



SIXTH NATIONAL ASSEMBLY

PARLIAMENTARY

DEBATES

(HANSARD)

FIRST SESSION

FRIDAY 03 AUGUST 2018

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MAURITIUS

Sixth National Assembly

FIRST SESSION

Debate No. 26 of 2018

Sitting of Friday 03 August 2018

The Assembly met in the Assembly House, Port Louis at 3.00 p.m.

The National Anthem was played

(Madam Speaker in the Chair)

ANNOUNCEMENT**PNQ – SITTING 31 JULY 2018 – UNPARLIAMENTARY WORDS –
WITHDRAWN**

Madam Speaker: Hon. Members, my attention has been drawn by the hon. Leader of the Opposition to the fact that at the Sitting of Tuesday 31 July last, during the exchange of arguments in the course of the Private Notice Question, the Rt. hon. Minister Mentor uttered the following words, I quote –

“Shut up your bloody mouth!”

The occurrence went unnoticed by one and all. I have perused the Hansard and viewed the broadcast of the proceedings of the House. It is confirmed that the above words had, in fact, been uttered by the Rt. hon. Minister Mentor. I am of the view that the expression used by the Rt. hon. Minister Mentor is unparliamentary and invite him to kindly withdraw it.

Sir Anerood Jugnauth: Therefore, I withdraw.

Madam Speaker: Thank you.

PAPER LAID

The Prime Minister: Madam Speaker, the Paper has been laid on the Table.

Prime Minister's Office

The Annual Report of the Civil Service Family Protection Scheme Board (CSFPSB) for the 18-month period ending 30 June 2017.

ORAL ANSWER TO QUESTION

CEB - COMBINED CYCLE GAS TURBINE - PROCUREMENT

The Leader of the Opposition (Mr X. L. Duval) (*by Private Notice*) asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether, in regard to the procurement of a Diesel Oil cum Liquid Natural Gas Combined Cycle Gas Turbine, he will, for the benefit of the House, obtain from the Central Electricity Board, information as to –

- (a) whether the tender has now been awarded, and
- (b) the highest recorded peak demand for electricity in the year 2017 and since January 2018 to date, and table copy of the –
 - (i) latest ten year Electricity Demand and Supply Balance for mainland Mauritius, and
 - (ii) Poten and Partners Report on the use of Liquid Natural Gas in Mauritius.

The Deputy Prime Minister, Minister of Energy and Public Utilities (Mr I. Collendavelloo): Madam Speaker, as far back as 2013, the CEB's Integrated Electricity Plan 2013-2022 identified Liquefied Natural Gas (LNG) as an option for the diversification of its generation mix. In its report in October 2013, the National Energy Commission recommended a feasibility study on LNG.

In 2013, the Central Electricity Board appointed Worley and Parsons to carry out a prefeasibility study on the assessment of LNG potential for electricity generation.

The 2015 World Bank Report recommended that the Central Electricity Board should “proceed with the procurement of gas turbines to run initially on diesel”.

It also recommended that the “detailed specifications of the generating units be prepared to ensure quick conversion of the gas turbines for operation on natural gas at a later point in time, such that these units can be considered as a combined-cycle, gas fired thermal plant in the future.”

Following these recommendations on 07 October 2016, the Central Electricity Board appointed *Electricité De France (EDF)* which, amongst other matters, recommended that the construction of the Open Cycle Gas Turbine (Phase 1) and Combined Cycle Gas Turbine (Phase 2) be considered under one single bid.

After obtaining approval of the Central Procurement Board, on 08 February 2018, the Central Electricity Board launched bids for the supply, installation, testing and commissioning of the Combined Cycle Gas Turbine at Fort George. I am informed that nine bids were received at the Central Procurement Board as at 06 June 2018.

With regard to part (a) of the question, the Central Procurement Board has not yet communicated its decision on the award of the contract.

With regard to part (b), the highest peak demand recorded in 2017 was 461.5 MW and the highest peak demand recorded in February 2018 was 468.2 MW.

With regard to part (b)(i), the information on the Energy Demand and Supply Balance for Mauritius for the past ten years is available in the Digest of Energy Statistics on the website of Statistics Mauritius. I am tabling the relevant extracts of the document.

With regard to part (b)(ii) of the question, in my replies during the Committee of Supply, I informed the House that the report of Poten and Partners was due in July 2018. I now stand informed that the Consultant has submitted a draft report.

As the LNG project has implications on different sectors and requires high level strategic decisions, I am chairing a Ministerial Committee which will examine the draft report and subsequently make recommendations to Government.

Mr X. L. Duval: Madam Speaker, I think there is a little bit of confusion, I had wanted the supply and demand balance for the next 10 years, not for the past 10 years. Some confusion! I have it, but if the hon. Deputy Prime Minister also has it, it would be nice, we can compare notes.

The Deputy Prime Minister: Latest 10 years.

Mr X. L. Duval: Yes, for the next 10 years. It is okay. I have it. So, we can manage. Everybody is always saying that the World Bank has recommended the procurement of this gas turbine but, this is, in fact, not the truth because the case is that the World Bank only recommended the gas turbine as an emergency procurement back in 2015 because it was under the impression at that time that we were going to come to blackout. We remember there were questions in the House, etc. So, it is incorrect to say that the World Bank has recommended the gas turbine for Mauritius. It was an emergency purchase which, three years later, no longer applies.

Madam Speaker: The hon. Leader of the Opposition should put his question, please!

The Deputy Prime Minister: That is a question of interpretation. The World Bank report was tabled way back and whatever it is, the World Bank recommended the construction of these gas turbines.

Now, what was in the mind or the intention and how should we read the World Bank Report, we should perhaps revisit, but whatever it is, we have acted on the interpretation which everybody had of that World Bank Report. We acted on what all our advisers were saying which supported what we understood the World Bank to be saying, the tenders are out and we are going ahead with this construction.

Mr X. L. Duval: Madam Speaker, I would like to take this up again with the Deputy Prime Minister and bring the attention of the House to this page 64 of the World Bank Report which says this -

“additional capacity to be commissioned by 2018.”

It should have been installed now -

“is essentially an emergency action.”

And on page 65 -

“given the emergency feature of this capacity addition, fuse technology with lowest levels of fixed investment cost thereby gas turbine.”

I am sure that if the hon. Deputy Prime Minister has missed that, the CEB and his Ministry cannot have missed these, which are very prominent in the World Bank Report.

The Deputy Prime Minister: Well, that is exactly what is happening, the Leader of the Opposition gives one interpretation and then he gives a second interpretation. Let us be clear. Of course, what is the ultimate requirement for these gas turbines is that – call it emergency or whatever, let us take a case example, for instance there is a drought and there is no hydroelectricity, this gas turbine comes in. This is what is called here emergency. I call it peak time or we can call it drought time. Whatever it means, it is that, whenever there is a short fall in capacity and that we require additional power, this gas turbine will step in as an emergency if we wish, but I do not think there is any difference between the Opposition and myself. It is not a question of with the blackout it was one thing, without blackout it is another thing.

Mr X. L. Duval: Madam Speaker, it is not, in fact, the case. The World Bank at the time thought there were going to be blackouts because they had overstated completely the demand; CEB has constantly overstated the demand for electricity and, in fact, this year, we are about 60 MW from the same figure that the hon. Deputy Prime Minister gave just now.

We are about 60 MW less than what the CEB has estimated as our base figure. So, I maintain, Madam Speaker, that the decision to purchase the gas turbine was an emergency decision to prevent the country into going blackout in 2018, that has never been the case because demand for electricity has been very, very much lower than was predicted by CEB.

The Deputy Prime Minister: Well, I don't agree. We can debate and go on and on about the 60 MW less than estimates. Let me see what CEB will tell me and I stand by the figures which CEB gives me. Well, I don't agree that it was in a particular context. Yes, it is true that, at that time, there was – I have a note here which confirms what I was saying.

The emergency recommendations of the World Bank, according to the reading which we have of the World Bank Report, the World Bank had recommended to fast-track Saint Louis which we did, to extend the PPA of CEL. The CCGT - the Combined-Cycle Gas Turbines - were emergency in the sense that they would come in whenever there was a shortfall of electricity, not in the sense of the blackout which was predicted. It was necessary to forecast additional power.

Let us be realistic. A Power Station is not built in one day, even Rome was not built in one day. Now, a Power Station takes 4-5 years even more with the planning forecast etc. At that time, 2015, they said we must build this combined cycle and everyone had forecasted a blackout, but even now everyone knows that we need to have additional power if we want to cater for future development of Mauritius. My note is that they don't agree that it is 60 MW less than our last estimate. I have to look into the figures or if the Leader of the Opposition has correct figures, there is no problem.

Mr X. L. Duval: I will ask the CEB not to mislead their own Minister because everything that I am saying, I can prove, Madam Speaker. I can prove everything that I am saying, the 525, in black on white, and so is the figure that the hon. Deputy Prime Minister has given just now, which is 468 peak demand for this year, which he has provided.

But what worries me, Madam Speaker, is that the Deputy Prime Minister must take more time to look at this contract. Because this is a contract to the value of Rs6 billion to Rs8 billion and it cannot be left to some members of the CEB to come and decide.

So, Madam Speaker, I am going to ask the Deputy Prime Minister, and this why I had asked - this is one of the Board papers of the CEB and this is where the demand and supply table is. Madam Speaker, I will ask the Deputy Prime Minister whether he is aware that the CEB has, in my mind, deliberately, overstated demand - we can easily see it, even for this year, they are 20 MW over - for electricity and, to me, it looks deliberately also, pulled out retired machine, we are talking about peak demand; they are retiring two gas turbine

machines at Nicolay before their useful life was over and in my mind it is to create an artificial need for this gas turbine. Is he aware and will he look quite closely at this terrible state of affairs?

The Deputy Prime Minister: Well, not only I am not aware, I would go as far to say that not only I disagree, I will go even further to say that I deny each and every of these allegations that are being made. By saying that there is a deliberate intention in misleading the population, according to me, is to put it as mildly as I can muster, unfounded. If there are errors, that is another thing, but I don't believe that there are errors. I have looked into all these matters myself. Every week I look after especially this CCGT matter. Dependent on projects, the demand fluctuates; 525 is perhaps a figure that has been quoted. In Board meetings everyone floats whatever figures...

(Interruptions)

Madam Speaker: Please, hon. Leader of the Opposition!

The Deputy Prime Minister: So, I cannot say that I agree with that and I will never agree to this.

Mr X. L. Duval: The Deputy Prime Minister must be aware of the IAP, the energy forecast, a big document like that published by the CEB. If from the expert the figures come from - Madam Speaker, I would like to ask the Deputy Prime Minister - is he aware that this Board paper states clearly that the demand for electricity this year will peak at 488 MW - I can let him have it if he wants - whereas we are 20 MW lower. This is just to illustrate - I don't have time to go into all the details - how much overstatement is happening and I will also ask, Madam Speaker, whether the Deputy Prime Minister has read the World Bank Report in detail to see all through the World Bank report, about 100 pages or more, how it criticizes the CEB for having inappropriate tools for planning - and I hope he does not want me to quote again from there - electricity, and it says that it should urgently review its procedures. So, has the CEB reviewed its procedures for planning, it was supposed to buy computational equipment etc, or is it the same as when the World Bank saw three years ago?

The Deputy Prime Minister: Everything is under constant review and updating. IEP has been updated. The figure of 525 is now being changed, as I have said. This is not a matter which is fixed. Electricity demand and supply is something which goes according to trends. There are many matters which are important. When we look at conditions which can affect the supply, we can see demography; well, the economy, of course - whether social events, working days or public holidays. There are so many matters which can affect, on a daily basis, the demand of electricity. So, we cannot say: "You said 525, today it is 490." I

am now being told a new IEP for period 2019-2028 will soon be published. But we shall see what are the new figures.

Mr X. L. Duval: Madam Speaker, the hon. Deputy Prime Minister has confirmed my point, that is, when the World Bank was here, they were given 525, and that is why they said they wanted emergency. Now, it is being changed, but we are still going through the same procurement that the World Bank had gone three years ago. Madam Speaker, I want to ask the hon. Deputy Prime Minister this question: there are two gas turbines in perfect working conditions after so many years, they are old in Nicolay, they can be kept in use and maintained for many years to come, why does the CEB want to retire these two Nicolay gas turbines, not now, in the next ten years, whereas, again, in the World Bank Report, there is no mention of the need to retire these two perfectly good working order gas turbines used for peaking?

The Deputy Prime Minister: The Nicolay engines date back 30 years. Now, the hon. Leader of the Opposition tells me that they are in good working order. Right!

(Interruptions)

My daughter has a golf which is 15 years old. She does not want me to sell it because she says it is really in good working order. Well, of course, everything is in good working order. The two pielstick engines at St Louis were working, but we cannot just say for ten years, we will keep them. Then, what will happen to me the day these Nicolay machines break down, and I cannot supply electricity to the nation? The hon. Leader of the Opposition will tell me I am the worst idiot in Mauritius. Then, I will tell him....

(Interruptions)

He knows what will be my reply!

(Interruptions)

We cannot say only the Nicolay turbines work. Everyone owns a car here. Don't we have to maintain? The cost of maintaining is prohibitive. And do you know how much electricity is costing us? Rs30 the kilowatt-hour! Are we going to sustain this, making the population sustain it? At Rs30 per kilowatt-hour at Nicolay today, compared to what? About Rs5 the cost or whatever!

