

*Leave of Absence*

*Tuesday, April 5, 1994*

**SENATE**

*Tuesday, April 5, 1994*

The Senate met at 1.30 p.m.

**PRAYERS**

[MR. PRESIDENT *in the Chair*]

**LEAVE OF ABSENCE**

**Mr. President:** Hon. Senators, I have granted leave to Sen. Dr. The Hon. Lenny Saith to be absent from sittings of the Senate during the period April 5 to April 17, 1994, as he would be out of the country on Government business.

**SENATOR'S APPOINTMENT**

**Mr. President:** I have been advised that His Excellency the President has appointed Mrs. Norma Lewis-Phillip to be a temporary Senator with effect from April 5, 1994 and continuing during the absence from Trinidad and Tobago of Sen. Dr. The Hon. Lenny Saith.

**OATH OF ALLEGIANCE**

*Sen. Norma Lewis-Phillip took and subscribed the Oath of Allegiance as required by law.*

**ORAL ANSWERS TO QUESTIONS**

**WASA**

**(Privatization of)**

*The following questions stood on the Order Paper in the name of Sen. Wade Mark.*

- 27.** Could the hon. Minister of Public Utilities state:
- (a) Whether the Government has exhausted all channels aimed at finding a solution to the problems at WASA without the intervention of foreign managerial personnel?
  - (b) Whether he is in support of the privatization of the utility and whether his Government intends to democratically involve the nation in whatever decision it may finally arrive at?
  - (c) What form this "involvement of the people" will take?

**Mora Field  
(Disposal of)**

**30.** Could the Minister of Public Utilities state:

- (a) Whether he is aware that Amoco Trinidad Limited has disposed of its Mora Field with its one million barrels of proven oil reserves and thirty-four millions barrels probable oil reserves to a small select group of nationals?
- (b) If the Minister is so aware, could he state:
  - (i) On what basis has this group been selected?
  - (ii) under what authority or legal basis has this disposal taken place?

**The Minister in the Office of the Prime Minister responsible for Public Administration and Public Information (Sen. The Hon. Gordon Draper):** Mr. President, as you would know the Minister of Public Utilities is not here at this time. We are therefore asking for a deferral of these questions for one week.

*Questions, by leave, deferred.*

*The following questions stood on the Order Paper in the name of Sen. Everard Dean.*

**Former Central Bank Governor  
(Mediation)**

**46.** Could the Minister of Finance state:

- (a) (i) Whether an attempt is being made to have a former Governor of the Central Bank of Trinidad and Tobago mediate in the dispute between the Central Bank of Trinidad and Tobago and the shareholders of the Trinidad Co-operative Bank Limited related to the value placed on the shares held by the shareholders of Trinidad Co-operative Bank Limited upon the merging of banks to form the First Citizens Bank?
- (ii) If the answer to a(i) is in the affirmative, can the Minister say whether the value placed on the shares held by shareholders of Workers' Bank Limited and those of the National Commercial Bank will be included in the terms of reference of the mediator?

*Leave of Absence*

*Tuesday, April 5, 1994*

- (b) Will the Minister make available to the Senate the "due diligence" Report of Ernst and Young or, at least, an edited version of it?

**State Loans  
(Recovery of)**

**47.** Could the Minister of Finance state:

- (a) What efforts, if any, have been made to recover the outstanding balances on loans due to the state as published on pages 195—205 of the Report of the Auditor General on the public accounts for the year ended December 31, 1992?
- (b) If the answer to (a) is in the negative, can the Minister say why these delinquent debtors are not made to settle their debts to the state?

**The Minister in the Office of the Prime Minister responsible for Public Administration and Public Information (Sen. The Hon. Gordon Draper):** Mr. President, I have discussed this with Sen. Dean, and we are also asking for a one week deferral of questions 46 and 47.

*Questions, by leave, deferred.*

**BUSINESS OF THE SENATE**

**The Minister in the Office of the Prime Minister responsible for Public Administration and Public Information (Sen. The Hon. Gordon Draper):** Mr. President, I beg to move that this Senate proceed with Motion No. 1 listed under Private Business at this stage.

Question put and agreed to.

**ILO CONVENTIONS**

[Second Day]

*Order read for resuming adjourned debate on question* [March 1, 1994]:

*Whereas* the International Labour Organization was founded in 1919 to promote and improve relations among the social partners—workers, employers and government;

*And whereas* the International Labour Organization (ILO) has adopted one hundred and seventy-seven conventions aimed precisely at promoting and safeguarding the rights of workers;

*And whereas* the Government of Trinidad and Tobago has been a member of this distinguished International Labour Organization since 1963;

*And whereas* the Government of Trinidad and Tobago has ratified only one convention over a period of twenty-eight years i.e. 1963-1991;

*Be it resolved* that this Senate recommend to Government that urgent and appropriate steps be instituted to examine, with the aim of ratifying and implementing into national law, those conventions applicable to workers' interests, as well as contributing to a more propitious climate of industrial peace and social stability in Trinidad and Tobago. [*Sen. W. Mark*]

*Question again proposed.*

**Sen. Pundit Ramcharan Gosine:** Mr. President, I rise to make my contribution on the Motion before the Senate:

Sir, while the Government side does not have a problem with the underlying principle of this Motion, that is, to have those conventions appropriate to us examined with a view to ratification, we have a problem not only with the stated preamble, but also with the substantive motion. Therefore, we shall be putting forward appropriate amendments which will make the Motion acceptable to us.

**1.40 p.m.**

Just to make the simple point, Sir, Sen. Wade Mark is well aware that the number of conventions ratified by the Government of Trinidad and Tobago from 1963 to 1993 is 12, yet the hon. Senator, who has access to the information concerning ILO Conventions seeks to come to this honourable Senate with such deception.

**Sen. W. Mark** Mr. President, on a point of order. The Senator is misleading this Senate. I made it very clear in my contribution that the Government has ratified 12 conventions; 10 under the colonial regime and two since 1963, so he is misleading the Senate by saying that I was engaged in deception. I should like him to withdraw that statement. The evidence is there in *Hansard*.

**Mr. President:** What is the deception?

**Sen. W. Mark:** Well, the Senator was suggesting that I advanced that Government has ratified fewer than 12; that is the implication of his statement.

**Mr. President:** Sen. Gosine, do you take the point?

**Sen. Pundit R. Gosine:** Yes, Mr. President. I want to read from the Motion presented by Sen. Wade Mark where it states:

"Whereas the Government of Trinidad and Tobago has ratified only one convention over a period of twenty-eight years i.e. 1963—1991"

The other point I want to make is that in Sen. Wade Mark's contribution he said that the colonial government ratified ten conventions. Well, no colonial government can ratify conventions for Trinidad and Tobago. If they ratified conventions, they ratified for the United Kingdom and its dependencies, but Trinidad and Tobago as an independent Government can only ratify when it is independent. Therefore, the substantive remark I made still holds. *[Interruption]*

**Mr. President:** Can we have some order, please.

**Sen. W. Mark:** Mr. President, on a point of clarification. The goodly Pundit Senator is implying that the ratification that was executed by the British Government at that time was part of the Government of Trinidad and Tobago. They were representing the interests of the Government of Trinidad and Tobago; therefore, is it correct to say that since 1963 this Government has ratified only two conventions? Am I correct in saying so, Senator?

**Sen. Pundit R. Gosine:** Mr. President, I said, and I will repeat, the Governments of Trinidad and Tobago from 1963 to 1993 ratified 12 conventions. *[Interruption]* That is correct. This is my information from the ILO Office, and the hon. Senator can have it checked.

As I was saying, the hon. Senator has access to information concerning ratification of ILO Conventions and I have the documents here; if he would like to look at them he may do so—Jamaica, Trinidad, Barbados. The hon. Senator, I am aware, has been a regular visitor to the ILO Office on St. Clair Avenue, where all kinds of information regarding ILO conventions and recommendations are readily and easily available. The information is computerized and is obtainable for every member country of the ILO at the touch of a button. Besides, of course, the same information can be had from the Ministry of Labour. So that when the hon. Senator preambles his Motion with the words:

"Whereas the Government of Trinidad and Tobago has ratified only one convention over a period of twenty-eight years, i.e. 1963 to 1991"

I can only surmise that he, from the evidence, is deliberately misleading the Senate on such an insignificant matter, for to my own mind, his call for ratification of ILO conventions would have been just as strong or stronger had he inserted "12", the correct number, instead of one. I say it would have strengthened his case because the truth could not have been denied, and I could not have concluded some degree of improper motive.

The ILO was created in 1919 at the Peace Conference of Versailles. It is recorded that the trade union movement in several countries successfully petitioned for the setting up of a labour commission which subsequently agreed on a document which became Part 13 of the Treaty of Versailles and created the ILO. This document, with amendments, remains to this day the Charter under which the ILO works.

What was the need for such a petition? It was the intolerable conditions under which workers laboured in the wake of the industrial revolution which provoked social reformers at the turn of the nineteenth century to petition the powers of Europe to make better working conditions and shorter hours of work the subject of international agreement.

The preamble to the 1919 Constitution of the ILO declares:

- "that Universal and lasting peace can be established only on the basis of social justice;
- that the unrest created by unjust conditions of work and life endangers peace; and
- that the failure of any nation to adopt human conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries."

The ILO was set up for the promotion of the objectives set forth in the Constitution and the declaration of Philadelphia. At a conference held in Philadelphia in 1944, the ILO redefined its aims and objectives with the adoption of a declaration which is now an annex to the Constitution. The Declaration of Philadelphia, as it is known, states that "Poverty anywhere constitutes a danger to prosperity everywhere." It proclaims that all human beings, irrespective of race, creed or sex, must be able to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity, and affirms that the attainment of conditions in which this shall be possible must constitute the central aim of national and international policy.

The ILO brings government, employers and trade unions together for united action in the cause of social justice and better living conditions everywhere. It is, therefore, tripartite in composition, with workers and employers' representatives taking part in its work on equal status with those of government.

The ILO became the first specialized agency of the United Nations created in 1946, and today it works closely with other specialized United Nations agencies

to preserve peace and stability and improve world economic and social well-being.

The main task of the ILO, at its outset, was to improve conditions of life and work by building upon a comprehensive code of laws known as "International Labour Standards." Since 1919 the ILO has adopted 174 conventions and 181 recommendations up to 1993. They cover a wide range of labour and social matters, including human rights, freedom of association, abolition of forced labour, elimination of discrimination, wages, working conditions, labour administration, occupational safety and health, social security, employment policy and maritime employment.

The obligation of members in respect of conventions and recommendations—items 5 and 6 respectively of Article 19 of the ILO Convention refer.

**1.50 p.m.**

For the benefit of Senators, I quote:

“5. In the case of a convention—

- (a) the Convention will be communicated to all Members of the ILO for ratification;
- (b) each of the Members undertakes that it will, within the period of one year at most from the closing of the session of the Conference, or if it is impossible owing to exceptional circumstances to do so within the period of one year, then at the earliest practical moment and in no case later than 18 months from the closing of the session of the Conference, bring the Convention before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action;
- (c) Members shall inform the Director-General of the International Labour Office of the measures taken in accordance with this article to bring the Convention before the said competent authority or authorities, with particulars of the authority or authorities regarded as competent, and of the action taken by them;
- (d) if the Member obtains the consent of the authority or authorities within whose competence the matter lies, it will communicate the formal ratification of the Convention to the Director-General and

will take such action as may be necessary to make effective the provisions of such Convention;

- (e) if the Member does not obtain the consent of the authority or authorities within whose competence the matter lies, no further obligation shall rest upon the Member except that it shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of its law and practice in regard to the matters dealt with in the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and stating the difficulties which prevent or delay the ratification of such Convention."

