

**THE
PARLIAMENTARY DEBATES**

OFFICIAL REPORT

*IN THE SECOND SESSION OF THE NINTH PARLIAMENT OF THE REPUBLIC
OF TRINIDAD AND TOBAGO WHICH OPENED ON DECEMBER 17, 2007*

SESSION 2009-2010

VOLUME 13

Friday, December 04, 2009

The House met at 1.30 p.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, I have received communication from the following Members requesting leave of absence from the House: the hon. Kamla Persad-Bissessar, Member of Parliament for Siparia, from today's sitting of the House; the hon. Kelvin Ramnath, Member of Parliament for Couva South, likewise, from today's sitting of the House; so too the hon. Subhas Panday, Member of Parliament for Princes Town North; and also the hon. Harry Partap, Member of Parliament for Cumuto/Manzanilla. The leave which all these Members seek is granted.

PAPERS LAID

1. The audited financial statements of the Trinidad and Tobago Free Zones Company Limited for the year ended December 31, 2007. [*The Minister of Works and Transport (Hon. Colm Imbert)*]
2. The audited financial statements of the Trinidad and Tobago Free Zones Company Limited for the year ended December 31, 2008. [*Hon. C. Imbert*]
3. The audited financial statements of the Vehicle Maintenance Corporation of Trinidad and Tobago for the financial year ended September 30, 2008. [*Hon. C. Imbert*]
4. The audited financial statements of the East Port of Spain Development Company Limited for the financial year ended September 30, 2008. [*Hon. C. Imbert*]

Papers Nos. 1 to 4 to be referred to the Public Accounts (Enterprises) Committee.

ORAL ANSWERS TO QUESTIONS

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, the Government can answer four questions today as follows: Nos. 67, 68, 69 and 108. I would ask for a deferral of two weeks for the other questions.

The following questions stood on the Order Paper:

**Johns Hopkins University/Hospital
(Terms and Conditions of Arrangement)**

8. Could the hon. Minister of Health state:
- (a) whether there is any formal arrangement between the Government of Trinidad and Tobago/Ministry of Health and the Johns Hopkins University/Hospital for the provision of services to the people of Trinidad and Tobago; and
 - (b) if the answer to (a) is in the affirmative, could the Minister state the terms and conditions of the arrangement? [*Dr. H. Rafeeq*]

**Registered Private Hospitals
(Details of)**

25. Could the hon. Minister of Health state:
- (a) how many private hospitals are registered under each of the (6) classes of private hospitals according to the Laws of Trinidad and Tobago, Chap. 29:03, section 8;
 - (b) the date the licence was issued for each; and
 - (c) what was the last date an inspector or inspection team inspected the hospital as required according to sections 18 and 19 of Chap. 29:03 of the Laws of Trinidad and Tobago? [*Dr. T. Gopeesingh*]

**Summit of the Americas
(Details of Cost)**

58. Could the hon. Minister of Finance state:
- (a) The budgeted cost for the Summit of the Americas?
 - (b) Whether there were any cost overruns? and
 - (c) If the answer to (b) is in the affirmative, how much did the overruns amount to and the areas where they occurred? [*Mr. V. Bharath*]

**Pre-Summit Preparations
(Details of)**

- 64.** With respect to the pre-summit preparations could the hon. Minister of Trade and Industry and Minister in the Ministry of Finance please advise:
- A. The number of personnel who were hired;
- (i) to clean the area along the route travelled by the summit participants; and
- (ii) paint the curb walls and road barriers along the route? and
- B. Whether this work was done by existing CEPEP and URP workers? [*Mr. J. Warner*]

**Quasi State Enterprises
(Details of)**

- 109.** With respect to the following state or quasi state enterprises:

UDeCott

Home Mortgage Bank

TTMF

NIB

NIPDEC

- A. Could the hon. Minister of Finance state, for each agency/company:
- i. the total monthly emolument package attached to the position of Executive Chairman/Chairman namely:- salary and perquisites;
 - ii. the other financial beneficial considerations attached to these positions (including housing, transport, overseas travel, entertainment and medical allowances/facilities);
 - iii. the provision for any bonus payment relevant to these positions and the basis for such payments as they exist in any of these agencies/companies;
 - iv. the actual sums of any bonus paid to the holder of these offices in these companies for each year from 2006 to present?

- B. With respect to UDeCott, could the Minister indicate:
- i. when was the post of Executive Chairman first introduced;
 - ii. whether the contract of the incumbent in this position was recently renewed;
 - iii. the date of the last renewal of the contract of the incumbent; and
 - iv. an indication of the change in the terms and conditions of the current contract compared with the previous? [*Dr. K. Rowley*]

**National Flag
(Details of)**

- 110.** With respect to the national flag located at the Hasely Crawford Stadium could the hon. Minister of Sport and Youth Affairs state:
- (a) the dimensions of the National flag;
 - (b) the cost of the flag, flagpole and any cost associated with the erection of same;
 - (c) the name of the supplier of the flag and flagpole; the procedure for the procurement of this particular flag and flagpole; and
 - (d) whether there are any recurrent costs associated with the flag; if the answer is in the affirmative, please state the costs? [*Mr. J. Warner*]

**Purchase of Marine Vessel
(Details of)**

- 111.** A. Could the hon. Minister of Sport and Youth Affairs state whether or not the Ministry of Sport and Youth Affairs has purchased a marine vessel?
- B. If the answer to (A) is in the affirmative, please state:
- (i) the purpose for which this vessel will be used;
 - (ii) the cost of the vessel;
 - (iii) the name of the supplier of the vessel;
 - (iv) the recurrent cost associated with the maintenance of the vessel;
 - (v) the process for the procurement of this marine vessel? [*Mr. J. Warner*]

Questions, by leave, deferred.

Solicitor General
(Details of Appointment)

67. Dr. Hamza Rafeeq (*Caroni Central*) asked the hon. Attorney General:

With respect to the appointment of a Solicitor General could the Attorney General state:

- (a) the date on which the post became vacant;
- (b) since the post became vacant, the number of times the Prime Minister objected to the appointment of persons recommended to fill the post;
- (c) the names of the persons to whom he objected; and
- (d) the reasons for his objection in each case?

The Attorney General (Sen. the Hon. John Jeremie SC): Mr. Speaker, with respect to part (a), the post of Solicitor General became vacant on February 20, 2006, on the retirement of Miss Lynette Stephenson SC. Miss Carol Hernandez was appointed to act as Solicitor General with effect from March 27, 2009.

With respect to part (b), the exercise of the veto in Trinidad and Tobago is an integral part of the internal decision-making process which leads to senior appointments in the public service, including appointments of senior officers who fall under the purview of the Judicial and Legal Service Commission. Section 111(2) of the Constitution provides that, and I quote:

"Before the Judicial and Legal Service Commission makes any appointment to the offices of Solicitor General, Chief Parliamentary Counsel, Director of Public Prosecutions, Registrar General or Chief State Solicitor it shall consult with the Prime Minister."

It is important to guard against the erosion of the confidentiality which ought to attend these internal decision-making processes.

Unwarranted intrusion into these processes carried with them the potential to destabilize and to undermine the decision-making process. This is not to say that there will never be cases in which such intrusions are acceptable. It is only to say that this is not considered to be one of those cases.

As to parts (c) and (d), these individual applicants are not beneficiaries of public resources, but are simply applicants for positions in the public service. The questions as posed in parts (c) and (d), involved the disclosure of information that is personal to the individual applicants, that is the names and identities of such

individuals. These persons are merely participants in a process which might or might not lead to their being selected for a senior position in the employ of the State.

As such, they are entitled to the full privacy rights set out in the Constitution. To reveal in this honourable House what are in effect, the personal details of applicants who in good faith have applied for these positions, is to do them a grave disservice. The Executive ought not to override the rights of these individuals, to respect for their private life as set out in section 4(c) of the Constitution. That is to say, the Executive as the potential employer of these applicants for positions in the Executive arm of the State, ought not unilaterally to disclose the names and identities of the persons who might have applied for these positions without the express consent being given by these persons in advance to such public disclosure, especially in circumstances where the applicants have not in fact been appointed. Such permission has not been given in this case.

Dr. Moonilal: Thank you very much, Mr. Speaker. Could the Attorney General indicate—without asking for the names of persons—how many persons have been objected to or vetoed by the Prime Minister for the appointment of Solicitor General?

Sen. The Hon. J. Jeremie SC: I am sorry. I neglected to read the last paragraph of the answer, so with your permission. As a consequence, it is not advisable and would indeed be constitutionally improper to publicly reveal the private details of these individuals in the specific circumstances of this case, as is called for in part (b), (c) and (d) of this question.

Thank you.

Dr. Moonilal: No, I have the same supplemental. It was not a response, the part that you missed out. The number of persons that have been refused, not the names, for this position.

Sen. The Hon. J. Jeremie SC: Well, that information is not in my possession. I am not aware that any official register is kept of those persons.

Dr. Moonilal: Is the Attorney General aware of any reasons for the objections to persons?

Sen. The Hon. J. Jeremie SC: As a matter of law, reasons are not at the present time given or required.

Mr. Manning: That is right, or required.

**Chief Parliamentary Counsel
(Details of Appointment)**

68. Dr. Hamza Rafeeq asked the hon. Attorney General:

With respect to the appointment of a Chief Parliamentary Counsel could the Attorney General state:

- (a) the date on which the post became vacant;
- (b) since the post became vacant, the number of times the Prime Minister objected to the appointment of the persons recommended to fill the post;
- (c) the names of the persons to whom he objected; and
- (d) the reasons for his objection in each case?

The Attorney General (Sen. the Hon. John Jeremie SC): Mr. Speaker, with respect to part (a), the post of Chief Parliamentary Counsel became vacant on February 18, 2008, on the retirement of Claire Blake SC.

With respect to parts (b), (c) and (d) of the question, the response is identical to the one which I have just read.

**Director of Public Prosecutions
(Details of Appointment)**

69. Dr. Hamza Rafeeq asked the hon. Attorney General:

With respect to the appointment of a Director of Public Prosecutions, could the Attorney General state:

- (a) the date on which the post became vacant;
- (b) since the post became vacant, the number of times the Prime Minister objected to the appointment of the persons recommended to fill the post;
- (c) the names of the persons to whom he objected; and
- (d) the reasons for his objection in each case?

The Attorney General (Sen. the Hon. John Jeremie SC): With respect to part (a), the post of Director of Public Prosecutions became vacant on January 05, 2009, on the resignation of Mr. Geoffrey Henderson. Mrs. Carla Brown-Antoine was appointed to act with effect from January 05, 2009.

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Mrs. Carla Brown-Antoine took up an appointment as a High Court Judge on September 17, 2009. Mr. Roger Gaspard was appointed to act with effect from September 17, 2009 to December 31, 2009.

With respect to parts (b), (c) and (d) of the question, the response is identical to that which I have read before.

Dr. Moonilal: Is the Attorney General saying that the Prime Minister and the Government are under no duty to disclose to the population the number of persons who have applied—the number, not the names—any reason for their rejection without reference to the individual? Is that what the Attorney General is indicating?

Sen. The Hon. J. Jeremie SC: Certainly with respect to the last part of your supplemental question, I can answer that without doing any research, and the answer is that there is no obligation on the part of the State to provide reasons. That has been the traditional position in law. It is now the subject of some litigation which is to go before the Privy Council in, relatively speaking, short order, but as a matter of standard practice, your friend and leader from Couva North would tell you that there is no obligation on the part of the Executive to give reasons. [*Crosstalk*]

Mr. Speaker: Order! Supplemental!

Dr. Rafeeq: Thank you, Mr. Speaker. To the hon. Attorney General. As Attorney General, are you aware that there are any persons whose name have been vetoed for the position of Director of Public Prosecutions (DPP)?

Sen. The Hon. J. Jeremie SC: Am I aware of that?

Dr. Rafeeq: Yes.

Sen. The Hon. J. Jeremie SC: Not as Attorney General. From what I read in the newspaper, I believe that it might be possible. If the newspaper is gospel truth, it might be possible that persons might have been vetoed.

Dr. Moonilal: That is what you read.

Sen. The Hon. J. Jeremie SC: Buy an *Express*, *Newsday*.

Mr. Speaker: Supplemental!

Mr. Sharma: Thank you, Mr. Speaker. Can the Attorney General please advise; the parts of the question that you have not answered, is that information available under the freedom of information?

Mr. Speaker: That is not a question you are obliged to answer.

**Desalination Plant
Craignish Estate
(Details of Lease Arrangements)**

108. Dr. Hamza Rafeeq on behalf of Mr. Subhas Panday (*Princes Town North*) asked the hon. Minister of Local Government:

With respect to the Craignish Estate:

- A) Could the Minister inform this House when the State will enter into a lease arrangement with the owner of that portion of the Craignish Estate for the use of a parcel of land for recreational purposes;
- B) Is the Minister aware:
 - i) that a motion for lease of a parcel of land at the Craignish Estate was approved by the Princes Town Regional Corporation on March 24, 2009;
 - ii) that the use of the land for a recreational ground was approved by Town and Country Planning Division on May 27, 2009; and
 - iii) that the motion referred to in paragraph B(i) above was forwarded to the Ministry of Local Government on June 24, 2009?

The Minister of Local Government (Sen. The Hon. Hazel Manning): Thank you very much, Mr. Speaker. With respect to question 108, part A, the lease arrangement for the use of a parcel of land on the Craignish Estate for recreational purposes is currently being processed by the Ministry of Local Government. And for part B(i), (ii) and (iii), the answer is yes.

Mr. Speaker: Supplemental!

Dr. Moonilal: Could the Minister indicate whether or not there is any time line or estimation of when this processing will be completed?

Sen. The Hon. H. Manning: Mr. Speaker, not at this point in time. As soon as I do, you can ask again and I will be here again.

Dr. Moonilal: At this time you do not know the time line?

Sen. The Hon. H. Manning: No, I do not know the time line.

Mr. Speaker: Order!

Statement by the Minister

Friday, December 04, 2009

1.45 p.m.

**STATEMENT BY MINISTER
Water and Sewerage Authority
(Separation of Water/Waste Water Functions)**

The Minister of Public Utilities (Hon. Mustapha Abdul-Hamid): Mr. Speaker, I have been authorized by the Cabinet to make the following statement on behalf of the Government of Trinidad and Tobago. The statement explains the context and rationale of the decision taken by the Government to separate the water and waste water functions of the Water and Sewerage Authority (WASA).

This honourable House would appreciate that this is a matter of critical importance to the population, so that time and care must be taken to provide the details that the population deserves. In this regard, I thank you for your consideration and that of the honourable House.

Mr. Speaker, it is necessary to start by providing a contextual background in terms of, one, the establishment of WASA as a national utility with responsibility for both water and waste water service provision; two, the changing demand for these services brought upon primarily by the development of the housing and industrial sectors, and, three, the ways in which these demands have shaped the priorities and activities of the utility.

This address to the House would include a discourse on the present situation with respect to the national water and waste water services, before setting out, in some detail, the plans for the development of the water sector, as well as the plans for the development of the waste water sector. The analysis will then outline the business case for the need for separate entities to bring these necessary development plans to fruition.

Mr. Speaker, the Water and Sewerage Authority was established in 1965 by Act No. 16, cited as the Water and Sewerage Act, which provides, among other things:

“...for the development and control of water supply and sewerage facilities in Trinidad and Tobago and matters of sanitation incidental thereto...and for the establishment of an Authority to administer the several purposes aforesaid...”

Under the Act, WASA is responsible for maintaining, developing and constructing the sewerage system and for the administration of sewerage services in Trinidad and Tobago. Under sections 50 and 51, WASA is also responsible for enforcing water pollution standards.

Prior to the establishment of the Act, the responsibility for the management of water and waste water services was discharged by seven different agencies, including the Central water distribution authority; the Port of Spain City Council, the San Fernando Borough Council, the Arima Borough Council and the Water and Sanitation Department of the Ministry of Public Utilities.

Recommendations for a single national utility with responsibility for water and waste water were made by the World Health Organization (WHO), in the context of the fragmented nature of the delivery system that obtained at the time, given the relatively large number of agencies involved in water production and transmission.

Water and waste water services were and still remain vital, nationally important and central to the ongoing development of Trinidad and Tobago. Access to water and waste water services is a basic right that affords our citizens a decent standard of living. This fundamental premise underpins the critical analysis and the evolution of the two sectors, since the establishment of WASA. It also informs the conceptualization and implementation of suitable strategies for improving service provision in the context of new external realities and the Government of Trinidad and Tobago's Vision 2020 objectives.

Since the advent of WASA, a number of major investments have been made in the water sector, resulting in appreciable gains in the supply of water services. These investments have included the expansion of production and distribution infrastructure as well as the administrative infrastructure.

Mr. Speaker, in 1965 the total water production capacity was a mere 47 million gallons per day. In addition to a limited production capacity, the transmission and distribution system was also woefully inadequate in terms of capacity where it existed and in terms of its national geographic reach, in that, most of the distribution network was confined to the urban centres, with extremely limited coverage in rural areas.

In 1975, the Courland Waterworks in Tobago added 1.5 million gallons of water per day to the production capacity. Four years later, the North Oropouche Waterworks added 20 million gallons per day and Navet a further 19 million gallons a day. The Northern Range Valley projects, which saw the establishment of water treatment facilities at Aripo, Guanapo, Caura, Acono and Lengua, were completed in 1980. One year later, the Caroni Water Treatment Plant was completed, adding a further 60 million gallons per day to the total production capacity. This capacity was further increased with the construction of the desalination plant at Point Lisas in 2002.

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The increased production achieved by the establishment of these plans has been supplemented by increases in the number of wells to just over 220, and river intakes at several locations, including Santa Cruz, Cantaro, Pipiol, Cascade, St. Ann's, Las Cuevas and Blanchisseuse. These infrastructural developments together led to the expansion of the overall production capacity from 47 to 225 million gallons per day.

Similarly, the pipeline network for water transmission and distribution has been significantly increased from 450 kilometres to approximately 6,000 kilometres, representing an expansion in terms of both the volume and geographical reach of the water distribution infrastructure.

Mr. Speaker, despite the significant strides made in infrastructural development and the provision of water supply to domestic, industrial and agricultural customers, the Government of Trinidad and Tobago is still not satisfied with the present situation, as there is some distance to go to meet current demands and to provide for the growth and changing patterns of demand for water in the medium and long terms.

The investment in infrastructure has not thus far kept pace with the increase in the size and spread of the housing stock constructed by the Housing Development Corporation and private developers, both in Trinidad and Tobago. Additional pressure is brought to bear on WASA by the large industrial sector, which has significantly ramped up the demand for potable water over the years.

Mr. Speaker, in the past, WASA has classified the level of supply to customers based on the number of hours of pipe borne water supply that customers experienced. However, a more recent evaluation of levels of supply of water to customers by the new board and management, has categorized the level of service to customers more accurately, as follows: Level A represents 18 per cent of the population, with customers receiving a water supply on more than four days per week; level B represents 64 per cent of the population, with customers receiving a water supply on three to four days per week; level C representing 18 per cent of the population with customers receiving a water supply less than three days per week.

At present, the priority is to improve the regularity of supply to the majority of the population who receives a less than reliable supply of water, particularly those citizens who receive potable water less than three days per week.

In order to accomplish this, we propose to begin a major infrastructure development programme, some details of which have been articulated previously,

with more comprehensive details to be presented as a subject of another statement in Parliament in the very near future. In short, the planned infrastructural programme is designed to increase the water production capacity as well as the expansion of the transmission and distribution system.

The programme includes improvements to the existing network of pipelines to reduce the amount of potable water lost, from the current 40 per cent down to an internationally acceptable level, and the expansion of the network, better to service the large conurbation on the west coast of Trinidad as well as rural and suburban areas throughout both islands.

Another major consideration is the need to devise ways of reducing the demand from the industrial sector for potable water, which could then be redirected towards meeting the needs of the residential, and to a lesser extent, commercial and other customers.

In stark contrast to the significant, albeit still insufficient gains, made in developing the water sector since inception, the waste water sector has seen very little improvement or expansion. Of the 4,000 permanent employees within WASA, only 400 are employed directly in the waste water sector.

In terms of the budgetary allocation towards waste water, this sector currently receives approximately 6 per cent of WASA's overall operating budget. A similar situation exists with the capital budget, with 94 per cent of the overall budget being allocated to water production, transmission and distribution. This acute imbalance is a clear reflection of just where priority has been placed historically by the authority.