(Interruptions)

What no, no, no!

(Interruptions)

Madam Speaker: Hon. Leader of the Opposition...

(Interruptions)

The Deputy Prime Minister: Yeah, yeah, yeah, I tell you!

(Interruptions)

Well, we can have ...

(Interruptions)

Okay, I do not want to waste time.

Mr X. L. Duval: Well, the hon. Deputy Prime Minister is older and I hear he is still in good working condition!

(Interruptions)

What I am saying is this: the turbines at Nicolay - it is a very serious matter, in fact - have only 22,000 hours. They can go to 200,000 hours. Ask anyone he likes!

(Interruptions)

Madam Speaker: Order!

Mr X. L. Duval: They can go to 200,000 hours, and whether or not they are more expensive - not as much as the hon. Deputy Prime Minister says - as the new engines, they do not require Rs8 billion of new investment, whereas what he is doing there, through peaking, it is Rs8 billion of more investment that the country does not need.

The Deputy Prime Minister: I am sorry, this is third world ideology. We are a modern country, we are looking to becoming a high-income economy. We do not do that sort of thing; fiddling around with machines in order to make them run and run and run. You make me think of the taxi *brousse* of Madagascar. This is not a taxi *brousse*! This is a high machine, and we have a duty to the country. I am sorry, I do not agree. And it is a good thing that the hon. Leader of the Opposition is no longer in charge in Government, and that we are in charge in Government.

(Interruptions)

Mr X. L. Duval: Madam Speaker, what the hon. Deputy Prime Minister decides to do with his daughter's golf is his own affair. But when he asks the taxpayers to pay Rs8 billion for turbines that are not necessary ...

(Interruptions)

... this is another issue, Madam Speaker. All the Engineers of CEB are shocked. How did I get this information? Because all the Engineers of CEB are shocked at the amateur way or whatever other reasons that the management of the CEB - and God knows who else - has in creating an artificial case for purchasing a gas turbine. Now, Madam Speaker, may I ask the hon. Deputy Prime Minister, this gas turbine which is supposed to be converted to liquid natural gas, the tender is issued, whereas the Poten Report on the feasibility of using natural

gas in Mauritius has not yet been read by the Ministry, what sense does it make to purchase equipment and then order a feasibility study to see whether that equipment can be used for gas?

The Deputy Prime Minister: Then, it must be my fault. It must be that for the last two years I have been unable to explain that matter clearly for the hon. Leader of the Opposition to come to that conclusion. First of all, the hon. Leader of the Opposition asked me in his question that many Engineers at CEB said that has been done on purpose, etc. Well, I say, I do not know of one Engineer of CEB who said so. Well, it is easy to say it. In confidence, he can tell me Mr X has told me this.

(Interruptions)

Now, second thing, all the Senior Engineers of CEB to whom I have talked are of that opinion. But not only the Engineers of CEB, in my Ministry, there is a Technical Division headed by a Director General with a Deputy Director General. He tells me the same thing. In addition to this, I have a personal adviser and he tells me the same thing. They all tell me that this is what the World Bank says and this is what EDF says. Now, I am like the hon. Leader of the Opposition. He is an Accountant, I am a Lawyer. We proceed on technical advice given to us. Each one receives the advice he receives and we come to the conclusion. All these people are saying only the thing which I have just said. Now, perhaps the hon. Leader of the Opposition has one adviser who is saying the contrary, and perhaps the world is wrong and one person is right. It has happened in history.

Now, the next point which he made in his question was - please remind me of that.

Mr X. L. Duval: I would like to ask that the hon. Deputy Prime Minister this question: some time ago, in this House, in a PNQ to the previous Leader of the Opposition, he mentioned that he was agreeable to an All-Party Committee - he may remember that, it is in Hansard anyway - to look at the whole issue. He does not seem to master the subject, if I may say so, he is relying on advisers. We have, on this side of the Opposition, a completely different reading of the same World Bank Report which, I maintain, firstly, criticises the planning, and secondly, only says emergency procedure for the gas turbine. They are different issues. I do not want to go into the murky details...

Madam Speaker: Hon. Leader of the Opposition, please be brief in your question, you have only four minutes left.

Mr X. L. Duval: Yes. I do not want to go in all the murky details of whether this has made this, I do not want to go into that, but there is a planning. Do we need the machine? Do

we have the demand for electricity? Do we need to retire the other machines? Are there any murky things happening? All this, Madam Speaker, has to be dealt with, in my view, in a Select Committee like there was - we saw the ex-Prime Minister put it himself - in 1994, I would like to ask...

Madam Speaker: Hon. Leader of the Opposition, ask your question!

Mr X. L. Duval: Yes, I will stop when it is time to stop.

Madam Speaker: Please, do not make a statement.

Mr X. L. Duval: I ask the Deputy Prime Minister, since in his own words he had proposed that two years ago, let us have this All-Party Committee, Select Committee, to look at the turbine question. God knows what conclusion we will all come to as one voice!

The Deputy Prime Minister: Oh no, no! Now, I understand why Government was not working all this time until 2014. What Committee or not! Let us be clear. It is easy to say: 'Ah, you do not master your subject!' One is an Accountant, the other one is a Lawyer. One pretends that he masters the technical aspects of electric engineering. I say I work as a team. I know the Leader of the Opposition may have his party Members to discuss. Now, I understand why. I work on a team and I master my subject because I look at the documents, I have worked on them, I listen to advice. Now, the Select Committee on the Nicolay was the third gas turbine which the Leader of the Opposition raises. It was on a matter of corruption, it had nothing to do - there are three gas turbines, two have been already in operation, and the third was the subject of the Select Committee...

(Interruptions)

Madam Speaker: Order! Don't interrupt him!

The Deputy Prime Minister:...and, therefore, this matter does not arise at all. We are on track; we are going to do what we do. It is good that the Leader of the Opposition asks questions even confrontational so that, that enables us to know of the level of knowledge which the Opposition has of this matter.

Madam Speaker: You will have two minutes left, so, I think it is only time for your last question.

(Interruptions)

Two minutes left, otherwise you compromise. Now, one minute left. But then, the last question will be for him, if you agree that the last question will be for hon. Osman Mahomed.

Mr X. L. Duval: I will come back, Madam Speaker, to what the hon. Deputy Prime Minister is saying and the fact that we need, in a statement that he made in March 2015, here, in this House to the previous Leader of the Opposition, saying he wants openness, the previous Government was hiding this and that, and that he would be agreeable - he was not even asked, he provided this information - to an All-Party Committee looking at it on a same subject. So, what has changed now, three years later, that he no longer agrees to have an All-Party Committee, and he makes fun of me when I asked that. Why does not he agree now with what he himself said before himself that he wanted an All-Party Committee to look at this issue because 'it is a national issue', to use his own words?

The Deputy Prime Minister: I am not making fun of the Leader of the Opposition; far from me the idea of doing so! If I gave that impression, I am very sorry, and I withdraw whatever I may have said to have created that impression. On the contrary, I take the comments of the Leader of the Opposition to be very serious. The answer I gave was on 24 March 2015 to the hon. Leader of the Opposition, the Third Member for Stanley and Rose Hill. The context, at that time but, today, the decisions have been taken, solutions have been found. So, the question does not arise.

Madam Speaker: Time is over!

PRIVATE MEMBERS' MOTION

CONSTITUTION – PRIME MINISTER'S TENURE LIMIT, ANTI-DEFECTION, ETC - PROVISIONS

Order read for resuming adjourned debate on the following motion of the hon. First Member for Savanne and Black River (Mr A. Ganoo) -

"This House resolves that, in the context of the celebrations of the 25th anniversary of the Mauritian Republic and the attainment of 50 years of independence, the Constitution of the Republic of Mauritius be enacted by the sovereign Parliament of the country and should also consider the introduction therein of the following new provisions –

- (a) limitation of the tenure of the Prime Minister;*

- (b) *anti-defection provisions to deter the practice of crossing the floor;*
- (c) *gender quota for fairer representation of women in the National Assembly;*
- (d) *review of the powers of the Electoral Boundary Commission with regard to the delimitation of constituencies;*
- (e) *recall mechanism for the parliamentarians who are failing in their duties as elected representatives;*
- (f) *the introduction of second generation « development and environmental rights »; and*
- (g) *enhanced process of appointment of the President for institutions designed by the Constitution and the laws of the country to maintain democracy, uphold good governance and the rule of law.”*

Question again proposed.

(3.35 p.m.)

The Minister of Social Security, National Solidarity, and Environment and Sustainable Development (Mr E. Sinatambou): Thank you, Madam Speaker.

I would like first, Madam Speaker, to deplore, I insist to deplore the absence of the MMM on the other side of the House. To me, that, indeed, indicates a total disrespect for this House, a total disrespect for democracy, especially, because I have been made to understand that they are not here, because they do not agree with the notion of a Private Members' Motion.

Now, indeed, it is not the first time that they are absent from the House and I am sure in view, I think, I can say of the fact that they are repeated defaulters in that sphere, it will not be the last time that they will be absent from the House. What however bothers me is that this absence of respect for democracy before this House is, unfortunately, becoming too frequent. Whether they like the hon. Member who presented this motion, whether they now have dislike for him because he left them, is not a reason for which they should not be present when the motion of the hon. Member is being discussed and debated. This is especially from my perspective annoying or rather irritating when we know that we just launched the Youth Assembly, and here is the type of example that they give to the youth of this country. This is why I believe that this is, indeed, deplorable.

Now, Madam Speaker, I started by saying that if we know that their absence, I understood, is actually due to that fact that they do not agree with the notion of the Private Member's Motion, there is another thing which we heard that it might be due to the fact that their Leader was ordered out on that last occasion. But, indeed, I will not go into that.

Madam Speaker: Hon. Minister, please! I have given you some latitude to introduce your argument on the motion. So, I think you should not dwell lengthily on that aspect and that you should come with your arguments on the motion which is before the House, please.

Mr Sinatambou: Thank you, Madam Speaker. I was just about to say that I am not going into that, I will not be going into that because we want, indeed, to have some serious debate about the motion of the First Member for Savanne and Black River.

I have said on a number of occasions that he is a good friend, but I have also said that this does not prevent him from being wrong. This will not prevent me from opposing his motion and of saying that, in fact, it is not at all an appropriate motion to be debated before this House and I will give the preliminary reasons. Before going into the substance of the Motion and the legs thereof, I will give, let us say, the fundamental reasons for which his motion ought not to win the day. I will start with the first one.

The hon. First Member for Savanne and Black River was elected for the first time in 1982, and it is 36 years later, well, maybe 33 because the motion was put, I think, in 2015. It is 33 years later that he finds that we need to have only a limited tenure for a Prime Minister in this country. Well, maybe he is like good wine, he takes time to mature. But I believe that this is not something that you come after 33 years with. He has been on two occasions in governments which had a 100% of the seats, and never, never in those two governments which had won a 100% of the seats, did he ever see that anyone of the seven limbs of his motion before this House should actually be brought by him or by his government then? He has been in this House, I understand, on eight occasions, and eight times, there was no need to introduce the so-called second generation of "development and environmental rights". I tried, on one of the last occasions before this House, to say that every time we hear this word '*démagogie*', translated in English, demagoguery. We hear it, but many people to whom we speak, the citizen lambda, does not really understand what *démagogie* means. I made it a point to go and get the right definition, to be able to share it with my colleagues and with the population. It is when you actually use arguments which are appealing, which appeal to people's emotions and to people's feelings. Yes, today, it sounds nice, it sounds right to

people to say that we need to have anti-defection provisions to deter the practice of crossing the floor. But, for the last 30 years, when he has been seven times in government, it was right; there was no reason to come up with any piece of legislation to do that. So, from my perspective, this motion, if only as a matter of principle - before going on the substance of the seven limbs -, should not actually win the day.

Let me come now to the substance. Maybe, before I go to the substance, there is one thing which I think we ought to perhaps dwell just a few minutes, Madam Speaker. It is the fact that suddenly I start hearing that some people are finding that not enough time is given for the Private Members' Motion. Some are saying too much time is being given to the Private Members' Motion, and these people who are saying not enough now or too much now are the same people who have been in power before. When they are in power, it is all very right. As soon as they are out of power, then they have to come up with arguments, with proposals, with motions which never came to their mind, it seems, when they were in power. So, I believe that in the case like this Private Members' Motion, it is good as it is, it is good that we keep the procedure, and it is good that we keep the same approach.

Madam Speaker, if you will allow me, I have had the occasion of dwelling on the Private Members' Motion of the hon. First Member for Savanne and Black River. Indeed, apart from his motion to enact, in a way, the Constitution anew, he has seven different sub-motions. I propose, in the first instance, to dwell on the one relating to the introduction of second generation "development and environmental rights". You will indeed, appreciate, Madam Speaker, that the reason for my doing so is because I happen to be the Minister who has the portfolio for the environment and sustainable development, and it is, from my perspective, appropriate that I should deal with that aspect of the hon. Member's motion first.

While the proposal of the hon. Member to introduce second generation "development and environmental rights" in our Constitution may look appealing on paper, my discourse, Madam Speaker, will be that it is, in fact, irrelevant in the Mauritian context. Although Mauritius does not have any explicit constitutional environmental provision *per se*, our country - I will try to show it in the course of my discourse - has come a long way in addressing a host of environmental and sustainable development challenges. The gist of my address before this House this afternoon will be that we have already undergone three ways of environmental governance, and that we have now firmly embarked on the process of mainstreaming third generation development and environmental rights within our own

legislation framework. As such, the proposal of the hon. Member is, therefore, unfounded and unnecessary.

