

# Official Report

*PROCEEDINGS AND DEBATES OF THE NATIONAL ASSEMBLY OF THE FIRST SESSION (2006-2011) OF THE NINTH PARLIAMENT OF GUYANA UNDER THE CONSTITUTION OF THE CO-OPERATIVE REPUBLIC OF GUYANA HELD IN THE PARLIAMENT CHAMBER, PUBLIC BUILDINGS, BRICKDAM, GEORGETOWN*

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151<sup>ST</sup> Sitting

Thursday, 10<sup>TH</sup> March, 2011

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*The Assembly convened at 2.13 p.m.*

*Prayers*

*[Mr. Speaker in the Chair]*

## **REPORTS FROM COMMITTEES**

The following Report was laid.

- (i) Report of the Special Select Committee on Custody, Contact, Guardianship and Maintenance Bill 2011 - Bill No. 29 of 2009

*[Minister of Human Services and Social Security- Chairperson of the Special Select Committee on the Custody, Contact, Guardianship and Maintenance Bill]*

## **PUBLIC BUSINESS**

## **GOVERNMENT BUSINESS**

## **BILLS - Second Reading**

**TITLE TO LAND (PRESCRIPTION AND LIMITATION) (AMENDMENT) Bill 2011 - Bill No. 3/2011**

A Bill intituled:

"AN ACT to amend the Title to land (Prescription and Limitation) Act."

[*The Attorney General and Minister of Legal Affairs*]

**Attorney General and Minister of Legal Affairs [Mr. Ramson]:** Comrade Speaker, the explanatory memorandum to this Bill is self indicative of the concerns that had to be addressed with respect to the acquisition of title by prescription. If I may read section 3.1 of the Act substituted by clause 2 of the Bill... it reiterates that in the case of private land, the law relating to title by prescription remains the same.

"The title may be acquired by the sole and undisturbed possession for not less than twelve years where the possession was not taken by fraud or consent and the right of every other person to acquire the land has expired or been bared."

Section 3 subsection 2 of the Act substituted by clause 2 of the Bill states that: "state lands, Government land, land owned by State entities including companies and corporations or in which the controlling interest is vested in the State and lands identified by law or on a plan drawn and approved in accordance with any law set aside for reserves by prescription through adverse possession.

Clause 3 of the Bill "preserves the right of persons including the State to lands referred to in section 3.2 "there shall be no prescription to those lands regardless of the length of adverse possession". It may not be *otiose* to remind this Hon. House that the essence of prescriptive title lies in adverse possession by a person other than the title holder. The other ramifications that are contingent on that concept will not be the subject matter of any discourse today for the simple reason that this Bill is designed to meet some of the lawlessness that seems to have a creeping effect, into our society. To use the vernacular this type of "*land grabbing*" is not to be overlooked. I would urge Members in this House who are Honourable to pay close attention to the words that I am using because I find it an expensive exercise to come to this Hon. House and dilate on an issue and it passes between two ears that do not seem to have any substance between.

I am here merely as an agent of the State, duly commissioned to take part in this legislative exercise and it is my duty to present the amendment to this Bill to preserve what is regarded as the expected lawful conduct of persons who, with green eyes, have been watching other people's property, and seeking to acquire that property by the device that the law provides; even the burial ground has not escaped their notice.

There is a place in Essequibo; I understand that a lady has obtained a transport for. What saved her, and I am afraid that it was my unenviable task to conform that she was entitled to the land because she possessed it by transport. Even though when we made enquires for more than ten or fifteen years by some device the transport included a portion of land which was set aside for a cemetery. I happened to be sitting in a Court of Appeal when the lawyer presented his case and the State was hoping to obtain a '*stay of execution*' to a declaration which I promptly refused. It was only because of the length of time that the transport had been in the lady's hands. If it had been in her hands for a statutory period within which the State could have impeached it, I would readily have applied the law as it then stood. It is not something that is being done without some depth of research. I understand, too, that even along the shelter belt persons are trying to expand their boundaries and are, now, causing a great deal of confusion. Only recently we had occasion to ensure that the attempt, through the regular channels, through an application to the land court... The Commissioner of Titles was better advised after we moved in and arrested that attempt to acquire the reserves of the canal. I do not believe that this is something that we should deal with lightly.

As a result we have brought, to this Hon. House, this amendment which requires the substitution of section 3 of the Principal Act by way of repeal. The substituted section is in Clause 2 of the Bill. You will see, the figure 3 follows the 2 but, in fact, it represents the section that is being repealed. It is in substitution. There will be no inconsistency with the enumeration. Clause 1, clause 2 substitutes, instead of the old section 3, section 3.1 should now read:

"Where the court is satisfied that the right of every other person to recover land, or any undivided or other interest in land has expired, or barred or the title to every person to the land has been extinguished, title to the land may subject to sub-section 2 be acquired."

I believe the principal Act when read in a holistic sense, section 3 includes State or Government land. What we are now doing is bringing something new to this Hon. House with a view to saving and excluding from the land grabbing exercise, land that belongs to the State, land which can be properly characterised as reserves, and land that has been in the ownership of State entities because when this Act was designed there was nothing like a "State Corporation. State Corporations took the place '*per stirpes*' (stood in the shoes) of Government agencies and Ministries. That is why there are several classifications: State

lands, Government land, land wholly owned by State entities including companies and corporations or in which the controlling interest is vested in the State and any land identified by law or on a plan drawn and approved in accordance with any law for reserves for the public interest and benefit or to any undivided or other interest in any land in this subsection is expressly excluded and shall not be acquired by prescription through adverse possession. That is the verbatim expression of subsection 2 which is a part of clause 2 of the current Bill.

There is nothing sinister about bringing this particular Bill to the National Assembly. It is an attempt by the State which has the burden of ensuring that the sound form of rectitude and propriety with respect to lands owned by the State, unless of course, we have people going about in their...in years gone by there were people with long socks and three quarter pants. I think they were called *overseers* or some kind of “*seers*” [A Member: Manjeer] Manjeer. I was not from that era but I gather that these people were a little more watchful than the current crop of workers, as in the Neighbourhood Democratic Councils [N.D.Cs and Regional Democratic Councils and Regional Democratic Councils (R.D.Cs)]. In fact, I believe I would not be taking tales out of school to say that some of them may very well be complacent in some of these activities. We have had some court cases, if I may say that, recently where members of the N.D.C gave permission for the extension of a liquor restaurant on the West Coast; onto the road reserve. They admitted it too. They are so *barefaced*; they went to the courts and admitted that they gave the club permission but it is only the Ministry of Public Works through the Road works officer who can give any such encumbrance. I do not know...judges are a little loathe in exercising their authority in a condign way. If it had come before me it would have been dismissed out of hand. You cannot give away what you do not have. I think there is a Latin maxim for it: ‘*non qui habite*’.

We have identified, in an explicit way, what conditions must be satisfied for persons who are acting in a legitimate way for the acquisition of land by prescription. We are not taking away anyone rights. You will see that there is a provision in clause 4 which says: "any proceedings pending immediately before the commencement of this Act shall be continued as if this Act had not been passed." We were sedulously concerned about the rights that have already been vested in persons but who had merely to apply to the court for a declaration that those rights had conferred the paper title which is generally the certificate which identifies the portion of land that you are claiming to have been in adverse possession. Those lawyers amongst us would understand that while this area of the law is not rocket science, one only has to have a cursory look at the substituted section and you will see that nothing is excluded from what the

law currently says save and except what is contained in clause 2 paragraph 2. This speaks of State land, Government land, land wholly owned by the State etc. as I earlier adumbrated.

We are seeking to amend section 13 of the principal Act by the insertion, immediately after the word "extinguished" the words "except in the case of lands referred to in section 3.2". Section 13 of the principal Act is expressed thus, and I am reading from chapter 60:02- The Title to Land Prescription and Limitation as it stands today. It reads:

"At the expiration of the period prescribed by this Act for any person to bring an action to recover land the title of that person to the land shall be extinguished."

We are seeking to save lands referred to in clause 2:2 of the Bill which if enacted will be section 3 subsection 2.

There is nothing intricate about this Bill which is seeking to amend the principal legislation. I will be surprised to hear that there is some sort of shadowy design behind the moving of these amendments. If I may repeat what I said about preserving the rights of persons who have commenced proceedings: any proceedings pending immediately before the commencement of this Act shall be continued as if this Act has not been passed. It is all preserved. There is no desire to deprive a person of a vested right as it stands here. I thank you, Comrade Speaker. [Applause]

**Mrs. Backer:** Mr. Speaker, on the face of it I will accept my colleague who spoke previous to me, the Hon. Member, when he says that it appears to be a simple Act. To us Mr. Speaker, the only thing simple about this Bill is the fact that it can and I expect it will be passed by a simple majority. That is the only thing that is simple, I dare say, about this Bill. In fact so serious a view do we hold as to the implications of the Bill that, having consulted with some stakeholders in Guyana, the Hon. Leader of the Parliamentary Opposition, Mr. Robert Corbin, wrote both the Hon. Prime Minister, as leader of Government business, and the Hon. Attorney General and Minister of Legal Affairs, in essence, requesting a deferral of the Bill so that we, in the People's National Congress Reform-1G (PNCR-1G), so that we could complete our consultations with stakeholders. Not surprisingly Sir, that, what we consider most reasonable request, was dispatched in two lines and here we are going ahead with the debate. [Ms. Selman: What did you expect Debbie?] I expected three lines but we received two lines.

The present law under the Land Prescription and Limitation Act is very simple. If Samuel Hinds or Deborah Backer occupies Government or State land, this is the existing law, in excess of 30 years, two things happen: 1: the right to Government to reclaim that land is extinguished and at the same time Mr. Samuel Hinds, public citizen, and Mrs. Deborah Backer, public citizen acquires a right to prescribe. That is the law as it is vis a' vis individuals. If it was Mr. Samuel Hinds seeking to prescribe against land belonging to Mrs. Deborah Backer, once he satisfies the court that he has been in possession... *they say neck v, neck clam, neck prokaryote* in excess of 12 years my rights would be extinguished and the Hon. Member would be free to go to the court. Once he satisfies the court the land can become his absolutely.

As it is now the scale is already weighed in favour of State and Government lands because there is a 30 year requirement, as we speak. Whereas, *vis-a'-vis* Samuel Hinds and Deborah Backer there is a 12 year limit. So, the State has an extra 18 years before Samuel Hinds and Deborah Backer can prescribe against them. I see Mr. Sheik Baksh looking left out so I will include his name as I go along.

Sir, simple it seems but this Act would have very profound effects on hundreds, we in fact feel thousands of ordinary Samuel Hinds, ordinary Debbie Backers, ordinary Gail Teixeira's, and ordinary Sheik Baksh throughout the length of this country.

Sir, we cannot support it for the following reasons: It increases the already weighted power that the Government now enjoys. It increases that power; it now makes that power absolute. It is saying in effect that you Sam Hinds and your predecessors could have been on this land since Noah was here. You cannot get the land. You cannot prescribe against us. [Mr. Hinds: inaudible] We are talking about prescriptive title Hon. Minister. We are talking about title to lands.

The Hon. Attorney General also indicated that the effect of this amendment will increase it, if passed. It will not just increase the types of land. Because it will not just be State lands and Government lands; it will also be lands owned by corporations, land owned by companies where the Government has a controlling interest including the Guyana Sugar Corporation(GuySuCo), NISIL and we can go on and on. [Mr. Hinds: Reserves.] We are coming to the reserves; we are not going to shy away from the reserves

What is amusing is that, as we said, it shows an increase in power and hand in hand with that increase is oppressiveness. It is oppressive and it also discriminates.

I see Mr. Nandalall has dropped in the order to speak this afternoon. I do not know if it is for strategic reasons or if his party has dropped him deliberately but we know that when Mr. Nandalall comes he will give us a lovely dissertation about the law and its history by Dr. Fenton Ramsohoye. I see the AG is smiling, but the AG, at least, focussed on the Bill. Mr. Nandalall will come and tell us about Dr. Fenton Ramsohoye and the 1964 book that came out in 1966 by Butterworth, and Mortimer Duke etc., but the average man in the street is, really, not too impressed about all of that; they want to know about how it affects them. We are going to get the lecture and he is going to come to the case of Toolsie Persaud v Andrew James. I want to go to that case very briefly; it is a decision of the Caribbean Court of Justice (CCJ). The interesting thing in that case...you see under the... lord knows I have said it - 30 years for the Government, and 12 years for the ordinary citizen...In the Toolsie Persaud case, the CCJ re-affirmed the right of the State to prescribe against private citizen's land. That has not been touched in this amendment, so in other words when this amendment is passed you will have a situation where you, John or Jane citizen could never prescribe against Government land, State land or any land they have an interest in. They, this big octopus if you will, could prescribe against your land after only 12 years. The CCJ has re-affirmed that and this is the interesting part of the CCJ and what they said: "there is no basis for discriminating between the State as possessor or the ordinary person as possessor in this respect". It is therefore saying why you want to say- the argument was: -that the State should not be able to prescribe against you and the CCJ said: "why you want to discriminate against the State". I wonder what the CCJ will say when they hear of this amendment. It may well be that this amendment will reach to the CCJ but it might have different parties.

*2.43 p.m.*

That is what the CCJ says "why discriminates?" If you are not looking out for your land and the Government goes on it or a part owned company by the Government they can prescribe. We are not correcting that, but we are removing any right of John citizen to come and to prescribe against you. It is not a levelled field at all; it is like Mount Everest; with the Government at the top and the hapless citizen at the bottom.

Clause 4, on the face of it very short Bill says, "Any preceding pending immediately before the commencement of this Act shall be continued as if this Act had not been passed. So it

means if I have an actions now which I have actually filed, then I am safe, unless we will now see the Court striking them all out, but I will come to that eventually. What about the thousands of people whose right has already accrued. They are there as we speak today; they have been there for thirty one years. They have already accrued and they cannot pay at this time because, firstly they have to pay light bill, water and all kinds of bills. They cannot afford at the moment to go. They are safeguarded, because section 13 of the existing Bill speaks about the person who owns the land, their right after thirty years is extinguished. There is really no need for Deborah Backer at thirty years and one day to run to the Land Court, because I am covered, but what will happen to all these people?

Again, I can almost hear Mr. Nandlall preaching and saying they should have gone during the thirty years, he would preface it and say what is wrong with that. We have to remember that not everybody is rich like Mr. Nandlall and all other members of that side of the House and perhaps the odd person over this side; I do not want to exclude us completely. This is a very serious matter, because land is your most valuable asset, and what this Act will do in effect is to deprive people who have occupied either individually or through their ancestors land sometimes in excess of one hundred years. What this is saying is that you cannot get it. This Act is oppressive because they will forever be barred. It is retroactive, because many people have already acquired the rights; as we stand here there are many people who have already acquired the thirty plus year right. The effect of the Bill will be to take it away. So, it is retroactive in fact, although it does not say so, this Bill shall be retroactive; that is the reality of it. It is oppressive, it is discriminatory, it increases the power of this mammoth-octopus that presently presides over Guyana and it is retroactive.

What will happen to the people who have been there for thirty one years who have not prescribed? Will the Government seek to remove them? There are people who are meaningfully occupied in terms of permanent crops and permanent structures. Is the Government going to take this right away under this amendment and then go them like Santa Clause and decide who will stay and who will not? Will it be across the board for everybody who has been there in excess of thirty years could stay once you are meaningfully occupied? Are they going to offer compensation to these people? If they do, will it be at the cost of the land when they went on thirty years ago or will they look at the improvements made by the people and ask them to pay that for which they have enhanced by their own blood, sweat and tears? We have to look at that, we cannot brush that away. Many people throughout the length and breadth of this country will be affected. We need answers, and I hope as the Hon.



Attorney General responds, he will give some assurance to people who have been there for more than thirty years, so that can be offered some security.

I see that ample Minister of Housing and Water, he is always there saying that they are giving lands to people, yet the effect of this Bill will be to take away lands from these people who have had it for years and perhaps for generations. That must be a shame. I am sure that there are some Members over there in the Government, who feels that this is wrong; and wrong it is.

There is the issue of reserves and lands that have already been identified for public purposes; that is a legitimate concern of this Government and of previous Governments. It is a very real concern, and we accept that. We are saying that there are better ways to deal with Government reserves than in this way. When the Hon. Minister Benn is unleashed after the passage of this Bill, will he go in a democratic twenty first century way and find out and make provisions for them if he insists on moving them and give them time and compensate, or will he go with his hacksaw, sledgehammer and excavators to move them? There are so many saws and so many tools he uses that we cannot keep up. These are real concerns; it puts power in the hand of a Government that shows it does not know how to deal with power. When they get power they go crazy. That is our fear, and now Police are told all sorts of things to shoot and all of that. We do not know what will happen.

The issue of its Constitutionality also has to be looked at. We do not want to make statements and all of that. We are waiting on the passage. I know that there are grave concerns about the very constitutionality of these proposed amendments. The Government will say that they have been advised by the best, but we have been advised by better than the best and we are satisfied that it is unconstitutional. If and when it is passed, the Courts will have to decide that. In a nutshell or in a brown paper bag, these simple amendments are nothing more than power gone *'a mok'* in our opinion.