Although WASA has responsibility for waste water services nationwide, it has not been able to keep up with the growth in population, private development and industry in terms of waste water infrastructure and waste water infrastructure development and service delivery.

Since the Lock Joint sewer project of 1962 added 344 kilometres of sewer lines to the previously existing 84 kilometres, WASA has added fewer than 200 kilometres of sewer lines, despite the exponential expansion in both the housing and industrial sectors.

Mr. Speaker, it is interesting to note that at present just over 30 per cent of the population is currently serviced by central sewerage systems. This includes 20 per cent of the population serviced by WASA's sewerage systems, the remaining 10 per cent use systems installed by the HDC and private developers. Industry and

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some government institutions, including some schools, have also provided and operated their own waste water collection and management systems. Most of the remaining population, around 70 per cent, uses onsite septic systems and, in some cases, outhouses are still to be found.

Additionally, some of the private development systems, having been abandoned or not improperly maintained, are derelict and not properly functional, resulting in the risk of the release of untreated sewage into the natural environment. Along with malfunctioning onsite septic tanks, if appropriate action is not taken, all these have the potential to impact significantly on public health and the environment, particularly ground and service water sources.

The 249 facilities across the country use a variety of technologies and reflect that proper consideration was not given to future growth or the establishment of larger catchment areas, resulting in a fragmented system, not far removed from the pre-1965 scenario. The current waste water infrastructure, not including private residential onsite septic systems, consists of approximately 54 lift stations, with six in Tobago, 195 treatment plants, with 28 in Tobago, just over 630 kilometres of known sewer pipes with 200 kilometres in Tobago. Sewage is collected and transmitted in the pipelines via the lift stations or pumping stations to the treatment plants for processing, prior to safe discharge into the environment.

There are five main drainage areas, including two in Tobago, as follows: The Port of Spain system, including some areas of Diego Martin, Maraval, San Juan, Morvant and St. Ann's, which is serviced by the Beetham Waste Water Facility, the country's newest and largest treatment facility. The collection system for this area is approximately 274 kilometres or 43 per cent of the national pipe network.

For the Arima system, which is serviced by the Arima Waste Water Treatment Plant, the collection system comprises approximately 91 kilometres of pipelines or 14 per cent of the national pipeline network. The San Fernando system, which is serviced by the San Fernando Waste Water Treatment Plant, this drainage area has approximately 63 kilometres of pipelines, representing 10 per cent of the national network. The Scarborough system, which is serviced by the Scarborough Waste Water Treatment Plant, and the Milford Court Coral Gardens area, serviced by the Milford Court and Corral Gardens waste water treatment plant. The two Tobago systems comprise 200 kilometres of pipeline network or 33 per cent of the national network.

The main waste water systems are under the direct control of WASA. The Beetham Waste Water Treatment Plant is operated by AECOM under contract with WASA, but with the participation of WASA's staff or knowledge transfer.

Mr. Speaker, WASA is in the process of assuming control of the abandoned small treatment plants built by private developers, as well as facilities established by the Housing Development Corporation (HDC) and other Government organizations.

2.00 p.m.

At present there are four contractors including the Solid Waste Management Company of Trinidad and Tobago operating plants transferred from Government. There is currently inadequate preventative maintenance of the pipe network with almost all repairs and maintenance; that is inspections, cleaning, flushing, et cetera occurring in response to breaks and service problems.

Almost the entire pipe network is at least 40 years old and requires attention. These pipelines may also be susceptible to blockages and increased inflow and infiltration of storm water due to cracks and leaks, thereby using up some of the capacity required for sanitary sewage flows.

In general, the level of treatment varies based on the types of treatment processes available at each facility. In many cases, the treatment is insufficient due to either the lack of proper processes or malfunctioning equipment. The pumping and treatment capability of the waste water system can be summarized as follows: Currently, 159 or 82 per cent of the 195 plants are functioning at varying levels of acceptability; 3 per cent or five are under construction; 31 or 15 per cent are considered to be abandoned by private owners; there is inadequate treatment processes for waste water at 80 per cent of the plants; no system redundancy at approximately 80 per cent of the facilities; no standby power at 70 per cent of the facilities and no automation at approximately 60 per cent of the facilities.

During breakdowns, there are no back-up units available to continue the sewage pumping at the stations resulting in the risk of sewage overflows. The lack of stand-by power capability can lead to labour-intensive, time consuming and inefficient corrective measures being undertaken. Only 23—27 per cent of the facilities are in satisfactory mechanical and electrical condition; 45 per cent are in good or adequate structural condition.

These figures suggest that the majority of the facilities are in poor or unknown condition and require significant upgrades to ensure functionality and reliability of service. It is therefore no exaggeration to describe the state of waste water services in Trinidad and Tobago as unacceptable.

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We are determined however, to bring this sector up to an acceptable standard that would not only satisfy our aspirations of becoming a developed nation by the year 2020, but will also enable citizens to enjoy ongoing improvements in service in the short to medium term.

Mr. Speaker, Government has identified the following as key objectives with respect to waste water service delivery:

1. Improve the quality of waste water services to customers based on industry best practice.
2. Minimize the potential impact to the natural environment and public health through the implementation of appropriate waste water management practices and compliance with acceptable pollution standards.
3. Establish an effective quality assurance system to ensure service reliability over the long term and build public confidence.
4. Establish an appropriate legal and policy framework for the sustainable delivery of waste water services.
5. Implement a public education strategy to build awareness of the waste water services, the importance of proper waste water management practices and the roles and responsibilities of individuals regarding pollution prevention.
6. Identify opportunities for revenue generation and self-financing including the potential for the reclamation and reuse of effluent water from the waste water treatment process.
7. Create opportunities for growth and development of existing staff within the waste water sector recognizing their qualification, expertise and knowledge.
8. Develop the knowledge, skills and abilities of staff with respect to waste water management and build a capacity to sustain an acceptable quality of waste water services over the long term.
9. Treat staff fairly with respect to the transformation of waste water services.
10. Work jointly and co-operatively with the duly recognized trade unions representing the respective bargaining units throughout the process of repositioning the waste water services.

11. Maintain public ownership, control and responsibility for waste water but leverage private sector expertise and services to enhance service delivery where appropriate.
12. Implement appropriate changes sooner rather than later to realize service delivery improvement as quickly as possible.

The plan for developing the waste water sector includes improving and increasing the network of sewer pipelines to service the majority of households.

Derelict treatment systems established by private entities mainly for housing development will have to be upgraded or replaced outright and new ones constructed commensurate with the expansion of the pipeline network.

The construction of additional waste water facilities similar to that of the Beetham Waste Water Treatment Facility will also allow for the large volumes of water that are produced as effluent from the treatment process to be used by industry, particularly in places like Point Lisas, Pointe-a-Pierre and La Brea instead of the relatively large amount of potable water that currently goes to that sector.

Mr. Speaker, at present a detailed design is being undertaken for a waste water treatment system for San Fernando by a consulting firm. The Government expects that some 100,000 persons from San Fernando and environs will be direct beneficiaries of the new system.

Another priority area for a new waste water treatment plant is the densely populated and expanding Borough of Chaguanas. Having completed conceptual designs for the new treatment plant, the Government has identified a suitable site for construction.

The more established communities within and around Chaguanas, as well as comparatively newer ones like Orchard Gardens, Homeland Gardens and Edinburgh will all benefit from the new waste water plant.

Similarly, the large conurbation made up of contiguous towns and industrial estates along the East-West Corridor is another area identified for urgent infrastructural investment. Expanding communities like Malabar in Arima exert considerable pressure on the existing waste water systems. The design for a major waste water system for Arima and environs has already been completed and the process of implementation is at present being considered.

In Tobago, the addition to the plans to improve the waste water systems to benefit a greater proportion of consumers in the residential sector, the Government proposes that the hotels, many of which have their own private systems in varying

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states of functionality be connected to a central sewer system via the South/West Tobago Waste Water Project.

Mr. Speaker, the expansive development programme for both water and waste water sectors requires the realignment of WASA in order to optimize deployment and use of its Board of Commissioners, management, staff, finances, plant and equipment. Given the tremendous amount of work that is required to bring waste water services up to the requisite standard and the plans for the continued development of the country's water production and delivery services, the most prudent and viable course of action is to separate the two services under the aegis of two different entities, that is to say, one authority to manage the water sector and a separate and distinct authority to manage the waste water sector.

Firstly, this will allow the country to make good on its ambitious but vitally important plans for the water sector. These plans require not only dedicated management, focus and attention, but an alignment of human, financial and other resources towards its achievement. Without a single-minded approach to the water sector, the attainment of developmental plans for the water sector will, in all likelihood, continue to be compromised.

Secondly, having a separate entity assume responsibility for the waste water sector would allow it to be dedicated exclusively to developing that sector.

The current unacceptable state of the waste water sector as outlined earlier, requires an approach to development different to the water sector. Some commentators point to the examples of a number of developed countries where waste water and water services fall within the purview of the same utility. The Government of the Republic of Trinidad and Tobago appreciates that indeed, there are often synergies to be had by having the same entity handle both functions.

At the same time, it must be recognized that in those countries, in many cases, the two sectors are at the same or comparable levels of development and sophistication, thus the business model they employ allows for scale economies and other efficiencies that justify them that they come together under the same national or regional utility.

By contrast, in Trinidad and Tobago the impact of WASA and the agencies that predated it having responsibilities for both water and waste water services has been decidedly deleterious rather than synergistic and given present, short and medium term institutional, technical and other constraints, this will continue to be

the case going forward unless there is a significant change in the form of two distinct entities exclusively and respectively devoted to the two sectors.

The decision to set up a separate waste water utility should therefore be viewed as an enabling one insofar as it allows for the most effective deployment of resources towards the achievement of these plans for the two sectors. These plans cascade down from Government's Vision 2020 strategy and objectives.

Of course, the separation of the two functions will involve the process of transformation of WASA. A ministerial transition task force was set up to oversee the transition of waste water services from WASA and a consulting firm DFA Infrastructure International Incorporated was selected to assist the task force. The DFA team brought deep experience to the table having completed a number of large projects around the world.

WASA has involved other stakeholders in the process including the three duly recognized trade unions: the Public Services Association which represents monthly paid workers; the National Union of Government and Federated Workers, which represents daily-paid workers and the Estate Police Association which represents security officers.

The unions have not only been engaged but have been very supportive of the transformation of waste water services and will continue to be an integral part of the process. This approach is fully in keeping with the good industrial relations practice and demonstrates transparency and goodwill on the part of the board and the shareholder.

Mr. Speaker, consequent upon the advice of the consulting DFA Infrastructure International Incorporated, the realignment of the waste water sector will be undertaken in three sequential phases.

Phase 1 is the first step in the transition process involving:

- the removal of the responsibility for the provision of waste water services from WASA and includes the development of a transitional development plan detailing the activities to be undertaken during each phase of the transition;
- the establishment of a separate accounting structure for waste water by activity;
- the establishment of a separate waste water capital and operating budget for the 2009—2010 fiscal year;
- the identification of current staff resources and capacity available for operations and maintenance;

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- the transferring of existing staff into the waste water division;
- an assessment of the role of the private sector regarding plant operations and maintenance;
- the development of an implementation strategy to take on abandoned plants;
- a review and development of a structure for the establishment of the new waste water organization detailing roles and responsibilities of officers and the assessment of the collective agreements and conditions that may need to be addressed to facilitate the transition.

Phase 2 is intended to implement improvements to the waste water sector to July 2010. This phase involves:

- developing and establishing new initiatives within the waste water sector which include developing operational and maintenance manuals for use by staff and contractors;
- designing the legal and policy framework for the implementation of a National Waste Water Management Plant for Trinidad and Tobago;
- developing waste water management policies and applications;
- identifying the strengths, weakness, opportunities and threats relevant to the waste water sector;
- developing a plan to guide the process of the integration of the waste water systems and waste water service expansion;
- implementing the new organizational structure;
- continuation of the process to migrate and manage staff into the waste water division.

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- designing a public education strategy for waste water management;
- assessing the full cost of managing waste water services to guide development of future budgets and discussions with the Regulated Industries Commission on rates;
- providing a framework for the water reclamation reuse in Trinidad and Tobago;

- developing and implementing a quality assurance programme for all works ensuring compliance with international standards;
- designing and implementing a strategy and programme of action for capacity building and training and development relevant to the waste water sector;
- developing and enacting new legislation relating to water and waste water and repealing the existing Water and Sewerage Act;
- new legislation will be drafted and submitted to Cabinet and Parliament by July 2010 for review;
- implementing an employee performance management system to improve accountability with the organization; and
- recruiting a chief executive officer and executive management team for the new organization.

Phase 3 addresses the full establishment of a new waste water organization external to WASA which is programmed to take place by December 2010. This phase includes transferring the operations to and monitoring the performance of the new waste water organization while developing the new initiatives as follows:

- refining the operational structure for the management of waste water in Trinidad and Tobago;
- establishing the separate waste water organization as a stand-alone entity;
- guiding the transfer process such as assets and shared services into the new organization;
- assessing the performance of the waste water organization;
- reassessing organizational capacity to determine the outstanding gaps in staffing and any refinements required;
- continuation of the roll out of changes being implemented during Phase 2.

Phase 1 is already underway. The new waste water office has been set up at Liberty Centre in Chaguanas. The transition team has been looking at all the details associated with managing the separation of waste water, particularly the issues of legislation, human resources and plant and equipment.

In terms of legislation, the Water and Sewerage Act will need to be replaced by Acts to establish the new water authority and the new waste water entity. Engagement

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of the trade unions, staff and other stakeholders is critical to achieving this. Beyond mitigating the impact of the transition on staff, the team's remit includes ensuring the optimal deployment of human resources currently at the organization's disposal.

In a real sense, Phases 1 and 2 can be seen as a seamless continuum of activities rather than two distinct phases.

Phase 2 involves the implementation of improvements to the waste water sector through the development of new initiatives in order to establish a fully functional entity and also to carry out sustainable improvements to the waste water sector, which will allow it to meet its current and future demands. This phase is critical to the successful separation of waste water services from water services. It is a precursor to establishing a distinct external utility that would be governed by new legislation, as it would allow for the activities that are necessary for the accelerated and ongoing development of the waste water services sector to be started.

The establishment of the new external entity will take place in Phase 3 once the necessary legislation is in place. Prior to the external waste water organization being established all waste water operations would have to be transferred. It is at the end of this phase that the new waste water organization would be established as a separate legal entity. We must ensure that we have designed and established an organization with the full capacity, strength and resources to properly manage its comprehensive mandate.

Another entity that has been pivotal to the determination of the best way forward for the waste water services sector is the Solid Waste Management Company Limited (SWMCOL) which also reports to the Ministry of Public Utilities. As an established player in the waste management arena, SWMCOL is being looked at in respect of a possible future role in the waste water sector. This potential involvement will require the transformation of SWMCOL not only in terms of the capacity building, but also to the development of its infrastructure and competency base.

Despite SWMCOL's current involvement in operating waste water plants transferred from government organizations and in the disposal of septic system waste at landfill sites, it is not ready to handle waste water services on a national scale due to its limited jurisdiction for solid waste management, as well as existing constraints and challenges relating to its present operations.

SWMCOL's suitability for assuming responsibility for this sector will be revisited only after the transformation of the solid waste sector; the evaluation of the performances of the new solid waste management company and the new waste

water organization on a cost benefit basis. The activities to be undertaken in support of this transformation process are as follows:

- the conduct of a comprehensive review of solid waste management services including a review of the roles and responsibilities of the various agencies currently involved in the delivery of these services;
- the identification of current staff, resources and capacity available for service delivery;
- the assessment of the role of the private sector regarding solid waste services;
- the assessment of the collective agreements conditions that may need to be addressed;
- the development of standard operating procedures for use by staff and contractors;
- the design of the legal and policy framework for the implementation of a national solid waste management plan for Trinidad and Tobago;
- the identification of the strengths, weaknesses, opportunities and threats relevant to the solid waste sector;
- the development of a strategy to guide the process for the integration of the solid waste systems and service expansion;
- the development of a new organizational structure for solid waste;
- in addition, the design and implementation of a strategy and programme of action for capacity building, training and development relevant to the solid waste sector;
- the design of a public education strategy related to solid waste for implementation; and
- the development and implementation of a quality assurance programme for all works ensuring compliance with international standards.

Although progress has been made over the past four decades, in terms of water supply and distribution, there was very limited improvement related to waste water. WASA in its current form has been unable to achieve simultaneously an acceptable level of service for both water and waste water.

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This situation has not arisen so much as a result of wilful neglect of waste water services, but as a consequence of the pressing demand for potable water over the years which led to water being accorded a greater level of urgency and importance by the utility.

The lack of attention that the waste water sector has received and the concomitant threats to human health and the natural environment require urgent and substantial measures in order to address the situation. There must be in effect a real change in the way the waste water is handled for the sector to be improved to the extent that is warranted by the current demand and the thrust for national development, as mandated by the Vision 2020 aims and objectives.

At present, several of the functional areas of WASA including procurement, Human Resources and marketing are shared between waste water and water services. While this situation may on paper appear to be an efficient arrangement, the reality is that any potential administrative efficiency gains are outweighed by the ineffectiveness of the overall business model. Separating waste water development from WASA is the best possible strategic option, as this would facilitate refocusing not only waste water services but also the delivery of water services in the future.

The new waste water authority that would be charged with responsibility for developing the sector will allow for an exclusive dedication to waste water; a greater focus on national Vision 2020 strategy and objectives pertaining to waste water and the control of water pollution; possible synergies to be had in the long term by combining waste water and solid waste, especially in the areas of combining sewage sludge with other organic materials; the rationalization of various roles regarding controlling water pollution which are currently within the purview of different agencies including the EMA.

We are confident that this Government has devised a comprehensive waste water strategy with input from all stakeholders that would enhance its ultimate success, as well as ensure that the process of transitioning to the new waste water organization is as smooth as possible.

In implementing this strategy, the best interest not just of the Water and Sewerage Authority, but those of the people of Trinidad and Tobago will be served. The objective of the Government of Trinidad and Tobago is to ensure

that our citizens are the beneficiaries of a better quality service in water and waste water. Indeed, these are important and strategic interventions aimed at improving the quality of life for all our citizens.

Thank you. [*Desk thumping*]

ARRANGEMENT OF BUSINESS

Mr. Speaker: Hon. Members, there is a statement to be made by the hon. Minister of Community Development, Culture and Gender Affairs. As has become the norm, it is not quite ready, the Government is not quite ready. The Government is asking the indulgence of the House for the Minister to make that statement at 4.00 p.m.

STATEMENTS (LENGTH OF)

Mr. Speaker: I want to address this issue of the length of statements. I have allowed the hon. Minister to make a statement lasting virtually 40 minutes. I want the Government to know that that is the exception. Statements, historically in this Parliament should not go beyond 20 minutes. If the government whoever it is in government wishes to change that, there is something called the Standing Orders and they can address it through the Standing Orders.

Henceforth, I want to indicate to the Government that statements will be confined to not more than 20 minutes. If the Government wishes to change that there is a procedure by which it can do that. The Minister of Community Development, Culture and Gender affairs will make her statement at 4.00 p.m.

PRISONS (AMDT.) Bill

Bill to amend the Prisons Act, Chap.13:01 [*The Minister of National Security*]; read the first time.

TOBACCO CONTROL BILL

Order for second reading read.

The Minister of Health (Sen. The Hon. Jerry Narace): Mr. Speaker, I beg to move,

That a Bill to prevent tobacco use by children; regulate tobacco use by individuals; enhance public awareness of the hazards of tobacco use and ensure that individuals are provided with information to make more fully informed decisions about using tobacco; protect individuals from exposure to tobacco smoke; prohibit and restrict promotional practices; prevent smuggling of tobacco

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provide for regulation of tobacco products to mitigate against the harmful effects of tobacco; and provide for other related matters, be now read a second time.;

We will all agree that one of the main duties of a country's government and legislature is to enact legislation to protect people's lives. This Bill constitutes a perfect example of how we can be true to our duty to care and protect the citizens and future generations of this country. The Tobacco Control Bill, 2009 seeks to protect individuals from exposure to tobacco smoke, particularly children, babies, born and unborn, pregnant women and indeed the vulnerable.

