



SIXTH NATIONAL ASSEMBLY

PARLIAMENTARY

DEBATES

(HANSARD)

(UNREVISED)

FIRST SESSION

THURSDAY 01 SEPTEMBER 2016

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THE CABINET

(Formed by the Rt. Hon. Sir Anerood Jugnauth, GCSK, KCMG, QC)

Hon. Sir Anerood Jugnauth, GCSK, KCMG, QC	Prime Minister, Minister of Defence, Home Affairs, Minister for Rodrigues and National Development Unit
Hon. Charles Gaëtan Xavier-Luc Duval, GCSK	Deputy Prime Minister, Minister of Tourism and External Communications
Hon. Showkutally Soodhun, GCSK	Vice-Prime Minister, Minister of Housing and Lands
Hon. Ivan Leslie Collendavelloo, GCSK, SC	Vice-Prime Minister, Minister of Energy and Public Utilities
Hon. Pravind Kumar Jugnauth	Minister of Finance and Economic Development
Hon. Seetanah Lutchmeenaraidoo, GCSK	Minister of Foreign Affairs, Regional Integration and International Trade
Hon. Yogida Sawmynaden	Minister of Youth and Sports
Hon. Nandcoomar Bodha, GCSK	Minister of Public Infrastructure and Land Transport
Hon. Mrs Leela Devi Dookun-Luchoomun	Minister of Education and Human Resources, Tertiary Education and Scientific Research
Hon. Anil Kumarsingh Gayan, SC	Minister of Health and Quality of Life
Dr. the Hon. Mohammad Anwar Husnood	Minister of Local Government
Hon. Prithvirajsing Roopun	Minister of Social Integration and Economic Empowerment
Hon. Marie Joseph Noël Etienne Ghislain Sinatambou	Minister of Technology, Communication and Innovation
Hon. Ravi Yerrigadoo	Attorney General
Hon. Mahen Kumar Seeruttun	Minister of Agro-Industry and Food Security
Hon. Santaram Baboo	Minister of Arts and Culture
Hon. Ashit Kumar Gungah	Minister of Industry, Commerce and Consumer Protection
Hon. Mrs Marie-Aurore Marie-Joyce Perraud	Minister of Gender Equality, Child Development and Family Welfare
Hon. Sudarshan Bhadain, GCSK	Minister of Financial Services, Good Governance and Institutional Reforms

Hon. Soomilduth Bholah	Minister of Business, Enterprise and Cooperatives
Hon. Mrs Fazila Jeewa-Daureeawoo	Minister of Social Security, National Solidarity and Reform Institutions
Hon. Premdut Koonjoo	Minister of Ocean Economy, Marine Resources, Fisheries, Shipping and Outer Islands
Hon. Marie Roland Alain Wong Yen Cheong, MSK	Minister of Civil Service and Administrative Reforms, Minister of Environment, Sustainable Development and Disaster and Beach Management
Hon. Soodesh Satkam Callichurn	Minister of Labour, Industrial Relations, Employment and Training

PRINCIPAL OFFICERS AND OFFICIALS

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Deputy Speaker	Duval, Hon. Adrien Charles
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MAURITIUS

Sixth National Assembly

FIRST SESSION

Debate No. 31 of 2016

Sitting of 01 September 2016

The Assembly met in the Assembly House, Port Louis at 2.00 p.m.

The National Anthem was played

(Madam Speaker in the Chair)

ORAL ANSWER TO QUESTION

STATE OF MAURITIUS - DAMAGES/COMPENSATIONS – CLAIMS LODGED AGAINST

The Leader of the Opposition (Mr P. Bérenger) (*by Private Notice*) asked the Minister of Finance and Economic Development whether, in regard to the claims for damages/compensations lodged against the State of Mauritius which are presently outstanding, he will state where matters stand, including those from –

- (a) Hogan Lovells International, on behalf of investors from the United Kingdom in relation to the implementation of projects in 2014 at Le Morne and at Pointe Jérôme respectively;
- (b) Betamax Limited;
- (c) CT Power (Mauritius), and
- (d) the former British American Insurance, indicating, in each case –
 - (i) the quantum of the damages/compensations claimed;
 - (ii) the legal/arbitral institutions dealing therewith, indicating the dates on which same have been/will be considered and who has represented/will represent the State of Mauritius thereat, and
 - (iii) if provisions have been made for the payment of the claims for damages/compensations, if any.

The Attorney General (Mr R. Yerrigadoo): Madam Speaker, with your permission I shall be replying to this question as it relates to litigation involving claims against, *inter-alia*, the State of Mauritius...

(Interruptions)

Madam Speaker: Order!

(Interruptions)

Order!

(Interruptions)

Order, please! Can I ask all hon. Members not to use unbecoming words. Although they may be considered as not being unparliamentary, but they are unbecoming words, please!

Mr Jugnauth: Madam Speaker, the hon. Leader of the Opposition is saying: “*kapon*”

(Interruptions)

Mr Jugnauth: He does not know how to address...

(Interruptions)

The Leader of the Opposition does not know how to....

(Interruptions)

Madam Speaker: Order! Allow me to listen!

(Interruptions)

Allow me to listen to the Minister!

(Interruptions)

Order!

(Interruptions)

Order, please!

(Interruptions)

Order!

(Interruptions)

Order, please!

(Interruptions)

Please, order!

(Interruptions)

You know in all this noise, I can't listen to what one side is saying and the other side is saying!

(Interruptions)

Mr Bérenger: Is that a point of order?

Madam Speaker: I haven't even heard what the Minister was saying!

(Interruptions)

There was so much noise! Please, say what you have to say!

Mr Jugnauth: The hon. Leader of the Opposition, on a sitting position, is making comments by saying '*kaon*'!

(Interruptions)

Kaon! He does not know how to address a PNQ.

(Interruptions)

To which Ministry this is concerned!

(Interruptions)

Ale apran!

(Interruptions)

Ale apran do...

(Interruptions)

Madam Speaker: Allow me...

(Interruptions)

Hon. Members, allow me to say one thing before I give my ruling! You know the House is not a forum where personal attacks can be indulged in. The House is not a forum where personal attacks can be indulged in. Now, the word '*kaon*' is pointed towards the hon. Minister of Finance and Economic Development and I consider it to be unparliamentary. Can I ask the hon. Leader of the Opposition to withdraw this word!

(Interruptions)

Please withdraw!

(Interruptions)

It is a point of order!

(Interruptions)

This is my ruling.

(Interruptions)

You are saying: "Shame on me?"

(Interruptions)

Hon. Leader of the Opposition, my ruling is that you have to withdraw!

Mr Bérenger: Yes, I will withdraw with great pleasure since you are in the House!

Madam Speaker: To withdraw the word!

(Interruptions)

At this stage, the MMM Members in the Opposition left the Chamber.

MOTION

SUSPENSION OF S.O. 10(2)

The Prime Minister: Madam Speaker, I move that all the business on today's Order Paper be exempted from the provisions of paragraph (2) of Standing Order 10.

The Deputy Prime Minister rose and seconded.

Question put and agreed to

PUBLIC BILLS

Second Reading

THE ROAD TRAFFIC (AMENDMENT) BILL

(No. XVIII of 2016)

Order for Second Reading read.

(2.08 p.m.)

The Minister of Public Infrastructure and Land Transport (Mr N. Bodha): Madam Speaker, I beg to move for the Road Traffic (Amendment) Bill (No. XVIII of 2016) to be read for the second time.

Madam Speaker, the Bill before the House today is first and foremost to bring transparency and objectivity in the examination of motor vehicles and put an end to a situation of chaos and crisis which has prevailed for decades at the two vehicle examination centres operated by the National Transport Authority (NTA).

Madam Speaker, at the outset, I will say that we are doing our best to salvage a given situation as contracts for private examination centers have already been signed by the previous Government and we had to re-engineer the whole system in the public interest.

Madam Speaker, as at June 2016, a total of 496,000 vehicles were registered with the NTA and the vehicle fleet is increasing by an average of 4.5% yearly. All these vehicles have to undergo periodic fitness tests as per the requirement of the Road Traffic Act and policies applicable to various classes of motor vehicles. Private cars and motor cycles are required to be examined after 7 years of their first registration, while vehicles used for public transport and for transport of goods are examined more frequently as from their first registration.

Requiring vehicles to be subjected to road worthiness tests is an important function which urges vehicle owners to make regular servicing and effect such repairs as may be required to maintain their vehicles in good running conditions. As well, these test ensure that these vehicles have not been fiddled with and modified in such a way that their operation on public roads constitute a change to the driver of the vehicle or to other road users. Thirdly, these tests ensure that vehicles in operation are those which are originally registered with the NTA and there has been no attempt by the owners to forge vehicle identity by tampering the chassis numbers.

Madam Speaker, the fitness tests of vehicles as carried out at the two main examination centres are presently done visually, subjectively and in a most unreliable manner. In 2015, almost 175,000 vehicles were examined and the failure rate was only 0.4%. This means that almost all vehicles calling for examination were able to secure their fitness certificates. The issue of Fitness Certificate is no more than an eye wash, serving no meaningful purpose, except a “rubber-stamp” compliance which result in the poor state of some of the vehicles operating on our roads and the smoke emitted by the vehicles.

Madam Speaker, allegations of malpractices occurring at the vehicle examination centres have been rife. Vehicles were issued the required Certificate of Fitness (COF) although not being in a good state of repair against payment of bribes was so common that members of the public considered it to be the norm. It was even possible for a vehicle to secure a Certificate of Fitness on the basis of paper documents only although the vehicle was not produced at all at the examination centre. In certain cases, I understand that the Certificate of Fitness was delivered at the vehicle owners residence without any need for him to move to the examination centre and some acted as agents with a fast-track service coming to the centre in different vehicles regularly.

Due to these malpractices, Madam Speaker, the NTA has consistently appeared high on the list of Government institutions perceived as being the most corrupt in the Corruption Perception Index Report of Transparency International.

Madam Speaker, the situation depicted above lasted for years. The NTA management has sought the assistance of ICAC to curb that malpractice and recommendations made by the latter institution have been implemented. Workshops have been organised with the collaboration of ICAC to sensitise the officers at the vehicle examination centres on the risks and penalties relating to corruption offences. A few officers have even been subject to ICAC enquiry for corruption instances and have either been prosecuted and dismissed or they have been interdicted from office. All these measures have been to no avail. Operations at the examination centres had gone too far and too long in the wrong way for any hope of redress to be envisaged.

Madam Speaker, the recent scandal of forged horsepowers was the latest of malpractices uncovered. Vehicle owners were able to underrate the engine capacity of their vehicles with the connivance of officers from fitness centres for avoiding payment of correct rate of road tax due for the high engine ratings of their vehicles. This malpractice also enables vehicle owners to pay less registration duty on vehicles purchased by them as this duty, as well as, was charged on the basis of engine capacity.

Madam Speaker, a large scale operation was carried out by the NTA management with the assistance of 21 Police Officers posted on secondment at the two vehicle examination centres. In addition, the assistance of the Mechanical Engineers of my Ministry was also sought. In fact, as at 15 June, 2016, 5,163 vehicles have been examined with the assistance of the Police, 5,045 vehicles which were modified were thoroughly examined, out of these 5,163 and the examination reports of all these vehicles have been referred to the CCID of the Police Department to consider whether there is any ground for prosecution to be initiated against the vehicle owners.

In this process, four officers of the NTA were arrested then interdicted as there were *prima facie* cases against them for their involvement in cases of forged documents or Certificate of Fitness issued on the premise of forged documents. This operation disclosed an important channel for defrauding Government revenue. Remedial actions were taken for such fraud and forgery to be stopped.

Madam Speaker, the subject of Vehicle Fitness Testing and Certification requires a clearly defined long-term strategy and a practicable approach to make a substantive and effective start. International experts suggest a soft, graduated but structured and progressive approach, an environment that operates a predominant population of older design and old age cars. The approach recognises the reality that if the highest standards were introduced and enforced, it would result in the majority of vehicles being rendered unfit and off-road. Such an outcome would obviously be unpracticable and consequently unsuccessful in terms of achieving any medium to long-term results.

