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

134TH Sitting	Thursday, 11TH November, 2010

The Assembly convened at 2.13 p.m.

Prayers

[Mr. Speaker in the Chair]

PERSONAL EXPLANATIONS

Mr. B. Williams: Thank you Mr. Speaker. I would like respectfully to refer you and this Hon. House to the proceedings of this Hon. House on Thursday 4th of November. In so doing I would like to further refer you to the Saturday's edition of the Guyana Times, on page seven under the caption "Contentious Legal Practitioners Bill Passed". Therein, it was reported that the following statements were made by the Hon. Member Priya Manickchand to wit, "Manickchand also slams statements made by Williams about him not being able to get information and the lack of consultations. In a very passionate response to the arguments put forward by Williams the Minister said he was telling a blatant untruth in the Assembly and was seeking to mislead, misrepresent and misinform the public about what really took place at the level of the Parliamentary Standing Committee".

Mr. Speaker, I am sure you will agree with me that that was almost a savage banal attack on a fellow Member of this Hon. House, one who guards zealously his good reputation and standing in credit in this country, and would do his outmost to ensure that his good name is not filched.

Hon. Member Ms. Priya Manickchand was not alone; the Hon. Member Mr. Anil Nandlall also had his excursion. One page 11 of the Saturday's edition of the Stabroek news, under the caption "Government passes law for tax loss for licensed lawyers", Mr. Nandlall is reported to have said this; he said they have produced evidence of consultation to Williams, but he refused to consider it, calling it hear-say information, and that Mr. Basil Williams has dissembled this National Assembly as he has done before. I do not know what I did to deserve such vicious attention, and the Hon. Member is saying I lied. In the light of that, I would like to profess my innocence in telling any untruth or misleading this Hon. House.

I would like to say that I do not know whether our records, that are the records of this Hon. Institution, reflect what the newspapers have, so I would be grateful if we can have the report of the Hansard for that session and the Minutes of the Select Committee which would adequately reflect what the true position is. As you would appreciate, Ms. Priya Manickchand is still saying that I lied.

Mr. Speaker: Ms. Manickchand, would you kindly not interrupt Mr. Williams. The charges made against him were very serious and he has a right to respond to those charges.

Mr. Williams: Mr. Speaker I would be grateful that when we get the reports of the House, that we will have an explanation from the Hon. Members as to what were these untruths, and then we will be able to substantiate them…

Mr. Speaker: Mr. Williams, I have no power to force any member to respond or to explain anything. When we get the Hansard reports and the Minutes, I will allow you to make a further intervention.

Mr. Williams: Most grateful.

Mr. Speaker: We do not want you to pursue the matter. It would be pointless rather to pursue the matter in the air when the evidence, particularly of the Minutes of the Committee are not yet available.

Mr. Williams: To close on this first issue, I would like to say that the brief that I held on last Thursday was a very simple one, and it was a very clear presentation. Our case in the Select Committee was that since we were an original committee we need to have the views of stakeholders. One of the methods we proposed was that we send out notices and invite memorandum; that was refused. We then fell back to a second position which was as was

done in the stamping out committee where there was a memorandum of the stamping out consultations. We would take the entire so called memorandum that they said they had and use them in going through the provisions of the bill; that also was refused. Even when Justice of Appeal Claudette Singh came to us, she also spoke about consultations in 2008 to which we were not privy – and I mentioned about vicarious consultations – and the Hon. Judge said that she will lay over the memoranda so that we can go through them. No sooner that she left, the Hon. Members of the other side railroaded the work of the committee and said they were going through the provisions of the bill now, we thereupon walked out. The Hon. Member Clarissa Riehl and I then walked out.

Mr. Hinds: Mr. Speaker, we understand that the Hon. Member is speaking to this matter, utilising Standing Order 23. We would want to ask whether the statement he made before I got up, that the Government's side had railroaded this and that, whether it confirms to what is stated here in Standing Order 23, "Personal Explanations".

Mr. Speaker: I think they do Hon. Prime Minister, proceed Hon. member.

Mr. Williams: Much obliged Mr. Speaker.

Mr. Speaker: Could you please not regurgitate the entire debate. You said all those things already.

Mr. Williams: I am just quickly giving you a synopsis. At that point Hon. Clarissa Reihl and I agreed that it was pointless for us to sit there and go through the provisions of a bill without the assistance of the so called memoranda which they said they possessed since 2008. We fell back to that position and then we left. That is what we did, the Hon. Member and I.

The second point was that on a previous occasion in this Hon. House, when I was addressing the Hon. House. I referred to the Hon. Member Mr. Anil Nandlall filing a wrong procedure in the High Court. In so doing, he was forced to re-file what he was intending to file in the first place; we were discussing the Judicial Review Bill. Mr. Nandlall took umbrage to call me a liar et cetera and then he walked out. He did not wait for me to complete. You, Mr. Speaker, asked me to lay over the Court proceedings, and I will do so now. The Court proceeding is No. 9 M of 2010, Director of Public Prosecutions and the Attorney General of Guyana, "simplicitor", that is the grouping. He had intended it to be a Constitutional Motion, probably was tipped off after filing and he hastily redrew and re-filed so quickly that no other action intervened. So, the action he came with was No. 10 M of 2010. In this one, you see how it

was intituled in the Constitution as it is supposed to be et cetera. Still though, he does not have an originating notice of motion. The point in fact is that I would like to lay this over to show that in fact the Hon. member had filed a wrong proceeding, withdrew it hastily and re-filed, and he said I was a liar. I so lay over this to the Hon. House.

Mr. Speaker: Thank you Hon. Member.

Ms. Manickchand: Mr. Speaker, will you allow me to…

Mr. Speaker: What is it you want to say Hon. Member?

Ms. Manickchand: Mr. Speaker, your honour said earlier that what I had said...

Mr. Speaker: I did not say what you said. Mr. Williams spoke about what was written in the Newspaper and he was responding to that. Your remarks have not yet been officially documented, so while I have a recollection of what you said, I do not have an official record before me.

Ms. Manickchand: Mr. Speaker, in his presentation to your Honour just now, Mr. Basil Williams repeated what I consider to be a very serious to charge against not only me and my person, but against the whole Government.

Mr. Speaker: Mr. Williams was referring to what was said in the Newspaper.

Ms. Manickchand: No sir, he said we railroaded the process, which was not reported in what he read just now. Secondly sir, your honour is saying that Mr. Williams needs a chance now to say this, I would just like to bring to your attention respectfully that Mr. Williams got up, spoke and then ran away from this National Assembly.

Mr. Speaker: Hon. Members I will not allow those remarks to be made. There are many members on your side of the House who do that, on both sides, all the time and I have referred to it many times in this House.

PUBLIC BUSINESS

GOVERNMENT BUSINESS

MOTION

(1) AFFIRMATION OF THE JUDICIAL SERVICE COMMISSION RULES 2010 – NO. 2 OF 2010

BE IT RESOLVED:

That this National Assembly, in accordance with Article 226(2) of the Constitution, affirms the Judicial Service Commission Rules 2010 – No.2 of 2010, made on 29th day of October, 2010 and published in an Extraordinary Copy of the Official Gazette dated 4th November, 2010

[Hon. Attorney General and Minster of Legal Affairs]

Mr. Speaker: You may now proceed with the motion, Hon. Member.

Mr. Ramson: Judicial Service Commission Rules, sir?

Mr. Speaker: This is the Judicial Service Commission.

Mr. Ramson: Thank you comrade Speaker. It seems as though I am making a very bad habit of creating history in this Parliament as of late.

Mr. Speaker: That might not be as bad as you think. It depends on the type of history that you are creating. You are known for creating history, it depends on the type.

Mr. Ramson: History that will go down forever as historic. Do not worry, even when I was a junior practitioner I created history. There is a famous case called Ramson against Barker and the Attorney General which everybody scuffed at, at the time. It is now a locus classicus as far as the procedure in constitutional matters is concerned. So, all those who are sniggering ought to reflect, and when I speak, I speak with some amount of authority on that issue.

This body of rules, I believe is the first such with respect to the Judicial Service Commission. The Public Service Commission has had rules for many years, but the Judicial Service Commission has never had written rules as those who would remember some about the flights of fancy that took place in the Barnwell debacle many years during the previous administration's rein; previous administration being prior to 1992, when a Judge was alleged to have done something which attracted the displeasure of the Judicial Service Commission.

It has come to pass that we have had on reflection to make these rules. The only reason there is going to be any comment on these bodies of rules is because it is subject to affirmative resolution in this House according to the Constitution. The source for the creation of these

rules is the constitution itself. In the light of the fact that the Constitution speaks to in the absence of any rules, the Judicial Service Commission shall be bound by its own procedures. These rules now take the place of that formal rule. You will see that it is divided up into nine parts, and it deals specifically with, in part one, the preliminary matters such as the interpretation and the application and appointments. One of the reasons why it was found necessary is that under the Constitution, I think there was an amendment some time in 2003 or 2001 following the reform process where apart from the powers of appointment with respect to powers of the Judiciary and the Magistracy and certain other functionaries, Article 199(3) expanded the number of officers apart from Judges and Commissioners of title and Magistrate; it expanded it to the appointed of the Director of Public Prosecutions, the Deputy Director of Public Prosecutions, the Registrar of the High Court, the Deputy Registrar of the High Court, the Registrar of Deeds, the Deputy Registrar of Deeds and to such other offices, not being offices in the respect of which the provisions for the making of appointments is made by any provisions of this Constitution other than Article 201 connected with Courts of Guyana for appointment to which legal qualifications are required as may be prescribed by Parliament. There is an expanded list of persons or officers for whom the Judicial Service Commission has been empowered to appoint. As will be readily seen, with this kind of expanded role in the appointments of these officers, it would appear that it became necessary to have a much larger bureau. These Judicial Service Commission rules 2010 are intended to give some of the broader outlines as to how appointments are made and how benefits are conferred. It deals with the leave of absence in Part IV, and it deals specifically, which is a welcome sign, with the kind of conduct that is required of all persons who are categorised as Judicial Officers. I do not intend to go through these rules section by section or rule by rule. It would be important to mention that the rules that pertain to the conduct needs to be specially identified. It deals with the conflict of interests where persons ought to guard against putting themselves in a position of conflict of interest or compromising the fair exercise of their official functions. As rightly known in this country, some people use their office for private gain. There is a rule that says that you are subject to disciplinary proceeding if you do that. If you demean the office that you hold or allow the integrity of that office to be called into question, or where you endanger or diminish the respect for or confidence in the integrity of the judicial service.