There are some genuine concerns about reserve and public ways, to do with water ways and along the creeks and all of that, for dams so there will not be overtopping. There are legitimate concerns, but it does not extend to all State Government lands and the lands that are now being brought in by this Act. We would have thought that land being so permanent – Samuel Hinds is not going to get up and run away with the piece of land he has been on for thirty one years, nor is Deborah Backer – we are saying that it is time for a conversation with the people of Guyana as to how we move forward, if there is, and we accept to an extent that

there is problems with reserves and so. There is room for conversation, but the Government, as Mr. Nadir – I was hoping he was not here but he is – he would say: ‘that we would have our say and they would have their way’, that is 21<sup>st</sup> century democracy ala P.P.P. Oh, he did not say it in the 21<sup>st</sup>, I am corrected, and the Prime Minister will correct him.

We cannot support the amendments because of those grounds. I want to very briefly go to some general concerns that we continue to experience when amendments are tabled in this House. This is yet another example of piecemeal amendments at its worst, we will say. We have *ad nauseam* called, not alone but with other groupings from within the Parliament and from civil society, for the establishment of a law reform commission. When we do that we are told that the Attorney General’s Chamber has sufficient draft persons. We saw last week that very simple amendment which you tried and was quite successful at the end, thank God, the Clerk tried, the Prime Minister did his best which was not good enough, Mr. Rohee even tried to do a little drafting which was a disaster; the reality is that there is a paucity of draftspersons. It is not an indictment. I worked at the A.G.’s Chamber from 1983 to 1986 and some of the people who were there and were very close to retirement then are still there. I see Ms. Manickchand the Hon. Member agreeing with me. If they were old when I was young then what is their position now? The reality is that we need a law reform commission.

Even in the interim while that is going through the two ears that Mr. Ramson spoke about, in a breezy way with nothing in-between, while it is going through there for the PPP, what they can do in the interim at is the least is that when a Bill comes and they are looking at a Bill to amend – why is it impossible, what is the difficulty with looking at the Bill in totality and amending all section that may need amending. The sections that are being amended now are not the only sections in the Title to Land Prescription and Limitations Act that could benefit from twenty-first century amendments. There are other amendments; I just want to mention one. In a sense it is indirectly supported by what the Hon. Member who spoke before me said: as it stands, under the rules of the High Court the declaration of Title Rules, there is no requirement for a sight visit to the land that somebody is seeking to prescribe against. Many times if not most times, these patricians are undefended; there is no opposition to them. There are people in Guyana whose job it is to go around and look for pieces of land that are unoccupied and go into occupation. We accept that, but there is an easy way out of that. You see the Government came with the usual blinkers; they want to protect their land, but they do not care. This caring Government does not care about the citizens who they have a Constitutional duty to protect. The protection must be their land, because land is our most

valuable asset. We can get away from that immediately by making site visits mandatory when someone goes to the Land Court for prescriptive titles. There are people who prescribe and say they have been on the land, Mr. Samuel Hinds would not do that, but there are people who do that. On the plan there is this magical little a red oblong box. Do you know what that red little oblong box means? It means that there is a house on the land. If you go to some of those pieces of land there is no house. Sometimes, if you go they cannot point out the land which they are prescribing against. The point I am making is that it does not only happen to State land, it happens to private citizen's land. If you are so concerned about the preservation and the integrity of title-holder's land, which is an amendment you could have done.

I have spoken to members of the bar, most members. I did not get to speak to Mr. Nandlall; he was in consultation with the Hon. Attorney General on this Bill. I spoke to the ordinary Lawyers and without exception, from all sides of the division, young, old, not so old, short, thin, fat and whatever, all lawyers, handsome, I nearly forgot Mr. Basil Williams, all members of the profession feel, that is amendment that will assist the integrity of land ownership in Guyana. What possible objection could this caring and sharing Government have to that, which will preserve the integrity of their citizens' property? Remember, they are our representatives, whether they like it or not. That is just a reminder of what *ad hoc* amendments can do; they lead to tunnel vision. The Government has repeatedly shown that it has tunnel vision. The only tunnel and vision that they have is what deals with the Government and the PPP Civic, that is their vision and that is the tunnel that they are in.

We have asked that this Bill be deferred, not surprising that request we thirstily refused. Before, I sit I would like to say two things. Firstly, for the reasons given we cannot support it. Secondly, we still think it is not too late to, because the rules is what gives the Act life; look at the rules and see how we could preserve, not only as the Government sees it but with the integrity of Government, State and all land generally for people in Guyana. As I close I would respectfully urge that this Bill be sent a Select Committee so that we can consult with the Guyanese people, many of whom are land owners and stand to loose, even if not from the Government, from private citizens. This is an Act that could be looked at and revamped. We ask that it be sent to a Select Committee. I thank you Sir. [Applause]

**Minister of Transport and Hydraulics [Mr. Benn]:** Thank you Mr. Speaker. I rise to give my unreserved support to the Hon. Attorney General, Mr. Charles Ramson, on this Bill, No. 3 of 2011 "Title to Land Prescription and Limitation Amended Bill 2011".

Mr. Speaker, I am indeed disappointed that the Opposition has just indicated, at least the PNCR, that they are not in support of this amendment, particularly because I think if they had offered their support, they would have last be doing something worthwhile for people through the House in this country with respect to the issue of land in Guyana. Particularly, if one examines over all the years the record of P.N.C in Government with respect to giving ordinary poor people land is an abysmal one.

I want us, particularly on this side, to support the Bill, because there is an urgent imperative to protect not only the lands of the State, Government lands, Lands of Government entities and co-operations, but also aiding in the protection of private lands. We have already passed midnight hour with this matter. It was already indicated that people have designs on State lands, Government lands and on private lands. There are even issues where persons have taken over private lands by Prescriptive Rights applications, that it is stuck in the Courts for various reasons, where the private land owner who can file a notice of opposition to prescriptive title when some person makes an attempt to unlawfully obtain title. This amendment, particularly at section 3, would aid in ensuring that the person who is applying for prescriptive rights proves beyond any reasonable shadow of doubt, particularly at section 3 (c):

“if possession, user or enjoyment was not taken or enjoyed by fraud or by some consent or agreement expressly made or given for that purpose.”

There is a device also for the protection of private lands in the amendment as it stands. Land has always been a problem in Guyana with respect to, us Guyanese, we who are Guyanese.

In this year of persons of African descent, we want to salute and remember those who started the village movement in Guyana. Persons in Victoria who took the money they accumulated under slavery and put in their wheelbarrows at Victoria and bought that estate and established the village movement in Guyana. That was a great thing for them to do; and established local Government, and eventually occupied a space for ourselves with title in the country, a space that was not willingly granted to them at that time. Indeed, falling on their possession of those lands, the plantocracy made every effort to ensure that people, either former slaves or former indentured labourers did not get too much land, because they wanted to make sure that they had a cheap labour force for the sugar estates. So, the land was either flooded or there were designs not to give land readily or to make all kind of efforts to make sure ordinary people who became Guyanese today did not get lands.

For the Hon. Member Ms. Backer to talk about, power gone ‘*a monk*’ and take away land, I am ashamed. It was this P.P.P Government which designed and developed the land development schemes in Guyana; Black Bush, Boerasirie, Tapakuma, all the land development, West Ruimveldt and the schemes for housing in Georgetown were developed under the P.P.P Government in this Country. The next wave of land giving and land provision for poor people in this country was developed and given out under the P.P.P Government. The Hon. Member on that side had the gumption to stand up here and say that the P.P.P Government should be ashamed of taking away land from poor people. Maybe this is why we need to go back and read the Hansard and read the record of this National Assembly of the 1950s, and from 1947 when Dr. Jagan was in this House pressing on these very issues so that our people would have land, that they would be given their ten or twenty acres in various schemes to develop rice in Black Bush or whatever agriculture pursue they wanted to have, or a little piece of land in West Ruimveldt or in Campbellville.

The Government can always acquire lands by means of eminent domain. The Government by virtue of eminent domain can acquire land and pay compensation for that land whether it is easement, construction of roads, bridges, housing estates and so on. I would like to refer to issues the Hon. Irfaan Ali raised here in this Hon. House some time when he said that there should be no reason for persons to be squatting anymore; when he was under attack in this Hon. House for having allowed for the acquisition of lands from GuySuCo. A synergistic transfer of money and lands between State entities to allow for the development of house lots at New Providence area for Guyanese. Here it is the Hon. Member Mrs. Backer said at this side of the House that we are not allowing for land for poor people. That is what is shameful.

All the years it has been said repeatedly in this House, in all the twenty-eight years, that they never gave out from that side of the House when they were in Government one plot of land for poor people.

The PPP at various times in Government provided for land with respect for rice farmers, and provided for tenure, they created a Rice Farmers Security of Tenure Act to allow for continued growing and enjoyment for the specific purpose of rice growing in this country for rice farmers. The Hon. Member somehow is not aware of these things, and she has been much longer in this House than myself and must have heard about these things at some point or the other. It is astonishing that persons would stand up in this House on that side and make these statements.

Of course there are serious implications as the Hon. Member said on that side. The lawlessness which has been ongoing, the Hon. Attorney General had mentioned it with respect to persons occupying land, sometimes with the collusion of persons at the Local Government level, it is a grievous issue. The shortage of land which has been occurring as a result of increasing urbanisation which has been occurring over a long period when people were unable to acquire services, water, electricity and roads in the country and moved into the city so as to be close to these utilities, health services, schools and so on. It is being reversed by a regularisation exercise with squatter settlement, by granting of land at Diamond, Parfaite Harmony, Tuschen, New Providence, all of those places where people are now being given service house lots, in a regular disciplined fashion persons who were squatting either on sea defences, canal reserves, on road reserves and so on can go into the Ministry of Housing and Water and apply for a piece of land for a house lot or for a commercial development at a pittance of what could be commercial value. Members of the Opposition can also apply so that there could be no discrimination in the matter.

There is no discrimination in the matter and I would like to urge and encourage Members on that side of House to go quickly, those who do not have, or to encourage their supposed constituents to go and apply for a house lot in these schemes, and apply forthwith.

*3.13 p.m.*

Land is indeed our most valuable asset. A lot of those persons, on that side of the House, who are lawyers, unless they are, maybe, milking the persons who came to them with land issues, should have been encouraging those persons to apply for the prescriptive rights. In fact, they should not have reached thirty years. They should have been dealing with those matters a long time ago, as soon as the twelve years came, with respect to private land, or with respect to Government land. There are issues, even now, in the courts, where persons are attempting to apply, or have applied, in fact, for prescriptive rights to Government road reserves, for prescriptive rights with respect to sea and river defence reserves. We have to deal with this matter right now, properly, by virtue of this Bill and its amendments, to bring a stop to this and to continue, in a systematic way, to relocate and to encourage those persons to develop their aspirations for land in a proper fashion.

When persons get their pieces of land they are able to go to the banks with their certificate of title, or with their transport, and get financing to build proper homes; to change the culture and the environment in which they grew up, and not to be in the tight circumstances they are

in along the canal banks in Georgetown - the unhealthy, environmentally, physically and socially dangerous circumstances under which they live.

I think it is important and critical that we should all support this Bill. I think it is important that we signal to the ordinary Guyanese to take steps to develop and continue their aspirations, their progress in a regular and proper way, and they should not put themselves in situations where they are at risk - where they are always quarrelling in court. We are considered to be a litigious society, or persons. This arrangement will set aside all those land issues and quarrelling which goes on.

In many cases the very lawyers who sometimes jump up and say they are representing those persons wind up with those same persons' property - in many instances. We, on this side of the House, do not have a vested interest in having long litigation, in having quarrels in the court, in standing up in front of the court and talk about things which have no real progressive merit. With these amendments, this Bill will take care of that situation.

In respect to the roles of other reserves for infrastructure, I do not want to read too much into my supposedly being unleashed, or the Chief Works Officer, or the Agents of the Ministry being unleashed. I would have thought that any person in this House would have thought that the efforts being made to clear the infrastructural reserves is a good thing, and that it has resulted in an improvement in the social landscape and in persons who were attempting to steal pieces of land retreating to their proper boundaries. I was hoping that persons would not speak about this matter on that side of the House with the derision with which it was mentioned. It is sad to hear how it is being characterised. This is a job and a duty which they should have looked after when they were in the position to do so.

If it is that, somehow, I am getting some notoriety with respect to the matter, well I am glad that I am getting it if it is resulting for the good of the public and if it is protecting land and situations where we can now go and say that we are building four-lane highways, because we will be continuing to build four-lane roads throughout the country. We will do those things, and we have to protect the reserves and land to be able to do so.

In conclusion, I state, again, that I am very disappointed that the People's National Congress Reform did not cease, now and here, on an opportunity to reverse the abysmal record it had with respect to the issue of protecting land and allowing for an orderly development of land in Guyana, with respect to supporting this amendment. I repeat that I unreservedly support

this Bill with its amendments and encourage that we deal with this matter here, now and today. Thank you Mr. Speaker. [Applause]

**Deputy Speaker, [Mrs. Riehl]:** Fourteen years before we became an independent nation, the colonial legislature passed the Title to Land Prescription and Limitation Act which gave the right to citizens to acquire title to land, including State land and Government land, or any undivided, or other interest to State land or Government land. This was based on sole and undisturbed possession, user or enjoyment, for thirty years and over. Thirty-four years after independence - which is today - this caring Government is seeking to revoke this right and to deny the people of this country, without any real justification, this right to acquire land that they have occupied and enjoyed, for a period in excess of thirty years without any Government intervention.

The Hon. Attorney General had stated the principle that the acquisition of land by prescription is based on adverse possession, and that is the principle we all operate under. It is stated in the Act, as it is, that if it is private land you only have to occupy in adverse possession of the real owner for twelve years undisturbed. That means the owner must have gone away, or abandoned his or her title to the land, virtually, and so you can go to the courts and acquire it.

In a similar fashion, our colonial masters said that if the State cannot protect its own resources for thirty years then the citizens has the right to go to the courts and acquire it. It is a right that is premise on the reasoning. As I said, if the State is unable to utilise, protect or manage any portion of its lands and a private citizen, conversely, is able to possess and utilise without any hindrance from the State, for the thirty years period, then it was only fair that the private citizen should acquire this land. It is reasoning that is based on fairness and fair play. Concepts which this administration has never been able to grapple with, because it has constantly - as my colleague Mrs. Backer has said - only looked to the end interest of the State and the Government. Many of the laws that we have passed here are only preserving the rights of the State, as against the individual citizen.

The reasoning employed by our colonial masters when they enacted this law in 1952 is also in consonance with article 18 of our Constitution which states that: "Land is for social use and must go to the tiller". In other words, he who possesses, and utilises, has earned the greater right to retain, than he who fails to manage or abandons, and this must include the State. Our colonial masters understood this and they exhibited more fair play and more



fairness. They have put a longer period for the State, but the right is there, that if you are able to take over land which belong to the State and work and develop it, then you should be able in fairness to keep it.

If a Government, with all the apparatus of State at its disposal, with all its Ministries, its agencies, its commissions, its departments has failed, or is unable to manage or protect, any portion of its land resources from being possessed by anyone of its citizens, then it is unworthy, unfair and unjust for the Government to reclaim such from the citizen by simply passing a law - this law. Rights would have been accrued, Sir.

A citizen sitting on Government land... People in this country, just a generation or two ago, were just going on a land and sit on it, whether it is part of the sugar estate land, whether it is lands along the coast. They sit there; they plant roots, permanent crops, and they develop the land from cutting down the bush, and doing all sorts of things. We would call it squat in this generation, but the older people never thought of it that way. This country has 83 000 square miles of land space, and when a citizen can take unto himself a piece of land and clean it, develop it, and build buildings on it for thirty years, without anyone coming and say, "Hey, get off, this is State land", then that citizen has a right to retain it. Just passing a law without any consideration for compensation, or otherwise, is unfair and unjust to that citizen.

Clause 4 of this Bill saves only proceedings pending immediately before the commencement of this Act. But article 142 of the Constitution protects interest in or rights accrued by a citizen to a land, and rights accrued are deemed to be property. I would like to read what article 142 states.

"No property of any description shall be compulsorily taken possession of, and no interest in..."

I submit that a person who has sat or squatted, or whatever term that is used, on State land for thirty years, or onwards, has accrued an interest in that land.

"...no interest in or right over property..."

And land is property.

"... of any description shall be compulsorily acquired, except by or under the authority of a written law..."

Such as, what we are here doing.

“...and where provision...”

It is in that law.

“...applying to that taking of possession or acquisition is made by a written law requiring the prompt payment of adequate compensation.”

I submit that persons whose rights have crystallised, but cannot now go to the court because of the passing of this bare law here, have been treated unjustly. That is why I agreed with my colleague earlier that perhaps this Bill will be tested at some stage or the other in the High Court.

It seems patently unfair that the State would want to relegate unto itself... in the light of the very Toolsie Persaud case, which gives it the right to acquire on private citizens land and it now is coming to this National Assembly to pass an Act taking away a right which was given by our colonial masters. It shows that they were more caring.

The Hon. Attorney General spoke of men in long sock and corked hats, or whatever, going around and checking up. But with the Government, with all at its disposal, all its Ministries and thousand of employees, if it is unable to monitor what it has – its land resource - then something is wrong with it and it ought not to just come here, by simple act, and take it away from the citizens. The Government cannot have it all. That is why I am saying that this administration has moved so unfairly against its own citizens. I wonder, where is the caring Government that we have heard of in the past? Of course, we do not hear those things anymore.

