

# 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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165<sup>TH</sup> Sitting

Thursday, 15<sup>TH</sup> September, 2011

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*The Assembly convened at 2.24 p.m.*

*Prayers*

*[Mr. Speaker in the Chair]*

## **PRESENTATION OF PAPERS AND REPORTS**

The following Papers were laid:

- (i) Financial Paper No. 5/2011 – Supplementary Estimate (Current) totalling \$1,366,973,851 for the period 31<sup>st</sup> August to 14<sup>th</sup> September, 2011
- (ii) Financial Paper No. 6/2011 – Supplementary Estimates (Current and Capital) totalling \$1,951,698,983 for the period ending 31<sup>st</sup> December, 2011

*[Minister of Finance]*

**Minister of Finance [Dr. Singh]:** I further wish, with your permission, to name next Thursday, 22<sup>nd</sup> September, 2011 as the date for consideration of the said two Financial Papers.

## **PUBLIC BUSINESS**

## **GOVERNMENT BUSINESS**

## **BILLS – SECOND READINGS**

## **ACCESS TO INFORMATION BILL 2011 – BILL NO. 10/2011**

A Bill Intituled:

“AN ACT to provide for setting out a practical regime of right to information for persons to secure access to information under the control of public authorities in order to promote transparency and accountability in the working of the Government and public authorities and for the appointment of the Commissioner of Information.”  
*[Prime Minister and Minister of Public Works and Communications]*

**Prime Minister and Minister of Public Works and Communications [Mr. Hinds]:** Mr. Speaker, Hon. Members I rise to move the second reading of the Access to Information (ATI) Bill, No. 10 of 2011. In so doing I shall speak on the Report of the Special Select Committee to which this Bill was sent after its first reading.

It is not the case that no information has been accessible to interested members of the public before – far from it. Much information is available on the websites of various Ministries and agencies on request, also in the process of spending - during the budget presentation and the subsequent reviews by the public accounts committee; in the advertisements for tenders and in the subsequent opening of the tenders; in the weekly press conferences by the Head of the Presidential Secretariat on Cabinet’s doings and decisions. There is also much information that is already statutorily required and provided like annual reports.

Mr. Speaker, Hon. Members, criticism of the Access to Information enjoyed by citizens hitherto is that it is not as a right, and may depend much on the particular Government Minister or Public Official. But there is need for a codification of every citizen’s right to information. It would be good, I think, to see what really is the difference between what has been available hitherto and what is required in the various Freedom of Information Bills.

On this broader question of citizens’ right to information, it is appropriate for me to note that this Bill is in accord with Article 146 of our Constitution and Article 19 of the Universal Declaration of Human Rights.

Whilst the term ‘Freedom of Information’ is what some would have preferred as the name of this Bill, what is important is the setting out of a practical regime of right to information which, in its long title, is what this Bill is. This Access to Information Bill is a freedom of information Bill in practice.

Mr. Speaker, Hon. Members, allow me to refer here to the Report of the Special Select Committee. This Bill was published on 14<sup>th</sup> June and read for the first time on 17<sup>th</sup> June when it was committed to the Special Select Committee. The Members of the Special Select Committee were nominated at a meeting of the Committee of Selection on 30<sup>th</sup> June, 2011. Members were appointed from both the Government and Opposition benches, and yours truly was elected Chairman. Members for both sides were attending meetings until 10<sup>th</sup> August from which time only the Hon. Raphael Trotman was attending from the Opposition bench.

The Committee met on 10 other occasions; twelve in all. The Committee agreed to present this Report at its 12<sup>th</sup> Meeting on 24<sup>th</sup> August. The Committee quite early agreed to invite written and oral submissions, with the deadline for the written submissions being extending on three occasions, and the date for oral presentations is being set twice.

Ten written submissions were received but one of those had nothing to do with ATI, so we could say nine written submissions were received on the Access to Information Bill. Three of those nine written submissions were followed up with oral presentations.

This Bill is in six parts and has fifty clauses. Thirty clauses have been unaltered and twenty were altered during the process of the Special Select Committee. In the Report of the Committee there is a table listing the clauses and showing the changes and alterations which were made.

There were no major changes in principle, purpose or intent. The amendments were mainly of the sort to clarify what was intended, to remove ambiguities, some typos and layout issues.

In this Bill, Part I, Preliminary, includes clauses 1 to 4. Clauses 2, 3, and 4 were subject to minor amendments. Clause 2 states the object of the Act, and clause 4 the application of the Act.

There has been some contention about the President being excluded from access to information. This we believe flowed from some misunderstanding of what the Act states.

The Act states thus,

“This Act does not apply to –

- (a) the President provided that the functions of the office of the President shall not be exempt for the purposes of this Act.

So the understanding is that the President, as a private person, is excluded but the Office of the President is not exempt from this Act.