Mr. President, as soon as Trinidad and Tobago became an independent state, it sought to obtain entry into the International Labour Organization (ILO) because the Government which had taken us into independence, the Government which had accepted a National Anthem with the words "Here every creed and race finds an equal place," had long realized that its own struggles and that of those ILO for social justice and better living conditions were one and the same.

Trinidad and Tobago became a member of the ILO in 1963, one year after our independence. In that same year the Government ratified 10 conventions. In fact, all of these 10 conventions were ratified on the same date—May 24, 1963. Let us examine those conventions which were ratified to understand Government's thinking at the time.

The first convention ratified was convention No. 15 Minimum Age (Trimmers and Stokers), a convention of 1921. That is young persons under the age of 18 years shall not be employed or work on vessels as trimmers and stokers. This convention came under the particular occupational group. Under this group too, Convention No. 16 dealing with medical examination of young persons (sea), a convention of 1921. That is the employment of any child or young person under 18 years of age on any vessel, other than vessels upon which only members of the same family are employed, shall be conditional on the production of a medical certificate attesting fitness for such work, signed by a doctor who shall be approved by the competent authority.

Under Basic Human Rights, Government ratified Convention No. 29, Forced Labour Convention 1930. For the purpose of this convention the term "forced or compulsory labour" shall mean all work or service which is exacted from any



person under the menace of any penalty and for which the said person has not offered himself voluntarily.

Under Basic Human Rights, Government ratified Convention No. 87, Freedom of Association and Protection of the Right to Organize. That is, workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization. Workers and employers' organizations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programmes.

Again, under Basic Human Rights, Government ratified Convention No. 105, Abolition of Forced Labour; Convention of 1957. Each member of the ILO which ratifies this convention undertakes to suppress and not to make use of any form of forced or compulsory labour.

- (a) As a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.
- (b) As a method of mobilizing and using labour for purposes of economic development.
- (c) As a means of labour discipline.
- (d) As a punishment for having participated in strikes.
- (e) As a means of racial, social, national or religious discrimination.

Under Social Security, Government ratified Convention No. 19, Equality Treatment (Accident Compensation), Convention of 1925 which deals with equality of treatment for national and foreign workers as regards workmen's compensation for accidents. Each member of the ILO which ratifies this convention undertakes to grant to the nationals of any other member which shall have ratified the convention, who suffer personal injury due to industrial accidents happening in its territory or to their dependents, the same treatment in respect of workmen's compensation as it grants to its own nationals.

Under Indigenous and Tribal Peoples, Government ratified Conventions Nos. 50 and 65.

Convention No. 50 provides for the regulation of certain special systems of recruiting workers, while Convention No. 65 is concerned with penal sanctions

*ILO Conventions*  
[SEN. PUNDIT GOSINE]

*Tuesday, April 5, 1994*

for breaches of contracts of employment by indigenous workers in which covered areas in the contract deal with:

- (a) Any refusal or failure of the worker to commence or perform the service stipulated in the contract.
- (b) Any neglect of duty or lack of diligence on the part of the worker.
- (c) The absence of worker without permission or valid reason.
- (d) The desertion of the worker.

It is perhaps following on these two conventions that Government was able to institute the Farm Programme for employment in the United States of America and Canada.

In addition, Convention No. 97 which concerns migration for employment—revised in 1949—provides that each member for which this convention is in force undertakes to maintain or satisfy itself that there is maintained, an adequate and free service to assist migrants for employment and, in particular, to provide them with accurate information.

Each member also undertakes that it will, so far as national laws and regulations permit, take all appropriate steps against misleading propaganda relating to emigration and immigration.

It seems to me that Trinidad and Tobago, having gained independence in 1962, sought quickly to put in place the necessary laws and conventions which would allow for the easy flow of activities and, of course, the compliance with internationally accepted standards so as to provide for basic human rights, social security, conditions of work, and so forth; not only to provide for the social well-being of its citizens but also to provide for international interaction and to avail itself of opportunities in the international community.

The Government also ratified Convention No. 98 in that same year, 1963, to cover the right to organize and to provide for the collective bargaining process 1949. While Trinidad and Tobago has always respected and provided laws to promote the right to organize and to provide for the collective bargaining process, compliance with this convention does provide some problems for Government, for under the Industrial Relations Act (IRA) only unions which obtain a 50 per cent majority are allowed to negotiate collectively, while the ILO Convention No. 98 stipulates that minority unions should retain the right to negotiate collectively

the individual grievances of their members and in order for the right of freedom of choice of association to be upheld.

The Government of Trinidad and Tobago ratified two other conventions bringing the total to 12. The conventions referred to are Convention No. 111 ratified in 1970 and Convention No. 125 ratified in 1972.

**2.00 p.m.**

Convention No. 111—Discrimination in Respect of Employment and Occupation 1958, where 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.
- (b) Such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the member concerned, after consultation with representative employers' and workers' organizations, where such exist, and with other appropriate bodies.

Convention No. 125 concerning Fishermen's Certificate of Competency provides for the competent authority after consultation with the fishing vessel owners and fishermen's organizations, where such exist, to provide for fishing vessels to have a certificated skipper depending upon tonnage and engine power. The certificates of skippers, mates or engineers may be full or limited, according to the size, type, nature and area of operations of the fishing vessel, as determined by national laws or regulations.

Among the countries and territories of the Caribbean region, Trinidad and Tobago stands far ahead in areas of the rights of all human beings, irrespective of race, creed or sex, to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity—"Here every creed and race finds an equal place."

It was very easy for the ILO to select Port of Spain to set up its Caribbean regional office, because of our infrastructure and our level of social and economic development. This office, the ILO Caribbean office, was established in Port of Spain in 1969 to service the needs of the newly emerging independent countries, as well as the non-independent territories of the region. Today, it covers 21

*ILO Conventions*  
[SEN. PUNDIT GOSINE]

*Tuesday, April 5, 1994*

English-speaking and Dutch-speaking countries and territories. It currently employs 21 staff members of whom 13 are nationals of Trinidad and Tobago.

Over the past 25 years, the ILO, through its Caribbean office, has provided advice and assistance on a continuous basis to the Government and the employers' and workers' organizations of Trinidad and Tobago on labour and social matters. Over the last five years, assistance was provided *inter alia* in the following areas:

- Vocational training (strengthening of the National Training Board 1987-1992)
- Social Security (actuarial reviews of the National Insurance Board and consultancy on a review of the social security system, 1991)
- Port development and training (1991-1993)
- Employment generation (Rural-non-farming employment mission, 1990; review of the functioning of the Unemployment Relief Programme 1993)
- Occupational safety and health (consultancy in legislation and training concerning safety and health 1990),

In addition, there are a number of areas where assistance to the Government of Trinidad and Tobago is currently provided or envisaged and these include: labour market information system, employment and training of disabled persons, promotion of co-operatives and small enterprises, specialized areas of training at the professional and technical levels and occupational safety and health.

Although the Government did not ratify any further conventions since 1972, it continued to avail itself of the support and facilities of the ILO, always maintaining its membership of the ILO, participating and contributing on relevant topics at the annual ILO conference sessions in Geneva.

I do not know whether the Government after 1972 took a deliberate decision not to ratify any further conventions, but what I do know is that the ratification of conventions carries certain obligatory responsibilities in the entirety of the convention. So that while the Government and the country may be in compliance with the basic or fundamental principle underlying the particular convention, there may be Articles which can run contrary to our existing laws and practices.

I have previously mentioned the ratification of Convention 98, dealing with the right to organize and the collective bargaining process. The recognition of trade unions as the legitimate representatives and bargaining agents for workers is a fundamental requirement for the efficiency of the collective bargaining process,

for it is only through compulsory recognition procedures that problems such as employers refusing to recognize trade unions as legitimate bargaining agents, inter-union rivalry conflict and consequent strikes can be eliminated. Thus, this issue has been important enough to form part of the principles embodied under Convention 98 of the ILO.

Under Section 34 of the Industrial Relations Act 1972 of Trinidad and Tobago, only unions which obtain a 50 per cent majority are permitted to negotiate collectively. This has been a subject of criticism by the ILO because it necessarily conflicts with the requirements of Convention 98 in which minority unions should retain the right to negotiate collectively the individual grievances of their members in order for the right of freedom of choice of association to be upheld.

It should be noted that the particular provision giving privileged status to majority unions, does so to promote the efficiency of the industrial relations climate by preventing fragmentation due to inter-union rivalry and, ultimately, costly work stoppages. Government could not ratify all the conventions because many of the Articles in various conventions run contrary to our best interests as we see them, and I have just explained one where the Industrial Relations Act under section 34 allows only majority unions to participate in trade union activity.

**Sen. W. Mark:** On a point of clarification. Could the hon. Senator indicate to this Senate what he means by "run contrary to our best interests" if we ratify conventions? What does he mean by that? Could he elaborate?

**Sen. Pundit R. Gosine:** Mr. President, I just indicated that it should be noted that the particular provision giving privileged status to majority unions, which is what the Trinidad and Tobago Government did under the Industrial Relations Act of 1972, section 34, was done to prevent fragmentation due to inter-union rivalry and, ultimately, costly work stoppages. I am saying that if we had gone the way of the ILO whereby we would have allowed every union to bargain on behalf of members, that is to protect the rights—as the ILO put it—of individuals in little groups of three and four and so forth, it would have run contrary to the well-being of the nation to prevent costly work stoppages, inter-union rivalry, strikes, and so forth.

I am not sure if trade unions and the hon. Senator would welcome a change in this particular section of the Industrial Relations Act to accommodate the particular criticism by the ILO.

Thus, in order for the Government to ratify a given convention, it must ensure that its laws, for whatever good reasons—national development, security, trade liberalization—are not in conflict with the articles of the particular convention.

It is also necessary before ratification that Government put in place legislation and institutions to ensure compliance with the convention and the law. Total compatibility is not always possible with all the conventions. This is the basis of the point that I was making. Thus, you will find that governments over the period have sought to comply with those recommendations and conventions which are in keeping with our developmental objectives and, therefore, form part of our thrust in the areas of industrial stability, basic human rights and social security.

### **2.10 p.m.**

It should also be noted that there are a number of conventions, over 30, which have been revised by subsequent conventions. These are no longer open to ratification. Then, too, there are many of the conventions which have been adopted by the conference and which are of marginal relevance to our particular environment. In this context, the following conventions refer:

Convention No. 31: Hours of Work (Coal Mines) Convention, 1931.

Convention No. 46: Hours of Work (Coal Mines) Convention (Revised), 1935.

Convention No. 107: Indigenous and Tribal Populations Convention, 1957.

Convention No. 169: Indigenous and Tribal Peoples Convention, 1989.

While some conventions may on the surface appear to be of some significance to our country, it should be noted that certain of the provisions of those instruments are already in practice in this country through our common law or statute law or are incorporated into collective agreements. Indeed, the principles and measures enunciated in many of these instruments are used, as far as practicable, as guidelines for national policy. Perhaps the stringent reporting procedures and compliance in every aspect of the conventions, militates against the ratification of conventions.

