Madam Speaker: Hon. Mrs Dookun-Luchoomun!

(10.21 p.m.)

Mrs L. D. Dookun-Luchoomun: Madam Speaker, I would like to place on record my deep appreciation for all the contributions made by Members on both sides of the House, and I must say that I am pleased to note that, in spite of the fact that there was a platform for demagogy, many of the hon. Members have opted to be more responsible in their approach and have made certain contributions, have made certain suggestions, which I consider to be very worthwhile and of great value.

Madam Speaker, it is important for us to realise that with this particular Bill, we are trying to prepare the way to make of Mauritius a real centre of excellence for higher education. I have listened to the hon. Members, especially those from the Opposition, and I have noted their concern about clause 3 of the Bill, where they expressed their apprehensions, their fears and their doubts about the way the Minister could interfere in the functioning of the Higher Education Commission in the higher education sector.

So, I have decided to show that this had never been our intention, on this side of the House; we do not have any hidden agenda, Madam Speaker. And this is why I will, at Committee Stage, bring an amendment so as to get clause 3 deleted and, obviously, this will entail necessary adjustments in the numerical order of the clauses.

Madam Speaker, it is important for us to note that when a Bill of such importance is brought to the House, it is obviously done after a lot of consultations and after a lot of thought. Now, hon. Members from the other side of the House have mentioned that consultations were not made. Madam Speaker I would like to stress on the point that it is at the end of year 2015 that we started asking for support from the Commonwealth and, in 2016, when we received the support, consultations started there and then. Dr. Rehman from the 165 Commonwealth came over, met with all the stakeholders, had discussions with the stakeholders, the tertiary education institutions, private and public, and then came up at the end of November 2016, as I have stated earlier, with the Bill.

The Bill was then sent to the State Law Office. It came back to us; further consultations were made, and it is only after that that the Bill was sent back to the State Law
Office, got its approval from the Cabinet and went again for consultation with stakeholders.

I would like to mention, Madam Speaker, that when we started with the debate on the Bill this afternoon, many members of the various higher education institutions of the island were present here. We have here in the National Assembly, the Director of the MQA, the Director of the Tertiary Education Commission and many other stakeholders here in Parliament.

Had they had any sort of apprehensions or fear regarding this particular legislation, they would not have been with us here today. Talking about private higher education institutions, we have asked all of them to come over for consultations. A number of them did come and a number of them expressed their appreciation for the provisions of this Bill.

I am going to go on each one of the points raised by hon. Members, but let me start with the points raised by hon. Osman Mahomed regarding the functioning of the Higher Education Commission, of the QAA, and the mix-up that he is making with the role of the MQA.

It is clear the Tertiary Education Commission is being restructured; it already has a unit which goes for quality assurance. But we have noted that there are many cases of conflicts of interest that have arisen in the past. We have been having recommendations made by various international organisations that have been coming and carrying out surveys in Mauritius and, following the report we obtained from the European Union experts, we came to the conclusion that it is of crucial importance to remove this element of conflicting our functions and to allow the Quality Assurance Unit to operate in a totally independent and autonomous manner.

Whereas the Tertiary Education Commission, which was henceforth referred to as a Higher Education Commission, will be responsible for the registration of higher education institutions for the accreditation of the programmes, the Quality Assurance Authority will carry out the quality assurance audits. Now, these are two different roles, but which were being carried out by the same institution. Madam Speaker, many of the hon. Members have mentioned the DYP saga. The have mentioned the very horrible story of EIILM University.

We all know what had happened. Pressure was exercised by the then Ministers to ensure that courses were approved without even ensuring the quality and the standard. We know what had happened in the case of medical courses. The programme received accreditation by the Tertiary Education Commission, but the
Medical Council did not even approve it. And this is what happened at the end! Students having completed post-graduate courses in medicine found themselves being rejected by the Medical Council.

Now, who came and did the mopping up?

We did it, Madam Speaker! We came over here, we asked the support of the Imperial College of London. (Interruptions)

They came over. They assessed the situation and they gave us an alternative and they allowed these poor students to get a way out of this mess created by the former Government and by the way they managed the system.