Of course it also specifies that the highest level of professional conduct and personal integrity must be observed and that the public is entitled to be treated with courtesy, respect, fairness

and impartiality. It is expected that as a judicial officer you will not confer any special benefit or give preferential treatment to persons based on any kind of special relationship. What is most important and very relevant at this time is that you are required to render service which includes writing of decisions in a timely, efficient and effective manner. Not only the writing of the decisions, are you required to complete the hearing of the cases. It also deals with the kind of appearance; when you arrive for work you must not be under the influence of any narcotic or, according to a man who announces on the radio, *alcohol*. That seems to be a very famous pronunciation theses day, *halcohol*, instead of alcohol. It also specifies the number of hours you are required to work. Even if you are required to work overtime, more than those thirty-nine and a half hours per week, you are entitled to be paid commensurably, or may be able to be given back time equivalent to the extra hours that you worked.

Of course, subject to the Constitution, any such officer is forbidden to engage in any private work, use information or material gained from his official position for private gain, or exploit his position. I suppose that also touches and concerns the benefits you may get from using your office in such a manner that you get some kind of solicited pleasure. You are not supposed to accept gifts to perform or neglect your official duties, nor are you allowed to conduct private business during working hours on the Government's property. As we found it necessary to spell out in Rule 14, some aspects of the kind of activities that people in Guyana, once they are appointed to certain offices, they involve in party politics. Some of them like to go to the media. They wish to be seen in the media; that is against the kind of rule of thumb, which is contained in the Judicial Service Commission rules. Some of us who are in this House may lose the right to become a Judicial Officer since they would not be able to get themselves on the front, back or middle pages of the newspapers on a regular basis. You are not allowed to run for Municipal or National Elections. The dress code is the responsibility of the Commission and Senior Officers who oversee the work of their subordinates or junior officers sometimes carry the vicarious liability, because they are prima facie liable for any kind of misconduct or lack of performance of the junior officer. So, some of those judges or persons named in the Constitution, apart from doing their work they have oversight over those persons who are working below them. That is a special rule which had to be put in to allow for the kind of accountability which is often a misused term when the Governments is alleged not to be able to pursue whatever action it wants to pursue.

Leave of absence is dealt with very extensively in Rules 25 - 42, that includes things like vacation leave, sick leave, compassionate leave and of course maternity leave which appears

to be somewhat of an anomaly, because the Constitution says that everyone is equal. I do not suppose men, unless they are house-husbands can claim that they are entitled to the same or equivalent treatment. It also deals with the question of persons who are frail of mind and body with respect to being sent home on medical leave, and being terminated on the grounds of being medically unfit. These rules also allow for the kind of exigency that is normally encountered where persons have been catapulted into positions. It seems to be fashionable these days, it is in vogue for persons to be appointed to positions and then be given the training for the position. I know of a Judge who was appointed, and I could not for the life of me understand how a Judge could be appointed to a position and then for six month did nothing but sat with another Judge to learn how to be a Judge. That seems to have been the fashion.

2.42 p.m.

We hope that judge is young enough to give back in kind by long service.

It also deals, in that particular part, with how officers who are sent for training are required to enter into a bond for the period similar to the period of training. Those who do not complete the course will have to return to duty and refund the money or a kind of indemnity. You will find that at rule 62, "an officer who prematurely terminates his course of training without prior approval from the Commission shall be required to pay the Commission a sum of money equal to the commitments he received prior to the premature termination and any other amounts actually spent by the Commission in connection with his training including if he was being paid a salary."

Pensions and salaries are dealt with in parts six and seven. This became a very sensitive issue because, as Members of this House would know, moneys that are payable by way of salaries, gratuities on retirement are dealt with by the Pension Act which is primarily a matter for the Ministry of Finance. Rules 64, 65, 66 and 67 sought to make provisions for the Ministry of Finance to continue to oversee the kind of payments to be made and not leave it to the discretion of the Judicial Service Commission. The Consolidated Fund has always been a matter for the Executive and not for the Judicial Service which is a separate branch of the...There is a certain Member who seems to have a fetish for creating unnecessary argumentation over money. I do not know if it is because he has suddenly come into an area where money is available. It is a grave pity. The *nouveau rich* of this country suddenly want to exercise power. Low and behold if that authority were ever reposed in that particular

Member. I do not think that Member would be able to see his way to come and speak to us lowly fellows. I think he should pay attention to part eight the discipline of officers-

"authority to discipline officers subject to the Constitution. The power to discipline officers vested in the Commission and any contravention the Constitution or the Act or any regulation for the time being governing the conduct of officers. Or if he does anything prejudicial to the efficient conduct of the Judicial Service or would bring it to disrepute he is liable to disciplinary proceedings for that misconduct."

Comrade Speaker, you would readily appreciate that this particular part had to be inserted in order to meet the deficiencies that were discovered in the Barnwell debacle, as I called it earlier. The discipline of the officers that are identified in the Constitution, apart from the Director of Public Prosecution (D.P.P) seems to be vested primarily in the Judicial Service Commission. Judges who are sitting on the Commission are not, themselves, subject to these rules. That is readily appreciated in the light of the fact that the Constitution sets put how judges who are serving judges are to be disciplined. It also deals with the necessary standards of proof. All the rules of evidence need not be observed and the Commissioner is entitled to receive, as some people keep on saying here, heresy evidence. Heresy evidence seems to be one of the buzz words there days.

If an officer finds himself to have been the subject of a wrongful disciplinary action that officer has a right to lodge an appeal to the High Court within a specified time. Any penalty that was issued against that officer would be in abeyance until the hearing of the appeal by the High Court. Of course if the judicial officer is found guilty of a criminal offence the Commission is entitled to terminate his services with immediate effect i.e. any criminal offence. If he is criminally charged and he files an appeal disciplinary proceedings may be instituted under rule 81 notwithstanding that the officer has appealed the conviction arising out of the criminal proceedings. So independent of the criminal proceedings disciplinary proceedings can be instituted by the Commission. And rightly so because even if a person is not guilty of a criminal offence but the offence is such that would impugn or compromise the integrity of the office that person can be required to show just cause why he should be retained in the service.

As I indicated earlier these rules bring a certain level of certainty to the kind of conduct that is required of a judicial officer and they address the concerns of the Judicial Commission with respect to conduct that may not be consistent with judicial service. I do not believe that

there is anything more useful for me to say on this matter but I think it is my duty to identify for the Members of this House who have not taken the trouble to read the Judicial Service Commission rules to identify those fundamental portions that triggered the necessity for bringing the rules to the Honourable House.

Mr. Ramjattan: I wanted to make a really short speech that I support these rules and that indeed they come here not as a result of what I feel, and it is my opinion and the Hon. Attorney General is mentioning the Barnwell debacle, but rather as a result of the donor pressure that indeed these set of rules be brought now. But I have decided not to. I want to make it quite clear that though very useful, these rules always as I have indicated in this National Assembly have simply a use only within the law books. We do not have them being enforced as it were. I rather suspect, here again, that rules which have literally been forced upon the Administration of a $6M loan that is going to come for purposes of judicial sector reform have caused this to happen. That is not complementary of the methodology of an Administration that cares to ensure that its judicial officers perform efficiently. It had to be forced and it is very important that that be understood. When was it that the Barnwell debacle occurred? Is not a long, long, time ago? How long ago was this Administration in place and had the power in office to ensure that these rules be passed? It ought to have been done a long time ago but it is now done.

I also want to make the point that in view of these rules now being there for the purpose of ensuring better behaviour of judicial officers, if that is the truth, then we should also have almost identical rules for Ministers of Government. Call it a Minister code of conduct. They must not do the things that you are asking now in relation to judicial officers. I also want to make the point that deficient here-so rather than my three sentence address I will go on to a ten sentence address- is rather than ensure that through these rules the judiciary can be really independent of the Executive by virtue of having what the Constitution provided for a long time ago this Administration has not seen it fit to put in the rules.

The learned Attorney General indicated that these rules have their origin from the Constitution, that is true but the Constitution also indicates this which could strengthen the independence of the court system, that subject to the provisions of Article 199 and 2001 and all courts shall be administrative autonomous and shall be funded by a direct charge upon the consolidated fund. Such courts shall operate in the principle of some financial and administrative management. There are no rules in relation to this but what was just mentioned

buy the Hon. Attorney General was that the Executive controls the consolidated fund. That is not what this Article in the Constitution is stating that it must be s direct charge. It is, we, Parliamentarians that literally controls the Consolidated Fund when we make Appropriation Acts and also our supplementary appropriations. This Administration, even through its Attorney General apparently, misunderstands that. That is why you can understands why there has been so many breaches and why Privileges Motions had to come against some of the Ministers because of the fact that they do not understand the concept that this National Assembly is the superior body in relation to the consolidated fund. When we approve then you can take out and disperse in accordance with what we would have approved here. The point is that a major set of rules which ought to have been part and parcel of the Judicial Service Commission rules because it is that body that literally controls the judiciary. It should have been the authority too to deal with Administrative autonomy and the funding which should be a direct charge. Nothing is stated in relation to that in these rules so that the Judicial Service Commission can be that body.

There is a very important set of jurisprudence originally out of Scotland, and then largely through the other Commonwealth countries, that say that if a Judiciary has its moneys controlled by the Executive branch it touches upon the independence of the judiciary. When in the Constitution reform process Article 122 was put into the Constitution to give the courts Administrative autonomy and that it should be funded directly from a charge from the Consolidated Fund. It was with that purpose in mind that it was created and then entrenched in the Constitution under Chapter 11. Being entrenched there means you have to flesh the arrangements out as to how because when you need the Chancellor or someone to go abroad on a course or a seminar they literally have to beg the Executive branch. When a judge has to go to, let us say, some continuing legal education or to give a lecture, if that judge in Guyana is an expert on some matter, he has to depend on the Executive branch. When they want to purchase law books or stationary they have to ask the Executive branch. This was created solely for the purpose of giving them that financial administrative autonomy. This Government has not seen it fit to do that although this thing was approved by since 2001 by Act 6 of 2001. We are not getting anywhere.

As I have said, more control and absolute control is what the Executive would like to see of its institutions. Even those institutions of state which by virtue of a doctrine called the *Separation of Powers* it ought to grant more powers for that separation to be more distinct so that the independence of the judiciary could be more transparent. The Government comes

here stating that they have gone a long way, after a long time, from the debacle of Barnwell's development. They have what is called this very important Article but they have made no rules.

The Alliance for Change would like to say that half a cup is better than none.