Even the United States of America, with all its human rights laws, rights of children laws, social security laws, has been able to ratify only 11 conventions. I indicate this to point out that while complying with some of the articles of a convention, it might not be possible, in the interest of the nation, to comply with all, and therefore it would seem better not to ratify the convention which, as I have pointed out, once ratified, the country is morally and legally bound to ensure

compliance, and where failure to comply becomes acute, sanctions may be made against the defaulting country.

**Sen. Mahabir-Wyatt:** I do not like to interrupt the Senator while he is in the middle of his dissertation, but I gathered, from the tone of his voice that he is coming towards the end. I just wondered if he could, before he finishes, point out which article it is in Convention 87 or 98 that runs contrary to the Industrial Relations Act, or that says specifically that trade unions must have a right to minority representation.

**Sen. Pundit R. Gosine:** I do believe that I have covered that, but I would go back to it.

**Sen. Mahabir-Wyatt:** I was just wondering what the specific article is in the convention.

**Sen. Pundit R. Gosine:** This is Convention No. 98 of the ILO. What I said was, under section 34 of the IRA of 1972, only unions obtaining a 50 per cent majority are permitted to negotiate collectively.

**Sen. Mahabir-Wyatt:** Which article in Convention 98? Because I cannot find it. Convention 98 has 10 articles. I was just wondering if he knows which one it is.

**Sen. Pundit R. Gosine:** I cannot tell you offhand which one it is, but it is the one that states where unions can bargain for their members they need not have a 50 per cent majority. I will help the Senator afterwards, if she so wishes.

Another aspect in all of this is the question of cost in setting up machinery and personnel to monitor and report on a regular basis, according to the constitution of the ILO, to the ILO. At present, there is but one officer designated to deal with the ILO desk. This desk provides initiatives and follow-ups in areas of ILO conference, training, matters dealing with trade unions, employers' association, health and safety, to mention a few. So that a strengthening of the ILO desk is a necessary prerequisite in the ratification of conventions. Because for each convention, one would have to ascertain the laws which are in favour, those that are in conflict, those that are non-existent, and to seek harmonization in the area of law alone before ratification. Also, one would have to put in place the institutions that will give effect to the law and then set up a monitoring machinery for prompt and efficient reporting.

We come to the question of national priorities, and as I have said before, this country has a good basic human rights record. We have set in place laws and institutions to deal with social security. I refer to the National Insurance Scheme. We have set in place laws and courts for maintaining a stable industrial climate. I refer to the collective bargaining process and the Industrial Court.

Since it is to be noted that failure to comply with the terms of a ratified convention can result in various sanctions embodied in the constitution of the ILO being applied against a defaulting member state, it is essential for a member to consider thoroughly its ability to meet the requirements of a convention before reaching the conclusion to ratify it.

I am not aware that the Government has taken any decision at the present time to ratify any additional ILO conventions. I wish to remind Senators that the hon. Minister of Labour and Co-operatives indicated to this honourable Senate in June 1993 that the Ministry of Works and Transport was actively assessing all the implications involved in the ratification of:

- (i) Convention No. 68: Food and Catering (Ship's Crew) Convention, 1946;
- (ii) Convention No. 73: Medical Examination Seafarers Convention, 1946;
- (iii) Convention No. 92: Accommodation of Crews Convention (Revised) 1946, with amendments adopted at the 55th (1970) Maritime Session.

**Sen. W. Mark:** Before the Senator closes. On a point of clarification. Could the hon. Senator indicate why the Government of Trinidad and Tobago has failed to bring to the attention of the national Parliament, conventions and recommendations adopted by the ILO, which under Article 19 of the ILO constitution, it is compelled to bring? Why has the PNM Government, this so-called caring Government, failed to bring to this Parliament, these Conventions and recommendations which were adopted, with the support of his party and his Government? Could he answer that?

**Sen. Pundit R. Gosine:** Mr. President, I crave your indulgence in this. I wish that the hon. Senator would file a written question and the Minister of Labour and Co-operatives would be happy to answer it.

In closing, I want to emphasize the goodwill and the cordial relationship that this present Government shares with the ILO. Nineteen ninety-four is a year of great significance and has already been designated the Year of the Family by the United Nations. The areas which I have discussed as coming out of the ILO



declarations are all pertinent to stable, happy, active family life, because the family is the unit of development, be it spiritual, social or economic.

In this year, 1994, the ILO celebrates 75 years of existence, after the Treaty of Versailles in 1919. In this year, 1994, the ILO celebrates 50 years of the Declaration of Philadelphia in 1944. In this year, 1994, the ILO celebrates 25 years of its hospitable stay in Trinidad as the Caribbean Regional Office.

It is anticipated that to mark all these significant occasions in the life of the ILO to date, we would want, jointly with the ILO, to make its presence more known throughout the region and the nation. To this end, it is anticipated that a commemorative stamp will be issued; ratification of conventions under consideration, have an essay competition for secondary schools; make films available to the television stations on ILO matters. For example, ILO's "Shackled Children," I believe, has already been aired on television.

### **2.20 p.m.**

All these events will culminate in a visit of the Director General of ILO to Trinidad and Tobago. I believe it will all help to demonstrate that this Government will work hand in hand with the ILO for the maximization of its proclamation and I quote:

"The right of all human beings, irrespective of race, creed or sex to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity and affirms that the attainment of conditions in which this shall be possible must constitute the central aim of national and international policy."

I want to further state that this Government is committed to tripartite resolution in the cause of social justice and better living conditions in all spheres of activity in the nation.

I thank you.

**Sen. Junior Barrack:** Mr. President, it is fitting to give recognition to my colleague, Sen. Wade Mark, on seeing it fit to ask this Senate to consider the Motion, which is before the Senate:

Sir, the part of this Motion which I would like to emphasize is the area where it talks about social stability and propitious climate for industrial peace. When we look at Convention No. 168 we see a very important guideline that is completely ignored by the Government of Trinidad and Tobago.

When we examine the social configuration that we have at the moment—high

*ILO Conventions*  
[SEN. PUNDIT GOSINE]

*Tuesday, April 5, 1994*

unemployment, a state of destitution, vagrancy, and so forth—and when we read some of the Articles, as well as the foreword, we see the need for this kind of convention to be adopted by this Parliament; and the total neglect that we have been suffering as a result of this Government's action.

The preamble to Convention 168, which is the Employment Promotion and Protection Against Unemployment Convention, reads:

"The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Seventy-fifth Session on June 1, 1988, and

Emphasizing the importance of work and productive employment in any society not only because of the resources which they create for the community, but also because of the income which they bring to workers, the social role which they confer and the feeling of self-esteem which workers derive from them,..."

Apart from recalling the various conventions that went before, like—

"the Unemployment Provision Convention and Recommendation, 1934, the Unemployment (Young Persons) Recommendation, 1935, the Income Security Recommendation, 1944,..."

the preamble goes on to state—

"Considering the widespread unemployment and underemployment affecting various countries throughout the world at all stages of development and, in particular, the problems of young people, many of whom are seeking their first employment, and

Considering that, since the adoption of the international instruments concerning protection against unemployment referred to above, there have been important new developments in the law and practice of many Members necessitating the revision of existing standards,..."

I will pause here to refer to Sen. Gosine because he said that those earlier conventions have been ratified and that they seem to be quite sufficient. But in June, 1988 this convention said that there was a situation where revision of existing standards was necessary.

I continue:

"in particular the Unemployment Provision Convention, 1934, and the adoption of new international standards concerning the promotion of full, productive and freely chosen employment by all appropriate means, including social security, and

Noting that the provisions concerning unemployment benefit in the Social Security (Minimum Standards) Convention, 1952, lay down a level of protection that has now been surpassed by most of the existing compensation schemes in the industrialized countries. and unlike standards concerning other benefits, have not been followed by higher standards, but that the standards in question can still constitute a target for developing countries that are in a position to set up an unemployment compensation scheme,..."

In Trinidad and Tobago our unemployment compensation scheme is something called URP, the Unemployment Relief Programme. Before I touch on that programme, which is the most degrading and barbaric system of unemployment relief programmes in any civilized country—and I will cite a few examples of that as I go along—I should like to read from the Preamble to our Constitution:

*"Whereas* the People of Trinidad and Tobago—

- (a) have affirmed that the Nation of Trinidad and Tobago is founded upon principles that acknowledge the supremacy of God, faith in fundamental human rights and freedoms, the position of the family in a society of free men and free institutions, the dignity of the human person and the equal and inalienable rights with which all members of the human family are endowed by their Creator;
- (b) respect the principles of social justice and therefore believe that the operation of the economic system should result in the material resources of the community being so distributed as to subserve the common good, that there should be adequate means of livelihood for all, that labour should not be exploited or forced by economic necessity to operate in inhumane conditions but that there should be opportunity for advancement on the basis of recognition of merit, ability and integrity;"

**2.30 p.m.**

When the hon. Senator stood up a while ago and said that this Government is satisfied with the level of ratification of ILO conventions that has taken place so

*ILO Conventions*  
[SEN. BARRACK]

*Tuesday, April 5, 1994*

far; it is also satisfied that it has met these requirements, and that the present requirements and legislations in place are either equal to or superior than that which the ILO has in place, I say, that he is either ill-informed or wicked. We do not have a social security net for unemployed people where they can go to a place and get a certain income to maintain their level of dignity.

When people in this country are unemployed and there is no work coming forward—they are looking for work—they have to a URP office. If one wants to see what the expression of suffering is, one should visit a URP office. At Region 2, Morvant, for instance, one would see women weeping—tears rolling down their cheeks—begging for a “10-days”; some of these women have three, four, five and more children. And the relief they are seeking is urgent. Theirs is a state of empty cupboards; empty refrigerators, if they have one; no lights. D-day has come. And, this Government is saying that Convention No. 168 is not necessary!

The Government does not have a net for these people—crimes and suffering. Normally, the regional manager who controls the Unemployment Relief Programme office in Region No. 2 at Morvant must have six or seven thugs around him as men with guns come to stick him up so their names would be placed on the list.

**Sen. Nanga:** Mr. President, very often in this honourable Chamber we hear people making all sorts of accusations. If the hon. Senator has any information that in Region No. 2 there are men with six and eight guns, we should like him to bring this to the attention of the Commissioner of Police, and to the Government. Quite often people come and say many things, and this Government is not going to sit by and allow people to say these things because they have the facility of national television.

If the Senator has information, we, as a Government, are quite willing to—

**Mr. President:** Senator, you will have the opportunity to join the debate after Sen. Barrack has made his contribution.

**Sen. Nanga:** But, if the Senator has information, we would like to know.

**Sen. J. Barrack:** Mr. President, the hon. Senator—

**Sen. Nanga:** I have come here to destroy you.

**Sen. J. Barrack:** So, the Senator will do it by any means necessary?

**Sen. Nanga:** Politically!

**Sen. J. Barrack:** Did you hear it, Mr. President?

**Mr. President:** Yes. I will give you a little advice that one Member used to offer many years ago: ignore the asides.

**Sen. J. Barrack:** Thank you, Mr. President.

**Mr. President:** Direct your remarks to the Chair.

**Sen. J. Barrack:** Very well put, Sir.

**Mr. President:** It is a good policy to follow.

**Sen. J. Barrack:** Mr. President, one must have six or eight thugs—not guns—around the office. The very bandits that people say do not want work, flock that office in search of employment, and some of them have to use the very guns they sometimes use to stick up honest citizens, to force regional managers to put their names on URP lists; and the Senator stands up and says he wants to destroy me. He should come and see if he can do that.