Now, Madam Speaker, I must say that I am really worried when I find people who are themselves messed up in that issue, coming up and pointing a finger at this side of the House.

We who came over here and tried to get the things right! Madam Speaker, it is very, very strange to find people who are themselves engaged in such misbehaviour, I should say, now pointing their fingers at us.

Madam Speaker, let me come to the points raised by certain Members. I think it was hon. Mrs Perraud who asked why are we spending money, why are we wasting resources in coming up with the Quality Assurance Authority and that it should have been left as it is.

Why? Hon. Osman Mahomed asked how many members we are going to put on this Board.

But hon. Members should realise that we are trying d’assainir la situation. We are trying to make sure that things operate in the way it should and bearing in mind international best practices. They were just telling me that we should not be taking international yardstick and that we need to ensure that we have high quality education. How do we do that? We need to have a certain means of assessing and ensuring that things are being done properly. This is why we are insisting on having a proper Quality Assurance Authority.

Now, there is no duplication or overlapping roles. In fact, what we are doing is that we are ensuring that there is no overlapping role. What had happened earlier was that the Tertiary Education Commission had already given accreditation for the DY Patil Programme and when the moment came to state that things are not going on properly, they could not say
so because they were having to go back on decisions that they had taken themselves. So, having a separate authority to do the quality assurance is the very reason why we want to have it separate and it is to prevent this overlap of roles. Madam Speaker, hon. Osman Mahomed again stated that Mauritius Qualification Authority’s role will be messed up, TEC will have to go to the Mauritius Qualification Authority to get clearances. But this is not the case! He does not even know how things are being done today. The Mauritius Qualification Authority deals with the TVET sector whereas the Tertiary Education Commission, as it is today, does the accreditation of courses at the tertiary level. So, let us not mix up issues.

Now, I must say that there are other points that were raised and I must also thank hon. Members for their valuable contributions. Here, I would like to mention hon. Mrs Selvon, hon. Dr. Joomaye, hon. Hureeram, amongst many others, who have made very valid suggestions and which we will take care of.

Madam Speaker, hon. Mrs Selvon mentioned about the need to have a check on the advertisement done by certain institutions to attract students. In fact, the Quality Assurance Authority will have not only to look at the audits, the Tertiary Education Commission will have, prior to registering institutions providing accreditation, carry out diligence and make sure that they are institutions of repute. Now, coming to the clause of University, how do we attribute the term ‘University’ to an institution? It is only after that institution has been allowed to operate here, only after having registered that institution and after five years of operation, allowing it to have a first cohort getting the qualifications, and then, after three such batches passing through, then only they can apply for the use of the term ‘University.’ And that too, it is only after the Higher Education Commission is satisfied that this term would be used.

Madam Speaker, I would like to mention one thing. I heard hon. Mrs Perraud stating very strange things. I must say that after listening to her, I really understood how badly the Bill was understood, because she came up with statements like the Technical Education Commission while we are talking about the Tertiary Education Commission. She asked what is meant by ‘an accreditation audit’? Someone has told her that this is not done. Obviously, this is not being done right now and this is what we intend to do. Once a programme gets full accreditation, then no auditing is done. What we are proposing is that even when you have given the accreditation, you can still carry out quality assurance and audit to ensure that it is being done properly.

Madam Speaker, if I will go through each and every point that has been raised here, it might take a long time, but I would like to say one thing more. Someone
mentioned how many universities we think our island can support. I must say that at the Ministry and, we, in Government, bearing in mind the vision that the hon. Prime Minister has, bearing in mind Vision 2030 for our country, we intend to grow and we intend to have this sector flourishing.

We want to bring Mauritius right up and to present it as a high education destination.

The idea of an educational hub, as rightly pointed out by hon. Dr. Joomaye, first came up in the years between 2000 and 2005. I must say that hon. Obeegadoo was then Minister of Education. The whole Government was looking at the tertiary education sector as a sector that would grow and flourish.