Mr. Speaker: I missed you somewhere along the way member.

Mr. Ramjattan: The Alliance For Change would like to say, in relation to these rules, we feel that they ought to be supported by this House but they ought to have been another set that is added to this to give what you call the financial administrative autonomy on the court system.

Mr. Speaker: But that cannot be in the Judicial Service Commission rules.

Mr. Ramjattan: Sir, I am stating that if there is a place for that it ought to be there because the Judicial Service Commission is...

Mr. Speaker: I do not see how the Judicial Service Commission rules can accommodate...

Mr. Ramjattan: Because it was mentioned Sir...

Mr. Speaker: You are not listening to me Hon. Member. I do not see how the Judicial Service Commission rules can...

Mr. Ramjattan: I am not hearing you Sir.

Mr. Speaker: I do not see how the Judicial Service Commission rules can accommodate rules to implement or define a Constitutional provision, but go ahead.

Mr. Ramjattan: They can because this is what we are doing right here with the rules as to what is misconduct concerning judicial officers etc. if there is a provision that talks about financial administrative arrangement, I am saying that there should be additional rules for those.

Yes the Alliance For Change supports these rules but I am making it quite clear that there ought to have been additional rules for the Financial Administrative independence in keeping with the first sub-paragraph of that Article which states that all courts and all persons presiding over the courts shall exercise their functions independent of the control and direction of any other person or authority and shall be free and independent from political,

Executive or any other direction or control. The second paragraph goes on to talk about Financial Administrative. Rules ought to be made after all these years that would give the court system that administrative autonomy in relation to its finances otherwise the Executive could still manipulate and control it. Thank you very much.

Mr. Nandlall: Mr. Speaker, I wish to begin by replying to Mr. Ramjattan. He has consistently said, in this Parliament, that this Government is passing these laws and these rules, over the last few months, as a result of pressure from the donor community. I wish to put on the record that that is an inaccurate statement and to explain the genesis of these legislations.

The government, in 2005, crafted two strategies to develop the welfare of the people of this country. They were to bring certain improvements and modernisation to the justice sector and to bring certain improvements and modernisation to the security sector. The Government went to the International Development Bank (I.D.B) and outlined these projects in vast detail and put them top the ID.B for funding. It is the Government that initiated the type of reforms in those documents for which they needed financing. For example, in terms of the legislative changes which were suppose to be done and which are being done in relation to the justice sector programme.

It is the Government that identified the areas that needed to be reformed. It is the Government that identified the infrastructural works that needed to be done. It is the Government that identified the institutional strengthening that had to have been done in these sectors. Those papers were presented; those projects were presented and the I.D.B in collaboration with the Government, an agreement was arrived at and financing was received. It is out of that arrangement that this legislation and these rules are being promulgated. It is, therefore, inaccurate for my learned friend to keep saying that pressures were being brought upon the Government to pass these legislations. These were initiatives, of this Administration, that we took to them for funding .

The judiciary, as we all know and as pointed out by my learned friend Mr. Ramjattan, is an independent arm of the State and one of the three organs of Government. Under our Westminster system our Constitution embraces the doctrine of Separation of Powers and by that doctrine the judiciary is independent of both the Executive and Parliament. In ensuring that the independence and autonomy of the judiciary is maintained it is obviously necessary for the judiciary to be given the power to regulate and control its own affairs. Mr. Ramjattan

has sited, for example, Article 122 of our Constitution which speaks to the strengthening of the autonomy and independence of the judiciary but what he did not highlight was the fact that it was this Administration that amended the Constitution and included those provisions. This is to give them the highest form of protection under the legal system. By convention we have inherited a system from England and those were principles that were, of course England has no written Constitution, but those are Constitutional conventions in England that a judiciary is independent and that the expenses of a judiciary must be charged out of a Consolidated Fund. The 1966 Constitution was silent on it but that does not mean that it did not exist. The 1973 Constitution was silent on it but that does not mean that it did not exist. The 1980 Constitution was silent on it but that does not mean that it did not exist. We went the far way of making it express in the Constitution and we should be commended for it not criticised.

The judiciary remains an institution whose expenses are charged from the Consolidated Fund. So I wish to say that that institutional framework is there in the system for the judiciary not to be interfered or influenced in a financial manner by any form of pressure by the Executive. That may have existed once in this country but not since 1992. We have ensured that we have strenuously worked to ensure that this judiciary functions in an impartial manner because we recognised that we inherited a judiciary which flew a party flag in its apex. In recognition of that we have put all these mechanisms in place and we will continue to put mechanisms in place to ensure the institutional strengthening of the judiciary. It is against that background that these rules must be viewed. It is the judiciary and the Judicial Service Commission beginning during the tenure of Her Honour Mdm. Desiree Bernard who began the process of consultation and who began the process that palminated in the rules that are before us. It is not an overnight thing, as Mr. Ramjattan is suggesting, with donor pressure being applied to us. This has been in the pipeline since 2005 when we made our presentation for funding, Mr. Ramjattan.

3.12 p.m.

So, Sir, this document has received the consultation of the stakeholders, the magistracy, the Registrar for the Supreme Court, the Director of Public Prosecutions, the judicial officers and other members that the Judicial Service Commission would have seen fit to consult, because this is not an initiative of the executive. This is an initiative encouraged by the executive, but an initiative of the judiciary. It is not our ideological and philosophical view that we must

impose upon the judiciary how the officers must conduct themselves. We recognise the constitutional insulation of independence which they enjoy and we recognise our role to make available resources to them to deliver a fair and impartial quality of justice to the people of this country.

We took a position that the same degree of independence and autonomy which they enjoy in their functioning must extend to them in seeking initiatives to strengthen that independence, so that when they were consulting and crafting this Bill the executive played a most minimal role. This is a creature of the judiciary itself regarding the conduct of their own procedure, signed by the Chairman of the Judicial Service Commission. And if in the wisdom of the judiciary this is what they need to function effectively or to function impartially the executive has a duty to lend its assistance to the process, because the executive, in this Parliament, is answerable; the executive is responsible to this Parliament for the functioning of the judiciary.

The Hon. Attorney General went through in great details on the rules and regulations that are outlined here and I do not think it is necessary for me to go over them, except to say that the executive hopes that these rules will achieve the purpose for which they are designed to achieve, and that is, to deliver a fair, impartial and superior quality of justice to the people of our country. Thank you very much, Sir. [*Applause*]

Mr. Speaker: Hon. Member, Mr. Basil Williams.

Mr. Carberry: Mr. Speaker I will like to ask that Mr. Williams be withdrawn as a speaker of on this Bill.

Mr. Speaker: As you wish, Hon. Member. Is there any other Member from the Opposition? .

Mr. Williams is withdrawn as a speaker to the motion.

Mr. Ramson (replying): Thank you for indulging me this short comment. I must say that it comes as a surprise to me that a lawyer would construe article 122 A, in a fashion articulated in this House, casting aspersions on the executive for maintaining a hold on the direction with respect to the use of the Consolidated Fund. I am satisfied, having sat as a judge, that article 122 A, paragraph (1), deals specifically with the independence of the functions of the judges. It has nothing to do with trips abroad and going to grand lectures. If a judge...[**Mr. Ramjattan:** That can affect their functions.] If he would only listen! The functions of a

judge do not include travels overseas – the independence of a judge has nothing to do with it. If a judge carries out his functions as a judge, that is, while he is on the bench, there is no direction or control by anyone else other than the judge himself, even the Judicial Service Commission cannot give him direction.

So it is a grave pity that some persons are able to read but not understand. "All courts and all persons presiding over the courts shall exercise their functions independently of the control and direction..." It has nothing to do with trips and I cannot understand... If he were a judge and he were to sit in the Court of Appeal or the Caribbean Court of Justice and construe in the fashion he is construing it there would be no ends of problems with respect to the Government or the good governance of a State.

Secondly, it was drawn to my attention and, I must confess it, it was never dawned on me that in Rule 8 there is a typographical error, which I assume, Cde. Speaker, under Order 61, you might be able to do a slight error correction. Instead of it stating "...set out in Rule (2)" it really refers to sub Rule (1) of the very Rule. If you read it, it will clearly indicate that it was meant to refer to sub Rule (1) of Rule 8, because Rule 2 deals with the interpretation section. It states here:

> "The use of alcohol, controlled drugs, intoxicants, narcotics or any other illegal substance is prohibited at the workplace."

That is sub Rule (1). Sub Rule (2):

> "Arriving at work under the influence of any of the substances set out in Rule (2)..."

That obviously is a typographical error, because it refers to the use of alcohol, drugs, etc. that is being "under the influence of." So I will crave your indulgence at the appropriate time, Sir, before the vote is taken, for that correction to be made.

I commend these Rules to this House because it is clearly the intention of the administration to bring some certainty to the kind of administrative governance of the Judicial Service Commission itself, because of the expanded personnel over whom it is now seized. I thank you, Sir. [*Applause*]

Mr. Speaker: Thank you Hon. Member. You will pass a note to the Clerk about the amendment.

Motion put and carried.

BILL – SECOND READING

AMERINDIAN ACT 2006 (COMMENCEMENT) BILL 2010 - Bill No. 20/2010

A Bill intituled:

> "An Act to validate the commencement of the Amerindian Act 2006." [*Minister of Amerindian Affairs]*.

Ms. Sukhai: Last week, Bill No. 20 of 2010, the Amerindian Act of 2006 Commencement Bill was read for the first time. This Bill seeks to validate the commencement of the Amerindian Act 2006 with effect from March 14th, 2006. It validates all Acts and things done between March 14th 2006, an enactment of this Act which would have been lawful if the Amerindian Act 2006 had been brought into force by order.

Guyana among the many countries with indigenous populations should feel proud, as a country, for advancing a model and setting the pace with respect to addressing indigenous rights, participation at decision making, both at the local and national levels, and demonstrating substantial inclusivity of Amerindians in local and national affairs. Guyana and the People's Progressive Party Civic Government exhale a new dispensation by adopting a process of extensive consultation on national issues. This approach provided for the engagement of Amerindian leaders and members of the various Amerindian villages and communities across the length and breath of Guyana in the production of a modern piece of legislation produced and designed by the Amerindians themselves.

The direct opinions, concerns and recommendations with respect to the modification and improvement in the then existing legislation, it must be noted that the Amerindian Bill 2005 was presented to the National Assembly in early August, 2005. It was vigorously debated in October of 2005. It was sent to the Parliamentary Committee, piloted through the National Assembly by the then Minister of Amerindian Affairs, the Hon. Carolyn Rodrigues. It was debated again, it gained approval of the National Assembly on the 6th of February, 2006 and it was assented by His Excellency President Bharrat Jagdeo, shortly thereafter, on the 14th of March, 2006.

