give general directions to the Commissioner of Police. But the C.O.P. and the Director of D.P.P. are very independent offices. In those two areas, I want to really commend the Committee for saying that we will have to bring these people to bear. Because there is no law that will say to the Deputy Clerk of the National Assembly that she has to certify any voucher, any accounting procedure or whatever it is beyond her

time. She could refuse and I do not think any one of us, any law, can compel her to do that. So if it is not signed off it is going to remain an outstanding issue in the Public Accounts Report.

Let us take for example the \$270 million that was advanced to the Ministry of Labour, Human Services and Social Security prior to 2004. It keeps coming up every year. But no one was there, because we had the floods, to ensure we had the supplementary provided by the National Assembly then to clear that advance. It went to the pensioners. What do we do in a case like that? Do we tell the pensioners that we did not get prior approval from the National Assembly for supplementary and we cannot pay? No! So there is that provision for supplementary to be used. I commend the Committee for that. And I also commend them for also recommending blacklisting. If there is a contractor who is now out of the system or who no longer does work for the Government and has been overpaid we do have a responsibility to the public funds to recover that money. If we cannot recover it by moral suasion then we are going to have to use blacklisting. But, there is a challenge with blacklisting, also legal challenges which is another issue we are trying to address. Those are two significant recommendations in this Report that this P.P.P./C. administration fully endorses. **[Interruption]** I am part of the P.P.P./C. administration, yes.

We have seen this comment about contract violations, breach of Tender procedures... I will tell you now the breach of tender procedures are far less than previous years. I am not going to say prior to 1992, I will say previous years. Previous to the changes in the Audit Act and changes introduced in the Ministry of Finance for better management and accountability. I will only use the years 2004 and 2005.

There is an issue raised under Observation 5 as a widespread problem and it is - the issue of wrongful payment of salaries and consequential deductions paid to agencies. This refers primarily to the issue of persons resigning from their jobs and payments would have gone through weeks before. An example of how the system works... **[Interruption]** ...it can only be eliminated if we go to a system of paying people the month after they finish working. That is the only cure to the problem. The only cure is if we start paying every public servant, every worker in a government agency the month after. It takes almost three working weeks to get a pay-sheet through the system. You cannot do it faster. I can tell you that because my first job was the pay clerk at the Ministry of Cooperatives and National Mobilisation under the then Hon. Minister Hamilton Green, from my neighbourhood. I graduated from that to become the salaries clerk, five of us manually handled the entire salaries for all the teachers in the country at the Ministry of Education. I have a good foundation. By the 22<sup>nd</sup> March the Deputy Clerk of the National Assembly has to submit to the Ministry of Finance her pay-sheet for April. Some will slip through and some will go through.

There is another issue. They speak of overpayment to agencies. When I overpay a person on his salary I immediately overpay to the G.R.A. and to N.I.S. So those are consequential things and you know

Mr. Speaker, G.R.A., due respect to the Hon. Minister of Finance does not provide refunds. You can pull out tooth, nail and grey hair and “you aint getting no refund from G.R.A.”. It is no better at N.I.S. At least a system ought to be introduced – and the Committee made mention of this – so that a credit is accumulated so you can repay less... The Hon. Member Mr. Murray knows these are practical things that will take some working. It is not going to happen overnight and we need to address it. So out of overpayment of workers, Item 6, you will get this consequential payment to these two agencies.

I also want to speak to this issue of abuse of budgetary funds. When the Chairperson, the Hon. Member Mrs. Lawrence spoke to the abuse of extra budgetary funds I stopped whatever I was doing and listened. I was looking through two years of the Auditor General’s Reports and over 300 pages of Minutes and I wanted to see where this abuse of extra budgetary funds appeared. Certainly it did not appear in one particular area that was raised as a red herring. And the Hon. Member did mention that the Lotto Funds were not subjected to the Auditor General, she said it. If we can replay that right now and have it written down.

**Mrs. Lawrence:** Mr. Speaker, on a point of order the Member is quoting me as indicating that I said: “the Lotto Funds were not subjected to the Auditor General”. I never mentioned that. I mentioned that the Lotto Funds were not placed into the Consolidated Fund neither were the projects/allocations for those funds passed through this National Assembly via the National Budget.