Indeed, lots of collaborations were established with foreign universities, but let me inform the House, Madam Speaker, that today only I had meetings with the representatives of the University of Murdoch from Australia. Yesterday, we were dealing with l’Université de La Reunion. All these universities are very willing to come and set up branch campuses or micro campuses, as we say, in Mauritius. The University of Mauritius has already negotiated with the University of Arizona which is coming up with the micro campuses in Mauritius.

Murdoch University is wishing to do the same. Private institutions, Charles Telfair Institute, Medine Group, they are all expanding and they are all welcoming foreign institutions of renown to set up their units here in Mauritius.

Our vision at the Ministry for the tertiary sector is to ensure that our public TEIs as well move on to have such collaborations. The trend throughout the world, Madam Speaker, is towards the internationalisation of the high education sector. What are we doing today? We are ensuring that we also move up and high.

Internationalisation means also certain things that we are doing today. We have collaborations with l’Université de Limoges. We have established collaborations with l’Université de La Reunion. We are proposing to have common modules and shared modules. The idea of having credits and transfer of credits, here, in this Bill, will allow the recognition of qualifications or courses covered by one institution by another.

So, we are trying to come up with a new picture for the sector. I heard hon. Baloomoody and I even heard hon. Osman talking about the ranking of universities. It should be clear in our minds that there are various criteria for the ranking of universities. Say, today, that Mauritius is at the 2,600th position is not something great. Let me explain why. Because the criteria for the ranking of
universities ranges from research facilities, research papers produced, the type of research being carried out and the application research.

We all know that research is, in fact, knowledge creation, but following knowledge creation, we need to have knowledge dissemination and also knowledge application. What hon. Osman Mahomed was saying, the contact has already been established. University of Mauritius has a knowledge transfer bureau, a liaison office which links up with the industry people. Today, all the courses being provided by Tertiary Education Institutions such as the public ones are being done in collaboration with the private sector. We must not forget the hon. Prime Minister’s idea of the Graduate Training for Employment Scheme has come up through this collaboration between universities and the private sector. Only last week, I was in a function, 250 gradués chômeurs - as they called it - have been given training and have been recruited by the institutions, by the private enterprises that had selected them.

Madam Speaker, if I keep on talking on that sector, I will end up tomorrow, but I will try not to do that. I will also state one thing, Madam Speaker. I heard hon. Osman Mahomed again talking about documentary evidence and saying that documentary evidence is not sufficient. Obviously, it is not sufficient because prior to that, you will need to get the approval of the Higher Education Commission for you to set up your institution here. So, it is not as simple as that. I would like to mention that when we say that Mauritius ranks such and such position, then the question that I would like to ask is: ‘Why then are we having British universities keen on linking up with our public institutions here?

Why is it that Australian, French universities are all crowding and trying to get position here in Mauritius? The big question is: why? We all know that Mauritius is often seen as a platform for entry into the African Continent, but we are also a platform for tapping the potential of Africa in terms of students.

Another important thing that we have is the location and when we talk about the time zone, Mauritius is the right place where you can have distance education, online education with any part of the world. This is another factor that we do not pay attention to. Hon. Osman Mahomed also talked about culture.

Now, let me say that if we have one attraction for foreign students, it is this possibility of having intercultural experience in Mauritius that is not available anywhere in the world.

When you go to New York, Madam Speaker, when you stand on the road and you find people walking around, they look as if you are in Port Louis. People are in
sarees, in dresses, in skirts, lungis, etc. walking around, but when you ask people there, it is almost like in Mauritius. They tell you, no. Here, we meet in the office and it is over, whilst in Mauritius, you learn about the other. Culture is extremely important and Mauritius is an example where cultures of the various parts of the world meet and where each one maintains its own original flavour. We do not have a melting pot, Madam Speaker.

