SENATE

Tuesday, January 31, 2017

The Senate met at 1.30 p.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

VACANT SEAT

Madam President: Hon. Senators, I have received the following correspondence from His Excellency the President Anthony Thomas Aquinas Carmona SC, ORTT:

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS AQUINAS CARMONA, O.R.T.T., S.C., President and Commander-in-Chief of the Armed Forces of the Republic of Trinidad and Tobago.

/s/ Anthony Thomas Aquinas Carmona O.R.T.T., S.C.
President

TO: MS. NADINE STEWART

WHEREAS by the provisions of paragraph (e) of subsection (2) of section 43 of the Constitution of the Republic of Trinidad and Tobago, the President, in exercise of the power vested in him, and acting in accordance with the advice of the Prime Minister, is empowered to declare the seat of a Senator to be vacant:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by the said paragraph (e) of subsection (2) of section 43 of the Constitution of the Republic of Trinidad and Tobago, do hereby declare the seat of you, NADINE STEWART, to be vacant, with effect from 25th January, 2017.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 25th day of January, 2017."

SENATOR'S APPOINTMENT

Madam President: Hon. Senators, I have received the following correspondence from His Excellency the President, Anthony Thomas Aquinas Carmona O.R.T.T., S.C.:

"APPOINTMENT OF A TEMPORARY SENATOR

By His Excellency ANTHONY THOMAS AQUINAS CARMONA, O.R.T.T., S.C., President and Commander-in-Chief of the Armed Forces of the Republic of Trinidad and Tobago.

/s/ Anthony Thomas Aquinas Carmona O.R.T.T., S.C.
President.

TO: MR. RAPHAEL CUMBERBATCH

WHEREAS Senator Daniel Solomon is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(b) of the Constitution of the Republic of Trinidad and Tobago, acting in accordance with the advice of the Leader of the Opposition, do hereby appoint you, RAPHAEL CUMBERBATCH, to be temporarily a member of the Senate with effect from 31st January, 2017 and continuing during the absence from Trinidad and Tobago of the said Senator Daniel Solomon.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 30th day of January, 2017."

LEAVE OF ABSENCE

Madam President: Hon. Senators, I had granted leave of absence to Sen. Daniel Solomon who is out of the country.

OATH OF ALLEGIANCE

Senator Raphael Cumberbatch took and subscribed the Oath of Allegiance as required by law.

PAPERS LAID

1. Annual Audited Financial Statements of Trinidad and Tobago Free Zones Company Limited for the financial year ended September 30, 2015. [*The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon)*]
2. Ministerial Response to the Second Report of the Joint Select Committee on State Enterprises on an Inquiry into the Administration and Operations of the

3. Urban Development Corporation of Trinidad and Tobago Limited (UDeCOTT) [*Sen. The Hon. P. Gopee-Scoon*]
4. Annual Report of the Counter Trafficking Unit of the Ministry of National Security for the year 2015. [*Sen. The Hon. P. Gopee-Scoon*]
5. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Penal/Debe Regional Corporation for the year ended September 30, 2009. [*Sen. The Hon. P. Gopee-Scoon*]
6. Response of the Office of the Parliament to the First Report of the Public Administration and Appropriations Committee, on an Examination into the Current Expenditure of Ministries and Departments under three (3) Sub-Heads: Current Transfers and Subsidies, Development Programme—Consolidated Fund and Infrastructure Development Fund. [*The Vice-President* (*Sen. Nigel De Freitas*)]

PUBLIC ACCOUNTS COMMITTEE REPORTS
(Presentation)

Sen. Rodger Samuel: Madam President, I have the honour to present the following reports as listed on the Supplemental Order Paper in my name:

Republic of Trinidad and Tobago

First Report of the Public Accounts Committee (PAC) for the First Session, Eleventh Parliament on the Examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial years 2014 and 2015.

Ministry of Tourism

Second Report of the Public Accounts Committee (PAC) for the First Session, Eleventh Parliament on the Examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2014 with regard to the Ministry of Tourism.

Tobago House of Assembly

Third Report of the Public Accounts Committee (PAC) for the First Session, Eleventh Parliament on the Examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2014 with regard to the Tobago House of Assembly

Ministry of Energy and Energy Industries

Fourth Report of the Public Accounts Committee (PAC) for the First Session, Eleventh Parliament on the Examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2014 with regard to the Ministry of Energy and Energy Industries.

Ministry of National Security

Fifth Report of the Public Accounts Committee (PAC) for the First Session, Eleventh Parliament on the Examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2014 with regard to the Ministry of National Security.

Ministry of Finance

Sixth Report of the Public Accounts Committee (PAC) for the First Session, Eleventh Parliament on the Examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial years 2014 and 2015 with regard to the Ministry of Finance.

JOINT SELECT COMMITTEE REPORTS

(Presentation)
Human Rights, Equality and Diversity

Third Report of the Joint Select Committee on Human Rights, Equality and Diversity on an inquiry into the treatment of child offenders at the Youth Training Centre (YTC), St. Michael's Interim Rehabilitation Centre for Young Male Offenders and St. Jude's Interim Rehabilitation Centre for Young Female Offenders.

Social Services and Public Administration

Sen. Dr. Dhanayshar Mahabir: Madam President, I have the honour to present the following report as listed on the Supplemental Order Paper in my name:

Second Report of the Joint Select Committee on Social Services and Public Administration on an Inquiry into the Effectiveness of the State's Interventions directed at Socially Displaced Persons in Trinidad and Tobago.

URGENT QUESTIONS

Trinidad and Tobago Green Card Holders
(Permission to Re-enter US)

Sen. Taurel Shrikissoon: Thank you, Madam President. To the Minister of Foreign and Caricom Affairs: What measures are being implemented by the Ministry to ensure that Trinidad and Tobago nationals who are holders of United States (US) Green Cards will be permitted to re-enter the US if they visit Trinidad and Tobago for Carnival 2017?

Madam President: Minister of Foreign and Caricom Affairs, you have two minutes.

The Minister of Foreign and Caricom Affairs and Minister of State in the Ministry of National Security (Sen. The Hon. Dennis Moses): Thank you very much, Madam President. Trinidad and Tobago recognizes the sovereign right of the United States or any other country to grant or deny entry of nationals of other countries into the United States. The diplomatic missions of Trinidad and Tobago in the United States stand ready to assist in safeguarding the interests of nationals of Trinidad and Tobago by providing consular services as required.

Sen. Sturge: Thank you. To the Minister. Has there been an assessment of the likely impact of these measures, the executive orders, on 2017 Carnival visitors' arrival?

Sen. The Hon. D. Moses: I am not aware of any such.

Sen. Sturge: Is there any intention to meet with the relevant US authorities?

Sen. The Hon. D. Moses: The underlying assumptions, I am not enabled to respond in the direction contemplated. [*Laughter*]

Statements on MSNBC
(Steps taken by the Government)

Sen. Paul Richards: Thank you, Madam President. To the Minister of National Security: Are the recent statements made by Mr. Malcolm Nance on MSNBC correct, and if so, what is the Government doing to address this situation?

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you very much, Madam President. Madam President, I was unable to say whether the correctness of Mr. Malcolm Nance's statement for the mere reason that we do not have information on the seven countries that he has compared Trinidad and Tobago with.

However, what I will say is that the Government of Trinidad and Tobago gives the assurance that it works closely with international partners, especially the United States, Canada and the United Kingdom, in strategic areas such as intelligence and information sharing concerning nationals found to be associated with any terrorist group whether locally or internationally. Trinidad and Tobago takes the fight against global terrorism seriously and it is continuously taking all necessary measures to combat the threat.

The Ministry of National Security is working closely with the Ministry of the Attorney General with respect to the legislative framework, in particular, amending the Anti-Terrorism Act to treat with terrorists and terrorism and terrorist fighters. Several of those amendments are informed by the Financial Action Task Force, such as the inclusion of offences specific to financing travels of individuals who travel to a state other than their state of residence and other matters amending the Anti-Terrorism Act, Madam President.

Sen. Richards: To the hon. Minister of National Security once again, supplemental. Has the Government officially requested of Mr. Malcolm Nance or MSNBC evidence to support this claim which was broadcast on national television?

Hon. Maj. Gen. E. Dillon: Madam President, I do not have that information at hand.

Sen. Mark: Could I ask the hon. Minister of National Security, having regard to the information that is now in the public domain concerning Mr. Malcolm Nance, whether the Government is in a position to demand an unequivocal and unconditional apology from Mr. Nance for his reckless statement?

Madam President: Sen. Mark.

Sen. Mark:—for his statement?

Madam President: Correct. Minister of National Security.

Hon. Maj. Gen. E. Dillon: Madam President, I am unable to answer that question at this time.

Trinidad and Tobago Nationals
(Involvement in Terrorist Activity)

Sen. Paul Richards: Thank you, Madam President. To the Minister of National Security: Given the recent press release by the Ministry of National Security about the involvement of nationals in terrorist activity, can you say how

many Trinidad and Tobago nationals are officially linked to international terrorist groups?

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you, Madam President. Madam President, based on our information at this point in time, there are approximately 130 nationals who have left Trinidad and Tobago to get involved in terrorist activities in the countries apart—away from Trinidad and Tobago. Information at hand right now reflects about 70 adults and roughly about 58 family members.

Sen. Richards: Thank you, Madam President. With that said, to the Minister of National Security, can the Government give an indication of how these individuals are gaining access into and out of Trinidad and Tobago and is there an indication of—[*Interruption*]

Madam President: Sen. Richards, one question at a time. Minister of National Security.

Hon. Maj. Gen. E. Dillon: Thank you, Madam President. Madam President, in terms of our intelligence and information gathering, people would leave Trinidad and Tobago sometimes on a destination not mentioned. They may leave, for instance, Trinidad and Tobago, to go to England and may end up in Syria. So that their intended destinations are sometimes not known to us. And therefore we rely on international partners to give us the kind of information, the kind of intelligence, that would confirm that they are in a terrorist country, Madam President.

Sen. Richards: Thank you, Madam President. With that said and with the confirmation of a specific number of individuals that are linked to international terrorist activity, has the Government been able to ascertain what kind of impact these individuals may be having on the local criminal scenario?

Hon. Maj. Gen. E. Dillon: Madam President, these are ongoing. We looked at all impacts in respect of the crime situation in Trinidad and Tobago, and therefore that is one aspect that we addressed in terms of looking at whether or not there is some bearing on the crime situation and that, of course, is an ongoing investigation in terms of intelligence gathering. [*Desk thumping*]

Delay in Performing Autopsies (Steps Taken)

Sen. Khadijah Ameen: To the Minister of National Security: Given the delay in performing autopsies yesterday, Monday 30th January 2017, what urgent steps are being put in place to deal with this problem?

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you very much, Madam President. Madam President, the situation that existed yesterday at the Forensic Science Centre was in fact a one-time situation in which one of the pathologists reported sick and was unable to conduct his duties. As a result, another pathologist who was off duty was called in, he had to come from Tobago. He reported to the Forensic Science Centre and conducted the autopsies between 1.00 p.m. and 3.45 p.m. All the autopsies were completed and the bodies were released to their respective families, Madam President. [*Desk thumping*]

Sen. Cumberbatch: Thank you very much, Madam President. Would the hon. Minister tell this honourable Senate what steps are being taken and how many scholarships have been approved in forensic pathology in order to increase—[*Interruption*]

Madam President: Sen. Cumberbatch, I would not allow that question.

Sen. Cumberbatch: Fine, no problem.

Sen. Sturge: Can the Minister of National Security indicate what measures are in place to prevent a recurrence of what happened yesterday?

Hon. Maj. Gen. E. Dillon: Madam President, I cannot prevent a recurrence of someone getting ill; but there are measures in place if someone reports ill, then there is another pathologist who will be called on duty.

Sen. Mark: Madam President—[*Interruption*]

Madam President: That is it, Senator.

ORAL ANSWERS TO QUESTIONS

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon): Madam President, may I ask—the Government is in a position to answer Questions No. 20 and No. 21. May I ask for a deferral on Question No. 19 for a period of two weeks? Thank you.

The following question stood on the Order Paper in the name of Sen. Wade Mark:

Victims of Domestic Violence
(Accommodation)

19. Could the hon. Prime Minister state:

What steps are being taken by Government to provide accommodation for victims of domestic violence?

Question, by leave, deferred.

Success Laventille Secondary School
(Furniture Shortage)

20. Sen. Wade Mark asked the hon. Minister of Education:

What steps are being taken by the Ministry to address the furniture shortage at the Success Laventille Secondary School?

The Minister of Education (Hon. Anthony Garcia): Madam President, the Success Laventille Secondary School has an adequate supply of furniture. Thank you.

Sen. Mark: Madam President, could the hon. Minister indicate whether there was a period, given the timing of this question, where there was in existence a shortage of furniture at that particular school?

Hon. A. Garcia: Madam President, subsequent to the reopening of school on the 9th of September, we found that there was a shortage of furniture and immediately afterwards we made sure we rectified that situation. [*Desk thumping*]

San Fernando East Secondary School
(Electrical Problem)

21. Sen. Wade Mark asked the hon. Minister of Education:

What measures are being taken by the Ministry to address the electrical problem at the San Fernando East Secondary School?

The Minister of Education (Hon. Anthony Garcia): Madam President, a contractor was engaged by the Education Facilities Company Limited (EFCL) to conduct upgrade and repair works to the electrical system at the San Fernando East Secondary School. A temporary inspection certificate was issued by the Government Electrical Inspectorate on October 14, 2016 to facilitate the reopening of the school, and work is ongoing to complete other minor repairs required for the issuance of the certificate of permanent connection. Thank you.

Sen. Mark: Could the hon. Minister indicate what time frame, as the Minister of Education, he anticipates for the completion of the electrical works and the issuing of a permanent certificate?