Madam Speaker, the Road Traffic (Amendment) Bill aims at introducing changes in the legislation to enable examination of vehicles to be effected by private entities by means of automated and transparent systems in line with approved examination standards. The privatised centres are equipped with state-of-the-art examination equipment which display examination results clearly and objectively in which vehicle owners will have trust and confidence. Vehicle examination results will no longer depend on human whims and fancies but on a scientific approach using internationally comparable guidelines and prescribed efficiency standards. With the privatisation of vehicle examination, the NTA will have to fully assume its role as a regulator only.

Madam Speaker, the privatisation of vehicle examination was, in fact, considered as far back as 1999 when the then Government decided to outsource the examination of vehicles to private operators. In fact, Part VIII of the Road Traffic Act was even amended. However, the amendments were not proclaimed for reason unknown.

The proposal was again brought on Government agenda in 2006 without much conviction and will. However, in 2011, the proposal was given firm consideration and expressions of interest were invited for the setting up and operation of private vehicle examination centres. 17 expressions were received. A request for proposal was issued for the short listed entities. Following an evaluation exercise, the following companies were selected to run the two existing centres and for the setting up of a third centre namely –

- SGS (Mauritius) Ltd for the examination centre at Forest Side;
- Auto Check Ltd for the examination centre at Plaine Lauzun;
- Eastern Stone Crusher for the setting up a new centre at Laventure.

Madam Speaker, as per the Terms of Reference of this project, the private operators had to provide the following equipment at their respective centres: Brake testers, smoke metres, slip testers, light testers and sound level meters.

Under carriage and over carriage checks to assess the outward conditions of the body of the vehicle will continue to be effected visually.

All checks performed by means of specialised equipment will have an electronic printout of the examination result and will be part of the examination report of each vehicle concerned. So, each owner of the vehicle will have his electronic printout of the state of fitness of his vehicle. For monitoring the whole examination process and ensuring vehicle presence as well as compliance with guidelines issued, every centre has to be equipped with a CCTV system which records the movement of vehicles from their entrance to the examination lane to their exit. The recordings are available for the NTA for viewing in case of need.

Madam Speaker, when the new Government came in, we had to review the whole system because the contracts had already been signed, as I said. The House may note that the contract for privatisation of the Vehicle Examination Centre was a well drafted one and was awarded on 29 April 2013. Thereafter, when we came a *Mise en Demeure* was served on Government for loss of profit owing to the non-implementation of the project. As such, a situation had arisen where we had either to –

- (i) Go for partnership with each promoter; or
- (ii) Go for partnership with all the promoters; or
- (iii) Have a wholly State-owned company; or
- (iv) Keep the status quo.

The State Law Office was consulted and had advised that, in the event that the promoters were not agreeable to entering into any joint venture, Government would then have to compensate them for investment costs, as well as for loss of profit over the period of concession which was 25 years. After discussions with the then Minister of Finance and Economic Development and the Attorney General, we agreed that in these circumstances, the best option would be to allow the three private operators to operate the stations independently with the National Transport Authority maintaining its regulatory function in respect of quality

service delivery, prescription of appropriate fees and ensuring that examination of vehicles is carried out in a fair and transparent manner and according to legal norms.

Madam Speaker, the existing provisions of the Road Traffic Act does not allow for the private operators to operate the vehicle examination centres, to examine vehicles and to issue a Certificate of Fitness. Hence, the need for amending the Act both for enabling the privatisation process to be implemented and also to provide for regulations to be made on issues relevant to vehicles examination.

Madam Speaker, the main provisions of the amendments proposed are as follows –

- Examination of motor vehicles and trailers in Mauritius will be effected by authorised examiners i.e. the private operators while the NTA will continue to be responsible for such examination in Rodrigues and Agaléga.
- The NTA shall issue licences to authorised examiners with operating conditions attached thereto. The NTA is empowered to suspend or revoke the licence in the event of non-compliance with either the conditions attached or other relevant provisions of the Act.
- Certificate of fitness shall be issued to all classes of motor vehicles and those certificates shall be displayed on the windscreen of these vehicles. Presently, motorcycles and private cars due for examination are issued with test certificates without any legal obligation for such certificates to be displayed.
- An appeal process has been introduced to enable vehicle owners who feel aggrieved by the results of examination of their vehicle to make representations to the Commissioner.
- The law provides for regulations to be made for the establishment and maintenance of examination stations, for the equipment to be used, for the levying of fees, for the manner in which examination shall be carried out, for the regular inspection of the examination centre, for the fee to be paid for examination for each type or class of motor vehicle, for the form and content of certificate of fitness and for the custody of records by authorised examiners.

Madam Speaker, with the privatisation of vehicle examination, the NTA will have to assume its role as a regular exercising control over the operation of the privatised centres, on policies governing vehicle examination and on complaints or appeals relating thereto.

The House may wish to be informed that, as yet, the NTA has been operating as regulator and operator with regard to vehicle examination. This illegal and incongruous situation was highlighted in a report of the then Management Audit Bureau some years back, but nothing was done to solve the situation. The Bill will take care of this incongruity as well.

As a regulator, the NTA will have some key functions –

- (i) to license the private operators and ensure that the conditions of the licences are scrupulously complied with;
- (ii) to license the vehicle testers employed by the private operators after ascertaining that they are qualified and have clear police records;
- (iii) to verify that each centre is properly equipped and that the equipment is duly calibrated and in good working order;
- (iv) to be physically present at the centres for ensuring that vehicle examination is being carried out as per the approved guidelines;
- (v) to provide technical guidance on vehicle licensing, construction and design to the private operators and vehicle owners;
- (vi) to verify vehicle examination reports for the purpose of ascertaining that all these centres are operating consistently and there is no laxity at any place for increasing customership;
- (vii) to carry out an audit on the performance of vehicle testers to identify any leniency or possible malpractice, and
- (viii) to deal with appeals where the re-examination of vehicles will be required.

Madam Speaker, two officers of the NTA will be posted on a permanent basis at each centre and the Police officers as well will be present. Madam Speaker, today at the three centres we have only nine pits for examination. With the new three centres we are moving on to 21 pits which will be operational. As such, the time taken for examination of the vehicles, it is expected to be between 15 to 20 minutes for an examination which today takes only visually five minutes.

Moreover, an average of 1400 vehicles inclusive of new vehicles would be examined in the three centres on a daily basis. The fitness tests would also be carried out on half days

on Saturdays, while the opening hours would be extended on weekdays from 09.00hours to 16.00 hours to 08.00 hours to 17.00 hours. With the implementation of these measures, there would be a drastic decrease in the queuing time, in fact, actually there is no queue, and in the long run, there would be a 'walk through' system wherein, there would be practically no waiting time.

(Interruptions)

Madam Speaker: No cross talking!

Mr Bodha: In the meantime, Madam Speaker, since 16 August we have managed a transition period. The assistance of the Police was sought to have qualified officers to supplement the technical staff at the examination centres. The services of the Police officers were made available by the Commissioner of Police to solve the crisis of vehicle examination after some of the examiners were suspended. I wish here to thank the Commissioner of Police for his help in those difficult times. With these officers undertaking vehicle examination, the situation returned to normality.

Madam Speaker, the House may be aware that the private vehicle examination centres started an operation on a transition basis on 16 August 2016 under the guidance and supervision of the National Transport Authority. Presently, test certificates and certificate of fitness are still being issued by the National Transport Authority after the vehicles have passed both the visual and the automated tests. Officers of the NTA are doing the visual tests and vehicle identification checks while vehicle testers are performing the automated tests.

Because of the coming into operation of a new system of verification, i.e. both visual and automated, there was a slight confusion and delay on the first day, when we started on 16 August. However, adjustments have been made and I have the report today that everything is going smoothly and there is no queue.

Madam Speaker, there has been a lot of speculation and disinformation which has been vented in the public which caused vehicle owners to show an apprehension to the coming into force of the private vehicle examination centres. These were basically on two main issues namely, the examination fees to be charged by the private operators and the number of items which would be checked. There was a general belief that the new examination system was being introduced with the aim to put an end to the operation of old vehicles. I wish to assure the House and the public at large that this is utterly false. This cannot be our focus behind the privatization of vehicle examination.

As regards the fees chargeable for vehicle examination, I would like to inform the House that an undertaking had already been taken by the previous Government for those fees to be increased by 50% with the present fees being the base price. This issue was in fact the root point in the discussions which my Ministry had with the operators and which delayed the conclusion of an agreement for the operation of the privatized centres. I wish to assure the House that an agreement was signed anew with the operators in the best interest of Government and that of the public. As announced in the Budget Speech 2016/17, vehicle owners will continue to avail of vehicle examination services, though improved, at no additional cost and the projected increase has been frozen until the finalisation of the restructuring process. I would like here to thank the hon. Minister of Finance and Economic Development for his diligence and understanding.

Madam Speaker, as for the number of items that would be checked, basically five points are concerned i.e. braking, suspension / steering, light intensity, smoke emission test and sound level test besides under carriage and over carriage visual checks. Vehicle owners only have to ascertain that their vehicles are properly repaired to pass those tests.

Madam Speaker, in this process of privatisation, the fate of the National Transport Authority staff posted at the two examination centres has been duly taken into consideration. There will be no redundancy. Information sharing meetings have been held with the technical staff mainly. Officers from the general service will be redeployed within the National Transport Authority and they will help to see to it that administratively what has to be done is being done.

Madam Speaker, road safety and saving life is our top priority. Modernisation of the vehicle examination centres and certification for road worthiness is an essential component of road safety and reduction in accidents. It cannot therefore be neglected. Investments to improve the infrastructure of our roads and to introduce international standards of traffic-signage, better road and warning systems, policing and speed control systems, is one side of the equation. Improved roads also means a capability created for vehicles to attain higher speeds. If roadworthiness and fitness of vehicles is neglected, the “active elements” of road safety would just combine to create an environment of new dangers on the roads. Without due attention to vehicle fitness the equation remains incomplete, Madam Speaker.

So, the privatisation will pass from a visual testing to an automated one which has caused problems in many countries, Madam Speaker. There are different approaches. You

have the approach in Japan where it is only a “Checklist and Automated” system. You come in, you have your certificate, either you pass or you fail and you have your certificate or not. However, when you introduce such a system which starts from the visual one to the automated one in Europe it is suggested to have a progressive “raising of the bar” so that with the automated test you have also the subjective judgement of the inspector. This is what we are doing, Madam Speaker, because of the fact that we have about 70,000 vehicles which are more than 10 years old.

This is what we are doing, Madam Speaker, because of the fact that we have about 70,000 vehicles which are more than 10 years old. I would like here to state it clearly in the House that age is not a determining factor for a fitness certificate. Age has nothing to do with the fitness certificate. If the vehicle is roadworthy, it will have its fitness certificate.

Madam Speaker, the sophisticated service to be offered through the privatisation of the vehicle examination centres will give an assurance of road safety to the owners of the vehicles, all those who drive them, but to other road users as well. It will also provide a guarantee to the other road users, as I said. In fact, the fitness test is an essential condition for road safety and is not a hassle, but it is a must. The manner in which the test is being carried out is a guarantee today that the test is done in better conditions, as there are no longer only visual but an automated system through a certificate of non-conformity listing, that is, each owner, when he leaves the examination centre, will have a *carnet de santé* of his vehicle, that is, what is wrong and what is doing well. Thus, each person will know the exact state of his vehicle and will have to assume his responsibility.

Before I end, Madam Speaker, I would like to thank all those who have helped us in managing the crisis that arose around the fitness centres, the press and also the State Law Office, because they have been very diligent. We have been working for many hours. We had very difficult discussions with the new operators because they wanted to start as soon as possible with all that have been decided in the past. We felt that was not the case because it has to be done in the public interest. We had to reassure the people who had the old vehicles. We had to reassure psychologically those who felt that passing the new test would be a totally detrimental to their vehicles. I think that, today, we have been able to come with the law and a system, which is already working. The transition period will be over as soon as the law will be passed. I checked today, and the rate of failure is about 10% to 15% in each centre. There is no queue, and everything is being done in a very modern manner. I think that we had to do

this, and we have to do it incrementally, so that in the end it is in the interest of all those who are road users and who are owners of a vehicle.