Indeed, if one appreciates that we have already embarked on the third generation of development and environmental rights, why on earth do we need a second generation of such rights in our Constitution? It is actually my view that there was never a first generation of environmental rights enshrined in our Constitution. And later, in the course of the debates, I will show that even when you look at the Constitutions of a few of those countries which have actually enshrined environmental rights in their Constitution, they have done so in a manner where Mauritius has not. Therefore, I will insist that Mauritius has not had a first generation of development and environmental rights enshrined in its Constitution and that it has already embarked on the third generation of development and environmental rights in its national laws.

One thing we should agree, indeed, the House should acknowledge that national, economic and personal welfare and well-being may be undermined by a degraded environment. Political instability, poverty and ill health all increase as environmental quality declines. And it is against this backdrop that this country has been consolidating the third generation of development and environmental rights in our national laws. Accordingly, I believe the introduction of second generation “development and environmental rights”, as moved for by the hon. First Member for Savanne and Black River, in our Constitution simply does not arise.

Madam Speaker, for the purposes of clarifying my position on this particular limb of the motion, I have indeed identified three generations of development and environmental rights which have been enacted in our laws over the years. The first generation of development and environmental rights and laws actually focus on the conservation of habitats and natural resources, especially from an anthropogenic point of view. My research shows that they existed long before the advent of the Constitution and, surprisingly, even going back to the 19th century, and that is in some instances. Protection from pollution of air, water, land and other media as well as nuisances and sanitary issues were also part of the first generation of development and environmental rights. Yes, they were protecting the environment, except that those rights were often couched in laws of an anthropogenic nature, that is, they were couched in what I would call *en termes de règles de santé et de salubrité publique*, but not in clear terms of protection of the environment. That is for the first generation of development and environmental rights, which have actually been incorporated in our national laws.

The second generation of national development and environmental rights and laws, from my perspective, owe their existence to the awakening, in the 1970s, of the Stockholm Declaration, that is, the declaration which was adopted at the 1972 United Nations Conference on the Human Environment, and where, Madam Speaker, for the first time, environment and development were clearly linked. The environmental movement of that period of the last century successfully, in fact, I could say brilliantly managed to raise awareness on the adverse impacts of people on our planet and to themselves.

However, it could not adequately influence mindsets and behaviours of people to bring the desired change. So, if one follows my discourse, the first generation of development and environmental rights go back to the second half of the 19th century up to beginning of the 1990s. The second generation of development and environmental rights would actually start with the early 1970s in 1972 with the United Nations Conference on Human Environment known as the Stockholm Conference and that second generation would terminate in the early 1990s with what is known as the Earth Summit, that is, 1992 Rio Conference.

I come now to the third generation of environmentalism. That third generation actually has been building on this endeavour of changing the mindset of individuals to care more responsibility for the environment. Hence, the third generation of environmentalists are to be found at all levels, in corporate bodies, universities, trade unions, professional associations, NGOs, civil society and the public at large. It will indeed be my discourse this afternoon, Madam Speaker, that the third generation development and environmental rights enacted in our laws, emanate from the post-Rio period, that is, after the United Nations Conference on Environment and Development, which is known as UNCED in 1992.

Here, I would draw a small parenthesis. In fact, when I was discussing with my collaborators, I was of the view that we have, in fact, reached the fifth generation of development and environmental laws. You will appreciate why I think that this Motion is, at least, as regard this sixth limb thereof more than *dépassé*. I do not understand how the hon. Member could have inserted the (f) part of this Motion in his Motion. After the UNCED Conference in 1992, which is known as the Rio Conference, then we found out that there was something wrong because Small Island Developing States had been left out. That is when came the 1994 Barbados Programme of Action, which actually brought in Small Island Developing States because their specificity has had to be recognised because of their unique vulnerability. So, that is the third generation, Rio with 1992, then the 1994, as I said, Barbados Programme of Action, but then comes Rio+10.

My view was that the third generation is the 10 years from 1992 to 2002. Comes Rio+10, we then have another generation of laws which starts from 2002 and is actually beefed up with what we know as the Mauritius Strategy. Everyone should remember the Summit which was held here in 2005 where the whole world was convened to this country. That is a milestone in the generations of development and environmental rights which actually have been enacted in our laws. Maybe I should just go back briefly to say that in the pure sense of the word, the third generation of development and environmental rights, therefore, emanate from the UNCED Conference of 1992, the Barbados Programme of Action of 1994 and one should not forget the Millennium Declaration and the eight Millennium Development Goals which came up in the year 2000. That actually, to me, covered the third generation. Then, the fourth generation is, therefore, Rio+10 and the Mauritius Strategy.

Finally, what could be argued as being the fifth generation of development and environmental rights is indeed the Rio+20 International Conference, the SAMOA Pathway and indeed the 2015 Post-development Agenda which brought about the 17 Sustainable Development Goals (SDGs). So, clearly from the international agenda, it could be argued that there is a third, a fourth and a fifth generation of development and environmental rights. You will, therefore, appreciate why I just totally oppose this idea of introducing a second generation of so-called environmental rights.

I must, here, open a small parenthesis because when I discussed with my collaborators, we have agreed that we would not go into a third, fourth and fifth. We will do like for Smartphone version 3.0, version 3.1 and version 3.2. So, we will have the first generation, the second generation and for the third generation, we will say that we have had, let's say, evolutions in the third generation. For the sake of time, I, therefore, agreed with them that we will only go through three generations. That is, therefore, where we stand.

Madam Speaker, with your permission, I will now collaborate on how we have been able to keep pace with the evolution of global environmental developments at the national level through the enactment of those first, second and third generations of development and environmental rights in our laws. If one sees that, one will, therefore, see why this leg of the hon. First Member's Motion, it makes it not only irrelevant, but also I regret to say utterly anachronistic.

I explained that nationally, the first generation of development and environmental rights, they go back, even in some instances, to the middle of the 19th century. But there is something different at the international level because the first generation of development and environmental rights, I would submit about their roots in the aftermath of World War II. A declaration, Madam Speaker, on the essential rights of man had been proposed at the 1945 San Francisco Conference which led to the founding of the United Nations and at its third session held on 10 December 1948, the United National General Assembly adopted the Universal Declaration of Human Rights.

This was the milestone document in the history of human rights which was motivated by the experiences of the preceding World Wars and it was the first time that countries agreed on a comprehensive statement of inalienable Human Rights. This document sets out fundamental human rights to be universally protected and basic rights, and for the mental freedoms to which all human beings are entitled. Now, in parallel, the International Covenant on Economic, Social and Cultural Rights which has its roots in the same process that led to the Universal Declaration of Human Rights was adopted by the United Nations General Assembly on 06 December 1966.

It only came into force I understand as from 03 January 1976. It commits its parties to work towards the granting of economic, social and cultural rights to the Non-Self-Governing and Trust Territories and individuals, including - that's the important part - labour rights and the right to health, the right to education and the right to an adequate standard of living. Mauritius acceded to this Covenant on 12 December 1973. And we must acknowledge that the establishment of the United Nations was the stepping stone from which emerge the plethora of specialised UN Bodies, including the one dedicated to the environment.

Now, we leave for some time the international scene, we come back to the Mauritian legal context. On the local front although the environment is not mentioned *per se* in our Constitution of 1968, several laws, as I explained earlier, pertaining to environmental issues have been proclaimed long before and the first generation of development and environmental rights which have been enacted through a series of legislation in our country comprised amongst others the State Lands Act which goes back to 1856, the Rivers and Canals Act which goes back to 1863, the *Pas Géométriques* Act which contains a number of clauses regarding environment protection which goes back to 1895.

The Public Health Act, which actually covers nuisances of an environmental nature, goes back to 1925. Then we have the Town and Country Planning Act of 1954, the Roads Act of 1966 and the Ground Water Act of 1969. These are seven pieces of legislation which I have identified to exemplify that there has been a first generation of development and environmental laws which do not refer to the protection of the environment *per se*, but which are much more couched in anthropocentric terms. When we look at them it looks like they are protecting the house of the individual, they are protecting the health of the individual, nowhere is environment as a medium mentioned normally therein.

Let me perhaps add that if you look therefore at those seven different pieces of legislation, which I have just mentioned, it is therefore clear that concern about the environment in Mauritius can be traced to as far back as 1856 in a number of environment related laws which, while not necessarily devoted entirely to environmental matters, contain provisions or references that are related to environmental control. I propose now to show to the House how those laws, - you only have the titles - I mean what would make one think that the State Lands Act actually contains provisions to protect development and environment.

So, I propose, with your permission, to elaborate further on the objectives and the contents of these first generation laws pertaining to development and environmental rights. Coming to the State Lands Act of 1856, the stated objectives of the Act are, amongst others, to provide a legal framework - I highlight to provide a legal framework - to prevent dumping on State lands or on any beach, sea, canal, river or lake adjoining State land. So, here is a piece of legislation going back to 1856, and its Section 34 relating to public nuisance on State lands stating, I quote and its subsection (1) –

“Any person who dumps, or causes to be dumped, any sand, coral, earth, stones, wood or other object on State land or on any beach, sea, canal, river or lake adjoining State land, shall commit an offence and (...) be liable to a fine (...) to imprisonment for a term which shall not exceed 6 months.”

So, one can just see that since 1856, we could actually prosecute any person who litters on State land. So, we keep saying we have an armada, a plethora of laws and that, maybe, the problem is in enforcement deficit. Let me also add that subsection (2) of that particular section, Section 34 does state, I quote –

“In addition to the penalty specified in subsection (1)”

- both the fine and the imprisonment -

“the Court may order the offender to remove the subject matter of the offence, within a period to be specified by the Court or, in case of default, to pay the costs of the removal.”

Amazing! Since 1856, the State Lands Act actually protects environmental rights. Let me come to the Rivers and Canals Act of 1863. Now, from my perspective, the Rivers and Canals Act, Madam Speaker, is one of the most comprehensive pieces of legislation of the first generation of development and environmental rights in addressing surface water and other related problems. Though enacted in 1863, this legislation is very effective from my point of view in the control and prevention of pollution of rivers, streams and waterways. The Act also emphasises the fact that rivers and streams are public property, *du domaine public*.

Additionally, it makes provision to prevent any person from drawing water from any river or stream for his own use for that of his family without the authorisation of the Supreme Court. Now, if one looks at the sections *per se*, one may not, at first sight, realise that we are here protecting development and environmental rights. I will give an example, Section 25 states that –

“(1) Except with authority from the Supreme Court, no person shall –

- (a) stop or change the course or level of; or
- (b) make or place any dike, dam, basin, or construction of any kind in the course of, any river, stream, or run of water that is public property.”

You realise, Madam Speaker, as far back as 1863, no one could actually make construction of any kind in the course of any river, stream or runoff water, that is, public property. And yet, just drive around the island, you will see a number of constructions, and had those laws been strictly adhered to, the development and environmental rights of everyone would have been preserved. And indeed, by not allowing people to trace the course or the level of rivers and water courses, it would allow development *en aval* to, actually, occur. But when people change the course of rivers *en amont*; they actually infringe the development and environmental rights of others.

Let me give another example, Madam Speaker, of what I have called these first generation ‘development and environmental rights’ which are to be found in the Rivers and Canals Act of 1863. I go to section 26, which deals with control of activities near rivers. Section 26, Madam Speaker, stipulates, I quote –

“No dwelling house, kitchen, slaughter house, or camp of labourers, and no privy, urinal, stable, cow house, cattle yard, pigsty, poultry house or poultry yard, and no distillery or sugar or other manufactory, shall be erected within 100 feet of any river or stream, unless the Permanent Secretary or the Sanitary Authority certifies in writing that the water of the river or stream, is not liable to be defiled by any matter or water issuing from such erection or building.”

Coming back to all those buildings which have been unlawfully constructed near the riverbanks, especially in the urban regions - I don't drive so much these days, but at least from past experience I know - if you go near the Gymkhana, near Mesnil or near Phoenix, you can see all those constructions which have been actually erected in breach of section 25. But it is stated clearly in section 26 –

“No dwelling house, kitchen shall be erected within 100 feet.”

I think in certain cases it is not even within 1 metre. So, this is what we are seeing.

(Interruptions)

Thank you for acknowledging! So, what is, therefore, the gist of my submission before this House today is that so far away, there were the first generation of development and environmental rights. Maybe I should also refer the House to sub section 2 because it is quite enlightening. Not only is it unlawful to carry out those activities, but the law then goes on to say, Madam Speaker, that where any premises, which I have just specified, appear to the Supreme Court to be so situated that any water or matter from there can defile any river or stream, the occupier of the premises shall remove the water or matter or make arrangements to the satisfaction of the Permanent Secretary of the relevant Ministry or to the satisfaction of some skilled persons appointed by the Supreme Court for preventing the defiling.

This is, therefore, what actually prevailed, what was actually the state of the law since 1863. And that particular piece of legislation has not been amended, it is still in force. It would be good, I believe, Madam Speaker, to actually show in the range of the first generation of development and environmental rights, not to be found in the Constitution but to be found in our national laws, to refer to the duty of every riverain of a canal to keep it clean.