Hon. A. Garcia: Madam President, it is difficult for me to give a time frame because what was needed was approvals from other statutory authorities, for example, the regional corporation, and when that is presented then the contractors can go ahead. [*Desk thumping*]

LEGISLATIVE RETIREMENT ALLOWANCES ACT
(INCLUSION OF ALL SENATORS)

Sen. Dr. Dhanayshar Mahabir: Thank you very much, Madam President. I beg to move the following Motion standing in my name:

Whereas Trinidad and Tobago is a signatory since 1970 to the 1958 ILO Convention C111, on discrimination in respect of employment and occupation;

And whereas the principle of the elimination of all forms of discrimination in the workplace is an established policy position of the Government of Trinidad and Tobago;

And whereas Senators without portfolio in the Parliament of Trinidad and Tobago, perform all the functions of legislators in discharging their Parliamentary obligations;

Be it resolved that the legislative retirement allowances Act Chapter 2.03, be amended to include all Senators within the definition of legislators;

And be it further resolved that this Senate call upon the Government to present the required legislative amendment to the Parliament before the end of the Second Session (2016-2017).

Madam President, by way of history, the ILO, established in 1919, at the end of the First World War at the Treaty of Versailles, was established for the purpose of ensuring that there is world peace based upon social justice. It was felt at the time that there could not be peace across the world if persons were exploited and if their grievances were not addressed.

This particular ILO became important because subsequent to 1919 we saw in our part of the world a tremendous amount of labour unrest. In 1937, not only did we have the labour riots in Trinidad and Tobago, but across the Caribbean the unrest in the labouring sector necessitated the visit by Lord Moyne and the Moyne Commission from the British Government to see to what extent working conditions could be ameliorated in Trinidad and Tobago and the wider Caribbean. In 1937, we saw the birth of the trade union movement. There are two trade unions founded in 1937 still in existence today, the OWTU and the All Trinidad Sugar and General Workers' Trade Union.

In 1958, Madam President, the ILO presented its Convention C111 aimed at eliminating discrimination in the workplace. For not only was there a need for labour to enjoy the benefits of the collective bargaining process, but there was

also a need as seen by the International Labour Organization for countries around the world which are signatory to this convention to ensure that discrimination in the workplace is reduced and removed. This particular convention came into force on June 15, 1960 and Trinidad and Tobago became, according to the records, a signatory on the 26th of November, 1970.

Let us now focus on the text of the convention—this convention concerning discrimination in respect of employment and occupation. And for this presentation, Madam President, I shall seek your leave because I will need to read a few passages; it is not consistent with my own presentation styles, but I will need to read from certain documents.

Madam President, I read, and this is available again in the public record. Article 1 of this Convention C111:

> "For the purpose of this Convention the term *discrimination* includes—
>
> (a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation."

So, the convention states what it means by discrimination.

> Under 2(b), it further goes on to say:
>
> "For the purposes of this Convention the term *discrimination i*ncludes—
>
> (b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment"—to which I shall return—"in employment or occupation."

And 3.

> "For the purpose of this Convention the terms *employment* and *occupation* include access to vocational training, access to employment and to particular occupation, and terms and conditions of employment."

Under Article 3—and I will quote 3(c) from this convention. Under Article 3(c):

> "Each Member for which this Convention is in force undertakes…
>
> (c) to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy."

So under Article 3(c), once a country is a signatory, it undertakes "to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy."

Madam President, what is a statute? A statute is simply, for those of us who are not legally trained—and many of us in the Chamber are not—defined as: a specific, codified statement of some law that has been approved by the legislative body of a government. So that there is a statute to which I will refer and I want to link it with 3(c) which, I will argue, will need to be repealed if we are to be consistent with the terms of the Convention to which we are a signatory. The particular statute I will refer to is Act No. 24 of 1969, Chap. 2:03 which is titled as follows: "Retiring Allowances (Legislative Service) Act". It came into force on the 1st of January, 1969. It is interesting that we signed on to the ILO C111 on the 26th of November, 1970. So there was an Act that was passed by the Parliament that came into force on the 1st of January, 1969 and a convention that we signed on a year later in November the 26th of 1970.

Madam President, in this particular Act, 2:03, there is, under section 2, the definition of a legislator. There are other definitions, but the definition of the legislator is as follows, and I quote from Act 2:03:

> "'legislator' means a person who—
>
> (a) is an elected member, or
>
> (b) not being an elected member, is the holder of a specified legislative office."

This definition is one to which I will refer now. I will also refer, Madam President, later in my presentation, to section 6 of this particular Act, and also to the specified legislative offices as determined by the Schedule of this Act. But let me focus on the legislator. It says that the legislator means a person who is an elected member, or not being an elected member, is the holder of a specified legislative office.

What, however, is the internationally accepted definition of a legislator? And since we are signatory to an international convention, my argument is that we need to choose our terms and to employ terms which are consistent with international conventions, international treaties, international obligations. Let me focus on the definition of a legislator from the most common source. We all have iPads in the Parliament and we can all Google. When you Google "legislator", what do you see? According to the Google definition—and colleagues can Google it now—legislator: a person who makes laws; a member of a legislative body. That is Google. But just in case Google is deemed to be popular, let us go to a dictionary. On the last occasion, Sen. Small, my colleague, used the *Oxford Dictionary*. I will use the *World Book Dictionary*, and the reason I will use *World*

Book Dictionary, Madam President, is that I own a set of encyclopaedia by the World Book, and if I had owned *Encyclopaedia Britannica*, I would quote from Britannica.

But according to *World Book Dictionary*—and it is a huge book. I could not bring it, Madam President, because it is so heavy. According to World Book, "legislator" is defined as: a person who makes laws; member of a group that makes laws; lawmaker. Senators and representatives are legislators. And the good dictionary, as all good dictionaries do, went on to provide the Latin root. It comes from two Latin words: "*legis*", meaning law, and "*latus*" which is the participle of "bring". So a legislator is really a bringer of the law or, in proper English, a proposer of the law. And a couple debates ago we debated a bill-child marriages, and I presented a proposal for the law. It was not accepted, but I was being a legislator by proposing an amendment to the law. So that the legislator is really a proposer of the law.

Madam President, let me now move to a Parliament. What is the definition of a "Parliament"? And I have used the Google definition: A group of people who are responsible for making the laws of a country. I go back for consistency to World Book. World Book says: A council or congress that is the highest law-making body in some countries and it is derived from the French word "*parler*", to speak. So that a Parliament is a council or congress that is the highest law-making body is some countries.

And, Madam President, I am now going to move to the Constitution of the Republic of Trinidad and Tobago, and I will not be focusing on sections 4 and 5 of the Constitution. Rather, I would like to focus on section 39 of the Constitution, and may I read:

> "There shall be a Parliament of Trinidad and Tobago which shall consist of the President, the Senate and the House of Representatives."

I proceed to section 40:

> "The Senate shall consist of thirty-one members…who shall be appointed by the President in accordance with this section."

So that when we look at the definition in Trinidad and Tobago or what is contained in the Constitution, there are 31 Members of the Senate; the Senate is a component of the Parliament and therefore all 31 Members of the Senate are Members of the Parliament whose central function happens to be that of legislators. The function of the Parliament is to ensure that we will propose laws. We make laws. We change laws. We bring new laws onto the table for discussion.

Now, Madam President, we have in the past heard that there is a distinction in the Trinidad and Tobago setting of Members of Parliament and Senators. In fact, I am told I am not a Member of Parliament, I am a Senator. The response is, it is not so. We are all Members of Parliament; we are all legislators. [*Desk thumping*] However, when we look—[*Interruption*]—we are all Members of Parliament. Our parking hangers carry "MP", and it is not my definition, it is the Constitution of Trinidad and Tobago.

We are therefore Members of the legislative body called the Parliament of Trinidad and Tobago in a different Chamber. And when we look at the Chambers, the other place and here, the Senate, what do we observe? We observe the following: There are, in the other place, Members of Parliament who do not hold any position, not being a holder of a specified office. So they are elected Members but they do not hold specified legislative office. These will include all Opposition Members and they will include a fair amount of Government Members as well. They are not holding any legislative office. Their principal function is that of the legislator. They do have constituency functions, but they do not have Executive functions.

When we look at our Chamber, what do we observe? All of us here are appointed. All 31 Senators are appointed and they are appointed according to the guidance of the Constitution. This is what the Constitution says must happen. We cannot run for office for the Senate. That, in some countries, is what happens, but it does not happen here. And here we have some Members who are holders of legislative office and the majority of Members are simple legislators. We do not hold Executive office. So that what we observe is that we have Members of Parliament with different functions. And when I look at this "Members Remuneration Arrangements Information Brief" forwarded to us by the Parliament—all the information here is on the public domain. There is nothing that is private or hidden. All of these remuneration arrangements were assessed, agreed to and settled by the Salaries Review Commission.

Let me look at "Minister of Government". The basic salary of a Minister of Government with Cabinet rank: $41,030 per month. Of course, it makes a distinction with a Government Minister, not Cabinet-ranked: $33,940. Madam President, let me refer to Members of the Senate. Members Remuneration Arrangement Information Brief, Members of the Senate other than Ministers and Parliamentary Secretaries, the salary is $13,060 a month. Not $30,000 for the public listening; it is 1-3. Whether this is fair or unfair, just or unjust, is not the focus of this current debate. That is what it is. So that the difference between a Member of the Senate who does not have an Executive office and a Minister who holds Cabinet rank is something in the order of $28,000.

The Salaries Review Commission, in its wisdom, has indicated that those of us who perform the legislative function only will obtain a base salary of $13,060 a month and those who have an additional ministerial responsibility will earn $28,000 extra. It puts a $28,000 value on the Minister. Again, is that fair, unfair? It is not for me to say. That is for the Salaries Review Commission. Is there any discrimination between the compensation of a Minister and the compensation of a legislator? The answer is no. Because under normal conditions in the industrial sector, individuals are compensated based upon the different functions they perform in their workplace. So that when one looks at the remunerative arrangements for Members of Parliament, all of us have in common the legislative function, but in the other place the Members who have constituencies to run, in addition to their legislative functions, are given a constituency allowance in addition to a salary that is higher than this $13,060.

And when we look at the Ministers, we find that they have different functions. They have their Cabinet responsibilities, their ministerial responsibilities and legislative responsibilities as well. And so, there is really absolutely no issue with the differentials that individuals obtain in base salary based upon the different functions which are assigned to them as per the duties they have within the Parliament.

But where the issue arises, Madam President, is that while all Members of Parliament earn a salary for the services they perform—differential services, differential salaries—what we find is that all Members of Parliament do not have the right to participate in the pension plan of the Parliament for officers who are legislators. According to the definition, once you are an elected member, you can participate in the pension plan. And let me just focus on this pension plan as well. There is perhaps a perception that once you serve you will get a pension without contributing anything. The Retiring Allowances (Legislative Service) Act, Chap. 2:03, is a contributory plan similar to the NIS scheme. Members must contribute on a monthly basis so that they will qualify for a pension. But then, not all Members are so included.

What we therefore have is a position where some Members, because of the way we have defined the legislator, are included and the majority of Members, certainly in this Chamber, are excluded. By my count, I think there are some, perhaps 24 Members in this Chamber who—and it would be Members of the Government, all the Members of the Opposition and every single Member of the Independent Bench; this is some 24 Members who are excluded from the pension plan because they were not elected, and not being elected, they do not hold a specified legislative office.

And this is where we come back to the issue of the Convention. Is this consistent with Article 2 on "other such distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment", and also under Article 1(3) with respect to terms and conditions of employment? Once it is accepted that legislators are entitled to a salary there is no justification for exclusion from the pension plan.

Madam President, let me focus on the Act again and in the Act we have the list of specified legislative offices. According to the definition—you see, the problem I have with definitions is this: if we say that the definition of a man that is accepted in all the English-speaking countries in the world is an adult human male, we cannot now expect to present a law, and in that say that for the purposes of this Act a man is an adult human male who is over six foot tall. That will exclude me, Sen. Sturge and Sen. Dr. Henry. [*Laughter*] It will. And that will be rank discrimination.

Although it will exclude some, we can do that—my argument, Madam President—we can do that domestically but not if we wish to conform to international treaty. The international treaty uses the standard definition of terms, and to define as we see fit is going to ensure that discrimination—and what is discrimination? Discrimination is simply the act of treating someone differently without assessing his individual merit.

So there is no assessing of merit, and therefore, in 1969, the specified legislative offices which were to be included in addition to all Members who were elected, nowhere, Madam President—nowhere in any definition would you see a legislator has to be elected. Elected may be a sufficient condition. In economics you say, it is sufficient, but it is certainly not necessary because you could be a legislator and you will be a nominated Member.

So the specified legislative offices are as follows:

"A Minister". So a Minister who is a Member of this Senate will be entitled to participate in the pension plan. There are two offices here, I do not know what they mean. In 1969, they perhaps had relevance: "A Member of the Executive Council and a Member of the Legislative Council." So that they would be included in the plan. But, Madam President, you are included: "President of the Senate". There was some wisdom then, to include the President of the Senate. "The Parliamentary Secretary", Sen. Avinash Singh got in. "The Speaker of the House of Representatives"—because I understand at some time in the past there were Speakers who were not elected Members, a but could be appointed. But this one, Madam President—the Deputy Speaker was included. The Deputy Speaker

was included. Madam President, I feel aggrieved because my Vice-President, my esteemed and distinguished Vice-President, is not included in this list—

Hon. Senator: And he is six foot tall.

Sen. Dr. D. Mahabir: And he is over six feet. Madam President, look at this scenario. The Deputy Speaker is included, and he should be. My issue is not the people who are excluded, you know, it is the basis for discrimination. If you have to discriminate, Madam President, discriminate with style and class and panache and finesse. Do not discriminate sloppily. There is no good reason for excluding Sen. Nigel De Freitas. If there is one amendment we have to make, Madam President, is, people have to explain why the Deputy Speaker in the other place and why not our Vice-President. Because, Madam President, what—

Madam President: Sen. Mahabir, if you make a point in your presentation, it is the offices that are included and excluded. Okay? Thanks.

Sen. Dr. D. Mahabir: Thank you very much, Madam President. So we have excluded the office of Vice-President. In excluding the office of Vice-President, Madam President, we have to ask ourselves: Was there any logical rationale that was given for including some and for excluding others? If the President of the Senate were to have a cataract surgery, it is quite normal, and the ophthalmologist will say, "You know, you have to stay home for three months because if you come to the Senate with an eye patch I will see you". So that the Vice-President will have to take over for three months.