In Part I, we had arising in clause 2, which is the interpretation clause, in the first instance one of the major points of discussion on this Bill. That is the question of application of the Act. The definition for 'official document', which comes under this Act, is a document created after the commencement of the Act. There was quite a bit of discussion about this. On the one hand there were some who felt that some means should captured to include information that has been available even before the commencement of this Act. On the other hand, with the commencement of this Act, there are requirements for filing, storage of information, making it available, listings of information and so on, which may not have been followed hitherto. It was decided eventually that we would stay with what is written in the Act as presented. So 'official document' would apply to documents created after the commencement of this Act. This in no way excludes by itself, by that fact, information which would have been otherwise available before the commencement of this Act.

Part II speaks to the Commissioner of Information. Clauses 5 through 7 speak to the appointment, removal, and powers of the Commission. Here there were some differences in views. There were some who thought that there should be a commission appointed in the same way as, say, a rights commission or such, but we held to our view that the Government sees the Commissioner, his office and supporting staff, as a functionary of the Government – somewhat like a Permanent Secretary. We do not share the sentiments of some that the Commissioner and Commission should be established like a Rights Commission.

In clause 6, Removal of the Commissioner of Information, we agreed to remove the term 'in the opinion of the President' for various criteria by which the Commissioner may be removed as there are generally accepted tests so there is no need to bring the President into play.

Part III speaks to the Publication of Certain Documents and Information. It covers from clauses 8 through 11. In clause 8 the Commissioner of Information shall as soon as practicable after the commencement of the Act cause each public authority to publish particulars of its organisation and function, the categories of documents maintained and procedures to access same and so on.

Clause 9 speaks in more detail to categories of documents to be available for inspection and purchase.

Clause 10 speaks in more detail to each public authority publishing an index specifying the documents which are in the possession of the public authority.

In Part III we get to the practical questions of implementing this Access to Information. It starts with the Commissioner of Information making the public aware of the kinds of information that would be kept by the various public authorities which would be available and indexes are published.

In Part IV, the Right of Access to Information, clauses 12 through 26 speak to the procedures for requesting and accessing documents. Clauses 25 and 26 speak to requests being refused in certain cases and grounds for the refusal to grant access.

In Part V, the part that generated most interest, the categories of documents which would be exempt are specified.

Clauses 27 through 38 speak to exempt documents, that is, documents which are exempted from release at the current time.

We think that the categories of exempt documents are all reasonable. For example, Cabinet documents, other than Cabinet decisions, information likely to prejudice defence of the State, some international relation documents, general internal working documents, which are related to trade secrets, legal professional privilege and personal privacy and so on.

Clause 38 spells out certain cases in which access to exempt documents may be granted. I would say here, that generally even for exempt documents, exemption ends after twenty years or such time as any specific law may specify. So all documents could be expected to become available in 20 years, except where there are some specific laws which may specify otherwise.

Part VI, Miscellaneous, clauses 34 through 50 speak to a number of things as the name miscellaneous implies. In one of those clauses members of the public would have the opportunity to correct inaccurate personal information. In another, the media is protected, not required to disclose or expose their source of information. In yet another of those clauses the Minister is required to have an annual report prepared on the workings of this Act and to lay this report in the National Assembly.

Mr. Speaker, Hon. Members, we think that with the passage of this Bill we are retaining a particular requirement to come into accord with the requirement of our Constitution as stated

earlier. We will come into accord with Article 146 of our Constitution and Article 19 of the Universal Declaration of Human Rights. I do think that when this Act is brought into being there will still be lots of work required to make it effective. Systems will have to be established and coordinated all across the Government and the Public Agencies for consistent ways of filing and retaining documents, both with respect to the systems of filing and the retrieval of documents. I have no doubt, that this is a necessary first step and that in soon time we would have an effective, functioning system in our country where citizens could have access to the information that the Government uses in its work. A number of commentators say the works of the Government is the work for the people and therefore should be accessible to the people.

I would like to urge that we all in our current situation and there is no question about it - that we will all support the second reading of this Bill. I thank you.

**Ms. Teixeira:** Mr. Speaker, I think it is very auspicious as we are coming nearer to the end of this Ninth Parliament that some very important pieces of legislation are being completed. Most interesting of all is the Access to Information Bill. This Bill really adds another layer of the governance architecture for Guyana in terms of our Human Rights and our democratic institutions. It is to the benefit of all Guyanese.

The Prime Minister presented a number of issues in relation to the Bill itself. I think, one of the important things is for us to put things in the context of Guyana in 2011. This Bill, you may be well aware, has taken a pattern from a number of other pieces of similar legislation - from Canada, United States, India, Jamaica, Belize and Trinidad & Tobago. Canada's Bill came in the 1980s, but Trinidad's Bill came in 1999. So we have looked at the various pieces of legislation in terms of how they dealt with the issue of the 'Right to Access to Information. Each country tried to adapt to their reality, their ability to deliver and so forth.

One of the important issues of the Guyana Bill is that it goes a step further than a number of other Bills, in terms of putting obligations on the Government, which does not exist in a number of other legislations.

I will just pause for a minute and go back to the fact that Mr. Trotman tabled a Bill here which was dated 2006, but it was not published and laid in this House until November 2010. I see the press sometimes saying there is a Freedom of Information Bill lying here since 2006. It has not been lying here since 2006. It was tabled in, I think, November, 2010. However,

that Bill is the exact replica of the Trinidad & Tobago Freedom of Information Act. All that has changed in a few places is that Guyana replaces the words Trinidad & Tobago. This present Bill is not a duplicate of any Bill. It is an attempt to take what is the best from the various pieces of legislation and to see what is applicable in Guyana.