Section 65 of the Rivers and Canals Act 1863 stipulates that –

“Every proprietor of ground through which a canal passes shall keep the open parts of the canal in its whole course through his property clear from obstruction of any kind.”

And

“Where there are different proprietors on each side of a canal, each shall keep the ground on his side clear from obstruction and they shall be jointly and severally bound to keep the open portions of the canal between their properties clear.”

Why am I saying that, Madam Speaker? It is because this is one of the major headaches of my Ministry. We keep spending millions of rupees to de-silt rivers. It is a yearly occurrence because even when you de-silt, it gets silted again. And here is a piece of law which tells you that every proprietor of a canal has to keep the open parts of the canal in its whole course clear from obstruction of any kind. And everyone in this House should be aware that one of the major reasons of the flooding which have been occurring lately is largely due to the fact that there are obstructions in our watercourses. And here is a first generation of development and environmental rights which, if implemented, would allow this country to breathe.

I should also mention section 66. It may be followed, but we need to know that these are actually the laws which were passed to establish the environmental rights of the majority over a minority because that law says that –

“A passage of 3 feet wide at least shall be left on one or other side of every canal along its whole length, and the proprietor of the ground on which the passage is, shall keep it free from obstruction.”

If we just make it a point to go on the side of any canal around the island, I am sure we will all see that not only the course of the canal, but also the sides of the canal are either obstructed or dirty or there are grows. And that is why I call them first generation environmental rights.

When that law was enacted to impose an obligation on the individual proprietor whose property verges the canal, the fact of imposing a duty on him is that it is to protect the right of those whose properties are *en aval*. So, this is where we are. What is to be observed, Madam Speaker, is said that under subsection 3 of section 66, where a proprietor fails to comply with this section, the necessary passage shall be made or cleared of obstruction as the case may be at his expense by any person authorised by the syndic of the canal or by the

corporation or other body administering the canal. Something very important is to be found in section 69 of that Rivers and Canals Act of 1863.

It states as follows –

“No person shall erect or place within 100 feet of an open canal, any dwelling-house, slaughter-house, hut, kitchen, (...) privy, urinal, stable (...)”

That is, just as there was that rule for rivers, the same rule applies for canals.

So, you can appreciate why I am totally against this particular limp of the motion of the First Member for Savanne and Black River. Clearly, just going through two laws, just going through two legislative instruments, there are so many laws, which actually indicate that a development and environmental rights have been enacted since a long time in this country, and it cannot await the time when the hon. Member goes into Opposition for him to suddenly discover that environmental rights need to be preserved in this country.

There is quite a lot of sections in relation to the Rivers and Canals Act of 1863. Maybe I should skip some, but go to some more important ones. Madam Speaker, the law to be found in Section 87 of the Rivers and Canals Act states -

“(...) any person who throws, or causes to be thrown, or sends or allows to flow into a river or into a canal, pipe or other conduit discharging into a river or canal, any scums, residue, refuse, washings or other dirty waters or other liquid that may be tend to pollute the water of such river or canal shall commit an offence and shall, on conviction, be liable to a fine (...)”

So, it is more than 150 years ago that we have been actually enacting such laws, we have been enacting development and environmental laws aiming at protecting the environmental rights of the people of this country.

I skip a few sections to go to another section which, in my view, is quite illustrative of this 1863 legislation –

“The Conservator of Forests may, under such conditions as he thinks fit, authorise the owner of any land through or beside which flows any river or stream to destroy, remove and clear, and to appropriate any tree, bush, weed or other growth or impediment, that may be pointed out to him by a forest officer (...)”

Any such material lying or being in the bed of that part of the river or stream.

So, after there is a duty to clean on the side, inside there is a duty not to construct by the side, now there is a number of protecting agents, the Conservator of Forests, under such conditions as he thinks fits, is the authority who can authorise the owner of any land to destroy, remove and clear as appropriate any tree, bush, weed or other growth or impediment, that may be pointed out to that person by a Forest Officer.

So, clearly, an obligation is placed on the person who will do the cleaning, the removal, because we are protecting the environmental rights of the citizens of this country.

Very often, we hear of the protection of forests. The 1992 Rio Convention came up with 27 principles, came up Agenda 21, and I think came up with what is known as the Forest Principles. However, I want here to enlighten the House. I knew these laws once, that is, now 25 years since I have lost touch with those laws and I must say it was quite refreshing to go back to the sources, because I came back to Section 99 of the Rivers and Canals Act, and it states –

“No tree shall be destroyed, removed or appropriated (...) unless it has been marked by an authorised forest officer, and that any permission granted under this section shall be subject to such conditions as the Conservator of Forests thinks necessary.”

And that applies to what? That applies to the clearing and replanting of river reserves where the Conservator of Forests may, with the view to improving the sanitary conditions and the growing stock of any locality, authorise the owner of the banks of any river or stream to destroy, remove and appropriate any tree growing in the reserves of such a river and stream.

So, if I am not mistaken, the International Forest Principles were actually devised at the Earth Summit in Rio in 1992. What happened there? Indeed, there are countries which destroy them, right, left and centre; there are countries which protect them properly and there are countries which are between the two. But, at least, it is good to know that in this country more than 155 years ago, there were Forestry Principles being applied, and people were not allowed to just fell trees as they wished. People had a duty to ensure that river banks were planted. Why are they planted? It is because you have to avoid soil erosion. If you do not plant the site of trees, that is where flooding occurs, that is when erosion occurs, that is when landslide can occur, that is where muddy rivers come. So, one will appreciate when we speak of the State Land Act of 1856 and the Rivers and Canals Act of 1863, why I, therefore, find,

with all due respect to the hon. First Member for Savanne and Black River, that, at least, this particular limp of his motion is really out of phase with reality.

Let me now come to the *Pas Géométriques* Act of 1895. That Act declares areas along the coast known as the *Pas Géométriques* to be public domain, and it makes provisions for the survey of lands in such kind of land areas that allow the grant leases; it actually prescribes the rights of lessees and, more importantly, that Act prohibits dumping on *Pas Géométriques*.

The Minister, here the Minister of Housing and Lands, may grant leases of *Pas Géométriques* or annexes thereto. The granting takes place, but apart from an obligation not to have any dumping on a *Pas Géométriques*, there is in every lease, according to the *Pas Géométriques* Act of 1995, a clause which imposes the planting of trees on any lessee. The law states that a clause which imposes the planting of trees on a lessee shall be included in every lease agreement.

As we all know, the reserved lands along the seacoast, commonly called the '*Pas Géométriques*' and referred to in the *Arrêté* of *Général Decaen* of 05 May 1807, forms part of the *domaine public*, that its width shall never be less than 81 metres and 21 centimetres. One must realise this time that - earlier I spoke of a law which actually goes back to 155 years, protecting development and environmental rights - here is another law, the *Pas Géométriques* Act of 1995; a law which is nearly 125 years, which prohibits dumping, which compels the planting of trees on *Pas Géométriques*. Why? It is because the planting of trees on *Pas Géométriques*, on the shore. Already, therefore, 125 years ago, laws had been passed to protect our beaches, to protect our shore from erosion. At my Ministry, we had to tender out a project for rehabilitating the beach of Mont Choisy at a cost of nearly Rs18 m. because of erosion. And yet, those laws go back, this one, at least, goes back to nearly 125 years.

Let me now leave the laws relating to rivers, canals, beaches, *Pas Géométriques*. Let me come to laws which, I had said earlier, were couched *en termes de règles de santé et de salubrité publique*, namely the Public Health Act of 1925. Now, the objectives of this legislation, Madam Speaker, are, amongst others, to provide the legal framework to improve sanitation, to prevent the occurrence of infections for communicable diseases as well as dangerous epidemic diseases, to ensure the protection of food and, I quote, "especially of water supply". What is interesting here - I think it is good for the House to know - is the gist of section 18 of the Public Health Act of 1925, because in its subsections (a) to (z), the Act provides a comprehensive interpretation of the term 'nuisance'. The Public Health Act,

therefore, deals largely with nuisances, and that section 18, subsections (a) to (z), provides the comprehensive definition of the term 'nuisance'. It is made a broad term, which includes various environmental notions. I quote - for example, "a nuisance is an illegal discharge of polluted waters; a nuisance is an emission from a factory; a nuisance is an eyesore; a nuisance is an odour problem; another nuisance is the proliferation of pests, parasites". There are some also here. "A nuisance is an infection; nuisance includes the inadequate management of solid waste; nuisance includes inconveniences caused by animal rearing". If you look at some of the definitions I have given, which are to be found in section 18, subsections (a) to (z), you will clearly see, therefore, that this time, even if that legislation is geared towards human beings, the notions that it protects are indeed about environmental rights. We are here within the realm of development and environmental rights. Yes, to protect the environment, but also to ensure that development occurs in an environmentally sound manner, except that, Madam Speaker, my postulate is that the protection of development and environmental rights in those days occurred without those who were enacting the laws having a notion of environmental protection. I will show, when we come to the second generation of development and environmental rights, that it is then and there that the notion of protection of rights, in terms of an environmental soundness point of view, came into existence.

Before, we were just protecting from the river because if the river gets this, that or the other; before, we were putting the water because blah, blah, blah; before, we were protecting people. So, let us see, when we come to those public nuisances, how we were actually dealing with them in 1925. Under section 29, where the Sanitary Authority was satisfied of the existence of a nuisance, the Authority could serve a notice on the author of the nuisance, and where the author of the nuisance could not be found, you could serve the notice on the occupier or owner of the premises on which the nuisances arose or continued to arise, requiring, therefore, either the author of the nuisance or the owner of the place where the nuisance was occurring or the occupier of those premises to remove the nuisance within a period specified in the notice. In those days, the period to remove the nuisance had to be not less than 48 hours and not more than one month from the time of service of the notice, unless cause was shown to the Sanitary Authority for prolonging the period and to execute the work and do such things, as may be necessary, for that purpose. Not only was, therefore, a notice issuable with an instruction to remedy, but under subsection 2 of that particular section 29, the Sanitary Authority, if it thought fit, could specify in the notice any work to be executed to prevent a recurrence of the nuisance.

Now, if we go back to 1925 - this is the Public Health Act of 1925; we have progressed. We started with 1856, we went to 1863, we passed through 1895, and now we progress to 1925. But what do we now see in the evolution? It is quite interesting because there is something which we now know. Since the late 20th century, there is something which we now know as the Polluter Pays Principle. You realise, since 1925, we had the Polluter Remove Principle. The polluter had to make good, he had to remove his nuisance, and he was even prescribed what he had to do if he did not know what to do. And you can appreciate why I am in total opposition to this particular limb of the motion of the hon. Member.

(Interruptions)

Sorry?

Madam Speaker: Please!

Mr Sinatambou: That is not the issue!

Madam Speaker: Please, hon. Dr. Boolell!

Mr Sinatambou: The hon. Member is not walking out if I reply!

Madam Speaker: No crosstalking, please!

Mr Sinatambou: Sorry. It is because he walked out last time with the other guys! So, I am making sure that this time he stays!

(Interruptions)

He is behaving today!

(Interruptions)

Madam Speaker: Hon. Rutnah!

Mr Sinatambou: Another section which follows from that is section 34.

“(2) Where the Sanitary Authority is not satisfied that the nuisance has abated, the Court may further order the author to abate the nuisance to the satisfaction of the Sanitary Authority within a prescribed delay.”

In case the nuisance still persists, the author shall commit another offence. So, he commits an offence if he fails to abate the nuisance at the request of the Sanitary Authority, then the Sanitary Authority brings him to Court, the Court gives another order. If he still does not abate the nuisance, another offence is committed.

Now, what is good! After having failed to abate the nuisance at the request of the Sanitary Authority, there is an offence, penalty, etc. Then, the matter is brought to Court. The Court gives an order to abate the nuisance. If the nuisance is actually not abated, then the Court can fine him for another offence. And then a task force may be set up by the Sanitary Authority to abate the nuisance.

So, here was already, since the Public Health Act of 1925, a mechanism to protect the environmental rights of the people of this country. One person's rights - I think we all agree - stop where another person's rights start, which is why I am often disagreeing with the other side of the House. Yes, they have got the right to complain, but do it the right way! They cannot, because they are not happy, insult me or any other Member of this House. But, anyway, since they are not here, let us not bother!

Madam Speaker, I am actually, therefore, showing that we are in the realm of nuisances of the protection of environmental rights. The nuisance being tackled by the Sanitary Authority is because the tortfeasor is actually violating the development and environmental rights of his neighbour or his neighbours.

What is quite interesting, Madam Speaker, is section 33 which concerns Proceedings against authors of nuisance because section 33 states that –

“Where a nuisance appears to be wholly or partially caused by the act or default of more than one person, the Sanitary Authority (...) may –

- (a) institute proceedings against any one of those persons; or
- (b) include all (...) of them in those proceedings.”

Already we were solving the issue of causality. Let us take climate change! Many countries are actually fleeing from their obligation under climate change by saying: 'Well, there is no scientific evidence that we are causing it, maybe it is the other one.' But, here, already in 1925, the law stated that if a nuisance appears to be wholly or partly caused by the act or default of more than one person, the Sanitary Authority could prosecute only one or both or any number of those people.