The Bill also seeks to prevent smoking by young people, especially children; to restrict promotional activities by tobacco manufacturers; enhance public awareness of the hazards of tobacco use; ensure that consumers are provided with sufficient information to make more informed decisions on using tobacco products and prevent illicit trade.

Having just concluded the Commonwealth Heads of Government Meeting (CHOGM) 2009, right here in Port of Spain, we had the opportunity to convene with participating member states. There was a mix of both developing and developed nations at this meeting. Of notable mention is that all developed countries at CHOGM have enacted tobacco control legislation. In fact, there is a clear correlation between a country's development status and its willingness to adopt measures to protect its citizens from the effects of tobacco.

Of the 194 independent nations in the world, 33 of these are classified by the IMF as having advanced economies. Each of these 33 has successfully passed tobacco control legislation. We can therefore easily conclude that tobacco control is considered quite significant for the development of a nation.

2.30 p.m.

As you are aware, Mr. Speaker, there is a vast number of persons, globally and locally, who are addicted to tobacco products. Cigarette smoking has been identified as a major public health concern all over the world. Tobacco smoke has been reliably linked to the development of several non-communicable diseases including heart disease, diabetes, hypertension, impaired lung function, emphysema, chronic obstructive pulmonary disease and cancers of the pancreas, lungs, throat and mouth.

Whilst a person's decision to smoke is arguably his or her right, one cannot ignore the risks second-hand smoke poses to innocent bystanders, especially

our precious children. It is now globally and unequivocally accepted that there is no safe level of exposure to second-hand smoke.

Mr. Speaker, second-hand smoke kills. The World Health Organization (WHO), the US Surgeon General and the United Kingdom Scientific Committee on Tobacco and Health have all agreed that second-hand smoke is responsible for a range of diseases.

During pregnancy, female smokers have a greater risk of miscarriages and other complications. The chances of a baby dying at birth or shortly thereafter are increased if the mother smoked during pregnancy. Babies of women who smoked or who were exposed to second-hand smoke during pregnancy are, on average, smaller at birth than babies of non-smoking mothers, and these babies are more likely to get infections and have other health problems.

Scientific evidence tells us that the number of cigarettes smoked during pregnancy and the growth of the foetus are inversely related. Furthermore, parental smoking has negative long-term effects on children and can result in impaired learning and behavioural problems.

The WHO has therefore named tobacco as the second leading cause of death in the world and holds it responsible for over 100 million deaths worldwide during the course of the 20th Century. Moreover, the WHO estimates that in the 21st Century, tobacco could kill one billion people if urgent action is not taken. There were 100 million last century and one billion this century.

Tobacco is the only legal consumer product which can harm everyone exposed to it. According to the WHO's 2008 Report on the Global Tobacco Epidemic, it kills up to half of those who use it as intended. In other words, this product, if used as intended, will kill you and those around you.

Globally, it is estimated that unless action is taken now, some 30 to 40 per cent of the 2.2 billion children and teenagers in the world will become smokers in early adult life. In our own local setting, the youth tobacco survey conducted in 2000 tells us that 40 per cent of young people between the ages of 13 and 15 years have smoked cigarettes at least once in their lives.

Another study, the Global School Health Survey, conducted in 2007, found that as much as 80 per cent of students of Form 1 to Form 4 who smoke had tried their first cigarette before the age of 13 years. Thus there is an urgent need to take firm public policy action on cigarette marketing and use in this country in an attempt to protect our young people.

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I want to give credit where credit is due. Since 1997, the then UNC administration publicly stated its support for a tobacco-free lifestyle. Under the Minister of Health at the time, Dr. Rafeeq, the Ministry of Health adopted a sector policy mandating a smoke-free work environment. As such, all buildings, facilities, vehicles owned or occupied by the Ministry of Health and the RHAs were declared smoke free. Visible no-smoking signs were placed in strategic areas as reminders of this policy. Furthermore, to support the implementation of the policy, employees were educated and exposed to information on the health risks associated with smoking.

Later in 2000—I think Dr. Rafeeq was the Minister then—the country began active participation in international negotiations for the development of the framework convention on tobacco control. This global health treaty was unanimously adopted by the World Health Assembly in 2003. Trinidad and Tobago signed the treaty and was one of the first 40 countries to ratify it, thereby bringing it into force in 2005.

The point is that tobacco control is a familiar and accepted policy position for Members on both sides of this House. In April 2005, a policy for the establishment of a smoke-free environment in all buildings, not just the Ministry of Health, and vehicles owned by any Ministry, department or state agency was introduced. This policy was also supported with tailored educational interventions whereby employees were exposed to information on the health risks associated with smoking. Consequently, we have had full support for this policy and as such all public buildings where public officers work are now smoke free.

In 2007, Cabinet approved the formation of an Intersectoral National Tobacco Control Committee, under the chairmanship of the Ministry of Health, in collaboration with PAHO, WHO and the Trinidad and Tobago Cancer Society. This committee has held tobacco sensitization sessions for members from the various sectors, NGOs, as well as the media. I make the point that there has been consultation on a broad approach.

Being conscious of the need to implement supportive programmes for cessation, the Ministry has also developed a policy outlining a full public health approach to cessation and we continue, as part of our health promotion and health education initiatives, to provide to the general population, behaviour change communication material outlining the harmful effects of tobacco consumption and the various approaches on how to quit.

One of our more recent publications, the *Live Well* newsletter, has been disseminated to 225,000 households in Trinidad and Tobago providing advice on

the topic of cessation. In addition, we have been doing advertisements, lectures and a lot of work to educate the public and to assist in cessation efforts.

Our national record shows that the leading causes of death over the past decade have been due to cardiovascular disease, cerebrovascular disease, cancers and diabetes. These are all chronic non-communicable conditions which are associated with tobacco use. Together, these diseases account for approximately 60 per cent of all deaths in this country.

As a result of the burden from these chronic, non-communicable diseases, public expenditure on drugs for their treatment has increased by over 250 per cent over the last six years. It grew from \$30 million in 2004 to \$121 million to date and counting.

Despite these statistics, the sale of cigarettes has been on the increase. Although increases in taxes have been imposed over the years, tobacco manufacturers have consistently reported positive, after-tax profits for the last 10 years. For the period 1998 to 2008, these profits have grown from \$28.1 million in 1998 to TT \$209.2 million, an increase of 645 per cent. Despite the fiscal measures, we have introduced, sales too, have grown by an average of 12 per cent per annum. It is evident that we need to introduce more comprehensive measures to reduce tobacco demand in this country. The Tobacco Control Bill, 2009 satisfies this need.

Mindful of our public health function and this Government's duty to ensure that our citizens enjoy the highest attainable standard of health, it is our intention, through this Bill, to regulate the manufacturer, the manufacture, promotion and sale of tobacco products and to offer the population protection from exposure to the toxic smoke and emission from these products. We propose to do so within a regulatory framework that effectively addresses the harm caused by tobacco, while, at the same time, providing flexibility to address advances in technology and science as they occur. This is a hallmark characteristic of a developed nation.

The Tobacco Control Bill carefully follows the best practice guidelines recommended by WHO's FCTC. The objective of the FCTC is to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke.

To achieve this objective, parties are expected to be guided by the following principles:

- Every person must be informed of the health consequences, addictive nature and mortal threat posed by tobacco consumption and exposure to tobacco smoke;

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- The effective legislative, executive and administrative measures must be taken at the appropriate governmental level to protect persons from exposure to tobacco smoke; and
- Every person must have the right to be free from exposure to tobacco smoke.

As a party to this convention, Trinidad and Tobago is committed to fulfilling these objectives in our own environment for the benefit of our people. The need for legislation in this country is such that public opinion is not only behind this Bill, but is now essentially pushing for its passage.

Most of you, I am sure, have seen the campaign undertaken by the Trinidad and Tobago Cancer Society listing a number of civil society organizations that have thrown their support behind the Bill. In addition to this, a petition calling for enactment of the legislation was actually delivered to the Minister of Health, signed by the following bodies:

The Cancer Society; the Medical Association; the Registered Nurses Association; the Family Planning Association; Rebirth House; the Child Guidance Clinic of the NWRHA; the NPTA; the Coalition for Tobacco Free Tobago; ALTA; ASJA; the Sanatan Dharma Maha Sabha; the Muslim League; the Commission for UNESCO; DOMA; the Catholic Commission for Social Justice; the Seventh-Day Adventist Union; the Just Because Foundation; the Dragon Boat Racing Association; the Network of NGOs of Trinidad and Tobago; and a number of other organizations, too many to mention.

On a continuous basis, I also receive numerous calls and letters calling for the enactment of this legislation. Let me at this juncture remind this honourable House of the results of a public opinion poll conducted by MORI in 2006. The poll found that 87 per cent of persons strongly agreed that all enclosed workplaces, including public places, should be smoke free. Sixty-five per cent of smokers themselves also agreed that there should be no smoking in enclosed workplaces. The majority of our citizens will not only benefit from this legislation, but are urgently calling for the passage of this legislation.

While our main concern is the health and well-being of our citizens, this legislation will, nevertheless, also assist in the sustainability of the health care delivery system. Treating preventable CNCDS is a less cost effective means of utilizing a country's resources. Once passed, the Bill will provide long-term benefits to the health system by reducing the resource constraints currently imposed by tobacco-related diseases. Resources can then be redirected to illnesses

that are less preventable, to greater health promotion and prevention and also to widen the range of health services offered to citizens.

Before I proceed with the clause by clause explanation of the Bill, I remind this honourable House that an exhaustive consultative process has already been followed for the Tobacco Bill. Approximately one year ago, the Bill was introduced in another place and was referred to a special select committee. The latter contemplated issues raised during the debate and amended the Bill accordingly. However, Parliament prorogued, the Bill lapsed and was resubmitted to the LRC. The revised Bill was then considered by the LRC together with the stakeholders concerned and further amended.

2.45 p.m.

In July 2009, the Tobacco Bill was laid in the other place and was subsequently debated. During these debates, and up until its passing, the concerns raised by hon. Senators in the other place were considered and the Bill has been amended accordingly. Therefore, the Bill before this honourable House constitutes a comprehensive document which reflects changes proposed by a number of different parties and addresses concerns that have been raised throughout the entire process.

Mr. Speaker, please permit me to now proceed and take this honourable House through the Bill clause by clause.

Clause 4 sets out the proposed meaning of a number of words and phrases that are used repeatedly in this Bill. To this end, the following words have the following corresponding definitions:

“‘enclosed’ in relation to a space, means any space covered by a roof completely or substantially enclosed, with the term substantially enclosed meaning more than fifty per cent closed to the outside air;...

‘public place’ means any place accessible to the general public or place of collective use, regardless of ownership or right of access;...

‘smoking’ means inhaling, exhaling or handling an ignited or heated tobacco product or a tobacco product producing emissions by any means;...

‘workplace’ means any place used by persons during their employment or work and includes vehicles, common areas, and any other area which is generally used during the course of employment or work, but does not include private residences or private vehicles.”

Clause 5 sets out the responsibilities of the Ministry of Health. Consequently, the Ministry of Health is mandated to establish a dedicated unit which will be responsible for, inter alia, developing and implementing in collaboration with national stakeholders, a national strategic approach to tobacco control and monitoring activities nationally to ensure compliance with and enforcement of the Act, and for considering and evaluating applications for licences on behalf of the Minister. It is material to note that the unit shall be headed by a director appointed by the Minister and who shall be responsible to the Permanent Secretary of the Ministry.

Clause 6(1) empowers the unit to carry out evidence-based programmes to inform the public of, inter alia:

- “(a) the dangers and addictiveness of tobacco use and the dangers of exposure to tobacco smoke;
- (b) the benefits of and strategies to quit smoking; and
- (c) the tobacco industry and on the health, economic and environmental effects of tobacco production and manufacturing...
- (e) alternative income earning opportunities for small retailers.”

Clause 7 provides that:

“The unit may request authorized officers to carry out inspections and investigations.”

To this end, clause 8(1) provides that authorized officers shall have the power to:

- “(a) examine, open, and cause to be tested any equipment, tools, materials, packages or anything the authorized officer reasonably believes is used or is capable of being used for the manufacture, including packaging and labelling, storage, distribution, advertising or promotion of tobacco products;
- (b) examine any manufacturing operation or process carried out on the premises;
- (c) examine and make copies of or from any books, documents, notes, files, including electronic files, or other records that the authorized officer reasonably believes might contain information relevant to determining compliance with this Act;

- (d) interview any person the authorized officer believes may have information relevant to making a compliance determination; and
- (e) take samples of tobacco products or components of products, and their packaging, from any business where they are found, to have them tested.”

However, it is material to note that at clause 8(2):

“Only authorized officers who are either customs officers or police officers shall have the power after obtaining the consent of the owner, manager or lessee or after obtaining a warrant to—

- (a) enter the premises of any business place where tobacco is manufactured, sold, transported, received, distributed, supplied, or otherwise found or is likely to be found, or to have been present during the previous six days, but for the purposes of enforcing this Act, authorized officers may enter any public place, workplace or means of public transportation to conduct inspections or investigations at any time during business or operating hours or at any other reasonable or necessary time;
- (b) stop, search, and detain any aircraft, ship, vehicle or other means of transport or storage in which the authorized officer reasonably believes bulk packaging of tobacco products are or were contained or conveyed, and examine, open, and take samples; and
- (c) seize and detain from any business or order the storage without removal or alteration of any tobacco product or other item the authorized officer reasonably believes does not comply with this Act.”

In this regard, it is important to note that the authorized officer shall provide the person in possession of the tobacco products or other items with a written record in respect of the tobacco products or other items seized and detained and the grounds for same.

Clause 9(1) provides:

“In exercising their functions under this Act, authorized officers shall present proof of identity.”

Clause 10 provides that no person shall manufacture, import, export or sell tobacco products at wholesale without first having a licence. However, it is to be noted that at clause 10(2), such persons shall have a grace period of up to nine months from the date this Act comes into force to obtain a licence. So, there is a period of time.

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Clause 10(4) provides that the application fees for a licence under this Act, are set out in the First Schedule and shall be paid to the Comptroller of Accounts or any other revenue office and the receipt shall be submitted with the application.

Clause 10(7) provides that once a licence is granted, it remains valid for a period of three years.

Clause 10(8) provides that:

“Where an application for a licence is denied, the applicant shall cease manufacturing, importing, exporting or selling tobacco products immediately upon notification of same.”

Clause 10(9) provides that:

“Where a person applies for the grant of a licence after the expiry of the transitional period, the applicant may continue to manufacture, import, export or distribute tobacco products at wholesale until notice is received by the applicant that the application is approved or denied as the case may be”

Clause 11 states:

“Every manufacturer and importer of tobacco products shall submit to the Minister on an annual basis reports containing the information required under this Act and Regulations.”

Further, clause 11(6) makes it an offence for a person to:

“... disclose any information contained in the Report unless required by the provisions of this Act or any other written law or by Order of the Court.”

Mr. Speaker, as I have stressed before, there is a clear relationship between exposure to second-hand tobacco smoke and disease. Smoke-free environments have been proven to help smokers and prevent smoking initiation especially among our youth.

Consequently, clause 12(1) provides that it shall be an offence for any person to smoke or hold a lighted tobacco product in any enclosed public place, enclosed workplace, or public conveyance including, but not limited to, any place in the Second Schedule namely:

- public transportation terminals;
- workplaces;
- retail establishments including bars, restaurants and shopping malls;

- clubs;
- cinemas;
- concert halls;
- sports facilities;
- pool and bingo halls;
- publicly owned facilities rented out for events; and
- any other facilities that are accessible to the public.

Dr. Rafeeq: I thank the hon. Minister for giving way. This clause is plain enough. What I wanted to find out is, we are talking about enclosed public places, what about the street? Let us say that you are on the street, is it okay for you to smoke on the streets?

Sen. The Hon. J. Narace: Yes. It is okay to smoke on the streets.

Mr. Speaker, further, clause 12(2) provides that:

“Where a person contravenes subsection (1), the manager, owner or lessee of the place where the contravention occurred who authorized or acquiesced in the act, that manager, owner or lessee is deemed to have committed the offence and shall also be held personally liable.”

Clause 12(3) provides that:

“A person who contravenes this section commits an offence and is liable, on summary conviction, to a fine of ten thousand dollars and to imprisonment for six months.”

Mr. Speaker, smoking was banned in all workplaces, including bars and restaurants in New York City in March 2003. Since that time, there have been no adverse economic consequences arising from this measure. According to data provided by PAHO, employment in bars and restaurants was the highest in the ensuing years, restaurant and bar tax receipts went up by 8 per cent, and compliance with the law is nearly 100 per cent.

About five years ago, Uruguay was a country in which tobacco control policies were rare and ineffective. However, on March 01, 2006, it became the first country in the Americas to become 100 per cent smoke-free in public places. The Uruguay government claims that its most significant achievement in its tobacco control efforts was the promulgation of a decree in September of 2005,

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which banned smoking in all enclosed facilities designated for public use, as well as in all work environment. This decree came after the success of a 2004 decree which banned smoking in all health facilities and public offices. It is to be noted that nothing in this Bill shall require an owner occupier or employer to designate separately ventilated rooms for smoking.

Mr. Speaker, economists have suggested that protection of children is the most compelling economic reason for higher taxes. In an article by Warner et al entitled “Criteria for determining an optimal cigarette tax”, the economists’ perspective advanced that governments can choose to protect children for several reasons. Firstly, childhood is when routine addiction is likely to begin. Secondly, children are not yet sovereign adults making informed choices, so that the argument for not intervening does not apply to them as strongly as to adults. Thirdly, there is evidence that the tobacco industry targets children with glamorous advertising and promotion.

Consequently, it is incumbent on us to try to educate children, restrict advertising and promotion targeted to children, and to restrict their access to tobacco products. As such, clause 13(1) provides that:

“No person shall sell any tobacco product to any person under the age of eighteen years.”

Further, clause 13(2) provides that:

“No person who sell tobacco products shall hire or use any child to sell any tobacco product.”

Clause 15(1) provides that:

“No person shall display tobacco products in such a way that they are visible to the public, but the prohibition...shall not apply to individuals incidentally or accidentally displaying tobacco products during carrying or use.

...cigarette dispensers provided by the manufacturer, so, however, that such devices shall not be used for the purposes of advertisement or the promotion of tobacco products and shall meet the requirements prescribed by regulations.”

In addition, clause 16 provides that:

“No person shall purchase any tobacco product through any self-service means, including mail, the internet or automatic vending machines.”

Clause 17 prohibits the sale of tobacco products in:

- “(a) facilities where health care services are provided;
- (b) sports, athletic or recreational facilities;
- (c) government buildings;
- (d) educational facilities; and
- (e) any other place prescribed by Regulations.”

Further, clause 18 provides that:

“No person shall—

- (a) import or manufacture; or
- (b) sell, display for sale, distribute or supply,

any sweets, snacks, toys or other non-tobacco items or objects in the form of tobacco products, or which imitate tobacco products.”

Tobacco advertising, promotion and sponsorship increases tobacco initiation and overall consumption. Promotion creates a “friendly familiarity” for tobacco that makes it seem normal and acceptable. Tobacco use decreases faster in countries where there are comprehensive restrictions on advertising, promotion and sponsorship.

Consequently, clause 19(1) provides that:

“No person shall initiate, produce, publish, engage or participate in any tobacco advertising, promotion or sponsorship.”

Clause 19(2) allows for limited advertising. This includes advertising through a publication that has an adult readership of not less than 85 per cent, as determined by a recognized survey and a publication that is provided by mail and addressed to an adult smoker who is identified by name. It also allows for the placing of signs in a place where young persons are not permitted by law.

Clause 19(4)—

“‘brand preference advertising’ means advertising that promotes a tobacco product by means of its brand characteristics;

‘information advertising’ means advertising that provides factual information to the consumer about—

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- (a) a product and its characteristics; or
- (b) the availability or price of a product or brand of product;

'lifestyle advertising' means advertising that associates a product with, or evokes an emotion about, or image of, a way of life such as one that includes glamour, recreation, excitement, vitality, risk or daring."

3.00 p.m.

Mr. President, clause 20 provides that:

"No person shall offer or provide any direct or indirect consideration for the purchase or use of a tobacco product, including a bonus, premium, cash rebate or right to participate in a game, lottery or contest, but nothing in this section shall prohibit the giving of any normal trade discount or normal trade rebate, or providing compensation for monitoring compliance with this Act."