One of the important issues of the Bill is in clause 3 which speaks to the general rights of access to information in a documented form. The Bill defines what a document is. A document according to our legislation, the Evidence Act and everything else, refers to what could be books, maps, plans, graphs, drawings, photographs, disc, tape, soundtrack or other device in which sound or other data is included, any film, negative, tape, and the list goes on. A document is not just referring to paper documents or what would be accessible in a written form. It also refers to audio visual documents as in compliance with our statutes to do with Chapter 5:03. It also includes copies of records in machine readable form as well as digitalised form. The definition of document and access to documented information, which clause 3 refers to, is extremely broad and allows for the public to have access to a variety of information in a variety of medium.

Clause 3 is an important clause. It was taken from the Trinidad Act. I quote:

“making available to the public, information about the operations of public authorities and, in particular, ensuring that the authorisations, policies, rules and practices affecting members of the public in their dealing with public authorities are readily available to persons affected by those policies, authorities, rules and practices.”

It is very important that the object of the Act is clearly defined. In a number of legislations we looked at this was not the case. And, therefore, the attempt by the Government not only to make clear the objective of the Act but also to ensure that at an administrative level, when we come to clause 13, that is it not only said the public has a right to information but go on to place obligation on the Government. I will use this because the public may not be reading the Bill.

One of the important things is that after the commencement of this Act every authority shall maintain its records in whatever form – digitalised etcetera – within a reasonable time and connect it to a network all over the country, on different systems, so access to such records, which are open to access, is facilitated. We also included in the Bill, which was not originally there, the definition of what is top secret, secret, confidential, restricted or general. Any

information considered general is accessible. What may be top secret, confidential or restricted have various levels of exemptions or procedures to access.

*2.54 p.m.*

The Bill, I believe, is an important one for Guyana. I remember, when in talking to Mr. Trotman when he tabled his Bill, that the tabling of the Bill was not the only thing. It was to make sure that Guyana has the capacity..., and it brought itself into a situation where the sides of the rights of the access to information were being addressed. One, with a regulatory framework by law and then the other side of the coin, and that is the actual capacity of the State to be able to produce and provide records in a timely manner.

In this Ninth Parliament, I think, everyone - the Speaker and all Members of Parliament (MPs), the Clerk and everyone - should congratulate oneself for some of the work done in this Parliament. The volume of annual reports that have been tabled by the various Ministries and State agencies is an important milestone for this Government, because it is in the annual reports that information is available for the public, or researchers, or for any anyone who is interested. Also with the access to information, Ministers have been subject to over three hundred questions on the floor and all three hundred questions were answered with documentation. I remember Minister Robert Persaud, in answering one of his questions, I think it was on the Hope Canal, or Dochfour, providing the House with a binder about eight inches thick with information, maps, drawings and everything else. This is all part of access to information.

The hope that we have, and that is why we work with Parliament and the UN's new country programme for 2012-2016, is to put even greater emphasis on the Parliament's website so that all the documents, which are laid, will be easily accessible to the public. The fact that we have been able, as a Government, to get approximately fifty websites up and running, and in fact, I should say that [www.eprocure.gov.gy](http://www.eprocure.gov.gy) is a very special website, in the sense that it was one of the recommendations which came out of the International Inter-American Convention against Corruption, which Guyana reports to,...The proposal to all of the countries which are signatures to that convention was to try to post electronically, as much as possible, the general information for the public.

We got a lot of kudos for having put up that website, including websites such as the National Board for Procurement and Tender Administration website. The Ministry of Finance has just



put up its website. It has resuscitated that and it looks much better, and so forth, so that the public has the capacity, as we become more modernised and more electronically familiar with these media, to download a lot of these documents. So, I hope that the same faithfulness, which the media have used to download WikiLeaks, will also be used to download what are Government's documents posted on the Guyana National Bureau of Statistics website, on the Guyana Information Agency (GINA) websites, on the National Board for Procurement and Tender Administration website which, by the way, is the only Government website in the English speaking Caribbean and Latin America that has the minutes of the National Board for Procurement and Tender Administration posted. So you can read it, if you do not think that persons are doing the right thing, you can read the actually minutes.

We worked very hard, and that was what we told Mr. Trotman why we would not support his Bill when he wanted to bring it. We said, "Look, we are not quite ready yet. Our websites are not up and running as we would like and we also have the whole issue of connectivity in Guyana." Therefore the two fibre-optic cables, for example, which are being installed, and the Prime Minister is very familiar with how the progress is going there, and the one laptop per family are all part of making Guyana into a modern digitalised society, and this will be critical for access to information.