Madam Speaker, someone mentioned about the composition of the Board. Then I would like to mention that in the composition of the Board, we have gone a step further. We have been saying that there are various fields in which we need to get people. People in various spheres of activities should be on the Board. Now, you are talking about medical field. Let me mention that science does include medicine. When we talk about the accreditation of any professional course leading to practice, we have mentioned that no such courses would get accreditation until and unless they get the approval of the professional counsel. So, all this has been taken care of.

Madam Speaker, I wanted to mention one more thing, instead of the crying all the time that our higher education system figures very low on the international rankings, I would like to mention that one fact that stands out and puts itself aggressively forward on the African Higher Education landscape, I think hon. Rughoobur mentioned UNISAT. The US is agency for international development. Now, Mauritius stands very high on that list. In fact, we are the first African country with an enrolment of about 40% in the tertiary sector when we compare to the world average of 33% and the African average of 9%. So, we are not that bad, are we? We are not!

So, Madam Speaker, before ending, I would like to thank hon. Mrs Selvon for the very clear ideas that she had put forward.

(Interruptions)

As I mentioned earlier, there was a platform for demagogoy, but she chose not to follow that.

She opted to be more responsible and her propositions would certainly be taken on board. I would like also to thank all Members who have supported this Bill because we are talking here about the future of our youth, about the future generations of this country. But, Madam Speaker, I will fail in my duty, if I do not thank the officers of my Ministry who have been working on this Bill for over two years. I will also like to thank the people from the State Law Office who had provided us their support throughout the preparation of this Bill. But I
would also like to thank all the Higher Education Institutions and their personnel who have given us a helping hand in preparing this Bill by giving their contributions which we certainly have put on board.

Thank you very much for your kind attention.

Question put and agreed to.
Bill read a second time and committed.

COMMITTEE STAGE
(Madam Speaker in the Chair)
THE HIGHER EDUCATION BILL
(NO. XX OF 2017)
Clauses 1 to 2 ordered to stand part of the Bill.
Clause 3 (Application of Act)

Motion made and question proposed: “that the clause stand part of the Bill”.
Mrs Dookun-Luchoomun: Madam Chairperson, I move that clause 3 be deleted.
Mr Baloomoody: Madam Chairperson, with regard to the amendment, I think there is a problem of Parliamentary drafting here. It only reads ‘by deleting clause 3.’ What about the subsequent clauses?

They will be renumbered. But what about the clauses which make reference to clauses, especially clauses 16 and 26 of the Bill. It should have read in that amendment, not just one line ‘by deleting clause 3.’ It should have been more explicit.

Mrs Dookun-Luchoomun: Madam Chairperson, I would like to draw the attention of the hon. Member to the fact that when I expressed my intention of getting this particular clause deleted, I had mentioned that this would entail the subsequent renumbering of the clauses and of related clauses as well.

The Chairperson: No, let me say that this will be done at a later stage and that the renumbering and that the crossreference which would be made would be done at a later stage by the State Law Office.

Mr Baloomoody: At what stage? Are we coming back to Parliament?
The Chairperson: No! In fact, the Minister did explain in her summing-up that this will be done by the State Law Office.

Mr Uteem: Madam Chairperson, with due respect, whatever the hon. Minister has...
said in her summing-up, it is very fine. She is explaining the purpose of the amendment. But now what we have is a formal motion of amendment and what it reads, it is only that clause 3 is being deleted. The very least we should have, in the amendment, itself, not only clause 3 is deleted, but also all the other sections are renumbered and all the crossreferences are being readjusted. This should be part of the amendment motion.

(Interruptions)

Mr Baloomoody: Because we are going to vote the Bill.

The Ag. Prime Minister: The Interpretation and General Clauses Act is clear. The law is meant to be speaking. Therefore, the summing-up of the Minister takes care of it. We do not need to go and amend each and every section now. I think we can be saved on this.