Clause 21 provides that:

"...tobacco sponsorships and tobacco advertising and promotion, where the name of a sponsoring entity is publicized."—are prohibited.

As such, tobacco companies are permitted to sponsor events, but they cannot take any overt credit for such sponsorship.

Clause 22 seeks to prohibit other forms of promotion and brand stretching. Consequently, clause 22(1) provides that:

"No person shall sell, display for sale, supply, or advertise any non-tobacco product or service that contains either on the product, or in any advertisement of the product, a depiction of a tobacco product except where the person held the intellectual property rights to that product prior to the commencement of this Act."

In this regard, clause 22(2) provides that:

"For the purposes of this section, a non-tobacco product shall include a building, facility, premises, or business that is not a building, facility or business that manufactures tobacco products exclusively."

Mr. President, smokers are similar to other consumers, in that they face problems in learning about the price and quality of their prospective purchases. However, they are unlike most other consumers in that their purchased goods—that is tobacco products—are addictive and have serious health consequences. Smokers who are unaware of the addictive properties and the health consequences of tobacco are not buying the products they think they are buying. In essence,

each purchase of a tobacco product involves two components: the goods to be consumed in the present, and the flow of future consequences from that consumption. It is our responsibility to make that evident to all consumers.

Hon. Members, poorly informed consumers do not place enough weight on the flow of future consequences. As a result, they make purchases of tobacco products that they later regret or would judge not to be in their best interest if they had more information at the time of purchase.

Many governments have played active roles in disseminating information about the health consequences of tobacco use. Information policies range from the publication of official reports, to a requirement for warning labels on packages and advertisements, to school health education and mass media campaigns.

Mr. Speaker, publication of official reports by the Royal College of Physicians in Britain in 1962 and by the US Surgeon General in 1964, are milestones in tobacco control in high-income countries. It marked the beginning of serious efforts to impose consumer information about smoking and health. Following these officials reports, many countries required warning labels on tobacco product packaging and advertising. The US has been requiring warning labels on all cigarette packages since January 01, 1966. In 1972, all print advertisements were required to contain one of four rotating messages about specific health hazards. As early as 1991, 77 countries imposed health warnings on tobacco product packages. Today, a large number of countries such as Norway, Brazil, Canada and Uruguay require rotating or strong warnings and some, include graphic pictures to enhance the effectiveness of warning labels.

Consequently, clause 24 provides that all tobacco products shall contain permanently affixed on their packages messages that would be prescribed by regulations. These messages shall be attributed to the relevant authority. Evidence from Brazil indicates that 54 per cent of smokers had changed their opinion on the health consequences of smoking as a result of warning messages placed on cigarette packages. In Canada, 44 per cent of smokers said the warnings had increased their motivation to quit.

Mr. Speaker, it is an offence for any person to sell or supply any product or device that is intended to be used, or can be used to cover, obscure, mask, alter, or otherwise detract from the prescribed messages on tobacco product packages, and this prohibition includes design of the product package in such a way that parts of the package itself or accessories can cover or obscure the messages.

Clause 25 mandates that all tobacco products must contain a list of the constituents and additives in a manner as may be prescribed.

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Clause 26(1) provides that no tobacco product package or label shall contain any information that is false, misleading, or deceptive, or that is likely or intended to create an erroneous impression about the characteristics, health effects, or other hazards of the tobacco product or its emissions.

Clause 26(2) further provides that no tobacco product package may make any claims stating, suggesting or implying that its use or exposure to its smoke is not hazardous or is less hazardous than other tobacco products or brands. The prohibition includes but is not limited to the use of the words or descriptions, whether or not part of the brand name such as: light, ultra light, mild, low tar, slim, or similar words or descriptions.

Mr. Speaker, in an effort to prevent smuggling, tobacco manufacturers, exporters and importers must ensure that their bulk packages contain the tracking and tracing, and tax status labelling information required by clause 28. In this regard bulk packaging is defined at clause 4 as packaging containing at least 10,000 cigarettes or cigars, or packaging containing more than 200 grams of other tobacco products.

At clause 28(2), the following information shall be permanently affixed under the cellophane or other wrapping on all sides of each tobacco product package, including each carton at the time of manufacture: Name and licence number of the manufacturer as applicable, wholesaler and exporter; unique manufacturer serial number, date of manufacture and location; name of the country in which it was manufactured; the name of the country in which the product is intended for sale; and any additional information as may be required by regulation.

Mr. Speaker, clause 29(1) mandates tobacco manufacturers to design their product, packaging and labelling in such a way as to make them tamper-proof.

Clause 30 provides that the labelling information on tobacco products to be sold in Trinidad and Tobago shall be printed in English.

Clause 31 provides that smoked tobacco products may be sold as individual units, so long as they are individually labelled as required.

Clause 31(2) provides that the Minister may make regulations to provide for a contravention of this section.

Dr. Rafeeq: Are you saying that if you are going to sell one cigarette that that one cigarette must be properly labelled?

Sen. The Hon. J. Narace: Yes. Mr. Speaker, you see that one cigarette, that is how they target the children; that is how they target poor people [*Interruption*] and that is their life support, to make sure as they kill more they have a steady

supply of young people coming to fill that—that is the key to this whole cigarette thing. [*Desk thumping*]

Mr. B. Panday: Answer the question, yes or no?

Sen. The Hon. J. Narace: I already answered the question, I said yes.

Mr. B. Panday: So you have to label one cigarette? Sorry, I did not mean to be disrespectful. You have to put a label on one cigarette?

Sen. The Hon. J. Narace: Yes.

Mr. B. Panday: Thank you.

Sen. The Hon. J. Narace: I repeat, the answer is yes. Because that is the way they target children and poor people.

Mr. B. Panday: I do not want to know how.

Sen. The Hon. J. Narace: That is a matter for them. They made \$208 million last year.

Further, clause 31(2) provides that the Minister may make regulations to provide for a contravention.

Clause 32(1) provides that smokeless tobacco products shall be contained in a package of at least 20 grams.

Clause 36(1) provides that:

“In any action for non-compliance with this Act or Regulations, the following penalties may be imposed:

- (a) suspension, revocation or limitation of licences;
- (b) removal by an authorized officer of an offending person from the premises or public conveyance, and confiscation and forfeiture of any tobacco products in violation of the provisions of this Act; and
- (c) confiscation and forfeiture of—
 - (i) any item that contains a tobacco advertising and promotion prohibited under this Act;
 - (ii) any tobacco product packaged or labelled in a manner that does not conform with this Act;
 - (iii) all tobacco products owned by or under the control of the person found

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- to have committed a violation of sections 10, 13 to 17, 20 and 31 to 33;
- (iv) equipment, machinery, raw materials, components, packaging and labelling materials, and any other items used to manufacture tobacco products;
 - (v) all tobacco products or components that fail to conform with the product requirements under this Act;
 - (vi) all tobacco products for which all applicable taxes and duties have not been paid or that otherwise have not legally entered the jurisdiction; and
 - (vii) all non-tobacco products that fail to conform with section 18.”

Mr. Speaker, part of the implementation and enforcement process involves ongoing oversight through monitoring, surveillance, reporting and inspections. Oversight is essential not only for strong enforcement, but also for the country's ability to improve the legislation over time. Meaningful enforcement is essential, as it demonstrates the Government's commitment to the law and to Tobacco control. Further, it is material to note that the penalties proposed have been revised to ensure that there is no disparity of fines and that they are reasonable as they relate to the various offences under the Act.

Finally, clause 38 provides that the Minister may make regulations subject to affirmative resolution of Parliament prescribing requirements to the standards of tobacco for the constituents including emissions of smoke products, additives and product design and specifying methods for testing and measuring compliance with the performance standards and requirements prescribed, and generally for carrying out the purposes of this Act.

Mr. Speaker, the Tobacco Control Bill seeks to provide an effective regulatory framework for tobacco control. As I said in the other place where I spoke to the effectiveness of tobacco control as manifested in societies which have implemented regulation, there is new evidence daily supporting Tobacco Control Bills such as the one before us today. According to a new report by the prestigious Institute of Medicine (IOM) in the US which was sponsored by the US Centres for Disease Control and Prevention and released on October 15, 2009, eliminating smoking in workplaces, restaurants, bars and other public places, is indeed an effective way to reduce the health risk posed by cigarette smoke on the cardiovascular system.

Dr. Eric Peterson of the Duke Clinical Research Institute, one of the committee members of the IOM report stated:

“In fact, what our study found was that, yes, consistently across the 11 best studies in the literature that looked at the laws being put in place in various communities and the countrywide analysis, in the year following the initiation of these laws one could see a measurable reduction in the heart-attack rates.

In the IOM report, the researchers...reviewed 11 studies that looked at smoking bans in eight different natural experiments, including three studies in overlapping regions of Italy. The other studies included smoking bans in Colorado, Indiana, Ohio, New York State, and a study in Saskatoon...”—

Canada, all evidence based, all empirical works.

“Overall, there were consistently observed reductions in the risk of”...—heart attacks—“...ranging from 6 per cent to 47 per cent.”

Mr. Speaker, once this law is implemented the study showed that within one year of its implementation you would have a measurable reduction in heart attacks between 6 per cent and 47 per cent. Peterson noted that the benefit was observed early, often within one year of the introduction.

“In addition, the researchers add that the combination of experimental data on secondhand-smoke effects and exposure data indicates that secondhand-smoke concentrations decrease substantially after implementation of a smoking ban and provide biologically plausible evidence for the reduced rate of acute...”—heart attacks.

Even for a chronic smoker there is a benefit to their life if they stop.

Mr. Speaker, this Bill is integral to achieving our goal, not just for developed nation status, but to protect public health in Trinidad and Tobago in the present, and, more importantly, for generations to come. This is one of the most important public policy measures that we can take. The time for action is now. The health of every baby, every young person, every pregnant woman, the vulnerable, and indeed, every citizen, will be influenced by the decisions we take here today.

I call on all hon. Members to place the health and well-being of our population first. I thank you.

Mr. Speaker, I beg to move.

Question proposed.

3.15 p.m.

Dr. Tim Gopeesingh (*Caroni East*): Mr. Speaker, this Bill brings into focus, a finite balance between the numerous health benefits and healthy lifestyles which we are all aspired to. Of non-smokers, the protection of individuals from secondary smoke which we also support, but as opposed to the protection of an individual's constitutionally infringed right, to respect for his private and family life. It therefore is a clash of rights. The Bill is a clash of rights, the right of an individual versus the community's rights. What is the common good, we may ask? Is it a utilitarianism principle?

Therefore, at the centre of this issue and the question of rights, it includes an individual's right to personally harm himself or herself if he or she chooses to smoke. But counter arguments emerged and some of these are that advertising persuades people to start and continue smoking, and secondly, the second-hand smoke is harmful as smoking itself. So you have to balance the individual's rights as opposed to those which affect the community. We all agree that if legislation is made to even save one life that is very significant and important. [*Desk thumping*]

So the purpose of this Bill is to implement requirements contained in the WHO Framework Convention on Tobacco Control which Trinidad and Tobago signed on August 27, 2003 and ratified on August 19, 2004, and which came to force on February 27, 2005. The FCTC was drafted to address the global tobacco epidemic and prevent, as the Minister said, as many as one billion deaths in the 21st Century, and more than two-thirds of these deaths will occur in the developed countries. One hundred and fifty countries have signed the FCTC so far we understand. But what is significant, the FCTC requires that all signees implement societal measures to change the image of tobacco. What are these societal measures? The FCTC requires implementation of graphic health warnings on cigarette packs to increase tobacco tax, protect non-smokers from exposure which we signed on to as a country, to other people smoke, and what is important is to help people quit. So two important messages that came out from the FCTC is the implementation of societal measures and to help people quit smoking cigarettes or cigars.

Trinidad and Tobago signed the FCTC in August 2003, and ratified the Treaty in August 2004. All signees are given a three-year period to fulfil tobacco control obligations. Trinidad and Tobago's deadline was February 2008, so the Minister of Health is more than probably 18 months behind time as far as fulfilling Trinidad and Tobago's obligation to the FCTC, but you are bringing all aspects of the tobacco control legislation all at one time. Mr. Speaker, I will speak about that a little later.

Enacting tobacco control legislation to regulate the practices of the tobacco industry is one such measure required by the signees to the FCTC, and legislation must stipulate a ban on advertising which you spoke about; smoke-free enclosed spaces but, more importantly, a comprehensive public education campaign; enactment of graphic health warnings on cigarettes packs and a national cessation programme.

Let me make the point upfront, Mr. Speaker, that these are the concerns that we have as an Opposition, that the requirements for the FCTC are: some of the requirements are a comprehensive—I think I have a copy of it here. WHO Framework Convention on Tobacco Control and in the table of contents, it is said in Part III: Measures relating to the reduction of demand for tobacco. So it is incumbent upon Government that they institute and implement measures relating to the reduction of demand for tobacco. Article 12 states: Education, communication, training and public awareness. We have not seen any of this so far. The Minister indicated that there may have been consultations with the Cancer Society and one or two other NGOs and so. But we are not privileged or privy to what measures the Government is contemplating in terms of the education and communication, training and public awareness aspects of the FCTC.

Also in Part VI, it says questions related to liability which is research, surveillance and exchange of information—that, from the presentation by the hon. Minister seems to be lacking a bit—reporting and exchange of information and cooperation in the scientific, technical and legal fields and provision of related expertise.

I make that point to indicate that it is our concern, that the whole education and counselling and national cessation programmes centres, policies, facilities, and infrastructure to facilitate that are not there at the moment. So we may be passing legislation in the absence of an education programme to assist those who cannot help themselves, and we want to see that incorporated in the legislation somewhere. [*Desk thumping*] It must be incorporated in the legislation. So we will want to submit that you consider significantly, an incorporation into the legislation that you are going to undertake public education campaigns, national cessation programmes to help people quit.

So, we are now moving from a position of no regulation at all, to the other extremes of not just over regulation, but of criminalizing almost every activity related to tobacco use. In countries where legislation of this extreme type has been passed, it has proved unsuccessful in reducing smoking in young people. There is empirical evidence to substantiate that statement, Mr. Speaker. So, we are asking or stating probably, is the intention of this Bill to criminalize smoking, or the

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intention is to stop smoking, but in so doing you are criminalizing the issue of smoking? You know that smoking is still a legal pursuit, and remains a lifestyle choice for those of legal age.

So, this is a Bill which set out from the position that an outright ban was unworkable. You could not have banned everything. Acknowledging the existence of vast number of persons addicted to tobacco use; making it impractical to make tobacco products illegal. So you could not have made tobacco products illegal because 70 per cent of the 260,000 people, 21 per cent of the population are smokers, 70 per cent of that 21 per cent wants to quit smoking, but they cannot quit because they are not given the type of facilities and the counselling and the education programmes to assist them in quitting. So this is where we have concerns. This is one of the concerns we have in this Bill, but to a significant extent we do not have major concerns with other major clauses in the Bill. There are few areas we have concerns with and this is one of the areas. Because as the Minister indicated, the Panday government produced a White Paper on that, and then Dr. Rafeeq, the Member for Caroni Central, was a significant member helping to draft the FCTC. So the former Minister of Health has a significant understanding of what is needed in the FCTC.

Mr. Speaker, we all agree that smoking causes serious medical problems, and there are volumes of statements on what are some of the problems related to cigarette smoking. I want to support the Minister in this part, that the major diseases, the causes of death, coronary heart disease, when you look at cigarette smoking, the relative risk: smokers versus non-smokers: males are 2.3 and females are 1.9; coronary heart disease for male is 2.8; cerebrovascular disease which is stroke, for men it is 3.7 times the smoker versus the non-smoker; peripheral vascular disease, 13.5 times the relative risk. Peripheral vascular disease is occlusion of the blood vessels that go major to the lower limbs and to extremities; chronic obstructive pulmonary disease is 9.7 of the relative risk; but cancer of the oral cavity and pharynx is 27.5 times in the male and 5.6 in the female; cancer of the esophagus in the female is 10.3 times the relative risk.

Of course, we all know the severity of smoking which causes cancer of the lungs, the larynx, the oral cavity, the esophagus, the kidney, the urinary bladder, and there is evidence suggesting that cigarette smoking will play an increasing role in the risk of cervical and stomach cancer. We know that the risk of cancer increases with the increasing number of cigarettes smoked per day and the duration of smoking, and there are synergistic interactions between cigarette smoking and alcohol use for cancer of the oral cavity, esophagus and possibly lung.

We know that the problems related to the respiratory system and pregnancy causing spontaneous miscarriages among smokers, preterm delivery, small gestational age babies, infant death syndrome and other conditions. Of course, there is the question of pharmaceutical interactions; cigarette smoking may interact with a variety of other drugs in ways which may have clinically significant implications.

So, Mr. Speaker, the statistics related to cigarette smoking are plain for everyone to see, and there is no question that we in the Opposition, understand and appreciate the ravaging effects of cigarette smoking on the population.

3.30 p.m.

The Minister quoted some statistics indicating that the World Health Organization (WHO) said that tobacco use was responsible for 100 million deaths in the 20th Century, and 80 per cent of these deaths were in the developing world. What was significant in the United States was that smoking rates shrunk, even without legislation, by nearly half in three decades. That was most likely from the increase in the educational standards and the upliftment of educational standards which caused a significant decrease.

So from mid 1960s to mid 1990s, the smoking rate in the United States fell to 23 per cent of adults in 1997. What was significant in the developing world was that tobacco use was up by 34 per cent.

The Pan American Health Organization (PAHO) in 2005 indicated that in the Caribbean region Trinidad and Tobago has the highest smoking rate, which is 21 per cent. Amongst the Caribbean countries, Trinidad and Tobago has the highest smoking rate of 21 per cent; so approximately 260,000 citizens of Trinidad and Tobago are smokers.

Tobacco deaths as a percentage of medical deaths range from 30 per cent in males to 14 per cent in females. We know that smoking is the most common cause of death that we can prevent. Any legislation that brings about this, we are in a position to indicate that whole question must not be taken lightly. We are in a position to indicate that we are seriously concerned about the same side effects as the Government, in relation to cigarette smoking.

Tobacco use is a high risk habit as it kills approximately 50 per cent of all those who use it. More deaths are caused each year by tobacco than by tuberculosis, AIDS, and malaria combined. Furthermore, the full range of diseases associated with smoking are not usually understood by both smokers and non-

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smokers, therefore, legislation stipulating a public education is a critical step in managing this problem.

This is where we want to re-emphasize that this legislation must incorporate a public education programme. We want to indicate to the Minister that he must consider this very seriously. Any legislation that is passed without the Government indicating convincingly that they are going to undertake an education programme, would fail to a certain extent, and the desired effect of what we are attempting to do will fail as a result. [*Interruption*]

Hon. Narace: Thank you very much for being so gracious.

I clearly enunciated that we had started all these cessation programmes, that we have a clear plan. In fact, if you listen to the media, we spoke about our liberal magazines. We have a clear educational plan going on, not just in the mass media, but in schools, lectures, caravans and so on, but I take your point. It is a very valid point.

Dr. T. Gopeesingh: I have no difficulty. I am sure the Minister is doing some work in terms of trying to educate the population. We are asking for the incorporation of a statement on an education programme to deal with cessation and to kick the nicotinic effects and establish centres for the management of those who cannot stop smoking, because of the nicotinic effects.

The next area I want to go to in terms of some of the difficulties we have as an Opposition is the question of the unit that is spoken about in the Bill. Part II in clause 5 says that:

"The Minister shall establish a Unit within the Ministry which shall be responsible for..."— about five or six areas and

The unit shall be headed by a Director appointed by the Minister and who shall be responsible to the Permanent Secretary of the Ministry."

Mr. Speaker, we do not believe that this should be concentrated in the hands of a politician. The hon. Minister of Health may be well meaning, but we do not think that this is a desirable situation for even future Ministers of Health. The Minister of Health's hands are full already with so many issues and to bring a unit like this into the hands of Permanent Secretary the Ministry of Health, where the Minister has to appoint a director—It is disguised in the form that it is going to a Permanent Secretary. Basically, the Permanent Secretary is the administrative person for the efficiency of the ministry and the Minister is the person accountable.

We do not believe that this should be undertaken by a Ministry of Health. We believe it should be under a regulatory authority that is governed by statute. The

employees, such as the director, et cetera, at the head of that unit—because this is a major issue—could be appointed by the President in consultation with the Leader of the Opposition and the Prime Minister.