The criticisms that have been made on this Bill..., and I will just amplify a bit on something the Prime Minister said. We decided, as a Committee, to invite the public to make comments. The Prime Minister referred that there were ten submissions, nine of which were relevant. We gave two extensions, in fact three extensions, to allow the public to be able to come forward and make their comments on the Bill. Having done that, those agencies, which had wanted to meet with the Committee, were invited. Nobody turned up. We then went to a second round and only three turned up. We met those and proceeded, as a Committee, so our work was extended also to allow for submissions by the public. I believe that the Prime Minister may, but I do not think I have heard him read the names of some of the people who submitted. Maybe it is just for the record. I must also say that, for the Parliamentary Committees, this was the first Committee which used the Parliament's Facebook site to post its advertisements for inviting persons to make submissions on this Bill. So, Mr. Speaker, you might be happy to know that your Facebook idea, the idea that you had for Parliament's Facebook, was used for the first time to bring this to the public's attention and also the normal advertisement in the newspapers.

The bodies and the persons who wrote in were the Transparency Institute of Guyana, Guyana Human Rights Association, Guyana Publications Inc., Guyana Media Proprietors Association, Ms. Linda Janki, lawyer, Mr. Christopher L. Ram, Mr. C.N. Sharma, Mr. Ronald Austin and the Guyana Press Association. Of those persons, the three who actually appeared before the Committee were Mr. Ram, Mr. Enrico Woolford, for the Guyana Press Association, and Mr. Fredrick Collins for the Transparency Institute of Guyana. The Committee did try and gave approximately almost six weeks to allow for submissions and presentations by persons who were interested in this issue.

This Bill allows for, as I said, the two sides of access to information. One, to have greater transparency and accountability, and that is based on the premise that if the public is well informed, it will not only be able to make well informed decisions, but it will also be able to monitor and ensure that there is transparency and accountability, not only in the State and in the State structures, but also even in the private realm. It right is enshrined in that way. This Bill attempts, faithfully, to keep to that. It does not depart from what are the general exemptions, which are in all of the legislation, to do with national security and defence, commercial undertakings that are going on at the time between the Government and another country, or in commercial undertakings in the best interest of the nation. It does not include what are international foreign relations that could harm another State or harm Guyana, for example. So there are general exemptions that you would find in all Access to Information Bills or all Freedom of Information Bills. There is nothing unusual in that.

In relation to Cabinet documents, when we look at the other countries with similar legislation on that, Canada has a twenty-year period in which you cannot access Cabinet records until that twenty-year period. The Trinidad and Tobago legislation states ten years, but it can also further the time, increase or decrease the time. The Belize Act has no statement at all to do with Cabinet, except that Cabinet documents are exempt, and that is it, which means that they will always be exempt. The Jamaica Bill states that it is not earlier than thirty years, immediately proceeding the appointed date on which the Minister brings the order to the Parliament. So, in Canada, as I said, it is twenty years, even, in fact, in relation to its law enforcement investigations. No release can be made if the record came into existence less than twenty years prior to the request. So Guyana's issues are not radically departing from any of what are considered democratic States, with democratic legal frameworks.

In Guyana, one of the interesting innovations..., and we have brought some innovations into this Bill, which I think must be taken into consideration. There have been a number of criticisms to do with the Commissioner of Information, as the Prime Minister made some comments in relation to that. As a country, which spreads 83 000 square miles, in which a relatively small percentage of the population lives in two-thirds of Guyana, with not easy access to communications and looking at the experiences and reading the reports which have been submitted in other Parliaments, to do with the implementation of their Bills, and finding out in, the United States of America's experience, that sometimes it has taken ten years, or more, for persons to get a response on their request for information... Or, for example, in Canada where persons have sometimes had ... Every time you make a new request in Trinidad, for example, you have written to a wrong agency, the request begins again, and you start afresh.

Looking at Guyana, at our own vulnerabilities and our own distances, and difficulties of persons being able to do their business, we felt that it was most appropriate and practical to be able to have a Commissioner of Information that would be the conduit through which all requests... So if someone was in Jawalla or Caradora and wanted to know something, that person might not know which exact Ministry to write, or agency to write. Were that person to make a request to the wrong agency, that person would have to then start all over again and could even go through, maybe, ten different agencies before that person comes to the right one. By having the Commissioner of Information as a conduit through which all request are made, it is the Commissioner of Information and his staff, as is stated in the legislation, where he or she will be given budgetary support and personnel, would then know exactly which agencies are doing what and they will communicate with them and they would then reply to the persons applying.

Some persons had a problem with the concept of the Commissioner of Information. As Mr. Trotman said, he did not agree with that model, in the Committee. In other cases the PNCR-1G had different views in relations to whether there should be a constitutional body or, it had two views actually, whether the Leader of Opposition should be consulted in the naming of the person.

The Commissioner of Information model, wherever it exists, is generally a functionary of the State; it is generally a public servant who is appointed, and is a member of the framework of what is the executive branch of the Government.

The Bill goes on to point out what a person could be disqualified for, in terms of being considered for, or holding, the office of Commissioner of Information.

It goes into detail, for example, of how one can access information, and it defines that in the Bill, and shows how it procedurally goes on. Obviously, in some cases, some persons have been upset about the time being thirty days, within thirty days, and with an extension within thirty days. So it is a maximum of sixty days. This, again, is not distinct from, and different from, what the Canadian legislation states, and in a number of other countries. Generally, obviously, internationally, the standards one would like to aim for overtime, as is said by a number of persons commenting on our Bill, should be between fourteen and twenty-one days.