I mentioned the chronology of these events to draw attention to the urgency and alacrity with which the Government proceeded with this piece of legislation as a matter of priority. Permit

me to ask this Hon. House and many honest and rational thinking persons in our country to examine if the process which was outlined by me, just now, reflects an approach and response of our Government bent on deceiving Amerindians, as is currently, publicly, being proclaimed.

The 2006 Amerindian Act embraces the many obligations, moral and otherwise, to the Amerindians that the People's Progressive Party had committed to addressing in its 1992, 1997 and 2001 elections manifestos, and thereby today there is a very modern Act which facilitates improvements in the living standards of the Amerindians by addressing issues of village administration and governance, developing their own community development plans, establishing procedures for land claims, providing for the devolution of the authority from Government to the village council and including the responsibility of the Amerindians to manage the villages and the resources. Our Government expresses no fear for addressing the development needs of the Amerindians and is willing to deal with existing challenges that others have failed to face. Our Government's approach is pro-active and responsive to all Guyanese, and we make no excuse for doing so.

Not surprising, a rather spurious and speculative debate in the printed media is raging which pegs this matter before this House to three main issues: that the People's Progressive Party Civic Government is deceiving the populate; that it is a test of the sincerity of the Government with respect to Amerindians, and it proffers a possible reason that the Act was not brought in force as it creates an obligation on the Guyana Geology & Mines Commission (GGMC) to transfer twenty per cent of the royalties from mining activities to a fund designated by the Minister for the benefit of the Amerindian villages.

Why was there - it boggles my mind - no debate, or any debate, on the aggressive approach of the People's Progressive Party Civic Government in its quest to rescue a marginalised section of our population that stagnated on the defunct political and governance system and an outdated legislation of 1951? Why was there no fuss when very little was done to address that cause and the concern, and to work to alleviate the sufferings of our Amerindian population? It is regrettable that this issue has occasioned an opportunity for persons to sensationalise and to score what essentially is mileage or maybe, for some, political mileage, to say that the failure to bring the Act into force has deprived Amerindian communities of approximately $1.7 billion. I feel, and I suggest, that this is an overt display of ignorance or misrepresentation, or misinterpretation, to the Guyanese public of section 51 (3) of the Act

which speaks to the issue of mining activities on village lands only and does not include mining on State lands. I suggest that the rumblings on this issue seek instead to mislead the nation.

It is necessary to highlight that the provisions of the Act and the activities arising, therefrom, having been followed and executed in good faith by the various stakeholders and beneficiaries. And to note that the 2006 Amerindian Act provided that it shall come into operations on such date as the Minister may, by order, appoint. I simply wish to note that the explanatory memorandum cites that an order was made, bringing the Amerindian Act 2006 into force in April of 2006. This order was signed by the Minister but the gazetted copy cannot be found. Hence, it is necessary for us to proceed by way of an amendment Act to bring the Amerindian Act into force and to effect the necessary validations.

I, therefore, Mr. Speaker, request of you that the Bill before this House is taken in that light and is read for a second time. [*Applause*]

Dr. Norton: If it pleases you, Mr. Speaker. I rise to make my contribution on behalf of my party, the People's National Congress/ Reform, to the Amerindian Act 2006, Commencement Bill 2010. A Bill intituled into an Act to validate the commencement of the Amerindian Act 2006.

Nearly half a decade, after the Amerindian Act 2006 was passed by this National Assembly on February 16th 2006, this Bill now seeks to validate the commencement of this Act with effect from March 14th 2006. This becomes necessary because, according to the explanatory memorandum, the gazetted order, which was signed by the Minister to bring the Amerindian Act 2006 into force in April, cannot be found. This Act was even assented by the President himself on March 14th, 2006. In other words, this Bill, after so many moons have passed, seeks to retroactively cover all activities sanctioned so far under the Amerindian Act 2006. No mention was made of when the gazetted order was found, in other words, whether any attempts were made to bring this Act into force.

We all can remember on October 20th, 2005, the Hon. Minister Rodrigues, the then Minister of Amerindian Affairs, with all pomp and ceremony, subjected us all to a lesson of reading of forty-three pages of her presentation on the Amerindian Bill 2005. We sat here and listened for nearly three hours in this Hon. House. I think it might have been probably one of the longest presentations in this House to date, particularly the Eighth Parliament. The Minister

told us in no uncertain terms, and I quote: "The 1951 Amerindian Act has reached the age of retirement". It was then 55 years old, to use her own words. The Minister then went on to say: "Our Amerindian people have long been asking for the passage of this new Act, we cannot afford to have them waiting much longer and we should not ask them to do so." Yet, four years later this Act has not been brought into force. The Minister concluded and I quote: "For what it is worth, Mr. Speaker, this Bill cannot be more timely as the communities are aggressively engaged in the development process and they require the necessary legislation to go." Here we have the legislation for four years, but it is still not brought in force. Nearly half a decade, and this Bill is before the House to, only now, bring this Act into force.

Is this so because of ...or are we expected to believe it is an innocent oversight? How many times before have this Government not attempted to use this very Amerindian Act 2006 as a demonstration of it recognition and respect for the rights of the indigenous peoples of this country. Is this oversight part of the evidence of the PPP's perennial and determined commitment and efforts to bring improvements to the lives of our indigenous peoples in villages and communities that it so often boast about?

The Amerindian Bill 2005 was committed by the National Assembly for consideration by a Special Select Committee, consisting of nine Members, five from the Government side and four from the Opposition, who met on eleven occasions. There were fifty-three written submissions and oral presentations from seven organisations and forty-six individuals. These deliberations were thorough and in-depth, yet the PNC/R and many other stakeholders were not in agreement with a number of the articles and clauses and are still dissatisfied with the final outcome of that Act. This is particularly so with respect to the effectiveness of the consultation process and the taking on board of recommendations from hired resource persons. There were so many areas that we were in disagreement with, but I would just want to use three examples.

We can look in the first instance at the powers this Act gives to the Minister. This practically remains unchanged from the old Act, and the essence of paternalism in this context is to substitute the Minister for judicial and other constitutional mechanisms. That is to say that many powers assigned to the Minister are judicial in nature and should be more appropriately exercised by the judiciary.

There is a situation in the second instance of the National Toshaos Council. As envisaged at present, the National Toshaos Council is a toothless largely decorated body charged with

such inspirational functions as promoting good governance and is confined to function under the Minister. The Minister, rather than the National Toshaos Council, may establish a secretariat if he or she sees fit – section 40. Why the Minister's presence as a statutory member is required on a body charged with providing her with advice is not clear - section 41 (g).

And the third example is access to community resources. The primacy of forestry and mining interest over community rights provides a vivid insight into the real intention of the State. In extraordinary blunt language, refusal of consent by a community is literally brushed aside, if the Minister responsible for mining deems it to be in public interest - section 50 (1) (a).

The notion that is brought to privately owned lands could be so primarily set aside without legal recourse is applicable in no other part of Guyana. This Bill is intended to validate the commencement of an Act that we, from the PNC/R side, have a lot of disagreement with.

This dissatisfaction with the Amerindian Act was even reflected, of all places, in the report of the recommendations of the multi-stakeholders forum of the Ethnic Relation Commission. It was a constitutional body then where a unanimous call was made for the revision of the Amerindian Act. We, from the PNC/R, sincerely believe that some consideration should be given to this recommendation.

3.42 p.m.

Only recently an official from the Ministry of Amerindian Affairs loudly proclaimed that the Government has consistently followed the provision of the 2006 Amerindian Act. Is this really the case or is it just empty rhetoric? Let us examine the facts. The Amerindian Act, in section 51 (3), states that:

> "The Guyana Geology and Mines Commission shall transfer twenty per cent of the royalties from the mining activities to a fund designated by the Minister for the benefit of Amerindian Villages."

It would certainly be of interest to know if this was ever done, and if so, how much was the sum? Did the Minister ever bring this section of the Act into operation? Had this been done it would have obligated the GGMC to fulfil its legal duty, and by not so doing, depriving the Amerindian villages what duly and legally belong to them. This really should never be the problem because the audited financial statements of the GGMC show that mining activities

garnered more than 8.5 billion Guyana dollars since June 2006. So money certainly was not the problem.

It is of some interest to note that the same official, referred to above, made mention of various sources of funding for the improvements of the village economy including The National Hinterland Secure Livelihood Programme, the annual presidential grant and the Low Carbon Development Strategy grant, but no mention was made of any fund designated by the Minister from the twenty per cent of the royalties from mining activities by GGMC. Would we be informed whether, now, the Amerindian Villages would be entitled to that money if they have not received before? This fund from GGMC could have contributed in some form to the Amerindians empowering themselves, economically, by the statutes and not by the annual presidential grants allocated at the discretion or kind-heartedness of the President. I imagine that this form of empowerment is precisely what the Government Information Agency (GINA) meant in one of its releases when it claimed that the Amerindian Act would have done that to the Amerindian community. That release also claimed that the Act would have paved the way for the Amerindians to empower themselves politically as well, but this seems not to be the case in Guyana, today.

I refer to the most recent claim by Amerindian leaders, themselves, the Toshaos, where they were expected to sign important document on behalf of their villages without having read it or being sufficiently informed about it before, in total contradiction to the principle of free, prior and informed consent. Fortunately, some of the leaders refused to sign on to that document since they know very little about it. Why was this done? This was probably so, because of the way some of us regard the indigenous peoples of this country has become a deep-rooted perception.

We think by constantly repeating inaccurate statements about the life of Amerindians will one day make the statements accurate. I refer to statements made by news agencies of this Government that Amerindians were second class citizens before 1992 and, of more recent, that they were hardly ever exposed to secondary education. Mr. Speaker, as early as 1969, a Guyanese Amerindians from the Kabakaburi village, in the Pomeroon river, was the winner of the coveted Guyana Scholarship as a student of Queens College, a school that many of us, including those who have repeated those false statements, were never qualified enough to attend, and this scholar was one of many who attained, at that time, some similar

qualifications at that level. As early as in 1972, one of the ever few qualified Guyanese anaesthesiologists, at that time, was an Amerindian from the North West District of Guyana.

While we boast about the availability of secondary schools in Amerindian villages today we must also look at the quality of the schools. For instance, the secondary school in the village of Pakuri, known as the St. Cuthbert's Mission, which is just a stone's throw away from the capital, here, has an enrolment of one hundred and forty students with three teachers, one of them being 16 years old.