No consideration at all was given to why certain individuals were included and certain individuals were excluded. And, Madam President, given that we need to conform with our international treaty obligations, given that we need to ensure that as a signatory to the ILO, that we understand the need to ensure that discrimination in all forms in Trinidad and Tobago—Madam President, in the Motion that I presented I indicated under 2 that Trinidad and Tobago has always held the view that discrimination in the workplace is something to be eliminated. It is for this reason we have had an Industrial Court.

When you look at Trinidad and Tobago and the institutions we have built, I looked at the Unit Trust as one, the Industrial Court as another, not only with respect to wages and when the collective bargaining process breaks down, but there are a range of matters that you can raise before the Industrial Court if you feel you have been discriminated against in the workplace and that you have been unfairly treated. So Trinidad and Tobago holds it dear that discrimination in all its forms is something that we should find abhorrent and discrimination is something we should seek to eliminate.

So that when we look at the rationale for including some and excluding others, we find that we simply were arbitrary in 1969. We did not pay any regard to the international definition but yet, at the same time, we want to subscribe to an international treaty. This is where the inconsistency arises. It is either we amend this particular Retiring Allowances Act—we are in the process of amending existing law. We are amending the marriage law—it is not yet complete—to ensure that we are complying with our international obligations.

And, Madam President, in international obligations, there are basically two types. There is a type where we face tremendous sanction because we could be—especially with respect to world trade matters. World trade issues can cause us to be summoned to the court in Hague and we can face trade sanctions. But then, there are other treaties for which there is no international court to sanction you but we sign on to them because that is what we say is the sine qua non of us being a developed country amongst the group of nations in the world.

Madam President, let me look at section 6 of the Act. Just in case, Madam President, it is said that the reason for bringing this Motion is to ensure that we fix ourselves and it is self-serving, let me read section 6 of this particular retirement Act. Under section 6 it says.

> "The retiring allowance payable to any person shall—
>
> (a) in the case of a person who has served as a legislator for periods amounting in the aggregate to not less than eight years, be at an annual rate equal to one"—quarter—"of one year's salary of that person…"

Madam President, section 6—and I want to emphasize the point. And the media has a way of indicating that we are doing things which are not necessarily in the public interest. I want to dispel that myth. In order to qualify for this particular pension, you have served as a legislator for periods amounting in the aggregate to not less than eight years.

Currently—and I want to make this abundantly clear. I have been associated with the Senate since 1996 but the early days were temporary, and when I check the temporary periods from 1996 and I add the full years that I have had in the last Tenth Parliament and now, I am just about four years. There is a good chance that given the way we operate on one-day contracts in this Senate, we could be relieved on one day's notice, and that I would not get to reach eight years. There is a good chance I may not even get to reach five years. So I definitely will not qualify.

No Member of the Independent Bench would have amounted to eight years. The majority of Members would have, maybe, one or two years. Sen. Small and

Sen. Roach would have a couple more years as well. But all of us would be less than four years. Members of the Opposition, none of them would qualify. The only Senator in this Senate I can identify as possibly benefiting would be my colleague, Sen. Dr. Henry, who has been here since 2010, I do not even know because we have to contribute. You just cannot say you have been here for seven years and you get,—No.

2.30 p.m.

It is a contributory plan identical, so it affects none of us in this Chamber. This particular amendment, I am arguing for, is not for the Members now. It is for the Senate in the future, but also, Madam President, I want Trinidad and Tobago to comply with all of its international treaty obligations, comply with all treaties. [*Desk thumping*] This is the focus and the central. We cannot say that we are signatory to the ILO. We cannot say that we abhor all forms of discrimination. We cannot say that we sign on to human rights conventions and when the ILO says that once it is spotted that there is any statute that contravenes the ILO C111, we undertake as a matter of principle, we undertake as a gentleman's agreement to amend it, then I want to bring to the attention of this Parliament, to this Senate, that we are in contravention of the ILO C111.

Madam President, just again, there is going—you know, the four years I have spent, and in 1996, I have come to one conclusion. Parliamentarians—and it is good to be an Independent Senator. I am not vying for power. I am not vying for office, I can assure you. So do not look so scared, people on the other side. I could run for Tunapuna you know and I might win too. One seat could make a difference, but "doh" worry. Madam President, I have come to the conclusion that it is a national pastime in Trinidad and Tobago for, now the blogging press and the mainstream media to hit Members of Parliament, and when they cannot—there is an assumption that all of us are rogues and vagabonds and despicable characters—and when they cannot find something of fact, do you know what they do? They fabricate it, they make it up, [*Desk thumping*] they use bloggers and then it gets into the mainstream.

Let me, for the media out there, make the following point and again on section 6. So none of us will benefit. In fact, any Senator who comes in whenever we make any changes—hopefully we will—will have to contribute for eight years subsequently before he will benefit from this particular allowance. But it says that:

> "(a) in the case of a person who has served as a legislator for periods amounting in the aggregate to not less than—

(i) eight years, be at an annual rate equal to one-quarter of one year's salary..."

How much would this amount to, Madam President? I go back to the blue book and the blue book, a Minister who has served eight years—so I see there are Ministers here who may not qualify because you would not have eight years of service, but if perchance you qualify and I hope you do, you will get a quarter of $41,000 a month.

So the quarter of $41,000 for the Minister after they have worked a minimum of eight years will be $10,000 a month, and I say that is fair. It is fair, but let us look at what I am talking about with respect to 24 of us in this Chamber at a base salary of $13,013. I understand that there are some clerks in Petrotrin—it came out in the news recently—who earn much more than $13,060 a month. If you have survived for eight years in the Senate, a quarter of that will amount to $3,265. That is the grand total you are talking about, for a Senator who has served eight years; He will get a pension $3,265.

Madam President, last week the Minister of Finance in presenting the variation Bill indicated that he corrected a number that I put on the table. I said there were some 90,000 old-age pensioners. He said it is a bit more, 90,800. As a country, as a society, Government, Opposition and Independent all hold the view that we ought to pay the old age-pension grant which I understand is now estimated at $3,500 a month based upon the complex formula that we have. We are quite willing to pay the old-age pension to 90,800 people. They have not contributed because they could not afford to contribute and we say that is right, it is just, it is fitting and it is proper, but at the same time we are baulking and resisting, having Senators who have served for eight years contribute to a pension plan which will give them a pension that is just the NIS and below the old-age pension, and I am talking 24.

Madam President, recently too, I saw the Attorney General came on TV and he was imploring business executives at the American Chamber, "Please, come and give up five years' service to the country". I wonder how many of them would leave their business—[*Interruption*]

Madam President: Sen. Mahabir, you have five more minutes.

Sen. Dr. D. Mahabir: Much obliged, Madam President. I wonder how many of the business executives would leave their executive positions at AMCHAM to come to the Senate to collect $13,060 a month for which we have to pay tax. And, I wonder how many of them will give up their time and at the end of it they are

told, "You know, you are not as equal to other people in the Parliament because for some reason we think that you do not qualify to participate"—not to a pension, you know—"participate in a plan that you have for some". Madam President, my position is this, as per Article C111 of the ILO Convention, Members undertake to repeal any statute that offends the spirit and the letter of the convention.

Trinidad and Tobago was born out of struggles in the labour movement. Trinidad and Tobago is one of the most developed in the world with respect to collective bargaining. The ILO was founded by someone known as Sam Gompers, one of most powerful trade unionists in the United States, together with others of course, and what I am saying with respect to my Motion is this: let us amend this Retirement Act, not because it is the right, just, fit and proper thing to do as we do for the old-age pension, but let us amend the Act so that we could comply and we could conform with our international treaty obligations now that we have discovered that it is in violation of Article C of Convention C111.

Madam President, I beg to move. [*Desk thumping*]

Madam Chairman: Someone has to second the Motion.

Sen. Shrikissoon: Madam President, I beg to second the Motion and reserve my right to speak at a later stage.

Question proposed.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you very much, Madam President. Thank you for the opportunity to contribute to this Motion. Madam President, I say from the outset that I would not support the Motion. Let me first say that there is an inherent risk in the Motion, that I as a Senator currently with a portfolio, as Sen. Mahabir has pointed out, none of us in this Senate has a guarantee, that there is always a risk particularly to the listening public that Sen. Mahabir has addressed with his Motion.

It is always a risk of this Senate being accused of being self-serving and when similar legislation came up for debate in 2014, I recall the current Prime Minister standing to speak on behalf of the Opposition, and from the outset expressing grave discomfort with having to speak on that particular legislation because of that risk that it be looked at as something that is self-serving, that we as a Parliament have come to take care of our business and that is the risk we face today. I am putting it on the table simply because if this Motion was to succeed and if Sen. Mahabir was to get his wish, I myself as a legislator may stand to benefit somewhere down the road, and that is the first thing I would say.

The second thing I would say in respect of the Motion is that I consider the Motion to be premature because when that legislation, which did not deal expressly with Senators, but when the legislation which dealt with the benefits to Members of the House and retiring judges, when that legislation was brought to the Parliament, it having passed in the Lower House, it eventually found its way before a select committee. That select committee took several decisions, but in the main the select committee felt itself unable, given its lack of expertise and given the intricacies of the calculation of pension and benefits and all of those things, that select committee recommended to the Parliament that the appropriate expertise be sought to deal with it and that a matter like that properly belongs to the Salaries Review Commission, and that is where I believe we should be, Madam President.

A matter of this nature—and I go back to what Sen. Mahabir said in proposing his Motion. He made the comment that whether the compensation paid to legislators is fair or unfair, or whether it is just or unjust is not the focus of Motion, and I disagree with it. In fact, he says the compensation is what it is, but I disagree with that because we cannot separate the compensation, the salary paid to legislators, from the benefits in the form of pensions or medical benefits or other things. All form part of the same package in my view and it is for the Salaries Review Commission to deal with that matter.

I believe that the benefits including the pension benefits are intricately linked with salaries and the other forms of compensation, and that matter properly belongs to the purview of the Salaries Review Commission. Throughout his presentation, Sen. Mahabir referred to the issue of fairness and unfairness, and in fact he said that is a matter for the SRC on the issue of salaries and I do not differentiate in the benefits to legislators, salaries and allowances and the benefits like pensions and medical benefits. So I believe it is premature.

I believe that a course of action has already been agreed upon, I believe that the Salaries Review Commission is the right place for it and I believe that we as legislators should await the outcome of the deliberations of that Salaries Review Commission. Because at the heart of that debate—going back to the debate, and the work that is currently before the SRC, is this issue of part-time and full-time and I do not believe that Sen. Mahabir addressed that issue frontally, but that is the issue before the SRC, the issue of whether in fact legislators, whichever House they sit in—because it affects the Lower House as it affects this House—wherever they sit, whether the work is full-time work and if it is determined that the work is full-time work, then the issue of compensation, and then the issue of allowances

and benefits would naturally flow from that. So that is a matter for the Salaries Review Commission.

The third point I would make, Madam President, is to go back to statements made by the hon. Prime Minister to the country, and the Prime Minister was very clear when the issue of improving the benefits to parliamentarians came up in our term in office. The Prime Minister has been on record as saying this is not an appropriate time to be dealing with the issue of compensation and the improvement in benefits; this is not the appropriate time for the Parliament to be dealing with that, given the state of the economy. And in fact, the Prime Minister is on record as having asked the Members on this side to make a contribution of 5 per cent from their compensation to social causes of their choosing, and as far as I understand it, Madam President, the Members on this side and the Members to whom the directive was addressed, have in fact fulfilled their responsibility to contribute 5 per cent to social causes of their choosing. [*Desk thumping*]

So it is also on that basis, on a commitment already made by the Prime Minister that I would not support this Motion, because this Motion, insofar as it seeks to deal with the issue of improving conditions, goes against a commitment already given by the Prime Minister. But let me address the Motion itself, and this is where I disagree completely with Sen. Mahabir's reasoning.

You see, Madam President, the issue of discrimination, I accept that Trinidad and Tobago has signed on to the convention, but what I do not accept is that the premise that we are not allowed to discriminate particularly on this issue of compensation and benefit, and terms and conditions of employment. Our law is replete with examples—for example, equal opportunity legislation—where the law has allowed discriminatory treatment where the circumstances support that treatment. For example, in the equal opportunity legislation an employer is allowed to hire somebody of a particular religion or faith if it is a religious establishment that the person is required to work in, and the legislation allows discrimination on that basis.

The equal opportunity legislation allows discrimination on the basis of gender. For example, if a particular job is suited to a particular gender, the law allows the employer to discriminate on that basis. So in terms of selecting an employee, the law, as it currently stands, allows an employer to discriminate. So the notion of discrimination and the way in which the convention deals with discrimination is not an absolute. [*Cell phone rings*]

Sen. Baptiste-Primus: I am sorry, Madam President. I am so sorry.

Sen. The Hon. C. Rambharat: The way in which the law itself, in our country, deals with the application of the ILO Convention is not in itself absolute.

There are exceptions to the application of the convention and there are different ways in which we have treated the notion of discrimination. If we get into, for example, the issue of benefits—in fact, in our society we have in the public service a permanent cadre of public servants. We have contract labour all over the government service. We have people whose terms and conditions of employment are different, the benefits are different. The pension contributions and the pension benefits are different and it is simply because the law allows us to discriminate on that basis once we do it in accordance with our Constitution. But it is not absolute and I consider that to be the fundamental defect of the Motion, that this is not a Motion that recognizes that in not paying a particular benefit to a legislator it does not automatically mean that we are discriminating or that the law, the legislation in question is discriminatory. For example, Madam President, can you contemplate the extension of the logic that Sen. Mahabir has offered us to members of boards of directors?

It is well recognized that the role of a member of a board of director, or a chairman of a state enterprise is not a permanent role. The member of the board and the chairman of the board serve at the will of the Government. The appointment can be curtailed; the appointment can be stopped; the appointment is in its nature, one that is at the behest of the Government and it would be impossible to say that we are being discriminatory, or the law, or the policy is discriminatory by not allowing the benefits that go with a permanent job or a permanent position. Even if it was permanent, it is still not going to be discriminatory by not affording benefits in comparative positions in other jobs, and that is the way it works and that is the fundamental problem with the Motion. The Motion assumes that by not being comparable with other legislators, and by not being comparable with other forms of employment in the society, it is in that form discriminatory.