We, on this side of the House, are mindful of the legitimate concerns of Government in the matter of reserves along road sides and canals. If this Bill was brought here only in that narrow sense, to retake reserves that which have been squatted upon, then we would have had little objections to it. But it is more pervasive; it is saying that a person cannot squat on any land which the Government has an interest in, the Government corporations own, or any thing like that. Persons whose rights have already been crystallised now have no where to go and there is no compensation stated in this Bill. So I wonder what happens next.

I would not be very long. I just stood up here for a few minutes to air my views, because I feel that this is so unfair, and unjust to the citizens. It may appear to be just a few paragraphs

on the Bill, but it has far-reaching consequences for people who have been on those lands for a very long time and have accrued all kinds of rights, and thought that they would have eventually got the rights. Section 13 of the Act, as we know it, states, once those rights have accrued you can come to the courts later; you are already in adverse possession to the State. Now the State is saying, no matter how long you have been there you cannot any longer be in adverse possession because it would not permit you. That is the essence of this law, and I think it is unfair. We cannot support it. Thank you Sir. [Applause]

**Mr. Nandlall:** I rise to speak on the Bill which is before this House. I wish to begin by recognising my friend Mrs. Debra Backer - unfortunately she is not here - who has mentioned me in her speech so frequently and to express to her my gratitude. There are many things that she said with which I agree. This Bill, which is before the House, contains merely three or four clauses but they have deep ramifications, and with that proposition I am in complete agreement.

This Bill deals with persons' interest in land, a right which is protected by article 142 of the Constitution of Guyana. So that proposition advanced by Mrs. Clarissa Riehl I agree with it. Land has a particular effect and relationship with a people. It forms the basis of a person's standing in society; it forms the basis of a person's economic power; it forms the basis that sometimes keeps family units together. In short, Mr. Speaker, land is important to a people. Whenever land becomes an issue, emotion runs high and sometimes a tendency develops that causes us to lose focus of the discussion, and I think that is the identical predicament which confronts us this afternoon.

I have listen carefully to very appealing arguments advanced by Members of the other side, arguments, that if presented in the twisted manner that they were presented, would evoke a lot of sentiments amongst persons and would create the wrong impression. It is my responsibility to correct that misinformation and disinformation which is being peddled by this amendment.

I wish to begin by explaining what the current law is because I think it is imperative that we commence from that position. The Principal Act, as it relates to this Bill, confers upon a person a right to prescribe for land and acquire a title for that land for a period of twelve years, if the land is private property.

Secondly, it allows a person to prescribe and acquire the title for land if that period of occupation is for thirty years. That person, after possessing the land in a particular fashion described in the law, for thirty years, can go to the court and get a title. This Bill does not, in any way, affect a person's right to get a title in relation to private lands. That is the first point I wish to make. This Bill in no way impacts on a person's ability to acquire a title by prescription in relation to private property. What the Bill does is that it prevents a person from acquiring, by prescriptive title, title to State's land.

What is the position on the ground which would have precipitated the Government to table such legislation? What is the mischief that the Government is seeking to guard against when it brings a Bill of this type to the House? That is the central issue. First of all, we must recognise that the land in this country which is not privately owned is owned by the State. That is an undisputed principle of law. Every area of land not owned by private property, not own by title or transport, in the name of any person or company, is own by the State, and therefore it belongs to the people of the country and the children of the people in this country. That is the first principle that we have to recognise.

Secondly, we have to understand what is the State's duty to State's property and we must understand what is our people's duty in relation to State's property, and what is Parliament's responsibility in relation to State's property. It is stated in our most supreme law. The Constitution of Guyana, article 32, which is the highest law of this land, states this:

“It is the joint duty of the State...”

It is not the singular duty.

“...the society and every citizen to combat and prevent crime and other violations of the law and to take care and protect public property.”

“...to take care and protect public property”, that is the responsibility of each and every one of us. It is the responsibility of the Government; it is the responsibility of the State; it is the responsibility of the society, and it is the responsibility of this Parliament to protect public property. It is in that context that we must view this legislation.

What is the position on the ground? I asked that question earlier. We have witnessed in this country, in recent times and times before, but more particularly in recent times, an unusual high incidence of squatting on State lands. State lands which should be there for the reserve

of the public, for the creation of playing fields and play parks, for drain reserves, for canal reserves, for parapets and for road reserves. Persons have gone on to those vital pieces of State land and have been indiscriminately squatting on them, encumbering those vital pieces of land, thereby not only affecting the State's ability to provide vital services to the citizens of this country, for example, proper drainage and irrigation of their communities, but, more fundamentally, affecting the State's ability to improve and expand on its infrastructural development of this country for the benefit of the people of this country. That is a serious problem which is taking place in this country, and that is the problem which the Government is seeking to grapple with.

When Minister Benn attempted to remove them from the parapets the Opposition Members all criticise him for that, but that is a different matter. I will cite a few examples of what is taking place on the land currently - on the ground. On February 27, the *Kaieteur News*' front page, there was a heading entitled, "Untouchable businessman takes over Happy Acres playing field". An entire playing field has been fenced by a private resident. This is the type of lawlessness which this Bill seeks to prevent.

There is a former Prime Minister of this country who sat in this House for a number of years and today occupies a very high position on the Mayor and City Council, an entity whose responsibilities include the removal of squatting on public lands. This gentleman, along Mandela Avenue, has constructed a huge concrete building used as a pharmacy on Government's reserve. That is the type of lawlessness that this Bill attempts to prevent from happening. If that is not worst, lower down Mandela Avenue, about one mile from that location, opposite the East LaPenitence Police Station, there is a house standing there occupied by the daughter of this gentleman on public Government's reserve. That is what we are trying to prevent.

There is a gentleman also who wants to be President of this country. He has an organisation called Vision Guyana, or something like that. He owns a property in Bel Air Park where it abuts the Lamaha Canal that provides water for the residents of Georgetown. He has extended his fence to take in the parapet of that canal. The Mayor and City Council had to dismantle that fence. That is the lawlessness which this Bill seeks to address. There are many more instances that I can cite, but I believe that I have given enough examples of the type of lawlessness that this Bill seeks to address.

3.43 p.m.

A serious concern has been raised by the Hon. Member Mrs. Deborah Backer and the Hon. Member Mrs. Clarissa Riehl and it deals with what the position would be with the person or persons who have been in occupation of State land for thirty years. Would the State eject that person from the land because, by virtue of this amendment, that person can no longer approach the court? That is a very valid question. This Government has a housing policy that is two-fold. One aspect of it deals with the distribution and allocation of house lots, but the other aspect of it deals with the regularisation of existing occupation on State land. We are dealing with that problem. Not a single complaint can be made that the Government has ejected persons from State land that has been in occupation for thirty years. No person can come forward and say so. What the Government has done was to relocate entire communities when they had to be relocated. It has asked people to pull in their fences when that had to be done and it has issued titles and transports to those people who have squatted on State lands because it recognise their entitlement. That policy will continue.

I requested from the Hon. Minister of Housing and Water the statistics for the regularisation of squatting. From 1992 – 2011, Government has regularised two hundred and sixteen squatting areas, starting from Region 2 to Region 10. It has not removed the people. It did not eject them. It gave them titles. So far, eighteen thousand one hundred and sixty-six persons who were occupying State lands now have titles for those very lands. So when we speak about a caring Government, that is its record in relation to people who have occupied State lands.

I have four or five pages of communities that I can read where this regularisation has taken place. [Ms. Ally: Read them.] My friend is inviting me to read. Westbury, Region 2, Onderneeming, Region 2, Vriesland, Region 3, North and South, Belle Vue, Belle Vue South, Goed Fortuin, Mon Desir, Claybrick Road, Nismes, Zeelugt North and South, Tuschen, Anna Catherina, Anna Catherina again, Meter-Meer-Zorg, River View. Region 4: Great Diamond, Little Diamond, Herstellling, Covent Garden, Covent Garden again, Golden Grove, Farm, Hyde Park, Land of Canaan. On the East Coast Demerara: Vryheid's Lust, Vryheid's Lust again, Area G, Paradise, De Endragt, Better Hope North, Area K, Better Hope, Plantation Goedverwagting – all these are regularised areas where people were squatting. Vigilance, Lusignan, Bladen Hall, Strathspey, Annandale, Enterprise, Block Y, Cummings Lodge, Sophia, Sophia again. In Region 4 again: Plantation Triumph, La Bonne Intention (LBI), Cummings Lodge, Chateau Margot, Le Ressonvenir, and the list continues. We have the

statistics to put out there to answer the allegation that we will deprive people of their properties. They will be part of the regularisation programme.

Someone spoke about Government's ability to pay compensation. It has done that. Regularly, when those people are relocated Government compensates them and I will cite certain examples. For the Berbice River Bridge, an entire community had to be relocated. The people were compensated and they were given lots of land to remove their houses. When the Mahaica Bridge had to be built, the Government had to do that. When the Mahaicony Bridge was built, Government had to do that. When the four-lane highway along the East Bank will be built, Government will do that again. Along the Railway Embankment, lots had to be reallocated when that was done. The issue of compensation is not one from which Government shirks its responsibility. My friend, Mr. Nagamootoo, is telling me about the Hope Canal as well because he played a part in it. An entire community had to be reallocated and the people were compensated adequately for their relocation. The wild allegations that are being made are unsupported by any evidence and I am giving examples on the ground. Fortunately, we live in a country where people read and listen and rely only on their experiences. They do not have to wait on the misleading statements of the PNCR.

On the question of compensation, there was the position in this country where the PNC, when it was in power, its regime and tenure of government, was characterised by an unusually high incidence of acquisition private property for public purpose. That is an undisputed fact. In its Constitution there was a provision, the same provision, article 142 – my friend Mrs. Clarissa Riehl was reading it, but did not tell us this part - states:

“That no property of any description shall be compulsory taken of or no interest in a right over property of any description shall be compulsory acquired except by or under the authority the law which provides for compensation of the property or any interest in or right over the property so possessed or acquired and either fixes the amount of compensation or specifies the principles in which the compensation is to be determined and given, no such law shall be called into question in any court on the ground that the compensation provided by the law is not adequate.”

What the position was under the PNC's administration was that it passed a law which allowed it to acquire property and the practice was to value it at a 1939 valuation which was an extremely low valuation, completely out of sync with market value and when it gave \$2

for a multi-million dollar property, the Constitution of the country, at the time, stated that you cannot question the adequacy of that compensation in any court of law. This is ceasing people's property. This is the unlawful acquisition of people's property. Listen to how we have reconstructed that very Constitution. We have it in our Constitution, but we changed it. Listen to what we have:

“...when the property is acquired, the law that allows it to be acquired must make provision for a prompt payment of adequate compensation.”

That is our Constitution. That is this Government's record in relation to private property. It did not cease Achilibar Ville and give land somewhere at the back of Mahaicony Creek. It did not take Takuba Lodge and deprived people of a multi-million dollar property and gave them nothing. An entire business class migrated from this country to Canada because all their prime properties were acquired by the Burnham's administration and they were given \$2 compensation and could not even challenge it in a court of law. That is the Opposition's record in relation to land, so do not question our record in relation to land. Our record is one that pays just compensation in accordance with the law.

Some years ago, there was a case in relation to the Toolsie Persaud Ltd. land on Water Street. That land was acquired by Toolsie Persaud Ltd. under President Hoyte's administration for \$400,000. This Government wanted to acquire it to accommodate the poor vendors who were being put off the streets and to give them a place to earn a livelihood. This Government, under this Constitution, was forced to pay \$350 million for that land. That is our record and we have paid it. That is our record in relation to land. These are facts that I am putting before this House. I am not speaking as futuristic as the other speakers who spoke before me. They spoke about what will happen and they created this whole atmosphere of emotion. I am dealing with the facts. This is the history and the people of this country, fortunately, are experiencing these realities and will not be persuaded by the diatribe that is emanating from the other side.

The point about this Bill is simple. This is State's property and we are all patriots or supposed to be patriots. We are all nationalists or are supposed to be nationalists. This amendment is for the protection of the national patrimony of this country. The United States of America recognises it. Somebody mentioned the United States of America. I will relate one case that I found that is relevant to the United States of America. In the case of *Smith against Carbondale*, it was a decision emanating out of the Supreme Court of Pennsylvania. In 1917,



there was an application for prescriptive title in relation to a public park, and this was the ruling of the Court. The Court affirmed, holding that the owner's claim would be well founded on adverse possession as against private parties but could not prevail against the public whose rights were not lost by encroachment however long continued.

The court held that a citizen acquired no right as against the public by the maintenance of a fence or a building in a highway and that the same rule applies to a public park. In the United States of America, private properties are revered. One cannot prescribe against State's property.

I have another case which deals with the position in Alberta, Canada. It is called *Tees against the Corporation of the Town of Anchester*. It states this:

“Speaking generally of the law, several American states have legislation that prevents a limitation period from running against municipal property devoted to public use.”

It is recognising that the law in the United States of America, in several States, does not allow squatting and persons getting title to public land to take place. Even in common law, some American courts have decided that municipally owned land used for public purpose, such as parks, cannot be acquired by adverse possession and a case was cited. In Canada, Alberta is a province with legislation protecting all municipally owned land against claim of adverse possession and a case was cited. Also a statement from a judge was, and I will read that:

“The right of ownership of real properties such as highways, a market or a public wharf held by a municipality for the common benefit or use of his inhabitants and of the queen's subject in general is of such a public character that it cannot, as a general rule, be lost by adverse possession over the prescriptive period. It is expressly declared by statute that all road allowances cannot be extinguished by adverse possession.”

The rationale is that you cannot prescribe whether it is a public place - marketplace. Once it belongs to the State, or once it is public lands, you cannot prescribe against it. That is the absolute rule in Canada and in the United States of America. [An Hon. Member: Where is the evidence?] I will give it to you. It is here. This is the decision of the judge in declaring the law of Alberta and Ontario. I am using Canada and the United States of America to demonstrate. Often times, whenever the United States of America and Canada

speak anything critical of this Government, it is pushed down our throats in this National Assembly, so what is wrong with me quoting the positions from Canada and the United States of America now? That is the position of the law in Canada and the United States of America and that is the position that we wish to import into Guyana by this amendment to protect the State's property for the benefit of the people of this country and that is the basis and the essence of this amendment. It is not to take away people's rights.

We have a record. I only spoke about one aspect of the housing programme. I can speak about the other aspect of the housing programme, too, under which the Government has distributed over one hundred thousand house lots to the people of this country from 1992 to now. That is our record in relation to land from a position whereby there was not even a housing policy or a housing Ministry when we took Government. What was the position of the PNC in relation to its own headquarters at Congress Place? People who were squatting ...the place was flooded and police dogs were loosed on those people. Those very poor people who it pretends to talk about now and whose interest it wants to pretend to represent here, it chased them with dogs like dogs off its land. That is its record. I am not making that up.

It is important that I re-emphasise that we must excise from this debate the emotional outpourings we have heard and we must look at what the basis of this amendment is and the purpose. The purpose is to protect the State's property for all the citizens of this country and their children and their children's children. In those circumstances I have absolutely no problem in extending my fullest support to this amendment. Thank you very much.  
[Applause]

**Mr. Ramjattan:** Hon. Speaker, this debate has been clouded by, obviously, Members of the Government side not focusing on what is before the table this afternoon. What we had, just now, from Mr. Anil Nandlall, and prior to him, Mr. Robeson Benn, was what is called a sleight of hand as to what really is before the House. Mr. Anil Nandlall, the Hon. Member, wanted to say that the mischief that exists, today, in Guyana is that individuals, citizens and members of the public are squatting on Government's reserves and play parks, even on roads that which the public needs access to and utilises, and that, of course, the Alliance For Change believes is a wrong thing. If indeed the mischief is to ensure that members of the public do not occupy and cannot prescribe, then let us narrow the issue down with an amendment that states that nobody can ever prescribe on those types of land. Why are we now, with an extraordinary sweeping piece of amendment, coming here to state in that sleight

of hand that we are here to protect State's property? Assuming I am a pioneer and I want to get into the interior, there is no road. There is nothing there. It is jungle and I go there and start rearing goats or start planting cassava and eddoes. It is land belonging to the State. I then build my house; I then drain the area; I then enhance the value of that property because Government was not utilising it. That is what the Government is denying a person here. The law allows that a person can go there and after thirty years can get his or her title. What the Government has done here now is to say that, Mr. Ramjattan, you cannot do that. **[Mr. Patterson: You cannot be a pioneer.]** You cannot be a pioneer. So it will come here and cloud the issue and say indeed there are what is called encouraging rogues, going and taking parks as that person at Happy Acres.

We know that people are making mansions and sea defences. We know that a lot of people are doing all manner of things who are breaching the law. In a very distinguished authority written by Mr. Broomes, land court judge, had made it quite clear that one cannot prescribe on reserves. That is the law of this country already. We do not have to come and pass a law for that. Those who do land law in Guyana will know that there is no authority for that proposition. Why now come with a sledgehammer to want to kill an ant by stating you will now ensure that all State lands, even those that do not have parks or roads but where a pioneering spirit will go to do whatever he will like to see there done - maintain his family and till the land - cannot get it after thirty years, something in which a 1952 Government (In 1952 who was? I think it was the Cheddi Jagan Government, if I am not mistaken.) Had approved in this House, or it could very well have been a colonial Government. Whichever it was, I am absolutely certain that Dr. Jagan would have supported it.