From what has been happening in this country so far, we do not have the confidence in any particular ministry. For instance, look at what came out recently and it was revealing. The confidence in the Ministry of Community Development, Culture and Gender Affairs, when we saw this whole list of scholarships—so-called scholarships being given—these are not really scholarships, but PNM slush funds. So hundreds of persons got moneys and there seemed to be a lot of ghost people who received. I am just bringing up the issue of trust. [*Interruption*]

Mr. Imbert: Mr. Speaker, Standing Order 36(1), relevance. The Minister is already making a statement on that, anticipation.

Mr. Speaker: I really missed it; proceed.

Dr. T. Gopeesingh: Mr. Speaker, it is the question of trust. I am making the analogy about trust. They are placing the unit under the Ministry of Health, the Minister, and giving some authority to the Permanent Secretary, but the way that things have been in this country, we cannot trust any particular ministry. Therefore, we cannot give support to have this placed under the Ministry. Why not a statutory or regulatory authority?

This statutory or regulatory authority would be giving licences, revoking licences and closing businesses. We cannot leave that in the hands of a politician; that is totally unsatisfactory, because we cannot trust the political directorate.

In fact, I do not know whether it is so, we heard as well that the Attorney General's legal team signed a pact with Mr. Calder Hart's legal team not to have Shireen Hart testify before the Commission.

Mr. Speaker: No, that is all well and good, but it is not before us; unless you can prove that they smoke and it is a problem that they have with smoking. [*Crosstalk*]

Dr. T. Gopeesingh: It came to our attention and we just want to ask if that is, in fact, so. Do you want to answer that?

Hon. Jeremie: It is not so.

Dr. T. Gopeesingh: So your answer is that when the Commission of Enquiry starts on Monday, Mrs. Hart will testify?

Hon. Jeremie: Yes.

Dr. T. Gopeesingh: There was nothing between the Attorney General's attorneys to prevent her from testifying?

Hon. Jeremie: Absolutely none. [*Crosstalk*]

Dr. T. Gopeesingh: People have lost trust and confidence in various ministries. This is just one example of it. There are many more examples; therefore, to put this unit that the Minister spoke about in their hands, you may be well intentioned, but we do not believe it should be done. That is one major difficulty the Opposition has in terms of this piece of legislation.

The competence of the staffing of this authority, the competence of the directorate, we must feel satisfied that square pegs are not put into round holes, and the work of this unit, which we believe should be a regulatory authority, should have very competent people. We have no understanding so far as to who are some of the persons that are going to be part of this unit.

So we believe there is no neutrality in this matter, no transparency and the unit will be doing the Minister's bidding. It might be you for a while, but it might be somebody else in the future. We may have confidence in you now, but we may not have confidence in the future Minister of Health. So this is a very important consideration. We feel that we cannot support the implementation of this unit as accorded in this Bill at the moment. Something has to be done about that. If you want to indicate that you are going to provide a regulatory authority or you will let this go to a regulatory authority, which is by statute, that is something we would have to consider.

The functions of the unit will spell out the facts by themselves, why it is absolutely necessary to have an independent regulatory authority to govern this issue.

This next point I want to raise, besides the question of education programmes and the unit, is the question of penalties. We in the Opposition believe that these penalties are extremely punitive. I will give some examples to support the statement I made. The penalties range from approximately \$10,000, to \$1 million, to jail sentences up to one year. This brings into focus the contravention of basic jurisprudential principles, that punishment must be proportional to the seriousness of the transgression. That is a normal jurisprudence principle.

How will these transgressions of contravening the ban on cigarette smoking be judged? This is one major concern we have again; for instance, the violation of manufacturers. A manufacturer could have his licence revoked and be fined

\$3 million as well as jail for five years. Selling to a child has a jail sentence of five years and a fine of \$500,000.

Mr. Speaker, the penalty for possession of dangerous drugs, such as cocaine and marijuana or heroin, is on summary conviction a fine of \$25,000 or five years. The same is for dangerous drugs if tried summarily before a magistrate. In relation to tobacco offences, the offences are on indictment before a judge and jury. So the offences in tobacco smoking are before a judge and jury on indictment, whereas the offences for more serious crimes, such as cocaine, marijuana and heroin, on summary conviction, could be held before a Magistrates' Court. There is no option on this to be tried in a Magistrates' Court, but firearm offences, drug trafficking, robbery and unlawful wounding are being tried in the Magistrates' Court.

Does it mean then that a smoking offence is more dangerous than drug trafficking, robbery and unlawful wounding? There is a serious problem in this piece of legislation in terms of the penalties, Mr. Speaker. That is a very serious situation. Serious crimes are tried before the Magistrates' Court, and a crime of smoking is tried before a judge and jury. Something is wrong. [*Crosstalk*] It is worse than more serious crimes tried in the Magistrates' Court.

Tobacco offences have the honour of incurring some of the most severe fines than all other offences and there is no similar legislation with the aim of enhancing awareness of the dangers of smoking in respect of dangerous drugs and alcohol use.

Let me just give some examples of what happens in other countries. The Australian tobacco ban, July 01, 2009, the penalty, Australia, New South Wales says:

"Tough new tobacco laws begin today

Minister Assisting the Minister for Health (Cancer) Jodi McKay said any driver or passenger caught violating this new law could attract a \$250 on-the-spot fine from NSW Police."

So a driver smoking with a child in a car attracts a fine of \$250 in New South Wales, on the spot; not \$500,000, not six months in jail.

Let me just give you the penalties from England; penalties and fines for breaking the smoke free law:

"Local councils are responsible for enforcing the new law in England. If you don't comply with the smoke free law, you will be committing a criminal offence. The fixed penalty notices and maximum fine for each offence are:

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- Smoking in smoke free premises or work vehicles; a fixed penalty notice of £50 (reduced to £30 if paid in 15 days)."

3.45 p.m.

Now compare and contrast that with six months in jail, \$500,000 and so forth. So "that fixed penalty notice of £50 (reduced to £30...) Or a maximum fine of £200 if prosecuted and convicted by a court."

Mr. Speaker, to the hon. Minister, this is the British system of penalty and they have signed in to the FCTC, do you think it is really fair for somebody who is trying to help himself/herself but cannot, a legal thing like tobacco cigarette will end up going to jail for six months or a year, when in the British system it is a fixed fine?

- "Failure to display no-smoking signs: a fixed penalty notice of £200 (reduced to £150 if paid in 15 days) imposed on whoever manages or occupies the smoke free premises or vehicle. Or a maximum fine of £1000 if prosecuted and convicted by a court.
- Failing to prevent smoking in a smoke free place: a maximum fine of £2500 imposed on whoever manages or controls the smoke free premises or vehicle if prosecuted and convicted by a court. There is no fixed penalty notice for this offence.

Local councils are responsible for enforcing the new law in England."

Mr. Speaker, this is very significant and what has the country extremely worried, 21 per cent of the population are smokers, 260,000; 70 per cent who are making attempts to quit and cannot now face the penalty of going to jail with hardened criminals. If you fine somebody for cigarette smoking in a public place and that person has to go to jail, are you putting a person who could not help himself/herself from cigarette smoking in a jail with hardened criminals?

If a child has been found smoking, will that child have to go to jail with adults? The system for young children is already crowded and children before they reach 18 years are finding themselves in prison with hardened criminals. So something is radically wrong and this is why we say we have concerns and this is a major one in terms of the penalties and what you do with these people.

My colleagues indicated in our discussion that the same way as the Breathalyzer has fines and penalties based on first, second and third offence, we want to recommend that the same system be incorporated for smoking and somebody who has contravened the smoking Act.

So there should possibly be a consideration for first offence of a warning; a second offence for a fine and a third offence for a larger fine. I think I have given the hon. Minister some important information to consider as far as the penalties are concerned because we are not happy about the severity of them for the population and that is one area you need to seriously consider. We cannot support sending somebody to jail for a year because that person could not help himself or herself from a nicotinic effect.

In the United Kingdom, do you know who is doing the policing for it?

"Thousands trained to police smoking ban with on-the-spot fines.

Thousands of council staff are being trained to impose £50 on-the-spot fines on those who breach the smoking ban, when it comes into force on July 1..."

That was in 2007.

"Town halls have been given £29.5 million to hire new staff, or train existing officers, to police 3.7 million restaurants, bars, shops and workplaces in England."

So you have the council taking on the responsibility. Here you have a situation where you are already depleted in police officers where the Commissioner of Police indicated that he is short staffed already from 7,600 police officers to 5,900 in their complement. On any one shift there is a maximum of 1,500. These police officers are now going to undertake Breathalyzer testing on the road, they have to be in the police station and you have the cigarette policemen now coming into effect. What a mess this is going to be! You cannot even stop the criminal activity, but you want to place policemen for Breathalyzer and cigarette smoking. That is a shameless situation.

My colleague has asked me to ask what is going to happen at Carnival time with cigarette smoking. How many police officers are you going to have on the beat to look at them? And you are a mas player, what will you do?

A UK News Article on Smoke Law also says:

"If business owners fail to ensure that their customers comply with the smoking ban they are liable to fines of up to £2,500."

And you have here \$500,000 or a year in jail. That is not acceptable, Mr. Speaker. In fact, the whole question of cessation and helping people to stop their cigarette smoking issue, I want to read what *Principles and Practice of Medicine* by the Harrisons textbook of medicine which is the bible for medicine says on cessation:

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"The process of stopping smoking is often a cyclical one, with the smoker sometimes making multiple attempts to quit and failing before finally being successful. Approximately 70 to 80% of smokers would like to quit smoking, approximately one third of current smokers attempt to quit each year, and greater than 90% of these unassisted quit attempts fail. Smokers have been categorized into those who are not thinking about quitting (precontemplation), those who are thinking about quitting (contemplation), and those who are in the action phase of quitting. A useful conceptualization of the cessation process is one where smokers cycle through the stages of cessation; each time smokers go around the cycle, a few more smokers become successful in their cessation efforts."

So you have precontemplation, contemplation and then actual quitting.

"One goal of clinician-based smoking interventions then becomes moving smokers from one stage of the cessation cycle to another, and efforts can be focused on moving the smoker to the next stage rather than focusing exclusively on immediate cessation."

I am raising this in trying to show the Government that there is a serious situation as far as the smokers are concerned. They try and they fail, so are we going to jail those who have actually been trying? This impacts upon the penalties which we have been speaking about.

"The move from thinking about quitting to making a quit attempt is often triggered by a variety of environmental stimuli independent of physician control. Media campaigns, particularly when coupled with cessation events, are also able to trigger cessation attempts in large numbers of smokers. Changes in workplace rules to restrict smoking in the workplace have been associated with quit attempts in substantial numbers of workers. However, physician advice to quit, particularly around an acute illness, is also a powerful trigger for cessation activity..."

So this comes into the question of what is the Government's plan, what infrastructural programmes, human resource management programmes, counselling, education is going to take place before you begin to actually jail people. This is why we feel it is important to incorporate into the legislation the whole aspect of what Government plans to do in terms of the education and cessation and helping people with nicotinic effect.

The article also speaks about physician intervention so you have an ability to also incorporate the physicians into this episode.

"Physicians can make a difference in promoting successful cessation among their smoking patients and the Agency for Health Care Policy and Research has developed clinical guidelines for health care system—smoking cessation."

The world is telling us that there are programmes designed to help these 260,000 people, 70% to 80% of those who cannot quit and, therefore, it is incumbent upon the Government to do something about it to ensure that this is taken into serious consideration before jailing people. Do not go one fell swoop and try to bring in legislation because you want to conform with the FCTC, but in the process have done nothing in helping these people.

"Those who are not interested in quitting should be encouraged and motivated to quit; provided a clear, and personalized physician message that smoking is an important health concern;...A quit date should be negotiated...."

There are a variety of nicotine-replacement products; including over the counter nicotine patch and gum as well as nicotine nasal and oral inhalers available by prescription."

Is the Government going to bring some of that free for the population? If it gets back some of the money from all the persons who got scholarships it will be able to have some money to provide for the population who need nicotine patches, gums and nasal sprays.

Mr. Speaker, the Government must indicate how it is going to help these smokers who are addicted to the nicotine. Are they going to provide nicotinic patches free of charge? Are they going to provide the oral and nasal inhalers free to help these people?

"Clonidine and, more recently antidepressants have also been shown to be effective."

Mr. Speaker, this is serious. Smokers have a degree of depression and they turn to smoking because of the stress and depression.

"...some evidence supports the combined use of nicotine-replacement therapy and antidepressants."

So it is a major concern. Somebody is depressed, goes out there smoking, contravenes the law and ends up in jail you are creating a vicious cycle. Somebody is depressed, smoking and ends up in jail where a fine could have been contemplated by this Government.

"Nicotine-replacement therapy provided in different dosages for use with smokers of different numbers of cigarettes per day. Antidepressants are more effective in those with a history of depression symptoms."

4.00 p.m.

Mr. Speaker: Hon. Members, the speaking time of the hon. Member has expired.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Dr. R. Moonilal*]

Question put and agreed to.

Dr. T. Gopeesingh: Mr. Speaker, another recommendation we want to make is to offer pharmacologic treatment to those who will accept it and provide counselling and other support services for patients as part of the cessation attempt. Cessation advice alone is likely to increase success by 50 per cent compared with no intervention. A more comprehensive approach with advice, pharmacologic assistance and counselling can increase cessation success by almost threefold. We make the plea for counselling, education, counselling centres, infrastructural work to be done and human resource management capabilities for dealing with people who are depressed and have to continue smoking. These must be entrenched and incorporated in the documentation as far as this Bill is concerned.

I made the point that this Government is rushing this entire smoking ban issue. We feel that it should be on a phased basis to allow the population to get accustomed to the whole question of what their needs are. Other countries have done it. I will draw examples where other countries have had a slow introduction education programme and gone into different phases. On Monday January 08, 2007, the BBC News had this.

“A publicity campaign aimed at making people aware of Northern Ireland's new smoking laws (was) launched. The campaign (includes) television and radio advertisements, a website and a public information leaflet.”

Nothing about this is being spoken about by the Minister.

“Health Minister Paul Goggins said the campaign includes guidance for employers.”

Have we sought to educate and guide employers?

Cessation campaign.

“The campaign provides a lot of useful information including the effect of second-hand smoke, general guidance under smoke-free legislation and advice on smoking cessation services.”

The United Kingdom adopted these approaches before making it into law. What have we done? Throw everybody into the bamboo, 260,000 people, and say if

you smoke in public we throw you in jail. That is the type of thinking and the modus operandi of a government which has been found wanting. It is a runaway government as my colleague said.

“Mr. Coggins also promised guidance for the business community.”

It is not only guidance for the employers but also the business community.

“...a team of 10 environmental health officers had already started working with the business sector.

They will visit business premises and provide seminars and other materials to help them comply with the new law.

...a gradual introduction of the ban would avoid ‘overnight shock’ (for) employees.”

[*Interruption*] This is from an article Benefits of Smoking Ban Outlined, Monday January 08, 2007, BBC News. This is authentic for you to appreciate, understand and digest. We are putting some serious considerations for you.

The United States Tobacco Ban

As of November 24, 2009, 24 States have enacted state wide bans on smoking in all enclosed public places including bars and restaurants. All but Utah, Vermont and Washington exempt tobacconists and many also exempt or do not cover casinos, private clubs and or cigar bars.

Only 24 of the 51 States have implemented tobacco bans, statewide smoking bans exempting bars.

As of November 2009, seven States banned smoking in most enclosed public places but permit adult venues as bars and casinos if applicable to allow smoking if they choose.

In Florida, Pennsylvania and Tennessee, State law preempts local government from enacting stricter smoking bans than the State though in the other five States some cities and/or counties have enacted stricter local bans to varying degrees.

This is what the United Kingdom did as well in terms of a slow movement towards a complete ban.

Under the new tobacco laws, retailers who employ more than 50 people have six months to store all tobacco products out of sight, in shops and other retailers will have 12 months from July 01, 2009. Tobacconists have 12 months to register and three years to store all tobacco products out of sight in shops.

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You want to pass this legislation, start it now and jail people immediately. *[Interruption]* It is a shame to hear the Leader of Government Business saying definitely. Is it fair to the people who cannot help themselves? Jail them right away, whereas one of the same 33 countries that the Minister spoke about is taking almost three years to introduce this.

From January 01, 2010, cigarette vending machines will only be allowed in licensed venues restricted to over 18 and would be subject to tobacco display bans. From July 01, 2010, cigarette vending machines must be operated by staff intervention.

Here it is there is a gradual process for the implementation of this smoking ban in developed countries as the United Kingdom, Australia, Northern Ireland, Scotland and Wales. All those countries had a gradual plan and intervention. In Trinidad and Tobago we want to rush this thing and start to jail people right away. Since 2007, they have been trying to bring out the breathalyzer, 2010 is coming, three years and they cannot bring it on. They will pass this piece of legislation and they know that they cannot implement it for another three or four years.

This is what happened in Britain. On November 16, 2004, a public health White Paper proposed a smoking ban in almost all public places in England. Britain implemented a total ban in 2007. Smoking restrictions were phased in with a ban on smoking in the national health system and government buildings by 2006; in enclosed public places by 2007 and pubs, bars and restaurants, except pubs not serving food, by the end of 2008. From 2004 to 2008, a four-year period of gradual implementation of this smoking ban. That is a progressive country.

On 14 February, the House of Commons first voted on the amendment to the original compromised plan to extend a ban to all enclosed public places except private members' clubs. The amendment was carried with a large majority. MPs then voted on a further amendment to ban smoking in all enclosed public places including private members' clubs.

This was the slow and gradual process by which they managed their smoking issue.

ARRANGEMENT OF BUSINESS

Mr. Speaker: We will have the statement by the hon. Member for Port of Spain South, the Minister of Community Development, Culture and Gender Affairs.

Hon. Member for Caroni East, you will have 20 minutes after the tea break.

Agreed to

Statement by Minister

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STATEMENT BY MINISTER
Financial Support for Persons
(Publication of)

The Minister of Community Development, Culture and Gender Affairs (Hon. Marlene Mc Donald): Mr. Speaker, I am authorized by the Cabinet to make this statement on behalf of the Government of Trinidad and Tobago, on a matter which has created confusion among some members of the public. I refer specifically to the publication of the personal details of persons who received financial support from the Ministry of Community Development, Culture and Gender Affairs to pursue further studies.

Education in Trinidad and Tobago has come a long way. For much too long tertiary education was a privilege of the elite. Today, thanks in no small measure to the vision of the late Dr. Eric Williams and the People's National Movement, access to formal education has taken quantum leaps. [*Desk thumping*] In the continuation and expansion of those policies under our Prime Minister, hon. Patrick Manning, education is now accessible to all from nursery to tertiary, at home and abroad, in both traditional and non- traditional programmes of study. This Government recognizes that the provision of education is a key platform in our goal to achieving developed country status before the year 2020.

Education has always been pivotal to PNM's policy from the time of its emergence in 1956. Despite the significant strides made in providing facilities and access to education, this Government recognizes that there will always be those among us, who may still need assistance in accessing the many programmes which are now available. This meant that many students with the potential to contribute immeasurably to national development were falling through the cracks.

Furthermore, because of the limited intake possible at the University of the West Indies, some of our students, although well qualified, were unable to be allocated places. Additionally, although gaining access to accredited highly respected universities abroad, for various financial reasons many students found themselves unable to access tertiary education.

I wish to remind hon. Members that in 2003, there was only one local university, namely the University of the West Indies and therefore, the local tertiary level intake was severely limited. Many of these aspirants had worked very hard to prepare themselves for tertiary education only to discover that they did not possess the financial wherewithal so to do and neither did their parents qualify for loans to assist them. Others who were mature students found they could not access scholarships or bursaries geared toward younger students.

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This is why several social programmes were created, including the Financial Assistance Studies Programme, administered by the Ministry of Community Development, Culture and Gender Affairs. Even members of the NGO and CBO community supported the need for an intervention to provide increased opportunities for education.

In response to a spate of requests from many of these organizations for training and development in both traditional and non-traditional areas, a technical team was established within the then Ministry of Community Development, Culture and Gender Affairs to determine an approach which would satisfy these needs. The technical team recommended the establishment of a programme of financial assistance focused on building capacity within the communities. It was envisaged that the programme should neither be tied to nor restricted by the traditional academic criteria and selection process for such awards.

4.15 p.m.