And, again, like for the previous provision –

“Any one or more of those persons may be –

- (a) ordered to abate the nuisance, so far as it appears to the court to be caused by his or their acts or defaults;”

Any of them could be –

- “(b) prohibited from continuing any act or default which in the opinion of the court contributes to the nuisance;”

And any one of them could be –

- “(c) fined or otherwise punished, notwithstanding that the act or default of any of those persons would not separately have caused a nuisance, and the costs may be distributed as may appear fair and reasonable to the Court.”

So, even if we were in the realm of criminal proceedings, the Court could actually fine or otherwise punish persons, notwithstanding that their act or default would not separately have caused the nuisance.

Madam Speaker, I was explaining how when we come to the third generation of development and environmental rights, we could argue that they were the third, fourth and fifth, but we had chosen to go, as you will see later, for Versions 3.0, 3.1 and 3.2 of those development and environmental rights. But already, here, you can see that in that first generation of development and environmental rights, I would say that there is an evolution because we were dealing with State lands; then, we went to deal with rivers and canals, then, we went to deal with people under the Public Health Act. And now, I will come to settlements, to the Town and Country Planning Act. So, we leave State lands; we leave rivers, canals, water courses; we leave public health individuals; now, we come to buildings. We come to the Town and Country Planning Act of 1954.

The objectives of that Act, Madam Speaker, were, among others, to provide a legal framework for, I quote –

“A planned and sound development of land over the island, whether urban or rural.”

The Act aimed at preventing undesirable development of land in the interest of socio-economic well-being of the country. The Act still provides - now, I can say still provides, nearly 65 years later - for the preparation of the outline planning scheme which formed the basis for issuing building and land use permits by Local Authorities and that Act also provides for the protection of environmentally sensitive areas.

Now, when you look at the Town and Country Planning Act of 1954, Madam Speaker, I would argue that the Act seeks to strike a balance between development and the

protection of the environment and to achieve social equity through a better spatial distribution of the benefits of development. In fact, the Town and Country Planning Act of 1954 is one of the first pieces of legislation to regulate land use planning and environmental protection in a comprehensive manner. I believe, when we look at the way State lands were protected by the 1856 legislation, when we see how water courses were protected through the Rivers and Canals Act of 1863, when we see how our shores were protected by the 1895 legislation, when we see how the 1925 Public Health Act has been protecting individuals from a development and environmental point of view, I would say that the Town and Country Planning Act of 1954 has enabled this country to regulate land use planning and environmental protection in a comprehensive manner, to protect natural resources, to protect good agricultural land, to protect our forestry, to protect our mountain reserves and our rivers. I would argue that it has also assisted in avoiding urban sprawl, anarchic development by instituting the zoning schemes.

In short, I would say that within the realm of the first generation of development and environmental rights, the Town and Country Planning Act of 1954 has allowed the protection of the natural and man-made environment both for the benefit of present and future generations or at least it was designed to.

When you look sometimes at some of the ugly things which stand out in the middle of Mauritius, you can argue that, yes, it has not succeeded. Surely, when you look at its contents, that legislation clearly should have allowed the protection of the natural and manmade environment both for the benefit of the past, the present and the future generations while, at the same time, ensuring the development and growth which we would have hoped would be ecologically sound. Now, Section 3 of the Town and Country Planning Act makes provision for a Town and Country Planning Board. I was hesitating whether I should actually come to the Board and its composition in case it appears that I am filling time or filling space or wasting time in this House. But I thought after mere reflection that, for the sake of the record, I have to mention it. Because when we are speaking of Town and Country Planning, Madam Speaker, we are speaking of the orderly arrangement of space, of the terrestrial space of this country.

And, therefore, it is good to know that the Boards which was established under the Town and Country Planning Acts consists of quite a number of representatives from different Ministries and Authorities. I think it's about 50 members, if I am not mistaken, and that is why to me, I would make it a point to mention that because this shows how the Board has

taken – sorry for the word – on board a participatory, an integrated approach towards land use planning. So, it makes sense to have on the Town and Country Planning Board a representative of the Ministry of Local Government. It makes sense to have a representative of the Ministry of Housing and Lands. It makes sense to have a representative of the Ministry of Health and Quality of Life. It makes sense to have a representative of the Ministry of Environment, a representative of the Ministry of Agro-Industry.

There are about 15 representatives that's because when we are speaking about the arrangement of the terrestrial space of our country, we have to ensure that it is done in an integrated manner, in a participative manner so that all the views are taken on board. Now, that is something we don't realise. We must also know that the Board is actually the body which, therefore, finalises outline schemes. It examines detailed schemes, but it makes recommendations on the planning control of any area which it feels needs to be properly and progressively developed.

So, here is the Town and Country Planning Act which now looks at urban and rural planning, but it defines what we call *les règles d'urbanisme, les zones d'urbanisme*. Why am I saying this? It is because if one doesn't know the law, one will not realise, it is the President of the Republic who actually agrees to bring under planning control any area which had been recommended for proper and progressive development. So, the protection here of development and environmental rights has been brought to the highest level of the land. It is the President of the Republic, no less than the Head of State, who actually approves the planning control of the terrestrial space of this country.

Now, 1925 was Public Health, 1952 is Town and Country Planning; Madam Speaker, what is important to know is we also have protection of the environment in the Roads Act of 1966. So, now we are getting nearer to our days, we are now 50 years ago. I showed to you, Madam Speaker, how we were speaking about State lands, we spoke about rivers and canals, we spoke of our shores for *Pas Géométriques*, we spoke of individuals under the Public Health Act, we spoke of the terrestrial space of this country under the Town and Country Planning Act. I want to come to a particular aspect under the Roads Act which is visual pollution. So, we had spoken of different instances of pollution, different instances of development and environmental rights.

Now, I would like to show that, as far back as 1966, we were already protecting this country from visual pollution. I must say that I am not too happy these days when you drive

on the road, you see big billboards. I must say one thing, Madam Speaker, I keep imagining what will this road be like without those big billboards. I keep saying it to myself. In terms of landscape, in terms of looking at nature what would the motorway look like without those big billboards? On the other hand, I don't know whether there is an economic value which has outweighed the visual value, but, to me, there is this balancing exercise which we have to do. Personally, had I been conducting the balancing exercise for allowing those big advertising boards, I would have scrapped them because I believe that it's nicer for our people - it is a small country why should we keep looking at billboards as opposed to looking at our country. So, maybe I will retire there. But, coming back to the Roads Act, Section 22 of the Roads Act of 1966 is quite clear, it tells us –

“Notwithstanding any other enactment (...) no person shall erect or display an advertisement which is visible from a road (...)”

But then, it adds –

“without the written permission of the highway authority.”

So, clearly, therefore, you can see that there was an idea that no person shall erect or display an advertisement which is visible from the road but then it added without the written permission of the highway authority. Now, the law goes on to say that –

“(2) The highway authority may, when granting the permission, specify the specifications to which the advertisement shall conform, the period (...)”

not exceeding 12 months

“(...) during which the advertisement may be displayed and the manner, place and circumstances in which and the conditions on which the advertisement may be displayed.”

The highway authority may also alter or revoke a permission and the law says, it is very interesting to know that, nothing in this section shall authorise the placing of an advertisement on a tree. So, what happens is, therefore, here is the reality that although advertisement is allowable, it can be allowed by the highway authority, it is good to know, at least, that there is no way anyone can place an advertisement on one of the most precious children of nature, trees. So, at this stage, Madam Speaker, I do not know, people are asking...

Madam Speaker: Hon. Sinatambou, you are still in 1966, if I understand well, so, you still have a long way to go. So, I now propose to suspend the sitting for half an hour.

At 5.00 p.m., the sitting was suspended.

On resuming at 5.43 p.m. with Madam Speaker in the Chair.

Mr Sinatambou: Madam Speaker, I had reached a stage where after sharing with this House the incorporation in our laws of development and environmental rights, as far back as the second half of the 19th century, I moved from that period to 1966. I have shown how the protection of development and environmental rights had taken different shapes and forms, and I can say shades. First of all, they were covering State lands, then, we went to water courses, rivers, canals and the like. Then, we went through that width of 81 m and 21 cm from the high watermark, that is, the protection of the shores. Then, we moved to human beings, through the Public Health Act of 1925, going through protection of people from nuisances and not allowing people to build dwelling houses, kitchens near watercourses. Then, we went to the development and environmental rights which actually cater for the urban and rural terrestrial space, and I had come to now the segment of visual pollution. That is where I was speaking of those advertisements and billboards.

Now, it is interesting to know - I will not dwell too long on visual pollution although one should be aware that this is an aspect of development and environmental rights which is of importance when you consider that we are a tiny island largely dependent on tourism. I will have to share with you an instance of some of the difficult decisions that we have to make when it comes to visual pollution although in the particular context of the Roads Act, we are speaking of advertising billboards. I will give you an example of the difficult decisions we have to take when I will refer to the village of Tamarin.

Once you leave the church of Tamarin to go towards Rivière Noire, in fact, virtually everywhere on the left and on the right-hand sides of the road, you have got walls and the last remnant is a salt pan on the left-hand side of the road. For nearly a year now, I have not been able to take a decision as the Minister concerned about whether to allow a Property Development Scheme on that salt pan because this is the last remnant of vision that you can have of the hill. So you imagine, if I, as a Minister, that is my duty to approve or not to approve any EIA licence with regard to a development of that nature, if I approve that development, there will not be any possibility of looking at the mountain or the hill, whatever you call it, henceforth. So, I am going to find a way. And on the other hand, a sustainable

development means, first of all, economic development while protecting the environment and ensuring social inclusiveness.

So, what we are facing, and that particular decision falls within the third generation of development and environmental rights. So, just a side comment to show to you how visual pollution, visual impact and the rights to development and the rights to environment are also quite concerned with the visual side of things. But let me finish with the provisions of the Roads Act because it is quite interesting to know, Madam Speaker, that section 25 of the Roads Act is quite enlightening, and it states that -

“Where an advertisement is likely to prove a danger to the travelling public - I highlight - or disfigures or injuriously affects the view of rural scenery or the natural beauty of a landscape or the amenities of any historic or public building or monument (...).”

(Interruptions)

Mo capave lire sans sa osi, pas trakas twa!

So, already we have legal provisions going back now, more than 50 years, which actually allow a decision not to allow advertisements which would disfigure or injuriously affect the view of rural scenery or the natural beauty of a landscape. That is where there are difficult decisions to make. That is where perhaps also that brings about, how shall I say, not an incoherence, a paradox in that six-limbed of the hon. Member's Motion about development and environmental rights. Because, very often, they are at a loggerhead; very often, there is a decision which will favour the one to the detriment of the other, and that is where that makes my job as the Minister of Environment and Sustainable Development quite difficult. Therefore, we cannot speak of putting development and environmental rights in our Constitution because, let us say that these were put as constitutional provisions, and I, as Minister of Environment and Sustainable Development, take a decision which favours the protection of the environment to the detriment of a proposal to develop something, if there is a constitutional provision, which says that there is a right to development and environment, immediately, my decision can be halted.

My view is that since we have a whole gamut of laws which have been enacting, which have been incorporating development and environmental rights, let alone that we have already reached so many generations of them, but the very fact that we have a gamut of laws

for the protection of development and environmental rights, this, of its own, should militate against the six-limbed of the hon. Member's Motion.

What I will say is that, since 1966, we had also a number of provisions in our laws which were protecting this time, not only against visual pollution in the Roads Act, but also against soil erosion. I will, here, take the opportunity of quoting Section 42 of the Roads Act of 1996, which states as follows –

“A highway authority may, by notice in writing to the owner or occupier of a land adjoining a road for which it is responsible, require that person, (...) to execute such works as will prevent soil or refuse from that land from falling, or being washed or carried, on to the road or into any road drain in such quantities as to obstruct the road or choke the road drain.”

So, many of the environmental problems that we are facing today were already catered for in the first generation of development and environmental laws which were incorporating such rights so many decades ago. It is also good to know that when it comes to offences, littering on roads was already covered more than 50 years ago. I will quote Section 66 relating to offences –

“Any person who otherwise than in accordance with this Act –

- (b) leaves, or allows to fall, on a road or footpath any timber, stones or other material so as to obstruct the same or endanger persons using the road;”

That person commits an offence. Also, any person who -

- (c) digs up, removes or alters, in any way, the soil or surface of a road (...);
- (d) fills in, or obstructs, any ditch or drain made to carry water off a road (...);
- (f) allows a filth, drain water or noxious water, or any other thing likely to injure any road or footpath (...);”

All those persons actually commit an offence. So, section 66 is quite enlightening because it now shows that from the various media, soil, water, watercourse, rivers, canals, people, urban and rural terrestrial space, roads, vision, view, all these were already covered from decades and decades ago and in some cases, as I said earlier, since the second half of the 19th century.

Madam Speaker, I will come to the last national legislation which I want to refer for the purposes of the first generation of development and environmental rights, that is, the one dealing this time with ground water. So, we have been dealing with surface water. Ground water is covered by the Ground Water Act of 1969, just therefore 50 years ago. We now reach the last half century. The objectives of that Act are, amongst others, to provide a legal framework, to control ground water abstraction and the prohibition of pollution. First of all, it is about licensing, but the law goes on to say in section 4 (2) (a) –

“Where any person who is licensed under the Ground Water Act, by any physical, chemical or biological means or process, so alters the composition or quality of ground water that it is likely to cause injury to any person, animal or plant using such water, he shall commit an offence.”