This is another argument I wish to make. This Government, through Mr. Robeson Benn, has indicated that we are not going to touch on citizen and citizen scenario. Therefore if I have a transport and you squat on it for twelve years, you can get it. The squatter's title after twelve years becomes crystallised and he could take my land away. What is the rationale behind that? The rationale behind prescriptive title was that if a land owner is not utilising his land and another comes there and adversely possesses and start utilising it and occupying it for greater societal value, that occupier, who beneficially occupies, must get the land. The principle was utilisation of land because no society wants a certain cabal to own lands and then it is there and nobody can go and plant it, utilise it and do whatever to bring value to it, the community and to the country.

For that reason, there was the principle, and for that reason the old English cases will tell us that the principle and jurisprudential value of prescriptive titles and prescription is to ensure that land that is all around us and not being utilised by the land owner, not going there within the twelve-year period to interrupt a man's occupation that man will get it. That was it. If that is applicable to the citizen/citizen scenario, why is it not applicable to the citizen/state scenario, especially common law and jurisprudence are narrowed down through judge made law which states that a citizen cannot prescribe on reserves? If there is tremendous amount of land like we have - 83,000 square miles - and people want to go and put down, as the great Americans did from the thirteen colonies then walked right across America and went to California... [An Hon. Member: Shooting!] Come on. It is not the shooting and killing of anyone...but they go there. Now you go and settle but what this Government wants... This is why it comes back to its main philosophy - *control freakism*. It wants to control it and this is what it has been doing with the balance of the legislation for a number of years now. About two to three years I have noticed it.

In the criminal law there was the scenario whereby the State and the citizen were well balanced. A piece of legislation was passed here that after a jury acquitted a man he can be held back for murder, and all of that. The man can still be held and has to be in the lock-up, although the jury acquits him, until the final appeal is heard, wheresoever. All the balance has been changed under this PPP Government. In the criminal law it is doing that. Now it comes to the civil law. Here it is...

Indeed the State had a little more weighted value because you have to wait eighteen more years as a citizen as said by the Hon. Member Clarissa Riehl. What does the Government do now? It is no way; it is not at all. It is absolute and a citizen cannot prescribe. But the State can prescribe on a citizen's property. It can prescribe. The law is there. The State can prescribe on private citizen's property. What do we have Mr. Nandlall saying? He is saying that the State is only protecting the people's land. Yet the Government does not want the people to go and occupy the land. What is that? That is a big farce. That is a big set of sinister motives and then the Government Members are going to jump and make a hue and cry that, "We are trying to protect roads, parks and so on." [Mr. Patterson: All the reserves.] It is all the reserves. Reserves, right now, cannot be prescribed on. But they do this thing. What the American jurisprudential, Mr. Tribe, a constitutional lawyer, has written about, overreaching by a piece of legislation that could have been narrowed only to reserves, and then you give a definition for reserves. But the Government has gone and overreached. This

is what is called burning down the house to find the pig. [Mrs. Backer: And we know where the pig is.] Exactly! It does not want to clinically or surgically go. It wants to burn the whole house down. It has sweeping powers. That is exactly what it is doing. It uses the sleight of hand that it is going to prevent people from taking over the land by the reserves.

The Alliance For Change cannot support this Bill because the rationale for having citizens prescribe against citizens must remain in relation to citizens and State. The State is like a larger citizen, a corporate entity if you want to use the analogy. What is wrong now if the State has lands all over the place, not the type Mr. Anil Nandlall talked about, which could be utilised and their values enhanced and job creation made. There is so much unemployment in the country. Assuming that there are some people who want the land but the Government says, "No, you cannot get the land." What this will have done to people is that whatever little pioneering spirit they have will be gone. They are going to say that they are not going to go anywhere. They will say, "If we expect that after thirty years we will get the transport, we will never get it now. Why make the investment?"

We have that being the new culture of the People's Progressive Party. Land must come back to the State, not to the tiller. Do you know what the Government does with it? It then gets a favourite of it, a developer, and the developer pays a small amount of money and sells it for \$1 million per house lot. That is what it does and that is progress for it. [Mr. Patterson: Regularisation.] That is regularisation for them. They will give one of their buddies. They will say, "You take this plot for \$500 and you sell it for \$1 million – 80 feet x 40 feet. That is what they are calling progress and advancement and housing scheme area being built here and there and everywhere. [An Hon. Member: Who is the lawyer for them?]

*4.13 p.m.*

Who is their lawyer? The state land belongs to the people and they cannot get a piece of the pie after 30 years of effort. That is what they are talking about, but they come and cloud up the issue.

Mr. Robson Benn, they are getting more profound now in relation to trespassers and these reserves and so one where he went and battered down... this piece of legislation is literally going to be that clinical abortion – you cannot even go there. That is the effect of this piece of legislation. They probably realised that battering down these trespassers is not a very popular thing so they come to Parliament now and pass a law that says that you cannot ever prescribe.

This country belongs to everybody and I am a little concerned here when the Prime Minister says that this is not the one that they can go by other ways. This prescription is a methodology for proprietary ownership in Guyana that we knew from time immemorial and there are judicial stringencies about it. As a matter of fact, against the state, that “18 year extra” as against “citizen” is another stringency.

By the way, they are the eyes and the ears of society. They are the state. They would know when someone is going to prescribe. The ordinary citizen – let us say that he has gone to America and leaves his home – he might not know but you are the state. You have all of the institutions of enforcement. You have the Ministries. You have everybody. You can know when somebody is going on a reserve and stop him. Stop the person, but no; you play your politics and you tell them “Go there. Nobody could do you anything.” A lot of them do that all of the time. If you check, their friends are making all sorts of things at the side of the roads. That is what they do and they come here.

As a matter of principle, using this very awkward and exaggerated method where it overreaches what the mischief is, it is as they are giving an overdose to a patient. That argument was not met by any one of your Members. “The mischief is that and the mischief is this.” We also are saying more than that. The Constitution did not only talk about land being for social use and must go to the tiller. We are stating Article 19: “...every citizen has a right to own personal property which includes such assets as dwelling house and the land on which they stand...” farmsteads, tools and equipment on which they stand. [Mr. Nandlall: Not to steal it, to own it.] Steal what? Oh my goodness! If when you prescribe against the state means that we are stealing and one man is prescribing against another is stealing, what kind of nonsense is that? What of logic is that? You do not understand; that is what I am saying. You did not focus well just now, Hon. Member Mr. Nandlall. It is stealing when it is the state, but it is not stealing when it is against another person. For that, it is absolutely illogic. To that extent it is also unconstitutional – if I may say this.

I am going to be short on this point then close. What it does when one does this is that it is giving back the discretion to the state. When Dr. Jagan was alive from 1992 to 1997, a lot of laws were passed to take away discretion from state agents. We wanted the rule of law and not so much, discretion. What this does is also to take away that rule of law that says after 30 years, one gets the property. No! They take it away now and, as the Hon. Prime Minister said, they can use their discretion now as to how they distribute it. “You can come now” and you

can say with signals or whatever, and you will get the land. It will go but who will it go to? The discretion here comes back when we were indicating to let the law remain very stringent with provisions. There will be deprivation of people's property rights here and I wish to re-emphasize the argument made by the Hon. Member Mrs. Deborah Backer when she said that there are a lot of people have already been crystallised their 30 years. A lot of people I know, especially in Soesdyke, have been living there on lots of land for 30 years and more and they have enhanced the value. They have built up some really good houses, planted coconut trees and all of that. Do you know now that by this Bill, once passed, is going to be that they cannot claim prescriptive title? They cannot do so and this is what the Government is doing. Genuine and sincere legitimate claims cannot now be crystallised into transports and certificates of title. Is that what we are talking about here?

For those reasons, and not all of that clouded hot air being mentioned by Members over there, this Bill ought not to be passed because it is overreaching the certain mischief. It is also unconstitutional and brings the discretion back onto the Government which was taken away a long time ago in relation to that number one asset of every Guyanese – land. [Applause]

**Mr. Ramson (replying):** I sleep after I drink and I have not had a drink for the day. Cde. Speaker, I am amazed that I have to endure the flatulence of the arguments of persons who ought to know better merely because they are certified to be speakers with some kind of skill that addresses this problem. I am ashamed to know that as the Leader of the Bar I have followers like them. Everything I have heard here about unconstitutionality... you are in the wrong forum. [Mr. M. Williams: Watch behind you.] God gave you eyes behind your back. That is the reason you are wearing that thing behind you. Do not take me on. You do not know anything about law. You have to take out more pictures with people to get another seat in here. I told you that I am an old warrior. Let me say that on this question of unconstitutionality, I have addressed the issue and I am not known to be an advocate of any unconstitutional advocacy. The books will prove that what I am saying is correct even when it is alleged that it was a mere slap by the police that I took up the constitutional cudgel and smashed them to bits. The case is recorded in the books. I am saying to you that if you feel it is unconstitutional, you are in the wrong forum. This Parliament does not deal with unconstitutionality. You have to go somewhere else to advocate your cause. You are wasting the Parliament's time. [Mr. Ramjattan: I am trying to set it right.] Well go then. Go to see if the "A, B, C countries" are going to come to fight the case in court for you. You will collect more money.

Let me tell you that I have never known of any desire of mine; I have no such reputation. I am saying that there could have been an insertion of a clause that might have impinged upon the constitutional issue that some of you are merely seeing as a mirage. I am saying to you that the persons who you seem to want to protect and are emotively letting the public know, through the television, that their right will be infringed upon. If you read Chapter 60:02 correctly you will see that it is that very act that gives them an opportunity to apply for the title. This amendment has nothing to do with their occupation of the land. There is a way to acquire land. There is an alternative method by which you can acquire land that you are occupying.

This Bill, if one studies it is less emotive and objective, you will see that it does not violate the spirit or the letter of the Constitution, especially that article that you are dealing with. Anybody can read an article and keep on mouthing it but the test is in the taste of the pudding. When the Bill is passed, if it is passed, I do not harbour any illusions or delusions, but whenever it becomes law, as every act of Parliament is, it is subject to the scrutiny by judicial means. I have come back to this Parliament and every Bill that this Government seeks to put in place of old law or to make into new law the argument by the Opposition forces has always been “it is unconstitutional” but they have never challenged any of the Bills in court. I do not know if they do not have legal advisors or whether they do not have any courage when they get to the courts. They seem only to come here because the television cameras are on and want to tell the public that this Government is non-caring. It does not have any interest in people’s welfare. They have “controlfreakism” and all sorts of ideas. I do not know about this “controlfreakism”. If you have a personal problem which you want to get public attention for, then that is a matter of yours. There is a psychiatric ward at the hospital. If you feel so threatened about being controlled go there and have some treatment. I do not know about who wants to control anybody. Nobody controls me; I can tell you that.

Now let me put the record straight with respect to this request for a deferral because it looks a little bad and reasonable requests by Parliamentary Colleagues ought to be given due consideration. I received by way of a fax and a letter, an original duplicate of a document that came which was sent to the Hon. Prime Minister as Leader of the House at 10:30 a.m. this morning after I prepared my work. I do not come here unprepared. It is like leaving one’s house without putting on your suit when going to court. One has to be prepared for action in your chosen career, and I have always left my house in the morning dutifully dressed. I will tell you that I could not see the wisdom of the argument that was raised by the Hon. Robert



Herman Orlando Corbin, the Leader of the Opposition and the Leader of the People's National Congress Reform, as he so describes himself on the letterhead. I could not see any reason being advanced. The record should reflect that at this midnight hour when we have all of these people coming from all around to debate this particular aspect of the legislation to meet an urgent situation, as I said when I introduced it, to prevent further land grabbing from taking place. I did not want to use the words that some people use – stealing of land. I did not know that one can prescribe by squatting. I did not know that one can prescribe after committing a criminal offence. A criminal offence attaches itself. I wish some people would read the law. There is a provision in the Summary Jurisdiction Offences Act which deals specifically with squatting. There is no statute of limitation against criminal offences in this country. You all live in the wrong jurisdiction. You visit those places too often.

I want the record to reflect that at 10.30 a.m. today – I am sure that the Hon. Prime Minister received it roughly at the same time- I believe that the Hon. Member who made the request – it may have been a genuine sincere request of his, but he was badly advised by his colleagues that there were some stakeholders that needed to be consulted. This has nothing to do with stakeholders. What they want to do is prevent us from passing the law so as to give them the opportunity to go and do the mischief that they have planned in any event. I am not prepared to accept that as a reasonable and non-objectionable request. As such, the record must reflect that because it is unfair for the Hon. Prime Minister who is not speaking on this issue to have to listen to something that is left hanging, suspended.

Now this question of pioneering and going... where is the pioneer? He has gone again. He seems not to want to be educated freely. He wants to pay for everything. This is the third time. I know that for prescriptive title there is a concept that is essential for the court to consider before it may come to the conclusion that that title is duly deserved. It is called *nec vi, nec clam* and *nec precario*. *Nec precario* means that one must not be furtive about it. Maybe he does not understand Latin but *nec precario* means that one must not do it by stealth. That brings me back to today's application here. We have not come with any furtive motive or any motive with stealth. We have come here to ensure that what was given by the act in 1952 was adjusted because there is what is called a dynamic shift in property rights and motives behind people making use of the invigilance of those who are supposed to be protecting state's property. There is too much of collusion in this country. Some people are openly and explicitly complicit in the same land grabbing exercise. Sometimes the land grabbers are not the principles. They are merely the agents of some of those people who use

their opportunities to enhance their own wealth when they know that it is wrong and it is only because of their position that they have knowledge that there is a particular piece of land that is unoccupied. I have had cases upon cases, since my return in 2009, and they are coming to me all of the time. This gentleman, Hon. Mr. Ramjattan, speaks of a Land Court Judge called “Brooms”. I have been here for nearly four decades – this is my fourth decade as a lawyer – and I have never heard of a judge called “Brooms”. I have never heard of him. He wrote some learned judgment. I must be deficient in my legal expertise. There was never a Land Court Judge. In fact, there is no institution in this country for Land Court Judge. The law only relates to the High Court and the Land Court is not a part of the High Court. He is what is called a Commissioner of Title and I do not know that his judgments are binding. He is an elevated – I do not want to say glorified – just between Magistrates. A Magistrates’ rulings are not binding on anybody. It affects the person who is before him so let us get our concepts quite clear. *Stare decisis* and precedence and so forth do not apply to the Land Court and that sort of thing. [Mr. Trotman: You said that there is no Land Court.] I did not say that there was no Land Court. I said that there is a Commissioner of Title who presides over a Land Court but he is not a Judge. I so ruled in the case of La Fleur against Collymore. A full bench ruled that in a court of appeal and whether you like it or not you should read my book. You will see that it is recorded in that book and you should also read the West Indian Report. It is recorded in the West Indian Report. When we are coming to the highest forum as far as the legislation is concerned – law making exercises – we must come and try to, especially if we hold ourselves as being skilled persons in a particular respect, learn to disseminate information. This is not a political forum. We are dealing with law business here.

If the Hon. Africo Selman had made a mistake like that, I would have been the last person to want to reprimand her because she never held herself out to be a lawyer, but this is not so with the gentleman over there. [An Hon. Member: The Presidential Candidate.] Well I do not know what is presidential about him. He might be a candidate but I do not know about that. I know his leader is watching and listening carefully. I do not care what you want to say. I know you will go home tonight and listen to it on the television.

They are getting like that rag down in La Penitence, that clip-paper. I do not know what they call it. I think it is in Saffon Street. They always say that their sources tell us “so and so”. When we are discussing and debating the Bill concerning judges, two of the lawyers sitting in the front bench of the PNC/R said that they had discussions with every judge who said that they do not want anything to do with that Bill and “leh Ramson do whaeva he wan do”. Well

I do not know, but I consulted the same judges and they told me, “I think it is a good thing.” I never came here and breached the confidence of the judges. Now we are hearing the reaction of lawyers. I want to know if they were only aware of this Bill last Thursday. They must have had nothing to do in their busy schedule but to go and talk to lawyers. I am sure that they did not speak to Mr. Nandlall – one of the more visible lawyers in Croal Street; if he is not in the newspaper, he is on the television. Nor did they talk to Mr. Nagamootoo. My son is a lawyer. Look he is sitting at the back there. They never consulted him and I do not believe that some of them can really say that they are better qualified than he is. Are we some kind of pariahs? I do not know. I do not associate with unguates.

Now there is this question of the possession of the tiller. As I attempted to explain in my earlier presentation, this Bill does not allow for any disadvantageous action to be taken against the possessor of land, whether it is for the prescribed period or non-prescribed period or whether it was for a prescribed period that was formally recognised legislatively. There is no prescriptive period with respect to state lands. Within that definition for the avoidance of doubt, I included “other areas of land”. Though all belong to the state to avoid any question about the classification, I included them. I said “State land...” How many of them on the other side know that there is a difference between “state land” and “Government land”? How many of them know the difference between land wholly owned by the state entities including companies and corporations or in which the controlling interest is vested in the state? I particularly was instructed by the Cabinet to ensure that even those pieces of land that are identified on plans that are in the Registries are to be sufficiently identified so that the public will be generally aware of what issues we are addressing. There is nothing furtive about this. There is no deprivation of property. I do not know if they are too embarrassed to give me the credit for recognising that under the law as it is now as opposed to tomorrow or whenever it becomes law. If it does become law, the vested interest of the occupier would not be impugned or disadvantaged. What it stops or prevents is this lawless furtive behaviour; they call it pioneering. I do not know that to be furtive behaviour. You know that you want to have some land to open an industry or whatever. If it is on state land, why do you not inform the state? That is, unless you have something to hide! If you have nothing to hide, there is nothing to prevent you from disclosing to the state – the owner of the land. My father always told me, “If you have nothing to hide, you have nothing to complain about and nothing to fear.”