Let me say fifthly, Madam President, in relation to my friends on the other side—the Opposition—the last time this country and the last time this Parliament has engaged in this process, while the legislation at that time dealing with the benefits to the Members of the House and the retirement benefits to the judges, while the legislation was supported in the Lower House, thereafter it was the Opposition that changed their position. It was the Opposition that changed their position, recognizing that the basis based on response from the society, based on responses in this Senate, particularly from the Independent Bench, it is the

Opposition that took the position that it was not going to pursue this type of improvement in benefits, notwithstanding the fact, notwithstanding the support offered by the PNM Members at the time in the Lower House to the proposal.

So I am very, very keen in hearing my colleagues on the other side, on the Opposition Bench, and their response to this Motion because it is my understanding that between ourselves it is very clear that the issue of compensation, the issue of benefits including pension and medical benefits and everything that goes with holding legislative office—be it the legislative office of a Senator, an elected MP, a Minister who is a Senator, a Senator who is a Parliamentary Secretary, whatever the office—being a legislator I think among ourselves, the Government and the Opposition, flowing from the work done and the discussions in the last Parliament, I am very clear in my mind that we have committed this issue of compensation, benefits and allowances to the work of the SRC, to the experts to be engaged by the SRC, to the data produced by the SRC, and ultimately, Madam President, all of that ought to hinge on the issue of affordability given our circumstances in this country.

For those reasons, Madam President, I would not support this Motion because fundamentally the Motion is flawed, there is no issue of discrimination. The Motion is premature. This matter rests elsewhere and it rests there because we on the Government side, and those on the Opposition, believe that that is where it should be, and when the SRC ultimately reports on the matter, the issue of compensation, benefits and allowances would be addressed at the appropriate stage.

I thank you. [*Desk thumping*]

Sen. Raphael Cumberbatch: Madam President, I thank you for the opportunity of making this intervention following on the very erudite contribution of the goodly Minister. There is very little that I can say to speak against the views of the hon. Minister. This Motion essentially, and at the heart of it, speaks of discrimination and inequality. To pretend that it does not exist in Trinidad and Tobago is to shade the reality. The fact is we have it in every aspect of our life in Trinidad and Tobago. [*Desk thumping*] We have it. We see it every day. We may pretend that we do not see it, but the fact is that our society is one based on discrimination, class, society, employment. We still see people who are looked at differentially if they work in URP or if they work in the Towers. That is discrimination you know, people. The people who come in here like my goodly self in a jacket and tie are looked on differentially and we are walking the streets in our community, we are somehow seen as different. What do we want for our country? Do we want a country of equality and equanimity?

I have a note in front of me, social conditions—social conditions—discrimination, economics and financial conditions. Almost every aspect of our reality outside of this Parliament there is discrimination. When we change sides we pretend that is not there, but at the end of the day each and every Trinidad and Tobago citizen knows the truth. We are not fooling anybody, you know. We are not fooling anybody and the time is going to come very soon when Members are going to have to face the reality because elections come, you know. There was one up the road in the United States not too long ago. You could say what you want, elections come and then all of a sudden it is a different conversation taking place. It coming sooner or later and sooner rather than later.

We have to find our way in the world today, and the world of today is one of secularism, is one of discrimination. Go to the Middle East and look, go to the United States and look, look around the world. Do you think we are exempt, Madam President? I think not. We are just as likely to suffer the same issues that the rest of the world is suffering. We are not immune. The PNM never immunized us against that. They did their work, other parties did what they have to do. We fought elections, elections have consequences. Ask Hillary Clinton, elections have consequences. One of them is that we are here and you are there, but you all are now going to be called upon to deliver, and standing here and talking is not delivery, you know. That is sophistry. It is easy to stand up in here and talk. I do it periodically, but at the end of the day you got to go out there and do the work. Do you know why, after umpteen years, they were removed from office? Because people were fed up with them.

And if you all are not careful, Madam President—and I do not include your goodly self when I say if you all are not careful—if they are not careful, they will be reminded of what transpired in this country a few years ago and they will be asked—[*Interruption*]

Sen. Singh: Madam, 46(1).

Sen. R. Cumberbatch:—to sit on this side.

3.00 p.m.

Madam President: Yes, Sen. Cumberbatch, the Motion that is before us, I would like you to tie your contribution to the Motion.

Sen. R. Cumberbatch: Thank you very much, Madam President. I thought I was speaking on the issue of discrimination but apparently, it is not the kind of matter that one wants to delve too deeply into.

Madam President: Sen. Cumberbatch, please take your seat. I have made a ruling so could you proceed in accordance with that ruling?

Sen. R. Cumberbatch: Thank you very much, Madam President, and I will so do.

I wonder whether the Government is minded to present the legislative amendments to Parliament before the end of this year because I heard a lot of conversation coming over from the other side but I did not hear anybody give any commitment to this honourable House that they will present the amendments that are required, and this is not a benefit to the Opposition on whose behalf I speak or the Independent Bench who can speak for themselves, it deals with all of us. Will the Government give an undertaking to present the legislative—and that is all this Motion is about "yuh" know. This Motion has nothing to do with all the different things that I have heard, "yuh" know. It speaks:

> "…BE IT FURTHER RESOLVED that this Senate call upon the Government to present the required legislative amendment…"

Did I hear a statement coming from the other side as to whether they will do it? I did not hear anything. Would any of the—I invite any hon. Member, Minister, opposite to rise, I will give way if necessary, to speak to what has been asked for in the Motion. Clearly, Madam President, we are not going to get a response to that today, even though I would have thought that coming here today, you would have such a response; if nothing else, bar the sophistry, you would have had such a response. I understand. Hell, no. It is not often that you all are faced with these kinds of issues after being in Government for the longest period and castigating the Opposition left, right and centre for not doing what they ought to do.

Madam President, I do not intend to detain this House this afternoon in sophistry "yuh" know, all I ask is whether the Government is going to present the legislative amendment to Parliament before the end of this and that is all I want to know and I give way. Madam, thank you very much. [*Desk thumping*]

Sen. Wayne Sturge: Thank you, Madam President. We are here to debate what is really, in essence, I think, an untenable situation where we have taken a Janus-faced approach to how we conduct our affairs and I say Janus-faced because, from my understanding, the Government has given us the impression that they are reviewing the existing laws to ensure that we are in compliance with our international treaty obligations.

As Sen. Mahabir stated in his contribution, the recent amendments to the Marriage Act, the various marriage Acts, would be an indication or an example of what the Government told us they would do which is, in essence, to try to amend the laws where they are inconsistent with treaty obligations.

Sen. Gopee-Scoon: On a point of order, 46(1).

Madam President: I will allow Sen. Sturge to continue. Sen. Sturge.

Sen. W. Sturge: Much obliged. I thank you, Madam President. Yes. Now, it cannot be right that we are taking the approach that we are trying to compare with treaty obligations and then hear a Member on the opposite side rise to give the impression that we would be selective as to which obligations we adhere to, and I am not necessarily casting aspersions. But what I am saying is there ought to be some measure of consistency if the Government is saying that they intend to comply with treaty obligations. So as to avoid objections, we are in essence dealing with an ILO Convention which we ratified, I believe in 1970, but which in essence, we were compliant with, even before ratification by the laws that existed.

The thing is, it is dangerous to suggest that, in essence, it is not permissible in law because we have the cases which suggest that since these matters took place before 1976, that these laws enacted, whether before the treaty that is material to this debate or after, once in existence before 1976, they are, in essence, saved. So that that may be a rationale that the Government may put forward to say, well, we do not have to make any legislative changes, we can get away with it because it was saved.

But I think, Madam President, that that has to be an untenable situation because in this modern day and age, we are trying to, when we review— [*Electronic device goes off*] [*Interruption*]

Madam President: Sen. Sturge.

Sen. W. Sturge: When we review the laws that we are seeking to amend and to bring ourselves in line with our existing treaty obligations, we realize that what we are dealing with in terms of many of these laws, many of them saved by the 1976 Constitution, including the marriage Acts, we are realizing that we are dealing with situations where we have to get rid of anachronisms, because some may argue—and this is just by way of an example that what is contained in what we have just debated, the Marriage Acts, they are anachronisms in this modern day age.

But let me go to make the point and with your leave, Madam President, to refer to two cases, Privy Council cases, that deal exactly with this point because

the point of this entire debate is about discrimination and how we treat with our international obligations and whether we comply with them or not. However you spin the debate, that is the gravamen, that is the crux of the issue that we are debating. And if I can be permitted to read from paragraph 35 of the Privy Council Judgment, No. 0052 of 2012, *Alleyne and others versus the Attorney General of Trinidad and Tobago*, and this case, in essence, dealt with issues with respect to discrimination and discriminatory practices and discriminatory regulations that exist and treated SRPs or members of the municipal police differently to members of the regular police service. And to develop my point, I will just quickly read from paragraph 35 because I do not need to go into all the factual issues and the historical background and so on and how it was dealt with at the court of first instance and then the Court of Appeal and then finally in the Privy Council.

At paragraph 35, after dealing with the difference in treatment and so on, the Privy Council ruled:

> "This lamentable and longstanding state of affairs has affected the constitutional rights of MPOs."

And by MPOs, they were referring to municipal police officers and in essence, they were referring to the discriminatory practices and regulations which treated MPOs differently to regular police officers. So, again:

> "This lamentable and longstanding state of affairs has affected the constitutional rights of MPOs. They have a right both to equality before the law and to the protection of the law. There has been inequality between…..—regular police officers—"and MPOs in that the former operate within a service which is governed by published service regulations but the latter do not. Mr. Robinson testified to the fact that service promotions in the municipal services are dealt with on an ad hoc basis, and that this promotes unfairness, inequality of treatment and arbitrariness. His statement was not contradicted. More generally, service regulations operate for the protection of both the public and police officers. Disciplinary provisions of the kind contained in the Police Service Regulations provide an example."

So they were in essence looking at the fact that both types of police officers, the municipal police officers and the regular police officers, they in essence perform the same role and what they are looking at, if you are performing the same role, then on what basis do you discriminate? On what basis do you treat one differently from the other?

So that is the first judgment I will refer to because I heard the contribution of Minister Rambharat and apart from being shocked and appalled from hearing the Minister saying that they are prepared to support this inequality and this discrimination, I was in the tea room and I was aghast to hear a Government saying that they are in favour of something that discriminates. Now I understand the point made subsequent to that statement and I will deal with it later down.

But it is indicative of a mindset which I thought existed a few years ago and would not have seeped in to this Government in its present incarnation and I refer to the Maha Sabha radio licence because that case, which went to the Privy Council twice, is a classic case of a Government showing that it is prepared to discriminate and it is wrong, I think. Of course, the Minister sought to justify but it is wrong in principle for the populace to be hearing from a Government Minister any words which may, in essence, be opaque or which persons may be prepared to obfuscate and obnubilate to suggest that discriminatory practices are permissible. No Government should give that kind of indication or give anyone the opportunity to say that that is a position of a Government. That cannot be right.

Now, I spoke earlier about anachronisms, let me deal with another anachronism because this, what we are debating here, I suggest, respectfully, is an anachronism and I do not need to go back to the contribution of Sen. Mahabir who has gone through in detail what we do as Senators and try to make the obvious point that we are, in fact, legislators. But let me take the Senate to another anachronism which makes the point we are dealing with which existed in essence around the same time with what we are dealing with. You have in the Police Service Regulations a case where female police officers who were married and who had children were being discriminated against because it was easy by the regulations to dismiss these officers on the basis of marriage and on the basis that their duties as wives and mothers interfered with the effective performance of their duties as police officers whereas there was no such thing with respect to males.

And I refer to this in essence to give a sense of what we are dealing with in this debate. I will go to the very end of the judgment and again, in paragraph 24, the Privy Council said, well, of course, they are valid—this form of discrimination was valid because it was saved by section 6, I believe, of the Constitution and in those circumstances, dismissed the appeal. But at paragraph 25 which is the last paragraph, a very short paragraph if I may be permitted to read:

While the legal position is clear…

Meaning it is saved by the Constitution.

While the legal position is clear, it cannot be described as satisfactory.

As we are saying with this Motion and how it discriminates against Senators.

> While the legal position is clear, it cannot be described as satisfactory. Like the Court of Appeal, the Board cannot part with the case without expressing the hope that steps will soon be taken to remove Regulations 52 and 58. Counsel for the State made the point that there was no sign that they actually had been used in practice or would be used in the future. If that is really so, it is all the more remarkable that the State has defended them so tenaciously right to the way up through the courts to this Board. The simple fact is that they are relics of a bygone age. The Board respectfully recommends that their continued inclusion in the relevant regulations should be removed.

And in essence, the court was suggesting that when you have these sorts of relics or anachronisms that it is only right, whether you are right in the law in continuing with these discriminatory practices, the Privy Council is saying yes, you may be right in the formulaic sense, but the spirit and intendment of the treaty for instance and our treaty obligations suggest and our Constitution, sections 4 and 5, suggests that although you may be right in law, that you cannot continue to pursue practices and to keep on the books, laws and regulations which are discriminatory.

So I want to show that although we are—and I understood the point made by Minister Rambharat, and this is one part of his contribution I agree with, that this is something for the SRC to deal with. I agree with that but I have to commend Sen. Mahabir for bringing the Motion because the Motion would set in train some sort of movement so that this can be treated with as a matter of urgency. So that it is now brought to the attention of the SRC the appropriate arguments which show that in essence, although we hold no ministerial responsibility or portfolio, any of us, that if we are legislators who can bring Motions to the Senate to effect changes in the law by way of amendments and so on, then there is no reason in principle why we ought to be discriminated against. That is the short point, I do not need to be long. That is the very short point.

I want to agree with something Sen. Mahabir raised because I—just the other day, I had to reread the Standing Orders and how one must comport himself and conduct himself during a debate while others are speaking and I notice that it was wrong of me to be doing work, other than Senate work, whilst a debate was going

on. I remember being spoken to about this by the Leader of the Opposition when she told me, well, listen, when you come to the Senate, the Senate is not about you and your private practice, and she reminded me about the words of J.F. Kennedy about service to country.

I am sure, Madam President, you remember the quote: ask not what your country can do but what you can do for your country. And the Leader of the Opposition told me, listen, you are quite successful in your legal practice and you are here because we are trying to make moves to make changes in the criminal justice system because it affects the entire country, and what she was saying, in essence, your practice will take a hit but what you must know at the end of the day is no one can say that you did not contribute to your country, no one can say that you did not do public service, no one—and in essence, if you want to leave because what you get is too small compared to how you are remunerated in your private practice, that is a selfish stance and that is unpatriotic.