I hope I would be able to rely on the support of each and every one in keeping our roads safer. With these words, Madam Speaker, I commend the Bill to the House.

Mr Jugnauth rose and seconded.

Madam Speaker: Hon. Mahomed!

(2.33 p.m.)

Mr O. Mahomed (Third Member for Port Louis South & Port Louis Central):

Thank you, Madam Speaker. I do not think I have anything adverse to say in particular about the amendment being brought before this House today because the previous Government, itself, prior to the general election of December 2014, had already issued all necessary approvals for the privatisation of fitness centres, following proper procedures which included procurement exercise - the hon. Minister just mentioned it -, expressions of interest, that led to the selection of three companies, which he mentioned as well, namely Auto Check Ltd, Eastern Stone Crusher, and SGS (Mauritius) Ltd, to take over testing of vehicles in Mauritius. I am told that the previous Government initially wanted to proceed with the amendments that we are debating today by way of regulations, but at the time that they were told that this would not be possible, we were already in the electoral campaign and it was just too late.

That being said, I must further say that the present Bill does contain some additional elements. It must be said that we are debating on it less than a week after a bus that caught fire at St Jean church, a few days ago, on 25 August 2016, caused a lot of reaction on social media, with people asking a lot of a questions, many of which having to do with roadworthiness of buses. There is a perception issue as well, because the owner of that bus happens to be a shareholder of one of the fitness centres.

(Interruptions)

Madam Speaker: Hon. Jhugroo, you are disturbing the hon. Member!

Mr Mahomed: But I hope that the hon. Minister will clear that perception issue, because it would not be normal for a bus owner to be a shareholder of a company and have his buses tested by his own company.

Up until 16 August 2016, Madam Speaker, the NTA was issuing vehicle fitness certificates based only on visual examination that followed a checklist. Now, from that day

onward, we have a new system that is run by private companies; the three ones that I have mentioned above. These companies are to go about totally differently in terms of process. Gone will be the days when your appointment is fixed for a particular day and then you need to be in a long queue. I understand that the appointment will be issued for a particular timeslot. We all know how people were calling at the fitness centres at 4 o'clock in the morning sometimes, in order for them to be able to go to work in the same morning. So, it was a difficult time.

Secondly, the element of subjectivity is reduced, I can say totally, because I have been to the fitness centre. I have visited it before preparing my speech. Given that, over and above the visual inspection, mechanical tests have now been introduced, which tests are referred to as the automated test system, this will definitely cut down on the rampant corruption practices that prevailed all along in these centres. The hon. Minister has elaborated a lot about it. The fact that physical contact between the tester and the public will be reduced further helps. There used to be a time when vehicle owners used to choose their own lanes because they know so-and-so. So, they insist that they want to be in that lane. There used to be that kind of time in our country. So, gone will be these days.

The mechanical test which is more fully detailed at section 113 (2) (a) (i) of the Bill mentions –

“(...) noise and smoke emissions, brakes efficiency, lights, suspension and degree of opacity of windows and windscreens;”

I must state that, among all these tests, the suspension tester, which is also known as the shock absorber test, is the most scary one, because some old vehicle owners are afraid that their vehicles will be damaged. In applying some basic engineering concepts, furthermore, I am just wondering as to why sideslip testing and accelerate plate detection are not stipulated in the amendment as being tests that need to be carried out. So, my question is: ‘Are they going to be mandatory or it will depend on the centre itself? So, I think this question merits that we look at it.

This question brings me to my first proposition today; that there is a need for a harmonisation insofar as tests to be performed are concerned. The more so we do not have a single authorised examiner, but three of them or potentially more given time because as per section 3(a) of the amendment, the Commissioner has the power to revoke the licence of the authorised examiner. I do believe that it allows the Commissioner to issue a licence to a new

examiner. Or do we need to go for tendering again? May I suggest the hon. Minister to clarify on this issue as well during his summing-up.

Madam Speaker, coming back to where I left just now on harmonisation of tests, I for one believe that we need to have some formal guidelines for the three companies to follow; otherwise, one company may be doing lesser tests than the other and hence appear to be more competitive or more attractive. Not having these guidelines could tantamount to competitive advantages to some companies at a time when they are saying that they are facing a *manque à gagner* with the rates which have not been changed. But I read in the papers that there is a subsidy that Government is providing, Rs80 per vehicle; whether this is true or not, I did not catch it from the hon. Minister's speech, but I think this warrants some clarification as well.

Madam Speaker, it is a fact that today people perceive the new system as being bad although this is not the case. We know it. The biggest source of stress in life is changed. People are being moved out of their comfort zones. People were, so to speak, buying their fitness test. People were happy and so were the officers. The new system is a paradigm shift. It will take for people to understand that they are actually getting more value for money. The hon. Minister mentioned about a *carnet de santé*. They are paying the same fees and, in return, they are getting a full health check for their vehicles. Now, we cannot play around with roadworthiness because it concerns drivers, passengers and road users, and if not looked after properly, it leads to loss of life and to social problems.

Now, coming back to section 113 (2) (a) (i) of the Bill regarding testing for noise and smoke emissions, the House will recall that I had asked two questions to the previous Minister of Environment - I am glad he is here, hon. Dayal - and we were all amused to know when he was saying that Police officers use their ears, eyes and nose to detect excessive emission because their respective metres were faulty. It seems that this problem will now be resolved at the time of fitness testing. But I must emphasise that we should not relax on this because if the vehicles are not properly serviced and if they are overloaded, once they leave the fitness centre, they will still emit on the road. So, we still need to have this equipment and not be re-comforted that they are being tested at the fitness centres. The new Minister is not here!

It is a fact that cars propelled by fossil fuels are highly polluting. During my term in office at the Head of Maurice Ile Durable, I have been involved and followed with much interest how Mauritius has progressively gone for cleaner diesel from 2500ppm to 500ppm

and then to 50 ppm of sulphur content. Mauritius is slowly but surely moving towards greener technologies in the transportation sector. While hybrid cars are already available, electric cars have recently been introduced and section 3(b) (b) of the Bill talks about electric vehicles for the purpose of its mechanical propulsion draws energy from, I quote – “an electric energy”. I must emphasise that even though we do not see smoke out of an electric car - in fact we do not see smoke at all because there is no exhaust pipe - the electric car is polluting at the moment. In fact, it is more polluting than a conventional car. I rest my case on a study that my office undertook in the context of Maurice Ile Durable and this study was funded by the *Agence Française de Développement*. The final report which was submitted on 18 September 2010 and which is titled « *Etude d'évaluation de l'intérêt des véhicules fonctionnant à l'éthanol et des véhicules électriques dans le cas d'une politique des véhicules propres à Maurice* », has the following conclusion at paragraph 3.7. *Madame la présidente, la conclusion se lit comme suit –*

« En tenant compte des émissions de CO2 fossile réalisées sur le territoire de l'île Maurice, le mix énergétique actuel qui pourrait être utilisé pour la recharge des véhicules électriques se traduirait par des émissions unitaires aux kilomètres parcourus, plus élevé avec un véhicule électrique que les émissions de CO2 d'un véhicule thermique de même performance. »

A comparison was made between the Nissan Leaf and the Nissan Tiida which runs on the same platform but one of which uses a normal engine and the other one an electric engine.

I have a copy of the pertinent part of the report. I am going to table it later for the attention of the hon. Minister. I'll further quote from that report, Madam Speaker –

« De plus, sur la base des investissements énergétiques prévus à l'île Maurice dans un futur proche, cette situation devrait encore durer pendant plusieurs années. En conséquence, il est proposé de ne pas encourager le développement des véhicules électriques auprès des particuliers. »

The bottom line is electric cars will be 100% clean the day people use their car batteries to store electricity produced from their photovoltaic panels.

Madam Speaker, I will now move to section 115 of the Bill which talks about defects. Now, I said above that there is a paradigm shift, but people out there are bewildered, especially the poor people who cannot afford to buy new cars or new vehicles. They are

afraid that their vehicles will not obtain the certificate of fitness because of the simple reason of the age of the vehicles, although the hon. Minister has explained about it.

The amendment at section 115 does not take into account the fact that defects and faults can be of different degree and different nature. I rest my case with a few examples. There are defects that are major and certainly impact on security and safety. I have been in mind here faulty brakes, high emissions, used tyres, heavily dented bodies, so on and so forth. But there are defects that are relatively minor in nature, for example, fire extinguisher; even though it has passed its expiry date, it will not cause a road accident. So, we have to distinguish between the two. I wonder whether the hon. Minister can consider this aspect of things that I have just evoked.

Furthermore, buses and taxis for which the public pays, and I should say, heftily, in order to travel. Nowadays, a short trip in Port Louis what we refer to as *local* is Rs100. Not cheap! But then when you go in these vehicles, sometimes you see damaged seats, torn parts all over the car and much to the discomfort of the taxi users. Why not ask the inspectors to pay particular attention to this? After all, it is the money of the public that keeps the taxi going. So, they deserve this attention, in my humble view, in the spirit of value of money. *Le carnet de santé* that we have just mentioned!

In the last two cases, I believe that the vehicle owners must be sensitised. The vehicle examiner must be a good communicator and must be able to make it clear that the onus is on them for the repair, and that the next time they come over for testing that these issues that appear on the list of defects for which they would be given a copy, will need to be addressed. Now, this will go a long way in the betterment of our vehicle fleet in Mauritius.

On a last note, Madam Speaker, once this Bill becomes law, it is understood that the testing centres will be fully autonomous and that all NTA officers will no longer be posted there save for the two officers that the hon. Minister just mentioned and who will act as a watchdog together with Police officers on behalf of Government. Am I right? They will be so-called requested to play a role of regulator.

(Interruptions)

This aspect of things is primordial as we cannot possibly leave such an important sector in the hands of the private sector fully. Never mind the title, that can be decided, but the powers of that officer which needs to be a high probity, is not quite clearly spelt out in the Bill. So, I

think we ought to do that. Well, I am not a barrister, but this is my humble opinion and I think we need to spell out the powers of this officer.

(Interruptions)

Madam Speaker: No comment! Please, don't engage in any conversation with any Member! You address the Chair!

Mr Mahomed: Okay.

Madam Speaker: Yes.

Mr Mahomed: So, I look at your side.

Madam Speaker: Yes.

(Interruptions)

Mr Mahomed: It's okay.

Madam Speaker: Yes, they are interrupting him.

Mr Mahomed: Well, I think I have said enough on the Bill and I thank you for your attention.

Madam Speaker: Thank you. Hon. Dr. Sorefan!

(2.51 p.m.)

Dr. R. Sorefan (Fourth Member for La Caverne & Phoenix): Thank you, Madam Speaker. Today, I see myself in the middle, on a project between the ex-Government and the new Government.

The project was very opaque in 2014 and this Government is trying to legalise it. But I am surprised that the hon. Minister, Madam Speaker, did not say how we were in the Opposition at that time, how this project was opaque. The opacity of this project would have sufficed to justify coming with this legal framework. The hon. Minister, Madam Speaker, came with all the malpractices at the NTA to justify this project. Let us be honest! How opaque was it in the past that we, both together in the Opposition, were questioning the Minister at that time.

Madam Speaker, malpractices have been for some time and I don't know, but, in these last two years, these practices have gone three or four fold in the examination at the fitness centres. When the NTA tried to sack some of the officers and replace them by Police

Officers, it went 10 times the corruption. As the hon. Minister, there were malpractices. He is aware that finesses were given at home, but what did he do? Did he take any action? Were actions taken against these people? If the hon. Minister says there were malpractices and so many cases were taken to Court; I'll say: "All right!" But knowing and without acting, I don't accept things like this.

Madam Speaker, we are today trying to legalise those three companies whose contract was signed, as said by the hon. Minister, in 2013; legalise after three years on a contract that was signed. I ask myself the question: do we do the legal framework and then appoint and sign a contract or do we sign the contract and then come and legalise this kind of operation? That's a big question that I ask myself. The legal person knows very well how it should be, but, to my humble opinion, we do all the legal framework and then the company comes, bids and then we sign the contract.