In 2002, therefore, Cabinet agreed to the introduction of this programme under which bursaries, as distinct from scholarships, tenable locally and overseas, would be awarded to persons to undertake programmes of training and/or study in the traditional and non-traditional areas. Cabinet also agreed that the Ministry, in collaboration with the CBOs and NGOs, should identify the criteria for the award of the bursaries and that a selection committee makes the appropriate recommendations to the Minister.

I wish to take this opportunity to emphasize that the Financial Assistance Studies Programme offers financial assistance and not scholarships. The Ministry of Community Development, Culture and Gender Affairs has never been in the business of offering scholarships. This is the remit of the Ministry of Education and the Ministry of Public Administration.

The Financial Assistance Studies Programme offered by the Ministry is aimed at assisting those who at the time of their application were in need of assistance. For every well-known name on the list of recipients, which the political opportunists have highlighted, there are hundreds more ordinary, everyday, law-abiding and deserving citizens who have been helped. [*Desk thumping*]

This is a programme designed to increase the rungs of opportunity on the ladder of success aspired to by every well-meaning parent for their offspring. It does not discriminate against anyone, whether supporter of the UNC, the PNM or any other political entity. The programme has always been and continues to be open to all.

When Brian Lara set the 400-runs-not-out record, Cabinet reflected on the circumstances of his childhood and marvelled at how this young man from a humble background could ascend to the top echelons of international cricket. This intensified the Cabinet's resolve to go into the communities and harness the talents of all our young people growing up in similar circumstances.

Initially, recipients of the bursaries were selected on the basis of personal interviews. The criteria used in the selection process were:

- The socio-economic circumstances of applicants and their families;
- The type and level of training being sought;
- The benefits of such training to Trinidad and Tobago;
- The level of commitment to successfully completing the training;
- In the case of overseas courses, the availability of similar training programmes in Trinidad and Tobago or the Caribbean region; and
- Written evidence of involvement in a community-based organization or NGO.

From the very inception of the programme, it was determined that no funds would be paid to individuals, but sent directly to the institution.

The selection process was reviewed and a committee comprising:

Mr. Wayne Wood, Chief Executive Officer;

Dr. Valerie Hackshaw, a motivational speaker and facilitator;

Mr. Roger Kawalsingh, an attorney at law;

Mr. Victor McEachrane, a financial consultant;

Ms. Amita Ganga, a mortgage officer, was appointed to manage the programme.

Arising out of the review, a brochure which provides information on:

1. the objectives of the programme;
2. the eligibility for receiving assistance;
3. the procedure for applying for assistance;
4. the documentation required;
5. the level of funding provided;

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has been produced and is available to the public. It is also important to note that the limits have been set as follows:

\$25,000 per annum for local programmes;

£2,500 per annum for programmes in the United Kingdom;

US \$5,000 per annum for programmes in other countries.

The committee meets once per week for the purpose of assessing applications and interviewing applicants when necessary.

All of the above information has been available to the public in the brochures at the Ministry's head office, at the eight Community Development Administrative District Offices, at the Community Development Office in Scarborough and on the Ministry's website www.cdcga.gov.tt. None of this has ever been a secret.

The availability of financial support under the Community Development Financial Assistance Programme for local students abroad or in Trinidad and Tobago had been brought to the attention of the national community, including the students, their families, relatives and friends and Trinidad and Tobago overseas missions in several fora and through several media, including budget statements and documents for the year 2003, 2004, 2005, 2006 and 2007. It was published in a document entitled "A Guide to Social Programmes and Services, 2005".

The availability of financial assistance through the Ministry for the pursuit of tertiary studies has been so well known to the national community, that former and current Members of Parliament from the Opposition have submitted covering letters in support of applications from their constituents. These include Drs. Reeza Mohammed and Roodal Moonilal. Additionally, telephone calls were received at the Ministry from Members of Parliament and/or their constituencies on the status of applications submitted by constituents of parliamentarians like Dr. Roodal Moonilal, Mr. Chandresh Sharma, Mrs. Kamla Persad-Bissessar and Dr. Adesh Nanan.

Mr. Speaker, none of those who sought financial assistance did so with the expectation that their personal circumstances would have been exposed for public ridicule. I hereby apologize to those who accessed our services and now find themselves and their families facing acute embarrassment through media exposure.

The Government's initial reluctance to provide those names was intended to prevent precisely such an occurrence. In our earlier decision, we sought to protect the privacy of citizens who approached the Government for assistance.

I have noted the appearance of several articles in the media where persons disclaim receipt of assistance from the Ministry. I wish to assure this honourable House and the national community that all such claims are being investigated by the Ministry and all such persons are asked to contact the Ministry at their earliest convenience.

I wish to speak to all the recipients of financial studies assistance whose names appeared in the media for the years 2003 to 2007. You have done nothing wrong. I know you feel hurt and embarrassed, but stand proud, stand tall. This Government will continue to serve you unwaveringly. This Government will not waver in its quest to guarantee upward social mobility and transformation for all. In accordance with our developmental policy, no one shall be left behind.

I thank you.

Mr. Speaker: I think it is fitting time to have some tea.

PROCEDURAL MOTION

Hon. C. Imbert: Mr. Speaker, I beg to move that we suspend Standing Order 10(2) to allow us to take the tea break at this time.

Question put and agreed to.

Mr. Speaker: We shall now have an early tea and we shall return at 5.00 p.m. sharp.

4.25 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

TOBACCO CONTROL BILL

Dr. T. Gopeesingh: Thank you, Mr. Speaker. Before I took my seat to allow the hon. Minister of Community Development, Culture and Gender Affairs to make her statement, I had made the point that the United Kingdom had approached this matter with a phased strategy in terms of the implementation of the anti-smoking laws and took about a four-year period subsequent to the White Paper in 2004.

Even then, when they made the decision in 2008 and they enacted the legislation for a total ban, they still left a number of areas uncovered and there were some exemptions to the law. While the ban affects almost all public indoor spaces and places of work, some places are excluded from the ban; places such as bus shelters which are less than 50 per cent covered—some councils included all

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in the ban—phone boxes and hotel rooms if they are designated as smoking rooms.

We would like to ask the hon. Minister what is in the legislation in terms of hotel rooms. We are not sure whether there are designated rooms in the hotels for smoking or whether all hotels are banned. We need answers.

Even in Britain they allow smoking in nursing homes. I found that quite strange. They allow smoking in prisons and on offshore rigs only in designated rooms.

Hon. Jeremie: On a point of correction, you said in the United Kingdom they allow smoking in prisons.

Dr. T. Gopeesingh: I saw it here on the—

Hon. Jeremie SC: I just want to refer you to a case that was decided on July 24, 2009. It is *N v Secretary of State for Health, Nottinghamshire Healthcare (NHS) Trust*. It is Equality and Health Care Commission intervening case in which precisely the opposite was found by the Court of Appeal of the United Kingdom. I will pass the case to you.

The argument was that it infringes their rights to privacy and freedom of expression not to be allowed to smoke in prisons. The court soundly rejected that argument and it did not derogate for the convention rights. If you wish, I can have this case passed to you.

Dr. T. Gopeesingh: Thank you. Send it to us; we will appreciate it.

Obviously, people are contesting the whole aspect of their smoking rights, but, as the hon. Attorney General indicated, there is another case that came out of Britain where people looked at the infringement of constitutional rights, but the courts ruled in favour of the community; that it infringed the public health concerns of the community. There are one or two other test cases.

This article also says that smoking was permitted in the palace of Westminster as it is for other palaces, although Members of the House of Commons and the House of Lords agreed to observe the ban and banned all smoking in the palace except for four designated outside areas.

Smoking was allowed in private houses, but not in areas in which one works or public areas such as shared corridors. The article goes on to say prisons, although the hon. Attorney General has indicated a case that was just presented. Hotel rooms are exempt and university halls pose a dilemma for refining what is public and private. Some universities have imposed a blanket ban, including halls of residence and some have not.

5.05 p.m.

Mr. Speaker, the next issue is the question of education for adolescents. [Interruption] An estimate of tobacco use amongst the youths in Trinidad and Tobago is difficult to determine in light of the limited number of studies previously conducted. So, there are few studies as far as the youths are concerned.

The Global Youth Tobacco Survey, the one which was conducted in 2000, found among the conclusions that about 40 per cent of all students between the ages of 13—15 have experimented with cigarette smoking at one time or another and an equal percentage of males and females are experimenting with smoking before the age of 10.

Media advertising is a major contributor, and a major influential factor is that they live in households where parents and other adults smoke. So, in households where parents smoke, that is a major contributory factor for children taking up smoking. The aspect of whether parents can smoke in their homes when children are there has to be answered as well.

The prevalence of current smoking in the school population was 16 per cent in the 2000 study. It is instructive for the hon. Minister of Education to note that the prevalence of current smoking in the school population, according to the Global Youth Tobacco Survey in 2000, was 16 per cent.

The Global Tobacco Youth Survey questionnaire which was available to all countries and was developed by the WHO, in conjunction with the tobacco free initiative, the United Nations Children Fund and the Office of Smoking and the OSA Health Centres for Disease Control in the United States of America and so on, PAHO upon a smoke-free pilot project in conjunction with a number of authorities in Trinidad—the Regional Health Authorities, UWI, the National Parent Teachers' Association, the Power Generating Company of Trinidad and Tobago and the Health Services Unit at UWI—led an initiative to collaborate with the coalition for a tobacco free Trinidad and Tobago.

The UWI Health Services Tobacco Survey study showed that 38 per cent of the students claimed that they have never received help or advice to help them stop smoking. So, 38 per cent of the students at UWI, claimed that they have never received help or advice to help them stop smoking. This is another opportunity, as we have been speaking, for the campus to foster programmes to assist those who are partial to giving up the habit.

So, therefore, it brings on the point again, educational programmes, counselling and prevention strategies which must be used in the school population. This is something that the Ministry of Health in conjunction with the

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Ministry of Education should devise urgent policies to deal with the counselling and education programmes to prevent the students—work actively to ensure that this number is decreased significantly.

One of the things that we want to recommend to the Government is that the Bloomberg—I am sure the Minister of Health knows about the Bloomberg Global Initiative Study. It says: Let's stop smoking in Trinidad and Tobago: Cigarette smoke contains benzene, nitrosamines, formaldehyde and hydrogen cyanide. It shows pictorial representation of a baby in a jar, spontaneous miscarriage, impotence in males, larynx cancer, asthma in children, low birth weight and necrosis.

Mr. Speaker, one of the things we want to recommend to them for the school population is to present some of these in a pictorial form, not only verbal communication and counselling, but let them see the damaging effects.

Sen. Narace: So, you are supporting the Bill.

Dr. T. Gopeesingh: We want to support you, but there are a number of matters which I have raised that we have concerns with. I am sure the hon. Minister will address them. You know what we have been talking about.

Mr. Speaker, there is a high incidence of smokers amongst those who had parents and close friends who smoke. Mr. Speaker, 11 per cent of UWI students are current smokers and it is more common amongst the young age group 18—21. Amongst the university students, there is strong support for the creation of a smoke-free campus. They want a smoke-free campus, but 38 per cent of UWI students said that there have been no active interventions or any type of counselling, education programmes and assistance to help to remove them from the whole issue of cigarette smoking.

Mr. Speaker, there are two other points that I want to raise before I close. The first point has to do with testing. The Minister has to indicate to us, when an authorized officer is testing for cigarette—as I am on that point, in the definition “authorized officer” are police officers, customs officers and public health inspectors, but along in the text, you have “authorized officers” as being police officers and customs officers. So clear up that anomaly for us. In the definition you have “authorized officer” including these three and you have left out the health inspectors in a part which I am not able to find at this moment. Perhaps, you would need to clarify that issue.

Hon. Jeremie SC: Just that I do not have to respond to that when I get up, the less invasive powers are exercised by persons who do not have police powers that would be the public health inspectors, and that is in 8(1)(a). They are given powers to examine, open, and to test equipment, tools and so on.

In clause 8(2) it is specified that:

"Only authorized officers who are either customs officers or police officers shall have the power after obtaining the consent of the owner, manager or lessee or after obtaining a warrant to—"do various things. So the definition is wider.

Dr. T. Gopeesingh: Thank you for the clarification in terms of the differentiation of the powers of the various authorized officers. That has become quite clear to us.

With respect to clause 34, on the issue of evidence, which laboratory is going to do the testing? Where is the certification? Is it the Bureau of Standards laboratory? This is not clear. We have a difficulty in Trinidad in terms of the determination of even medical laboratories and who is responsible for it. There was an entire discussion on that previously in one of the Bills and, therefore, the testing of these issues related to cigarette smoking, where is the testing being done? Which laboratory is going to be doing the testing? We need some clarification on that matter as well.

You would realize that even the Forensic Science Centre is not even accredited at the moment. They are supposed to be accredited and they are not. Who is doing the testing? Is it the Food and Drug Administration area? Where is the testing going to be done? When you have to put forward something in court, you have to get a certified copy of the results of the examination done by an accredited laboratory, because it could be challenged. This is something you need to look at.

There are a few other areas in the Bill like prohibitions in clause 12(1) and it says:

"No person shall smoke or hold a lighted tobacco product in any enclosed public place, enclosed workplace, or public conveyance..."

It is public "convenience", is it?

"...including but not limited to any place listed in the Second Schedule."

Now, that is broad. So, that means anywhere, everywhere. I think that should be deleted. You have what are the areas in the Second Schedule, but you have added on "not limited to any place listed in the Second Schedule", and that could include the home. I think you need to take that off.

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Clauses 14 and 15 deal with prohibitions on self-service displays, and people have raised the concern that if there are cigarettes on the shelves in a supermarket, where would the sellers of the cigarette have their product? Would it be hidden somewhere and the person who wants to purchase it has to ask for it? You said here that prohibitions on self-service displays and supermarkets usually display their products and they may have their cigarettes in a particular area. Would it be removed from those areas now and the purchaser will now have to ask for it?

Now, if they have to ask for it, someone can argue that you are depriving the purchaser of the ability to differentiate the brands because they may not know what brands are there in the supermarket. The Attorney General could probably see that it is preventing them from their constitutional right—

Dr. Moonilal: Suppose they cannot read!

Dr. T. Gopeesingh: Well that is the thing. You see, you do not want it on self-service displays, but what is the consumer going to do? How are they going to understand the differentiation on the brand?

Hon. Narace: Thank you very much. That is one of the key ways; the whole branding is how they trap children and individuals. If you know about impulse purchases, in fact, there are statistics that show that people respond to point-of-sale display materials, and there are studies that show that it would cause them to buy something that they ordinarily would not have bought. In fact, impulse purchases, the margins are normally higher and there are greater advantages for putting it that way. This is one of the things we are trying to achieve, to prevent you from doing that. It also deals with things like floor to ceiling displays and so on, but in England, as the Attorney General will tell you, it is the same thing and in most of the developed countries.

Dr. T. Gopeesingh: I raised that issue because a number of cigarette smokers would probably find that highly unusual where they would not be able to find it or see it anywhere and they would have to ask for it.

Mr. Speaker, clause 16 says:

“No person shall purchase any tobacco product through any self-service means, including the mail, the internet or automatic vending machines.”

Now, a person could probably be a wholesaler. A wholesaler could be a purchaser. Now, would that mean that the wholesaler is unable to sell his products, if somebody wants to go through the email system or the Internet system? Would they be unable to sell their products through the Internet?

Mr. Speaker, the other areas, my colleagues will take up like the regulations, packaging and labelling issues but, in closing, I want to emphasize that there are three major fundamental issues that are giving us concern: one is the question of the unit. We believe that there should be a regulatory authority with statutory obligations not under the Ministry of Health.

Secondly, the penalty issue should be considered. The penalties are too harsh and in keeping with the United Kingdom structure, they should look at that.

Thirdly, there is the question of phasing out the penalties in terms of first strike, second strike and third strike. There is also the question of incorporating in the Bill counselling, education and the cessation issue. All of these things must be taken into consideration. You should have pharmaceuticals at specific centres to try to assist the population in the cessation of smoking.

Mr. Speaker, thank you very much. [*Desk thumping*]

The Minister of Social Development (Hon. Dr. Amery Browne): Mr. Speaker, it gives me great pleasure to rise in support of the 2009 Tobacco Control Bill as moved by the hon. Minister of Health, my dear colleague, and a Minister who is worthy of great commendation this afternoon, as he has brought a very forward-thinking piece of legislation before us for our consideration.

Mr. Speaker, in my very brief career thus far as a politician, I have seen different types of legislation come before us for our deliberation and consideration. There is legislation that treats with particular issues of finance, economy and different organizations that have come before us for our consideration or support, but I strongly feel that this particular Bill is visionary in nature and one that takes Trinidad and Tobago one critical step closer to Vision 2020 and the realization of developed country status. [*Desk thumping*]

5.20 p.m.

I believe that with the successful passage of this Bill this evening, we are taking a critical step toward the well-being and better health of all citizens of Trinidad and Tobago. It is a step not just for this generation, but for the generation that is to come and the generation that will come after that generation, indeed for the entire future of our beloved country.

Mr. Speaker, I sincerely believe that what we as Members of this House have before us this afternoon is not a challenge that should cause us to be back and forth on this piece of legislation, but it is really a precious opportunity. It is an opportunity for us to put the back and forth aside, the petty politics, the one-upmanship, and I do not want

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to say we just saw a little example of that, but we can put some of those things aside and join with the Ministry of Health, with the Government of Trinidad and Tobago in literally helping to save countless lives of citizens present and future.

I have listened very carefully to the contribution of the Member for Caroni East. It seems that he was unable to resist—even though I sensed some general support for the philosophy of the Bill—the temptation to dwell on some semantics, and in some sense oppose for opposing sake. I heard a very strong comment being made [*Interruption*] very early in his contribution that gave me a sense of hope, and that comment was, and let me just paraphrase: If legislation will save even one life we will support it.

Dr. Gopeesingh: I said it.

Hon. Dr. A. Browne: You said it. You are not denying it. I am very pleased. I am not misquoting you, Member. But then the hope was extinguished by the further contribution of the Member as he went on to indicate that he saw this Bill as a delicate balancing act. I have to say I could not see his logic there.

There is a balancing act before us but it is the balance between life and death for the citizens of Trinidad and Tobago. When there are those choices to be made, this Government will always choose life for our citizens. [*Desk thumping*] This is a Bill of life. This is not a Bill of death. So if that is the balance before us, there is no choice, there is no alternative, and I am looking forward to their support, particularly of the Member for Caroni East. Because I know he has the knowledge base that will enable him to make a conscientious vote of yes on this particular piece of legislation. That is the balance, and this Government will always choose life. [*Interruption*]

Physicians are not immune from nicotine addiction. I know many colleagues and I know the Member for Caroni East knows many colleagues who are chronic smokers of cigarettes, and even surgeons who really should and do know better tend to be some of the heaviest smokers in the profession. These are persons who have seen lungs. I do not know if the Minister of Health had the opportunity to see a set of lungs that have been impacted by cigarette smoke, but it is not a pretty sight. It is a terrible, terrible sight, and one can tell at a glance the lungs of a cigarette smoker or a chronic smoker. [*Interruption*] But physicians are not immune from these dangers.

I expected a very clear statement from my very learned colleague opposite, calling for support for this Bill and instead what we got was a slow and meandering contribution which really did not take us where we needed to go. My colleague opposite said he has been searching for cessation programmes and is

unable to see any real signs of the Government's commitment or contribution to the development of cessation programmes, conveniently ignoring the fact that many existing drug rehabilitation programmes also treat with nicotine addiction. You can scan the entire spectrum, the entire environment, also ignoring the fact that the Ministry of Health—and the Minister said this specifically—is seeking to establish a programme within their ambit to achieve exactly that, and that has actually started and I could refer specifically to the Bill in clause 6(2) in the description of the functions of the unit. It could not be more clear than it is stated here. It really could not.

“The Unit shall—

- (a) make educational and cessation materials available to municipal corporations, health care workers and facilities, schools, the media”—God bless them—“non-governmental organizations and such other entities as it deems appropriate;
- (b) develop evidence-based educational programmes and materials appropriate to the population at large...;
- (c) establish evidence-based tobacco use cessation programmes”—Mr. Speaker, note the words, cessation programmes—“including diagnosis, counselling and treatment services and, as appropriate, access to nicotine replacement therapies; and
- (d) train authorized officers.”