*5.43 p.m.*

I agree with the political aspects that have been advanced with respect to the allegation that this Government has not been adequately providing for its citizens and my colleague, the Hon. Mohabir Anil Nandlall, adequately dealt with the issues that were raised. I did not realise that when I was presenting this second reading, an issue like the Government being uncaring would come up. I thought this was a caring piece of legislation. The more the Government retains, the more the Government is able to give out once they make it pellucidly clear that the land belongs to the State and is for distribution by the State.

It is similar to the talk about shared governance. I could not understand the concept because in order to share something, one has to have it as one's own first. The Opposition wants to share the governance that the ruling party owns. I think that they have the concepts mixed up, upside down and inverted or as the Chancellor once told an aspirant for the position of Chief Justice and who was appointed as Chief Justice during the former regime, it is the first time that he has seen such as obverse appointment. It seems as though this Government is wicked. It has never been able to do anything that is straight and everything that the Hon. Attorney General tries to do has some wicked, underlying motive. I plead guilty if that is the general consensus of the people. However, I suspect that it is only the warped minds of those people who have the privilege of adorning this House. It is only the warped minds that seem to be addled that would accuse me of doing something that would be unconstitutional. I am saying that there is nothing unconstitutional about this Bill and I ask that it be read a second time.

*Question put and carried*

*Bill read a second time*

*Assembly resolved itself into Committee of Supply*

*Assembly in Committee*

*Clauses 1, 2, 3 and 4 agreed to and ordered to stand part of the Bill*

*Assembly resumed*

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

**Mr. Speaker:** Hon. Members we will now take the suspension. Before we leave, I would just like to remind Members that there is a meeting of the Special Select Committee on Criminal Responsibility of HIV affected individuals in my Chambers immediately upon the

suspension, for the purpose of electing a Chairperson. The Members of this Committee are: Hon. Dr. Leslie Ramsammy, Hon. Dr. Jennifer Westford, Hon. Dr. Frank Anthony, Hon. Mr. Mansoor Nadir, Hon. Dr. Vishwa Mahadeo, Rev. Dr. Kwame Gilbert, Hon. Dr. George Norton, Hon. Mrs. Volda Lawrence, Hon. Ms. Africo Selman and Hon. Mr. Everall Franklin.

*Sitting suspended at 4.43 p.m.*

*Sitting resumed at 5.35 p.m.*

**CUSTODY, CONTACT, GUARDIANSHIP AND MAINTENANCE BILL 2009 – Bill No. 29/2009**

A Bill intituled:

“An Act to provide for the granting of custody, contact, guardianship and maintenance rights with respect to children and for connected purposes.”

*[Minister of Human Services and Social Security]*

**Prime Minister and Minister of Public Works and Communications [Mr. Hinds]:** Mr. Speaker, I notice that our Minister is not here at the moment, but I am willing to go on to the next item on the agenda.

**Mr. Speaker:** Yes Mr. Prime Minister.

**Mr. Hinds:** She is now entering the Chambers.

**Minister of Human Services and Social Security [Ms. Manickchand]:** Mr. Speaker I apologise most sincerely for being late. There is no excuse but by way of explanation, I was attempting to get a document.

**Mr. Speaker:** We are now at the second reading of this Bill which was referred to the Special Select Committee for consideration.

**Ms. Manickchand:** I am relying on your guidance because there are two issues. There is the second reading of the Bill and the tabling of a Report.

**Mr. Speaker:** We have not debated the Bill as yet.

**Ms. Manickchand:** Will we do that first?

**Mr. Speaker:** Yes.

**Ms. Manickchand:** Thank you, Sir. Bill No. 29 of 2009 – Custody, Contact, Guardianship and Maintenance Bill is before this Hon. Assembly for passage into law. This is fifth Bill in the scheme of children’s legislation that is before this National Assembly and, if passed, will be the fifth law in two years that directly relates to children. Prior to this Bill we have passed, in this National Assembly, the Childcare and Protection Act, the Protection of Children Act, the Adoption of Children Act and the Status of Children Act. We also have pending in the Special Select Committee that was appointed for the consideration of these Bills, the Childcare and Development Services Bill.

This is a scheme deliberately crafted and consciously executed by the People’s Progressive Party Civic (PPP/C) Administration to create an environment where children can thrive and be the best that they can be as children and then adults in a productive and progressive Guyana. We come here with a Bill just on the eve of the establishment of the Family Court. This is an extension of the High Court which will have its own rules that is based in the Supreme Court of the Judiciary right now. I stand here to pass this piece of legislation on what I am optimistic, and hope that I am right, is the eve of the commencement of operations in the Family Court. As far as we have been able to see through advertisements in the newspapers, the Rules Committee of the Supreme Court is presently considering draft family court rules as well as comments that would have come from the Bar Association and/or any member of the public. I believe that the deadline for submission for those comments and the beginning of the end of that consultative process was 25<sup>th</sup> February, 2011. We are now two weeks into the month of March and I expect that very soon we shall see those rules bearing fruit and the court coming into being to consider, amongst any many other pieces of legislation, any application made under the one that is being debated here this afternoon.

Like any other piece of legislation that was brought to this House recently, especially as it relates to children, this is a very progressive and modern piece of legislation but has at its core, the welfare of the child as its paramount consideration. The concept that whatever we do must best serve the interest of the child guided every single provision in this piece of legislation and even mandates that the courts, in constructing the Sections of this piece of law must be guided by the child’s interest and welfare. I wish to point to a few, particularly, good clauses that are in this Bill that would serve our children. Like I said, all of the clauses would.

Prior to this piece of legislation, except a person was the parent of a child, that person would be prohibited and prevented from making an application for custody. This piece of legislation

changes that and allows for caregivers such as grandmothers and aunts, and we know that in our family type oriented society that many times the persons who really ought to be able to make applications under Acts are not the parents. This legislation allows, though clause 12, for a person who has no parental rights as defined in the law to apply for custody.

Another progressive feature of this legislation which ties into the necessity for something like the Family Court and the efficiency of which that court could function is tied into clause 13 which provides for a matter becoming right for hearing must be brought up by the registrar in two weeks before the court. There can be no argument that when we are dealing with matters relating to children, we must move swiftly and expeditiously so that we remove from them, as far as we can, trauma associated with court related proceedings.

I also bring the House's attention to clause 67 which allows for a maintenance application to be made either in the High Court or Magistrate's Court. We want to be very clear. We know that we cannot replicate, at this juncture in our history, as many Family Courts as we can magistrate's court. We do not want to remove from the applicant the ability to go to the court closest to her home. It is usually women applying for maintenance. People will be able to apply to the magistrate court for maintenance except in a case where there is a matter which directly relates to the child in the High Court. If that is the case, there would not be two sets of matters going on. For example a divorce matter in the High Court and maintenance matter in the Magistrate's Court. This would have a mother all stressed and tired by running to these intimidating bodies called courts. They can all be dealt with at the same place and at the same time even though it is in the High Court.

Another remarkable feature of this legislation is that it mandates a court that is addressing issues like divorce to holistically and comprehensively conclude on issues relating to the children before a decree absolute or decree nisi is made in divorce. Let me just expand on how that is going to work. Presently, we know that two people who were in love, got married and made a child or children. Then they subsequently discover that they are not suited for each other and decide that they need a divorce could go to the High Court and petition the Court for a divorce. Sometimes that divorce comes through before issues such as custody, maintenance and division of property could be dealt with to the detriment of the children of this country. I know that we will come to that point, but I have to say that every single Clause that is before this House was agreed upon unanimously by Members of the Special Select Committee. This new piece of legislation mandates a court that is addressing a petition for

divorce to deal with all of the issues surrounding the children of the marriage before any nisi or absolute is granted.

Additionally, we have other very progressive clauses that address the needs of the children in the Bill. I touched on what I believe are some of the most important ones that we have changed. The Bill also encompasses, in many respects, a lot of practices that have developed over the years but were not written and codified into law. A lot of practice and procedures that we had gotten from the White Book and Family Proceedings Rules of England are now written into this piece of legislation.

I wish to also say that regulations under this Act are ready and will be laid in this National Assembly very soon. Regulations under these pieces of legislations that have been passed already – the Status of Children Bill, the Adoption of Children Bill and Protection of Children Bill - are ready and they will be laid in this National Assembly as we are enjoined to do. These regulations are ready also but we could not lay them today because of the procedures. This has to become actual law before regulations can be made under this piece of law. Those will come here shortly and will give effect to the operationalising of this piece of legislation. I thank you for your attention. [Applause]

**Mrs. Riehl:** I rise in support of this Bill which is another in a series of Children's Bills designed to improve the welfare of children in our society and, no doubt, contemplative of the Family Court soon to be opened.

It has long been established by case law that in considering custody, maintenance and other child related matters, the welfare of the child is of paramount importance. This has been the yardstick that judges in our courts have been using for decades, it having been borrowed, as the Hon. Minister just said, from the English procedures. The provisions in this Bill embody in large measure what the common law has been saying and which our courts have been following. It really codifies what the common law has been saying. It has gone even further.

Clause 3 of this Bill stipulates that the court shall have the best interest of the child in making its decision. This is the same as saying the welfare of the child is paramount. In any decision making that has to do with the child's welfare, the best interest of the child should be the yardstick.

Clause 12 makes provision for a non-parent who has care and control of a child to apply for the custody of that child as long as the person making the application is above 18 years and



no more than 50 years older than that child. This can be seen to accommodate application by a big brother, sister, aunt, uncle or grandparent which generally in the concept of our society with so many delinquent and absentee parents is a much needed provision.

The making of this new Bill for custody, guardianship, the administration of a child's property and maintenance, the court shall give a child 12 years and over an opportunity to express his/her views and take into account those views when considering the welfare of the child.

Another provision states that under this Bill, a child shall be entitled to legal representation provided by the State which is apart from the representation of his or her parents who may be wrangling over him/her at the custody proceedings.

Generally, a child is entitled to be maintained until age 18 and children in education institutions until the age of 21 if they are still there. Children with special needs and children who are special ill are catered for beyond the 21 years if the court deems it necessary to do so.

All in all, this is a very progressive Bill and, again, I must compliment the Hon. Minister because it is she who brought all of these Bills which are very good pieces of legislation. We do support it because we were present on the Select Committee and worked together on this Bill. I have no hesitation in lending the support of this side of the House to the Bill.  
[Applause]

**Dr. Rev. Gilbert:** This Bill intituled Custody, Contact, Guardianship and Maintenance Bill 2009 as we did earlier, was referred to a Select Committee which spent a significant amount of time working on sanitising and aligning the Bill with what I believe the strategic objective of the Government is regarding child welfare and protection. The work that was done on this Bill was very extensive and I want to mention the fact that the Committee did benefit from a very open and commendable level of engagement from all Members of the Committee.

The bulk of the amendments that was discussed and proposed came out of recommendations that were put forward by Canadian Consultant, Mr. Scott Ducet, who presented to the Committee a synopsis of issues relating to jurisdiction, maintenance, assessment, welfare, reports, and rules of court amongst others. I believe that at the opportune time these amendments are going to be put forward for consideration by this House.

This Bill covers the broad spectrum of the judicial and regulatory framework necessary for the granting of custody, access to a child by parent or guardian, the guardianship of child and property and the duty of maintenance of children by those deemed liable by the court. Very necessary is the fact that this Bill recognises the paramountcy of the best interest of the child as the guiding principle of decisions that will emanate from the court. In essence, the focus is maintained throughout this piece of legislation on the wellbeing of the child. This Bill also gives a clearer definition to the scope of responsibilities and rights of both parent and child on matters of maintenance. Noteworthy in this is the inclusion of each child or children of spouse born prior to marriage. Why this is significant is because we are well aware of the auras in which many children who carry the label of “step-children” or “outside children”, are visited sometimes in an environment that do not recognise that they do have a responsibility regardless of the circumstances under which the child has been born or is a part of that family.

In a more significant way, this legislation while giving support to the creation of safer environment and communities for children, it also provides greater support to our fight against child labour and exploitation of our young and vulnerable. In section 25 (6) it states:-

“For the purpose of locating and taking charge of a child in accordance with an order under sub-section 2, a police officer may enter and search a place where he has reasonable and probable grounds for believing that a child is or may be... with such assistance and force that is reasonable in the circumstances.”

Many of our children are held in lawful custody by those who exploit their youth and innocence for their economic and other sadistic benefits. This legislation also adds to the arsenal another caliber of weaponry in our fight against pedophiles and child predators or those who may want to abuse our children. While it is not specific, I believe that it takes those matters into consideration.

The environment in which our strong, healthy and well adjusted children should grow is one in which the emotional, physical, social, educational and spiritual needs of our children are met not under duress or compulsion but willingly and lovingly. Sadly, this is not the kind of environment that exist in every circumstance and, consequently, more of our children are growing up in homes and environment in which their development is retarded by dysfunctional adults who abuse, disfigure and even destroy them. Many of them are even denied their fundamental human right and dignity. I believe to have been blessed with a child

is, maybe, the greatest expression and manifestation and the divine favour of God to a man and woman. It is recorded in the Book of Psalms 127, verse 3 that, “children are a heritage of the Lord and the fruit of the womb is the reward”. Children are vital and critical to the continuity of a generation’s vision. Tragically, many of our children are not regarded as blessings but a blithe, blemish and an unwanted unfortunate humbug. The blows, neglect and harsh words, far too often, characterise the realities of many children. Child abandonment and neglect is still an issue in many parts of our society and while the media may capture some of it, I rather suspect that there are cases of children being locked up and left alone with no proper care and supervision that are not reported. While I believe that there are issues regarding mothers having to go out and work that lends to that, it is not so for every case. In some cases, it is simply an act of neglect and failure to live up to one’s parental responsibility.

The Government, therefore, is committed to ensuring that no child is denied the right to life, liberty and the pursuit of happiness which is evidenced by the plethora of legislation that came to this National Assembly as well as the numerous initiatives of the Ministry of Human Services aimed at protecting our children.

With regards to maintenance and maintenance order, the court shall have regard to all circumstances involving both the parent and the child in the exercise of its power. The income earning capacity, property and other financial resources which the applicant or each person liable to maintain the child has or is likely to have in the foreseeable future, will also be held in regard.

*5.58 p.m.*

And so, where the Court has established parentage of the child the shall have made, in the interest of the child, maintenance orders and deduction from earnings orders with consideration of the financial needs of the child, the income earning capacity and property, if there is any, of the person that is liable for the maintenance of the child. These are just a few of the other provisions that have been made.

The court shall make order maintenance as it deems fit having assessed the evidence that is before it. These provisions are in no way draconian or prejudicial in the context of what obtains in our society because we are well aware of the practice of some whom-and in this context men- continue to sew their seeds like wild oats and run off. This is a bane that needs

to be removed, expunged from our society. We are well aware, that behaviour cannot be legislated but it can be regulated. And so in this regard, this is what this legislation is seeking to do; it is not seeking to legislate behaviour but in many ways it is seeking to regulate the kind of behaviour that exposes, continuously, our children to the kind of harm from those who are liable for their protection and maintenance, but who deny them those basic privileges and needs that they deserve as children.

All in all, I believe that, this Bill forms a part of Government's legislative work plan to create safer and better communities for our children. With that, I recommend that this Bill be supported for passage in this House. Thank you. [Applause]

**Mrs. Punalall:** Mr. Speaker the Custody, Contact, Guardianship and Maintenance Bill, 2009 is before this House for adoption, after standing for more than one year in the Special Select Committee.

This Bill is related to four specific and important aspects of children's life and welfare. Under the general principals in part two number 3. 1: "The court shall have regard to the best interest of the child in making its decision." This decision is, indeed, an excellent one because it is our responsibility toward our children. In part two 3.2:

"a parent in order to fulfill the parental responsibilities in relation to a child has the right in (b) to control, direct or guide in a manner appropriate to the stages of development of the child and the child's upbringing."

Parental responsibility is all the rights, duties, powers, responsibilities and authority which by law a parent of a child have in relation to the child and their property. The passage of these laws relating to children, does not take away parental duties; parents are still responsible for providing the upbringing, education, spiritual and general welfare of a child. This is something they must do. If circumstances dictate that they have to delegate parental responsibilities, they must take the extra care to ensure that their children are left in capable, caring and compassionate hands. Children need to be guided in a manner appropriate to the stage of their development. Persons undertaking this responsibility need to exercise wisdom and strength of character in the proper guidance and development of children. The child, on the other hand, should respect and submit to this supervision and guidance so that they can be moulded into proper adults. Children should never be led to believe that they are mature enough to be their own decision makers.