**Sen. Nanga:** Go in public and say that.

**Sen. J. Barrack:** Mr. President, it is the most outrageous, dehumanizing and brutal thing when an Unemployment Relief Programme can be placed in the hands of party hacks and relief is doled out on the basis of patronage to party supporters. If one want to see what fear is, one should go to one of those offices.

Sen. Gosine says that is not necessary; the Government has everything already covered. Of course, it is working; PNM Governments have been greasing election machinery for the past 38 years.

**Sen. Nanga:** Panday was here for five years!

**Sen. J. Barrack:** When an individual, who has supported another party, is looking for employment and goes to a URP office, and in the process, he sees a senior member of the party approaching, he immediately bursts into cold sweat; perspiration drenches him. Do you know why? He knows that his chances of getting a job have just been further narrowed; because sometimes *[Interruption]* Is the Senator on a point of order?

**Sen. Robinson-Regis:** Mr. President, I should like to seek some clarification if the Senator would be kind enough to give way.

**Sen. J. Barrack:** Please, go ahead.

**Sen. Robinson-Regis:** Mr. President, I am enquiring whether implementation of the convention in question would stop what he is seeking to convince us is happening in Region No. 2.

**Sen. J. Barrack:** Mr. President, it appears that it will. Sen. Gosine said once you become a signatory to that particular agreement and ratified it, the ILO can apply certain sanctions against you, and thereby you will have to comply. So, it is one of the reasons why Convention No. 168 will not be ratified; probably until the election of 1996.

So, I agree with the Senator. If it is ratified, it will go a long way in stopping the corruption and inhumanity that take place at those offices; and the Government cannot be proud about it; it knows everything about it.

**Sen. Nanga:** Mr. President—

**Sen. J. Barrack:** On a point of order?

**Sen. Nanga:** You cannot ask me that! You are not the President.

**Sen. J. Barrack:** Then, I am not giving way, Sir!

**Sen. Nanga:** You are out of order!

**Mr. President:** Senator, if someone is on the floor, you can either interrupt on a point of order, or ask the Senator to give way. If he refuses to give way, you have to let him continue, but if you are on a point of order, he must sit down. Are you on a point of order?

**Sen. Nanga:** Just clarification, Mr. President.

**Mr. President:** Are you giving way, Sen. Barrack?

**Sen. J. Barrack:** No, Sir.

**Mr. President:** He is not giving way, so, you will have to sit down.

**Sen. Hosein:** He is not giving way to any county council destroyer.

**Sen. J. Barrack:** Mr. President, as I was saying, fear is something real and gripping when one is not a member of the ruling party and visits a URP office.

**2.40 p.m.**

**Sen. Nanga:** Mr. President, on a point of order. The hon. Senator is misleading the Senate. The Government has made it abundantly clear that URP is not a party matter, and he is attacking under the protection of this Parliament. The

honourable gentlemen and ladies who have been appointed in the several areas and regions that he is talking about are qualified people. *[Interruption]* He is misleading by saying they are party hacks. They are not party hacks.

**Mr. President:** Once again I have to remind the Senate that we do not want this committee style debate developing. The rules are very clear: one Senator speaks at a time if he is called upon to do so by the Chair. There are rules governing Senators not speaking, that they must maintain silence except to interrupt on a point of order, to ask a question or to seek clarification. Should a Senator rise on a point of order, the Senator who has the floor would have to give way. If the Senator addressing the Senate does not give way, the question for point of clarification cannot be posed.

All Senators are free to speak, and if you disagree with any statement made by a Senator during his contribution, you are free to get up at a later stage and reply to those statements. That is what debate is all about.

**Sen. J. Barrack:** Mr. President, as I was saying, fear rules the roost any time the individual who goes to a URP office is not a member of the ruling party. There are no objective criteria to choose or select an individual for benefits under the Unemployment Relief Programme; therefore ad hocism is the rule of the day.

The individual at the office gets a number of lists from Ministers; lists of names of persons to work on the programme come from Ministers. The appointment of the regional officer is a political appointment. When that list comes, invariably it comes with the names of the people who have been loyal to the party; strong men, people who occupy other jobs; men who have resigned and have taken their severance pay; people who are receiving pension work in the office; women, single mothers, cannot get a job.

Sen. Gosine said it is not necessary to ratify Convention 168. He does not see the need. Let me read Article 7 of Convention 168. Probably it will assist with a particular whimpering I am hearing in the back there. It says:

"Each Member shall declare as a priority objective a policy designed to promote full, productive and free chosen employment by all appropriate means, including social security. Such means should include, *inter alia*, employment services, vocational training and vocational guidance.

8 (i) Each Member shall endeavour to establish, subject to national law and practice, special programmes to promote additional job opportunities and employment assistance and to encourage freely chosen and productive

*ILO Conventions*  
[SEN. BARRACK]

*Tuesday, April 5, 1994*

employment for identified categories of disadvantaged persons having or liable to have difficulty in finding lasting employment such as women, young workers, disabled persons, older workers, the long-term unemployed, migrant workers lawfully resident in the country, and workers affected by structural change."

Mr. President, you would see that long-term unemployment is mentioned, hence the reason why they do not want to ratify it. You have a situation where, for the longest while, over 20 per cent of our working population seek employment and cannot get a job. To ratify this will mean that you will have to provide some kind of assistance to these people when they are unemployed. The URP is more like a burp after a healthy meal. It is giving the people an upset stomach.

When we talk about social security we do not only talk about food; we talk about social stability. There is an unemployment rate of 20 per cent—and the Government is playing games with URP. Bob Marley said words to this effect that they keep us hungry, political strategy, and when you get some food your brother got to be your enemy. Fight him to get it. So when you have it you say, oh God, he was such a good man to give me a ten-days, one or two in a year. That is what our people are reduced to. Government, in this Constitution, has a responsibility to so operate the economic system that people can live a dignified life. The least they can do is to ratify an ILO convention to help us, and that is not forthcoming.

I should like to deal with the area of stability in the context of social security. Recently a very great man died at the hands of a young man of about 16 years, Michael Hercules. And in an interview with the media the mother of one of the boys involved said, "Well, he went to look for some money. I have been asking them for a ten-days for the longest while and they would not give me one." People were outraged when she said that. They said that the boy was a criminal, and hear what the mother was saying; but they do not know, because most of them do not know where the regional office is.

**2.50 p.m.**

**Sen. Maloney:** Mr. President, on a point of order. I respect the Chair, but this Senator is surely sending mixed signals to the whole population and to young people as a result. I am very concerned about that.

**Sen. J. Barrack:** Mr. President, is he on a point of order?

**Mr. President:** That is not a point of order.

**Sen. Maloney:** He is sending mixed signals to the media.



**Sen. W. Mark:** He does not understand what is a point of order.

**Sen. J. Barrack:** If I am not speaking the truth, bring evidence to the contrary. I can bring 500 people here tomorrow or any time, and they can verify what I am saying.

**Hon. Senator:** Bring them to Laventille West.

**Mr. President:** As Leader of the Party would you try to set the example. It is your own colleague who is trying to speak.

**Sen. J. Barrack:** Mr. President, as simple as you see it, it might be shocking to know that that woman was speaking the truth. Do you know how psychologically destabilizing it is for a child to see his mother cry at a URP office?

**Sen. Merritt:** Good point!

**Sen. J. Barrack:** Crying at a URP office for a job. Do you know why they are getting on so? It is said that the truth is like a monster in the eyes of the wicked. They are seeing truth. Crime!

Do you know that there are homes in certain depressed areas of Trinidad and Tobago where because of the lack of a proper social security system in place, if there is not a looting taking place, either by armed bandits or other, families in that community do not eat? Do you know the kind of criminals that are created by a Government that can only see in social security votes, in the URP party group No. 1 or party group No.2? Do you know the damage they are doing to thousands of our youths? And they pretend to be leaders in our community. It is not going to happen for long. I can tell you!

Sometimes I read some of the so-called sociologists—people who say that they know what is taking place in this country; people who believe that because they have a degree in sociology or political science they can pontificate on what is taking place in this country. But they do not know what is happening. Most of them are off the mark by a mile or two. The facts within the community speak. One has to be there to know, and most of them are not.

Some of the youths are involved in crime because of the needs, sometimes, of the mother. Because of a lack of a proper social security unemployment system to cushion the blow, some of them have to sleep around, thus causing more children to be born; sometimes unwanted, but necessary for the next bread. Prostitution is created, while political games and strategies are devised.

*ILO Conventions*  
[SEN. BARRACK]

*Tuesday, April 5, 1994*

I do not want to believe that a mind as great as that of Sen. The Hon. Gordon Draper—who is now reforming the public service—had anything to do with the URP programme. A great mind, they say! Professional organizer to get things done! I do not want to believe for a minute that he had anything to do with the organization of the present URP in Trinidad and Tobago, because if he did, that mind would be akin to the most evil of minds.

It is a most wicked system! It must be rooted out of our community at the earliest opportunity! Conventions such as these must take its place. We must organize the social security system along lines that are non-partisan. People must qualify on objective criteria. We must know beforehand what are the criteria to qualify an individual to access the programme. No Minister of government must have a list and send it to a regional manager. The regional manager—who is in the field and knows the woman came last week and cried, and she would come back the next week and cry again, cannot change one name on the list that the Minister sends.

It is the most outrageous thing! It is oppressive and inhumane! It must never be tolerated! No decent human being in this country, or anywhere, should tolerate that. When it threatens our very existence, when the youths are now deemed to be the most subversive element in the society, we know that the Government, based on its greed power, is corrupting our society and pushing us into anarchy. It must stop! It will stop!

Mr. President, I should like reiterate that Sen. Wade Mark's timing of this, the foresight in seeing that this is necessary and bringing it to this hon. Senate is commendable. I totally support this Motion.

Thank you.

**3.00 p.m.**

**Sen. Diana Mahabir-Wyatt:** Mr. President, having heard Sen. Barrack, I look forward to hearing him on a political platform. He is a natural.

I think that there are a number of people in the Senate today who are not entirely familiar with the organization of conventions and recommendations, and in fact, what they mean in relation to the Motion before the Senate. I should just like to make a distinction which, perhaps, did not come out as clearly as it could have.

The conventions and recommendations of the ILO that are in this rather large book that is in front of Sen. Hosein, 177 of them, are drawn up every year at a

tripartite convention in Geneva, which lasts for a month, and to which Trinidad and Tobago has always sent a full delegation, as far as I know. And they are agreed on after a month of discussion by those people who are at the conference. There are two different instruments, one is a recommendation and the other is a convention; but a recommendation is just a recommendation; it has no force in law; it has only a certain moral force, if you like. The conventions on the other hand, as was pointed out by Sen. Gosine, do have a force if they are formally ratified by a member state. Trinidad and Tobago is a member state of the ILO, which means that as a member it agreed to the conditions of membership. By joining any organization one agrees to certain things.