**Mr. Nadir:** Mr. Speaker, there is only one evidence that can produce it and that is the records. But I will say that I could have been wrong... [Mrs. Lawrence: You are wrong.] ...in quoting the Chairperson but I certainly am absolutely right in hearing from the opposition, and two speakers spoke so far, that the funds for the Auditor General were not subjected to audit. [Mrs. Lawrence: Who said that?] There were only two other speakers. [Interruption] I don’t think I am hard of hearing. I was looking for these extra budgetary funds that were being abused. But on speaking on this issue the Chairperson didn’t refer to extra budgetary funds she raised the issue of GO-INVEST and a couple of other agencies with respect to unspent funds. And I have a distinction between extra-budgetary funds and unspent funds. I said let me look at what the Auditor General said with respect to the Lotto Funds.

**Mr. Speaker:** Your time is up Hon. Member.

**Mr. Baksh:** Mr. Speaker, I ask that the Hon. Member be given 10 minutes to conclude.  
[Mrs. Backer: Give him an hour to continue.]

**Mr. Nadir:** Thank you very much, Sir. Apparently the Hon. Member Mrs. Backer loves me so much that she wants me to speak on but my colleagues want to bridle me. [Mrs. Backer: I also love my parrot.]



I went to this so-called Lotto Funds. I do not know about any Lotto Funds. I know about an Act that created the National Lottery Commission for specific purposes. I know about an Act that created the National Lottery Commission and we all remember the national radio bingo and so forth were under that. If we turn to the Auditor General's Report for 2005, Page 51 he has an examination of the National Lottery Commission. He says:

“By Cabinet Decision No. CP(96)8:2:U dated 20<sup>th</sup> August, 1996 it is subjected to separate financial reporting and audit. An examination of the records of the Commission for 2005 revealed that amounts totalling \$216,081,000 were received as licences fees by the Commission while amounts totalling \$348 million were expended. The excess of expenditure of \$132 million was met from the funds of the Commission.”

He gave a breakdown of how the money was spent.

“All of the above...

...and this is important...

“... expenditure were within the National Sectors previously identified and in accordance with the guidelines for access to the Lottery funding, which included funding for activities promoting culture and youth, sports development, finance, medical treatment overseas and economic support for disadvantaged groupings among others.”

So the point is there is audit and accountability for the funds of the National Lottery Commission. So, the extra budgetary funds and the abuse of it, and it being used, as some have implied many times before, as a slush fund has been audited. And the Auditor General says in his report it has complied with all of the requirements as tabled under the establishment of that particular fund. I have no problems with you and I using each other. I think the problem comes when there is abuse. We can always turn to Minister Manickchand to right that wrong.

In this National Assembly we all have a responsibility to speak what we believe to be the truth. I have arrived at my conclusions in making these observations with respect to the Public Accounts Report based on a lot of the evidence I have examined. I spent some time as I said, and I will repeat it again, in reviewing...

I know the Hon. Member asked for 10 minutes for me to conclude. I want to conclude on a relatively long note. We have to be very careful how we couch the words of these reports. Because when we look at Paragraph 2.5 it gives the impression that the Ministry of Finance took 5 years to issue that treasury memorandum. When in fact the 2002-2003 Report was only confirmed in the National Assembly, I think on 28<sup>th</sup> July, 2008. By 3<sup>rd</sup> December, 2008 the treasury memorandum was issued.

Standing Orders 82.3 was the first time we explicitly put the establishment and the requirement for treasury memoranda to be issued.

*9.20 p.m.*

But we have to make some changes because in perusing that Standing Order I noticed it said that... report. So technically now, the Minister has until April the 15<sup>th</sup>. But it cannot be; it has to be the presentation and adoption. What happens if a Report is not adopted by the National Assembly? Is the Ministry of Finance still required to issue a treasury memorandum? I am going to be submitting that as a Standing Order amendment that he needs to come immediately. I feel strongly, the spirit is, immediately after the adoption of the report by the National Assembly then it will give the Ministry of Finance three months, but not at the tabling.