We see ourselves today, on the 18 of March - the Minister has mentioned it...

(Interruptions)

Yes, on 18 August, this year, the three companies started on a soft or whatever, without a legal framework. Is that illegal for them to do automated checks? The hon. Minister said, Madam Speaker, there were automated tests with visual tests so that they can get their fitness certificate from the NTA, but, were they allowed to do this automated check? Even up to now, under which provision are they doing it one hour ago? Because this is not legal yet, it is not proclaimed! How can they do it? I ask myself the question: are they not in an illegal situation up to that we proclaim this law, this amendment Bill?

There is in the section where the definition -

““authorised examiner” means a person licensed by the Commissioner(...); ”

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And –

“The licence of an authorised examiner may, by notice in writing, be suspended or revoked by the Commissioner (...)”

Among others –

“where the authorised examiner is no more a fit and proper person to hold the licence”

I get the impression that one person will get that as one entity. They are not talking about a company. If we are talking about a company, what are we talking about being fit or proper? There is no mention about a company. We are talking ‘authorised examiner’ as a person. I think the hon. Minister will have to look into it because from what we know all those three private companies – I call them companies because they are companies the one at Forest Side, the one in the North, the one ...

(Interruptions)

Yes, Eastern one. I think they are all companies. So, I don’t see how a company will match with one person.

Now that we have three private companies with a signed contract after two years/three years of agreement and even getting Rs200 from this Government as subsidy per car which comes to Rs500 m. to those three companies. I ask myself the question: are we not creating a cartel? We must be very careful. If these three companies get together, create a cartel under duress to this Government; go on strike to accede to their exigencies. We have only three. We must beware, we must be careful.

What I suggest is that we democratise this system. We have many *garagistes* who have got equipment to do this kind of test so that we say it’s open for anyone to apply for a licence, of course, following all those clauses in the Bill and to pay for a trading licence, which I don’t see. Probably, I am wrong, I don’t know whether it is included in another Schedule of the Local Government for them to pay a licence and how much. For such kind of business, the licence should be of a tantamount amount, probably, above Rs100,000 so that not a single *garagiste* can come and say: “I apply for a licence.” They must be careful when they apply for a trading licence.

Madam Speaker, democratisation will give opportunities and, at the same time, will tell the three companies to be careful. The Government also will be at ease. If you revoke there are other people who are here, who can do the job. Concentrating all the examination on three sides create havoc although the hon. Minister came and assured us that things are running smoothly. All the examinations on three sides create havoc although the hon. Minister came and assured us that things are running smoothly. Before the automation - we all have cars, some send their drivers to have their cars checked - but I went to have my car checked and it was not that long a queue. Now, he is coming and telling us that with 20 minutes per car there won't be long queues, remains to be proved and seen. Very soon I will have to take my car for a check and I will double-check, take some photographs and send to the hon. Minister.

(Interruptions)

No, I have got some old cars also.

(Interruptions)

Madam Speaker: Please, don't interrupt the hon. Member!

Dr. Sorefan: Madam Speaker, there is one clause at page 5 subsection (c) of section 113 and allow me to read it -

“An authorised examiner who is aggrieved by the decision of the Commissioner under paragraph (a) may, within 10 days of being notified of the suspension or revocation, appeal, on payment of such non-refundable fee as may be prescribed, to the Minister.”

May appeal to the Minister, not pay to the Minister! Do I take it that when we make an appeal, because it is not said in that section what the Minister will do, will the Minister, on appeal, confirm or reverse the decision of the Commission? When we make an appeal to the Minister, the Minister must say what to do. I would like to be clarified on this issue.

(Interruptions)

Then it goes to section 114.

Madam Speaker, the question has been raised as to whether private buses like we heard the Commissioner said there was the issue of some UBS buses being examined by AutoCheck Ltd or whatever, it was in the newspaper. But, there is always this possibility, I am sure there will be, of how the private buses or the company buses are going to be

examined and by whom and whether there won't be any conflict of interest with the promoter of the project and the managers of those companies. That is one regarding the buses.

Madam Speaker, regarding new vehicles like the hon. Minister said the fitness certificate is not about the age of the vehicle. But, we all know that all brand new cars are fit. We sell them without a fitness certificate as opposed to those imported second-hand cars for which we have to get certificate before we can sell them. But, I get the impression that when we talk about brand new cars that have to go for fitness after 7 years, it has been voiced out that this may go to 5 years and I said it in this House that we may be promoting more cars to go to those three companies for them to make more money, which I objected, but, the vehicles become damaged.

One reason for this is that some drivers don't know how to handle their cars or their vehicles. The second main reason is our road infrastructure. If we have smooth roads, well catered for, well looked after, the Government is spending a lot of money but, I don't know if it is because of climatic change that our road infrastructure gets so damaged in such a little time or because we don't have proper supervision from our technicians to look after those contractors who build our roads. Do they cut corners in doing the roads that they get damaged so easily and we, the road users, pay the consequence?

From my own experience and probably many of the hon. Members will agree, if we think back, for many of our cars mechanical damage is always on the left side, not the engine but the frame or whatever shock absorber. I got it from a *garagist*. I said: "why do you always change the left-hand side?" And he said: "because of our road infrastructure, the middle of the road is alright but on the left side it is always damaged." For our new cars one day not to come with exigencies of those companies telling us that we must have more cars coming and then we say okay, but 7 years goes to 5 years and this is not acceptable. We can't go on promoting companies at the expense of Mauritians because of the system of our roads.

Madam Speaker, in this Bill I see the Commissioner has been given a lot of power. Wherever you see it is 'the approval of the Commissioner' or 'the Commissioner'. I will end on this. I started from the former Government to the new Government, the Commissioner was the head of the MLRT of the former Government and now he is the Commissioner of the NTA under the new Government. Great surprise! I went to the profile on social media. Hon. Minister, please see to it how qualified your Commissioner is to undertake this job! Just to give you an example, we are all persons...

Madam Speaker: Hon. Member, can I ask you not to go into details in this matter? If you have got additional information, you can pass it on to the hon. Minister because usually we don't attack people who are not in the House to defend themselves. So, if you have any additional information on this officer, can you just pass it on to the hon. Minister, please?

Dr. Sorefan: Okay, Madam Speaker, I won't table it, I will give it to the hon. Minister to have a look. Anyway, it is on the social media - we have degrees, myself BDS, University of London, but people here have things like Human Resources (UK), even got a degree in alternative medicines (India) without knowing from which country. We know it's from which country, but the University is not mentioned. The Minister is well aware, he is laughing on this! Because we want people to be rightly qualified to executive this job. A good Bill but without the proper man at the head of that institution will not make it work! Then the Government suffers.

Madam Speaker, I wish that the Government, through the hon. Minister of Public Infrastructure and Land Transport, takes this project *à bon port* without any favours to anyone and to open this type of examination to other people. Don't keep it for free or big companies only. There are *garagistes* like we all know. In England, we have the MOT done by *garagistes* where we don't have long queues and they can do the job. We have people to do the job. I keep insisting. We are Mauritians. We can do it. We do not need only companies with big money to come and canvass to have a share from the Government at the expense of the Mauritian people.

Thank you, Madam Speaker.

Madam Speaker: Hon. Bodha!

(3.11 p.m.)

Mr Bodha: Madam Speaker, I would like to thank my colleagues on one side of the House. In fact, there have been some very valid suggestions, some very pertinent questions and I think it is my duty to answer them because, in fact, they are questions where our hon. Members here and outside also must be asking.

First of all, suffice it to say that today the examination was about 20 minutes and there were no queues. We started at 8.00 a.m. in the morning and the appointment was on a staggered basis.

As regards the illegality, Madam Speaker, there is no illegality because the tests are being carried out now by the NTA examiners and by the Police. The cashier also is from the NTA. The certificate is also delivered by the NTA officers. The private centres will operate only when the law will have been passed and gazetted. So, I wanted to assure the House about this.

As regards the additional centres, we have a clause in the agreement whereby the Government can allow the setting up of additional centres in the public interest, if need be.

Madam Speaker, as regards the technical guidelines which hon. Mahomed raised, they will be very strict concerning all the tests, what are the major tests as mentioned and what are the minor tests. In fact, when you have this *carnet de santé*, each one will go with his own and will know exactly what is working and what is not working. The fitness certificate will be given only if the major tests have been done and carried out in positively. I already mentioned the transition.

As regards the roads, we know that there have been some works which have been carried out in the utility sector and this has caused some problems. In fact, we had a meeting with the Vice-Prime Minister. We have just allocated a budget of Rs600 m. for the resurfacing of roads and we are starting in the weeks to come. In fact, tomorrow we are going to have a list of all the roads to be resurfaced, Madam Speaker.

As regards conflict of interest, this is very important. The shareholders of Auto Check Ltd. are owners of the Triolet Bus Service (TBS) and UBS. We have been very strict on it; their buses cannot be tested at Auto Check Ltd. They will have to be tested elsewhere. We have two other centres. Eastern Stone Crusher as well has some vehicles related to its other business and they cannot carry the tests. This has been made very clear to the operators. There were some major and minor questions that I have answered. I also answered with regard to the conflict of interest.

As regards the subsidy it is not Rs200. In fact, we have to include the VAT. So, the subsidy, for example, for Rs400 is about Rs80 as the hon. Member rightly mentioned. I would like also to say that the idea of MOT is being awarded by garage as it exists in the UK. It is a good idea, but it will take some time for us to be able to move from the visual system to an automated system and later to have people who will trust the garage to be able to deliver the MOT later.

Madam Speaker, I think, I have answered the main questions. The most important thing is for us to be able to have a system which is trustworthy and which is working. Formerly, you had two fitness centres –

- in Plaine Lauzun, it was for Port Louis, lower Plaine Wilhems and the North, and
- in Forest Side, it was for the rest of the country.

What we have allowed is, in fact, that the three fitness centres can operate and anybody can go and take an appointment at any centres. It will be staggered and will have his test done there. So, it is open. There is not going to be any geographic restriction.

Finally, Madam Speaker, I would like to say that the most important thing in all this is that we had a very chaotic system and it was really very opaque. The contract itself we had to work it out. It took us a long time to be able to come to terms with the operators. Some even came with a *mise en demeure*, with their request for Rs600 m. of damages, that is, *manque à gagner*. I am convinced that we have come to a system today, which is doing well and which will do better, but it will all depend on the capacity of the NTA to be able to regulate, to see to it that there is no corruption, there is no favouritism and it works daily because we do 1,200 tests on a daily basis. So, the whole thing will depend on the way the NTA is going to be able to play its role as a regulator. We have gone to the PSC to have eight new examiners, new people who will be trained to do the job at the centres and we have also requested from the Commissioner of Police for two police officers on a regular basis to be present at the fitness centres so that there is no malpractice.

With all these, I would like to thank the two hon. Members because they have gone to the centres. They have witnessed it. I think there were lots of apprehensions from moving from the system. You know what happened, Madam Speaker. The first day, you had about 450 appointments, but 150 people did not turn up. So, we were surprised, but then we realised that these people, in fact, did come to the centre. In the past they were coming to the centre just to collect the fitness certificate. That was the first thing. The second thing, we have realised now that you have agents that the same people come with different cars. So there was a system where people were saying ‘I am going to do your fitness certificate and then you just pay him’. So, now, we are going to be able to address these issues because at the end of the day roadworthiness is saving lives because we should have safe vehicles on the road.

Well, I would like to thank my colleagues. I hope that now we can pass on to the next stage.

Thank you, Madam Speaker.

Question put and agreed to.

Bill read a second time and committed.

COMMITTEE STAGE

(Madam Speaker in the Chair)

The Road Traffic (Amendment) Bill (No. XVIII of 2016) was considered and agreed to.

On the Assembly resuming with Madam Speaker in the Chair, Madam Speaker reported accordingly.

Third Reading

On motion made and seconded, the Road Traffic (Amendment) Bill (No. XVIII of 2016) was read the third time and passed.

Second Reading

THE PRIVATE SECONDARY SCHOOLS AUTHORITY (AMENDMENT) BILL

(No. XIX of 2016)

Order for Second Reading read.