One of the things agreed to, as a condition of membership, is that at the end of the conference, if the conference had adopted a convention or a recommendation—as it does every year—as a member state you promise to submit that convention or recommendation to what is called the "Competent Authority". What that means is the competent authority that could carry out ratification for the country, which in this case would be Parliament.

Sen. Wade Mark is absolutely right when he says that this Parliament is the competent authority in relation to Article 19 of membership rules in the ILO. I have never been able to understand why, year after year, this Government refuses to submit, just table the conventions and recommendations in Parliament. I do not know why the Government allows itself to be embarrassed every year before the ILO, because Trinidad and Tobago is mentioned in dispatches year after year for not submitting conventions and recommendations to the competent authority. Every country in the world knows that we have not submitted it in accordance with our membership agreement and this is discussed at the conference.

For between 10 and 15 years I was the Employers' Vice-President of the Committee on Application of Standards, which had to look at the conventions and recommendations that had been ratified by different countries to see whether the countries had in fact carried out their obligations in terms of membership. And year after year I would be embarrassed because my own country, Trinidad and Tobago, would be drawn up for condemnation and comment because the Government did not table these in Parliament. It is not a complicated thing to do, it just has to be tabled as hundreds of other things are tabled in Parliament. It is a very simple thing to do, and I still cannot understand why it has not been done.

We have not had any explanation—I think the question has been asked very often: "Why has this not been done?" It does not mean that the Parliament has to

*ILO Conventions*  
[SEN. BARRACK]

*Tuesday, April 5, 1994*

ratify a convention—and I am pleased to see that the Minister of Labour is here, because I am hoping that some time before this debate finishes we shall get a reason as to why the Government has not seen it fit to submit the conventions and recommendations to Parliament. They just have to be tabled in the same way that the Integrity Commission Report or the Ombudsman's Report is tabled; it does not mean that we have to ratify them or that they have to be turned into law.

If the country does decide to ratify, it is 12-18 months after that it has to be turned into law. There is absolutely nothing to tabling a convention or recommendation but setting it before Parliament so that Parliament can recognize it.

I should also like to make the point that ratification is not an end in itself, and should not be regarded as an end itself. I got the impression from some of the debate so far, that perhaps Sen. Wade Mark does think—as I think a number of trade unionists do—that ratification is important as an end in itself; that the number of ratifications that you chalk up on a blackboard is a tribute to your social conscience or something. But, the fact that an instrument exists does not mean that is necessary or even desirable to ratify it or to turn it into law.

In the 75 years that the ILO has been in existence, several of those conventions and recommendations have gone out of date; others would not be suitable. In other instances, they just do not apply to Trinidad and Tobago, like the ones on long haul road transport. We do not have trucks that have to go for five or six days at a time to reach from one destination to another; it just is not relevant. In some cases I think some of these conventions can even be regarded as inimical to Trinidad and Tobago's interests.

I suspect—and this is from years of observation—that some of the provisions in some of the conventions have been pushed by the metropolitan countries, trying to insist on conditions of employment that are so high that they know that if the developing countries accepted them they would be totally uncompetitive when it comes to competing with the developed metropolitan countries, partly because of the economies of scale and for various other reasons as well.

I can think of examples. Reference was made earlier to some of the conventions dealing with seafarers. Those conventions also apply to fishing vessels. These can be small fishing vessels, and the people who run small fishing vessels in and around the coasts of Trinidad and Tobago simply could not afford to meet those conditions; it just is not possible. Also, there are certain conventions in regard to plantations, which are defined as agricultural holdings, which hire

people other than just people in one's own family. If you look at some the provisions in the plantations conventions—I am not even talking about recommendations, because the recommendations go much much further—it would be impossible for some of the small agriculturists that Prof. Spence is often talking about, to be able to put in those kinds of conditions. It is just not possible.

There is the convention which deals with the employment of women in night work, on which, in fact, Trinidad and Tobago has got legislation—the Employment of Women (Night Work) Act—which is highly discriminatory against women, and which we continue to have on the books. It means that in a number of instances which I know of personally, where women could have gotten employment, they are barred from employment because of this ridiculous law on our books which says that women cannot work in any period of eleven hours which encompasses the hours of 10.00 at night and 5.00 in the morning. So women are effectively barred from night shifts and, therefore, from a number of jobs. There are others, but I am not going to get into details.

Some of the other conventions insist that the governments provide facilities and social benefits which developing country governments throughout the world—and I do not just mean Trinidad and Tobago—simply cannot afford, they just do not have a broad enough social or income base to be able to afford many of the social benefits.

While I was an employer's representative at the Geneva conferences over several years, I was not entirely naive enough to believe the protestations of social conscience that came from many of the employers from a number of the metropolitan countries such as Japan, the UK, the USA and Germany who were encouraging the placing of conditions in conventions which were, to the mind of those employers from developing countries, somewhat extreme.

### **3.10 p.m.**

I am a bit surprised at Sen. Wade Mark's uncritical acceptance of the ILO's standards. It is surprising to me given that the ILO is an international organization and he is so consistently vigilant and suspicious of international organizations such as the IADB and others. That this particular organization is labour-oriented should not be a reason for such a dropping of his guard.

There are other conventions which, I think, are appropriate to conditions in Trinidad and Tobago and have not been ratified. I am not by any means an advocate of rapid ratification, but I was very pleased when Minister Baboolal issued the draft policy statement on persons with disabilities which, in fact,

*ILO Conventions*  
[SEN. MAHABIR-WYATT]

*Tuesday, April 5, 1994*

reflects Convention No. 159. That one is really a policy convention and it does say, as a number of conventions do, which I think are ratifiable, that “each member shall, in accordance with national conditions, practice, and possibilities, formulate, implement and periodically review a national policy.” In this case, it is on vocational rehabilitation and employment of disabled persons, which I think is a matter which should go beyond the Green Paper stage.

Very often we get Green Papers and they remain Green Papers for a long time. This one is dated September 1993. I very much hope that we see some action on this particular Green Paper. I think it is well within the purview of the Minister of Labour and Co-operatives and, if he is making a presentation, I wish he would be so good as to comment on it.

The reason I am so much in favour of this convention is that it means that within the period I have mentioned before—12-18 months after ratification by Trinidad and Tobago—we are bound to put it into law, custom and practice. This is where I realize that the Government is in something of a dilemma. When we start to realize how long it takes to draft an amendment to an existing Bill and get it through this Parliament, it should be quite obvious to most of us that to get an entire law drafted within 12-18 months would be something of the order of miraculous, much more to set up the systems through the Public Service Commission or Organization and Management to put them into practice. We just do not operate that quickly in Trinidad and Tobago. Last week the Minister of Health in his presentation of the Regional Health Authorities Bill, made it quite clear how difficult it is to get anything put into practice.

Apart from that, I would like to stress that the wording of Sen. Wade Mark's resolution says that appropriate steps should be instituted to examine with the aim of ratifying and implementing international law conventions applicable to workers. It is important not only to consider the interests of workers in relation to ratifying conventions, but also the interests of employers and of the nation as a whole. If there were no employers there would be no employees. The meaning of “interests” of workers in industrial relations as reflected in the Industrial Relations Act (IRA) is not necessarily identical to the interests of the Government or the country as a whole.

I think that given the stringent economic conditions that we are experiencing at the moment, and are likely to continue to experience over the next couple of years perhaps this should be broadened to “the interests of the nation as a whole.”

With that word of caution, I should like to go back to Sen. Wade Mark's Motion. I am quite happy to accept his proposal that "urgent and appropriate steps should be instituted to examine"—I think that is fine. But I should like to go a bit further because I think that if it is going to be "examine", it should not be just on a tripartite basis, which includes the Government, labour and employers, but also include non-governmental organizations as well. I think that the interests have to be much wider, because industrial relations touches all of our lives in some way or other. It should not be limited just to narrow political conflicts between employers and trade unions.

The Motion also talks about industrial peace and social stability. I am all for that, too, but not if it means more unemployment. Sen. Junior Barrack has been eloquent on the question of unemployment, and while I cannot match his vehemence and his eloquence, I agree with him that it is one of the most disturbing and demeaning things that a human being can undergo. Not being able to work to support oneself and one's family is psychologically, socially and culturally demeaning.

If the Government starts ratifying Conventions willy-nilly what could happen is that it would have to end up robotocizing industries and getting rid of workers in order to satisfy the provisions of the conventions and the conditionalities that are attached to conventions. That is what they are, because just like international agreements, there are conditionalities attached to conventions. I shall give you an example.

At one conference we were dealing with maternity leave or leave for parents with family responsibilities, as it was finely put. The recommendation was made very strongly by an industrialized country that women be given one year's maternity leave with pay to look after their children. I think this is absolutely wonderful and there is nothing I would like more for women who are employed to have a whole year of maternity leave to look after their newborn babies. But if this went through, what would happen is that no young woman of child-bearing age would be given employment, because no employer in Trinidad and Tobago can afford to give a whole year's maternity leave, with pay, particularly when a woman can have a baby every 12 to 18 months, which means that there would be very little work done and much leave with pay. As much as I should like to see it, I know what would happen. It means that in the end, women would suffer. Female employees would suffer.

I am a very strong supporter of the International Labour Organization (ILO) and I think that the technical assistance programme which Sen. Gosine spoke

*ILO Conventions*  
[SEN. MAHABIR-WYATT]

*Tuesday, April 5, 1994*

about is absolutely first-class. The ILO however, has done some excellent work in this country, and in the Caribbean, and I think the whole organization is to be commended. The fact that I support the ILO however, does not mean that I am uncritical, or that I do not reserve the right to disagree with what it does in certain instances.

I think that the ILO's intentions, from the beginning, have been honourable and commendable in terms of standard setting, but I am not so naive, I hope, as to be unable to discern which conventions are appropriate and which are inappropriate, and I certainly would never take the attitude that we should just go ahead and ratify conventions because they seem to be within "workers' interests."

When Sen. Wade Mark was introducing his Motion he painted a rather bleak picture of labour conditions in parts of the country, in terms of conditions of social justice, and, unfortunately, I think he painted a fairly accurate picture. I agree that lasting peace can only be built on social justice, but I do not think that necessarily equates to ratifying ILO Conventions; we have to go much further than that to achieve social justice.

### **3.20 p.m.**

In Trinidad and Tobago we have over a number of years been such avid proponents of the tripartite system that it was at one time almost raised to the status of religious idealism here.

Over recent years the workforce has changed and society has changed. I think that the tripartite system has not kept up, and I realize that this is almost rank heresy, if one is talking in the context of the ILO. But just to give one example: in the interest of women workers, tripartism has not helped. In fact, I could argue, that it has kept women's interests, insofar as the workplace is concerned, down and marginal."

One will notice that the management of most trade unions is almost exclusively masculine; and that even where the workforce, for example, in banks, is largely female in gender, most of the officers who attend ILO conferences and tripartite meetings, commissions and committees in Trinidad and Tobago, are largely masculine. Mind you, I suppose that they can say with a straight face, as often happens, that they are perfectly capable of representing the interests of women. But it might be a good idea to hear—

**Sen. W. Mark:** Mr. President, on a point of clarification. I must inform my honourable Friend that my union, the Bank and General Workers' Union, has an executive of nine, and that we have four women out of nine. So I think that in our



union we are making remarkable progress in that regard, Ma'am.

**Sen. D. Mahabir-Wyatt:** Absolutely remarkable, Sen. Mark! Could the Senator tell me what percentage of the members of the union are female?