We speak about the political empowerment of Amerindians that this Act provides, yet when they, the Amerindians, are advised to get involved in the local politics of their country from a position of strength by being fully informed of the various issues, not taking things as face value, some of us react as though we are being threatened and behaviour can best be described "as out of place and time, and tasteless," to quote the description given to them by the leader of this party, Mr. Robert Corbin.

Is this the true interest in the welfare of Amerindians that is being demonstrated? Is this why there is so much honeymooning with the Amerindians during these past few weeks? Is all this romancing with the Amerindians leaders in the recent past National Toshaos' Conference a façade or is it a disguise? This reminds me of a quote from William Shakespeare, in his book *Twelfth Night, or What You Will*, and I was referring to the disguise. "Disguise I see thou art a wickedness wherein thy pregnant enemy does much."

It seems to be all part of the PPP's Babinski's sign. This situation, as it stands at the moment, was exposed in the press for all to see and now the rush, a reflex action, to put it right. Hence, this Bill of Commencement, of an Act almost half a decade old, has left much to be desired. [*Applause*]

Mr. Hinds: Thank you very much Mr. Speaker.

Mr. Speaker, Hon Members, I rise to support the Amerindian Act 2006 (Commencement) Bill 2010 and would like to say that this is the subject that is under discussion, here, in this debate, this afternoon. I join in acknowledging that whilst the Government, and in particular myself as the Minister for mining, along with the GGMC, has been working since 2006 on the basis of the Amerindian Act 2006 being enforced, the commencement process did not reach completion. We acknowledge that the commencement process did not reach completion. But, as even the Hon. Member who spoke before me acknowledged, we have

been proceeding – all of us have been proceeding - on that basis that it was enforced. I join in assuring this House that the Government has been consistently following the provisions of the Amerindian Act 2006: That everything that was done on that basis that incurred with it was done in good faith. Hence, I have no hesitation or question in supporting this Bill – Bill No. 20/2010 which is what is before us this afternoon. Indeed, no one, no Hon. Member of this House or anyone in the public, should have any questions about supporting this Bill to bring in force the Amerindian Act of 2006.

I am ready to accept, even some rapping on the knuckles, for this slip up, but I would plead that it occurred in a very difficult and trying period for us in Government and for our nation. As we may recall, Sir, the kinds of things that occurred soon after March of 2006 - we only have to recall what occurred soon after - I think, in April, and our proceedings shortly thereafter towards election, and so on. So whilst that is not a sufficient excuse, I, for my own self, can understand the circumstances in which this slip up occurred. I can assure everyone that he or she should lay to rest any question of intended deception or chicanery. I want, too, to point out that the Government, though embarrassed, has accepted that it failed to conclude the commencement. The very fact that we have before us this Bill and that we are proceeding, by way of this Bill, to correct it in an open, forthright and fulsome way, and have not proceeded by any surreptitious issuing of any backdated *Gazette*, I think that fact should lay to rest any question of deception and such type of behaviour. Guyana put such method behind it decades ago when this administration came to office in 1992.

Indeed, there could be no question of deception because, particularly in respect to mining, but in respect to all the other provisions in the Bill, we have been implementing the law and in good faith. In particular, in mining, in a particular case, in a number of appearances in Court we have been utilising or appealing to Amerindian Act 2006. I would like to call the attention of the House just back to the provision of the Bill and it speaks to in the various parts: entry and access, governance, National Toshaos Council, village lands, grants of communal lands to Amerindian villages and Amerindian communities, elections, offences, Minister's functions and power and community council, just to remind Members of this House and the public the width of the subject spoken to by this Act so that people would judge for themselves that we have been applying this Act in good faith, in a wide range of areas.

I would like to speak, particularly, to mining, because I am surprised about the interpretation that has been put to section 51 (3), very, very surprised – astonished, I think, is the better

word. I am astonished at the interpretation that has been put to section 51 (3). I would like to point out, again, that the sections which deal with mining, from section 48 to section 53 inclusive all, fall within **PART V** that speaks to "**VILLAGE LANDS"**, and if that were not enough to establish a context, an unchallenged context, of what we are speaking to, let me read section 51 (3), and then I will read sections 51 (1) and 51 (2).

Section 51 (3) states, and I will read it word for word:

> "The Guyana Geology and Mines Commission shall transfer twenty per cent of the royalties from the mining activities to a fund designated by the Minister for the benefit of Amerindian Villages."

I think, Mr. Speaker, Hon. Members, from the words "the mining activities" specifies a particular set of mining activities. I noticed that when the Hon. Member, who spoke before me, referred to this section he, wittingly or unwittingly, conveniently or not, missed that word "the" from the words "the mining activities..." He missed it and he did not go on either. He refused to read section 51 (1) and section 51 (2) which, I think, make it absolutely clear what mining activities are being spoken to.

Section 51 (1) states:

> "A miner shall pay the Village tribute of at least seven percent of the value of any materials obtained from Village lands from small or medium scale mining."

Then section 51 (2) goes on to state:

> "A miner shall negotiate in good faith with a Village the amount of tribute to be paid for minerals obtained from Village lands from large scale mining and in the case where the Village has refused its consent such tribute shall be agreed between the Minister and the miner before the mining activities commence."

So that, Sir, when we get to section 51 (3) there could be no doubt that the words "the mining activities", that were spoken to here, would be mining activities within the Amerindian villages. In any case, Sir, as I said earlier, these sections fall within "**PART V –VILLAGE LANDS."**

Further, Sir, it takes a real wild stretch of the imagination, and some people may say even maliciousness, and even attempts to deceive and chicanery, for some people to interpret that this section states that the twenty per cent of all the moneys flowing to the GGMC, maybe, for even mining out at sea, should go to Amerindian villages or to this Amerindian fund. I think it takes more than a misunderstanding; it takes minds that set out to deceive people and the public to interpret this in such a way.

I would like to bring us back to what we are debating here and considering this afternoon. We are considering making lawful all that we have been doing since 2006 when we assumed or accepted - we put things in motion - that the commencement has been completed and we proceeded for so many years, all of us, in not recognising that there had been a shortfall, somewhere, after the Minister for Amerindian Affairs, at that time, had signed the commencement order, and what are we to do? Who is against making all of this now lawful? Who is against it? Let him or her who is against it vote against it, but we will all support this Bill No. 20 of 2010 that is now before us.

Mr. Speaker, I join in supporting the passing of this Bill before us today and I would urge all Hon. Members of this House to support this Bill. [*Applause*]

Mr. Speaker: It is now 4'o clock, and I think we have this matter to conclude and we may have another matter to finish. There are two other matters on the Order Paper, so I think we probably should now take the suspension.

Sitting suspended at 4.00.p.m.

Sitting resumed at 5.12.p.m.

Mr. Patterson: Thank you Mr. Speaker.

I rise on behalf of the Alliance For Change to give my contribution to this Amerindian Act 2006 (Commencement) Bill - Bill No. 20/2010. It is my strongest suspicion that if it were not for Mr. Christopher Ram's disclosure, that based upon the provision of the Amerindian Act 2006 that the Government was liable to the indigenous community to the tune of million of dollars, this Bill would not have been brought to the fore.

Bill No. 20 of 2010 is nothing short of a reconfirmation on how this Government views rights of our indigenous brothers and sisters - as a group of citizens whose rights are taken for

granted. Today's *Stabroek News* quotes Christopher Ram as stating, and it is a sentiments which we endorse, that:

> "The onus is on this administration to prove that it does not consider the Amerindians as naive and gullible, ready to give up their legal rights to $1.7 billion in return for a few outboard engines here, some chainsaws there, trips for its leaders to come to Georgetown to perform or to go on window dressing trips to Norway."

Maybe it is fitting that this Bill is being brought to this House perhaps by the only sitting Minister that ever picketed a Non-Governmental Organisation (NGO) because the members were exercising their constitutional rights to disagree with this Government.

The explanatory memorandum in this Bill is nothing short of an excuse memorandum, and unworthy of this National Assembly. It is unbelievable that a Government can offer such a lame excuse for the non implementation of such important legislation. One has to wonder why the rush to bring this Bill to the House in the first place, in 2006. Even though, not enacted, the Act was conveniently used by the ruling party to its advantage. Elections of indigenous village councils and the formation of the National Toshaos Council are about two instances where provisions were used even though not enacted.

By the same token millions of dollars prescribed under the same Act, since 2006, from mining proceeds to the indigenous communities, should be applied. But it is apparent that this Government is seeking to evade this liability. The AFC would not support any Bill that would seek to exonerate the subject Minister from carrying out his or her ministerial duties under the Amerindian Act nor to failure to pay over these funds. The Alliance For Change, not being in National Assembly at the time when the Amerindian Bill of 2006 was tabled, we were unable to poise our position. The AFC will now do so.

Firstly, this Act was flawed from the inception and in any attempt to enact it now, after four years, adds insult to injury. Why is the urgency to have it pass and to take four long years to enact it? Is it because our interest to have money from the protected areas system is no longer on the front burner, therefore we do not have to meet set criteria by the international funders? While a little better than the LCDS it was reported that the consultations for the Amerindian Bill was grossly inadequate, even coming out of these meagre Amerindian Bill consultations,

recommendations made by the communities and interested groups were not given the minuscule of considerations.

The most fundamental was the name of the Act itself. The report of the consultations indicated that the majority of the indigenous communities preferred the Act to be called the "Indigenous Peoples' Act" and not the "Amerindian Act". The reason being is that word Amerindian is the name that was imposed on them by the Europeans and it was not what they had wanted to be called. As usual, the Government used the draconian approach not to change the name of the Act. Certain sections of the Amerindian Act which the AFC has caused for concern: sections 59 and 60 set out the requirements and criteria for communities wanting to apply for titles for their lands which they must meet and fulfil. However, what happens to communities which do not meet these criteria as listed under section 60 (1) (a) to (b)? I suggest that their faith will be decided by the GGMC, Guyana Forestry Commission or, maybe, the Ministry of Tourism, the agencies which have the legal authority to grant concessions. Concessions may be given on their lands and they either may have to pack and go or face the atrocities meted out by the concessionaires such as happened in the past.

No provision was made in this Act for the combined applications by more than one community for the title to a district or a larger area. What if Macusi and the Akawaio people are desirous of making an application? I understand that some of these communities are currently in Court to try to enact such a provision.