The Minister of Education and Human Resources, Tertiary Education and Scientific Research (Mrs L. D. Dookun-Luchoomun): Madam Speaker, with your permission, I move that the Private Secondary Schools Authority (Amendment) Bill (No. XIX of 2016) be read a second time.

The presentation of this Bill comes at a timely moment when major systemic reforms are being undertaken across the different sub-sectors of education.

At this stage of the educational reform process, my Ministry is also reviewing the prevailing legal, institutional and governance frameworks.

In this connection, the hon. Minister of Finance has, yesterday, in the context of the Finance Bill, brought a number of amendments to the Education Act.

Quite understandably, the accompanying legislations of several support institutions equally stand to be reviewed. The review of the PSSA Act falls within this process.

Madam Speaker, this review of the Private Secondary Schools Authority (PSSA) Act was announced in the Government Programme 2015-2019. The PSSA was established in 1976 to support free education. It has now become imperative, after 40 years of existence, to bring a number of changes to its Act so as to allow the institution to better respond to the current needs of the sector and the challenges lying ahead. The Authority has fulfilled over the past years its mission of ensuring the provision of free education through the financing of private grant aided secondary schools. It is equally the regulatory body for a sector that covers 108 private secondary schools catering for some 71,000 students and employing some 7,000 persons.

In line with the educational reform agenda, the PSSA is now called upon to play a key role in the promotion of a quality-driven education in the private secondary education sector. The review of the legal and institutional set-up of the PSSA will act as a major spur, underpinning its transformative roles and evolving functions. The institution will accordingly be provided with the relevant resources and means and these will enable it to fulfil its goals and objectives more effectively and efficiently.

Madam Speaker, the objectives of bringing the amendments to the PSSA Act are to consolidate the provisions of the PSSA Act, review the functions and powers of the Authority and restore its pedagogical inspection and quality assurance functions. The Bill also provides for a consultative mechanism and a reviewed representation at the level of the Board as well as a change in appellation of the organisation into that of “Private Secondary Education Authority”.

Allow me, Madam Speaker, to now present and explain the rationale behind the amendments proposed in the Bill.

To enable the Authority to fully assume its new role and to address new challenges facing the sector, provision is being made for amendments to sections 1 and 3 of the Act, to change the appellation of the “Private Secondary Schools Authority” into the “Private Secondary Education Authority”. The PSSA will be called upon to play a developmental role in the advancement of the sector, providing a wide range of dedicated services in a more wholesome and integrated manner. This, in keeping with the review of the strategic

orientation of the Authority and the shift in focus towards enhancement of the quality of education dispensed.

Most private secondary schools have, over the years, invested in their physical infrastructure, and this, primarily with financing from the State in the form of grants-in-aid. Similarly, improvement has been evidenced in students learning outcomes. However, more attention and effort need now be devoted towards achieving excellence in education. The PSSA will hence be equipped to deliver on a panoply of services for which it will be provided with the required means and resources.

Let me enumerate some of these new services -

- (a) the Provision of psychological support services;
- (b) the Establishment of community links through the Educational Social Workers, and
- (c) the Provision of guidance for career choices.

Such services are already provided by the Ministry directly to State schools and to private schools, on request. In this regard, it is important that the private secondary schools benefit from these services in a more structured and effective way, bearing in mind the specificity of the private sector.

Madam Speaker, the functions of the Authority with regard to pedagogical inspection will furthermore be restored. Moreover, the regulatory role of the Authority will be strengthened to ensure sector-wide compliance with norms and standards set by the Authority, in respect of infrastructure, the teaching and learning process, school performance and management, and other related matters.

Hence, it is considered necessary, right at the outset, to change the appellation to better reflect the new roles, functions and strategic orientation of the Authority.

The Bill provides for an amendment to sections 4(d) and 4(e) of the Act. One of the objects of the PSSA is to ensure that the terms and conditions of employment of the staff of private secondary schools are “fair and reasonable”.

In view of the differences in interpretation that may arise with the terms “fairness” and “reasonableness” and with the advent of new legislations and regulations now governing the employment of staff, it has been considered desirable to bring necessary amendments.

These will ensure that the employment conditions of staff in private secondary schools are in strict compliance with laws and regulations in force.

The Bill, in a spirit of enhanced accountability and considering that a budget of Rs4.5 billion is annually appropriated for the sector, has made provision for an amendment to section 4(e) of the Act, whereby the Authority will have to effectively ensure that the grants disbursed to schools are being used for their intended purposes. This, in conjunction with section 21B, where the Authority is provided with the means of achieving it.

Madam Speaker, let me now concentrate on the new functions entrusted to the Authority.

Section 5 of the PSSA Act currently caters for both the Functions and Powers of the Authority. It has now been split into two, with section 5 dealing with the Functions of the Authority and section 5A providing for the Powers of the Authority.

The Bill makes a new provision at section 5(d) to allow the Authority to formulate appropriate policies, make rules and issue guidelines and set standards in relation to the quality of education dispensed, registration of schools, utilisation of grants, admission and discipline matters.

In the same breath, the Bill also provides for a new paragraph (f) at section 5 to include, among the Functions of the PSSA, the need to ensure that schools are managed according to relevant laws, rules, standards and guidelines.

Madam Speaker, one significant amendment to the Act pertains to the pedagogical inspection function of the PSSA through a new subsection (e) at section 5.

As I mentioned earlier, the importance of pedagogical inspection and quality assurance mechanisms in helping educational institutions to meet today's challenges hardly needs to be stressed – their contribution is fully recognized in every education system.

I wish to highlight that, in May 2000, following an amendment brought to the Education Act, the PSSA's power to undertake pedagogical inspections in private secondary schools was taken over by the Ministry of Education in an attempt to set up a National Inspectorate and investing it with powers of inspection for both State and private secondary schools.

The National Inspectorate did not finally materialise.

For its part, the Quality Assurance and Inspection Division of the Ministry, which came up later and comprises public officers, has been focusing more on the State secondary sector than the private one.

Madam Speaker, I wish to reiterate that the Quality Assurance and Inspection arms of both the Ministry and the PSSA will operate in accordance with a common Quality Assurance framework. This while keeping in view the specificity of the private schools. I wish to add, Madam Speaker, that the PSSA will be provided with the appropriate structure and resources to operate its Quality Assurance arm.

The fact that the PSSA knows the private schools better and thus has a better appreciation of their specificities has been recognised and underscored by many.

Madam Speaker, it is further envisaged in the long-term to have an autonomous and independent body to deal with quality assurance and inspection in education.

Madam Speaker, the amendment adopted yesterday to the Education Act, under the Finance Bill, is in consonance with Section 5(e) of this Bill where the PSSA will now be empowered to conduct Quality Assurance and Inspection in the private secondary education sector.

Les enseignants, vous conviendrez, Madame la présidente, ont besoin d'un encadrement soutenu afin de mener à bien leur rôle pédagogique. »

By restoring its pedagogical inspection functions to the PSSA, we want to foster a culture that strives to constantly improve the quality of teaching and learning.

It is worth noting that this is also in line with the recommendations of the Office of Public Sector Governance (OPSG), in its Report on the Restructuring of the PSSA conducted in 2014.

The proposed amendment will shift the focus of the PSSA's actions from the infrastructural inspection to what goes on in the classroom so as to make teaching-learning more effective. We want to make our schools - all our schools - whether State or private, more accountable for improved learning outcomes among our students. I am sure that the private secondary education sector will definitely welcome this initiative and will own the entire process.

Functions of the Authority (Section 5(g) – enquire into complaints)

The Bill will, through an amendment at Section 5(g), confer on the organisation the statutory authority to enquire into complaints regarding matters pertaining to the schools and take actions where appropriate, whether on its own or in consultation with other relevant authorities.

Functions of the Authority (Section 5(h) – psychological support)

Last but not least, a new provision has been made at Section 5(h) for the functions of the Authority to be extended to cover the provision of counselling, career guidance and psychological support to students in the private secondary schools.

It is widely recognised that adolescents require closer and more specialised support, particularly with regard to their social and emotional development and well-being. The PSSA will thus be staffed by Educational Psychologists, Educational Social Workers and Career Counsellors to provide a more wholesome set of services to the students.

I have to add here that the PRB, in its 2016 Report, has already made recommendations for the creation of the posts of Educational Psychologist and Educational Social Worker at the PSSA.

As far as Career Guidance is concerned, it has today become crucial for students to be properly advised on their choice of subjects to improve their prospects for future employability. This function will be carried out in collaboration with the Career Guidance Services of my Ministry and the HRDC.

New Section Powers of Authority (Section 5A)

Madam Speaker, the introduction of a new subsection 1(a) under Section 5A aims at empowering the PSSA and to better regulate the sector.

The changes taking place in the education sector have made it all the more vital now to strengthen the regulatory function of the Authority to ensure that the sector is efficiently regulated and that norms and standards are established and respected. This will be in the interest of both staff and students.

And, above all, this will be in keeping with the principles of accountability, good governance and transparency, while at the same time maintaining the highest standards of excellence.

I wish to highlight that the existing powers of the Authority under section 5A subsections 1(b), (2) and (3) in the current Act, have remained unchanged.

Board and Consultative Committee (Section 6 and 6A)

The Bill provides for an amendment to be brought to Section 6 as regards the composition of the Board. This amendment is in line with the recommendations made by both the Office of Public Sector Governance and the ICAC in their respective Reports submitted in 2014 and 2015.

For recall, the PSSA is administered by a Board currently consisting of 12 members, including two representatives of Managers of secondary schools, two representatives of the staff of secondary schools and one representative of the staff of the PSSA. Thus, these representatives are on the apex body of the organisation and are involved in decision-making pertaining to schools, including their own, and the conditions of registration, including theirs!

The ICAC, in its Corruption Prevention Review of 2015, has flagged this issue which may potentially give rise to situations of conflict of interest, especially in cases when they participate in decision-making affecting them directly at the level of the Board. The ICAC Report has recommended that the PSSA Act be amended accordingly to review the composition of the Board.

Quote from ICAC Report

The Office of Public Sector Governance (OPSG), in its Report on the Restructuring of the PSSA conducted in 2014, had for its part recommended that the Board composition be reviewed so that the PSSA can more effectively exercise its regulatory function. OPSG was of the view that consultation with stakeholders should be done at a different level.

Quote from OPSG Report

Madam Speaker, allow me to just mention what was said by the Office of Public Sector Governance, and I quote –

“It is important that the Board composition of the PSSA should be reviewed to have a more coherent Board so that the PSSA can freely exercise its regulatory function as provided by the Act. Consultation with stakeholders is important and can conveniently be done at the management level and necessary feedback provided to the Board to take decisions as appropriate.”

And if you’ll allow me, Madam Speaker, I will take up also what was recommended by the ICAC in its Corruption Prevention Review and it stated –

“School Managers should play an advisory role and to the Board of the PSSA. They should be called upon to advise the Board on decisions concerning schools. This would enhance the governance framework as it will ensure that those involved in decision-making process are not themselves concerned with the decisions thus enabling the PSSA to better exercise its regulatory work. This would deter any risk of corrupt practices or the perception thereof.”

So, Madam Speaker, in the light of the above two Reports and with a view to enhancing governance framework, Section 6 of the PSSA Act regarding the composition of the Private Secondary Schools Authority’s Board is being amended. Thus, representatives of Managers and Staff Unions will contribute at the level of Consultative Committees, instead of participating in decision-making at the level of the Board.

As per the amendment to Section 6, the Board will also include two members having wide experience in the field of education. We shall ensure that such appointed members while not being engaged or employed in the sector are effectively persons with the required profile, knowledge and exposure to the sector.

It is further proposed to include a representative of the Ministry of Civil Service and Administrative Reforms on the Board, particularly to provide guidance in respect of matters pertaining to the conditions of employment, implementation of PRB Reports and other relevant regulations for the members of teaching and non-teaching staff serving the private schools. It has to be recalled that with a view to establishing parity of esteem between the private and State sectors, the salaries and conditions of service of staff have been gradually harmonised over the years with the publication of successive PRB reports.