Clause 54.1 says, a child at the age of 18, his or her maintenance will cease to have effect. However, a parent or guardian may apply for an extension under the conditions set out in clause 54:2

“if on such an application, it appears to the court (a) the child is or will be receiving instructions at an educational establishment or undergoing training for a trade, profession, or vocation whether or not in gainful employment.”

This law guarantees the security of the child’s education until the age of 21. The task of parenting has never been a cheap or easy one and every child who is blessed with good and godly parenting should make the best use of the educational opportunities so provided. In clause 65.1 under "Maintenance" parents need to know that if they neglect their parental responsibilities, it will no longer be a light matter but that they will be held accountable. When they commit this offence for the first time the fine is \$50, 000 or three months imprisonment. For subsequent offences the fine is \$75, 000 and imprisonment of six months. Also, in clause 65.3, a person who receives maintenance for a child and is proved to be misapplying the said sum commits an offence. The penalty for this is a fine of \$20,000.

The Alliance For Change fully supports the Report made by the Special Select Committee. We request that the agency responsible for the enforcement of this Bill put systems in place to implement this law. Such a demand should not be viewed as mere political grandstanding, as expressed by a Minister in the Committee, rather it should be viewed as transforming into action that which we have laid out and passed in this House.

The AFC thanks all of the Members of this Special Select Committee who deliberated and finally completed their work on this Bill. Thank you, Minister Manickchand for doing a good job as chairperson for this Committee. The A.F.C also thanks the Guyana Association of Women Lawyers (G.A.W.L) representative, the Parliamentary team, and all who worked earnestly to draft and achieve the wrapping up of this Bill.

In the Holy Bible there are important precepts divinely set out on the subject of parenting and the parent child relationship. One such law is written in the book of Proverbs 1:8 and 10:

“Listen my son to your father’s instruction and do not forsake your mother’s teaching. My son, if sinners entice you do not give into them.”

May God bless all the people of our dear Land, Guyana, as they seek to be better parents and guardians? Thank you. [Applause]

**Ms. Manickchand (replying):** I thank all of the Members who spoke on this Bill. I think from the brief but important remarks we got a sense of how the Committee worked which is a lot more pleasant than what obtains in the general House sometimes.

**Mr. Speaker:** The cameras are here Hon. Member.

**Ms. Manickchand:** I know the cameras are not in the Parliamentary Committees so people become regular again. I commend this Bill with the amendments contained in the Report of the Special Select Committee.

Mr. Speaker would you like me to formally lay the Report and have us adopt it?

**Mr. Speaker:** No, we have to go in to committee and then we will have to amend each item in accordance with the Report but I will just, require the amendment to be made and to be proposed as in the Report. So you do not have to read out each amendment as is stated.

**Ms. Manickchand:** Yes Sir.

**Mr. Speaker:** We will call out each of the sections. I do not know if you have them available?

**Ms. Manickchand:** Yes Sir.

**Mr. Speaker:** I will guide you along as we go.

*Bill read a second time*

**Mr. Speaker:** Hon. Members, we will resolve ourselves into committee to consider this Bill stage by stage. Hon. Members, I seek your patience because this is a long Bill and there are several amendments, but I will try to shorten the process as much as possible.

*Assembly in Committee*

*Clause 1 agreed to, and ordered to stand part of the Bill.*

**Clause 2**

**Mr. Chairman:** Hon. Member, could you propose that clause 2 be amended in accordance with the Report?

**Ms. Manickchand:** Yes Sir. I move that clause 2 be amended in accordance with the Report.

Mr. Chairman, would it be a little quicker if you placed 1,6,7 in paragraph 8 that we take all those as are, and then you put that these paragraphs be amended, and then I just move that they all be amended?

**Mr. Chairman:** Unfortunately, we have to go in sequence or else we will confuse the note takers.

*Clauses 2, as amended in accordance with the Report ordered to stand part of the Bill.*

### **Clauses 3 to 5**

**Ms. Manickchand:** Sir, I ask that clauses 3 to 5 be amended as proposed in the Report.

*Amendment put and agreed to.*

*Clauses 6 to 7 agreed to, and ordered to stand part of the Bill.*

### **Clause 8**

**Ms. Manickchand:** Sir, I ask that clauses 8 be amended as proposed in the Report.

*Amendment put and agreed to.*

*Clause 8 as amended in accordance with the Report ordered to stand part of the Bill.*

*Clause 9 agreed to, and ordered to stand part of the Bill.*

### **Clause 10**

**Ms. Manickchand:** Sir, I ask that clause 10 be amended as proposed in the Report.

**Mr. Chairman:** I am trying to find a shorter way to deal with this Hon. Member.

**Ms. Manickchand:** Mr. Chairman, you are the expert here, but, I was thinking, if we come out of Committee, pause this consideration, adopt the Report and go back to the Committee and say we will accept of all the amendments in the Report as the appendix...

**Mr. Chairman:** We can only go according to the rules. There is no procedure that allows for this. This is a new innovation under a new Standing Order. There is no procedure to adopt this Report, so it will have to be fed into the Bill. The Bill was not read a second time so this report will require a different procedure. If the Bill was read a second time and there was a Report, it would be a very short procedure because we would debate only the Report. Where the Bill has not been read a second time and it goes to the Special Select Committee we would have to innovate, because there is no procedure to adopt the Report. We have to feed the Bill into the Report at Committee stage, and we need to get this done in the most effective way. This is extremely painful but I am...

**Ms. Manickchand:** I stand guided, Sir, but I hope the people that make the rules are listening because that is one of the things they could think of correcting.

**Mr. Chairman:** The suggestion has to come from our side, who deal with this on a regular basis. Hon. Member, what I will do is, propose the entire section and then you will ask for the amendment of the section as proposed in the report. So that will include all the clauses in the Report.

*Amendment put and agreed to.*

*Clause 10, as amended in accordance with the Report ordered to stand part of the Bill.*

### **Clause 11**

**Ms. Manickchand:** I ask that clause 11 be amended as proposed.

**Mr. Chairman:** It was drawn to my attention that in the Report clause 11 is unaltered.

**Ms. Manickchand:** I see that Sir. There was an amendment; there must have been a mistake in the Report.

**Mr. Chairman:** Well you will have to tell me what the amendment is.

**Ms. Manickchand:** The amendment is the "a child is habitually resident in the place where the child resides; *"the child"* is the amendment.

**Mr. Chairman:** Hon. Members, I propose the amendment that the word *"he"* be deleted and substituted for the words *"the child"*.

*Amendment put and agreed to.*



*Clause 11, as amended in accordance with the Report ordered to stand part of the Bill.*

**Clause 12**

**Ms. Manickchand:** Sir, I ask that Clauses 12 to 14 be amended as proposed in the Report.

*Amendment put and agreed to.*

*Clauses 12 to 14 as amended in accordance with the Report ordered to stand part of the Bill.*

*Clauses 15 and 16 agreed to, and ordered to stand part of the Bill.*

**Clause 17**

**Ms. Manickchand:** Sir, I ask that clauses 17 be amended as proposed in the Report.

*Amendment put and agreed to.*

*Clauses 17 as amended in accordance with the Report ordered to stand part of the Bill.*

*Clauses 18 to 24 agreed to, and ordered to stand part of the Bill.*

**Clause 25**

**Ms. Manickchand:** Sir, I ask that clause 25 be amended as proposed in the Report.

*Amendment put and agreed to.*

6.28 p.m.

*Clause 25 as amended agreed to and ordered to stand part of the Report.*

*Clause 26 to 32 agreed to and ordered to stand part of the Report.*

*Clause 32 agreed to and ordered to stand part of the Report.*

**Clause 33**

**Ms. Manickchand:** Sir, I ask that clause 33 be amended as proposed in the Report.

*Amendment put and agreed to.*

*Clause 33 as amended agreed to and ordered to stand part of the Report.*

*Clause 34 to 37 agreed to and ordered to stand part of the Report.*

**Clause 38**

**Ms. Manickchand:** Sir, I ask that clause 38 be amended as proposed in the Report.

*Amendment put and agreed to.*

*Clause 38 as amended agreed to and ordered to stand part of the Report.*

*Clause 39 to 43 agreed to and ordered to stand part of the Report.*

**Clause 44**

**Ms. Manickchand:** Sir, I ask that clause 44 be amended as contained in the Report.

*Amendment put and agreed to.*

*Clause 44 as amended agreed to and ordered to stand part of the Report.*

*Clause 45 agreed to and ordered to stand part of the Report.*

**Clause 46**

**Ms. Manickchand:** Sir, I ask that clause 46 be amended as recommended in the Report.

*Amendment put and agreed to.*

*Clause 46 as amended agreed to and ordered to stand part of the Report.*

**Clause 47**

**Ms. Manickchand:** Sir, I ask that clause 47 be amended as proposed in the Report.

*Amendment put and agreed to.*

*Clause 47 as amended agreed to and ordered to stand part of the Report.*

*Clause 48 agreed to and ordered to stand part of the Report.*

**Clause 49**

**Ms. Manickchand:** Sir, I ask that clause 49 be amended as proposed in the Report.

*Amendment put and agreed to.*

*Clause 49 as amended agreed to and ordered to stand part of the Report.*

**Clause 50**

**Ms. Manickchand:** Sir, I ask that clause 50 be amended as proposed in the Report.

*Amendment put and agreed to.*

*Clause 50 as amended agreed to and ordered to stand part of the Report.*

**Clause 51**

**Ms. Manickchand:** Sir, I ask that clause 51 be amended as proposed in the Report.

*Amendment put and agreed to.*

*Clause 51 as amended agreed to and ordered to stand part of the Report.*

**Clause 52**

**Ms. Manickchand:** Sir, I ask that clause 52 be amended as proposed in the Report.

*Amendment put and agreed to.*

*Clause 52, as amended, agreed to and ordered to stand part of the Report.*

**Clause 53**

**Ms. Manickchand:** Sir, I ask that clause 53 be amended as proposed in the Report because there was a deletion...

**Mr. Chairman:** There was a re-numbering.

**Ms. Manickchand:** There is a whole...

**Mr. Chairman:** We better do the re-numbering here Hon. Member; re-numbering should be an amendment.

**Ms. Manickchand:** Okay, Sir.

**Mr. Chairman:** I see when you have a re-numbered clause you move that it be amended as proposed in the Report, because you have clauses such as clause 55 which just says re-numbered as clause 54.

**Ms. Manickchand:** What I was saying is that because they are all amended, I was thinking that you can propose from clauses 50 to 66 and then I move that they all be amended as proposed, and then you put it to us.

**Mr. Chairman:** We are at clause 52 now.

**Ms. Manickchand:** Yes sir.

**Mr. Chairman:** So we will do from clause 52 to...

**Ms. Manickchand:** Clause 67.

**Mr. Chairman:** Right to the end?

**Ms. Manickchand:** To Clause 67 Sir. So, you can do from Clause 52 to 67 and then I have to move that they be amended as proposed, and then you put your question, and then we move on to Clause 52 to 67.

*Clause 52 to 67*

**Mr. Chairman:** Hon. Members I propose the question that clauses 52 to 67 in relation only to the numbering stands part of the Report.

**Ms. Manickchand:** It is not only in relation to the numbering Sir.

**Mr. Chairman:** We will come back. I am proposing the question that Clauses 52 to 67 only in so far as re-numbering stands part of the Report.

**Ms. Manickchand:** Sir, I move that the amendments as proposed in the Report be accepted.

*Clause 52 to 67 re-numbered and ordered to stand part of the Report.*

**Mr. Chairman:** I propose the question that Clause 52 as stated in the Bill stands part of the Report. You can move the amendment to Clause 52 as stated in the Bill.

**Ms. Manickchand:** If we do not consider the numbering then it is fine.

**Mr. Chairman:** Okay.

*Clause 53*

**Ms. Manickchand:** I move now that clause 53 be amended as...

**Mr. Chairman:** There are no amendments there.

**Ms. Manickchand:** Yes, there is one.

*Amendment put and agreed to.*

*Clause 53 as amended agreed to and ordered to stand part of the Report.*

**Mr. Chairman:** Hon. Member, I ended there, I have no indication thereafter if there are any amendments, so you will now have to guide me through if there are amendments. I have a note up to Clause 54 where the amendments are, I can stop in time to give you chance to make the amendments; I have no further notes.\

**Ms. Manickchand:** I will guide you Sir, I have it.

**Mr. Chairman:** So you have to guide me now.

**Ms. Manickchand:** I will Mr. Chairman.

**Clause 54**

**Ms. Manickchand:** Sir, I ask that Clause 54 be amended as proposed in the Report.

*Amendment put and agreed to.*

*Clause 54 as amended agreed to and ordered to stand part of the Bill.*

**Clause 55**

**Ms. Manickchand:** Sir, I move that Clause 55 be amended as proposed in the Report.

*Amendment put and agreed to.*

*Clause 55 as amended agreed to and ordered to stand part of the Bill.*

**Clause 56**

**Ms. Manickchand:** Sir, I ask that Clause 56 be amended as proposed in Report.

*Amendment put and agreed to.*

*Clause 56 as amended agreed to and ordered to stand part of the Bill.*

**Clause 57**

**Ms. Manickchand:** Sir, I ask that Clause 57 be amended as proposed.

*Amendment put and agreed to.*

*Clause 57 as amended agreed to and ordered to stand part of the Bill.*

**Clause 58**

**Ms. Manickchand:** Sir, I ask that Clause 58 be amended as proposed in the Report.

*Amendment put and agreed to.*

*Clause 58 as amended agreed to and ordered to stand part of the Bill.*

**Clause 59**

**Ms. Manickchand:** Sir, I ask that Clause 59 be amended as proposed in the Report.

*Amendment put and agreed to.*

*Clause 59 as amended agreed to and ordered to stand part of the Bill.*

**Clause 60**

**Ms. Manickchand:** Sir, I ask that Clause 60 be amended as proposed in the Report.

*Amendment put and agreed to.*

*Clause 60 as amended agreed to and ordered to stand part of the Bill.*

**Mr. Chairman:** I propose the question that Clause 61 stands part of the Bill.

**Ms. Manickchand:** We can move on because we have changed the numbering; the number is the only amendment for clause 61. So you can put that we accept it.

**Mr. Chairman:** What about clause 61(2)?

**Ms. Manickchand:** In the change there is no clause 61(2); that becomes clause 62. You can put all the clauses all the way to clause 67; all the number changes will be included.

**Mr. Chairman:** I propose the question that clause 63 stand part of the Bill.

**Ms. Manickchand:** Sir, clause 62 has been skipped?

**Mr. Chairman:** I am reading it as in the Bill, clause 63 as stated in the Bill.

**Ms. Manickchand:** That Bill has to be changed Mr. Chairman, substantially.

**Mr. Chairman:** No, what we are doing are the clauses as stated in the Bill. Clause 61 as stated in the Bill is subject to an amendment. If you look at clause 61 in the Report it states that it is re-numbered as clause 60. Clause 61 has also subsection 1 as unaltered, and clause 61 as in the Bill has an alteration of an amendment to subsection two. We are operating with the numbers as stated in the Bill. So, we move an amendment to clause 61 as stated in the Bill. I propose the question therefore that clause 61 be amended as stated in the Report.

**Clause 61**

*Amendment put and agreed to.*

*Clause 61 as amended agreed to and ordered to stand part of the Bill.*

**Ms. Manickchand:** Does that not become clause 62 now Sir?

**Mr. Chairman:** It does become clause 62 when it is republished in the Act. When it is amended tomorrow it becomes clause 62, but today it is clause 63. It is clause 63 as stated in the Bill before us, that I what we are amending.

**Ms. Manickchand:** Yes Sir.

**Mr. Chairman:** We are amending clause 63 as stated in the Bill before us.

**Ms. Manickchand:** Does it begin with the words "*Nothing in this Act shall be taken*"?

**Mr. Chairman:** I see you probably have it printed out already.

**Ms. Manickchand:** I do.

**Mr. Chairman:** Clause 63, "*Nothing in this Act shall be taken*".

**Ms. Manickchand:** Is that Clause 63 for you?

**Mr. Chairman:** Yes.

**Ms. Manickchand:** Thank you Mr. Speaker. I move that clause 63 be amended as proposed in the Report.

*Amendment put and agreed to.*

*Clause 61 as amended agreed to and ordered to stand part of the Bill.*

**Mr. Chairman:** There are no amendments to clauses 64 and 65 in this Bill. There is an amendment to clause 66.

**Ms. Manickchand:** That is accurate Sir.

**Clause 66**

**Ms. Manickchand:** I move that clause 66 be amended.

*Amendment put and agreed to.*

*Clause 66 as amended agreed to and ordered to stand part of the Bill.*

**Clause 67**

**Ms. Manickchand:** I move that clause 67 be amended as proposed in the Report.

*Amendment put and agreed to.*

*Clause 67 as amended agreed to and ordered to stand part of the Bill.*

**Mr. Chairman:** After clause 67 you need to make an amendment to insert...

**Ms. Manickchand:** To insert a clause 68.

**Mr. Chairman:** The new clause 67 having regards to the amendments which have been made as to the renumbering. So, you propose that at the end of clause 67, as stated in the Bill, to insert a new clause 67 as set out in the Report.

**Ms. Manickchand:** Yes Sir.

**Mr. Chairman:** The above clause 67 having been renumbered to clause 66 in a previous amendment. So, you propose the insertion of a new clause 67 as set out in the Report.