In bringing this Bill to the National Assembly, we wanted it to be very practical, recognising that we have to improve efficiencies and the timeliness of responses, and so forth, and in the beginning, instead of starting with a non-starter, to start with a way that overtime we could reduce that time. But it states “within the thirty days and with an extension of another thirty days”, or “within another thirty days.” This is not, again, an unreasonable time period for responses to search for documents.

The one thing about the Bill, which probably all of us know in this House, but it may not be well recognised, is that in all Access to Information Bills, or legislation, you cannot ask for a document that is already in the public realm. So if the document is already on a website, it has already been tabled in the House, it is already available in printed form, and so on, you cannot ask for it - if it is in the archives, the National Library or the Parliament library, and so on - because it is in the public realm already. What you are asking for is the documents which may not be, or are not, in the public realm.

It is important that when we look at the issue of who is exempt the Act does not apply to the President but it does apply to the Office of the President. It applies to the Office of the President because, the Office of the President, as a statutory body reports to this House. It has to be accountable to this House. The President, as the Prime Minister pointed out, in keeping with the Constitution as a natural person, is exempt. However, when we talk about Cabinet records in the Bill, it is not talking about the Cabinet decisions that Dr. Luncheon, every week, goes and calls a press conference and he gives the decisions of Cabinet. We are not talking about the Cabinet decisions; we are talking about the Cabinet documents. These

would be minutes and internal documents that would be used to help Cabinet members reach a decision which is then publicised. These are the documents that the Bill refers to which are not available other than within thirty years.

This Bill also points out to an important issue to do with an obligation to personal privacy. If we look at clause 33, it speaks about persons wanting to correct their own personal records where there will be need to correct them, but it also speaks about someone else asking for a record. It defines, in the Bill, what your personal information is, in the Interpretation Section. Your medical records, psychiatric records, DNA records, or whatever, are your personal records - your private records. So anybody who is asking for that information cannot be issued with it by the Commissioner of Information. It is the Commissioner of Information who has to advise the person, who is the subject of the request, as to whether they are approved or not, for that information to be released. That can only be done with the notarised consent of the person whose information is being sought. This is an important issue that is included in our Bill. When the Canadians brought their Freedom of Information Bill they also brought in their Privacy Act simultaneously. In Guyana, we brought in the aspects of the rights to privacy in this Bill.

One issue, just to reiterate what the Prime Minister pointed out, was that, and I was fascinated and I keep repeating it, why the media did not find this clause more interesting, and that is clause 41, which states:

“Notwithstanding any other provision of this Act, where a request is made for access to a document held by the media, the media shall not be required to give access under this Act to any part of the document which discloses the source of any information obtained in the course of making any programme or broadcast.”

This is an important issue. It is not saying that the media cannot make a document available, but that if it were of such that it would disclose its source of information and could obviously cause harm, or whatever, to that person, then it is not required to make that available. This was an important aspect which has come up in United States of America, over the last few years, where journalists being required to disclosed their source of information, refusing to, and being sent to jail for that. There were a number of those cases over the last couple of years. The fact that our journalists were not interested makes me quite interested in what was

the reason for their non interest. Maybe they feel very confident that this is not an issue for them, and maybe that is an indication of the level of democracy in Guyana.

I do want to say that I believe this Bill is a good faith effort by Guyana and it provides a regulatory framework within our present capacity, and goes beyond a number of the legislation in similar CARICOM countries to Guyana. Therefore we believe that this is a good faith effort. We have no doubt that overtime, as we develop and emerge as a country, and our capacities are improved, our networking is improved, and so on, that this Bill will be amended. It is a good effort for Guyana. We believe that a lot of the hype that has gone on around this Bill is just a smokescreen that is just looking for trouble and some red herring somewhere to criticise.

I am not a lawyer, but I am quite prepared with some familiarity of the other similar Bills to this that Guyana can stand and say it has produced a good effort - that this is a Bill which will lay a good foundation for the regulatory framework for access to information in Guyana. While at the same time, without the legislation in place, or even with legislation in place, we will continue, as a Government, to produce and make public the records, reports, policy documents and programmes. We have a special unique aspect of Guyana, and that is that many of the programmes and policy issues, in draft form, are brought for consultation with various stakeholders even before they become official records, even before Cabinet signs off on them, and the Poverty Reduction Strategy paper is an example of that. The Low Carbon Development Strategy is another example of that. That is a tradition that this Government has developed and it is now part of the architecture of the state of this country.

Therefore we will continue to produce the documents so that our public can become better informed, well informed, to make good decisions, well informed decisions, and to call on the media that the level of information that is available to it, and the level of journalistic reporting, is of a great difference as chalk and cheese when we read in the media some of the distortions and misinformation, when the documents are on website, tabled in the House, and available at various places in hard copy, or in the other forms you can get them. Yet the media, in my view, misinforms the Guyanese public on basic, factual information which the Guyanese public deserves.