**Sen. W. Mark:** The percentage, Ma'am? The percentage is about 90.  
[*Laughter*]

**Sen. D. Mahabir-Wyatt:** Thank you. My point has been taken.

**Sen. W. Mark:** No, but on a point of clarification—

**Sen. D. Mahabir-Wyatt:** I think you have already had the clarification.

**Sen. W. Mark:** Okay, Senator, I shall reply.

**Sen. D. Mahabir-Wyatt:** But my point is a serious one. Women's organizations do represent the views of women workers and women's interests generally; and they are very rarely consulted. They are asked—and I know that Sen. Mark has been exemplary in this; he does ask that representatives of the university women's research unit, or occasionally other women—in fact he has asked me from time to time—to come and address a conference, but this is a little different. I am not saying that this is tokenism. What I am saying is that I think you have to start seriously taking a look at the tripartite system to see if it cannot be broadened to include elements other than workers, employers and Government—the university, for example, human rights bodies.

This is very much in context of the country's history and culture, because I am not sure that tripartism is. Back in 1937, CLR James wrote very movingly about the Trinidad Workingmen's Association, and at the present time—and I am subject to correction, and I am sure I will be, if I am wrong—the organized labour movement in Trinidad and Tobago encompasses about a quarter of the workforce, perhaps, a little less, maybe about 20 per cent. Back in 1937 there was an organization called the Trinidad Workingmen's Association which covered 186,000, I think it was—I have the figures—over 50 per cent of the workforce; and it included women's organizations; it included snowball vendors, small peasant farmers, housewives; it was a broad social organization with various interests in the country—the entire informal sector.

What I am saying is that perhaps it is time that in Trinidad and Tobago in our current conditions, and to meet the needs and interests of people that are involved in the workforce, or not, our unemployed, we went broader than tripartism, which is not a concept indigenous to Trinidad and, in fact, may have narrowed the interests and been not consistent with what we want in terms of social justice,

*ILO Conventions*  
[SEN. MAHABIR-WYATT]

*Tuesday, April 5, 1994*

stability and peace.

There are a number of areas that I should like to have commented on at greater length, but one point that Sen. Mark made with reference to security guards—and I am not going into that in very much depth, except to say that I support what he says entirely, and I think it is time that we did get our Minimum Wages Order in relation to security guards. But the one thing that I should like to take issue with Sen. Mark on is that he talked about how we are going to deal with certain menacing forces amongst employers, etc. I accept that there are wicked employers, trade unionists, politicians, doctors and lawyers—

**Sen. Capildeo:** Which wicked lawyers?

**Sen. D. Mahabir-Wyatt:** You would not believe it! At all levels of the human race there are wicked people, but I think that most employers are decent struggling people who provide employment for other decent struggling people, and I do not think it is going to make their job and the job of creating social justice any easier by making this kind of gratuitous vilification, which I think is unfortunate.

I should like to come back to the ratification of conventions. I do not think it makes much sense to ratify more conventions than we can decently deal with. I think that this is something which has to be done on a phased basis. I do think that more conventions could have been ratified than have been, but the fact is that Government has not even reported on the ones that have been ratified.

Guyana has ratified more than 40, I believe, but Guyana does not even attend the conference and ignores the conventions because Guyana cannot afford to put into effect either by law, custom or practice, many of the provisions and conventions that, in its rush of socialist fervour, it went ahead and easily ratified.

While I generally support Sen. Mark's Motion, I should like to support it with a bit of caution, because I do not like to see this country being continuously embarrassed, year after year, at the conference, because it does not submit to the competent authority the conventions that are adopted by the conference; and in some cases has not reported—from 1987, if I am not mistaken, in some cases—on certain conventions that have already been adopted; or replied to questions that have been asked. Replies are verbal but somehow we just cannot seem to get our paperwork going.

In that light, I would hope that we get an explanation as to why we did not

submit or table in Parliament conventions that are adopted at the ILO conference. I cannot see why it would be a complicated or difficult issue at all; and I would agree with the need to examine conventions recommendations to see which ones can be ratified, but I would suggest that we move with common sense and caution, and not just say we want to ratify on a blanket basis.

If the Minister is going to consider a number of conventions that Sen. Gosine mentioned, I hope that the Government would consider the ratification of convention No. 159, dealing with disabled persons, because while it is a general policy-making convention, I think it is one that is extremely important to the Constitution of Trinidad and Tobago, and the granting of equal rights to human beings regardless of their ability as well as regardless of race, religion, gender and the other matters mentioned in the Constitution.

Thank you.

**Sen. Rev. Daniel Teelucksingh:** Mr. President, any attempt to promote and safeguard the rights of workers deserves our consideration and support; and in this regard I wish to compliment Sen. Wade Mark on his call for the ratification of additional conventions of the ILO.

Mr. President, I am certainly curious to know why, after being affiliated with the ILO for the past 28 years, we have ratified only a few of the possible 177 conventions.

### **3.30 p.m.**

I am interested in knowing, too, what were the efforts, in the past, of the labour organizations in this country, as a pressure group, to urge previous administrations to adopt at least those conventions appropriate and relevant to us in Trinidad and Tobago.

There are significant conventions which should not ever escape our notice. I also believe that ratification is one thing, but effective implementation is another.

I should like to bring to the notice of the Senate the Minimum Wage Convention, those conventions concerning labour inspectorates, hours of work, night work, working environment, air pollution, noise and vibration convention, Occupational Safety and Health Convention, Medical Care and Sickness Benefits Convention, Workmen's Compensation Convention and conventions on the employment of women and those relating to children and young persons.

We have witnessed in the past numerous labour marches and public protests in which so many were inspired primarily by wages and salary matters, as though this is the only area where pressure on Government or social awareness is required. I ask: when last did the labour unions compel a company to upgrade or halt operations, for example, until toxic fumes from an industry which endanger workers' health are properly addressed, rather than mobilizing forces only for matters relating to salary?

When one considers the adverse conditions under which workers toil in several places of employment, both in unionized and non-unionized labour, there certainly is need to ratify and effectively implement several more of the ILO conventions. On the question of non-unionized labour, both Government and employers need to be more vigilant, since we know there are certain companies which, in making their own rules, blatantly disregard certain basic rights of workers.

Let me make some further observations. Firstly, we are aware that the present chronic unemployment situation in Trinidad and Tobago has created a type of inhumane exploitation of labour, where the poor is reduced to virtual servitude. This is particularly noticeable among the unskilled labour force. Labour here suffers injustice, hardship and privation. Persons are forced to work for little or nothing, for long hours in certain jobs. They work like slaves under adverse conditions and also work in great fear, knowing that they can be dismissed at any time. Included here are domestic workers, gardeners of homeowners, and workers in small business operations. Some work for as little as a meal. I know it is either that or starvation.

I do not think we can wait any longer to have conventions approved before we speak to those who can assist in situations like these; before we speak to them of compassion; before we speak to those of us who wallow in luxury but are content to exact precious labour from the less fortunate among us for less than nothing.

Also, there is need for the ratification and implementation of all the ILO conventions pertaining to the protection of children. The prohibition of employing children under 14 years of age is not taken seriously in Trinidad and Tobago. The conventions provide, without specifying any particular age limit, a higher minimum age for occupations dangerous to life, health or morals of young people.

Listen to one of our street children, 11 years of age, speaking to a press reporter last week. He said:

"People want us to do all their dirty work, clean their dog house, but they do not want to pay us. Some people say they care for us and they give us work, but when we go, all they do is take advantage of us."

This is only one, but there are many more children who have been exploited in our land.

Mr. President, you are aware that young children are employed by certain fruit and vegetable vendors, hustling at traffic intersections under dangerous conditions in blinding rain or blazing sun, working for long hours like any adult, and doing even more than adults, but with very small remuneration; they have been exploited. I personally do not think we should wait for the ILO to remind us in Trinidad and Tobago of the dangers and the evil of this kind of inhumanity.

Thirdly, we must seek to ratify ILO conventions concerning the health of workers, particularly the Occupational Safety and Health Conventions and the Occupational Health Services Convention. Do you know, that Convention No. 162 of 1986 is known as the Asbestos Convention? Of this convention, the present concern of workers at the Hall of Justice about their health is relevant. Such workers, within the past weeks, are afflicted with unexplained illnesses, possibly due to inhaling crumbling asbestos dust. We learnt that a Canadian consultant has refused the job of cleaning air ducts of the air conditioning system because of the presence of asbestos.

The use of asbestos and fibreglass in air conditioning ducts has been banned in the United States, Canada and certain European countries. I wonder who were contracted in the first instance to install the system at the Hall of Justice, and at what cost? Was it due to ignorance on our part? Or was this another rip off job by someone who knew, but used prohibited materials on an unsuspecting Third World people? It is further observed that in the air handlers room of the Hall of Justice, one can find anti-corrosion toxic materials banned in North America. No wonder the workers are sick.

What action is taken by the health authorities? What of air-conditioning units in the hospitals now?

**Sen. Capildeo:** What about the Twin Towers? The Prime Minister must be in trouble now. Who built the Twin Towers?

**Sen. Rev. D. Teelucksingh:** What of the air-conditioning systems in hospitals, offices and homes?

I think we need to launch an immediate investigation into the use of asbestos and fibreglass in local industries. Fibreglass is now commonly used in the motor car body repair garages. Who will educate and protect those young workers in such places? I believe an earlier look at the ILO Asbestos Convention would have made us wiser.

In February of this year, there were complaints from employees at a certain government office and also from workers at a firm whose health was threatened by fumes from a nearby business dealing in toxic chemicals. What action was taken by the Ministry of Health? There is evidence, and we know this, that this situation was brought to the attention of the Ministry of Health for the past two years and nothing was done.

Finally, I come to that resolution in Sen. Wade Mark's Motion, calling for the ratification of conventions which will contribute "to a more propitious climate of industrial peace and social stability in Trinidad and Tobago." This resolution cannot be ignored by any of the social partners—workers, employers and Government.

If ever we needed in this country efforts, attitudes and the agencies for the promotion of industrial peace, it is this afternoon; it is now. I shudder to think of the consequences of Resistance II as planned by the public sector unions if executed as planned. Let me just give you an example of the very fragile and delicate relationship between Government and the public sector labour unions—which is no guarantee at present for industrial peace.

**3.40 p.m.**

There is too much militancy and confrontational strategy in communication. Let me give you a very recent example. I draw your attention to the announcement by the Minister of Finance of a revenue shortfall in the 1994 budget. This has provoked many responses and reactions of hysteria, with expressed fears of increased retrenchment and threats of resistance.

For example, it is no secret that the PSA thinks that Government has declared war on them, and that there are predictions of cuts in personnel expenditure and further loss of public sector jobs. One union said that they are prepared to fight against the renewed efforts of Government to make them pay the cake. This illustrates that there is a breakdown in trust. There is no trust at all. How can there be any guarantee of industrial peace? I personally do not believe that approving more conventions will win for us this very precious industrial peace which the country needs at this time.

The hon. Minister of Finance has since appealed to trade unions against what he sees as an over-reaction to the budget deficit. I am very, very concerned, and I know you are also, Mr. President, about the low level of confidence existing between Government and the public sector unions. This is evident in workers' dress rehearsal demonstrations, and all kinds of threats of protest. Something is certainly wrong, and I most respectfully urge Government and the public sector unions to explore new levels of understanding and co-operation in order to minimize those activities which may set the stage for unhealthy tension and social instability.