Madam Speaker, we need to be clear that the PSSA is an implementing agency. Its Board deals mainly with issues of an operational or administrative or financial nature. The policy making process is often a matter which rests with the Ministry.

It is worth highlighting that many policy decisions concerning the private education sector emanate from the Ministry. The Board deals with the implementation aspects of projects and programmes which have either been subject to Government approval or in line with policies of the Ministry of Education.

We recognize the valuable contribution of Managers, the Unions and other stakeholders for the development and advancement of the private secondary education sector. In this regard, we want to ensure that their inputs are taken on board. We also intend to foster

an even greater involvement and participation of the stakeholders with an even wider cross section of stakeholders, and reinforce existing partnerships in the sector.

Hence, Madam Speaker, we are providing for a proper consultative mechanism, a platform for participation, an exchange of views, a sharing of good practices and all through the Consultative Committees to be set up under Section 6A of the Bill where existing and new stakeholders would continue to contribute to discussions on matters of strategic importance. Consultative Committees can be set up to address specific subject matters and will comprise relevant stakeholders as appropriate. As you see Madam Speaker, we are not in any way jeopardizing our relationship with our partners.

Madame la présidente, en aucun cas, nos actions compromettront ou mettront en péril ce partenariat privilégié que nous entretenons avec le secteur privé. Bien au contraire, nous sommes en train de le préserver et le consolider. Madame la présidente, permettez-moi de souligner à la Chambre que ce partenariat existe et existera toujours. L'importance que le ministère de l'Éducation accorde au secteur privé représente un acte de foi pour le gouvernement, essentiel à l'avenir du secteur éducatif. Ce partenariat, Madame la présidente, ne peut se résumer qu'à une simple question de représentativité sur un conseil d'administration.

Madame la présidente, nous sommes déjà en discussion avec nos *stakeholders* sur un nombre de sujets ayant trait à la mise en pratique du projet de la réforme du système éducatif et ces échanges se déroulent dans des conditions sereines et favorables. Je tiens aussi à rassurer la Chambre qu'il n'y a aucune controverse comme veulent le faire croire certains.

Nous entretenons une excellente relation aussi avec nos partenaires du confessionnel comme du privé et nous maintenons une ligne de communication constante avec eux. Ils auront toujours le privilège de faire entendre leurs voix, dans le dialogue que nous avons toujours eu d'ailleurs tout le temps et maintenu et c'est bien ainsi qu'on entend entamer l'avenir et garantir une éducation de qualité à nos enfants.

Madam Speaker, the Powers of the Authority - in line with Section 5A subsection (1)(a), the Bill provides for new Sections 21A, 21B and 21C to empower the Authority to make rules and give directives and enforce same in the effective discharge of its functions. The Authority has, over the years, informed the Ministry of certain legal lacunae that constrain it in the exercise of its regulatory functions and this calls for a strengthening of the regulatory framework of the Authority.

Thus, with the amendments now proposed, the Authority will have the power to make rules and give directives, in given specific circumstances, with a view to intervening and addressing situations where, for example, there are strained industrial relations or where grants are not being used for their intended purposes or where it has to protect the interest, welfare, health and safety of staff and students of a school. Where information of a mandatory nature is not being submitted, there are situations where the Authority will now be able to take action to ensure that there are no operational bottlenecks.

The proposed amendments will further allow the PSSA, under Section 21C, to take appropriate action in case of non-compliance. This power is to be exercised with due diligence for a specific purpose, in rare cases, especially in cases where the legal requirements or conditions imposed are not being respected; bearing in mind that the majority of the operators comply with the rules and guidelines set by the Authority.

Madam Speaker, the proposed amendments to the legal framework of the PSSA are long overdue and will instill a new dynamism in the sector. The amendments proposed are the result of an in-depth and exhaustive reflection on private sector provision of secondary education and are in line with our reform agenda. They will equally further strengthen the existing partnership with stakeholders to increase their participation in the development and promotion of this sector.

Again, with the conduct of quality assurance functions, there will be a significant enhancement in the quality of education dispensed. As for the services being provided to the students by the PSSA, these will be further extended as the Authority comes to cater for a wide gamut of support services that are the legitimate due of learners.

Madam Speaker, these amendments will not only empower the Authority to more effectively regulate this very important sector of our educational system but will also usher in a new strategic vision for it as the Authority assumes a more pronounced developmental role. I am confident that all these initiatives taken together, and in a holistic manner, can only result in a substantial improvement in performance levels.

I cannot end without highlighting the contribution of the private providers in the educational landscape of Mauritius. The Government intends to promote and consolidate this existing nexus in the sector and bring about the much-awaited reforms to upscale our secondary education to higher levels of growth and excellence.

With these words, Madam Speaker, I commend the Bill to the House.

Thank you.

Mr Gayan rose and seconded.

Madam Speaker: Hon. Rughoobur!

(3.47 p.m.)

Mr S. Rughoobur (Second Member for Grand' Baie & Poudre d'Or): Thank you, Madam Speaker. Let me congratulate the hon. Minister and her team for coming forward with the amendments.

Madam Speaker, actually there are, for me, four objectives that are associated with these amendments which relate to the promotion of quality education. The Bill aims at giving more powers to the PSSA. It encourages a better participation of stakeholders in this whole process of promoting education in the private secondary schools and, the fourth objective, which I believe is equally important, is the issue of accountability because we should not forget that there are public funds which are involved in this whole process of the management of these private secondary schools.

Madam Speaker, I am going to be very brief in my intervention. The amendments to the three sections that I am going to comment upon are –

- Section 4(d);
- Section 5 which talks about the functioning of the Authority, and
- Section 6.

Madam Speaker, in my intervention what I would like to elaborate upon is how will these amendments to section 4(f), section 5 which relates to the functioning of the Authority, the new provisions under section 6 relating to the functions of the Board will contribute in ensuring that we meet these objectives for which these amendments are being proposed.

Madam Speaker, we should not forget that year after year, there is a considerable of funds which are involved in the management of these private secondary schools. Last year I talked to the hon. Minister and she explained to me as to why the PSSA is not involved in the recruitment process of the teaching and non-teaching staff in those secondary institutions. *C'est un acquis du secteur privé que le gouvernement ne va pas toucher. Cela va rester l'acquis du secteur privé.* But we need to ensure that those funds that are being provided are better utilised. I believe that this section 4(d), which is being amended and relating to conditions of employment of staff in the secondary schools where we are deleting the words

‘conditions of employment of staff are fair and reasonable’ and replacing it by ‘to ensure that conditions of employment of staff comply with the relevant laws, rules, guidelines and directives.’ Now, this is an opportunity with the guidelines for the PSSA. Henceforth, to ensure that there is better transparency in the recruitment process.

Madam Speaker, we have received complaints on several occasions on the way recruitments are being effected in certain private secondary schools. Today, there are almost no guidelines and the private secondary schools have the absolute liberty to recruit. But we should not forget that there is actually one condition that any secondary school will only recruit a teacher who has a teaching certificate issued by the PSSA. This is probably one of the rare conditions, but if we consider such a condition and if we are coming with such an amendment where we are now introducing guidelines by the PSSA for the management of schools, probably we can as well define other guidelines that would probably ensure that there is better transparency in the recruitment process in the secondary schools.

Now, apart from this section 4 which is being amended, Madam Speaker, I wanted to explain further on this specific issue. I wanted to elaborate on section 5 -Functions of Authority, which is actually a new section. In the new section 5 (d), I am going to quote what is mentioned there -

“formulate appropriate policies, make rules, issue guidelines and directives and set standards and conditions –

- (i) for promoting and enhancing quality education in secondary schools;
- (ii) for the registration of secondary and pre-vocational schools;
- (iii) for ensuring efficiency and transparency in the manner in which grants are used by secondary and pre-vocational schools;
- (iv) for the admission, transfer and discipline of students of secondary and pre-vocational schools; or
- (v) that are incidental or conducive to the attainment of its objects;”

Madam Speaker, ‘formulate appropriate policies, make rules, issue guidelines’, here, I believe and I propose that while talking about issuing guidelines, these new functions that are being given to the Authority, I believe that we can add also as a sub paragraph in this section the employment of teaching and non-teaching staff. I mean issuing guidelines and directives for the employment of teaching and non-teaching staff. *On ne va pas toucher à*

l'acquis du secteur privé, Madam Speaker. When speaking about issuing guidelines, if we can also elaborate on a few conditions that would be attached to the employment of teaching and non-teaching staff in private secondary schools. Because I consider that the amount of money that is being spent by the PSSA on this specific item, there is a need for better transparency both in the recruitment of teaching and non-teaching staff. So, this is an opportunity, I believe, that we should not miss to issue a sort of guidelines, so that there is better transparency in the recruitment of teaching and non-teaching staff.

Under this new section 5 - Functions of Authority, we have been talking about the role of parents, Madam Speaker. While talking of the functions of the Authority, I see nothing relating to the participation of the parents. How can the PSSA help in encouraging participation of parents in the administration of these private secondary schools? So, I am proposing that under these functions of the Authority, we have to think as to how we can also add initiatives that would be the responsibility of the PSSA, initiatives that we would have to take to encourage better participation of parents in the administration of these private secondary schools. We know how important the role of the Parent-Teacher Association (PTA) is. Whether it is a primary or secondary school, the role of the parents are extremely important. So, this is a proposal that I am going to make to the hon. Minister for her to consider, and if this can also be studied and see if we can take on board the proposal.

Madam Speaker, the third section to which I was referring earlier was section 6 - The Board and the new section 6A where there is the setting up of a Consultative Committee. Madam Speaker, on this issue, before the speech of the hon. Minister, I had some reservations. I can understand that there have been recommendations in this regard in the past by authorities, by the ICAC and by other institutions, I believe, who have made recommendations in this regard that we should have changes. But still, Madam Speaker, the role of the Consultative Committee, I believe, has to be well-defined because today as it is in the Act, it is not clear as to this Consultative Committee. There is a lack of information on this very function, itself, of the Consultative Committee. Second, is it a structure which would be working in parallel or have powers equal to the Board because there is no mention of decisions taken by this Consultative Committee? Will it have to be ratified by the Board or is it final? The composition of the Council, itself, we have a lack of information on this. I am sure the hon. Minister is going to enlighten the House on this, but also on the composition of the Board. I see that there have been changes that are being proposed now that the hon. Minister has elaborated on the reasons.

But still I believe that the composition of the Board, as it is being proposed though I am sure that the Ministry, the officers have studied the positive impact that this is going to have in the education system especially the Private Secondary Schools in the future - that it is important that we understand well the actors who should be involved in the elaboration of the policy measures of the sector. We have the administrative arm of the PSSA which has its role, but we have also the board which has a policy role. And the question that I have is, if people with lack of experience in the field, or else let us proceed the other way; if people who have got years and years of experience do not form part of the board, will it be that easy for the PSSA to identify, to work on policies, to finalise strategies that will be in the interests of not only the Private Secondary Education Sector, but also the whole education sector in general? It is because in this case we are talking of removing representatives of managers, unions. I am just asking the question: whether in the absence of these actors, will we have people of experience who know the sector? Will we be able to define a proper strategy that will be in the interests of the sector? This is a question that I am asking!

That is why for me, I believe, that representatives of managers of schools, the representatives of the unions, even a representative of the Ministry of Social Security should have formed part of the board. This is my opinion. I may be wrong, but I believe that it is important that to define a strategy, to define an appropriate policy for the sector, we need to have people of experience, people who know what they are talking about and I would humbly suggest to the hon. Minister to look into this. Madam Speaker, these are the three important issues that I wanted to mention. I would like to thank all of you for your attention. Thank you very much.

(4.03 p.m)

Madam Speaker: Hon. Ganoo!

Mr A. Ganoo (First Member for Savanne & Black River): Madam Speaker, with the two main Opposition parties having shied away from commenting on this Bill...

(Interruptions)

I find myself in the privileged position of having to say a few words on this Bill and to disagree with the proposal of the Minister today. And I will explain why.

Madam Speaker, it is a Bill which is being presented to this House, containing 15 sections and it is an Act which has been amended on a few occasions in the past - as far as I remember on two or three occasions. The subject matter of this legislation, as the hon.