We have seen where Reports have been tabled. I think this particular one is a good example. It has been tabled at one time and brought up a long time after as a Report. In fact, this Report is taking a particularly long time to come here. That is one observation with respect to the Report and how it is written. We are supporting this Report. The P.P.P./C. Administration is supporting this Report, but we are raising these issues, because it must be noted. We are also raising it because these are considerations all the Members of the P.A.C. will have to take into account.

I do not want, least it be said, that I have debased the contributions of all of these Members of the National Assembly. This Committee met over forty times in a period from 2006, after this new Parliament was established, to July 8<sup>th</sup>. They have met for a minimum of two hours. We know that all the Members on that Public Accounts Committee have full-time jobs. We can name all the Members of the Public Accounts Committee. I refer to:

- Mrs. Indranie Chandarpal
- Ms. Bibi Shadick
- Hon. Irfaan Ali and Mr. Harripersaud Nokta who replaced him
- Mr. Komal Chand
- Mr. Dharamkumar Seeraj
- Mr. Winston Murray

We really have to take our hats off to the Hon. Member Mr. Murray. He is in this Public Building more than anyone else. Maybe Ms. Shadick might challenge him for that title.

- Mr. Anthony Vieira, he is now replaced
- Mrs. Volda A. Lawrence
- Mr. David Patterson

So, we have 40-something meetings, and a minimum of two hours. This Committee met literally once every two weeks of the last two years to consider this Report. I will love to support any Motion to give them full time emoluments. I see the Minister of Finance is smiling; possibly he has that under serious consideration. The P.P.P./C. administration is extremely appreciative of the efforts of all the Members of the Committee to ensure that even more checks and balances are put in our system to assure our public that we will bring even better accountability and transparency to the management of the affairs of this Nation. On behalf of the P.P.P./C. Administration and on my own behalf, and the United Force behalf, we commend the Report. [Applause]

**Mrs. Lawrence (replying):** Thank you Mr. Speaker. After the last speaker I sat here wondering why there is a Public Accounts Committee. I think there are persons who have the thought, and put it into action to have it excised, but perhaps they need to rethink if they are alive. Because, having had the last speaker represented in this House the mis-appropriations by officers, the wrongdoings by officers... Sir, I humbly submit to this House that the Auditor General's Report should be sent to this gentleman so that he can write the Report. I do not think that the Members of the Public Accounts Committee should sit here Monday after Monday for long hours, having officers in front of us hearing the things that they tell us, in response to the Auditor General's comments.

What we did not mention in our report was how many times we had to send those officers back to go and get it right before they appear before us, for us to peruse those comments of the Auditor General.

Hearing the Hon. Member speaking to the Minister of Finance and the accounts of the State in this very Report, I wonder how well he read it. Because, I will refer him to pages 6 and 7 under the caption 'Public Accounts Statements'. I did mention in my beginning, and I will like to quote what I said. I said:

*“Unlike others, this report is very specific in its details. While it identifies those problem areas it also identifies those specific Ministries, departments and Regions where the major problem lays, and those where improvement have been recorded”*

It pains me, because I am not here for the money. That is gas money. We are here Monday after Monday, and sometimes when you leave here in the evenings you are so sick from the things you have heard. We know, we of the Public Accounts Committee, over and over again have congratulated the crafters of IFMAS. We have said over and over again that it is a wonderful programme. We commend the Government for introducing this programme. I want the Member to understand that I do not know whether he thought that this was some Motion being brought by the P.N.C. or who. You need to come and visit us on the Public Accounts Committee. Because your presentation does not match the spirit in which we operate at the Public Accounts Committee.

I ask the Hon. Member not to come here and report on your Ministry. We are reporting on the Auditor General's comments, and having gone through those comments, the Committee produced this Report. This Report did not come here by a vote; it came here by a unanimous decision. That is how we operate. We operate as a unit, as a body. That is why the Public Accounts Committee throughout the Caribbean is noted as the exemplary Committee of this whole Region, because of the way in which we operate.