I am very glad that after a long process of working on the Bill, as a Government, and bringing it to the House and the Special Select Committee... I am sorry that Mr. Trotman is not here,

as he participated in the Committee, but I am not surprised. At a certain point he left, because at this stage, and having gone through with us and being part of, I would say, ninety per cent of the amendments to this Bill, maybe, he does not want to show that he is finally supporting it, and therefore we will leave the public to come to its own conclusions. We believe that this Bill has reached the point where it now deserves the support of this House. Thank you.  
[Applause]

*Question put and carried.*

*Bill read a second time.*

*Assembly in Committee.*

*Bill considered and approved.*

*Assembly resumed.*

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

## **PRIVATE MEMBERS' BUSINESS**

### **BILL – SECOND READING**

#### **CHRISTIAN BRETHERN INCORPORATION (AMENDMENT) BILL 2011 – BILL No. 19 of 2011**

A BILL intituled:

“AN ACT to amend the Christian Brethren Incorporation Act 1914.” [Ms. Teixeira]

**Ms. Teixeira:** The Bill before the House is a simple one. It is to amend the Christian Brethren Incorporation, chapter 221 - this is a Bill that was enacted in 1914 - section 4 (b) of the Bill, to allow the trustees to be able to sell, transport, mortgage, invest or otherwise deal with or dispose of any movable or immovable property held in the name of the body incorporated by the trustees. This should only be exercised with the approval of a meeting summoned and specially held for that purpose. This is deleting the original section 4 (b) and replacing it with a new paragraph that will allow the church to be able to handle its affairs, particularly its property, and puts in a conditionality of how that will be done with the meeting of the trustees, as set out in the Bill. We believe that this will assist the Christian

Brethren Church to be able to manage its affairs and to be able to dispense with, or to deal with, its property or other movable or immovable property in the best interest of its church and members.

Thank you very much Mr. Speaker.

*Question put and carried.*

*Bill read a second time.*

*Assembly in Committee.*

*Bill considered and approved.*

*Assembly resumed.*

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

3.24 p.m.

## **MOTION**

### **ADOPTION OF THE REPORT OF THE SPECIAL SELECT COMMITTEE ON THE PUBLIC UTILITIES COMMISSION (AMENDMENT) BILL 2011**

“BE IT RESOLVED:

That this National Assembly adopts the Report of the Special Select Committee on the Public Utilities Commission (Amendment) Bill 2011 – Bill No. 17 of 2011.”

*[Prime Minister and Minister of Public Works and Communications - Chairman of the Special Select Committee on the Public Utilities Commission (Amendment) Bill 2011 and the Telecommunications Bill 2011]*

**Prime Minister and Minister of Public Works and Communications [Mr. Hinds]:** Mr. Speaker, I rise to beg that we defer this item to a later date, 2011.

*Motion deferred.*



**BILL – THIRD READING**

**PUBLIC UTILITIES COMMISSION (AMENDMENT) BILL 2011 – Bill No. 17 of 2011**

A Bill intituled:

“AN ACT to amend the Public Utilities Commission Act.” [*Prime Minister and Minister of Public Works and Communications*]

*Third reading of the Bill deferred.*

**ADOPTION OF THE REPORT OF THE SPECIAL SELECT COMMITTEE ON THE TELECOMMUNICATIONS BILL**

“BE IT RESOLVED:

That this National Assembly adopts the Report of the Special Select Committee on the Telecommunications Bill 2011 – Bill No. 18 of 2011.”

[*Prime Minister and Minister of Public Works and Communications - Chairman of the Special Select Committee on the Public Utilities Commission (Amendment) Bill 2011 and the Telecommunications Bill 2011*]

**Mr. Hinds:** Mr. Speaker, I beg that we defer this motion to next Thursday, 22<sup>nd</sup> September, 2011.

*Motion deferred.*

**BILL – THIRD READING**

**TELECOMMUNICATIONS BILL 2011 – Bill No. 18 of 2011**

A Bill intituled:

“AN ACT to provide for the establishment of the Telecommunications Agency and for a regular, coordinated, open and competitive telecommunications sector and for matters incidental thereto or connected therewith.” [*Prime Minister and Minister of Public Works and Communications*]

*Third reading of the Bill deferred.*

**Mr. Speaker:** The third readings are deferred. So we will not be dealing with the Public Utilities Commission (Amendment) Bill and the Telecommunications Bill.

**ADOPTION OF THE REPORT OF THE SPECIAL SELECT COMMITTEE ON THE POLITICAL PARTIES CAMPAIGN FINANCING**

“BE IT RESOLVED:

That this National Assembly adopts the Report of the Special Select Committee on Political Parties Campaign Financing – Resolution No. 153 of 2011 be adopted.”

*[Ms. Teixeira – Chairperson of the Special Select Committee on Political Parties Campaign Financing]*

**Mr. Speaker:** Is this the matter that Hon. Member Mr. Odinga Lumumba is to speak to?

**Ms. Teixeira:** Yes... [inaudible]

**Mr. Lumumba:** Mr. Speaker, this matter has been brought to our attention by the Hon. Members of the Opposition, in particular, Member of Parliament, Mrs. Sheila Holder. The Committee looked at several countries - India, England (Europe as a whole), the United States of America and a few other countries – so we can have a sense as to where we would go with this matter.