So she has called on us and we are all here doing, I would say yeoman service and particularly on the Independent Bench, we have persons with different sorts of expertise. I keep hearing Sen. Small saying we cannot pay for his expertise and I agree, they cannot. But the point is if you want the best for our country, you have to be able to attract the best and whilst we are doing yeoman service and bringing our expertise, I believe we ought to be given some sort of recognition and we are not seeking the recognition now because the salaries are what they are and that is not the concern. We are not here to ask for a raise or anything like that so that the media does not get ahead of themselves and suggest that we are here seeking to deal with our own courses.

We are seeking to bring some parity and some measure of fairness for future generations so that we attract the best and when we attract the best, we know or the best would know when they come here, at the end of the day, after they have served and they retire in the twilight of their years, they do not suffer the indignity of what some have suffered in the past. I am sure, Madam President, you would know of judges and so on who have complained that they cannot survive because they cannot practise for 10 years, for instance. I know this is a bit off what we are dealing with but in essence, it deals with human dignity.

So what we are seeking to do, as I close, is to implore the Government, now that they have told us what their position is, at the very least, to implore the Government to, perhaps, see what best can be done in terms of working with the SRC to ensure that this anachronism, this relic, this bygone vexation is remedied for the future. I thank you. [*Desk thumping*]

Sen. David Small: Thank you very much, Madam President. I appreciate the opportunity to join in this debate. I did not plan initially to be very long. Madam President, if you would permit me, I wish to begin my contribution this afternoon, by extending my congratulation and my thanks to the esteemed Dr. Mahabir for bringing and piloting this Motion. At the outset, I wish to state categorically that my support for this Motion is incontrovertible, it is indubitable, it is undeniable, it is unequivocal, it is unqualified and it is unwavering. [*Desk thumping*] And I want to speak to the persons who are listening and looking at this debate. This has nothing to do with self-service because as Dr. Mahabir clearly elucidated, the minimum period is eight years. I have been in this Senate a little over three years so this will not benefit me in anyway so it cannot be self-serving to me so anyone who is making that argument, I respectfully disagree. There is no basis for making that argument. People may take it away and go with that, I respectfully and humbly suggest that this is a provision that we are members and signatories to an international agreement, and there may be those who disagree about the issue of whether or not we have an international commitment and it is up to the State in—it is always up to the State to decide what it wants to do, no one can argue that.

Madam President, I just want to, if you would permit me, I want to read from the *Hansard* of June the 24th, 2014. The contributor was Sen. Camille Robinson-Regis and I wish to quote. The quote goes:

> "Mr. Vice-President, despite the fact that many have said that the Opposition is being self-serving…"—and—"the Opposition should not support the Government in this endeavour, we of the Opposition…this evening as we said—tonight, as a matter of fact…that this is a situation that must be confronted head-on…and if it is not done so now, then when?"

I want to also add to the quote further down in the *Hansard*, it was on that same night because I was here. I quote again:

> "It is incumbent on those of us who sit in the Senate, and in the other place, to make sure that when we have the opportunity, we do what is right for all the citizens of Trinidad and Tobago…And I repeat, Mr. Vice-President, despite the fact that we may not be elected MPs, we represent the people of Trinidad and Tobago whenever we come to this Senate."

Those were a couple of quotes, Madam President, from the *Hansard* on the debate and on that debate, there was a combination of debates on the then judges' salaries and the legislative pensions Bill and the Senate agreed to take those together.

And I have one final quote if you would permit me. One final quote from that same *Hansard* by Sen. Robinson-Regis and it goes:

> "Mr. Vice-President, it is strange that no commentator raised any claims of self-interest or bias when the SRC that meets, at most, twice a month to fulfil its limited…mandate, recommended a remuneration package…"

That exceeds those for the existing Senators. And:

> "As a matter of fact…"—the former—"Ken Valley passed away before we could see anything happen with the SRC. On all occasions, over the last 20 years, the SRC has ignored—and I repeat, ignored—the representations made to them by MPs and judges with respect to pensions, and refused—"

Those were some quotes from the *Hansard* on that debate, Madam President, and I had no plan to use that because where I sat, I looked at this Motion and I said we are a signatory to an agreement, the agreement has particular calls on the Government to amend, repeal, adjust this legislation in a particular way. We all accept that the legislation, when it was framed, it was done before we are a republic so that the fact that when we became a republic, the legislation was not amended to reflect a republican status and the new structure of the Parliament. Okay, it is an oversight and all we are saying here today is that the legislation needs updating. That is all. [*Desk thumping*] So, Madam President, I listened earlier and it threw me off completely. The backtracking and all the set of things that I heard have nothing to do with what is in front of us and these are things that bug me because I—forgive me, Madam President, I always tell you, I did not go to Harvard, I am a regular guy.

One of the things I want to raise, Madam President, is that if the Government acts positively upon Dr. Mahabir's Motion, we will see changes that provide for all the legislators who have served meritoriously and make it easier for potential new legislators to make this life-changing decision to serve in the Parliament. [*Desk thumping*] The foresight of Dr. Mahabir in bringing this Motion has to be given its proper recognition and even if it only allows for action—even if the Government chooses not to support it or not to action it, it will allow for the conversation to come back up on the table. And they will always argue about the proper time and the best time. There will never be a perfect time. There will never be a perfect time.

Madam President, I fully support this Motion because in addition to what I believe is a historical wrong being perpetrated by the various actors for non-action on this matter, the lack of a firm commitment to act within this current session of

the Parliament by the Government, in my respectful view, will signal the Government's intent to perpetuate historical sleight against esteemed Senators. And I do not mean that in a negative way but we have the opportunity to treat with a matter that requires—I think it is just one word to be changed or added to the legislation. It does not require a whole rewrite of the legislation, you just have to add the word "Senators". That is it. [*Desk thumping*]

So that if the Government chooses to act—again, Madam President, I am on this side, I am not on that side and I understand that decisions have multiple facets and Government will have certainly more considerations than I, which is why we have these debates, so I am putting across my view with respect.

3.30 p.m.

Madam President, unfortunately we have a history in this country of devaluing the contributions of several persons who have given fair parts of their lives and careers to public service. What this Motion seeks to do is to get a commitment from the Government to make a move to level the playing field amongst legislators. That is all. Just level the playing field amongst legislators. In doing so, all persons who have served the prescribed period in the Legislature would be provided with a retirement pension under the existing arrangements. Whatever the calculations are, there is no request for anything to change in terms of numbers or anything like that. Just include everyone. That is all. That is all that is being asked.

Madam President, the hon. Minister of Labour and Small Enterprise Development is in the Chamber with us and the hon. Minister would attest to the strength of our country's support for the ILO and its conventions, given the annual national delegation that attends the ILO sessions in Geneva for six weeks. Every year we have a huge delegation that goes to the ILO.

Sen. Baptiste-Primus: I never went for six weeks eh.

Sen. D. Small: Madam President, the meetings last for six weeks.

Sen. Baptiste-Primus: Good.

Sen. D. Small: Good. So let me be clear. But what I am saying, Madam President, every year Trinidad and Tobago sends a large delegation to the International—

Sen. Baptiste-Primus: Used to.

Sen. D. Small: ILO Convention, and again—[*Interruption and crosstalk*] at these meetings—[*Interruption and crosstalk*]

Madam President: Minister, Members, please let us listen to Sen. Small in silence. Minister, you will have your opportunity to contribute. [*Desk thumping*]

Sen. D. Small: Thank you very much, Madam President. It is infrequent that I require your protection, but thank you for it. Madam President, to be clear, I mean no disrespect to the hon. Minister.

Sen. Baptiste-Primus: Same here.

Sen. D. Small: All I am saying is since I am aware, in my former career, because we were all in the same building, that it was an annual sojourn by a Government delegation attending, and that continues to this day. Whether the delegation has been reduced, okay, I am not aware of the details. I am not in that Ministry but what I do know is every year the Government sends a delegation to the ILO meetings and you signal our commitment to the ILO's Conventions and yet we are saying here you are in breach of an ILO Convention, what ILO considers to be foundational conventions. That is what we are saying here. So if you want to go to the meeting, if that is the case, then it is a trip, as the public servants call it. But let me leave that, Madam President. I do not want to go there.

So these are things that require us to meet each other in the middle. I understand there may be an issue of people seeing it as self-serving. I think I have dealt with that. It is not self-serving. It will benefit the young gentleman, I think Nikoli, brilliant young temporary Senator who came and if he is ever a future Senator, he may benefit. I will not benefit. I will be in the rocking chair by the time anybody benefits.

What we are seeking to do is to say we are a member of this organization. We faithfully attend every year. We demonstrate our commitment. When you go to the ILO meetings you demonstrate your commitment. You state that you are committed to the objectives of the organization and one of the foundational principles is that we will not discriminate in the workplace on terms and conditions, then I do not know what is so difficult about this. [*Desk thumping*]

Madam President, forgive me for being a little warm. So, Madam President, I have zero hesitation today in indicating my very lucid inclination to support this Motion. [*Desk thumping*] I believe that this nation will ultimately benefit from a system that values the contributions of all those who make the choice to enter public life and ensure that they are all recognized when they demit these Chambers. [*Desk thumping*]

Madam President, when it comes to the work of this Parliament, we are all equals. I am not aware of any Member who has a super or an additional vote.

Each Member has the ability to vote once. That is how I understand it works. When it comes to committee work, the Independent Bench Members bear an additional burden, given the requirement under section 66 of the Constitution to several of the committees to be chaired by Independent Senators.

Madam President, it may be the case that a Government or an Opposition Senator may never have the opportunity to take on this responsibility. As an example, in the short time that I have been here as a Member I have served as a Vice-Chair and a Chair in the previous Session and in the current Session of Parliament I serve as the Chairman and I am a member of two other committees and it takes a lot of my time. It takes a lot of time. The general person in the street or the average member does not understand the time commitment it requires to be a member of a committee. Because, unfortunately for me, I take this work seriously. I make the time commitment to be prepared before I come here. I do not come here to be looking around, looking nice for the TV. I come here to do the people's work. I come here to do the people's work.

Madam President, it cannot be that the work done by Senators without portfolio is seen as being of a lesser contribution to that being done by other Senators. It cannot be. [*Desk thumping*] In fact, I posit that without the contribution of Senators without portfolio, the parliamentary agenda would face many challenges. [*Desk thumping*] As such, in providing the opportunity to do work within the ambit of the Parliament, it is clearly discriminatory to deny pension benefits. That is my respectful postulation, Madam President.

Madam President, I cannot conceive that it is the intention of the Government, now that this matter has been brought to light, to allow persons who have served in these august Chambers to find themselves in a state of mendicancy. Given that this has already occurred in the recent past where a former Member of this Bench had found themselves in a very difficult position and without the means to independently sustain even the most basic of health and life services, then it is with shame, Madam President, that I stand here literally begging for this fate to never again befall a Member who has served without portfolio. [*Desk thumping*] It is with shame that I stand here, because, Madam President, it is one thing, as we all understand, when you are disconnected from something you do not understand. When one of our Members of our Bench find themselves in personal difficulty ends up in a place that you would not think that someone who has come to these Benches and served here find themselves in personal health and they cannot maintain themselves, what are we? What is the argument about? Why the push back? I do not get it, respectfully, Madam President.

To anyone wishing to challenge this Motion I say feel free, but I would say this, in challenging it, is it that you are saying that Senators without portfolio are only valued while we give service here and thereafter our value renders to zero and we have to be cast upon the trash heap?

Madam President, I humbly put and posit that everyone's circumstances are different and curing the ill that effects the existing legislative pension arrangements will ensure some modicum of protection for those who have served in these august Chambers and find themselves in difficulty, especially later on in life.

If someone has a challenge with trying to make sure that if a Member here finds themselves and a small pension can help them sustain themselves, why are we fighting or pushing this? I struggle because unfortunately, Madam President, I have seen what has happened when someone does not have the means. We cannot all assume that everyone here is a millionaire and have all sorts of things. We cannot assume that, we cannot.

So, Madam President, as I begin to wrap up, I am always thankful that we live in a democracy that allows for differing views to be heard and pay the respect that is due. I understand the different positions. I respect those positions. I respectfully say I have a different position, and the same way I give respect I expect respect to come to me. More, importantly, we are able to disagree in a respectful manner and hope to move on to more important matters. So, in that vein, Madam President, I did not expect a protracted debate on this Motion given that the merits are indubitable and should spur positive action.

Madam President, I was forced to—I just want to deal with one other last issue before I close. Like Sen. Mahabir, I am aware that there will always be arguments and one of the arguments we keep hearing is the argument of full-time versus part-time. I had not planned to treat with it but I beg your leave, Madam President. I did a Google Search a few minutes ago and full-time employment is employment in which a person works a minimum number of hours defined as such by his or her employer. Part-time employment is a form of employment that carries a fewer hours per week than a full-time job.

Now, that seems very simple, but if I add the amount of hours, we have done an exercise, Sen. Mahabir and myself on the amount of hours it takes—I spend during the week and unfortunately because we both have full-time jobs, my weekend is lost. I lose all my weekends. I have lost all my weekends. I have no weekends. [*Desk thumping*] I have Sitting here today. I have a committee meeting here tomorrow, live hearing. I cannot turn up at these things and say well I did not

read the stuff so I am just going to listen to everyone else. It does not work like that. It is not professional. I do not think anyone expects that, particularly from the Independent Bench. We put in, I put in, an average of 18 to 20 hours on the weekend preparing. That is what it takes.

I think it was in this Chamber someone remarked that we have no secretarial support. So when I start to research, I start at Microsoft Word, page one, line one, position one and I type it myself. I edit it myself. I do the research myself. I get the data myself. I do everything myself. So I could tell you that the amount of hours I spend preparing for parliamentary work exceeds the amount of time I spend during a regular 40-hour work week and that is a fact. I can sit with anyone and justify and show them that. I have two big witnesses. I have two sons and they could tell you daddy is stuck behind the computer all day on the weekend and when I leave here, I am on the computer till midnight. They are in bed.