I urge Government today, and I am certain many more in this land will do the same—to continue faithfully to address the needs, fears and uncertainties of those who are resisting retrenchment and job insecurity, those who plead for settlement, and, at least, an understanding concerning those grievances which have been with them for the longest while. I really believe that the time has come when we need to explore new avenues in order that there will be trust, understanding and faith existing among the social partners.

I thank you very kindly, Sir.

**Mr. President:** Before I call on Sen. Dean to join the debate, I want to crave your indulgence for a short while. On two occasions today my attention was drawn to the failure of people in the public gallery and the press table to comply with the rules of the Senate. We are very happy to have the media here and to have people come to listen to our debates. There is an old saying that "Ignorance of the law is no excuse." Like everything else, there are rules and regulations which govern the conduct of persons referred to as "Strangers" in the public gallery. That includes the media and the public attending. The relevant Standing Order, 79 on page 80, under the title, "Strangers" says:

- "(1) Strangers may be present in the Chamber of the Senate in the places set apart for them, under such rules as the President may make from time to time for that purpose.
- (2) If, at any sitting of the Senate, any Senator shall move that strangers withdraw, the President shall forthwith put the question 'That strangers do withdraw' without permitting any debate or amendment.
- (3) The President may, whenever he thinks fit, order the withdrawal of strangers from any part of the Chamber and its precincts, and may order the doors of the Chamber to be closed."

*ILO Conventions*  
[SEN. REV. TEELUCKSINGH]

*Tuesday, April 5, 1994*

Subsection (4) is very important:

"(4) Strangers must preserve silence, and must conduct themselves in a fit and proper manner during a sitting.

(5) Strangers must withdraw from the Chamber and its precincts when called upon by the President to do so."

As I say, we are not here to be unfriendly, but we must ask for the co-operation of all concerned in paying respect to the Senate and observing the rules. I just want to put it on record that the police officers here on duty are here to see that the rules are enforced and are at full liberty to eject any person who fails to comply with these rules.

**Sen. Everard Dean:** Mr. President, if more people in this community could carry the cap of a leader who would do the kind of things that you have just done, I think Trinidad and Tobago would be a better place for all of us.

I rise to support the Motion because, in my view, despite the arguments of Sen. Gosine, I see no good reason why, after 28 years, Trinidad and Tobago has ratified only one convention. My information, according to this chart of ratifications, dated January 1, 1990—and the latest I am aware of is a note attached to this chart, dated January, 1992—there were no upward movements as far as Trinidad and Tobago is concerned.

I saw on that chart that after 76 sessions and 169 conventions, we have ratified only 12, and for the record, 10 of those conventions were done by the United Kingdom government on our behalf, on May 24, 1963. The only two that we have done since independence would be Convention 111 and Convention No. 125. This is the information I have before me. It would be very informative to note that Trinidad and Tobago ranks No. 10 behind countries in the Caricom region with ratifications, beginning with Guyana, 40—as indicated by Sen. Mahabir-Wyatt—only for cosmetic reasons. They, in fact, saw the wisdom in ratifying some of these conventions. Barbados: 35; Belize: 27; The Bahamas: 26; St. Lucia, Jamaica, Grenada: 25 each; Dominica: 20; Antigua and Barbuda: 15. I have no figures for St. Kitts and Nevis, St. Vincent and the Grenadines and Montserrat.

**3.50 p.m.**

This record does not speak well for us when one considers that Trinidad and Tobago—as some people say—is one of the most industrialized territories in the Caricom area. We have been talking about social justice from the piloting of this



Motion right up to a few moments ago. Permit me to quote from page 8 of a publication entitled *The ILO and the World of Work* which forms part of the ILO's constitution, which states that:

"A universal and lasting peace can be established only if it is based upon social justice.

Conditions of labour exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled...an improvement of those conditions is urgently required: as, for example, by the regulation of the hours of work, including the establishment of a maximum working day and week, the regulation of the labour supply, the prevention of unemployment;..."

Clearly, if we want social justice and industrial peace, certain conditions must be observed both by the employee and the employer. While I agree that some of these conventions may not be applicable to us and, therefore, will not necessarily need ratification, I suggest that there are some which are applicable and, therefore, need to be looked at.

I know of some cases where accidents happen and the first questions asked by the employers are: "How long will we be down for?" or "What is the extent of the damage to the equipment?" And the worker is thought about after the damage to the equipment is ascertained.

Some of these accidents are caused through employer negligence and, perhaps, we should have a law prosecuting employers for criminal negligence. If we throw our minds back to a couple of months to the Caridoc issue, we would recognize what happened down there. Even up to this time, families of the deceased persons are still suffering because nobody is listening to them; and, maybe, if we had that law of criminal negligence, somebody would have been forced to listen; I say "criminal negligence" only on the understanding that it must be proved.

And speaking about accidents, there is a need to look at staffing at the Factory Inspectorate and what they do. I am told that there is only one qualified inspector, and very often that person visits the factory only when there is an accident to determine the cause of that accident and very little effort is made in overseeing preventive measures.

I should like to ask the Government to consider bringing the long awaited Health and Safety Bill to Parliament, which it is hoped would provide for stricter measures to be observed.

In referring to the ILO's Chart of Ratifications, I observe four conventions relating to safety and health which, I believe, can be looked at with a view to ratification, almost immediately, because I cannot see this interfering with any law. Convention No. 119 provides for the guarding of machinery and was done at the 47th session in 1963; Convention No. 152, Occupational Safety and Health—(Dock Work), was done at the 65th session of 1979; Convention No. 155, Occupational Safety and Health at the 67th session in the year 1981; and Convention No. 167 Safety and Health in Construction, was at the 75th session in 1988.

It is well recognized that all ILO activities observe the rights of man, but there is one group of basic rights that is of particular interest to that organization, namely, trade union rights; that is, protection against forced labour, discrimination among workers, and the right to work.

I often refer to the worker and compare him to the worker bee, in that he goes out and collects the nectar and stores it in his honey stomach then regurgitates it as honey for other people to enjoy. I am sure you will understand the moral behind that statement, and there is no need for me to clarify it.

Since the structure of the ILO provides for tripartite involvement, that is, Government, business and labour on an equal basis, and since the Government is inclined—I understand—to support this Motion, I should like to include, as Sen. Mahabir-Wyatt indicated, the Non-Governmental Organizations; let them form a part of this so called tripartite involvement. I suggest, or even recommend, that the Government actively consider the setting up of this tripartite committee, including NGOs to review the conventions and make positive recommendations on those conventions that are applicable and urgent.

I know, Sir, that it may necessitate writing the agreed conventions into law, which may require consequential changes, but it is important that these conventions, where applicable, be ratified.

Thank you very much, Mr. President.

**4.00 p.m.**

**ADJOURNMENT**

**The Minister of Public Administration (Sen. The Hon. Gordon Draper):** Mr. President, I beg to move the adjournment of the debate on this motion until the next Private Member's Day.

*Question put and agreed to.*

**Sen. G. Draper:** Mr. President, I beg to move that the Senate do now adjourn to Tuesday, April 12, 1994 at 1.30 p.m. Sir, on that day we propose to debate the Motion standing in the name of the Minister of National Security on Privileges and Immunities and the Bill to amend the Maxi-taxi Act, 1992.

**Mr. President:** Hon. Senators, before putting the question on the adjournment, Sen. Hosein has obtained leave to raise the following matter on the Motion for Adjournment. The matter is the plight of roadside vendors. Sen. Hosein, your usual 15 minutes, and the Minister will have 15 minutes to reply.

**Roadside Vending**

**Sen. Muntaz Hosein:** Mr. President, I have pleasure today in bringing to the attention of this honourable Senate, and particularly the Minister of Works and Transport, the plight of roadside vendors in our country, especially those on our highways.

Some 35 years ago roadside vendors began plying their trade along the nation's highways. They did so in peace and in quiet, providing employment for themselves and their families, and in many instances, other families whom they hire. They provide a good service to the public. Some of these vendors open 24 hours a day, seven days a week.

There are many occasions when you are unable to get vegetables and fruits in the market because it is closed, or at groceries and shops when they too are closed. Even as late as 11.00 p.m. and 12.00 midnight, you are able to go on the highways of Trinidad and Tobago and many areas, especially the Aranguez and El Socorro areas, and get these products at reasonable prices from these hard-working people in our nation—providing support, providing a service to this nation.

These vendors provide an avenue for the sale of fruits and vegetables grown by our farmers, in the main, and farmers in neighbouring Caricom countries. The local farmers number in excess of 300. They employ an average of four persons,

*Roadside Vending*  
[SEN. HOSEIN]

*Tuesday, April 5, 1994*

and if you are able to use an average of five persons per family, you will see that you are talking in terms, in excess, perhaps, of 6,000 people.

Roadside highway vending is a worldwide institution. For example, in the United States, Canada, and Europe proper lay-bys are erected to assist the farmers, vendors and the unemployed. But what do we find in Trinidad and Tobago? The NAR Government accepted this system of lay-bys but something went wrong in the implementation which resulted in the white elephant of the Tunapuna highway market.

On January 31, 1994 at a meeting of farmers and vendors in Aranguez, the Minister of Works and Transport accepted the suggestion of County Councillor Babulal, and indicated that the vendors would be allowed to carry on their business until lay-bys were erected.

Mr. President, let me read from a letter written by Councillor Babulal dated March 21, 1994. It is addressed to the hon. Minister of Works and Transport. It says:

*Roadside Vending*

*Tuesday, April 5, 1994*

"Dear Sir,

At a Public Meeting held at the Aranguez Hindu School on Monday, January 31, 1994, which you attended, I raised the issue of vending off the C. R. Highway in the vicinity of Aranguez.

I proposed at that Meeting the provision of a Lay By/Market Mall for the Vendors. You agreed to that proposal, and stated that your Ministry will be providing the Market Mall/Lay By before any Vendor is displaced. Surprisingly, Notices for the removal of Entrances and Structures within fourteen (14) days were served on the Vendors on Friday, March 11, 1994.

The Vendors are providing a service both to the travelling Public and the Farmers. It is their only means of livelihood in these harsh economic times, and they are struggling to survive to meet family needs and other commitments.

Therefore, without prejudice to their rights, I am appealing to your good Office to extend the time so specified in the Notices until the Vendors Mall/Lay By is provided for the Vendors. The Highways Act Chapter 48:01, Section 52, Subsection 2 provides for the extension of time.

May I remind you that the Constitution of Trinidad and Tobago, and the Principles of Public Law demand that you act reasonably and in order to promote the rights to the protection of Law, and Right to Life of the Vendors as enshrined in the Constitution.

Yours faithfully,

Signed/Satya Deo Babulal  
Councillor."

c.c. The Leader of the Opposition  
Honourable Augustus Ramrekersingh  
Mr. Selby Wilson - NAR

Mr. President, in addition to that letter another letter was written, this time to Mr. Roger Ganesh, Director of Highways. This was written by Mr. Ramesh Garib, secretary to those vendors. It says here:

"Dear Mr. Ganesh,

At our last discussion on Wednesday 16th March 1994, our committee have accepted the proposed site for the Vendor Market Area between Nanan Trace Extension and The C.R. Highway. Upon your request our list of proposals are as follows:

*Roadside Vending*  
[SEN. HOSEIN]

*Tuesday, April 5, 1994*

- (a) The Market Mall be provided for the vendors before any removal of present entrances and vending structures.
- (b) The Acquired lands be filled.
- (c) Proper security, fencing, maintenance and garbage disposal systems be in place.
- (f) A car park to the front and driveway to the back of the market mall with both entrances onto the Churchill Roosevelt Highway."