Mr. Speaker, it is right here in the legislation for consideration of Members including the Member for Caroni East, so I do not know how one can honestly examine the Bill and then say that insufficient provision is being made for assisting citizens towards cessation. That is part and parcel of the comprehensive approach that this Government is taking to the very serious issue, the serious threat that cigarette smoking and nicotine addiction placed to the lives and health of our citizens and the health and future of our beloved nation. So, many of these programmes do currently exist.

Now, there was another very interesting point made by the very distinguished and learned physician opposite, and that was, he does not want the Ministry of Health and the Minister of Health to spearhead this regulatory effort. Again, this line of argument set me back a bit. I do not want to say that there is a form of schizophrenia in this line of reasoning, but we have seen this trend developed where there is a desire to place full responsibility on the Government, on ministries and on Ministers, but to place as little

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authority as possible in those same institutions, including those that are voted for by the citizens of Trinidad and Tobago.

I do not know how far we can go in that wrestling match, but clearly Members opposite are struggling, maybe that is the balancing act he was referring to, but this Government will always fulfil its responsibilities. I am not in a position to speak for the Ministry of Health, but they have spoken already. The Bill before us speaks to their commitment to doing the right thing and rising to the occasion in spite of the challenges that are all around us, in spite of a very powerful tobacco lobby that exists in this country, exists in this region and exists across the world.

Hon. Narace: In spite of all of those challenges.

Hon. Dr. A. Browne: Yes, in spite of all of those challenges we will not allow any Member to sit there and get away with mischief in eroding the role of a Minister or the role of a ministry. We recognize that partnership is important and partnership with civil society bodies has already been established on this very critical issue.

In fact, the Bill is a testament to the type of partnership, collaboration and consultation that has already occurred and the very philosophy of a successful effort against smoking at a national level does call for that type of partnership and that is very much in train. So, it is not a ministry-only effort, but of course it has to be a ministry-led effort because those are the authorities to which the national community and the Government turn when it comes to the issue of health and the well-being with regard to medical and other conditions.

Mr. Speaker, I also heard a very interesting and elaborate argument that I summarized as an effort to weaken some of the penalties in the Bill. Would you agree or disagree with me, Member?

Dr. Gopeesingh: Yes, I agree.

Hon. Dr. A. Browne: Yes, very elaborate. He agrees that he rolled out a very elaborate argument designed to weaken the penalties in the Bill.

I am wondering if he consulted with the Member for Caroni Central in that particular plan, because I doubt it, knowing the type of principles that the Member for Caroni Central—

Hon. Member: They are two different types of slate.

Hon. Dr. A. Browne: Two different slates, oh dear. Well, I would not go into that line of speculation, but I know there are a few slates rolling around.

[Interruption]

I would doubt that there was consultation with the Member for Caroni Central in advancing that particular position. I doubt there was consultation with the Member for Naparima, again, knowing the types of principles that Member stands for. I doubt there was consultation with the Member for Tabaquite. I do not know if he spoke and listened to the Member for Tabaquite in coming up with a position, a line of argument, that seeks to weaken the penalties presented in this tobacco control legislation.

I am also wondering if he spoke and listened to himself before he advanced that particular position, because I refer again to his words: He supports anything that can help save lives, any legislation that can help save, not lives, a life. He also admits that cigarette smoking kills every single day in Trinidad and Tobago. He admits that strong legislation can save lives, and there were references and quotations to support that, and the end result of all of those inputs is a desire for weaker penalties. I would have thought he would have come here and argued for stronger penalties in this particular legislation. Something is not adding up here in terms of that intricate line of reasoning.

Mr. Speaker, it is a fact and a reality if we do not have strong penalties people will continue to ignore our laws and brush the laws aside. We see that, the evidence is before us every single day. Just last night I attended a meeting in the Diego Martin community and people were saying in spite of the charges being laid for people overtaking on the shoulder, you know what happens? They just continue to do it. A maxi-taxi would be charged at point A and a mile down the road we discover the same maxi-taxi being pulled aside—what is the reason behind that? The penalties—well, I am not going to go too deep into that argument, but the message is, if we weaken the penalties in such legislation, the ultimate effect is the propensity for persons to simply ignore our intent, our purport and defeat the philosophy behind the Bill, the *raison d'être* behind the Bill. That is certainly not something that this Government would support.

I do not wish to brush aside in any way the contribution of the Member for Caroni East. He made some very useful points, and of course relied on his very deep body of expertise when it comes to medical conditions, but there were certain aspects of that contribution that I cannot concur with. I know that there would be others speaking on this matter who would respond further to the issue of penalties.

Mr. Speaker, I almost forgot this point that was raised. There was another—I do not want to say long-winded—elaborate case built up about people who will try to quit; they will try and try and they would fail. *[Interruption]* That is

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unfortunately an echo of the arguments that have been advanced time and time again by various types of lobbyists. *[Interruption]* Member for Caroni East, you know I am not accusing you of anything wrong, but I am just saying that there is a striking resemblance between that particular contention and the philosophies being advanced by some of those who would seek to avoid this type of legislation all together. *[Interruption]*

So the Member seems to be representing and presenting a case for those who have difficulty in quitting their nicotine addiction. He said they tried and tried and they failed. One might say it is similar to the UNC in its efforts to hoodwink the population. Then he came to the conclusion, if they tried and they failed the Government would jail them. I would want to see where in this Bill the Member for Caroni East has come to the conclusion that someone who is unable to quit smoking would be put in jail by the police or any arm of the State. It completely escapes me, but that is the argument that my colleague opposite has presented.

Mr. Speaker, let me make this as clear as possible. No one is to be penalized because they cannot quit smoking. No one is to be penalized for smoking. No one says you cannot smoke at home, in the yard, in the street, or in the outdoors. *[Interruption]* But if you want to smoke now and you cannot help it, and you have failed in your desire to quit, you are free to go outside.

5.35 p.m.

Mr. Speaker, the Government has recognized that this is not an academic discussion, human lives are at stake. There is an epidemic that has been unfolding around us, it is an epidemic of non-communicable diseases. This has been recognized locally by our Ministry of Health; regionally, by the Pan American Organization; it has been recognized globally by the World Health Organization. There is an epidemic of non-communicable diseases. Lifestyle diseases, led—the leader in the attack being made by those non-communicable diseases is nicotine and cigarette smoking.

Mr. Speaker, we all are at risk: adults, the elderly, children and even babies, and the Member made the point with regard to low birth weight, stillbirths and premature deaths, et cetera. All are at risk, the present and further generation of this country. So whether one is depressed or not depressed, it really does not matter in terms of being charged. You can still smoke and not contravene the law. You can still smoke and not be thrown into jail. So whether you tried and succeeded, well we will be happy for you, the Bill is designed to facilitate that. If you tried and failed, you still have the opportunity to smoke. So I would not allow

that perception to remain in this House, that the Government is seeking to jail or penalize persons who try to quit smoking and fail. It is a very, very unfair and unfortunate attempt to maybe, a weak argument. That will be a kinder way to put it, and I thank my colleague.

Mr. Speaker, what is happening now, is that you are now restricted in where you can do it, and who else you can expose to your smoke. That is the difference, and that is something that we should all applaud in this honourable House. It is a brave move and a very important move. It is a forward-thinking move. You are restricted in where you can smoke, not whether you can smoke; where you can smoke and who you can expose to your smoke. [*Desk thumping*] That is health care. That is health care, Member for Caroni East. A fundamental pillar of this particular piece of legislation, and a fundamental pillar of the Ministry of Health's approach, to dealing with this particular sphere of non-communicable diseases. So I just wanted to make that as clear as possible.

Again, I had become fascinated by this point. Absolutely fascinated, spellbound, because there was another very well put together elaborate argument, to seek to justify the Member's recommendation to drag out this legislation and the implementation thereof. No, I cannot say that there is any role of the tobacco lobbying in preparing, Member. That is probably inaccurate. But I was spellbound by that particular line of reasoning, and I want to ask, through you, Mr. Speaker, the Members opposite, how long would we want to drag out the implementation of these measures, the regulation and control of cigarettes? What period of time? Member for Caroni East, how long would you want to drag it out? Equal time as the United Kingdom, five years? How many deaths are we willing to tolerate due to cigarette smoking in this country? [*Desk thumping*] How many stillbirths are we willing to allow, to occur, while we fiddle and debate? Come on! This is a Member who has welcomed so many lives into this world. So many, and has done such a good job in doing so. I do not think he will want to support even one stillbirth if it is not necessary. How many citizens do we want to be newly addicted to this very powerful and dangerous drug, while we stretch out and slow down the implementation of our tobacco control and regulation? Because these persons who are newly hooked to cigarettes during that period, some of them will be newly hooked to respirators later on in their lives. Our health system is already burdened. You know that, you talked about bed space. You have come with so many arguments that should direct you in the other direction. You should be telling us, "Let us pass this legislation now, [*Desk thumping*] without delay."

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Mr. Speaker, we do not propose to drag out anything. The Government does not propose to drag out anything when it comes to tobacco control and regulation. We are not going to pussyfoot around this national health emergency when it comes to the well-being of our citizens. We need to bear in mind that this Bill has already been adjusted in the other place, and the Government will always choose life now, as opposed to delaying these measures. Life now! And then it was capped off by saying that England—he became emphatic—proceeded more slowly with the implementation of regulation than we are proposing to proceed. I have great respect for you. You know that. England proceeded more slowly with the implementation of regulation than we are proposing to proceed.

Mr. Speaker, what he fails to comprehend and what we all need to comprehend, is that the citizens of Trinidad and Tobago are more at risk. The citizens of this country are more at risk from the dangers of nicotine addiction, and first-hand and second-hand cigarette smoke, than the citizens of the United Kingdom or any country on the European continent. That is a fact, and that is a reality. The urgency is even greater here than in England. The stakes are much higher here, in Trinidad and Tobago, than in the United Kingdom. The Member for Caroni East should know, and I know that the Member for Caroni Central is fully aware that the nicotine epidemic is shifting. It is shifting and it is shifting from the First World, the developed countries, and shifting towards developing countries just like our own. We are very much a developing country. We are just developing a lot faster than some of our peers, under the caring and good hands of the People's National Movement. We are just developing a lot faster than some of these other countries. So the epidemic is shifting, and I am disappointed that the Member for Caroni East did not take this into consideration in advancing this particular recommendation.

Mr. Speaker, 80 per cent of the world's nicotine addicts now live in developing countries like Trinidad and Tobago. What does that tell us? Only 20 per cent live in countries like the United Kingdom. During the early part of this century, 70 per cent of tobacco deaths are predicted to occur in developing countries like our own. That is vast majority—[*Interruption*] Exactly, 70 per cent. So, please do not bring the arguments of an England scenario or United Kingdom scenario to Trinidad and Tobago, where we all know, those of us who are familiar with the pattern of non-communicable diseases know that we are even more at risk here from the dangers of tobacco and nicotine addiction. That will never be tolerated or even be considered in the Government's approach to dealing with this particular—

Then near the end, there was a case in defence—[*Interruption*] Well, I am going to put it the way I heard it—of cigarette marketing via self-service displays. Imagine that. A case was made in the Lower House here today, in defence of cigarette marketing via self-service displays and I could not believe my ears. I could not believe my ears. I do not know what was the intent of that particular line of argument. Was it to assist our children in finding their preferred brand of cigarette on the shelves?

Mr. Speaker: Order!

Hon. Dr. A. Browne: Who are we assisting with that line of thinking or advancing that type of argument? Mr. Speaker, that one, out of all the things that I heard and I heard many things, many things surprised me, many things shocked me, but that one was a shot from somewhere else. We cannot support any defence of cigarette marketing via self-service displays. That cuts to the very heart of this particular legislation. That cuts to the very heart of the aspiration to regulate and control the tobacco industry and to help Trinidad and Tobago break that chain of death. And the chain of death starts with the manufacture and import of these dangerous items, it goes through the marketing and extensive marketing, and it goes straight through to the sale, wholesale, retail and the use of cigarette. The approach of this Bill is to find strategic points in that chain where this industry will be regulated and controlled. To remove this particular provision would not be in keeping at all with the approach of the Government of Trinidad and Tobago.

Mr. Speaker, the knowledgeable Member knows what has to be done, but he has tried to find every single possible argument, including some that have been utilized by those who wish to promote smoking, every single argument to try, not to strengthen the regulation of this danger, but to weaken the regulation and control of this danger. I am very, very surprised, and I know the Member for Caroni East is a bit of a philosopher—[*Interruption*] A bit of a philosopher! Come on, allow me some latitude. Mr. Speaker, I ask for your protection—and I offer him the words of Confucius, in fact, all Members opposite.

Mr. Speaker, to know what is right and not do it, is the worst form of cowardice. To know what is right and not do it, is the worst form of cowardice. I put it to the Member for Caroni East, that he will have the opportunity to do what is right here today. I see him smiling and I know that he is preparing himself to say aye or yes, or whatever he chooses in support of this very, very important piece of legislation.

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This Government is not trying to persecute anyone personally. Let us be frank, Mr. Speaker, there are smokers among us, and that is the reality. There are smokers among us and— Come on! Come on, Member for Oropouche East. We have already caught you out earlier with the statement, do not let us catch you out again. There are smokers among us. In fact, in every profession there are individuals who smoke cigarettes. This is not an attempt by the Government to persecute anyone on a personal level. In fact, if there are Members who are addicted to nicotine—

Mr. Speaker: Order!

Hon. Dr. A. Browne: I choose to be hypothetical, Mr. Speaker. If there are Members of this House who find themselves addicted to nicotine or cigarettes, this Bill is not an effort to persecute you or your family. In fact, by passing strong tobacco regulation and control, we may be helping such Members to add a few years to their lives, to stay a little longer with their families, to stay a little longer with us and with their constituents. What could be better than that, in such charming company as you have offered us opposite? What could be better than that? I know some of your constituents would—*[Interruption]* *[Crosstalk]*

Mr. Speaker: The only person who is entitled to speak is the hon. Member for Caroni Central.

Hon. Members: Diego Martin Central. *[Laughter]*

Mr. Speaker: Diego Martin Central.

Hon. Dr. A. Browne: Mr. Speaker, I always knew you are man of mercy, and your heart was showing. So this is not an attempt to persecute. But as I was saying, we would like to keep even those Members who might find themselves struggling with the dangers of cigarette smoking around a little longer and keep their family members around longer, and keep them engaged with their constituencies a little longer.

Mr. Speaker, if we can encourage citizens to stop smoking or to reduce the number of cigarettes that they smoke every day, that is good news for Trinidad and Tobago, that is good news for the health care system, and that is good news for the future of our country.

Mr. Speaker, unfortunately, when it comes to cigarette availability and usage in this country, it has been a bit of a free for all in the past, unfortunately. And that is why the Government of Trinidad and Tobago, being a responsible Government, has taken upon itself that now is the time to really close those gaps

and to ensure that we have a proper system in place to protect our citizens, and to ensure our health and well-being.

5.50 p.m.

There has been insufficient legislation to effectively govern what I called a chain of death, from manufacturing right down to use and second-hand exposure. There is very little legislation in place to regulate or to treat with that chain that has occurred in every single country around the world. The reality right now is that someone could sit right next to you, light a cigarette and smoke in your face and there is little that could be done. Citizens would wonder, "Who is going to save me from this when that happens?" That is the reality that we are treating with.

Mr. Speaker, you can—well, one can be riding a maxi-taxi—[*Laughter*] Notice I corrected myself. A citizen of Trinidad and Tobago could be riding in a maxi-taxi—this would be interesting to you, Member for St. Augustine— with a newborn baby in arms.

Mr. Abdul-Hamid: He does not know what a maxi-taxi is; a van like "ting" with a stripe. [*Crosstalk*]

Hon. Dr. A. Browne: A citizen could be riding in a maxi-taxi with a newborn baby in arms and someone could sit and smoke freely next to that mother and that baby. They might wonder, "When is this going to end"? Who is going to protect me from this reality?" Right now our children, your children, anybody's children in this country can be stalked and courted and seduced by a tobacco company and its tobacco products, and with images of vitality and prowess, athleticism, the good life, yachts, fine cotton shirts, relaxation, sports cars and beautiful women—the Minister of Health is nodding; he knows the images. [*Laughter*]

Mr. Bharath: "Dat sounding good." [*Laughter*]

Dr. Moonilal: "Yuh trying to lose we support or what?" [*Laughter*]

Hon. Dr. A. Browne: Those are the images: open mountain ranges and galloping horses; our children are being pursued by these images on a regular basis, and up to this point there is little that a citizen could do about it.

Our children can go to the cinema—the nation's children could go to the cinema in Tunapuna, Sangre Grande, Port of Spain, in some cases, or various points, to watch an animated film, an innocent film like *Finding Nemo* or something else, and be choked and throttled and stifled by billows of tobacco smoke. That can occur today, or they could even be offered cigarettes, our

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children. You might wonder, a citizen might wonder whether there would come a day, Member for St. Augustine, when this would cease. When will that day come, Member for Caroni East?

Mr. Speaker, someone could be on their last breath, breathless on a treadmill at the gym, someone could light up right next to them, and that person would wonder, "Would I be able to recreate?"

Hon. Members: In the gym?

Hon. Dr. A. Browne: Yes. "Will I ever be able to recreate in a healthy environment?" Right now there is a bit of a free-for-all and we have to take action.

Member for Caroni East, you are a thoughtful person, think about a young person who is guilty of nothing, but a desire for employment in the service industry, employment in a restaurant, employment in a bar, employment in a pool hall, a sports club; they are constituents of yours as well as constituents of mine. Think about those individuals when you make your decision with regard to this particular Bill.

These persons, through no fault of their own, day in, day out, night in, night out, with no choice on their part, are virtual chain smokers by proxy. They are virtual chain smokers by proxy, no fault of their own. That is the reality we are facing at this point. So when you want to come and water down and stretch out and slow down and weaken, I would want us to think about these citizens and the future of this country. This cannot be tolerated in a modern society. This cannot be tolerated in a society that seeks to develop. This Government is taking action, at this time, to protect those workers, those children, those teenagers and the rights of all our citizens to a healthy existence. That is what this Bill is about; think about it.

Mr. Speaker, anyone's son or daughter could easily access her first pack, then her second pack, her third, her fourth, her hundredth, her thousandth and then her last pack, via a vending machine that cannot tell whether the child is 18, or 16, or 15, or 14, or 10, or seven-year-old. I have examples of persons smoking at very young ages in this country and the stories that they have told. I am not going to regale you with some of those today; that is the reality.

Then one day that person could easily access the last pack of cigarettes in this fashion, and our citizens would wonder, "Can this chain be broken?" Who is going to step in and seek to regulate and control this open season that seems to have been declared on the youth of this modern age, when it comes to tobacco and nicotine?

Mr. Speaker, one could be a worker in a health centre or hospital observing the annual increase in mortality and morbidity due to tobacco-related causes, and wondering, "When will the Government step in and seek to take action on this particular epidemic?" Where would the comprehensive strategy come from?

Mr. Speaker, I can tell you where it would come from and I can tell you that it is before us here today, brought by the Government of Trinidad and Tobago. The answer to all of these questions: When will the chain be broken? When will the comprehensive effort take place? The answer is today; the answer is now. We all know that the answer does not end here, because there is much work ahead of us on this issue, but in some regard it begins here with this very important, critical piece of legislation as presented by the hon. Minister of Health.

In this scenario of expansion of the epidemic, what would the ideal legislation look like? What would the ideal legislation contain in order to regulate and control this menace to society? An ideal piece of legislation to treat with this environment would have to be strong, by definition. Both the addiction and the tobacco lobby tend to be very powerful and very pervasive. Both the addiction and the lobby behind it tend to be very powerful and very pervasive and, clearly to some, very persuasive.

Such legislation would have to be comprehensive, because the tentacles of that chain of death are very far-reaching and the demand is so very high still for these products. Such legislation would have to be focused, at least, in part or in main, on our children and on the younger generation. They are the life-blood of any nation, but they are also the life blood of the industry. The same children that are the life-blood of our nation are the lifeblood of the tobacco industry. Mr. Speaker, a child experimenting with a cigarette today is likely to be a chronic consumer of those products tomorrow.

The ideal legislation to treat with this scenario that we painted would have to have a very special focus on our children. It would have to involve careful regulation and licensing of manufacturers and distributors and also ensure standardization of labeling product information, et cetera.