The three-phrase approach to dealing with land matters for that of acceptance, demarcation and extension lacks prudence. Dealing with the three phrases all together would be wiser. It would be less costly, less timely and create trust in the process by the communities. After these communities meet all these requirements and procedures the sole decision depends at the discretion of the Minister. This could be very subjective. Why was not the Indigenous Peoples' Commission or the National Toshaos Council included in this decision making process?

Section 61 (3) (b) of the Act, which deals with the verification of historical documentations as one of the criteria for being granted title to their community, we would like to know how communities will be able to authenticate and verify historical documents?

5.22 p.m.

This seems to be a virtual impossibility for communities which would have been there long before anyone other indigenous peoples. **[Ms. Shadick:** The Act was passed] We are stating our position madam.

With regards to Section 61 (3), sub-section (d) which deals with surveys, many communities from Regions 1, 7 and 9 and, possibly, more in other regions have already done community resource mapping. These maps are very accurate and technically precise. Why is it the desire of the Minister to reinvent the wheel and have the Lands and Surveys Department remap these areas? Why not use the existing community maps?

Section 62, sub-section (2) – THE DECISIONS

The provisions, herein, do not provide for effective limits to the information that the Minister may take into consideration in dealing with the application of land titles. No mention is made of the indigenous' traditional, cultural and spiritual attachments to their lands. These should be of paramount consideration for the granting of titles to the Indigenous People.

The Alliance For Change (A.F.C.) has noted that the Guyana Geology and Mines Commission (G.G.M.C.), like Rip Van Winkle, has awoken from its slumber in regards to the provision of Section 5 of the Amerindian Act. It is now being reported that the G.G.M.C. has:-

> "The mining royalties accruing to the Amerindian Communities since the passage of the Amerindian Act in 2006, but has been sitting on these funds awaiting the establishment of a transfer mechanism".

This issue was in the public domain since September and not a single word, until today, was issued by the G.G.M.C. However very conveniently, it is now stating that it has these sums accruing. The A.F.C. would be very interested in seeing what efforts the G.G.M.C. would have made previously to enlighten the Government to the fact that they were sitting on hundreds of millions of dollars for four years without any idea of what to do with these moneys. The G.G.M.C. is an entity which has not been audited for over five years and so there are no audited accounts. However, using the extensive resource network available to the A.F.C., we have been able to obtain two of the unaudited reports for 2007 and 2008 and there is no mention in either of these reports of any sum accruing to be handed over to the Amerindians. The Hon. Prime Minister was unable to say how much money has been accruing. A simple phone call from him could have garnered that information. I know the

audit for 2009 is underway by the Audit Office. Maybe when the Audit Officers visit the G.G.M.C., the officers can ask them where the moneys that have been accrued, are sitting.

It would have be interesting to see how many of our Amerindian Communities would have been willing to opt into the Low Carbon Development Strategy (L.C.D.S.) if the moneys due, irrespective of what amount, were paid over to them in the last five years. It is my guess that very few would be willing to opt into a programme which they are unclear about. They are unclear about the benefits and pitfalls of the L.C.D.S. If the Government had handed over the money, most of the persons in the communities would have opted out, if any has.

The Alliance for Change, through our Leader, has been on record calling… **[Ms. Gail Teixeira: Which one?]** …there is only one leader for the Alliance For Change, Mdm. Teixeira. … for the Government to reintroduce national awards which have been absent for over four years. We are fully aware that the Government would be hard pressed to find suitable and deserving awardees. However, the A.F.C. is of the opinion that those citizens such as Mr. Christopher Ram and other deserving citizens, who continue to give tireless public service, are fully deserving of a national award. Mr. Speaker, I use this opportunity to once again call for the reintroduction of these awards.

It is our knowledge that members of the ruling party have been going into Amerindian Communities claiming that the A.F.C. has proposed the disbandment of the Ministry of Amerindian Affairs. This is far from the truth. What the A.F.C. will be doing when we assume power is to have a Ministry of Hinterland Development – a more far reaching and holistic ministry. I would like for that to be on the record.

In closing, it is the A.F.C.'s position, therefore, that the Government has and continues to use our indigenous brothers and sisters as a political football, rather than genuinely and seriously addressing their concerns. Thank you.

Ms. Teixeira: I have found the discussion rather amusing. This Bill seeks to correct an oversight and I would like to remind this House that it is human to err. This Bill also seeks to validate actions taken under the Amerindian Act. Anybody listening to the debate will be utterly confused. In fact, some of the journalists came and asked me to explain because it sounded as if we were re-discussing the Amerindian Act and would actually be debating and passing it today.

Let us set some records straight for all those who have interest and those who wish to hear. First of all, the Amerindian Act was passed by this House unanimously. We had the collective responsibility and the Bill was passed this House unanimously! The fact that the A.F.C. was not in the House is of no interest because three members of the A.F.C. were there; they were representing other parties of course. Mr. Khemraj Ramjattan, Mr. Raphael Trotman and Mrs. Sheila Holder were all here and voted for this Bill. **[Member: Mr. Ramjattan was squatting]** They were all squatting. **[Mr. Khemraj Ramjattan: We have transport now.]** Transport can be taken away. The Bill was passed, the Amerindian Act was assented to and officially gazetted on 1st March, 2006. For the "doubting Thomases" amongst us, the gazette number is 44206405. The Act was passed.

The attempt now by some of the speakers – Dr. Norton now says he as problems with the Act and seems to want to reopen the discussion, the A.F.C., which was not here because they did not have the vote of the electorate in 2001 now wants to do a post mortem and diagnosis of the Amerindian Act. **[Mr. Ramjattan: That is totally in order]** Not on this Bill Mr. Ramjattan. The assented Bill was gazetted. The Hon. Minister of Amerindian Affairs at the time, Mrs. Carolyn Rodrigues-Birkett, signed the commencement order in April 2006. **[Mr. Ramjattan: She is not here to say that.]** I am saying that on her behalf. I have been given the permission to do so. Minister Carolyn Rodrigues- Birkett is a very Honourable Member of this House and I stress very Honourable and I am very proud of her as a Guyanese woman and an Amerindian woman. I am proud that this People's Progressive Party Civic (P.P.P.C.) has her on our side. Minister Rodrigues-Birkett signed the commencement order and it was sent to where it should have been gazetted, but it was not; it was a human error. Members can sit and fantasize, do mental gymnastics out of paranoia and psychosis, but the reality is there was no intention to not do it.

What is happening today is cheap political shots of those who are pulling at straws because they do not have enough to go out there and campaign on it. This Bill validates all the actions taken from March 2006 to today, 11th November, 2010. What are the things it validates? It validates the election of Toshaos, the demarcation of lands and the governance of Amerindian communities. **[Mr. Ramjattan: All which was illegal]** It was not illegal, it validates it!

Amongst us is a person who was a Toshao but was not re-elected and who has spoken. He now feels that because the Bill was not validated, maybe, he can get back his job as a Toshao. The problem was that the community did not vote for him; they did not want him back in.

That is the power of the electorate. That is the power of the electorate at the Amerindian village level, Local Government, at the regional level and at the National House. I hope that you will give me the same levity to wonder and ramble as the Hon. Members before me – Dr. Norton and Mr. Patterson – into areas that the Bill does not deal with and to allow me the opportunity to reply.

I want to remind this House about one thing. When the Bill was passed, all of us in this House were overjoyed because it was an historic moment. This piece of legislation, which some have questioned today and pointed out its flaws, although no law is perfect, but rather to attack the process through which we came in 2006 in this House, the only time any speaker was allowed three hours to speak, was in recognition of the importance of this Bill coming before the House. Afterwards, it was a celebration of all of us Guyanese and all of us Guyanese Members of Parliament (M.P's) who had succeeded righting a wrong and who had succeeded in bringing the most progressive piece of legislation in the Western Hemisphere for the Amerindian or Indigenous Peoples. Yet today, we are eating sour grapes in the House.

I want to remind this House that after this Bill was assented to, some very sad events happened. If all of us in this House were distracted, I believe that the electorate of this country will understand. We were in a violent crime wave. Shortly after this Bill was assented to, a Minister, his family and two security guards were executed. At that time there were many people who were living in absolute fear because of the crime wave. On 2nd May this House was dissolved and we went into "election mode". That is why I said that it is human to err. An error was committed and it is now being corrected.

Having listened to the Hon. Member, Mr. Patterson, I am rather confused. He seemed to say that we should not bring this Bill and, therefore, what? Does he not want things to be rectified? How irresponsible. How absolutely irresponsible of a Member of this House!

Mr. Patterson: Mr. Speaker, on a Point of Order, I never mentioned any of the things that the Hon. Member is attributing to me. I simply put the A.F.C.'s position on the Amerindian Act on record.

Ms. Teixeira: I made notes on what Mr. Patterson had said. He said, "I will not support this Bill," "the A.F.C. will not be part of the Amerindian Act," "I was not a part of the Amerindian Act in this House in 2006." Those are my notes.

Mr. Patterson: I said that we will not support any Bill that exonerates a Subject Minister from executing their ministerial duties. Sir, can the Hon. Member please correct her statement?

Mr. Speaker: Are you reading from a text? You have corrected it Hon. Member.

Ms. Teixeira: The Hon. Member, at the time, signed the commencement order. On her word of honour, it was sent to the Office to be gazetted. Let me just give this House an idea of the traversing of a Bill just to let Members know what happens once it is passed in this House and where the rule for human error is there, but it does not happen. This is one case in the history of this Government in Parliament for 18 years. **[Mr. Ramjattan: Four other Bills were gazetted in that same month.]** Mr. Ramjattan, we are talking about a Bill that does not have a commencement order.

When a Bill is passed in this House, the Clerk of the National Assembly has a responsibility to go through it with the Chief Parliamentary Council to correct any errors. It is then sent in a particular format to the Chief Parliamentary Council. Along the way, there are signatures by the Clerk and Chief Parliamentary Council indicating that the Bill has been corrected, edited, etc. It then goes to the Attorney General who has to say that the Bill is authentic. In addition to that, the Bill is then sent to the Office of the President (O.P) where it is then checked again. If there are any mistakes, it is returned to Attorney General's Chambers for correction and then back to O.P. In some cases, Bills have had many typographical errors and have taken several months to complete. After a Bill has been assented to, it is then sent to the gazette. Some Bills do not require commencement order. The phrase in the Amerindian Act, which is not in all legislation, says:

> "This Act may be cited as the Amerindian Act 2006 and shall come into operation on such day as the Minister may, by order, appoint different dates for different sections."