We did not make those comments in here flippantly. We made these comments in here, and this Report could have been far thicker if we wanted it to be. We chose those things which we think are the areas which the Government and the Ministers need to zero in on. We chose those regions and those ministries which we believe that there are lacks and we are not seeing the type of effort to straighten out things in those ministries. We do not have to mention every single thing. When those Permanent Secretaries and Accounting Officers come before us we let them know how we feel. We congratulate them where it is needed, and we pull them up where it is not. We do not need to come here... Sir, the night is long and dreary and my bed calls me.

Let me conclude on this Report. But I must say for the records, and I think I speak on behalf of all the Members of the Committee who have worked so hard and who continue to work hard, that we have done our best, and this Report is of our best. We have taken no sides politically or otherwise, because our objective is to ensure that the funds, regulations and rules of Guyana are adhered to and are put in the places where they ought to go. So I put this Report to rest.

In concluding, it would be remiss of me not to speak to the Audit Office of Guyana for which the Public Accounts Committee has oversight. This office, while it faces many setbacks, continues with one of its main problems. That is the struggled to retain and attract qualified and quality staff. In 2009 we at the Public Accounts Committee along with the Auditor General worked to ensure that the moneys allocated to this agency which was remaining was used to employ as many staff as possible so that the Audit Office can be further strengthened to carry out its task. A few days ago a Report by the I.D.B. was circulated. This is an assessment Report on the Audit Office of Guyana. I will not bore this House, but I know that the Minister of Finance received a copy. Hence I would like to inform him that Annex 2, page 1, if he could kindly pay attention to these issues and recommendations.

The P.A.C. is presently advertising and inviting bids from audit firms to undertake the auditing of the Audit Office in accordance with Section 44 of the Audit Act of 2004, for the period 2006 – 2009.

I would like to address the issue of non-response from the Ministry of Finance on correspondence, re-budgets, Audit Office of Guyana for which P.A.C. has oversight. This is a sore point, and I take this opportunity to indicate to the Minister, that we of the Public Accounts Committee look forward to immediate improvement in this area. I wish to indicate that the Public Accounts Committee has just

concluded its perusal of the 2006 Auditor General's Report, and would like to state that improvements are visible in some agencies. This Report will be laid soon in the National Assembly.

Just before I take my seat, I would like to speak to two issues. One, of the Lotto Funds and it being placed in to the Consolidated Fund. The Constitution is the highest law of this land. If it is not so then we must do away with it. It cannot be the law for some and not for all. We must rule, and we must rule across the board. The Auditor General auditing the expenditures and the receipts gained from the Lotto Fund is not wrong. He is auditing it. The problem lies that, that money should be placed, according to the Constitution, not Volda Lawrence, P.A.C., P.N.C., or any "C", according to the Constitution, into the Consolidated Fund.

All the expenditures and projects and so must be ledged just like your Ministry and any other Ministry in this National Assembly through the national budget. So there is nothing to say, that because the Auditor General is auditing it, that it is right. Is it right that the Ministry of Housing and Water kept money for years in a special bank account? Tell us if that is right? Tell us that and the other agencies which kept money in special bank accounts are also right. So, let us be very careful with the message we are sending out there.

The police report and the D.P.P.; we know that you cannot tell the D.P.P. and the police how to do their jobs. But, something has to be wrong when a police report its taking five and six years. Something must be wrong. What happens? It is the public coffers that suffer. The persons migrate; some of them are free and walking boldly all over the place. If we add up all those moneys, they come up to very large sums. Are we saying to the public that it is okay for you to take public funds and say, do not worry nothing will happen, the police reports will take 10 years since we the Government cannot say anything to the D.P.P. or the police. Is that the message we are sending out there? If that is the message we are sending out there, do not let the Auditor General audit any accounts. Just let everyone do what they want to do.

I heard the Hon. Member Manzoor Nadir mentioned the IFMAS system. Let me tell you something, the IFMAS system did not come from heaven. Man made it, just like all the security systems there are around the world. That is why you have people upgrading those systems and changing them from time to time. There are people out there who while you are making them, they are thinking of how break it. We have seen in the very 2006 and 2007 Report where persons have circumvented that very IFMAS system through collusion. It could not have happened any other way.