Mr Mohamed: Madam Speaker, I totally disagree with the position that has been adopted by the Ag. Prime Minister today, because the fact is we should not even talk about the Interpretation and General Clauses Act because it is irrelevant to the situation. What is relevant here is Parliamentary Sovereignty. Are we or not in a situation where we have a Bill, where relevant Clauses and subsequent Clauses have to be amended? Who has the right to amend it? We have the right to amend it, Members of the Parliament. A majority here has to decide whether or not we will go for the amendment. Now, if the amendment is not moved, this means there is no amendment. Now, later on, coming up with Interpretation and General Clauses Act is basically someone trying to get a rabbit out a hat. We are not here in an art of carrying out magic, we are here to vote in a Parliamentary democracy. It’s not the State Law Officers who are going to decide to supplant our role as to what we are going to do in this Parliament. The fact that the Ag. Prime Minister comes up with something of this nature is just him being very good as being a counsel, if he goes to represent a client, but not here to come and tell you or advise you Madam Speaker, that this should be allowed. This cannot be allowed, we are a parliamentary democracy, it has not changed.

The Chairperson : Yes.

173

Mr Gayan: On a point of order. I would like to say that the sovereignty of Parliament is not an issue. What the hon. Minister has said, the deletion of Clause 3 will entail certain consequential changes, that is exactly what is happening. There is nothing else that is being done. The Sovereignty of Parliament is not an issue. So, what the hon. Member has just said is not relevant at all. There will, of course, be, as a result of the deletion of Clause 3, certain amendments that will have to be made to the other Clauses that refer to Clause 3, but that does not affect the Sovereignty of Parliament. This is just, what I called toilettage of the text.
Nothing else.

Mr Baloomoody: Madam Speaker, you mentioned that this will done at a later stage. Who will do that at that later stage, at what stage and where and when? At the end of the day, we are voting a Bill which will be an act of Parliament, and we are referring not only to the number of each and every, but also the contents. We have to change the contents of certain sections. We are not only renumbering the sections; we are affecting the contents of that section, so I think we should come with a proper amendment.

The Chairperson : Yes.

The Ag. Prime Minister: Committee Stage is what is called travaux préparatoires. That is the equivalent in France and that has been adopted in Mauritius case law. When there will be a need to interpret this law, it will be obvious for all judges and everyone who need to interpret the law that the amendment which is being made today includes all amendments which are toilettage du texte...

(Interruptions)

Wait, please. Let me just explain myself.

So that, if we listen to what hon. Baloomoody is suggesting, it would mean that now, at Committee Stage, we would need to go section by section and amend each and every section and sub-section just to delete each number. This will be done at final stages when at Third Reading it would do the text. This is just to appear intéressant now.

The Chairperson : No. Can I...

Mr Rutnah: Madam Speaker, if I may please. We are at Committee Stage, the hon. Minister has already expressed her intention of amending and there is...

(Interruptions)

The Chairperson : Please!

174

Mr Rutnah: There is the United Kingdom House of Lords case of Pepper vs Hart decided in 1992. By virtue of the ratio decideni of that case, once the expression of intention has been made in Parliament if ever there is any doubt or everybody can refer to the intention of the Parliament as enunciated by the hon. Minister and it is no point making comment from a sitting position from there.
The Chairperson: It is not for you to say so hon. Rutnah. Now I have listened to both sides of the House, what I will do now is that I’ll suspend the sitting for 10 minutes. I will see the State Law Office and I will come with a Ruling.

At 10.54 p.m., the sitting was suspended.
On resuming at 00.18 a.m. with Madam Speaker in the Chair
The Chairperson: Please be seated!

Mrs Dookun-Luchoomun: Madam Chairperson, I move that Clause 3 be deleted and the existing Clauses 4 through 56 be renumbered as Clauses 3 through 55 respectively and the necessary cross references and consequential change be accordingly effected.

Amendment agreed to.
Clauses 4 to 56 renumbered 3 to 55 accordingly.
Clauses 3 to 55 ordered to stand part of the Bill.
The title and enacting clause were agreed to.
The Bill, as amended, was agreed to. On the Assembly resuming with Madam Speaker in the Chair, Madam Speaker reported accordingly.

Third Reading

On motion made and seconded, the Higher Education Bill (No. XX of 2017) was read a third time and passed.