One of the important things about campaign financing is that the reality is political parties need funding. They need money to campaign; they need money to participate in the electoral processes. The question becomes whether we allow private funding with some form of control or whether we allow government funding. The problem with Government’s funding in a country as Guyana, which has, maybe, two dozen political parties, is that we will be caught in a situation where we will be charged for abusing public funds, in particular taxpayers’ money, to support the needs of, maybe, three or four dozen political parties.

In real terms, political parties, which raise a lot of funds, raise money for two basic reasons. One, because they are doing a good job in society and private sector and individual decide they want to fund them. A good example is President Obama. No one can question whether President Obama is a bad person, whether he represents evil or whether he accepts bribes.

But in real terms, President Obama probably raised more money than any other presidential candidate in the history of the United States of America.

The other side of the coin, Mr. Speaker, is that many people believe that private companies and individuals, who have access to wealth and access to a lot of resources, fund political parties so they can control them; they can determine how they can vote and how they will vote.

In both situations, it does not really matter to the PPP/Civic. For example, the social work that we have done, in particular, meeting the needs of our people, in terms of roads, water, housing and hospitals, is not the thing that the private sector really would support. Maybe I should not say the private sector alone. Maybe we should say the pure capitalist sector. The pure capitalist sector's objective is to make money. Its objective is profiteering and that aspect of it sometimes – I want to particularly say “sometimes” - runs against the grain of the PPP/Civic which is basically a working class political party. Even though we want to ensure that the engine of growth for development is in place, we want, at all times, to ensure that we do the kind of things that will promote the poor, that will promote the working class, as in the area of education and health. I said housing earlier.

If you look at the United States of America, Mr. Speaker, you will notice that recently the Supreme Court ruled that there should be no limit in terms of what a corporation can do to support a particular entity. One would view that, the Supreme Court or even the Republican Party, as being an entity which wants to promote wealth, or promote wealth in the minorities. When I say minority I am not talking about minority in terms of Hispanic. I am talking about minority in terms of control in society, especially those who control the stocks, banks and major corporations.

Democrats, in many ways, differ from that in that they believe there should be some form of limit so that the large corporations cannot unduly have total control over the congressmen and the senators. We, in our discussion, looked at a broad picture and we believe that the decision as to what we do with campaign financing has to be based on a philosophical position of the political party. So before we can decide which way we would go we have to decide, philosophically, what we want. We already have taken a philosophical stance based on the history of the PPP/C, in particular, that it is a working class party and it wants to support the poor. Even though it wants to promote wealth, it does not want to promote wealth and, at the same time, be antagonistic to the needs of the poor. So we need to spend more time in dealing

with this matter, in particular, as to outline our philosophical position because everything is ideological, Mr. Speaker, and I know that you know that. As a son of a working class leader, you understand the nexus between the two.

**Mr. Speaker:** I am not too sure that that holds any longer.

**Mr. Lumumba:** Well, I know you are into wealth now, but at the same time there are some sympathies for the poor. I know you have some sympathies for the poor, Sir, so I would not diverge on that aspect.

**Mr. Speaker:** Well, it is not from what I have been hearing recently.

**Mr. Lumumba:** Well, I have not heard that. Remember I do not have good ears, so I do not hear everything.

The PPP/C has a philosophical position and that philosophical position will be the base on where we go with the campaign finance position. I do not think we are prepared, at this point in time, to take a strong position on this. I think we need to have more dialogue. I think we need to have more discussions with the party groups and the public, as a whole. But at this point in time, what we can say is clear to us is that we are going to look at a Bill, at some point in time, that will focus on the needs of the poor and will have some balance, in terms of the rich and the poor. At the same time, we are not prepared, at this point, to say that we believe that private corporations should not support political parties. We cannot say that because once we take that position, it means either we get *drugs money* or we get the State to finance political parties. So I think at this point in time we need a little more time and there is not much more we can say on this until we, as a party and a Government, have generated a political ideological position on this issue.

**Ms. Teixeira:** I thank Mr. Lumumba, my colleague. This motion, as the National Assembly will remember, was tabled by Mrs. Holder, debated in this House and passed and sent to a Special Select Committee. We had seven meetings of the Committee. Regrettably, the Opposition attendance record was extremely disturbing and so most Members attended three times of the seven meetings. Therefore we tried, as a Committee, on the Government side, to deal with this issue because we believe it is an important issue that needs to be looked at. We knew that we did not have enough time to come forward with anything very specific or legislative in nature, but we felt that we could come forward with basic principles and guidelines. Many were the efforts we made, in the Committee, to appeal to the Opposition,

particularly Mrs. Holder, as it was her motion, to attend the meeting so that we could come to the National Assembly with a more in-depth report. However, those efforts failed and we only had a verbal communication from the PNCR – 1G, despite a written request to it, stating that the Members of the PNCR - 1G will not be attending any Committee meetings during the National Assembly recess period, except where there is some urgency. Well, obviously, they did not feel that any of these issues were of some urgency. However, we had a number of discussions. One, in terms of looking at the Constitution of Guyana, was there any guidance there on the issue of political parties campaign financing? We did not find it there. We looked at the election laws and did not find it there either. So there were limited references in the election laws, in terms of reporting and limits.