Where a Bill has such a phrase or section, the Minister then has to make a commencement order. If the Maritime Zones Act which was passed and assented to is checked, there is a commencement order for that signed by Minister Carolyn Rodrigues-Birkett. In the Sexual Offences Bill that was assented to, a commencement order was signed and gazetted by Minister Priya Manickchand. There are other Bills that were passed that did not require a commencement order. Therefore it is an oversight; an oversight that is being corrected. However, from a legal point of view, the Acts under the Act are not illegal because the Act is

legal. It is a commencement order to put into effect that it commences from a particular date**.** **[Mr. Winston Murray: That is nonsense]** Mr. Murray, I believe that you are scheduled to speak after me and you will have a chance to correct.

The attempt by the Opposition to point out intentionality is a very mischievous piece of work and, regrettably, it is concocted by forces outside of this Parliament. It appears to me that forces which do not have to face the electorate, in fact, provides the kind of guidance for the Opposition and what they should be saying in this House. I am not aware that the Kaieteur News, Stabroek News or any newspaper who has to face the electorate, has to be voted on. I am not aware that Mr. Ram faces the electorate. However, people have a right to their opinions and their views.

In this House and the Standing Orders, persons are not supposed to quote from newspapers, although they are quoted endlessly and quoted in a way as if Members are writing their speeches. The procedures are clear. This Government has said by no less a person that the Leader of this House, the Prime Minister, who is an Honourable man and I challenge anybody to challenge his honour and reputation in this country, that it was a mistake and unintentionally overlooked.

The other side has opened a number of doors and my political instinct is not to leave them hanging by themselves. Dr. George Norton talked about a number of things including the power of the Minster and made it appear in this House as if the Minister of Amerindian Affairs runs roughshod over the Amerindian Village Councils and Communities. Any reading of the law and understanding would show that there are stages of consultations and if the communities do not want it or do not agree to it, it cannot be done. If they do not want to be titled, there is no movement to title them. Unless they put it in writing with the requisite number of members in their villages, then there is no procedure on titling. The impression being given here is absolutely fallacious.

Dr. Norton also points out the Toshaos Council. I wish to remind Dr. Norton that under the consultations that went on, all the issues raised by Mr. Patterson to do with the naming of the Bill and whether the Act should be called the Amerindian or Indigenous Act, that was brought in this House, were all dealt with at the various levels of consultation. The fact that there may have been a minority view that did not agree, does not supplant the majority that supported the Bill both before it reached this House, after it reached this House, when it was debated in Select Committee and when it got the unanimous support of this House. To cast

aspersions now, as if that Amerindian Act came here and was run roughshod over by the Government, is to, indeed, do an historical injustice to not only the Government, but also to all those who participated including those on the Opposition Side.

The issues raised by Dr. Norton to do with education made me remember the Civil Rights movement in the 60s and the struggle for equal rights for "blacks" and "whites" and "people of colour" in the United States as it was called then. The media of the late 1960s tried to find one or two afro-Americans that they could point who had achieved, to show that the apartheid system that existed in the 60s in the United States was working and it did not discriminate against "blacks". What Dr. Norton said made me remember that because in the 70s and 80s in this country, there was no doubt that a few Amerindians were able to access scholarships. As Dr. Norton himself was, a few were able to reach various levels of the height of society, but the masses of the Amerindians were left far behind and were totally neglected.

People like Mr. Harripersaud Nokta, Mr. Albert Atkinson, Mr. Lloyd Perreira, Mr. Norman Whittaker, Minister Pauline Sukhai, Minister Carolyn Birkett-Rodrigues, Mr. Donald Ramotar, I and a number of others when we had to work in Amerindian areas could not get access because of the Ministry of Local Government. We had to get permission to enter our own country. In 1984 we had a women's conference in Rupununi and we were disallowed, as Guyanese women, from going into St. Ignatius to have a women's conference with Amerindian people. How many times was Mr. Nokta not held up on an airstrip in the Rupununi, unable to come down the steps because of the police and the famous "sister tang" of the time, controlling some of our villages on behalf of the P.N.C.? How many times were we unable to get into villages? Dr. Norton, please do not quote to me about what was so good then. Some of us went into villages where the poverty was so abysmally, horrifically bad that you thought you were in some part of Biafra – if you remember where that was. There are the numbers of children stricken with malnutrition, Amerindian children having the highest death rates... today we have 25 secondary schools across the interior with dormitories where Amerindian children can reach…

Mr. Mervyn Williams: Mr. Speaker, could the Hon. Member be asked to provide this National Assembly with the source with respect to Amerindian children having the highest death rate?

Mr. Speaker: I do not think that is information to be supplied for the debate Hon. Member.

Ms. Teixeira: Mr. Williams I can surely give you that. The malnutrition rate in Guyana 1991 was 58% of all children in Guyana under the age of five years. The sources are the Ministry of Health and Ms. Gail Teixeira. When we came into Government in 1992, there was one secondary school in the interior. There are now 25 secondary schools in Regions 1, 7, 8, 9 and 10 that Amerindian children are either 90% of the students or they are attending these schools. All that existed before was a Presidential Hinterland Scholarship that used to be ….every Amerindian village in this country now has a Primary school. As Guyanese, are those not things for us to be proud of? They want to show one here and one there, like the 1960s civil rights period in the United States of America.

5.52 p.m.

In 2010, in this country, the integration of Amerindian people into our society and their access to services has improved remarkably and we still have more to do. You can sit and smoke your pipe and be upset about it, but we are on the move.

The issue of the number of persons from interior villages who are accessing healthcare, Cuban scholarships, University of Guyana, C.P.C.E., technical institutes, in the police force and the army, there has been a radical change. Let us applaud it as Guyanese because it means that we are righting an injustice and do you, on the Opposition Side, not want the injustice to be righted too? If you do not, then something is wrong.

Mr. Patterson rambled and confused me because… **[Interruption by Mr. Patterson: You are easily confused.]** I regret that I am not. When had says "Explanatory Memorandum" and describes it in that fashion, clearly he does not understand what "Explanatory Memorandum" is. The Explanatory Memorandum makes it clear that this is an oversight.

This Bill is doing something simple and it is something important. We have come to this House with open hands and have said that it is an oversight; it is a mistake and therefore we are correcting it. It seems as though you are dammed if you do and damned if you do not. You did not do it so let us bring out – as if you are like the blood hounds looking for blood… You like this thing to be *"Goteh and Goteh and Goteh"* in the newspaper; "No rectification", so you can get there and whip it out all the time, "Look what the Government is not doing." Then when you come to Parliament and try to rectify it, you are not happy. It shows that one cannot satisfy you guys at all. You are damned if you do and damned if you do not!

Issues have been raised about mining which the Prime Minister ably handled. I believe if we in this House follow the musings of the writers and columnists of the newspapers as the authorities – not on their opinions – on matters this House will be sadly mislead. Mr. Ram is totally wrong on the interpretation of the Act in relation to mining. Mr. Patterson has brought his views to this House as if it is word from God and wants to be given an award for this and the A.F.C. is quite in order to put forward and recommend who they want to have an award. The Amerindian Act points out very clearly what has to be done in relation to mining and Minister Pauline Sukhai, I am sure, will put this matter to rest as she is the expert in this area, but I do wish to say that whilst this Act was coming here it has certainly lead us to be more conscious and more attentive to the kind of detail in relation to Commencement Orders to make sure that this error is not repeated. I assure this House that mechanisms have been put in place to ensure that this is not repeated.

I am saying that it is the first time between 1992 and now that a Commencement Order that should have been put in the gazette was not. It is an error. We have corrected it. Let us move on. We have more important issues to deal with in this House, and any misinformation to Amerindian communities to make them think that in some way all these issues that have happened were not valid is a gross injustice to them and to this House. I ask that we support and move forward on this Bill. Thank you.

Mr. Murray: Thank you very much, Mr. Speaker. I want to begin by expressing my congratulations to the Hon. Prime Minister for straight away, when he got up, admitting that what occurred was a bit of a "mess up". He was almost contrite about it and I want to say this that that has done nothing but enhanced him as a person and enhanced the Government as a Government. Your admission, Sir, is a vindication as to why you deserve the word "Honourable" before your title. I am not sure if I can say the same thing for all the colleagues on your side. I would temper that because it was not as open as it appeared at first. You did try to temper it and so that expression of mine has to be tempered somewhat, I will come to that in a minute. I thought that I would put that straight upfront, Prime Minister.

I want now to treat with this question of what it is that we are addressing today because, for me, this Bill that we have here is, at best, rather messy – to clean up the mess that was created. Looked at in its extreme, it is challengeable and I am going to show you why, Mr. Speaker.

The Explanatory Memorandum talks about an order bringing the Amerindian Act into force in April 2006 and Ms. Teixeira went on at quite a bit of length about this order that was made. However, if this order was made, then it exists but nowhere and at no time did anyone show, either in this House or elsewhere, to make it public that such an order exists. That is the first point I want to observe and this could have been done if such an order was in fact made. That is not the end of the matter nor is it the most important aspect of the matter. The Interpretation and General Clauses Act, which is part of the Laws of Guyana, says:

> "Every Act shall be published in the Gazette and shall come into operation on the date of publication unless it is provided in that Act or some other written law that it should come into operation on some other date. Where any Act passed after 15th July, 1891 is expressed to come into operation on a particular day it shall be construed as coming into operation immediately on the expiration on that previous day."

What this says is that it shall be published in the Gazette and shall into the operation on the date of publication so the fact that there is no evidence of it having been published in the Gazette – the Commencement Order – meant that it has not commenced. That must be an absolutely accepted fact. So it was a bit surprising to hear the Hon. Member, Ms. Teixeira, say that all the acts committed or performed under this Act which was not commenced in accordance with the requirement of the law were legal. They were not and that is why today we have before us an Amerindian Act 2006 Commencement because this, it is expected, will bring the Act into operation. That is a very important fact that ought to be known and, to my way of thinking, I am not a constitutional expert nor am I a legal draftsperson, but what I can say is that we have a "conflictual" situation happening here.

We have a law which tells us, in Section 1, "It shall into operation on such date as the Minister may by order appoint." That is what the law requires us to do. This is not what we are doing here. It would have been neater and with a process much more in conformity with the law. If the Minister brought into being an order and she could say that it came into effect on the 14th April or whatever the day it was she wanted, and bringing a Bill to validate the acts done, but that is it here. We have two sets of laws saying two different things. This does not go away. What is written in the Act does not go away. It still requires the Minister – that is what we have – to bring the Act into operation by order. This is not an order. This is a Bill

that is being brought here, so we have a "conflictual" situation here and I posit in this House that what is being done here today is challengeable.