Madam President, in that context, I respectfully submit that the issue of part-time or full-time goes out of the window and I respectfully submit, certainly in terms of those of us on this Bench, the legislators' job is in effect a second full-time job. Yeah? And if you base it on the definition of the amount of hours, because I spend more hours doing this work than my other work, and I do not want to get into the remuneration aspect. I am just dealing with the time. So let us forget the dollars.

For me, this was not a Motion about dollars. No, no, no. I believe this is a straightforward Motion. We are trying to put us in a position where, for some reason, well the reason is clear, the legislation was done in 1969. We became a Republic in 1976. It was not amended up to now. It needs amending. That is largely what the Motion is saying, and it needs amending to recognize that the contribution of Senators without portfolio is at the very least equal to all other legislators. If someone is saying they do not support that then they are saying that my contribution is less than any other Senator and I will have a huge argument about that because I do not subscribe to that. At the very least, my contribution is at least equal to all other Members of the Senate, whether portfolio or otherwise and that is my respectful remit on that, Madam President.

So, Madam President, I think that I want again to put on the record I believe that this Motion brought by Sen. Mahabir, we will hear all, or have heard arguments about the timing and we heard arguments about self-service. I think I have dealt with all of those things because I listened to them and I understand where they come from because I am not a full-time politician, as they say. I am part-time. I am a Senator without portfolio. So I understand those arguments.

But I respectfully say that, on this issue, Trinidad and Tobago is a member of the ILO. Every year we send a large delegation to the ILO, confirm our commitment to the ILO and its goals. So if it is that we are doing that and C111 is one of the foundational goals of the ILO, one of the foundational conventions, then on what basis are we continuing to be a member? Well, let us just stop going to the ILO. And that is what drove this Motion.

I mean, we go to the ILO because there are other conventions. I understand that, but not all of them are foundational conventions, and C111 is one of the foundational conventions. So what Sen. Mahabir's Motion has sought to do is say this is a foundational convention. Trinidad and Tobago is a signatory. We have obligations under it regarding amending, adjusting our legislation accordingly, could we do that please, in this respect? And that is the short version.

For me, it is crystal clear. I came prepared with a—I did not even use half of the notes that I came with because I came to go a different angle but I was forced, on the response that I heard, to treat with it differently because I did not quite get what I was hearing, where it was going.

Again, with respect, Madam President, I understand the different views. That is why we are here. We will all have different views. I am sure people have different views to what I have to say. But I am trying to apply a simple logic, especially for the man in the street who does not understand some of these issues, I try to put it in the simplest terms. This has nothing to do with self-service. I will not benefit from this. No Member on this side will benefit from this. [*Desk thumping*] So if anyone is arguing self-service, parliamentarians are coming to serve themselves, we are coming to serve our future selves, whoever those people are, at the very best. That is the best argument anyone could make. So the future legislators may benefit if the Government chooses to amend the legislation. None of us here will benefit from it. I do not expect to be here for eight-plus. So that is never going to happen.

Where we are, we understand that there is always in any country, I understand that a Government has priorities. There will always be priorities, but there are also low-hanging fruits. I have come to this Chamber on many occasions and said there are low-hanging fruits, there are issues that, for me, are low-hanging fruits and are obvious issues to fix. We have a deficit budget. There are issues around the electricity price in this country, lots of things that are easy fixes; a simple order and the Government could get $300 million or $400 million more, but I am not in that area.

So, Madam President, I think that Dr. Mahabir's Motion is eminently supportable. It brings to bear, an issue that is long overdue for updating. That is all we are saying. The Motion says that we are a member. We have these conventions that we are signatory to. This convention is not being applied in the strictest sense and in fact we are in violation of it. In fact, violation of it has penalties, because if someone choses to be difficult they can take the Government of Trinidad and Tobago to the ILO Council and say we are in violation of it, which is not something we would like to see happen to cause unnecessary embarrassment to the Government.

So, Madam President, with those words, I wish to thank you for the opportunity. I thank you also for your protection earlier, and with those few words, I wish to terminate my contribution. Thank you very much. [*Desk thumping*]

Sen. Khadijah Ameen: Thank you very much. Madam President, I rise this afternoon to contribute to this debate on a Private Members' Motion brought by the head of the Independent Bench, Sen. Dhanayshar Mahabir.

Madam President, I want to begin my contribution by indicating that this discussion, this debate, is not about an increased remuneration and it could very easily be mistaken for that if you just read on the surface. It is not about an increased remuneration for any Member of this Senate, and in fact many Members who sit here today and will participate in this debate, very likely will not qualify to benefit. Because what is being discussed is the definition of a legislator in Trinidad and Tobago as those who will be considered in the Retiring Allowances (Legislative Service) Act and the consideration for Members of the Senate to be defined as, or categorized as, legislators, according to that Act and to permit Members of the Senate to contribute to the pension plan and so later benefit. So it is a contribution that will be made and later for those who serve eight years and more, they will be entitled to a pension according to the Retiring Allowances (Legislative Service) Act. At present, therein lies the discrimination. So, whereas it may be, again, easy to interpret from, if you really do go into the full wording of the Motion and coming from Sen. Mahabir's explanation this is not a debate about increased remuneration. That, Madam President, is a matter for the Salaries Review Commission.

Madam President, the issue of how Senators or Members of this Senate are classified dates back to where we came from, in terms of our history, coming out of the United Kingdom, and so on, where the House of Lords was really a ceremonious place. It was a place where people were appointed to serve at the

pleasure of the king and many were actually from the Vatican, and so on, and they, of course were there for their value, in terms of bringing spiritual guidance and moral guidance. And so, their functions and their duties were really not heavy, in terms of creating legislation or bringing legislation. It was more really that the House of Commons, where the elected Members sat, that you had the real lawmaking taking place.

However, Madam President, that has changed over the years, and certainly here in Trinidad and Tobago, the people who sit in both Houses are required to participate in bringing legislation. And I use that phrase, coming out of the explanation given by Sen. Mahabir, which I had planned to share, a very similar definition of the word legislator, and that is to bring legislation.

Madam President, that being said, the second issue here is a matter of discrimination, a matter of discrimination where it is not, it may not have been out of malice. I know that the opportunity presented itself in a previous Bill, a previous debate, referred to by Sen. Rambharat, where the judges' pension was discussed. And in that debate, it included benefits to members of the Judiciary, Members of the Upper and Lower Houses, and it spoke to an increase in the amount to be given to these various occupations. This is not what is being debated at this time.

Madam President, I am of the firm view that at this time in our country, given the economic challenges, given the fact that many people are losing their jobs, given the fact that the Government is still yet to provide headway, in terms of economic policies that would steer us through these rocky times, this is not a time to discuss any increase in benefit to the people who sit in high offices. And, again, this is not what is being advocated here. Whatever provisions are already made by the Retiring Allowances (Legislative Service) Act, and based on the Salaries Review Commission's recommendation, those—I do think, in this Motion brought by Sen. Mahabir, that he is asking for those provisions to be changed. You are not asking for an increase for any members, whether it be judges or Senators or so on. What is being asked is that the definition of a legislator in this Act, that Senators be included in that definition.

So, one of the purposes would be so that we could contribute to be able to get a pension. And by "we", I mean any Member here. Because any one of us here we have no guarantee that we will be here for eight years, and in fact we have no job security at all because every one of us sit here at the pleasure of the leader of our respective political parties or at the pleasure of the President. And none of us here could use our job letter as a Senator to go to the bank and get any kind of security.

So that is a fact. That is established and this is considered a part-time occupation. Hearing the contribution of Sen. Small, the whole issue of whether this really is part-time work is another matter and I really feel that as well should be dealt with by the Salaries Review Commission, based on a proper assessment of the work that is to be done.

But, Madam President, if you would allow me to touch on that issue. Having served in local government and now serving in this august Chamber, Madam President, I am very familiar with the challenges that are presented to any person, but particularly a young person who makes a conscious decision to serve country. There are many people who come into public service who offer themselves to serve at the local government level, at the parliamentary level or even here in the Senate after they are well established in their careers, after they have—Sen. Sturge might be a good example, where you are well established in your field and you make a conscious decision to sacrifice furthering your career and furthering yourself in your own field to serve Trinidad and Tobago.

But there is also the strong view that more young people should serve and I am going to be very realistic. For any young person to take all the sacrifice that their parents would have made to send them to school, to send them to do a degree, in many cases some of us are first-generation university attendees where our parents work very hard at menial jobs to send you to university or in fact could not even afford to send you, and you take the good education that they gave you to pick up public service, to pick up public office, to run for a councillor or a Member of Parliament, and the truth is that that is a tremendous sacrifice, because any young, educated person who is enthusiastic about public service as another would be enthusiastic about a career in the private service, the person who chooses to serve in the public office suffers, in terms of your income, which is a reality in sustaining your family. You are under much more scrutiny. The life that your peers in the private sector could afford, you certainly cannot afford it and I tell you from personal experience because I am very realistic to this situation.

As young people, we do not always consider what happens upon retirement and as you get older many people begin to think about retirement. And I have always been an advocate for providing for employees to make contributions to their own retirement. We often speak about people who work all their lives, do not save their money and then depend on the pension and the public assistance, and so on. But we have to continue to provide opportunities for people of every walk of life who earn a living to be able to contribute to their own pension and their own well-being when that time reaches, and unless we pass away before that pensionable age, it is a place we will all inevitably go.

So, I am using these examples, Madam President, to say that I do support people in public office being given the opportunity to contribute to a pension or contribute to their own pension in the long run, and this is not a case of Senators asking for free money. This is a case where it is being put forward by the Independent Senator that Senators should be categorized as legislators so that the provisions in the Retiring Allowances (Legislative Service) Act will allow them to contribute to a pension plan that they will benefit from if they serve Trinidad and Tobago in this august Chamber for eight years or more. That is what it is.

4.00 p.m.

And so, Madam President, I feel that while a petition or a request like this could have gone to the Salaries Review Commission, this is a matter of not deciding benefit, but of the definition. I just want to refer to the ILO Convention No. 111, Article 3. I just want to choose out this because I feel that this is most relevant. Article 3:

> "Each Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice—
>
> "(a) to seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of this policy;"

And here, this process is actually doing just that by Sen. Mahabir bringing this Motion forward. It is an engagement of the employees and the employer which is the State and the Parliament, and engaging in terms of promoting the acceptance and the observance of this policy.

> "(b) to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;"

I feel that perhaps had Sen. Mahabir before this debate had the opportunity to go into his perspective and, perhaps, educating all the Senators who are to debate on this perspective, it may have gone a long way in dispelling or correcting the impression that could be gotten that this thing is about free money.

> "(c) to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;"

The question here is whether the administrative instructions—to the Parliament, to the staff of the Parliament—and practices are consistent with the policy, and the answer clearly, Madam President, is no. Because the instruction would be

based on the definition, and the practices that we have here presently do not allow Senators to make contribution to the pension plan, clearly creating an inconsistency in this policy that we have all so graciously agreed to as a nation since 1969.

> "(d) to pursue the policy in respect of employment under the direct control of a national authority;"

And, in this case, the national authority is the Parliament of Trinidad and Tobago which is the highest law-making body of this country.

> "(e) to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;"

That is not applicable as much, but I touched on it because for many of us, this is part-time employment and for many of us we do it out of a love of serving country. It is not a job per se.

> "(f) to indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action."

Madam President, while this instance that is currently being debated is one instance where you may have had legal challenges as outlined by Sen. Sturge, in terms of what those things that were protected because they were established before the formation of the Constitution and so on, the fact is that this discrimination that exists does not exist only for members of the Senate. Sen. Sturge mentioned members of the municipal police and there are a number of other occupations even in the public service that we as a nation rely on to carry on the administration of our affairs where there are instances of discrimination.

I want to take this opportunity to say that I fully endorse the principles outlined in the judgment by Sen. Sturge with regard to municipal police officers and—what do you want to call them?—the police officers who are in the national police service.

Sen. Sturge: The regular police.

Sen. K. Ameen: The regular police. Because, Madam President, I served alongside men and women in the municipal police force who are very dedicated in local government. The reason for them being unfairly treated, which is similar to what is being discussed here today, is something that is in law that could be corrected by this Parliament.

I do not want to go too much into it, because I trust that with the present local government reform efforts being made by this Government, that that matter could be addressed in some meaningful way, because it is a matter that I do hold dear to my heart, because I have served with men and women in the municipal police, having been a councillor for 10 years and a chairman of a regional corporation for three years.

Madam President, it comes back again to public service where the men and women who decide whether it is to serve in an elected position or to go into the protective services or the public service in any position, while there is a union to represent the interest of many of those who serve in the public service and in the protective services—and there is a well-established method of communication for advocating their needs—over the years, there have been properly developed provisions in terms of their ability to contribute to pension plans, their ability to contribute to health plans, protection for their family and, of course, recently as was brought by the party of which I am a part, when we were in Government, the provision of protection for families for men and women in the protective services who lose their lives in the line of duty. All of those things, Madam President, I believe it comes under a similar umbrella.

Today I speak as a result of first-hand experience because, quite frankly, any young person who has the option to go into representative politics, to go into public service, really have to make a choice between a secured future in terms of an income based on your education and your dedication that you will get if you go into private practice, like my friend, Sen. Sturge.

I do not want to use the word I was going to use because it may be unparliamentary, but sometimes the scrutiny and the attacks that you are subject to as a member of a political party who comes to the Parliament to serve, the sacrifices that you are required to make and, certainly, the remuneration and what happens to you at the end of it, because there are examples of people who have served in this Parliament who end up like derelicts, and who perhaps only because they know how to take shame out of their eyes have not ended up as vagrants.

The fact is that the sustenance of people who serve as legislators really often depends on what they did other than serving in Parliament. For many of them, they were in business or they may have had a career in some other field, and that is all they have but, for many others, without the provision which is provided for already—I want to repeat—is provided for already in the Retiring Allowances (Legislative Service) Act, without that provision, having made that sacrifice to contribute. And you are talking about people who give eight years of their lives, at

least, as indicated in the Retiring Allowances (Legislative Service) Act. You are not talking about someone who gives up one year of their life or their income or their business time to serve. You are not talking about someone who makes a conscious choice, you are talking about someone who gives a substantial amount of time of his life to serve Trinidad and Tobago.