Minister pointed out rightly, concerns 108 secondary schools, a population of 71,000 students, and approximately 7,000 teaching and non-teaching staff. This is the dimension which this legislation covers, Madam Speaker.

Here, we agree that the law should have been reviewed, should have been updated, should have been modernised, and should have been revamped to adjust to the new realities. There is no problem about that, Madam Speaker. I agree that the Private Secondary School Authority Act, which was passed in June 1976 before elections which took place at the end of the year, should have been reviewed. There is no problem about that. But unfortunately, Madam Speaker, the main point that we wish to make today is that; firstly, there has been no consultation with the stakeholders. This is what I have been told. There has been no consultation with the two unions. There was no consultation with the UPSEE and the secondary and preparatory school teachers and other staff unions; the two main unions. There was no consultation with the Federation of Managers or with the other authorities concerned with secondary education. This is the first point I wish to make and which I wish to *déplorer*, Madam Speaker.

We know when we are talking about secondary education, we are talking about unions which have been here working in this field for a long time. We are talking of Bureau de l'Éducation Catholique, Federation of Managers. We are talking of other authorities, Madam Speaker, Islamic Education Authority, Diocese Adventist, Diocese Anglican; all these authorities which have made heavy investment in secondary education. So, this is a matter of regret. Especially as the hon. Minister herself referred to the Government Programme where on the chapter of education it was mentioned in the Government Programme in the address by His Excellency the President on 27 January 2015 on paragraph 70 –

“In order to build on the existing partnership with the private providers of secondary education and make it more effective, government will review the Private Secondary Schools Authority (PSSA) Act”

To build on the existing partnership! So, the hon. Minister herself has said that there has been a long existing partnership over the time, over the decades, Madam Speaker and it is really a matter of regret that this law which is in our statute books since 1976, which is being reviewed fundamentally today for the first time. I have look at the other amendments. There was one during the MSM-MMM Government presented by hon. Obeegadoo. There was one

before in 1983, I think. But this Bill today comes and changes fundamental things, fundamental matters in the PSSA Act voted and adopted in this House in 1976, and we cannot, but regret that the stakeholders have not been consulted, Madam Speaker.

I will say, therefore, that the decisions have been taken in a unilateral manner, are being imposed on the stakeholders, Madam Speaker. Coming from upward and inflicted and thrust upon those stakeholders especially as hon. Minister herself has paid **lip service**, if I may say so, on this existing relationship which has lasted over decades.

Now, Madam Speaker, there are good things in this legislation, but there are also things which are not acceptable. I will not go through all the clauses of the bill, but fundamentally the appellation of the Act, for example, has been changed. This is a correct initiative which is to be applauded. The Bill comes, Madam Speaker, as the hon. Minister said to invest the Authority with new functions, new powers.

The Bill comes and sets up the guidelines, the rules by which the secondary schools, the Managers have to abide to. The Bill comes with the setting up of the new Board. The Bill comes to propose the Consultative Committee - and I will come on all these issues in a few minutes - and the Bill finally, Madam Speaker - which to my mind is another matter which is unacceptable also - comes to propose in its last part the imposition of administrative sanctions in case the rules are not abided by.

But, let me come firstly, Madam Speaker, with the composition of the Board. I must say I was surprised, flabbergasted. I am not an expert in education, Madam Speaker, but I have talked to many knowledgeable people on this issue, who are in the sector, and I was surprised that it was this Minister, knowing democratic and open mindedness, who is coming now with such a Bill. I am talking on the composition of the Board.

Madam Speaker, the hon. Minister has tried to justify why this Board is being constituted differently now. She has given us the reasons, the justifications, reports from the ICAC, reports from the Public Sector Governance Board and so on and the Minister, as I said, has, in fact, been referring to the *partenariat*, and to add insult to injury, I head the hon. Minister saying –

« Ce partenariat, Madame la Présidente, ne peut se résumer à une simple question de représentativité sur un conseil d'administration. »

What is, in fact, happening as far as the Board is concerned? The hon. Minister has given us what were the recommendations of ICAC or the Public Sector Governance Board, conflict of interests and so on, and other reasons that were given.

Madam Speaker, since the creation of the PSSA in 1976, the representatives of the employers, of the trade unions, of students have been sitting on this Board, and today, they are just being simply eliminated from this Board, at a time when we know good governance claims for more dialogue, where there should be more wider representation in different *conseils d'administration*.

To me, this Bill before us now is turning the clock anti-clockwise, Madam Speaker. To me, this is *un pas en arrière, un recul*, unfortunately, *une décision rétrograde pour moi*.

Why should have the trade union representatives been eliminated from this Board or the Federation of Managers, Madam Speaker? This particular aspect of the Bill, that is, the exclusion of the employers, of the union representatives from this *conseil d'administration* is *une mainmise, une étatisation de l'éducation privée*, Madam Speaker. As I said, it has been done in a unilateral manner.

Now, if we look at the 1976 Bill, the existing legislation, we see that the Board consisted of the Chairperson, appointed by the Prime Minister, the Permanent Secretary of the Ministry, the FS, the Director of the MIE, the Director of MGI, a public officer appointed by the Minister, two representatives of managers of secondary schools, two representatives of the staff of secondary schools, one representative of students of secondary schools, one representative of the staff of the Authority, Madam Speaker. Now, we are changing all this.

According to what is being proposed in this Bill, as we can see, the Board will now consist of the Chairperson, the FS, the PS of the Ministry, somebody representing the Ministry of Civil Service, the Director of MIE, the Director of the PSSA itself, and as the Minister herself highlighted, two persons having wide experience. So, excluding all these civil servants of high-ranking status and the Director of the PSSA, only two persons having wide experience in the field of education will be appointed by the Minister. This is a complete transformation of the Board as it was, Madam Speaker.

These two persons, according to the Bill, should have been engaged or employed in the Private Secondary Education sector, and they will be appointed by the Minister. We don't know. The Minister, therefore, will have the liberty, the privilege, the prerogative of appointing anybody, not necessarily somebody who is sympathetic to the cause of the unions

or to the cause of the employers, of the owners of these secondary schools, but provided they have a wide experience in education.

Madam Speaker, but the worst thing in this Bill is that the Bill provides in another clause that the quorum will be five persons. If I can read to the House what is provided for in this Bill, so that the Board can finally take the necessary decisions. I read clause 11 (5) –

“(5) At any meeting of the Board, 5 members shall constitute a quorum.”

And furthermore, clause 11 (6) says -

“(6) Everything authorised or required to be done by the Board shall be decided by a simple majority of the members present and voting.”

Donc, theoretically, five members constitute the quorum and a simple majority means three members of the Board are enough to take decisions concerning any decision provided for in this Bill, Madam Speaker. So, for me, any important decision can theoretically be taken by three persons for such a sector which is of so much importance, Madam Speaker.

I was reading the debates when this Bill was voted in 1976. Those were the days of the old Labour Government, Madam Speaker, and the Minister of Education at that time, Mr Chaperon, when questioned about the composition of the Board - this is why I said we are turning the clock backwards, anti-clockwise - said - I am just quoting him -

“The hon. First Member for Belle Rose had some doubts about the composition of the Authority. Well, it is going to be a collective business, which should not separate the managers from the teachers, from the students, from the Government officials, from the specialists in education. It should be one whole team working with one single spirit.”

This was the spirit in which this law was passed. True it is that the landscape is different now, Madam Speaker. True it is – I repeat it again – we need new measures, the law has to be modernised but, in terms of partnership, Madam Speaker, I think this is the most objectionable and impeachable part of the Bill when the Minister has come relying on whatever reports she has told us to come and change the composition of this Board.

Now, what does this Bill do? To sugar-coat the bitter pill, in order to cover this *recul*, this *pas en arrière*, Madam Speaker, the hon. Minister in the Bill comes and proposes the Consultative Committee. The Consultative Committee is supposed to be a consultative

mechanism for greater involvement of stakeholders. So, the stakeholders will not be in the Board, they will be in this hazy nebulous body which is called the Consultative Committee.

But, even when we look at the clause providing for this Consultative Committee and this is why the hon. Member who spoke just before me asked the very relevant questions about what is the nature of this Consultative Committee, what are its powers. This is what the Bill says –

- “(1) The Board may set up, on such terms and conditions as it may determine, such Consultative Committee as may be necessary in the discharge of its function.
- (2) A Consultative Committee shall consist of not less than 3 nor more than 7 members, including the Chairperson, to be appointed by the Board (...).”

And clause 6A (3) provides that –

“A Consultative Committee may include managers of private secondary schools or representatives of unions of employees of private secondary schools or relevant stakeholders.”

So, even this Consultative Committee, Madam Speaker, according to the law may include managers of private secondary schools or representatives of the unions. Once again, the Board takes upon itself the entire liberty to decide who will form part of this Committee. The question one can ask and this is what the managers and the trade unions are asking is: will this Consultative Committee be composed solely of managers or trade union representatives or both of them? It is theoretically possible that this Committee is not composed of any trade union representative. In theory, it can be done. This clause also talks about the relevant stakeholders. It may include managers, may include representatives or relevant stakeholders. Who are these relevant stakeholders whom the law refers to?

This Consultative Committee, as I said, Madam Speaker, is to sugar-coat the pill that the Minister wants us to swallow. It is an eyewash because the final decision will come back to the Board and, the Board, as we know, is made up of totally *d'une façon majoritaire* of representatives and officials of the different Ministries and the Minister of Education, Madam Speaker. So, this is why therefore, as I said, the composition of the Board, the setting up of the new Consultative Committee, Madam Speaker, are matters which are unacceptable.

Now, let us come to the question of the rules and the directives in the Bill. Madam Speaker, the Minister has already explained in her opening speech the new character of this

legislation in authorising the Authority in section 5(a) the Authority shall have such powers as may be necessary to make rules, issue guidelines and directives and so on. Furthermore, in clause 13 of the Bill, 'Power to make rules', we see that –

“The Authority may, with the approval of the Minister, make such rules as it may determine in furtherance of its objects.”

Any such rule –

“(...) may provide for the imposition of an administrative sanction in relation to such matters as may be prescribed.”

So, we don't know what will be the administrative sanction, it will be prescribed! And, the House is being asked to vote for a Bill which empowers the Authority with the approval of the Minister to make rules which provide for administrative sanction against these managers and the different other authorities and we don't know what is the nature of this administrative section! The administrative sanction will be prescribed later on.

Furthermore, in section 21B (4) –

“The Authority may impose such administrative sanction as may be prescribed if a school fails to comply with a directive issued to it within such time as may have been determined.”

Again, Madam Speaker, on two occasions, we are being asked to vote to allow the Authority to impose administrative sanction which will be prescribed. We are totally in the dark about the nature of such administrative sanction and the House is being asked to vote for this provision in the Bill! But, what is more difficult to understand, Madam Speaker, is that there is a section concerning offences in the Bill –

“Any person who fails to comply with any requirement imposed under this Act, or any rule, guideline or directive under this Act, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.”

Therefore, the clause about setting up the offence provides that anybody who fails to comply with any requirement imposed under this Act or comply with any rule is liable to be prosecuted and will commit an offence and liable to a fine not exceeding 50,000 rupees, as I just said, plus 2 years imprisonment. In addition to that, Madam Speaker, we are being asked to vote for an administrative sanction which is not elaborated and provided for in this Bill but

which will be prescribed later. When we know that in the law, the PSSA Act - I come back to this question of the composition of the Board - like in all other statutes, we know that the Minister has in relation to the exercise of the functions of the Board, she may give directions to the Board as she considers necessary in the public interest and the Board shall comply with those directions. I am coming back to this question of the composition of the Board because finally, at the end of the day, the Minister has the last say and may give directions to the Board and the Board has no choice but to comply with those directions given by the Minister.

So, Madam Speaker, these are the reservations that we have on this Bill and there is another matter, Madam Speaker, to come back on this sanction, I agree that it exists in our laws, they are sometimes called administrative penalties, but they are clear and defined in the law in question.