I want to say something else. I am willing to accept what the Prime Minister has said and what others on that side have said that many things were done in good faith and I would not question those things. I would not want to detract from any positive act that was performed in good faith under this law which we believed to have been in existence but let us not discredit Mr. Ram. Mr. Ram was the person who brought this fact to attention and presented us with the opportunity to correct it so at a minimum, he deserves credit for that. Let us not try to throw away the baby with the bathwater every time we speak because it seems to me that we have one orientation – "attack, attack, attack" – and do not single out those elements which may be good and proper, which we should adopt. [**Interruption by Ms. Teixeira**] Even if I were guilty Ms. Teixeira, I apologise. I did not say that I was excused. Did you hear me say that? I said all of us here may need to examine how it is that we approach some of these matters. I was not excusing myself.

I would not be long. The other point that I want to make, and this is where I say the Prime Minister's contrition becomes a little spotty... he convinced me at first that this was a very sincere bit of contrition. Then he sought to tell us – and I believed him here again – that they proceeded to implement this Act in all of its aspects and went ahead in good faith, but I want to challenge him on the question of the creation of this fund which is provided for in item 51.3. I want first of all to say Prime Minister, that I believe your explanation would have clarified what may have been a wrong impression put out in the public domain. I want to say that I acknowledge that because it is much more delimiting than has been suggested and what has been publicly said. I understand that and I accept it. I want to say to you that just as how you have told us of all these other things done in good faith, would it not have been nice to tell us that the fund was created on "such-and-such a day" and the fund exists in this bank account or under this Ministry's control and that the fund has "x" million dollars in it, but to come to tell us now in piousness that "we have the money somewhere in some place" of what amount we know not, but not the application of the same good faith principle on which we have gone ahead and done these other things. Why did you not equally in good faith proceed to create this fund so that you can tell us today the details of this fund, where it is, how much money it has? That is what made your contrition a bit spotty. You should have addressed that and if you had told me that I would have been convinced about the totality of your presentation about good faith action taken in pursuance of this Act.

That is all I have to say and let me say that I did not understand Ms. Teixeira's meanderings as she spoke here. I do not know. Maybe there was someone or more than one reopening the debate, but she went far and wide and totally irrelevant to what we… but she was making political points. She was not making points about this Bill or about this Commencement Act. She had gone wholly political; chastising the P.N.C. for what it did not do and the glorious things that this Government did – not speaking to this Act.

What I want to say is that I am not going to go where you went. I am staying within the boundaries of what we are considering there today. What I want to end with is simply by saying that we have never recanted from our support for the Bill that was passed here in… [**Interruption by Ms. Teixeira**] I am not concerned with others, Madam. I am telling you about the PNCR's position. [**Interruption by Ms. Teixeira**] No, he did not say that. He is questioning the acts you say you have done. When there were so many things left undone that have not been done. That is what he was pointing to so that you were not representing the totality of the condition of the Amerindian… You are provoking me to go where I do not want to go. You would not like it if I go on.

I want to end by saying that we have not withdrawn our support, but we do not believe that this solves the problem. I believe that this creates more problems than it solves and I hope the Government is not deliberately trying to confuse the situation so that it does not establish this fund.

Prime Minister, let us, before the end of next week hear the details of the fund. Tell us in which account it is, how much money there is and what are the procedures for accessing it and then we will believe you. Thank you very much, Sir.

Ms. Sukhai (replying): Thank you, Mr. Speaker. I must say that my colleague who just spoke before me, Hon. Gail Teixeira, M.P., has covered quite a lot of the issues which were raised. However, I will still like to respond to some of the issues which have not been covered in her response.

I want to start by saying that my Amerindian brother, Hon. George Norton, on the other side of the House, when he got up to make his contribution I thought he sounded like a spurned lover; particularly when he spoke about the People's Progressive Party-Civic Government wanting to romance the indigenous Toshaos. I believe, as the Hon. Member said, that they are playing a "sour grapes game" in here. You cannot play "sour grapes game" in this House.

You must admit that during the tenure of you and your party, you had the privilege of romancing but what did you do? You isolated the same group that you are now saying is being romanced. You isolate them and when you isolate your lover what happens? They leave you so; you cannot cry "sour grapes" any more.

We do recognise that the Amerindians are in vogue for the Opposition. They, themselves, want to court the Amerindians and they will make every issue into a very big issue, politically, as it relates to the Amerindians. The half of a decade which he spoke about when this Act, as he claimed, was not in force for saw the acceleration of opportunities in all the sectors that are available to Guyanese coming closer and becoming accessible to Amerindians. While he questioned, the individual who he did not name about whether they had consistently or where he said that they said a party consistently followed the provisions of the Amerindian Act 2006. I want to say that I support that individual whom he was speaking about because indeed the People's Progressive Party/Civic Government did not only follow the provisions over that half of a decade but since we attained office, without that Act, even in its formative stage of design or formulation, we had already bounced beyond that old act and had begun to deal frontally with the development of the Amerindian people and their issues, their concerns and their neglect. The gap is closing and we can see that we are now, as Amerindians, are a proud people because in almost every sector in the social sector you can find Amerindians rubbing shoulders at the professional level and at the work place among each other with other Guyanese.

If you go into the hinterland, even though they claim that the provisions were not enforceable or that the Amerindian Act 2006 was not enforced, today if you visit every single Amerindian community – just ask Hon. Dr. Bheri – every single health post is manned by an Amerindian community member of their communities. Where in the world, in any country that has an indigenous population, can you find that? Our Government has never made an excuse in dealing with opening up the opportunities whether it is at the social, political and even economic sphere for our Amerindians.

Therefore when my Hon. Colleague spoke again saying that he had issues with the Act, trying to reopen discussion on the Act… I will not go there. He went on to say that he had three issues with the Act. One had to do with the amount of power the Act confers on the Minister. Another had to do with the issue of the rights to resources and the other had to do with where he belittled the National Toshaos' Council (N.T.C) which is comprised of all

elected leaders of the Amerindian community, calling them a "large toothless poodle". How can a politician in the Opposition who is trying to encourage Amerindians to look his way say such a thing? It is a shame. We cannot belittle our Amerindian Leaders whether they are on the N.T.C. or wherever they may comprise or associate with.

Mr. Norton: The Hon. Minister is saying that I referred to the National Toshaos' Council as a "toothless poodle"…

Ms. Sukhai: "Large toothless poodle", I wrote it down.

Mr. Norton: I am saying that I never said that.

Mr. Speaker: I gather that the Hon. Member is characterising in her own words what you said, but if you did not say so I did not hear you say so. You are right. Hon. Member, the Hon. Member did not say so. I gather that she is characterising what you said in her own words.

Hon. Members, let us have some order please. We have had several objections here this afternoon on Members accusing other Members of saying what they did not say. I wish Hon. Members would try to be careful of what they accuse other Members of saying and we will get on much better.

Ms. Sukhai: Mr. Speaker, however, on our side we do not consider any leader of the Amerindian community "toothless". I want to send a strong message to anyone who feels that the Amerindians are "toothless" that it is an affront to this ethnic group.

I also want to touch on a number of things because it gives the opportunity for my side and also for the Government to clear up a number of things which sometimes is said which is not totally so or is not the fact. For example, one of the issues that came up is the issue of Free Prior and Informed Consent. This principle has been band around and I want to say that our Government, whether we refer to our consultative nature with the Guyanese population, including the Amerindians, as free prior and informed consent or not the process which our Government exercises at all levels, including with the Amerindians, bear much resemblance to Free Prior and Informed Consent and that goes for even the Act which was consulted, consented and fully discussed by Amerindian leaders.

I say here again, the Act which we are talking about is an Act born out of the intelligence of the Amerindians. The National Assembly merely took it through the process for approval. I

would never stand in this House and say that the National Assembly crafted this Act. It was the Amerindians who did it.

We have to know when we cast aspersion about consultation, free prior and informed consent that we know what we are talking about. This also applies to the resolution which came up in the debate that Amerindians who recently attended the National Toshaos' Council Meeting in Georgetown were forced to sign a resolution. I want to say that that was a democratic process which was exercised by the National Toshaos' Council at an annual meeting which is usually facilitated by this Government. Out of the 171 Toshaos that attended only 5 did not sign and that was their democratic right. I would like to repeat the scene and language used in the conference by the participants, "We are happy even if there are a few Toshaos who are not in agreement with it, we still love them." Those were the words. We need to understand that this Government does not waste scarce resources on bringing any Guyanese to perform as one of the media… even quoted here by another member previously in the debate.

We need not to belittle the Amerindians. I am very strong on this one. The Amerindian leaders do not come here to dance and perform. They come here to discuss viable development plans and programmes that will move their communities further, that will help Government and partner with Government to close the gaps which still exist, which we keep speaking about.

About the Order; this issue was raised. It was examined. The advice from the Attorney General's Office was that a Commencement Bill will serve the purpose, and he is our Hon. Attorney General of this country. That is the foundation and the basis for which that Bill is before the House.

6.22 p.m.

Therefore, whether it can be challenged, unless as Minister I am not advised otherwise, I am happy to bring this Commencement Bill so we can deal with the issue, and as you say correct the oversight which occurred.

Mr. Speaker, since much responses were provided from this side of the House during the debate on this Bill, I now wish to close and say that I ask that this Bill be read a second time. *(Applause)*

Question was put and carried.

Bill read a second time.

Assembly in Committee

Bill considered and approved.

Assembly Resumed

Bill reported without amendments read the third time and passed.

(iii) COMMITTEES BUSINESS

MOTION

ADOPTION OF THE REPORT OF THE PUBLIC ACCOUNTS COMMITTEE OF THE PUBLIC ACCOUNTS OF GUYANA FOR THE YEAR 2006

"BE IT RESOLVED:

That the National Assembly adopts the Report of the Public Accounts Committee on its examination of the public Accounts of Guyana for the year 2006 and refer the Report to the Government for consideration." *[Mrs. V. Lawrence]*

Mr. Hinds: Mr. Speaker, I understand that the two sides have come to an agreement to have this item postponed to the next sitting.

Mr. Speaker: The matter is deferred, thank you.

Hon. Members this brings us to the end of our business for today.

ADJOURNMENT

Mr. Hinds: Mr. Speaker, I would like to propose that the House be adjourned until next Thursday, 18th November, 2010. And I would like to take the opportunity to wish all Members Happy Eid-ul-azah as we will be meeting the day after that holiday.

Adjourned accordingly at 6.30 p.m.