**4.10 p.m.**

All the names of the vendors are listed. In conclusion, they say that the vendors are willing to beautify and maintain the drainage where they now occupy. The letter is signed by Ramesh Garib and the Councillor, Mr. Satya Deo Babulal. It is carbon copied to the MP for the St. Joseph area, Mr. Ramrekersingh as well as to Mr. Ramesh Lawrence Maharaj.

I want to read a third letter written by Mr. Rana Ramkisson, Chairman of the Highway Vending Association. This is also to the Minister of Works and Transport. The letter states:

"We humbly request that you extend the deadline date as stated in your notices for the removal of entrances and structures pending discussions with you on this very delicate matter.

Sir, vending here has been and still is our only means of survival especially in these harsh economic times. We know that you truly care about us and our future, and will do whatever is in your power to assist us. As you had stated at a meeting in a school at Aranguez in the month of January last that you would not displace us."

It goes on with the same tone of the two letters before.

There is a fourth letter which states:

"Notice under section 54(2) of the Highways Act Chap. 48:01. Take notice that in contravention of the Highways Act, Chap. 48:01, an entrance under your control/possession has been erected on a road of Trinidad and Tobago. "

I do not want to call the name of the vendor to whom it was sent.

"You are hereby required to remove the entrance within fourteen (14) days, failing which the entrance would be removed under the provisions of

section 66 1—9 of the said Highways Act, and you may be called upon to meet the expenses incidental thereto."

The letter is signed by the Minister of Works and Transport, Highways Authority. This letter is dated March 11, 1994. The date has already expired for the removal of these people.

Further to these letters, I called the Minister on March 21, 1994 and to this day he has not seen it fit to even return that call. I know that he may be a busy man, but I believe that common courtesy dictates that people return calls, especially since I made it my business to tell his secretary the nature of the call, so he is fully aware.

It is instructive to note that the Constitution of Trinidad and Tobago states—I wish to refresh the memory of the Minister. The Preamble to the Constitution states:

"Whereas the people of Trinidad and Tobago:—

- (a) have affirmed that the Nation of Trinidad and Tobago is founded upon principles that acknowledge the supremacy of God, faith in fundamental human rights and freedoms, the position of the family in a society of free men and free institutions, the dignity of the human person and the equal and inalienable rights with which all members of the human family are endowed by their Creator;
- (b) respect the principles of social justice and therefore believe that the operation of the economic system should result in the material resources of the community being so distributed as to subserve the common good, that there should be adequate means of livelihood for all, that labour should not be exploited or forced by economic necessity to operate in inhumane conditions but there should be opportunity for advancement on the basis of recognition of merit, ability and integrity;"

I will go on to quote one small part of the Constitution, Chap.1 The Recognition and Protection of Fundamental Human Rights and Freedoms, Part I, Rights Enshrined states:

- (4) It is hereby recognized and declared that in Trinidad and Tobago there have existed and shall continue to exist, without discrimination by reason of race, origin, colour, religion or sex, the following fundamental human rights and freedoms, namely—

*Roadside Vending*  
[SEN. HOSEIN]

*Tuesday, April 5, 1994*

- (a) the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law";

**Mr. President:** You have only two minutes left.

**Sen. M. Hosein:** Thank you, Mr. President.

One would see very clearly that although the people involved may have infringed the law, this is a situation that has gone on for over 35 years. The reason for so doing is very clear to all of us. We are into harsh economic times. This Government should not displace people who are willing to work, because when we look around we see that jobs are so difficult to come by that this Government is unable to provide the necessary jobs. We are therefore saying that there is a moral right of people to work, and the Government has a moral responsibility to assist people to earn a livelihood.

The Minister, and by extension the Government, has accepted the question of lay-bys and should provide them on a phased basis. And as they are made then these vendors should be removed onto the lay-bys. By doing that, everybody would be happy. The Government and people of Trinidad and Tobago would get a more structured and reasonable way of vending off the highway. The vendors would continue to make a living and therefore, all would be happy and well. No one would be displaced. Instead of displacing people, we would be providing more employment by making the lay-bys.

I appeal to the Minister, to do everything in his power to keep his promise and to make certain that no vendor is allowed to lose even one day's work.

Thank you.

**4.20 p.m.**

**The Minister of Works and Transport and Minister of Local Government (Hon. Colm Imbert):** Mr. President, as you may be aware, this is the third occasion I have come to this Senate to debate this Motion. Firstly, let me apologize to the Senator. When I received the message of his telephone call it was shortly before my first visit to this Senate to debate this Motion, and I assumed I would get the opportunity to talk to the Senator at that time. Please accept my apologies for that.

In response to the matter that Sen. Hosein has raised, he quite correctly stated that vending on the highway is illegal, and for the benefit of hon. Senators, the



relevant sections are sections 50 to 68 of the Highways Act. Let me read it for Senators [*Interruption*] No, no, not the whole thing, just the relevant parts of the sections.

- "52. (1) Where a structure has been erected or set up on a highway otherwise than under provision of this Act or some other written law, the highway authority for the highway may by notice require the person having control or possession of the structure to remove it within such time as may be specified in the notice.
- (2) Where a local highway authority serves a notice under this section, the person on whom the notice is served may, within seven days from the date of service of the notice, appeal to the Minister, and, if it is shown to the satisfaction of the Minister that the removal of the structure within the time specified in the notice would cause undue hardship to any person, the Minister may extend the time by such period as he thinks just."

Similarly, section 54 makes it illegal to pitch a booth, stall or stand on a highway. The same applies to illegal entrances which are covered by sections 66 and 67.

Let me correct some inaccurate information. At the meeting in Aranguéz, referred to by the Senator—at which the Senator was not present, at least not to my knowledge—

**Sen. Hosein:** Mr. President, on a point of order. I wish to inform the Minister that I was present. I heard him.

**Hon. C. Imbert:** He may have been there, but not to my knowledge, Mr. President. I clearly stated at that meeting that notices would be served on the vendors occupying the highway reserve in the Aranguéz/El Socorro area, and that I could give no guarantees that removal of the structures would not take place. I clearly stated that notices would be served and the Highways Authority would be taking the appropriate action against persons who had erected structures or had made entrances to the highway illegally.

**Sen. Hosein:** Again, Mr. President, I have to correct the Minister on a point of order. The Minister made that statement in relation to a warehouse and a scrapyard that were on the highway.

**Hon. C. Imbert:** Mr. President, the fact of the matter is that there are legally authorized areas in Trinidad and Tobago for the sale of produce: the various markets around the country and other authorized areas.

*Roadside Vending*  
[HON. C. IMBERT]

*Tuesday, April 5, 1994*

The reason that the Highways Authority has served notices on persons—and we have done so all over the country, it has not been concentrated in the Aranguéz/El Socorro areas: we have done it in several parts of the Churchill Roosevelt Highway, Diego Martín Highway, South Trunk Road, Solomon Hochoy Highway—is that the operations being carried out are simply unsafe. From a traffic point of view, it is not safe to have a number of entrances onto the main carriageway of any highway at short intervals. In the particular case, the Aranguéz/El Socorro area, I am advised that there are over 20 stalls in a very small area, approximately 500 yards, and there are exits and entrances onto the main carriageway of the highway every 30/40 feet. That is extremely unsafe.

Persons who frequent these outlets sometimes park on the shoulder; sometimes their vehicles project onto the carriageway; there have been several accidents in this particular area—I am advised there have been, at least, two deaths, persons either actively involved in the operation themselves, or persons who had stopped to buy produce. It is simply not safe. There are the Aranguéz Road intersection with the highway; the bridge over the San Juan River and the very large intersection with the Uriah Butler Highway. There is a lot of traffic activity taking place in that very compressed area, and it is simply not safe to have these unauthorized exits and entrances in that area.

I am afraid that the Ministry cannot allow this type of activity to take place in that location. This is where the question of lay-bys comes in. A lay-by is an area of roadway off the highway which allows the proper transition from the highway to the area of vending and back onto the highway, so that it conforms with all traffic safety regulations. I am not convinced at this point that that small compressed area presents enough mileage, enough length of carriageway for construction of a proper lay-by with an appropriate exit; the exit may be too sharp, and again we may end up with traffic safety problems.

However, my engineers are looking at a lay-by in that particular area which will involve some acquisition of land and considerable expense to the state. The preliminary cost at this point is \$1.5 million, which includes all the costs. Sen. Hosein has read out a letter to one of the engineers in the ministry which listed a number of requests, including construction of 35 x 20 booths, car parks, drainage and so forth. These are very costly items, and the fact of the matter is that the ministry is in no position at this present time to source the funds for the construction of this lay-by, or lay-bys in any other part of the country.

At present we are determining the most appropriate locations for lay-bys, we are preparing outline designs and we are costing them, and we shall have to approach the Cabinet for some source of funding for the construction of these lay-bys.

In the meantime, I regret that we cannot allow this uncontrolled situation to continue, where almost on a daily basis new stalls are going up, a proliferation of activities is taking place, and as the Senator correctly pointed out, there are persons who are also engaged in non-agricultural oriented activities. I have a list here: two scrapyards, two pottery sheds, two plant nurseries, a gravel and sand stockpile. These businesses have all sprung up over the last twelve months in that area between Aranjuez and the intersection with the Uriah Butler Highway, and these have no relationship whatsoever with the farmers to whom the Senator referred. They are in violation of all the Town and Country Planning Regulations. As hon. Senators know, that land is zoned for agriculture, so that a scrapyard or a gravel and sand stockpile has no nexus whatever to agricultural activity.

So that at this time all I can say is that the Government cannot allow the proliferation of vending stalls in this particular part of Trinidad. We are proceeding to design lay-bys, we are costing them, and I will be approaching the Cabinet very shortly to source the funds for the in construction. But the ministry must take action as it deems necessary to ensure the safety of the travelling public. So that we will be taking action in instances where we believe that public safety is in danger. That is all I can say at this time.

**Sen. Hosein:** Mr. President, before the Minister takes his seat. He mentioned two deaths. Could he give us the dates and the names of the persons who died?

**Hon. C. Imbert:** Mr. President, I do not have the precise dates at this time, but I will get the information and send it to the hon. Senator in writing so that he could have the exact dates, nature of the accidents, names of the victims.

But the fact of the matter is that no reasonable person can say that these operations are safe. They are not safe. Persons park on the shoulder, which is an area reserved for accident and emergency vehicles; for ambulances; when there is a traffic jam the shoulder is where the ambulance passes; if a vehicle has broken down the shoulder is provided for the vehicle to be taken off the road. That is

*Roadside Vending*  
[HON. C. IMBERT]

*Tuesday, April 5, 1994*

what the shoulder is for; the shoulder is not for persons to park to buy produce from roadside vendors. It is just not safe, and we are interested in public safety. I am very sorry, but we have to consider public safety paramount. There are other areas where people can sell their produce; they do not have to sell on the highway.

Thank you, Mr. President.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 4.31 p.m.*