**Ms. Manickchand:** Yes Sir.

*Amendment put and agreed to.*

*Clause 68 to 71 agreed to and ordered to stand part of the Bill.*



**Clause 72**

**Ms. Manickchand:** Sir I ask that clause 72 be amended as proposed.

*Amendment put and agreed to.*

*Clause 72 as amended agreed to and ordered to stand part of the Bill.*

**Clause 73**

**Ms. Manickchand:** Sir I ask that clause 73 be deleted.

*Deletion put and agreed to.*

*Clause 73 agreed to and ordered to be deleted.*

*Clause 74 to 77 renumbered and ordered to stand part of the Report.*

**Ms. Manickchand:** No Sir, clause 74 has an amendment; the addition of (d).

**Mr. Chairman:** The new clause 77, which is the old clause 78?

**Ms. Manickchand:** Yes Sir.

**Clause 78**

**Mr. Chairman:** I propose the question that clause 78 as stated in the Bill stand part of the Bill.

**Ms. Manickchand:** I ask Sir that that be amended as proposed. So that will be the new clause 77 and the old clause 78.

*Amendment put and agreed to.*

*Clause 78 as stated in the Bill agreed to and ordered to stand part of the Bill.*

*Clause 79 to 82 re-numbered and ordered to stand part of the Bill.*

**Clause 82**

**Mr. Chairman:** Hon. Members I propose the question that clause 82 as stated in the Bill stands part of the Bill.

**Ms. Manickchand:** Sir, I ask that clause 82 as stated in the Bill be amended as proposed.

*Amendment put and agreed to.*

*Clause 82 as amended agreed to and ordered to stand part of the Bill.*

*Clause 83, 84, 85, 86, 87, 88 and 89 amended as proposed and agreed to and ordered to stand part of the Bill.*

**Mr. Chairman:** Thank you for your patients.

**Ms. Manickchand:** Thank you very much Sir.

**Mr. Chairman:** We have to find a less painful way to do this on the next occasion.

*Assembly resumed*

**Ms. Manickchand:** I wish to report that Bill No. 29 of 2009, Custody Contact Guardianship and Maintenance Bill have been considered clause by clause in committee. There has been some amendments made, and I ask that the Bill be read a third time taking into consideration those amendments made.

*Question put, and agreed to.*

*Bill read a third time*

## **MOTION**

### **OBSERVANCE OF COMMONWEALTH DAY**

**Mr. Hinds:** Mr. Speaker and Hon. Members I rise to speak to and to move the motion standing in my name, Observance of Commonwealth Day 2011 which will be observed on March 14<sup>th</sup>, the second Monday in March. The Commonwealth today is an association of fifty four independent sovereign countries that support each other and cooperate towards realizing shared goals in democracy and development. The newest member to the commonwealth is Rwanda, having joined this association on November 29<sup>th</sup> 2009.

The start of this new era of the Commonwealth is often put at the London declaration in April 1949. Today we all feel very warm about the Commonwealth, but we are aware that it has its origins in the old British Empire; at other times when we speak about Empire we tend to have somewhat negative sentiments. It is a fact that even in nature, certain relationships that may start out as parasitic relationships often develop into relationships of mutual benefit and even

into symbiotic relationships. I would hazard that that has occurred here with our Commonwealth in its transition from a British colonial empire to the Commonwealth we know today.

We are just over sixty year today after the establishment of this new era, commonwealth. It can be unequivocally argued that it remains a vibrant and relevant body. This is based primarily on the following facts; its membership has grown over the years, it remains full engaged in global debates and it challenges to development, particularly those faced by small States on issues such as climate change, food security and international financial liquidity which affects its members especially small and developing States; thirdly, its provision of technical expertise to Member States. Maybe, just let me observe that depending on which document you read, some two or three of the current fifty four members were not fully members of the British Empire at an earlier time. I think Namibia, Cameroon and Rwanda.

Guyana has been a member of the Commonwealth since May 1966. The Commonwealth has consistently supported and promoted its principles and core values of international peace and security, democracy, human rights, tolerance, respect and understanding, the rule of law, freedom of expression, development, gender equity, access to health and education, good governance, separation of powers, inclusion of civil society in nation building. In 1989 the Commonwealth Heads of Government meeting in Langkawi, Malaysia issued a declaration on the environment in which they pledged their full support to the UN conference on the environment which was to be held in Rio de Janeiro in 1992. At the Malaysia meeting the late President Desmond Hoyte bequeath to the Commonwealth and to the International Community as a whole 371 hectares of virgin rainforest in the Iwokrama region for a project to develop and demonstrate methods of sustainable use of tropical rainforest by conserving biological diversity. The Government of Guyana has continued to support this initiative and has continued to receive the support of the Commonwealth Secretariat towards this objective. Through its Low Carbon Development Strategy adumbrated and advocated by our current president His Excellency Bharrat Jagdeo, Guyana has moved forward in the fight against climate change. We acknowledge the work which the Commonwealth is doing in supporting the efforts of the international community to combat this threat to the world.

The Commonwealth has given a high degree of support to the Government of Guyana to assist us in the preservation of democracy and building of democratic institutions and in confidence building measure. We are appreciative of the role which Sir. Paul Reeves has

played in this regard subsequent to our 2001 elections. Even earlier, we appreciate observers being sent to our elections in 1980 and 1985, I think there were single observers on those occasions, and then we had the large number of observers in 1992 which brought about a change in our situation here in Guyana.

The Commonwealth of Nations celebrates Commonwealth Day each year under a different theme. The Commonwealth Day with its theme gives Guyana and other Commonwealth members the opportunity to promote understanding on global issues, international co-operation and the work of the Commonwealth's Organizations which aim at improving the lives of its 2.1 billion citizens. This year's theme "Women as agents of change" gives Commonwealth member country the opportunity to salute women for their contribution to families and to socio-economic and political development. They have worked beside the opposite gender in several fields of endeavour and of public, private service and partnership and due recognition should be paid to their role in the moulding of the family and the communities and countries in which they live.

The Commonwealth Day theme chosen this year comes against the backdrop, that by investing in women and girls we can accelerate social economic and political progress. Women and girls constitute over half of the world's population. In the Commonwealth that is over one billion people. The Commonwealth believes that by educating women and girls and giving them accessible health care and ensuring that they enjoy fair treatment and have the same opportunities and protection as men and boys we can go a long way towards addressing prevailing global challenges. Women and girls need to be included at all levels of decision making to ensure that their needs are properly met.

*6.58 p.m.*

The theme also echoes a major call from the 2009 Commonwealth People's Forum in Trinidad and Tobago, which highlighted that gender equality is viewed, not only as a goal in its own right, but also as a key factor in enhancing democracy and peace, eradicating poverty and violence against women, ensuring education for all, improving maternal health, reducing child mortality, and combating HIV and AIDS.

The Commonwealth theme coincides with the International Women's Day Centenary Celebration held just a few days ago on 8<sup>th</sup> March under the theme of "Equal Access to Education, Training and Science and Technology – Pathways to Decent Work for Women".

It heralds the transformative roles women can and do play in making the difference in the lives of others, and highlights opportunities where more can be done to allow women and girls to reach their full potential.

The Commonwealth has reaffirmed its commitment to the advancement of women across the Commonwealth family by:

- (a) Promoting women's participation and representation in democratic processes, leadership and decision making;
- (b) Promoting the development of gender responsive laws, judicial processes, customs and practices in keeping with accepted human rights standards;
- (c) Building awareness among finance ministers and non-government partners on the gender impact of economic and financial policies;
- (d) Enhancing integration of gender related issues in HIV interventions through advocacy, research and information dissemination;
- (e) Continuing the advocacy for gender analysis in all spheres: in trade, negotiations, including providing practical assistance to governments in negotiating international trade agreements that support gender equality; and
- (f) Supporting the realisation of the MDGs through the Commonwealth Human Development Programmes in education, health, gender and youth.

The Commonwealth Plan of Action for gender equality 2005 – 2014 provides the framework within which the Commonwealth intends to promote its commitment for gender equality. The Commonwealth's abovementioned plan reinforces the association's commitment to realising the MDGs and to working with the international community in implementing decisions emanating from UN initiatives that support gender equality such as:

- UN Women, which was only established in March, 2010;
- The Beijing Declaration and Platform for Action;
- The Commission on the Status of Women;
- The Convention on Elimination of all Forms of Discrimination against Women (CEDA).

Efforts by these bodies to empower women and pave the way for a greater sense of gender equality cannot be overemphasised.

Guyana is appreciative of the Commonwealth's efforts and support for projects through the Commonwealth Youth Programme such as the Commonwealth Youth Credit Initiative, launched in 1996, and the Commonwealth Youth for Positive Living, launched in 2003. These programmes have provided young people, irrespective of their gender, the opportunity to be empowered, to develop their potential, creativity and skills, as productive and dynamic members of their societies. A significant number of young women have benefitted from these programmes. Young men and women are able to fully participate in these programmes at every level of decision making and development, both individually and collectively.

At the national level, collaborative efforts are being made by the Government to address many issues affecting women. The Ministry of Labour, Human Services and Social Security has overall responsibility for women's rights, their promotion and protection. The Women's Affairs Bureau, which is part of this Ministry, provides technical support on issues relating to women's rights.

The Constitution of Guyana provides for the equality of women in all spheres of political, economic and social life. It also condemns and points to the illegality of all forms of discrimination against women, on the basis of gender and sex. The revised Constitution of Guyana reinforces Guyana's commitment to women's rights, their promotion and protection, vis-a-vis the Constitutional Human Rights Body, and the Women and Gender Equality Commission. As a result of constitutional amendments and electoral laws, the rights of women to participate in the country's public affairs are guaranteed.

In terms of the education system, females enjoy the right to access education and educational opportunities. Testimony of this is the high number of females who graduate from secondary and tertiary institutions every year. Indeed more of our young ladies graduate from secondary and tertiary institutions than our young men.

The Government of Guyana values the roles of our women, and continues to work towards attaining all the millennium development goals by 2015 which it views as pivotal to overcoming many of the challenges women face. The Government has so far attained significant achievements in the MDGs relating to education, health, gender equality, poverty eradication, and particularly in reducing mother to child transmission of HIV/AIDS.

The Government of Guyana has revamped the legislative protection afforded to women and children, and have waged an unprecedented war against such social ills as domestic violence,

and launched national single parent and foster care programmes that target assistance to the most vulnerable; particularly vulnerable women in our society, who have been able to benefit from several initiatives in 2010.

The Government of Guyana will continue to work to improve the lives of young women, particularly vulnerable women, and will continue to promote women positively as agents of change. Women need to be empowered, and governments need to do their part to facilitate the realisation of women's empowerment and gender equality.

We endorse the calls being made by the Commonwealth, and the wider International Community, for continued effort to be made by all governments for the successful implementation of gender related initiatives, policies, and appropriate legislative framework.

To quote from the Secretary-General's statement on the Centenary of International Women's Day:

“Gender equality is crucial to several key development goals, promoting economic growth and accountability in the management of public goods and services, eradicating poverty and stimulating economic empowerment for marginalised groups, enhancing democracy and peace, eliminating discrimination and violence against women, ensuring education for all, improving maternal health, reducing child mortality, combating HIV/AIDS. It is also vital to health and education.

The world must summon both the political and the financial will, to honour its commitment, to deliver real progress in improving the lives of women and girls around the globe.”

Hon. Members, in keeping with the Commonwealth's continuing relevance, the Commonwealth Eminent Persons Group was established by the Commonwealth Heads of Government, at their meeting in Port-of-Spain in November, 2009, with the aim of sharpening the impact, strengthening the network, and raising the Commonwealth's profile. Guyana is represented on the Commonwealth Eminent Persons Group by Sir Ronald Saunders. The Group's Report will be presented to Commonwealth Heads of Government at their meeting in Australia later this year. Guyana remains sincerely appreciative for the support received from the Commonwealth, and reaffirms its commitment to the Association's ideals, and to working towards realising the common good.

Mr. Speaker, Hon. Members, I have given, maybe just a brief synopsis of all the relationships we have with the Commonwealth. No doubt we are all aware of our participation as Members in this National Assembly and in the CPA – one of the organs of the Commonwealth. And we are aware too of a programme which we have in place for next Monday to Wednesday. I have no doubt, therefore, that all the Members of this Hon. House will support the motion on the table today. I thank you. [Applause]

**Mr. Norton:** Mr. Speaker, no one will doubt that the Commonwealth has made a significant contribution to the development of international relations in the world. Ever since its formation in 1949 the Commonwealth has been making that contribution, the Member States have been contributing, and by 1971 the Commonwealth had produced the Singapore Declaration of Commonwealth Principles. This was a critical document because it defined core value of the Commonwealth, and it established the kind of States that were expected in the Commonwealth, and the kind of organisation the Commonwealth itself will be.

It would be remiss of me if I do not recall that in 1975, at the Commonwealth Heads of Governments meeting in Jamaica, the then Prime Minister, Linden Forbes Sampson Burnham, presented a keynote speech entitled, *“In Cause of Humanity”*. That speech was fundamental in placing the question of the new international economic order on the international agenda. Today, while the name would have changed, many of the issues are still relevant.

By 1989 we had seen the end of the cold war and again the need arose for the Commonwealth to redefine its position. That was effectively done by the 1991 Harare Commonwealth Declaration. I therefore submit that the Commonwealth has been an organisation that has adapted to the times, and has remained relevant. For this, I believe, we should congratulate the Commonwealth and ourselves.

Mr. Speaker, no one will doubt the significant role that was played by the Commonwealth. Even when there were those who believed that non-alignment was not useful, and lacked the ability to recognise that the wholesale alignment to a superpower was not in Guyana’s interest, the Commonwealth had declared in its Singapore Declaration of 1971 that, and I quote:



“Membership of the Commonwealth is compatible with the freedom of Member Governments to be non-aligned, or to belong to any other grouping, association or alliance.”

This posture has indubitably contributed to the fostering of a world in which freedom of association is a core principle of international relations. The Commonwealth as an organisation has correctly declared, and I quote:

“We believe that international peace and order, global economic development, and the rule of international law are essential to the security and prosperity of mankind.”

More importantly, at a time when the UN’s usefulness was being questioned, the Commonwealth decisively declared, and I quote:

“We believe that international peace and order are essential to the security and prosperity of mankind. We, therefore, support the United Nations and seek to strengthen its influence on peace in the world, and its efforts to remove the causes of tension between nations.”

The Declaration was very important to small and vulnerable nations such as Guyana. It occurred at a time when we needed the cover of the United Nations and multilateralism to be able to pursue our interests. It is in this context that I wish to pay homage to the Commonwealth as we approach 14th March, Commonwealth Day, 2011.

The PNCR-1G wishes to congratulate the Commonwealth and to place on record our belief that it has contributed significantly to the struggle for development of a world that operates based on respect for diversity, respect for international law and the promotion of sustainable development globally.

Probably the most important contribution the Commonwealth has made is the declaration of the core values that should guide Commonwealth states. I refer to the Singapore Declaration of Commonwealth Principles of 1971. These principles are the backdrop against which we must discuss this motion.

Before I actually discuss the motion, I just want to make a correction. I note in the motion it says fifty-three (53) states, but in fact it is fifty-four (54).

I want to also point out that the People's National Congress Reform has no problem with preambular paragraphs one to eight. We can live with them. However, we need to look at preambular paragraph nine which states and I quote:

“AND WHEREAS Guyana has not only been a recipient, but it has played an important role in promoting democracy and women's rights, as well and contributed with progressive positions on poverty reduction, and to the international debate on equitable trade relations and climate change.”

We in the People's National Congress Reform cannot and will not see this as a totally true statement - the important role in promoting democracy. For us to accept this we have to put it against the backdrop of democracy.

One of the critical elements of democracy as I understand it, and as Hon. Nandlall will accept, is the rule of law. And by that we simply understand that actions and decisions taken in the society must be based on law. I submit if that is true, that all the actions taken by the State to its citizens, etcetera, should be based on law then Guyana cannot be promoting democracy. I make the clear position that the Government of Guyana has no respect for law.

I want to say I talk and work with young people and ask them: Do you know what is an arrest warrant? Not one young person knows what an arrest warrant is. They believe that is correct for the police to walk into your house, kick down everybody and arrest whom they want. In a democracy, law stipulates that there should be an arrest warrants. In Guyana there is no use of an arrest warrant or little if any. And Mr. Neendkumar can say what he wants, his children are within the sanctity and protection of the State, but if they were in Albouystown or Agricola you would have spoken differently when the police “*bruk down the door and come in*”. So your silence is welcome.

You cannot say a society is a democratic society when it is criminalising the youths. I want it to be made clear that I am not here criticising the police; I am criticising the political direction that is given to the police by the Government. We have a situation in which, daily, people complain of unwarranted arrests. I live in the village of Plaisance and the youths can tell you that they are picked up, placed in the lock-ups, no charge is made then they are sent home. [Interruption: It is irrelevant whether it happened under the P.N.C or not. If it did, you claim to be a better Government, you must change it. You are saying you are a democratic society, therefore, promote democracy. That is what I am saying].

Unwarranted arrests of young people throughout this Country, has to stop. The Minister of Home Affairs must act to ensure policemen do their work but do not harass communities and criminalise young people. Then we can talk about promoting democracy.