So while I am not in agreement with going or suggesting going into making any changes to the allowances already provided for, I feel that the men and women who are good enough—"who have belly enough" as they say, Madam President, to serve "in this kind ah wuk" for eight years, they should be given the opportunity to contribute not to get free money, I say, you know, but to contribute to a pension plan that will allow them to have a decent living at the end, at their later stages in life, and allow them to have the dignity that they deserve having served this country.

Madam President, the position I put forward today in this debate with regard to definition of legislators is the same position I would advocate for had we been debating other offices of public service, whether it is protection for our men and women in the armed forces, the protective services, the people who serve at different levels of the public service from labourer come right up, this is a position I hold firm to. And, as I said, Madam President, the position is not simply for people to be rewarded, but for people to be given the opportunity to responsibly contribute and manage their retirement, and the quality of life they would have at the end of it.

I have seen many people who would have been irresponsible with their income. You could be a labourer, what your income is, what is important is how you manage it, and that you are given opportunities to contribute. I have seen people who worked hard all their lives. I have been the chairman of a regional corporation where workers have been employed in the corporation before I was born, and when they retire they end up practically on the street, because they were not educated—and I go back to that Article 3 that I mentioned earlier—about contributing to a pension plan that would allow them to benefit in their later years. So we who know and understand the value of it, and who are willing to make that contribution, should be given the opportunity. I think that is very important for me to put on the record, so that it is not misinterpreted that, you know, we are saying, I do not know, "more money for Senators". I could see that as the headline but, Madam President, it is a position I strongly advocate for in terms of being given that opportunity.

Madam President, allow me at this time to pay tribute to the men and women who have served in this Senate over the years who would have done so with nothing to get at the end of it. You are rewarded during your time of service with a stipend, but you really do not benefit later on. I want to see more young people. I want to see more people who are well established in their own fields. I want to see more people who are excellent lawyers and excellent financial advisors—[*Interruption*]

Sen. Singh: Excellent farmers.

Sen. K. Ameen:—and excellent farmers being able to sacrifice of their personal career which would bring in a lot more in terms of income and giving you that security that you do need as a young person. Sen. Avinash is mentioning—is an excellent farmer, I am told. [*Desk thumping*] He is mentioning farmers, but he himself is an example as a young man, recently married I understand—you recently married, you have your family's welfare to consider and, quite frankly, you may do much better if you dedicate all the time that you sit in this Parliament to putting in production into your business, into your agriculture business, and even if it were another type of business, the fact is that the hours that you would have dedicated here could have been dedicated there and, perhaps, with more reward. When you consider your young wife and so on, you know, you have to take those things—that is the reality.

Madam President: Senator, talk to me.

Sen. K. Ameen: Sorry. Thank you, Madam President. Madam President, that is the reality of a situation that a young person—I am happy Senator, my colleague on the other side spoke up, so I could use him as an example, because that is a classic in terms of the age, in terms of the beginning of a family and so on. At this present time that Senator does have a portfolio, but the fact is that all of us who serve here we are appointed without a portfolio first, and then a portfolio is added. So we must give consideration not to those who sit here now, but for those who will come and those who will, as I said, have the belly to serve for eight plus years.

So, Madam President, with those words, I want to thank you for the opportunity to contribute. I want to end by saying that perhaps the initial response of the first speaker on the Government side may not have taken into consideration that this debate is about the definition of a legislator. It is about including a Senator in that definition so that under this Retiring Allowances (Legislative Service) Act, they would be considered. So there is still an opportunity.

I trust that my examples of persons who lose out because they did not get the opportunity to contribute to this pension plan would have reached to fertile ground in terms of your ears and your consideration, and that the members of the Government would consider this proposal being made by Sen. Mahabir, although I know that at this time it is a very sensitive thing to appear as though you are supporting some sort of increased benefit for yourselves, and that is not what this is. I also think it is important for you as members of the Government, more so, but for all of us not to be in support of any form of discrimination, and that where there are other opportunities for these discriminations to be corrected that we use our good office, as they say, to correct those wrongs, to right those wrongs, wherever they may be. With that, Madam President, I thank you. [*Desk thumping*]

Sen. Melissa Ramkissoon: Thank you, Madam President. With 10 minutes before the tea break, I am going to try to make my points before that. As the last Senator who spoke before me, Sen. Ameen spoke about the reason for the Motion, I just want to highlight today is Private Members' Motion day or Private Members' business and the reason I am speaking of that is because many citizens are concerned about some of the issues, and they think that this is not an issue we should be debating at this time, but I just want to say it is a process, it is a parliamentary process. This Motion was laid five months ago and we are now given the opportunity to debate it, and this is an [*Desk thumping*] avenue that we have through the Standing Orders, as not on the Government Senators, to bring something to Parliament that we would like to have amended or highlighted to say that we want to see a change in different avenues. So this is why we are here to speak about the Retiring Allowances (Legislative Service) Act, Chap. 2:03.

Now, Madam President, I was not tabled to speak today, but before coming here I did read the Retiring Allowances (Legislative Service) Act and I did read the *Hansard* document for 2014, and that was when there was an amendment to the legislation brought forward to this very House. Madam President, as I said, I have two points that I really want to speak about and I hope I do not speak too quickly, because I am trying to make my deadline time. [*Crosstalk*]

So the Senators without portfolio, this is one of the points I have had a concern with because, what is a Senator without portfolio? I have never introduced myself as Melissa Ramkissoon, Senator without portfolio. [*Desk thumping*] What does that mean? I went to my Constitution of the Republic of Trinidad and Tobago, not found. I went to the Standing Orders, not found. I went to other documents in the House and I could not find any. [*Desk thumping*] So, again, I even went to Google which my hon. Sen. Mahabir spoke about, to find what is a Senator without portfolio. And, again, no definition of what is a Senator

without portfolio. They did have, Minister without portfolio, but not Senator without portfolio. So what is the Republic of Trinidad and Tobago telling me as a Senator? What are they telling me? What can I and cannot do? I do not know because we do not have a job description. [*Desk thumping*] I do have a job description as an engineer. I know clearly what I am doing, but I do not have a job description of what I have to do, what a Senator without portfolio is to do.

So we have in this Motion that the Senators without portfolio in the Parliament of Trinidad and Tobago perform all functions of Legislators in discharging their parliamentary obligations, and that is what I believe as a Senator, all members of the Senate should bring forward amendments to legislation, review documents that come to the House, because that is one of the reasons we sit here to review documents that may be passed in the other place as well as documents that may come to us, and ensure that the best is put forward for our country. That is what we do.

I would like to see a definition or even a description of what is a Senator without portfolio. I have only seen this term come up recently. In 2014, there was published in the media where they spoke about it, and after that or before that I have not found any reference to such. So that is one of the points I really would like to lay here on this Private Members' Day. What is a Senator without portfolio? And this would affect your privileges and what we are doing if we are conforming to international standards. Are we consistent in making up our laws? Are we consistent with what we expect from our Members? It really affects a lot of different things. So we might think it is a simple terminology that we are placed before us, but we do not know exactly what this could really mean for any Motion or any piece of Bill that we are about to debate.

My second point comes after hearing the Government's clear stance given by Sen. The Hon. Clarence Rambharat on the position that they believe that this Motion brought should be dealt with by the Salaries Review Commission, the SRC. I feel very confused by that referral, and let me say why. Madam President, in the Sunday March 16, 2014, *Guardian* was headlined: "Imbert: Fire Salaries Review Commission". [*Laughter*] It goes on to say:

> "Diego Martin North/East MP Colm Imbert has called on President Anthony Carmona to fire the Salaries Review Commission…Imbert made the call in the House of Representatives on Friday during his contribution on a motion—Adopt the 98th Report of the Salaries Review Commission. He stressed that there was a wide disparity with the salaries that the SRC had recommended for MPs, 'ordinary members of Parliament' and Cabinet Ministers, but Government MPs were afraid to say so."

This is again was when they were in the Opposition. So I am a little confused to why we would like to refer this to the SRC. What is the grounds and what have been done differently? Because this is three years ago or two years, because we are only in February. Two years ago, three years ago, what has been done differently to allow us to say that we want to refer this to the SRC?

And, Madam President, in 2014 they looked at not only the amendment of parliamentarians, but they also looked at judges. And, again, the Bill did lapse in 2014 because they did not have the support of the Senate; both the Opposition which was the PNM at that time as well as all the Senators on the Independent Bench that rose to speak on the amendment of the Bill. It was for different reasons with the SRC being the most contradicted.

When I read the 2014 *Hansard* I was surprised by the harsh terms being used against this commission. I did not even know of such things until I read the *Hansard* [*Laughter*] and then I started to Google, who was in charge of this Salaries Review Commission? Because the kinds of things the Senators were saying about the Salaries Review Commission, I was surprised. So, again, they got such a harsh—I am not sure bashing is a parliamentary term—but they got such harsh criticism from the Senate, and I have not read anything after that to say it has been amended, we did something differently, we had regulations to change such. I did not hear anything, but yet the same recommendation to refer to the SRC, we are coming here to say that now when we said with the same breath we are not trusting what you have done, you have not shared the data with us, your computations are confusing, I am not sure if that is what the Government's recommendation is at this time in 2017 on the 31st of January, 2017.

So, Madam President, the SRC reviews every three years. So the last review was in 2014, so we would expect them to be doing a review in 2017. We do look forward to what they recommend and how they would have changed or recommended or even supported the standing in the 98th report because there is a 100th report laid before Parliament that says they support what they have said in the 98th report. So we look forward to the 101 report to be laid in Parliament sometime this year to say what is their new position and what is their new stance. But we are here to discuss a Motion, a Motion to speak about the amendment of a legislation, and it is quite clear. Sen. Mahabir did an excellent job because most of the points he highlighted, I also was able to catch while I was reading it. So I would not regurgitate any of the points that he has highlighted because he was quite clear. He did his homework. He did his encyclopaedia reading. I did not use the encyclopaedia, and he gave us clear definitions and facts as to why he believes that this is an amendment the Government should look at this time.

To say that we are going to refer it to the SRC, I do not see that as a worthy proposal to be given at this time when we have already, in this very same Senate contradicted that. So I would like to know if we want to have confidence in the SRC, I would like to know what we have done differently. We cannot just say we have confidence now, because we need to know why because we could just come here when they do bring amendments and say we have no confidence and we have no vote.

So, Madam President, in conclusion, with my one minute to tea break—[*Crosstalk*] I do not know if everybody wants to hear me after tea. So, I really did make my clear points.

Madam President: Sen. Ramkissoon, talk to me.

Sen. M. Ramkissoon: Yes. I do want to say that there is merit in amending the legislation to conform to standards as well as international benchmarks that we our country has set out to align ourselves with. I also believe that the terminology for a legislator should be amended, and that is as defined in the 2003, which is an elected member and a specific legislative officer. Again, I do not know if that is with or without portfolio, so again we need some amendment to this. We need to share what it is that we expect from Senators because the public have their own perception of what we as Senators are and are not to do, because we here on the Independent do not belong to any party. We support anything that is good that is laid before us and we do expect that issues raised here and highlighted should be taken seriously and Motions that are raised on Private Members' Day, we do appreciate having this in the Standing Orders to allow us to highlight things even though it takes really long to reach before us, we are grateful for this avenue.

So, Madam President, I would like to say thank you for hearing my two key points on this Motion and what was said here today. I do appreciate all Senators paying attention and I do thank you. [*Desk thumping*]

Madam President: Hon. Senators, let me just indicate to Senators that there has been agreement among the Benches pursuant to Standing Order 117. We will have one more speaker and then we will take the break. The Minister of Labour and Small Enterprise Development.

4.30 p.m.

The Minister of Labour and Small Enterprise Development (Sen. The Hon. Jennifer Baptiste-Primus): Thank you very much, Madam President, for allowing me the opportunity to participate in this debate. I have sat and I have

listened most carefully to the comments by my colleagues on the other side, and let me say that, the Motion is a well-intentioned Motion, Madam President. Well-intentioned, the Motion on its own bears a lot of merits, but there is an issue, Madam President, that I am about to argue of the applicability of the ILO convention and the basis upon which my colleague Sen. Dr. Dhanayshar Mahabir has used.

I just want to say, clarify two issues here before I get into the gist of my contribution. One, I have not heard any Senator mention that under the present terms and conditions, once a Senator serves one year, that Senator becomes eligible for the payment of a contract gratuity. I have not heard that during the course of the various discourses that I have heard. [*Desk thumping*] So it is not that Senators have been left out in the rain without any umbrella per se.

But, Madam President, indeed the Government of Trinidad and Tobago has ratified Convention No. 111 and because this Motion requires reference to various documents, you would allow me—I request, to allow me—to quote extensively from the documentation and I shall identify all the documentation, that even if the Senators, the Independent Senators are unaware, then the Senators on the front bench would recall, in particular my good friend Sen. Wade Mark.

The ILO Convention, No. 111, on discrimination as it relates to employment and occupation, has been adopted since 1970 and continues to take its role seriously as a leader and a standard setter in the region as indicated by several speakers earlier.

Madam President, in support of the Motion, Dr. Mahabir noted that Trinidad and Tobago is a signatory to this 1958 ILO Convention on discrimination in respect to employment and occupation. And I want to state, emphasize, employment and occupation. Being a Senator, you are not employed and it is not an occupation. I want to lay that basis upon which I will build, why although the Motion is well-intentioned, the timing is a bit inappropriate.

Madam President, that convention focuses on the principle of the elimination of all forms of discriminations in the workplace. And I wonder whether or not Parliament can be defined as a workplace in terms of the debate before this honourable House.

Dr. Mahabir further noted that Senators without portfolio—my very, very good friend Melissa Ramkissoon who I hold very, very dear to my heart, not that I am discriminating against the other Senators, but she does occupy a place close to my heart. It was Sen. Mahabir who noted that Senators without portfolio in

Parliament in Trinidad and Tobago perform all the functions of legislators in discharging their parliamentary obligations. So, Sen. Ramkissoon, I do believe that the coordinator of the Independent Bench would be in a better position to assist you in the definition of Senators without portfolio.

Madam President, permit me to share with this honourable House a brief outline of the convention under discussion. ILO Convention 111 concerns discrimination in respect of employment and occupation, as I said earlier. Discrimination in this regard has been described in Article 1(a) of the Convention as:

> "any distinction, exclusion or preference made on the…"—following basis—"…on the basis of race, colour, sex, religion, political opinion, national extraction or social origin."