Therefore I stand here and represent the Public Accounts Committee, that from all of the evidence we have had with regards to the interviews with the various officers, we have found that there has been collusion and that there has been great negligence in protecting the public coffers. I submit this here tonight to the Ministers and ask that they take it seriously and disregard what they have heard before.

Persons will continue each day, each month, each year to get pass the IFMAS or whatever system we put in place. Therefore we must ensure that as a country we can deal with it. Thank you very much Sir. [Applause]

*Question put, and agreed to.*

*Motion carried.*

## **THE CONCLUSION OF THE CONSIDERATION OF THE 2004 REPORT OF THE DISCIPLINED FORCES COMMISSION**

**Mr. Speaker:** The next item on our Order Paper (Supplementary) is the *Conclusion of the Consideration of the 2004 Report of the Disciplined Forces Commission* in the name of the Hon. Prime Minister. I think there is a request for that to be deferred, so we will defer that matter.

*Motion Deferred*

## **NOMINATION OF A MEMBER TO THE RIGHTS OF THE CHILD COMMISSION**

*WHEREAS, the Standing Committee on Appointments to Commissions in keeping with Resolutions No. 60 of 13<sup>th</sup> June, 2008 consulted the approved lists of entities for nominations to the Rights of the Child Commission;*

*AND WHEREAS, the Ministry of Education submitted its nominee, Ms. Banmattie Ram to be a Member of the Rights of the Child Commission in keeping with Article 212U2(a);*

*AND WHEREAS, the National Assembly by Resolution No. 83 of 2009, approved the nominees to the Rights of the Child Commission;*

*AND WHEREAS, Ms. Banmattie Ram was appointed to the Rights of the Child Commission by His Excellency, the President of the Co-operative Republic of Guyana on May 8<sup>th</sup>, 2009;*

*AND WHEREAS, Ms. Banmattie Ram tendered her resignation from the Ministry of Education and emigrated;*

*AND WHEREAS, the Ministry of Education submitted on February 2<sup>nd</sup>, 2010, its nominee, Ms. Bibi Ali, to replace Ms Banmattie Ram on the Rights of the Child Commission;*

*AND WHEREAS, the Committee on Appointments at its meeting held on 9<sup>th</sup> March, 2010, accepted the submission of the new nominee;*

**BE IT RESOLVED:**

*That this National Assembly approves the nomination of Ms. Bibi Ali for appointment as a member of the Rights of the Child Commission and signifies thus to the President in accordance with Article 212U (2)(a) of the Constitution. [Ms. Teixeira]*

**Mr. Speaker:** The next item is the Nomination of a Member to the Rights of the Child Commission. Hon. Member Ms. Gail Teixeira you will move the Motion that the National Assembly approves the nomination of Ms. Bibi Ali for appointment.

**Ms. Teixeira:** Thank you. I will be very brief; I know the hour is late. Just to affirm with the House that the Committee of Appointments met and unanimously approved this Motion that came here in terms of replacing the nominee of the Ministry of Education who regrettably resigned and emigrated from the Ministry of Education. We are replacing the vacancy with a new nominee from the Ministry of Education. We will like the support of the House on this, as we would like to have the elections of the Chairperson and Deputy Chairperson of this Commission as quickly as possible. Thank you.

**Mr. Speaker:** Hon. Member Mr. Carberry, I understand you want to speak on this.

**Mr. Carberry:** I have nothing to say Sir.

**Mr. Speaker:** Thank you. Are there any other speakers on this matter? There being no other speakers I now put the question that the National Assembly approves the nomination of Ms. Bibi Ali for the appointment as a member of the Rights of a Child Commission signifies this to the President in accordance with Article 212U2(a) of the Constitution.

*Question put, and agreed to*

*Motion Carried*

## **ADJOURNMENT**

**Mr. Speaker:** Hon. Members this brings us to the end of our business for today. I will like to thank you for your attention.

**Mr. Baksh:** Mr. Speaker I move that the House be adjourned until Thursday 18<sup>th</sup> March.

**Mr. Speaker:** Thank you very much. The House will stand adjourned until Thursday the 18<sup>th</sup> of March, that is, next week.

*Adjourned accordingly at 9.42 p.m.*