I saw the most ridiculous recently. I was in Linden and the police turned up with their faces in masks. One of them came to speak to me and I said I cannot talk to you, I don't even know who you are; you could be a criminal in a mask. But the vehicle had the word 'police' written on the side. I urge that this practice should end. How could you claim a democratic society and have policemen going around with masks, with only their nose and mouth outside? They could do anybody anything, and nobody knows who would have done the deed. So, I want to say if you are promoting democracy you should be promoting the rule of law.

Police harassment is not restricted to the youths. I live at Plaisance and the police have virtually killed the businesses on the Line Top. They come at 12:00 midnight... [Interruption: It is not supposed to be. I have no problem if it is not supposed to be, but if the police are stopping the businesses at Plaisance when I go down Sherrif Street after 12:00 midnight I must not see that. And here is where the problem lies. No one is saying that the police must not implement the law but they must implement it impartially]) The fact of the matter is, the police men tell you, "we cannot do anything, we get a directive." My argument here is simple and straight forward, Young Kumar; I have no problem if the police are going to enforce the law. But the selective enforcement of the law that is crippling businesses in places like Plaisance and Buxton, etcetera, must stop. That is the point. And I challenge anyone of you who sit on that side to come and verify that as a matter of fact. So, I want it to be made clear, that in a democratic society the law is applied evenly and independently.

I suggest... [Mr. Neendkumar: Ask Grainger what happen to him in Nigeria.] He saw a monkey like you. ...and it is compounded by the fact that when we expect a certain level of statesmanship, a certain level of leadership, in a democratic society, that if the President goes to address the Guyana Police Force he will say to them, one, improve your investigative capacity so that you can properly investigate matters and bring people to justice. I will say to you that I expect that the President will say, get convictions based on the law.

**Ms. Teixeira:** Mr. Speaker, the Member should refer to the Standing Orders 41:

"The President's name should not be used to influence the Assembly."

**Mr. Speaker:** Hon. Members I do not know... at the meeting of the Executive Committee of the Commonwealth Parliamentary Association, it was agreed by both Government and Opposition that a motion will be put forward of such a nature that it can attract the support of both sides of the House. I have been looking at the allegedly offending clause.

“AND WHEREAS Guyana has not only been a recipient, but it has played an important role in promoting democracy and women’s rights as well, and contributed with progressive positions on poverty reduction, and to be the international debate on equitable trade relations and climate change.”

It does not say ‘and whereas Guyana since 1992’ it says ‘and whereas Guyana has not only been a recipient...’

First, I cannot stop any member from speaking but, I am very disappointed that on this occasion of Commonwealth Day, contrary to the decision of the CPA Executive Branch, on which both the Government and Opposition are seated, we are going to have a debate of this kind.

Secondly, what the police do and do not do has no relevance to this debate. We are talking about the Commonwealth, and Commonwealth Day. The theme of Commonwealth Day is “*Women as Agents of Change.*” So Hon. Member, I will ask you to bear those remarks in mind when you continue your presentation.

**Mr. Norton:** Mr. Speaker, I must respond to the remarks. First, I would agree that if we agreed there would be a unanimous type of debate – mind you the intention is to support the motion. I believe if you are talking about a consensus motion it should have come before us and we agree on the words. If a motion comes that says something that is in contradiction to Guyana’s reality then it is obligated on me as a Member of the National Assembly to point that out. And that is what I am doing.

**Mr. Speaker:** Well, Hon. Member, if that is your position, I will disallow you from talking about the police, police locking up young people, and police wearing masks. That has nothing to do with this motion.

**Mr. Norton:** The truth of the matter is as I understand it... I want to go to the Commonwealth Principles. You said there is no relationship, but I want to point out that the very principles of the Commonwealth talks about the promotion of tolerance. And I believe if we have a

motion before us it is my task to speak to the clauses of the motion – which I am doing. And secondly, if there is a matter that I consider not to be factual to correct it. What I am simply doing is to establish that there are actions in the society that do not promote democracy.

**Mr. Speaker:** Hon. Member, I am advised that this motion was sent to Mr. Corbin since last year, and despite several reminders we have not had a response from Mr. Corbin to the motion.

**Mr. Norton:** Mr. Speaker, Mr. Corbin is not here to defend himself.

**Mr. Speaker:** Hon. Member, I am the Speaker of the House and I am telling you from the Speaker's Chair. What defence do you expect Mr. Corbin to state?

**Mr. Norton:** I am not making a defence. I merely said he is not here.

*7.28 p.m.*

**Mr. Speaker:** ...that I am lying?

**Mr. Norton:** I did not say that. If you conclude that, I can live with it. But may I continue, Mr. Speaker?

**Mr. Speaker:** Hon. Member, I am asking you... Unless you apologise to me at this moment, I will disallow you from speaking again in this House.

**Mr. Norton:** Apologise for what? Mr. Speaker, I have no problem...

**Mr. Speaker:** If you do not wish to apologise I will move on to the next Member.

**Mr. Norton:** Mr. Speaker, I would like to know, what is it you want me to apologise for?

**Mr. Speaker:** Hon. Member Mr. Trotman.

**Mr. Norton:** Mr. Speaker...

**Mr. Speaker:** Could you switch off his microphone, please?

**Mr. Trotman:** Mr. Speaker, I rise to stand in solidarity with the Hon. Member Mr. Norton. I will not speak.

**Mrs. Backer:** Sir, I have often been at the receiving end...

**Mr. Speaker:** Hon. Member, no prevarication. Just let me hear what you have to say, please.

**Mrs. Backer:** Yes. Thank you very much Sir. I would be very grateful, Sir, if you would be kind enough to indicate to the Hon. Member what are the offended remarks so that they can be withdrawn, Sir.

**Mr. Speaker:** I have no intention of so doing.

**Mrs. Backer:** As it pleases you, Sir.

**Mr. Speaker:** Could you please proceed, Mr. Trotman? The Hon. Member is knowledgeable enough, intelligent enough, to know exactly what I am saying, and exactly what he did, and exactly what offence he has committed.

**Mr. Trotman:** Your Honour, Mr. Speaker, I believe that the intention of this motion has been lost, and I would not wish to compound, except to commit it, and I would expect that it will be passed. I would not say any more. Thank you.

**Mr. Ramotar:** The Commonwealth has certainly changed a lot from what it was when it started in 1949. Today it is playing a very positive role in international relations. It is one of the largest international bodies in the world. It brings together...

**Mr. Speaker:** Could you pause and allow the Members of the Opposition to leave, please?

*Members of the Opposition withdrew from Chamber.*

**Mr. Speaker:** Proceed Hon. Member.

**Mr. Ramotar:** Yes, I was saying that the Commonwealth has certainly changed radically from what it was when it started in 1949, and today it is playing a much more important and positive role in international relations. It is one of the largest international bodies in the world. It brings together fifty-four countries which are populated by almost two billion people. Clearly, such a body, as expected, will have a great influence in our world. One of the features of the Commonwealth today is that its membership includes both developed countries and developing countries - countries such as Australia, Canada, the United Kingdom and small countries in the Caribbean and the Pacific Ocean. It is, therefore, a classic example and a practical forum of North South cooperation. Because of its composition, it has a better understanding of many issues. This helps developing countries in the Commonwealth to project their concerns on the wider international stage. Its composition has

allowed it to evolve a more sensitive approach to the problems of small States, the vulnerabilities that they are exposed to at the hands of many things that are not within their own control. The very financial and economic crisis that we have in the world which was started in the developed countries, in the United States of America, in particular, is a classic example of some of the vulnerabilities that we faced.

In our region, the Commonwealth has sponsored many seminars and it has sponsored many useful studies on the problems of small States, and this began after the invasion of Grenada in 1983. Those studies were, first of all, fundamentally political, but they have since evolved in studying economics and social issues in our country, in the region as a whole, and in many of the other regions of the world.

The Commonwealth also works closely with international bodies, such as the World Bank, to help them, because of its understanding of many of the unique problems that the developing countries faced to evolve strategies to develop in the period of globalisation. It brings its knowledge of the problems of poor countries to bear and, no doubt, influence a lot of those other bodies. It has also provided great assistance to its Members, in particular weak States, with regards to international issues.

The Commonwealth, Sir, has also been a bulwark in recent times in the protection and advancement of democracy. Unfortunately, it seems that my good friend, the Hon. Member Mr. Aubrey Norton from the other side, seems to have totally misunderstood the clause that is here. All that this clause, in my view, is stating is that Guyana, at Commonwealth forums, advocates democratic principles, and support democratic principles, and it has not only received assistance from the Commonwealth but it also, in the forum of the Commonwealth, helped and assisted the Commonwealth in its development. The Commonwealth itself has done a lot. We know, for instance, that there has been a good job; that it has made a weighty contribution in assisting in defending democracy and human rights in many parts of the world, and within Commonwealth States themselves.

In 1979, there was the Lusaka Declaration and at that conference a very strong position was taken on the question of racism and racial prejudice, and at that time, Sir, it was of real vital importance because you would have recalled that the struggling South Africa was reaching a kind of a crescendo. Only in 1975 there was the whole issue of Soweto, the uprising against the Apartheid State, when students rose up in arms, rose up and tried to resist the racial discrimination which was taken place in that country, and fought to try to rid themselves from

it. In fact, it was a major blow to Apartheid South Africa and it was a big development to the struggle in Namibia and other countries in southern Africa. I think that Lusaka Declaration of 1979 was one of the strongest statements that the Commonwealth made and it actually, since then, has set the course for further position that it subsequently took.

Another milestone of the Commonwealth was the Harare Declaration of 1991, building on the Lusaka Declaration. The focus at that time was on democracy and human rights and one of those foci was the whole question of fight for free and fair elections. As it is known, Sir, that declaration in Harare came out on the eve, on the very eve, of the struggle here in Guyana when we made a breakthrough to have free and fair elections, just to mention. That was to bring Guyana back in the family of democratic nation - free and fair elections being the heart of the whole question of democracy and the whole issue of the rule of law, and all other things which come with it. We, again, benefited from the solidarity of the Commonwealth because that was the first time that an electoral observer team was sent to our country to observe the elections. We also benefited because of the danger that our young democracy was placed in, in the post 1997 period. We had a lot of assistance when the Commonwealth sent people here and spent a lot of months in trying to work towards us having some level of reconciliation.

In 1995, in New Zealand, in Millbrook, the Millbrook Programme was developed which was another very important milestone in the sense that stronger mechanism has started to be established to deal with countries within the Commonwealth itself which were violating some of the principles of democracy and some of the fundamental beliefs of the Commonwealth. The Commonwealth Ministerial Action Group (CMAG) was set up to help in the implementation of the Harare Declaration and the principle which was espoused there. Since then the Commonwealth has done a great job in speaking out against violations which took place in some countries. At one time Pakistan was suspended from the membership of the Commonwealth because of the military rules and the coup d'état which took place there. Fiji was suspended and very strong positions were taken about Zimbabwe and Madagascar because of many of the military and undemocratic problems which were taken place. That shows that the Commonwealth has probably gone a step further than many countries in the whole solidarity issue.

The nature of the Commonwealth grouping too, Sir, is extremely important because it offers leaders within the Commonwealth of some fifty-four countries to operate in a more informal



type atmosphere to develop more solidarity, more fraternity, with each other and be in a position to share experiences and learn from each other quite a lot more.

Finally, Mr. Speaker, I just want to touch very briefly on the theme of this year's Commonwealth celebration and that is: *Women as Agents for Change*. Although there are still a lot of inequalities in the world, and among countries, as far as women achievements are concerned, I think it is true to say that the consciousness of the role of women, in advancing not only the economy but advancing the quality of life, the rule of law, the democratic atmosphere and all-round development of the society, is being more and more recognised today.

Therefore it gives great pleasure to associate myself to this motion and to support it fully. Thank you for your attention. [Applause]

**Mr. Hinds (replying):** Yes, Mr. Speaker, Hon. Members, it is to be regretted that the purpose and the intent of the motion has not been achieved. It brings before us again, that there are, maybe, some particular issues to be resolved between our two sides in the National Assembly here. I think of the visit of the head of the Commonwealth, Queen Elizabeth. I think, in 1994, of her visit here, Sir, as you may well recalled, her address to this House. I think too of the dinner that she attended which was hosted by our President, at the time, Dr. Cheddi Jagan and Mrs. Janet Jagan and I thought that what relationship could have been more intensely at odds than that relationship. The Queen, I think, herself, one of her first duties being to sign the ending of our Constitution in 1953, and all the positions that might have been taken, over that long time, and coming and sitting together. It has been my hope, Sir, maybe, that that example may not be lost upon us, whilst the developed countries, Great Britain and United States of America, acted in concert and supported that long period when we did not have free and fair elections here in Guyana. If steps could be taken to re-establish there, then there is a challenge for us here in Guyana to find the steps to reconcile and close that gap.

Mr. Speaker, it is just to note that we can still retain hope. We know that the Commonwealth evolved from the British Empire and, as I said in my presentation, we all feel very warmly about the Commonwealth and we do need to sing its praises, but it did evolve from the empire from which we have such other negative sentiments – slavery and indentureship and so on. But it has evolved and transformed. It would remain in my hope that our relationships in Guyana, too, would some day find the route to evolve and transformed.

I would just like to refer to also a particular presentation made by our President some, maybe, eight years ago calling for small steps, confidence building step. I think that it would have been the hope of our party and the Government that this occasion may have been another one of such when a small confidence building step might have been taken in reconciling our past differences and creating a new situation where we can differ and debate, and debate intensely, but still be conscious of being Guyanese all together working for the benefit of all Guyana. Mr. Speaker, I would like to move that the motion be put to the House. I thank you. [Applause]

**Mr. Speaker:** Thank you Hon. Member. Before I put the motion, Hon. Prime Minister, some years ago, I do not remember exactly when, the Commonwealth Heads of Government, including the Guyana Government contributed to the Latimer House Principles. Unfortunately, I have not heard it mentioned by any of the speakers. The Latimer House Principles form the foundation which captures and encapsulates the basic fundamental principles of a modern Parliament, as we understand it, and as we, in Guyana here, have been striving to achieve, not completely, not fully, but we have been trying to get there. The Latimer House Principles are a body of principles that Commonwealth Parliaments are guided by and hold up as the principles which they must follow in the organisation of their work, and I just think that is an extremely important point that we, in this House, should not miss. Thank you Hon. Member.

*Question put, and agreed to.*

*Motion carried.*

## **ADOPTION OF THE ELEVENTH REPORT OF THE COMMITTEE ON APPOINTMENTS**

**BE IT RESOLVED:**

That this National Assembly adopts the Eleventh Report of the Standing Committee, to address matters relating to the appointment of Members of Commissions established under the Constitution, and signify to the President that Justice Prem Persaud (retd.) has been nominated in accordance with Article 198 (2) (b) of the Constitution, to be appointed a Member of the Judicial Service Commission.

*[Ms. Gail Teixeira, Chairperson of the Committee on Appointments]*

**Ms. Teixeira:** Thank you Mr. Speaker. I would not delay you too long except for the record to say that it is a great pleasure to produce the Eleventh Report of the Committee on Appointments on the nominee for the Judicial Service Commission. Mr. Speaker, allow me to just extract from the Report a very important issue just for the record.

The Judicial Service Commission term of office expired in December, 2010 and in anticipation of this, the Committee on Appointments started looking at the Service Commissions, including the Judicial Service Commission (JSC) around March, 2010. The Committee had written to the Guyana Bar Association, the Guyana Association of Women Lawyers, the Guyana Association of Legal Practitioners, formerly the Berbice Bar Association, seeking their nominees in April, 2010 and these were the same groups which were brought when the Committee did the 2007 nomination. In the first round, two nominations were made, one of which we found was ineligible according to the Constitution, in that the Constitution makes it clear that a person cannot sit on the JSC who is an Attorney-at-law in practice and therefore the Committee had to write the Guyana Bar Association and the Guyana Association of Women Lawyers advising them of same.

The Committee then subsequently decided to ask them to submit more nomination, which they did. Two more persons were submitted. In December it asked, as the Committee was uncertain of any of the nominees, the one from the Guyana Association of Legal Practitioners and the two from the Guyana Bar Association and the Guyana Association of Women Lawyers, whether, in fact, they have consulted and given their approvals. So in December, it wrote saying, could the three persons declare their availability to serve? Two persons wrote and said that they were not available to serve, therefore leaving with one nominee. The Committee then, in March this year, one year later, decided that enough time has been spent. The Constitution allows it to provide one or two names, no more than two names, and therefore it presented the name of Justice Prem Persaud (ret'd.). There was a view of the Opposition that it should go again, in a third round, to the legal associations. By vote, the Committee agreed that enough time has been spent; consultations have gone on and that it proceeded to nominate the name of Justice Prem Persaud to the President for appointment as a member of the Judicial Service Commission, so this body could continue to operate in an

effective manner. I therefore ask that the Report be adopted and the nomination of Justice Prem Persaud (retd.) be accepted by this House. Thank you.

*Question put, and agreed to.*

*Motion carried.*

## **ADJOURNMENT**

**Mr. Hinds:** Mr. Speaker, I move that the House be adjourned to a date to be fixed.

**Mr. Speaker:** Thank you Hon. Member. The House is adjourned to a date to be fixed.

*Adjourned accordingly at 7.53p.m.*