In fact, I must say one thing. This is the first time when I went back through the laws that I see together a protection of, at the same time, person, animal and plant. Throughout all those legislations that I went through for the purposes of today’s debate, I did not see one single instance where all three were protected together. So, somehow, I think we could say, because we should not forget that the 1969 legislation is only three years before that famous Stockholm Declaration, where the environment really becomes the centre of concern for the whole world. So, is it the case that the 1969 legislation is the precursor because, don’t forget, starting from 1856, we are now more than 100 years later - I believe that, somehow, if that particular law actually caters for people, animal and plant, we are probably already on the eve of the 1972 environmental revolution of the Stockholm era.

Now, it is good to know that under section 4 (2) (a), the Ground Water Authority may even suspend or revoke a licence without prejudice to any other proceeding that may be instituted against the holder of any licence for ground water purposes.

Madam Speaker, I will stop here with regard to the national laws which fall under the purview of what I have called the first generation of development and environmental rights. But I will not yet leave that period of first generation development and environmental rights because there is one thing which struck me and which I think ought to be shared with the House. If we look at modern day Mauritius, we now speak of the blue economy, of the ocean economy; we speak of our country having 2.3 m. km² of EEZ. But it struck me that if we go back to the end of the 1940s - and you will see why, Madam Speaker. In March 1948, there was an international conference held by the United Nations in Geneva, and that Conference

adopted the Convention of International Maritime Organisation which formerly established the inter-Governmental Maritime Consultative Organisation to promote maritime safety and control, and to prevent pollution from ships.

Now, after this 1948 Convention, there was, after the war, another Convention. What happened is that, as a result of the economic increase which took place in the 1950's, larger quantities of oil were transported - larger than previously - and there was increasing concern about oil pollution, and that led to what is known as the OILPOL Convention. The International Convention for the Prevention of Pollution of 1954 was entered into force in 1958. Now, OILPOL, that Oil Pollution Convention of 1954 was the first international convention designed exclusively to deal with ship-source oil pollution. It dealt with intentional discharges and the question of enforcement was left to flag States. It specifically stipulated discharged standards. It prohibited discharge of specified oil and oil residues in described areas of the sea. Oil record books were to be kept on board of ships, ready for inspections in port States.

Now, in 1959, another International Conference on Oil Pollution took place and the recommendations of this Conference were to extend the effectiveness as well as the territory in which the OILPOL Convention would be effective and the majority of these recommendations were adopted during a further conference held in London in 1962. I am saying all this, Madam Speaker, and you will see in a few minutes why. In 1965, the International Maritime Organisation set up a special subcommittee on oil pollution under the auspices of its Maritime Safety Committee. The purpose of this sub-committee was, as the name implies, to address oil pollution issues. Over the years, this subcommittee has turned into the Marine Environment Protection Committee, that is, the IMO Senior Technical Body on matters of marine pollution.

Now, why am I actually making reference to all those Conventions, the 1948 Convention, the 1954 Convention, the 1959 Conference, the 1962 Conference and the 1965 setting up of this Marine Environmental Protection Committee of the International Maritime Organisation, it is because when you look at the first generation of development and environmental rights, the protection of the marine environment is not to be seen. So, we were protecting inland water; we protected ground water, we protected rivers, we protected canals, we protected the Town and Country Planning Act, we protected the urban and rural space; we were planning the land use. We protected the shore, the *Pas Géométriques* 81 metres and 21 cms of beaches from the high-water mark, but, somehow, in those days, it seems that we were

oblivious of the Conventions for the Protection of the Marine Environment, in particular from oil pollution. I think I can say that we are fortunate that Mauritius did not witness any, let alone any major oil spill incident within its territorial waters during that period where our first generation development and environmental rights were actually being incorporated in our laws.

Madam Speaker, maybe I shall end with the first generation by just saying that there are also a number of international conventions which were actually negotiated during that period which does not form part of our National laws. So, that is therefore the first generation. Now, I stop at the Ground Water Act of 1969...

Mr Ganoo: Madam Speaker, can I raise a Point of order? I can understand that the hon. Minister is relevant because one of the limbs of the motion pertains to development and environmental rights. But, Madam Speaker, by virtue of Section 50 of the Standing Orders, you, as Speaker, may at any time during the Sitting, limit the time during which a Member is addressing the Assembly. The hon. Minister has been giving a lot of leeway, he has started at 3.30 and it is now six o'clock. May I appeal to you to intervene and ask the hon. Minister to shorten his speech since there are other Orators who are on the list?

Madam Speaker: Well, I have been listening carefully to the hon. Minister. I have not stopped him because I found that his arguments were relevant, as you said, to one of the limbs of your motion, which is the introduction of second generation development and environmental rights. I believe that the hon. Minister has made a lot of research before he comes to this House to rest his case and that is what he is doing. So, there is nothing which says that he is irrelevant and therefore I will not be able to stop him, and I hope he will finish in some time because he has almost reach the third generation.

Mr Sinatambou: Second now. Of course, I have taken note of what the hon. Member said, but he has been a long standing Member of this House and he knows that for Private Member's Motion we have the right to speak normally. But never mind, I have a ruling of the Speaker. Madam Speaker, what am I trying to demonstrate here? First of all, I queried the very principle of the Motion. Then, after querying the very principle, the basis itself of the Motion, which to me should warrant the rejection of the Motion, I am now going into the sixth limb, because that was under my portfolio, to show now why even on the substance, after querying with the principle of the Motion, I quarrel with the substance of the

Motion that, as even there, that Motion should not actually, in the slightest, be approved in my submission to this House.

But anyway, part of my proposed contribution to this House this early evening is to try now and show that there is no need also, on the principle, to have what the hon. Member has called the introduction of the second generation “development and environmental rights” in our Constitution. I will, here, propose to show to the House that there are already second generation development and environmental rights which have been incorporated in our national laws.

To me, the second generation of environmental laws, what is very particular about them, is that they address the protection and management of natural resources from an environmental soundness point of view. So, the issue was not anymore about protecting people, saying I am protecting a person, an animal or a tree. We are protecting the environment. It is the outcome of my research that the second generation of environmental laws were triggered by what we now know as the 1972 Stockholm Convention. Indeed, that Convention, which is the nickname for the United Nations Conference on the Human Environment, came up with what is known as the Stockholm Declaration. The Stockholm Declaration is the first global document to lay down general principles for the management of natural resources and the environment. It was recognised there. I quote –

“Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations.”

It is the first time in the history of mankind, in 1972 - if my research is right - that we have a duty to protect and improve the environment for present and future generations.

The second thing, Madam Speaker, for the first time the environment was clearly and expressly linked to development and the issue of environment and development was put on the global agenda. This, to a large extent, provided the foundation and impetus for the development of domestic environmental laws in developing countries. Many countries enacted environmental legislation and established environmental agencies and Ministries as steps to implement their commitment expressed in the Declaration.

In fact, it came out that it is after the Stockholm Declaration that we actually have one of the international results thereof which is the UN environmental body, known as the United

Nations Environmental Programme (UNEP). So, the Declaration, interestingly, recognised the sovereign rights of States to control their own resources, to prohibit the transboundary movement of environmentalists unsound activities and it called - that was quite interesting - for the development of international law on liability and compensation for victims of pollution. Here, I will show, Madam Speaker, how the second generation of development and environmental rights emerge. With the 1972 Stockholm, we also have in 1974 the United Nations Conference on Trade and Development (UNCTAD). Here, the result of that Conference is a report entitled 'What Now?', which argues the underdevelopment of Third World countries and which promotes an alternative ecologically sound development model. So, what happens is that, after the 1972 and the 1974 Stockholm and UNCTAD Conferences, the consequent years show developing countries having the requirement of cleaning up the air. Now, my views are that with the second generation of development and environmental laws, we have an evolution, which I showed earlier, that in the first generation, we did not actually cater for the protection of the marine environment, but under the second generation of development and environmental laws, a series of important legislation were enacted, among which the Maritime Zones Act.

(Interruptions)

No, we will leave some. So, a series of important legislation were enacted, among which the Maritime Zones Act. I explained that under the first generation, the Conventions against all pollution, against the environmental protection of the marine environment had been adopted internationally, but they were not adopted nationally. However, when the Maritime Zones Act was passed in 1977, that Act firstly declared the legal status of our territorial sea, our internal historic and archipelagic waters, our contiguous zone, our Exclusive Economic Zone and our continental shelf, but, more importantly, under section 15 of the Maritime Zones Act, the Prime Minister was given powers to make such regulations as he thinks fit for the purposes of this Act, and this could in particular provide for the preservation and the protection of the marine environment and the prevention and control of marine pollution. Now, why it is important, Madam Speaker, is because it is under the Maritime Zones Act.

In addition to the Maritime Zones Act, which defines the controls of our water, came the Merchant Shipping Act. The Merchant Shipping Act was most important because it was instrumental in incorporating in our laws those international conventions for the prevention of pollution from ships. Whether it be the MARPOL Convention of 1973, which was amended by the MARPOL Protocol of 1978, this also applies to the International Convention on Civil

Liability for Oil Pollution Damage of 1969. Also was incorporated, I think, the International Convention on Oil Pollution Preparedness, Response and Corporation of 1990.

Madam Speaker: Hon. Minister, I will interrupt you here, to tell you that, rightly so, the point of order which has been made by the hon. Member is valid. I believe that we have given you ample time to make your case, and whatever you said is very interesting, very relevant and that is why I did not stop you, but I do not think that any Member should make an abuse of having the floor. So, I will give you three/four minutes just to wrap up your case.

Mr Sinatambou: If I could be allowed another two minutes to make it six, just to finish on the third point and to conclude.

Madam Speaker: Please!

Mr Sinatambou: Okay, six minutes.

Madam Speaker: Don't be long; otherwise I will have to stop you!

Mr Sinatambou: Principally, yes. I will stop at 18.25, Madam Speaker, if you will allow me.

So, Madam Speaker, the point I am making is that, in the second generation of legal and environmental rights, there are again a number of very interesting laws which are the Removal of Sand Act, the Maritime Zones Act I quoted, the Fisheries Act of 1980, the Forest and Reserves Act of 1984 the National Coast Guard Act of 1998, the Morcellement Act of 1990 and the Environment Protection Act of 1991.

Now, before concluding, Madam Speaker, please allow me to briefly quote the laws which show the evolution for the third generation of development and environmental rights because they emanate from very important environmental protection Conventions which are the three Conventions on Climate Change, on Biological Diversity, on Desertification. We then have those on Persistent Organic Pollutants, on the Transboundary Movements of Hazardous Wastes, on the use of chemical weapons. All these have more or less been incorporated in our laws.

So, Madam Speaker, to sum up the gist of my humble contribution to this House since this afternoon, it is that, if one really looks at the first, second and third generations of development and environmental rights as incorporated in our national laws, I think that one can only agree that the Motion of the hon. First Member for Savanne and Black River is firstly irrelevant in the Mauritian context that it is unfounded and unnecessary. In fact, his

proposed introduction of second generation development and environmental rights in our Constitution simply does not arise and, finally, with due respect, it is out of phase with reality.

I, however, in view of the time constraints, choose not to go into the six other limbs of the Motion and believe that my contribution on that one particular limb is self-explanatory and it should be clear to one and all on both sides of the House that this motion should simply be rejected.

Thank you, Madam Speaker.

Madam Speaker: Hon. Dr. Boolell!

(6.23 p.m.)

Dr. A. Boolell (Second Member for Belle Rose and Quatre Bornes): Madam Speaker, I am glad that my good friend had ample time to air his views, but I am glad also that you have ruled that we have to widen the circular of opportunities and allow everyone of us to have an opportunity which is knocking and to put across the views on this very important Motion.

Let me start by saying that I don't subscribe to the saying that the stars above us that govern our destiny. However, when the lots were drawn and the Motion standing in the name of hon. Alan Ganoo (First Member for the Constituency of Savanne & Black River) came up, I consider it an opportunity as I have said which is knocking and it is an opportunity for serious debate. And it is the Constitution, Madam Speaker, the Supreme Law of land which is at the centre stage. Although some of us have the habit of saying that the law is an ace but the Constitution is sacrosanct.

As Members of Parliament, we have to act collectively to protect the sacrosanctity of our Constitution and no responsible Government should temper with the Constitution. Unfortunately, since the last 50 years, there has been tampering or attempt to tamper. To highlight the importance and relevance of the Supreme Law of the land, let me quote what was stated when Mauritius was granted independence by UK and the Mauritian Constitution was granted by the United Kingdom through a UK legal instrument, and it's a fact that it did not emanate from the people of Mauritius or their representatives.

But what is true for Mauritius has been equally true for former British colonies. However, in 1982, Canada obtained the repatriation of its Constitution which has remained part of the British Legal Order although Canada had been a Sovereign State since 1931. After half a century, that's what Mr Meetarbhan in his book entitled the Constitutional Law of Mauritius: the time may be right for the people of Mauritius to give themselves a constitution of their own. Now, on the dawn of the 50th Anniversary of Independence, there is indeed a rallying call to revisit mixed policies and rebuild the image of Mauritius.

Since 2015, the fall and decline of institutions is largely due to greed and our quick surrender to democracy of the market. Democracy at any level depends on democracy at all levels putting people before profit is relevant unless we don't want to move from procedural democracy of globalisation which restricts itself to voting, while societies are polarised between a timely wealthy oligarchy and a huge poor majority towards social democracy that can attack global corporate power at its roots. The tendency towards concentration of power is real and no one should remain indifferent or insensitive.