We then went through quite a lot of documents in which we were able to draw down from a variety of countries - Australia, Israel, Latin American countries, the United States of America, the United Kingdom (UK) - and looked at their election laws and tried to clear up the definitions. In the Committee, too, when we began, were we talking about political party campaign financing or were we talking about political party financing, because there are differences? Political party financing generally is referring to the period between elections when money is being collected or need resource is being used, and the particular period of when you are in the election mode and collecting donations. We studied a number of countries' experiences and found that in the different models, which were used, there was not one model that had a template that we felt could answer some of the issues we had.

We also looked at the Organization of American States (OAS) model legislation on political parties campaign financing which is a very skeletal model. It is not drafted in legal draft language, but it gives basic principles, again.

We also looked at the differences between the different experiences of countries in relation to the caps on spending, caps on income, as well as some of the points Mr. Lumumba talked about in the American experience and the differences with other countries. So in the Report there is a matrix that gives an idea of some of the work in the Committee which to try to examine what were the differences and overlaps, in relation to the various legislation along that line.

We also then realised that we were hitting a kind of logjam because the Opposition was not present. But we observed, in the Committee, that – and this is an observation that is in the Report – although we were not able to conclude as far as we would have liked to, in this

Select Committee, the Representation of the People Act, part XIII, entitled “Election Expenses” needed to be updated as proposed in the Resolution. In doing so, the Committee also observed that only one political party, the People’s Progressive Party Civic, was in compliance with the existing legal requirements, providing reports up to and including the elections of 1992, 1997 and 2001.

Therefore in the recommendations of the Committee, on page 10 – there are several recommendations - we felt that we could not be specific in terms of saying what the law should become. We felt that the Tenth Parliament, and subsequent Parliaments, will probably have to address this. But we felt that we should give an idea to the next Parliament what were some of the underlying principles that we felt should guide political parties campaign financing. There are about ten different recommendations and a few of them I will pick out:

- That to ensure that the constitutional and legislative framework was strong enough to ensure that political parties are not subjected to undue influence from stakeholders based on their financial or in kind contributions;
- That political parties should protect their independence and not become subjected to any particular interests based on financial or other contributions;
- The accountability of political parties as it relates to reporting campaign financing must be in compliance with whatever the laws require;
- Examination of the existing electoral laws should include sources of financing including national and non national.

We noted that in some countries foreigners are not allowed to contribute to an election campaign financing and in others they are. But in most countries foreigners are not allowed to make contributions.

The issues of level of financing, level of disclosure and, the issue that we confronted in the Committee but did not conclude on, the issue of professional parties... That is where political parties, based on their electoral strength, receive funds from the State to manage their party in between elections. And therefore, on that ground, they are then required to have full disclosure of not only what they do with taxpayers’ money, which is provided by the Government, but also what money they acquire or contributions in kind that they acquire.

The alternate model, where there is no professional party system, is that, generally, there are less stringent requirements for reporting than in the professional party model. We felt that this should be examined, in the Guyana context, by a future Committee.

One of the interesting things that came out in the last few meetings was the fact that whatever amendments are made to the electoral laws, to do with election expenses, we must be very careful that we hold to an affirmative action approach or policy to ensure increased political participation and representation of women, youth, hinterland communities, disabled persons and, therefore, nothing in the electoral laws, in relation to election expenses, should be so stringent and so onerous that it would be a disincentive to the increased participation of these specially targeted groups and/or persons, and, therefore, allow them to be candidates at national, regional and/or local elections.

We felt, as I just said, that any analysis of political parties campaign financing should be done in the context of the present electoral laws and in what way can we change them. It should be part of future discussions in the Tenth Parliament. However, the last point we made is, despite the fact that our election expenses laws would need updating, that we call on all the political parties contesting the 2011 national and regional elections that they should report on their election expenses in accordance with the existing Representation of the People Act.

Thank you very much. I ask that the Report be adopted.

**Mr. Lumumba:** Mr. Speaker, I just want to, again, ask this House to accept the Report as it is and indicate that we need to do more studies and assessment, and maybe have some public consultation on this very important matter. We do not want to go down in history as being the reason why the PNCR-1G or the AFC cannot participate in the election because they cannot raise any money, because nobody likes them. We will like to be even-handed in this matter. We will like the Report to be accepted as it is and let us proceed another time on the matter.

Thank you Mr. Speaker.

*Question put and carried.*

*Report adopted.*

**Mr. Speaker:** That brings us to the end of our business for today.

**ADJOURNMENT**

**Mr. Hinds:** Mr. Speaker, I move that the House be adjourned until next Thursday, 22<sup>nd</sup> September, 2011.

**Mr. Speaker:** Hon. Members, the House is adjourned until next Thursday.

*Adjourned accordingly at 3.42 p.m.*