This is why I take strong objection to these administrative sanctions referred to in this Bill because they are not provided for in the Bill we are being asked to vote.

Madam Speaker, another function of the authority will be now concerning le transfert des élèves. I want to ask the hon. Minister because this is in the law now. Le transfert des élèves, is it not the authority of the college, of the school? Is it not the prerogative of the Manager? In so doing, by giving the authority the power for le transfert des élèves, is not the authority taking over a new power which, in fact, belongs to the management of the secondary school in question?

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The last point I wish to make concerns the inspection and periodic quality audits in academic areas. The hon. Minister talked lengthily about that; this question about undertaking inspection and periodic quality audits in academic areas. Madam Speaker, I am sure the hon. Minister knows about this. The unions have, in the recent past, met the Quality Assurance Unit of her Ministry. I think this took place in May of last year. The SPSTSU informed the Ministry about the difficulties they are having concerning the visits of officials of the Ministry in the different secondary schools. The union had objected and had even

given a *mot d'ordre* to the members of the union to refuse access to their classes to these inspectors, but they wanted to dialogue furthermore with the Ministry concerning the inspection of the inspectors, dispatched or sent by the different Ministries.

Hence, Madam Speaker, there is necessity for the stakeholders, for the members of the unions on this Board to come to a consensus on such an important matter about this inspection and these periodic quality audits. There is nothing wrong in inspection being carried out, Madam Speaker. But all these should be done in a consensus; in the framework of a meaningful dialogue. This is why again it is a matter of regret. I have given one example why the Union's representative; the Federation of Managers should not have been excluded from this important Board of this Authority?

Madam Speaker, in other words, what we are denouncing today is the antidemocratic nature of these amendments and the unilateral way they have been taken by excluding the representatives of the employers and the trade unions. It is a pity that this has not been done. This is why we again underline and insist on the fact that the failure of the hon. Minister to agree to meet these stakeholders has resulted in a Bill, which should have, in fact, been adopted unanimously in this House and should have been accepted by the stakeholders, but unfortunately this is not case. This is why we regret that this has not been done. I have done. Thank you.

Madam Speaker: Hon. Mrs Dookun-Luchoomun!

(4.35 p.m.)

Mrs Dookun-Luchoomun: Madam Speaker, let me, first of all, thank all the Members who participated and contributed to this debate on what I consider to be a very important Bill.

Madam Speaker, let me take up some of the points raised by the hon. Members and I'll try to bring some clarifications to their queries. I will start with hon. Rughoobur. Hon. Rughoobur was talking about the powers of the PSSA. I would like, from the very outset, to state that we are talking about powers to give directives and guidelines, but, as far as recruitment is concerned, teachers are recruited according to the Regulations set by the PRB. All teachers recruited by private secondary schools have the qualifications as set out by the PRB and this is followed strictly by the managers of the schools and the PSSA as well.

As far as the other point raised by the hon. Member and I think which was the same point raised by hon. Ganoo, I will take it up. Regarding the consultations, let me reassure

hon. Ganoo that consultations have been extensive and we have been meeting all stakeholders. To start with, as far as this Bill is concerned, there have been no less than 22 meetings at the level of the PSSA with various stakeholders discussing the issue for a long time. Further, after the Bill went on the website of the National Assembly, I had a meeting with the Federation of Managers. Obviously, they mentioned their fears about not being on the Board, but I have explained to them that their non-representation on the Board is by no means a break in the dialogue that we constantly have with them.

The Consultative Committee has been set for that particular purpose. I have already stated why for good governance and sake, we are not having them on the board of the PSSA, but the various Consultative Committees that are being set up would be to discuss issues that are of their interest. Now, Consultative Committees may be held together with managers and teachers, but we may have Consultative Committees solely with managers for matters relevant to them and others with the representatives of the unions and the teachers as well. When we talk about other stakeholders, we can also think about the private fee paying colleges, they also may have to contribute. So, the Consultative Committees have got their own *raison d'être*.

Hon. Ganoo has been talking about undemocratic measures. I am sorry! There are regulations already there and if I can mention the regulation. There is Regulation 13 of 1977 which refers to fines to be imposed on managers that do not abide by regulations or by directives set. We are putting in the legislation to ensure that things move the way we want them to move, in the direction we want them to move. Now, I must here stress that most of the managers are abiding managers and their schools are operating pretty well, but we do have some *brebis galeuses* like we always have anywhere in any sector, Madam Speaker; and we need to come up with proper legislation to make sure that we manage these situations.

When hon. Ganoo went back to the 1976 legislation mentioning who are the members, I am sure that he has noted that it is almost the same members that we are having on the Board. The only distinction is that we are now asking stakeholders who are direct licensees. Madam Speaker, when we talk about regulatory bodies, we cannot have licensees sitting on the Regulatory Bodies Board. If we look at the recent legislation, we have a series of them. Let me just mention this. It is important for me to mention this. We have the ICT Authority, the Financial Services Commission, the Gambling Regulatory Authority, the Tertiary Education Commission. All these, Madam Speaker, cannot have operators or licensees on their Board.

Let me mention that, in the case of the PSSA, not only is the PSSA a regulator, but the PSSA dishes out large amounts of money to these operators. So, we cannot have them sitting on the Board. I think that this is not at all undemocratic but, in fact, very transparent. This is what we intend to do. We want things to go on in a transparent way and following the principle of good governance, Madam Speaker.

(Interruptions)

Furthermore, I find here and I think, it was hon. Rughoobur who had mentioned that it is important to get parents on board while taking care of the students. But I had mentioned it in my speech, Madam Speaker that we are making provision in this Bill for the establishment of community links through the social workers who will be linking the schools with the homes of the students; trying to help out whenever situations become tough or tedious. So, we are taking the required measures. Madam Speaker, it is important for me to mention that we do believe in this *partenariat* that we have with the private sector and no matter what the Opposition says, no matter what is given on the papers; we do trust our partners and we do believe in this *partenariat* and we want to go on consolidating this *partenariat*.

I would like also to add one point. Stating that we haven't had consultations is not at all true. Only a few days back, I talked to the representatives of the *Bureau de l'Éducation Catholique* as well because it is true that once they noted - they were told earlier - that they are not on the board, they had fears - and I do think that it is legitimate - and thought what would happen if we want to discuss matters. I have been stressing all the time that the consultative committees are there, but over and above the dialogue with our partners does not restrict itself to the PSSA. Our partners can, at any time, knock at the door of the Ministry and my officers and myself, will be there to listen and to keep on discussing on issues that are close to our heart.

(Interruptions)

Madam Speaker, this particular Bill is being presented to the House because we have at heart the interests of our children. And I believe that anyone who believes in the future of our children, who believes that we should give them the right *encadrement*, who believe that we have to make everything sure that they can proceed with their schooling in the best possible ways, will have to agree to this Bill.

I thank all hon. Members for their contribution and attention. Thank you Madam Speaker.

Question put and agreed to.

Bill read a second time and committed.

COMMITTEE STAGE

(Madam Speaker in the Chair)

The Private Secondary Schools Authority (Amendment) Bill (No. XIX of 2016) was considered and agreed to.

On the Assembly resuming with Madam Speaker in the Chair, Madam Speaker reported accordingly.

Third Reading

On motion made and seconded, the Private Secondary Schools Authority (Amendment) Bill (No. XIX of 2016) was read the third time and passed.

ADJOURNMENT

The Prime Minister: Madam Speaker, I beg to move that this Assembly do now adjourn to Tuesday 15 November 2016 at 11.30 a.m.

The Deputy Prime Minister rose and seconded.

Question put and agreed to.

Madam Speaker: The House stands adjourned.

MATTERS RAISED

Madam Speaker: Hon. Ramful!

(4.46 p.m.)

PLAINE MAGNIEN – WATER SHORTAGE

Mr D. Ramful (Third Member for Mahebourg & Plaine Magnien): Madam Speaker, I have an issue addressed to the hon. Vice-Prime Minister, Minister of Energy and Public Utilities who, unfortunately, is not here and I trust that one of the hon. Ministers will transfer the message to him.

It concerns my Constituency in particular the village of Plaine Magnien where the inhabitants are facing a very drastic water shortage since last year. I remember they even came out on the street in protest to the problem that they were facing last year. It concerns

three areas mainly in Plaine Magnien. I will give the names of the streets: Cemetery Road, Plaine Magnien, Mamou Lane, Plaine Magnien, and Bois d'Oiseau Street, Plaine Magnien.

So, I make a humble request to the hon. Vice-Prime Minister to kindly look into the matter.

Thank you.

The Vice-Prime Minister, Minister of Housing and Lands (Mr S. Soodhun):
Madam Speaker, definitely I am going to refer the issue raised by my good friend, hon. Ramful to the hon. Vice-Prime Minister.

Madam Speaker: Hon. Shakeel Mohamed!

(4.47 p.m.)

PRIMARY SCHOOLS (PRIVATE) - CPE EXAMS

Mr S. Mohamed (First Member for Port Louis Maritime & Port Louis East):
Thank you very much, Madam Speaker. This is an issue which is directed to the hon. Minister of Education and Human Resources, Tertiary Education and Scientific Research. It has been brought to my attention only this morning by a group of parents of 19 students of a serious state of affairs that I thought it was, therefore, necessary that I raise this today.

They are a group of parents who in September or October 2015 called upon the MES to ask if their children, then in Standard IV, would be able to sit for the CPE exams in 2016 as private candidates as it was the last year for CPE. The answer was that if the child is in a private primary school and I underline the words 'private primary school', the school direction should take the responsibility for assessing the potential of the child and let him or her sit for the CPE exams under the school's name. The MES then would have no objection as long as they could justify the ability of that child because here we are talking about private primary school and not Government school. The students finally followed the advice of the MES, sat for the Standard V exams at a primary school and I will take the liberty of mentioning the name of the school 'Le Nid Primary School' in November 2015. And those who succeeded with good marks were promoted to Standard VI as from January 2016.

The MES has been made aware of this as from 05 May 2016 that those students have been promoted to Standard VI after assessment and that they were satisfied with their potential after having taken the exams and that is why they were promoted to Standard VI.

Not once, according to my information, did the MES inform the school that those pupils would not be registered for the CPE exams. However, when the list of candidates was sent, they did not get their index number. A number of letters, Madam Speaker, were addressed to the MES and the Ministry of Education. But to this date, almost one month before the exams, no answer has been given as yet. The pupils have already completed the CPE syllabus and are facing a traumatising situation. Five students in the same situation from the same school, from the same class have already been registered whereas the other 19 have not been registered who are in the same situation without any explanation.

I have been informed that the hon. Minister is aware of this matter. I have also been informed that the hon. Minister is looking into the matter, but there is urgency. I have also looked into the law that governs this whole matter. I would like to draw the attention, Madam Speaker, of the hon. Minister that the law which is referred to, here, which is the Education Act, but the Ordinance of 57, does not in any way preclude the hon. Minister from intervening and asking the relevant authority from allowing those students to take their exams.

So, in the interest of those children, their parents and the sacrifice that they have put in there, silence from the authorities is not helping the situation because they are still traumatised and every single day that goes by, those students are seeing this trauma increased several folds.

So, I humbly request that those children be allowed to take those exams because the law says they can.

Thank you.

The Minister of Education and Human Resources, Tertiary Education and Scientific Research (Mrs L. D. Dookun-Luchoomun): Madam Speaker, you will recall that a question was addressed to me in this House. I had mentioned that there are cases where students, extremely brilliant students, who have shown that they have capacities beyond the normal state, are sometimes allowed to proceed and sit for the exams in private primary schools. However, we do not take it to be normal for a whole batch of some 19 students in a school to show such extreme capacities.

However, we will look into the matter and see whether there is any reason why we should allow such a whole batch to proceed for the examination, because we feel that it is more traumatising for a child who is still younger to skip a class and to go for such a high

state competitive examination. This is perhaps more traumatising than waiting to know what is going to happen. However, Madam Speaker, I am going to look into the matter and see what can be done and if we can proceed with the whole batch or whether there should be some selection.

At 4.52 p.m. the Assembly was, on its rising adjourned to Tuesday 15 November 2016 at 11.30 a.m.