What can we do? As you say, we can do a lot to ensure that the cure is not worse than the disease? Let me try to quote what Sir Seewoosagur said in respect of the Motion that was moved for giving the legal entity to our Constitution. He said –

“Independence will enable us to think as a nation for our country will be our hope and our people our first concern and this atmosphere of freedom and equality, a new spirit and endeavour will seize our people and in this century of hope, a new Mauritius is being born unfettered and friendly small but with an inevitable spirit to make good with other nations. There would be no prison bars of colonialism, no discrimination between one Mauritian and another but a united country fulfilling its own destiny.”

So, beyond words, Madam Speaker, we had to give substance to what was said by the Father of the Nation. What do we have to do to embark on a journey of constructive destruction, as the Father of the Nation said, for the building of a cohesive society of equals and it's good to walk down memory lane and highlight what was done. But before that what we need to do is that the time has come to appoint a team of constitutional experts to frame a new Constitution.

A lot of grounds have already been covered in the two volumes of the report of the Commission on the law reform, constitutional and electoral reform. I put a question to the

hon. Prime Minister in respect of reform that should be ongoing and the work that has been done, and I wanted him to report progress. But, unfortunately, the hon. Prime Minister has been evasive on the time scheduled for the circulation of the proposal to electoral reform and financing of political parties. Yet, promises were made and the reform featured prominently in the electoral manifesto of *l'Alliance Lepep*.

Let me come back to the Mauritian Constitutional Law book to which I would refer as we go along. Dr. Meetarbhan reminded us that the time has come to have a brutal call, call it an awakening call, but we have to wake up and we have to shake and be off from a mental that, for far too long, has been covered with dust. As he said, and I quote –

“After half a century the time may be right for the people of Mauritius to give themselves a Constitution of their own”.

And I ask the question whether it is not time for us to set up a constituent assembly to make this process inclusive. An amendment which has been introduced to our Constitution has been brought not in the interest of the country, but in the interest of the party. And that is why I said earlier, amendments have been brought, but, unfortunately, to some extent, all parties have tampered with the Constitution, and on this, the MSM of all parties, cannot plead ignorance. I have in mind the motion to unseat the Leader of the Opposition and the vain attempt to introduce a Public Prosecution Bill. It is good to recall what late Chief Justice Lallah said on the motion to unseat the Leader of the Opposition when the case was brought before the Supreme Court. A colourable device was used according to late Chief Justice Lallah. And you may recall, Madam Speaker, when the Leader of the House decided to move the motion, Parliament was recalled early morning, in fact, and there was a special session held on Tuesday 02 February, 1993. That is what the Speaker said when he made an announcement, and I read –

“I have now to report to the House that since 14 July 1992, the hon. Leader of the Opposition who was not in legal custody, and had not obtained my previous leave as laid down in section 35 of the Constitution, was continuously absent from the sittings of the House.

In the light of the judgment of the Supreme Court referred to above, it can be considered that the seat of the hon. Leader of the Opposition has become vacant under section 35 (1) (e) of the Constitution.

However, in the light of the opinion expressed recently by hon. Justice Proag, I would like to leave the matter in the hands of the House. The House may wish to refer the matter to the Supreme Court for a declaration whether in the present circumstances a vacancy has, in fact, occurred.”

And hon. Peeroo, then Fourth Member for La Caverne and Phoenix, intervened and made the following submission -

“It is clear that the motion of the Leader of the House is not receivable because it goes against section 37 sub section (7) of our Constitution. The law protects that Attorney General to initiate action on his own, independently without any duress, without any coercion, without any political pressure, without any sort of pressure. The same guarantee is given to the DPP, the same independency is guaranteed to the DPP in his discretion what he should do. The discretion is for the Attorney General, it is not for this House or the Prime Minister or for Government.”

Madam Speaker, unfortunately, and I have to say it without fear or prejudice, the then Leader of the House, to a large extent, was aided and abetted in his motion which he moved and which went against the interest of the country and Parliamentary democracy by the then Speaker of the House. It was tantamount to a premeditated coup staged by the Executive, aided and abetted by the Speaker. But then, we have to be grateful to the Judiciary. The judgment of the late Justice Lallah made great jurisprudence and speaks volumes of the relevance of separation of powers -

“Responsible Members of the House should not be insensitive or indifferent to the voice of the people. Access to information is a fundamental right and not a privilege. People are aware that the DPP, irrespective of his social status or whoever may be dixit DPM is not next to God, and he is fully accountable. The alleged paragon of virtue is in Government, it knows that the Office of DPP cannot be the errand boy of Ministers because it is part of the Executive.”

The ruling given by the former Chief Justice highlighted the vast difference between the Political and Legal Executive. The Office of the DPP is an arm of the Legal Executive, and section 72 (6) of the Constitution guarantees that the DPP shall not be subject to the direction and control of any person or authority in the exercise of its powers under section 72 of the Constitution.

Madam Speaker, besides all the decisions of the Office of DPP are reviewable, any person who feels aggrieved can challenge these decisions before the Supreme Court. Since the case of Mohit vs State (2006), UK Privy Council, a new order of accountability has been established, and if Government then was keen to widen the circle of opportunities to any Mauritian who wanted to challenge or would have liked to challenge the decisions of DPP before the Supreme Court...

(Interruptions)

Mr Rutnah: Madam Speaker, I am so sorry to interrupt the hon. Member. On a point of order...

(Interruptions)

Why he is saying ‘ayo’?

Madam Speaker: What is your point of order?

Mr Rutnah: Madam Speaker, on a point of order, it appears that the hon. Member is completely off the track in relation to the present motion we have. If we look at Standing Order 42, the debate should be relevant. At the moment, we are not hearing any debate about limitation of tenure of Prime Minister; anti-defection law; gender quota fair representation; review of power of Electoral Boundary Commission; recall mechanism for parliamentarians, and so on. It appears that my very able hon. friend is completely irrelevant...

(Interruptions)

Madam Speaker: Please, no crosstalking!

Mr Rutnah: ...in his intervention. I know Members from the Opposition are making remarks. Perhaps, if they have any remark to make, they it make on their feet.

Madam Speaker: I think the hon. Member has made his point. Hon. Members, let me tell you that I had given the latitude to hon. Minister Sinatambou as well to make an introduction to his arguments. If you look at the motion, the motion does not say that it should consider only limitations of tenure of the Prime Minister, etc. It says: “and should also consider the introduction therein”. The word ‘also’ says a lot in it. So, since I have given the latitude to the hon. Member to make an introduction so that he may rest his arguments, I think it is only fair that I give the same privilege to the hon. Member on this side of the House.

Dr. Boolell: Madam Speaker, I bow to your ruling, I am glad that the Chair is not vacillating. I thank you very much.

Let me highlight what was stated in respect of the case *Mohit v. The State*, UK Privy Council, and I say it since the case of *Mohit vs. The State*, UK Privy Council, a new order of accountability has been established, and this very relevant to the supreme law of the land. It guarantees the freedom of the individual to exercise his or her rights, and I made an appeal to Government to use its resources judiciously and, in fact, to fast track procedures, to widen the circle of opportunities for those who want to challenge the decisions of the DPP before a Supreme Court, and instead of making an attempt to create an *ad hominem* institution which, indeed, would have been an additional burden upon taxpayers, Madam Speaker. So, that is why I say use the savings to finance the legal cost of citizens who want to exercise their legitimate rights.

The point I have been trying to canvass and which should prevail in a democratic country. I want to impress upon those who are holders of constitutional post that they cannot be servile or subservient to the political masters of the day irrespective who the political masters are. That is why I say, it is time to rise above party politics and set up a constituent assembly composed of MPs, representative of political parties and NGOs, and together with the help of expert, as is the wish of the nation after 50 years of independence, to frame a new constitution. As I have said and I stated earlier, and which is a fact, that all forms of British colonies under colonial rule were given a Constitution by an Order in Council. The beauty of our Constitution lies in the separation of powers and, as responsible MPs, we have to widen the demarcation line of our democratic institutions. Only the legislators have the power to legislate. It is precisely because Parliament is supreme that the Judiciary reminds us of our obligations and rights. I have in mind the case lodged by *Rezistans ek Alternativ* before the Supreme Court to enable a candidate at election to have the freedom not to declare his or her communal appurtenance. This is a shining example of the powers conferred upon legislators and the ruling given by the Judiciary to remind the legislators there comes a time when they have to act and act in the interests of the nation.

The message is, Madam Speaker, Parliament cannot forever amend the Constitution for a transitional period, for a transitional gain because we know what the consequences will be. There will be consequences, and when we will appear before the period of review of the Committee of United Nations Human Rights Council in Geneva, we will need to be coherent, we will need to come with credible explanations, otherwise we will be taken to task. And yet,

Mauritius has always been cited as a showcase of democracy, as a country where there is rule of law; we cannot forever postpone the day of reckon.

After 50 years of independence, it is time to address those shortcomings and do away with stigma and discrimination. I had the opportunity during the by-election to interact and to interface with people of all walks of life, with people belonging to different communities, with people who allegedly claimed to be leaders of socio-cultural organisation. There was a common thread in respect of what they say. Everybody is keen to do away with stigma and discrimination. We need to have a look at Section 16 of our Constitution because it may be an ultimate objective, perhaps a dream, but we need to make dreams come true, Madam Speaker.

Our objective is to have a cohesive society of equals from electoral reform, reform of electoral boundaries, financing of political parties, the mandate of the PM and gender parity. It is going to be a long march, but we have to quicken the pace if we care to bequeath a legacy of social justice to the present and future generations. I feel sorry to hear our friends sitting on Government bench saying that they are not going to be supportive of this motion.

This motion, Madam Speaker, highlights the legitimate demand of a nation who wants to be on the march, of a nation who knows very well that today we have become a hamlet in a global village. To some extent, we have to concede some of our sovereign - I am not talking of territorial sovereignty, but what we call the 'political sovereignty' for the betterment of our people. We need to be inspired, and we need to be inspired by other countries. I have in mind Kenya. Despite its constraints, its ethnic differences, Kenya has the courage, as we say, to take bull by the horns and to come up with a new Constitution. The exercise conducted by Kenya is a source of inspiration. Yet, Madam Speaker, we cannot forever maintain *status quo*. I have said in this very House that the only factor, which remains constant, is change. We have to change to improve the lot of our people. We have to make sure that we do away with discrimination, with stigma, that we stand united as free citizens in a secular democratic State, Madam Speaker.

The exercise conducted in Kenya is, therefore, a source of inspiration. Already we have covered a lot of ground, as I have stated, when we look at the reform that we have brought, the legal reform, and much work has been covered by the Law Reform Commission and the Electoral Reform. Time is of the essence and we cannot delay the process. We have to rise above party politics. Madam Speaker, it is good to walk down memory lane on and

off. It is good to note that the framers of our Constitution led by Professor de Smith, drafted the Constitution to make it possible for a multi-cultural, multi-religious country. It was a fragile country, at that time, to emerge as a world in miniature, a showcase of democracy, a country free from the tyrannies of power and incompetence. Professor De Smith was a lecturer at the London School of Economics and his expertise in constitutional matters were retained by then Premier Sir Seewoosagur Ramgoolam.

Sir Satcam Boolell, who graduated from LSE, was delegated by Sir Seewoosagur Ramgoolam to convince Professor De Smith to travel to Mauritius. The Constitution was tailor-made to meet the aspirations of an emerging nation and the Constitution has served us well, but after 50 years of our independence, there is a rallying call for review. And this should be the subject of debates at the bar of public opinion. The country has to pay tribute to late Professor De Smith, and one of his last wishes was to scatter his ashes over our great little country.

As I have said, time is of the essence, and the team of eminent experts should be set up to assiduously frame the new Constitution. As an evolving society in a globalised world, we have to address new societal challenges. I have stated we cannot remain a hamlet in a global village; we have to be fully connected to reap the virtues of a free society and understand that we have to fight for our territorial integrity. But, it is part of life, some political concessions will have to be made in our endeavour to reap the benefits of free trade. Everybody knows, Madam Speaker, that international institutions can thrust upon us conventions or protocols, and we have to be part of the impending and ongoing changes. And over the last 15 years, Mauritius has had to adhere to international conventions and ratify many protocols. Conventions can be of persuasive value only as many of these conventions are not part of our legislation.

As a Small Island Developing State, to be at the centre as full-fledged citizens, Madam Speaker, our identity should be our hallmark. To forge our identity, our sense of belonging is paramount; secularism heals differences and provides the enabling environment to resolve cultural or religious differences and clashes. Whether it is burkini or bikini, we have to exist as one nation, as one people. In an age of divisiveness, Mauritius remains a shining example of how different nations can peacefully coexist, and this is precious in the world today, and it is something that we must cherish above all. They are narratives of hatred afoot in the world. Our words matter just as much as what it is that we carry in our heart, that we have to take care of messages we send, because they make differences in the lives of

others. Our messages will shape the future, but Mauritius must build on its unique history of inclusiveness. And in today's troubled world, this is the most precious legacy which we have inherited from our generation.

Therefore, in the light of what I have said on the relevance and importance of secularism, let me look at section 1 of the Constitution -

“Mauritius shall be a sovereign democratic State which shall be known as the Republic of Mauritius.”