The basis upon which the ILO Convention has been formulated has been clearly spelt out. Any attempt to use this ILO Convention within the context that has been identified, it is not applicable, Madam President, [*Desk thumping*] not applicable at all. And the basis:

> "…has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation…"

Madam President, it is important to recognize that while ratification of any convention of the ILO has the power to hold member states in an international binding agreement, on a national level there must be implemented policies and laws to give effect to that particular ILO Convention if a country ratifies that convention.

Let us look at what has happened since then. Despite ratification of the convention, Madam President, Trinidad and Tobago operates under a dualist system. What does that mean? It means that international treaties such as the ILO Conventions are not directly applicable domestically. I want to say that again: despite the ratification of convention—and I invite all my senatorial colleagues to go and do the research—despite ratification of the convention, Trinidad and Tobago operates under a dualist system, which means that international treaties such as the ILO Conventions are not directly applicable domestically. For treaties and conventions to become part of national law, Madam President, they must first be translated into national legislation before citizens can rely on them and judges can apply them.

So, Madam President, the Parliament of Trinidad and Tobago through the Equal Opportunity Act has already considered the issue of discrimination in

employment. It should be recalled that this particular Act was passed and given effect by the Government, the then Government, a People's National Movement Government. And what does this Act provide for? This Act provides that for persons in Trinidad and Tobago, discrimination in employment. I am emphasizing employment because the role of a Senator, all of us have agreed is a part-time job, not that the arguments [*Crosstalk*] not that the arguments—Sen. Small, would you like to speak?—not that the arguments forwarded, Madam President, in the general run-of-the-mill presentation of an argument is to support the payment, equal payment under employment, would not be applicable.

But I am saying, Madam President, the Act has provided for persons in Trinidad and Tobago, discrimination in employment only occurs if it is in relation to race, sex, ethnicity, disability, religion, marital status and origin which is inclusive of geographical origin.

According to section 4 of the Equal Opportunity Act, Chap. 22:03, which I will refer to as "the Act". The Act prohibits discrimination in the following four very broad categories: 1, employment; 2, education, 3, provision of accommodation, and 4, provision of goods and services.

Madam President, according to section 4, in order to prove what has been discriminated against or treated less favourably in any of the four prescribed categories, the Act committed must, and I emphasize must be in relation to one or more status grounds, victimization or offensive behaviour. Moreover, Madam President, section III of the Act defines "status" as a person,

"(a) sex;

(b) race;

(c) ethnicity;

(d) origin, including geographical origin;

(e) religion;

(f) marital status; or

(g) …disability…"

So that, Madam President, based on what is provided for in the Act in comparison to what the ILO Convention 111 provides, as it relates to employment and occupation, it is clear that the convention is considered and that this Parliament has already given effect to the provisions of the convention through this piece of legislation.

It is the Government's prerogative to include additional grounds for discrimination in giving effect to Convention 111 in accordance with the national circumstance. Therefore, Madam President, in applying the provisions of the Equal Opportunity Act to the issue at hand, it should be noted that a case of discrimination is only substantiated if certain basic requirements are met and supported by the evidence.

I have sat here, I have listened very, very carefully, Madam President, and there is an absence of the kind of empirical evidence the Convention 111 requires the person to prove. It has not been proven in this honourable House. Therefore, in applying the Equal Opportunity Act in this regard, a person must be treated less favourably in his employment, in his employment based on one or more of the seven specified status grounds. It is not to be used in an emotional context. The context has been laid out as clear as the sultry suns of summer for all who would want to go to it and read and digest it. There is no evidence, Madam President, to show that Dr. Mahabir or any of the other Senators have been treated less favourably because of one or more of the specified grounds.

Madam President, the convention refers to discrimination in employment and occupation based on any distinction or exclusion as it relates to the previously identified characteristics in the provisions. So therefore, the issue of applicability must arise, Madam President. There is no evidence to substantiate any such claim of discrimination as the Motion has highlighted.

However, it is important to note that unlike legislators in the House of Representatives, Senators as we all admit here, do not have full-time positions, neither are we prevented from keeping substantive jobs. I do believe that all the Senators have substantive jobs. Therefore, taking into consideration the disparity between the full time of legislators to the part-time engagement of Senators, the rationale posited by Sen. Mahabir for the Legislative (Retiring Allowances) Act, Chap. 2:0:3 to be amended to include Senators within the definition of legislators is insufficient based on the arguments presented here, is insufficient. But we understand the thinking behind the Motion. Given the circumstances it is also an unreasonable expectation that a part-time office should have equal retirement allowances to that of a full-time office, Madam President.

However, in addressing the Motion, I wish to share with the hon. Members of the Senate some information on the Salaries Review Commission of the Republic of Trinidad and Tobago. And to my very dear friend Sen. Ramkissoon, even though the Minister of Finance, formerly Member of Parliament Colm Imbert, may have made such a statement, it does not remove the fact that the Salaries

Review Commission remains the body to address salaries of Members of Parliament. [*Desk thumping*] The honourable Member of Parliament expressed a point of view, but his point of view does not negate the existence of the commission, notwithstanding, taking into consideration the disparity between the full-time engagement of legislators to the part-time engagement of Senators.

Madam President, I would want to share some additional information with this Senate. It is important to note that the Salaries Review Commission was established in accordance with section 140 of the Constitution of the Republic of Trinidad and Tobago. What is the mandate of that commission? The mandate is to review, from time to time, with the approval of the President of the Republic, the salaries and other terms and conditions of services of offices falling within its purview.

Madam President, the debate we are having here with regard to the inclusion of the Senators, Independent Senators and other Senators with regard to retirement, is a function of the Salaries Review Commission. That is a function of the Salaries Review Commission.

An examination of the Ninety-Eighth Report of that commission reveals that the salaries of persons deemed to hold special legislative office under the aforementioned Act are based on the following criterion, Madam President: Minister, and the Salaries Review Commission. This is part of its report and it states:

> "A Minister of Government is selected either from among Members of the House of Representatives or the Senate and is appointed by the President on the advice of the Prime Minister.
>
> The Minister's political function involves formulation of national policy at the level of Cabinet while the administrative aspect entails overall management of the Ministry to which they are assigned and accountability to Parliament in respect of matters arising from their respective portfolios."

The Salaries Review Commission stated that.

Two: "President…"—and it is response to a point made earlier by Sen. Mahabir that all these persons are included and in his case of making the case of discrimination.

Two: "President of the Senate and Speaker of the House of Representatives" the Salaries Review Commission had this to say:

"The President of the Senate and Speaker of the House of Representatives are presiding officers in Parliament and are responsible for ensuring that members adhere to parliamentary procedures and practices. They are responsible for consistently maintaining impartial control of debates. These office holders play a key role in the conduct of the affairs of the Senate and the House of Representatives."

Three: Parliamentary Secretary—as my fellow Senator along this bench. The Salaries Review Commission states:

"(Elected and Non-Elected)

"Parliamentary Secretaries are appointed by the President on the advice of the Prime Minister to provide support to Ministers and assist in the management and formulation of policy of the Ministries to which they are assigned."

"Deputy Speaker…

The holders of the office of…Deputy Speaker of House of Representatives deputise for the…Speaker of the House of Representatives…when"—the Speaker is away from his Chambers.

And—

"Leader of the Opposition

The office of Leader of the Opposition has an important role to play in the democratic process. As head of the Opposition, the office holder is responsible for the continuous monitoring of Government's policies and programmes and for proposing alternatives."

And, Madam President, the role of the Opposition is reflected by the urgent questions, notice of urgent questions that are filed which summons Members of the Government to answer to this Parliament or to the Senate.

Madam President, I want to draw attention to a process that took place and I want to refer to the Report of the Special Select Committee on the Judges Salaries and Pensions (Amdt.) Bill, 2014, and the Retiring Allowances (Legislate Services) (Amdt.) Bill, 2014. And, Madam President, when you go to that report, the report says and I quote in 1.1, the Establishment of the Committee.

"Pursuant to resolutions passed in Senate on July 8, 2014, a Special Select Committee was established to consider and report on the Judges Salaries and Pensions (Amendment) Bill, 2014 and the Retiring Allowances (Legislative Services) Bill, 2014."

Who were the members of that committee? The members of that committee, that special select committee were: Mr. Ganga Singh, Chairman; Miss Marlene Coudray, Member; Mr. Emmanuel George, Member; Mr. Fazal Karim, Member; Mr. Kevin Ramnarine, Member; Mrs. Camille Robinson-Regis, Member; Mr. Faris Al-Rawi, Member; Dr. Dhanayshar Mahabir, Member; Mr. David Small, Member.

The committee held a meeting on Tuesday 22nd July, 2014. And, the committee made some very cogent and realistic recommendations, and those issues have not yet been addressed. The committee in considering all that has been discussed here today pointed out the following—I will highlight three of them.

One of them states:

> "The following matters / concerns were voiced by Members:
>
> (i) what was the jurisdiction of the Parliament vis-à-vis the Salaries Review Commission;"

This is the select committee, Madam President, in terms of discussing the inclusion, the amendment of that piece of legislation.

> "(ii) the determination of a formula for the pension structure must be based on economic and long-term circumstances;
>
> vi) research on what obtained in other commonwealth countries was necessary e.g. Canada, Australia, UK, India, Nigeria and the Caribbean in order to make comparisons;"

But more importantly, the committee identified the need for independent technical advice for consideration of the questions of jurisdiction and the computation of pension.

And the minutes go on to say:

> "In light of the discourse it was agreed that the following course of action would be taken:"

And, Madam President, it is very important that we pay attention to what transpired that has not yet been realized. That is why I said, the timing of the Motion is a bit inappropriate, while I understand the Motion is well-intentioned. This is what the committee came up with.

> "through the international resources available to Parliament, the process for the engagement of two consultants…"

So that is what the committee recommended, two consultants. One, pension formula advice and, two, jurisdiction advice would commence. Two:

> "background research will be compiled on the pension arrangements in other Commonwealth jurisdictions;"

Three:

> "background research would be done on the original intent of the Bills when first enacted;"

And four:

> "a chronology of the interactions between the Salaries Review Commission and the Parliament would be prepared;"

Madam President, that was what the committee recommended and it is dated July 22, 2014.

Madam President, and I submit that those recommendations had not yet seen the light of day, and Dr. Mahabir was member of that committee. So that is why I am saying, the Motion is well-intentioned, but the timing is wrong because the Parliament still has to go through this process. [*Desk thumping*] What was recommended—because that committee did some good work. I mean to say, they recognized the challenges and they recommended a course of action that we in this Parliament must pay attention to and adopt because it makes sense.

Now, Madam President, the Ninety-Eighth Report of the Salaries Review Commission of the Republic of Trinidad and Tobago reveals that the salaries of Senators are based on the following criteria—and this is the Salaries Review Commission:

> "In accordance with the provisions of the Constitution, Members of the Senate are appointed by the President and form the Upper House of Parliament. The office holders participate in debates and serve on Standing Committees of the Senate and Joint Committees of both Houses."

But more than that, an analysis of the criteria on which salaries are reviewed or justified, clearly demonstrates that the role of Senators, while valuable and important, does not have the same weight and expectation as the role of persons who are deemed to hold a special legislative office under the Act.

So that, Madam President, the Salaries Review Commission recognized that there is a need to conduct a job evaluation exercise and that is where the Salaries Review Commission is at.

The results of the job evaluation exercise and compensation survey that the commission is going through, would or should provide conclusive results on the relative worth or values of all the offices, because the commission is taking a holistic view.

The Government is of the firm opinion that this process will result in highlighting the unique compensation differentials that are applicable to the different jobs. And we anticipate on this side that the conclusion that the role of Senators does not have equal weight to those as against others. That will be determined at the end of the exercise, the job evaluation exercise.

Madam President, the Salaries Review Commission in its Ninety-Eighth Report also advised, and I quote:

> "…that consideration of the inclusion of any new allowances to office holders should be treated within the impending Job Evaluation Exercise and Compensation Survey."

That is what they pointed out. Sen. Ramkissoon is correct; another report of the commission is expected in 2017.

The rationale behind the inclusion of Senators within the definition of legislators in the Retiring Allowances (Legislative Service) Act has nothing to do at all with discrimination based on any characteristics identified under ILO Convention 111 as expressed or espoused by my learned friend Dr. Mahabir.

Madam President, when one goes back to that amendment, the provision was made under Sen. Wade Mark's Government. It was made, and it is there, so therefore, allow this process to take its natural course.

Clause 8 of the Bill, that amendment Bill would amend the Schedule of the Act. I am quoting from the Explanatory Note. The Explanatory Note of the Retiring Allowances (Legislative Service) (Amdt.) Bill, 2014, that was placed before the House under the last administration.

> "Clause 8 of the Bill would amend the Schedule of the Act by making the office of Senator a specified legislative office and thereby including Senators in the definition of legislator."

It is there, we just have to go through the process. We have to give the process time to work.

So what we have before us via this Motion is not really discrimination, because I have debunked that sufficiently, but what we have is a wish, a desire, a

want, well-intentioned, relevant. As such, this is not an issue really of discrimination, and Senators cannot reasonably rely on the convention or the Act to support the Motion that has been brought before this House.

Madam President, it really saddens me to have to stand to argue against such a well-intentioned Motion, but the level of inaccuracies that emerged from the various contributions made it mandatory for us on this side to set the record straight.

So that having examined the provisions of the Retiring Allowances (Legislative Service) Act, Sen. Dr. Mahabir's request for amendment on the basis that it is discriminatory towards Senators who perform legislative functions, I regretfully state the evidence that I have presented to this honourable House does not support it and, therefore, we on this side strongly urge that the process of the job evaluation exercise, the recommendations made by the former Special Select Committee, be allowed to take its course.

Madam President, I thank you for the opportunity to contribute to this debate.

ADJOURNMENT

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon): Madam President, I beg to move that this Senate do now adjourn to February 7th, 2017, at 1.30 p.m., when we will discuss Motions (i), (ii) and (iii) and also the Bill entitled an Act to amend the Public Procurement and Disposal of Public Property Act, 2015, therein and it is on the Order Paper under Government Business.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 5.06 p.m.