But section 1 needs to be amended by adding the word ‘secular’, and we have to liberate our secularism. Time has come, Madam Speaker, to feel that we have a great sense of belonging, that that sense of belonging is not the privilege and prerogative of people whom we can single out. The powers conferred on the President should be abolished, Madam Speaker. I feel that all major powers should be taken by the Prime Minister, who is an elected Member, after consultation with the Leader of the Opposition and other Party Members represented in Parliament, and submit to the President for confirmation. A clause should be added in the Constitution that failure of consultation will render a decision void.

Let me remind the House of what happened in Australia, and BBC broadcasted a documentary entitled ‘The Dismissal’ to highlight the discretionary power of a Governor General; the dismissal of a former legitimate Australian Prime Minister by the Governor General because the vote on the Budget was not approved in the House of Representatives despite the fact that no vote was yet taken and to be taken in the Senate. In Mauritius, on a vote of no confidence, the Prime Minister has 72 crucial hours to call on the President to dissolve Parliament. It is only then that the President, in his own deliberate judgement, can convene the person who can rally the majority to form Government. This is the beauty of our Constitution; that the rights of an elected Member cannot be undermined, subject, of course, that he has the power, as Prime Minister, to dissolve Parliament and call for fresh elections. And it is good to make the differences with respect of what happened in Australia. Both countries were colonies of UK, Madam Speaker, but they adapted to their circumstances. And we are yet to adapt to changing circumstances in this country. This is why I say it is time to set up this Constituent Assembly.

When we talk of limiting the tenure of the Prime Minister to an aggregate of 10 years, I think that it is fair that we limit the tenure of Prime Minister to an aggregate of 10 years, irrespective of the number of terms. Cynics will say, “Should this have a retroactive effect? If

yes, will it pass the test of constitutionality?” On the issue of crossing the floor, I would remind the House of what Shashi Tharoor said - “Crossing the floor, in my humble opinion, should result in the seat of the Member who does so and that seat has to become vacant”. This is the way we feel, but I grant you, there have been different interpretations on the issue of anti-defections. Some may argue that if you have been elected on a common platform of an alliance and you decided to stay with that alliance, there is some justification. But if you have been elected on a platform of different parties, when you cross the floor, your seat should become vacant. This is an interpretation. Even in India, they are still waiting for reply in respect of anti-defection law, because it is very complex and complicated. Before I come to what Shashi Tharoor said on the anti-defection law, let us look at the role of Parliament, and this is what he had to say. I quote -

“If Parliament is the Temple of Democracy, it has to be a Chamber where the representatives of the Indian people assemble to express their considered opinions and thoughtful disagreements before coming to an outcome in the interest, not of the Party, but of the country as a whole.”

as rightly pointed out by Shashi Tharoor.

On constitutional matters, routine and non-controversial Bills, Members of Parliament cannot always parrot Party lines. Should an MP subordinate his conscience to the Party whip on all Bills? In India, pertinent questions are put and remain unanswered. Mr Shashi Tharoor asked whether the schedule in the anti-defection clause could override the main provisions of the Constitution. The reply is not forthcoming. This is why it is time for us to have a fresh look at our Constitution, to set up this Constituent Assembly, and to give the nation the time it needs and requires to frame a Constitution ...

Madam Speaker: Hon. Member, I am really sorry to interrupt you right in the middle of a sentence - please, resume your seat - but my clock says that it is already 7 p.m. and that the business of the House is interrupted.

(Interruptions)

The business of the House is interrupted.

(Interruptions)

No, the business of the House is interrupted because it is 7 p.m. Okay! Next time, the hon. Member will continue.

Debate adjourned accordingly

ADJOURNMENT

The Prime Minister: Madam Speaker, I beg to move that this Assembly do now adjourn to Tuesday 16 October 2018 at 11.30 a.m.

Mr Roopun rose and seconded.

Question put and agreed to.

Madam Speaker: The House stands adjourned.

MATTERS RAISED

(7.01 p.m.)

LOCAL COUNCILS - PROCUREMENT PROCEDURES

Mr S. Rughoobur (Second Member for Grand' Baie & Poudre d'Or): Madam Speaker, actually, I have got two issues very briefly for the Vice-Prime Minister and Minister of Local Government. First is the issue of procurement procedures in Local Councils and second is the issue of PBMC.

The procurement procedures, Madam Speaker, in Local Councils today by virtue of sections 47 and 48, councillors are presently approving all decisions taken by the Council for award of contracts. I have a request to the hon. Vice-Prime Minister if she could please look into this issue of the establishment of the Executive Committee which falls under sections 47 and 48. All contracts that are awarded by the officers of the Council today have to be approved by the Executive Committee which consists of Councillors only. I think this is not appropriate. I believe that the decision has to be taken by the officers of the Council and I would request the hon. Vice-Prime Minister if she could later on look into sections 47 and 48 of the Local Government Act and see to it that sections 47 and 48 are repealed in the interest of transparency and good governance. This is one.

The last issue that I have is the composition of the PBMC.

Madam Speaker: Hon. Rughoobur, I will allow you one issue. If time permitting, I will come back to you.

Mr Rughoobur: Okay!

Madam Speaker: Yes, hon. Vice-Prime Minister!

The Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare (Mrs F. Jeewa-Daureeawoo): I understand we will have to amend the law. So, I will look at it and then convey the information to my friend to see what will be done.

Madam Speaker: Hon. Ganoo!

**VICTORIA HOSPITAL - SENIOR CITIZENS –
BLOOD SAMPLES & CONSULTATIONS**

Mr A. Ganoo (First Member for Savanne & Black River): Madame la présidente, j'interpelle le ministre de la Santé qui, malheureusement, n'est pas présent.

Je voudrais me faire le porte-parole des centaines de patients qui ont à faire face à un problème pénible tous les jours à l'hôpital de Candos à Quatre Bornes. Ces centaines de patients, tous en âge avancé, des *senior citizens* en majorité qui habitent dans les régions lointaines de l'Ouest, à Chamarel, à Case Noyale, à La Gaulette, se rendent à Candos pour leur prise de sang le matin. Afin d'arriver à l'hôpital tôt, ils doivent quitter leur demeure à 4h30 du matin, à 5 heures pour arriver à 6h30 à l'hôpital de Candos. Là-bas, ils doivent attendre, faire la queue dans un couloir ouvert, debout dans le froid hivernal et quelquefois même sous la pluie. Après leur prise de sang, les consultations commencent durant la journée, à une heure quand les résultats de leur prise de sang sont déjà disponibles plus tôt. Ils auraient bien pu commencer à 10h30, par exemple.

Ce que je demande au ministre de la Santé, avec toute humilité, c'est qu'il essaie de trouver une solution à ce problème parce que les prises de sang peuvent commencer à sept heures du matin comme cela se fait dans les autres dispensaires et les consultations après les résultats disponibles peuvent commencer à 10h30 et ces patients, comme vous le savez, arrivent à l'hôpital à jeun et dans le système actuel, ils rentrent à la maison à 4h30, à 5 heures de l'après-midi, Madame la présidente. Donc, les consultations aujourd'hui, malheureusement, commencent très tard, à une heure. Je fais un appel au ministre de la Santé de revoir tout le système car avec une meilleure organisation, ils auraient pu rentrer chez eux à une ou deux heures de l'après-midi.

Donc, il y a trois demandes –

- (i) à leur arrivée, que ces *senior citizens*, ces patients qui quittent leur maison, comme je viens de vous le dire, très tôt le matin, d'abord ont accès à un

waiting hall qui est tout près du Centre Cardiaque pour ne pas avoir à attendre dans le froid pendant l'hiver ou sous la pluie ;

- (ii) que la prise de sang commence à sept heures du matin, et
- (iii) après les résultats, que les consultations commencent à 10 heures et non pas à une heure pour qu'ils puissent rentrer chez eux à une heure moins tardive, Madame la présidente.

Je vous remercie.

The Prime Minister: Madam Speaker, I shall definitely convey this matter to my colleague, the hon. Minister of Health and Quality of Life.

Madam Speaker: Hon. Rutnah!

BAIL AND REMAND COURT - CASES

Mr S. Rutnah (Third Member for Piton & Rivière du Rempart): Thank you, Madam Speaker. My concern relates to the Bail and Remand Court and would have been addressed to the Attorney General, but he is not here. Perhaps those who are assuming the function of acting Attorney General may take note of the points that I have to raise in relation to the Bail and Remand Court.

Madam Speaker, there are an enormous amount of cases that are heard in the Bail and Remand Court on a daily basis and there are two Magistrates who sit in one Court and there are only two members of staff at the Registry who deal with over 200 cases a day. Perhaps if one day the Attorney General has the opportunity to go and sit in the Bail and Remand Court and see the number of injustices that creep in during the *pro forma* hearings and even during bail hearings because the learned Magistrates are themselves under immense pressure to hear an enormous amount of cases on a daily basis.

Perhaps I should suggest that there should be two Courts: Court No. 1, Court No. 2, Bail and Remand Court, so that two Magistrates can hear; one perhaps could hear all the *pro forma* cases and the other can hear bail hearings and *vice versa*. That would unclog the number of cases that are heard on a daily basis.

At the present time, when you make an application for bail today, the hearing date for the moment is after three weeks. We are here talking about the constitutional rights of citizens. The constitutional rights under sections 3 and 5 of our Constitution that deal with the liberty of our citizens.

So, I find it extremely unreasonable that we are in such kind of a situation whereas there are facilities that could be made available and staff could be made available.

The Minister of Labour, Industrial Relations, Employment and Training (Mr S. Callichurn): Well, Madam Speaker, this is an administrative issue for the Judiciary, but the Attorney General's Office will certainly look into the matter and convey the necessary arrangement that needs to be done.

Madam Speaker: Hon. Barbier!

ALLÉE TAMARIN, PETITE RIVIERE - ACCIDENTS

Mr J. C. Barbier (Fouth Member for GRNW & Port Louis West): Merci, Madame la présidente. Je voudrais interpellier le ministre des Infrastructures publiques en faveur des habitants d'Allée Tamarin à Petite Rivière, c'est-à-dire la région qui se trouve juste après le cimetière de St Georges avant Cité Richelieu.

Ce qui se passe c'est que depuis le début de l'année, Madame la présidente, il y a eu beaucoup d'accidents sur ce tronçon et malgré qu'il y a là un passage piétonnier et puis plus loin, il y a aussi des *speed cameras*. Malheureusement, les accidents se répètent et plusieurs personnes ont été atteintes, heureusement pas fatales. Mais avant que cela ne devienne pire, je voudrais attirer l'attention de la Chambre et aussi celle du ministère des Infrastructures publiques pour que les techniciens du ministère ou même du *Traffic Branch*, du *TMRSU* puissent descendre sur le lieu et faire un constat de la situation.

Je sais que ces cas-là ont été rapportés à la police pour qu'il puisse faire un diagnostic, probablement faire des propositions et prendre des actions qui s'imposent. Je ne saurais vous dire si c'est mieux d'avoir un obstacle ou autre chose. Je crois que le ministère a des techniciens qui pourraient mieux prendre des décisions appropriées. Aussi, je souhaite que ça soit fait dans le plus bref délai et non attendre qu'il y ait d'autres accidents, d'autres fatalités pour qu'on agisse après. Donc, j'ai voulu attirer l'attention de la Chambre et du ministère à ce propos.

Merci, Madame la présidente.

The Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare (Mrs F. Jeewa-Daureeawoo): Madam Speaker, I will convey the matter raised by the hon. Member to the Minister of Public Infrastructure and Land Transport.

Madam Speaker: Hon. Abbas Mamode!

LA FORTUNE STREET, ROCHE BOIS - NDU PROJECT

Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East): Thank you, Madam Speaker. My issue is addressed again to the hon. Prime Minister. It concerns a project undertaken by the NDU at La Rue La Fortune at Roche Bois where there are a church and a primary school. Works are being done for more than one year. I inquired with the NDU; the contractor is at fault and the period of contract has already lapsed. Unfortunately, school will resume very soon and there is a church on the same road.

So, will the hon. Prime Minister - he is responsible for the NDU - please look urgently into the matter before school resumes?

Thank you.

The Prime Minister: I shall certainly look into this matter.

Madam Speaker: Hon. Rughoobur!

LOCAL COUNCILS - PERMITS BUSINESS AND MONITORING COMMITTEE

Mr S. Rughoobur (Second Member for Grand' Baie and Poudre d'Or): Thank you, Madam Speaker. I am coming back to this issue of PBMC. I had the opportunity to raise this issue earlier, the composition of the Permits Business and Monitoring Committee (PBMC) in the local councils.

I reiterate my request to the hon. Minister. If gradually she can have a fresh look at the composition of this Committee where, today, we have five councillors against four technicians of the local council and often permits are being approved against the recommendations of those technicians because councillors are in majority.

I am making a suggestion to the hon. Minister, if she can consider having somebody independent as Chairman of that Committee, maybe somebody from the Ministry of Public Infrastructure, a professional in the construction field. So, this is my request to the hon.

Minister. I know that she would not be able to look at it immediately, but if she can please look into this issue gradually, in the weeks and months to come.

Thank you.

The Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare (Mrs F. Jeewa-Daureeawoo): The law has been amended recently, but I will look into it and then see if we are in a position to amend the law again or not.

At 7.13 p.m., the Assembly was, on its rising, adjourned to Tuesday 16 October 2018 at 11.30 a.m.