An ideal piece of legislation to treat with this issue would also involve the creation of an implementation structure; a unit that would design and carry out strategic programmes, would conduct monitoring, research evaluation; it would also report to international organizations on the progress, or lack thereof. Such legislation would create the unit to establish effective partnerships with civil society, other ministries, and other organizations, to ensure that partnership is established, maintained and increased over time.

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The ideal piece of legislation to treat with this very critical scenario would also identify cadres of staff and the protocol for entry, inspection, testing, removal and replacement of products that may contravene proper control.

The ideal piece of legislation to treat with this scenario would ban the sale and marketing of tobacco products to young children. It would prohibit tobacco vending machines, anonymous purveyors of death. It would restrict advertising and sponsorship, and would take all reasonable steps—all reasonable steps—to shatter the chain of death, to protect future potential smokers and to protect future persons who may be exposed to cigarette smoke, either first-hand or second-hand.

It is my pleasure to report to this honourable House that the Bill before us is an extraordinary one that meets every single one of those criteria; every single one of those criteria. It is my pleasure to report to the nation, that this Government has taken a bold and historic step to reverse the free-for-all that existed previously, up to this point, to protect the next generation.

It is my pleasure to report to my fellow Members in this House, that our guest today, the hon. Minister of Health, has the fortitude to bring hard hitting and visionary legislation before us, that deserves our unreserved and unanimous support. [*Desk thumping*] This is an important start. [*Crosstalk*]

Dr. Moonilal: After selling for 20 years?

Mr. Imbert: He has seen the light; like Saul at Damascus.

Hon. Dr. A. Browne: It is also a continuation. In some regards it is a start, but it is also a continuation. This Bill is a continuation of some excellent work that has been done in the past by heroic groups such as the Trinidad and Tobago Cancer Society and other civil society organizations, and hard-working persons in the education sector, in the social sector, at NADAAPP, even trade unions that have been on their own, to some extent, trying to bring some measure of awareness and control to this expanding epidemic. It is a continuation.

This Bill builds upon the reports and recommendations of past Ministers of Health, past committees, experts and working groups that were established previously, all of whom should be proud of this day; every single one of them; it does not matter what walk of life they have come from.

This Bill is a continuation. It responds to the cries of families over decades that have lost loved ones due to tobacco-related illnesses. This Bill responds to the sacrifice of celebrities and sportsmen; it responds to their sacrifice. Persons like Bernard Julien who have exposed their pain and addiction and troubles, in the

hope that they could prevent others from blithely following them along the same path. This Bill responds to their sacrifice.

This Bill builds upon the legacy of every single developed nation in the world, in which their Parliaments, assemblies, congresses and Chambers put aside personal preferences and put aside political one-upmanship and voted similar legislation into effect. Over 33 developed countries have already taken this step. Why should Trinidad and Tobago be an exception? Should we just rely on the Member for Oropouche East's narrow vision of this country? We shall never do that; his narrow, childish vision of this society; no, not at all.

This Bill rewards the hundreds and thousands of citizens who would prefer their children to be exposed to less cigarette smoke in the future; the hundreds of thousands of citizens, like the Member for Princes Town North, who would like to go out and lime on an evening and not come home smelling of cigarette smoke or smelling like a chimney.

This Bill supports the many citizens who now may smoke three packs a day, but who in the future would be smoking one pack a day; and the citizens who smoke one pack a day, but who really would prefer to smoke half a pack a day and who needs some additional help to break their personal chain of death. We empathize with citizens who are along this path.

Mr. Speaker, let me tell you what this Bill does not do, for the benefit of the Member for Caroni East and—well, I do not know if the Member for Oropouche East can be helped. This Bill does not ban cigarettes; it does not do that. In spite of all the evidence and the financial and social costs, if you still want to smoke, you can still do so, but it would be much more difficult for you to affect others with this personal choice of yours. Our children will be protected from both smoke and from those who desire to have them smoke. Those who wish to continue smoking will have information, right in front of them, that could help, at some point, in making healthier choices. We believe that there is hope for everyone, no matter what the addiction is. I have friends who once swore that they would never stop smoking and today many of them have stopped.

6.05 p.m.

Just by our support and passage of this legislation, we are sending a very strong signal to the national community. I am aware that once persons recognize the serious intent of the Government and would say there must be something behind this and in spite of my years of smoking, I am going to start cutting down from now, that is really a responsible approach and one we will seek to encourage.

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Mr. Speaker, the stakes are very high. What is at stake is the free space for tobacco manufacturers, distributors and sellers and users. What is at stake is the future profits of this industry from sale to children and minors. That is at stake. What is at stake are the profits from the sale of medication to treat chronic, obstructive pulmonary disease and emphysema and all those other conditions; that is at stake.

Mr. Speaker, the global stakes are high because there are over a billion smokers on this planet. I am not going through the list of medical conditions, the Member for Caroni East mentioned a few of them, but there are many, many more, and he called for more graphics to be used with our school children and so forth, but may not be aware of ongoing programmes involving our education system and elsewhere to highlight the dangers of cigarette smoking.

Head to toe, this is what this Bill is seeking to avoid in Trinidad and Tobago. [*Holds up a picture*] This is what we are seeking to avoid in our population in the future. This is a graphic, Member for St. Augustine, in case you are unable to comprehend, that demonstrates the complications, side effects and sequelae of chronic cigarette smoking. This is what is at stake, I said the stakes were high. It is a bit graphic, I see your sensitivities may be affected, but I really want you to know, first of all, in responding to the Member for Caroni East, that there is material that is being provided to help raise awareness and create a sense of concern among our younger generation and for those who do not know. This is serious business we are here to do; it is no joking matter and it is not one of those academic discussions in the House.

Mr. Speaker, we have already lost many of our fellow citizens to tobacco use in an unregulated, or insufficiently regulated environment in this regard. We already have had too many low birth weight children and sometimes those same statistics and indicators are celebrated by the wrong types of people. I would not go further into that. We have already seen too much of that.

Mr. Speaker, we have already spent too much of our health care and national budget in treating the effects of cigarette smoke including among our children and infants. The best time for us to support legislation like this Tobacco Control Bill is a long time ago; the second best time to do so is right now, today, this evening. [*Desk thumping*]

I invite the Members of this honourable House to join together with the Minister of Health in an act of love for the people of Trinidad and Tobago; an act of love for this generation and the next one. You will now appreciate that the

Tobacco Control Bill is a testament to this Government's commitment to eradicate all the ills that impact on the health of every citizen of our beloved country and those that will affect us in the future.

We will continue to fight for every child and every adult who we believe will benefit when this Bill becomes law. I have no doubt whatsoever that this is another key salvo in the Government's battle against every threat to the health and well-being of our people. It is another step toward developed nation status.

Mr. Speaker, this Bill is worthy of support of all right-thinking citizens of Trinidad and Tobago and every Member of this honourable House. Today, I commend this Bill to Members of this House, I humbly suggest that an excellent gift that anyone can give to their family is to avoid smoking, or to stop and I sincerely suggest to every Member of this House that an excellent gift they can offer to the people of Trinidad and Tobago is their unanimous support for this particular legislation.

I thank you, Mr. Speaker.

Dr. Hamza Rafeeq (*Caroni Central*): Mr. Speaker, what we are attempting to do today in this Bill is to reduce the effects of smoking, reduce the morbidity and mortality related to the use of tobacco, and that is a laudable and commendable objective, but in making my contribution I must say that while we are attempting to decrease the morbidity and mortality with respect to the use of tobacco, just this one month 11 young persons died at the San Fernando General Hospital as a result of H1N1 virus.

Mr. Speaker, we need to have our priorities right and to deal with not only one aspect of our morbidity and mortality statistics, but we need to deal with an issue that is affecting Trinidad and Tobago and threatening to sweep Trinidad and Tobago.

Mr. Imbert: I thank the Member for giving way, and I am sorry to do this so early in his contribution. Could I ask whether the Opposition UNC is supporting this Bill and will vote for it?

Dr. H. Rafeeq: Mr. Speaker, this is the third or fourth time the Member for Diego Martin North/East has asked me this. [*Interruption*] The debate is quite young, Mr. Prime Minister, the night is young and we have a long way to go, so have patience.

Mr. Speaker, the whole world is moving toward some kind of control of tobacco and tobacco products. It is the only legal product that I know of where there has been mobilization by countries in the entire world to control the use of tobacco.

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I am subject to correction, I do not think there is any country in the world that has banned smoking of tobacco and tobacco products, but even though that is so, the world has been mobilized to decrease and reduce the use of tobacco and tobacco products.

Mr. Speaker, I want to give a little background to this because we have been involved, the PNM just came in. We have been involved before and I want to give a little background.

Mr. Manning: Mr. Speaker, I thank the Member for Caroni Central for giving way. Just for the record, the PNM has been here since 1956, if anybody just came in, it is the UNC. [*Desk thumping*]

Dr. H. Rafeeq: I am talking about the days when you used to smoke; I am talking about the anti-smoking lobby. The UNC started this anti-smoking a long time ago when you were smoking, Mr. Prime Minister, that is what I am talking about.

Mr. Manning: Mr. Speaker, I would have the whole world know that I stopped smoking on February 01, 1996, I therefore have been seized of great wisdom a long time ago, unlike my hon. colleagues opposite.

Dr. H. Rafeeq: Mr. Speaker, let me tell the hon. Prime Minister that I had been seized of wisdom 62 years ago when I stopped smoking, so you just came.

Mr. Speaker, the Director General of the World Health Organization (WHO) at that time, Gro Harlem Brundtland—she was the Prime Minister of Norway before she became Director General—she took this fight against tobacco personally and dedicated a lot of resources from the World Health Organization to the fight against tobacco and during the World Health Assembly, that is when countries from all over the world get together, there were several lobby groups that were given display booths to make their case against tobacco.

They were quite aggressive, as a matter of fact, in their display booths they were lobbying countries to have a total boycott against the conglomerates that were actually manufacturing cigarettes, and also manufacturing things like cheese and other products, they were encouraging countries to boycott even those products. So strong was the lobby against tobacco and tobacco products. The Director General aimed at having a framework convention on tobacco control by the time she got out of office.

Mr. Speaker, those of us who have had experience with the United Nations system, would know the torturous nature of that process before a framework

convention on any one of these issues. There are lots of negotiations, drafting, redrafting, lobbying, meetings, compromises and so forth and finally the world got that framework convention on tobacco control.

Trinidad and Tobago should feel proud that we did play a significant part in the drafting of that Framework Convention on Tobacco Control and I think the Minister would agree with me. I am saying this, not to take away from the work the Government has done, not to take away from what the technical officers have done, but to say that there is some kind of consensus between the Government and the Opposition on this issue, and that is we believe that the use of tobacco contributes a lot to morbidity and mortality and, as I said, we came first with this and this Government came in later.

My disappointment with this Bill is that the Member for Diego Martin North/East is saying to do it and do it now, and why waste one year. How many lives would we lose if we wait one year? How many lives did we lose by waiting five years? This Bill should have been here five years ago, and if it were, we would have saved lives five years ago and we would have been measuring our successes, looking at our failures and what we need to do better. The point is, it is not that we are saying to wait one year, the thing is, we have already lost five years.

Dr. Browne: Very interesting. I thank you Member, for giving way. Mr. Speaker, that seems to be in direct contradiction to the argument advanced by his colleague, the Member for Caroni East, who thought we were moving too fast with this and we should drag it out some more, similar to England.

Dr. H. Rafeeq: I think you totally and completely misunderstood what the Member for Caroni East was saying. I am going to explain what he said.

Mr. Speaker, we are in support of the general intent and purport of this Bill, but there are some clauses that we have difficulty with and we must express it, that is our role and function, and our responsibility. If we had accepted everything that went to the Senate do you know what kind of Bill we would have had today? The Minister would tell you the difficulties he had in the Senate because he went with a Bill that was quite draconian and after negotiations and compromises and so forth, he came with something acceptable and again we are putting forward some further propositions and suggestions and it is up to the Government, it has the majority to accept or reject them, that is the point.

Mr. Speaker, the Member for Caroni Central was saying that we are sitting right now on the horns of a philosophical dilemma and that is we are trying to

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balance the rights of the majority of people to breathe fresh and clean air, to have a healthy lifestyle against the rights of the minority who want to smoke a legal product, that is, cigarette. That is what we are trying to balance here today.

6.20 p.m.

We are trying to find the best way to do that. He talked about community rights against the rights of the individual. We can take the easy way out and say that we would go with the rights of the majority and ban smoking altogether or put harsh penalties. It would be unjust and unfair in that we would not be taking the rights of the minority into consideration. If we put our heads together we can come up with a position that would be acceptable to all and deal with the interests of all.

I will try to make my comments and observations as objective as possible and not allow my personal experiences and preferences to dominate the position that I take on this Bill. As a medical practitioner, I have seen the devastation that has been caused to thousands of people who have smoked cigarettes. I have seen patients with cancer of the lung. I have seen healthy patients who developed cancer in a short time and die within six and eight months. I have seen the devastation that it has caused to themselves and their families. I have seen people who developed chronic bronchitis and become burdens on their families and on a nightly basis they have to call the EHS to take them to the hospital to get some oxygen and treatment. I have experienced that. I have seen patients who are quite healthy otherwise, but they are smokers, they develop heart attacks and die or get so ill that they become a burden to their families and the society.

In those circumstances, it is easy for me as a medical practitioner to say let us go for the harshest possible measures as far as smoking is concerned. It is easy to do that. Let us find some kind of middle ground. In addition, as I mentioned a while ago to the Prime Minister, I do not smoke. I have never smoked a cigarette in my life. I have never touched a cigarette in my life. [*Interruption*] I know that you cannot say the same thing but I sympathize with you. I have been adversely affected by people who smoke when I sit and have to take in second-hand smoke. In circumstances like those it would be easy for me to say to take the harshest measures possible against smokers. Until smoking is banned and made illegal I have to be as objective as possible. We have to balance the rights of those who want to breathe clean air against the rights of those who are smoking a legal product.

Where do we go from here? When the original Bill went to the Senate there were some draconian measures and due to the inputs of the Members of the Opposition and the Independent Senators, what has come to us today is more

acceptable. That original Bill went through a lot of drastic changes. Today, we have a Bill that is more acceptable but there are areas about which we are concerned.

Let me go to the Bill at this point. The first issue I want to deal with and the Member for Diego Martin Central wanted to know why we want to slow down this process. I will read from the Preamble of this piece of legislation. The third paragraph says:

“And whereas most smokers who start smoking at a very young age and are not aware of the extent and nature of the harm caused by tobacco products, and because of the addictive properties of nicotine, are often unable to quit even when they are highly motivated to do so:”

It is the first time that I know that a piece of legislation is admitting that people who want to quit are unable to do so even when highly motivated to do so. This piece of legislation is admitting that it is difficult for people to obey the law. If the law recognizes that nicotine is so highly addictive that people are unable to quit even when they are highly motivated to do so, we have to deal with that problem. What will make them quit? Is it the threat of a fine? Is it the threat of jail? Are these the things that would make people quit when the legislation admits that people are unable to quit even though they are highly motivated to do so.

We are saying no. It would take more than that. Let us go step by step. If a person is smoking 20 or 30 cigarettes that is the normal quantity a smoker smokes. If that person is awake at 6 o'clock in the morning until 7 or 8 o'clock in the night, then it means that that person would be smoking at an average one cigarette every three-quarter of an hour or one hour. That person will go to work at 7 o'clock in the morning and come back about 5 or 6 o'clock in the evening. From the time he enters that taxi he has to stop smoking because the taxi is a public place and he cannot smoke. The law does not allow him to smoke. He goes to his workplace and cannot smoke for eight or nine hours he is there. He takes another taxi to come home and that is another hour. For 10 hours he cannot smoke.

You are talking about an addict, someone who cannot control himself, even though he is highly motivated and is unable to stop smoking. Those are the words of the legislation. Suddenly, he has to stop smoking for 10 hours a day. He would smoke two cigarettes before he goes to work and he would smoke two cigarettes when he comes home.

Sen. Narace: Suppose he took a flight to London, what would he do?

Dr. H. Rafeeq: He would not be taking a flight to London every day. He may

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be taking a flight to London once in a year or two years. He has to go to work every day. While he will have withdrawal symptoms on that flight to England for about four, five, six or eight hours, he would have withdrawal symptoms every day. What do we do then?

We are in support of the intent and purport of the Bill.

[MADAM DEPUTY SPEAKER *in the Chair*]

When this is debated today, give a moratorium period for a couple months or even a year. You allowed so many people to die for five years. Tell people that in one year you will not be allowed to smoke, but in the meantime we are going to educate and rehabilitate you as far as your withdrawal symptoms are concerned. We will do that in one year and when this legislation comes into force we would be able to put you in jail and fine you because you had one year in which to rehabilitate.

We are further saying that it is not necessary to put a first time offender in jail. It is not necessary to put that person in jail for six months and charge him or her \$10,000. I know that is the maximum fine. Tell the first time offender that he or she has a problem. The magistrate must say to this person that he or she has a problem and it is mandatory now for him or her to take a rehabilitation programme so that at the end of one, two or three months the person would not be smoking. That is how you approach this problem. [*Interruption*] The cost cannot be \$2 million like you bought a flag for. It certainly cannot be that.

You would be putting a criminal record against this person for smoking a cigarette in a place that he or she is not supposed to smoke. Give the person rehabilitation for one, two or three months and when that person commits the second offence tell the person that he or she had his or her time.

The other issue I will mention very briefly. I said that I will not take too much time because most of the points have been raised by the Member for Caroni East and others would be raised by other persons who will be speaking. The other problem is the issue of the unit. There is going to be established in the Ministry of Health a department called the unit. It is not clear in this piece of legislation as to what exactly that unit is supposed to do. Is it an advisory body? Is it a policy making body? Is it a monitoring body? Is it an implementing unit? Is it all these? If it is all these, that is too much responsibility.

This piece of legislation says that the unit will have a director. It says nothing about the qualifications of that director; the background; whether it would be a

person with a health or economic background. You need to say that the unit would be headed by a director and give some kind of guidance as to what kind of background that person would have. That person would be appointed by the Minister. That has been dealt with by the Member for Caroni East.

It does not say how many people will constitute that unit. It does not say five, ten, seven or nine people and the disciplines from which these people would come. Normally when you are establishing a unit you say that it will consist of seven, people, one would be an attorney, a finance person or a chemist or whatever. You need to define the backgrounds of these people. The only position mentioned is a director and the position is not qualified. The unit would be provided by staff but the staff does not comprise the unit.

“The Unit shall establish and carry out evidence-based programmes to inform the public of

- (a) The dangers and addictiveness of tobacco use and dangers of exposure to tobacco smoke.”

That is what the unit would be doing. The unit would establish and implement programmes. What about the health education officers in the Ministry of Health and the Regional Health Authority? It is not necessary for this unit to be an implementing unit. If this unit is an advisory unit, a policy making unit, a monitoring unit, fine. You already have people within the ministry to implement programmes that would be developed by this unit.

The unit will consider and evaluate applications for licences. We are saying that in addition to considering and evaluating applications, they should also be making recommendations to the Minister. If you put all these in the unit it would become a large and costly unit and it would be extremely difficult for them to perform.

6.35 p.m.

I agree with the Member for Caroni East when he said that the fines are too draconian. He dealt with it comprehensively; I will not say any more on that. I want to mention two other things before I sit.

We are talking about health here. The whole purpose of this is health and if we are talking about health, we are saying that you must not sell cigarette sweets because—I think the reason for that is that if children get hold of cigarette sweets and they play with it, it will somehow cause them to graduate to cigarette smoking. That, I think, is the reason for this.

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What about those children who, from one year or two years to 18 years, are allowed to play with toy guns that almost resemble the real thing? We know of instances where people have been held up with toy guns. There is a lot to be done. We need to deal with that. What about alcohol? Alcohol causes the same amount of health problems that cigarettes cause, or even more. Deal with that. Deal with the fat content in food. If you want a healthy population, there are lots of things to be dealt with.

We are in support of the intent and purpose of the Bill, but there are some provisions that we would like to get some adjustments for and if we get them, we will support the Bill.

Thank you very much.

The Minister of Works and Transport (Hon. Colm Imbert): Thank you, Madam Deputy Speaker. It is a pity that the Member for Caroni Central has left. I hope he comes back soon. There are some matters I would like to raise with that Member.

It is a fact that the movement towards that legislation was initiated by a number of previous governments, including the government that briefly held power, represented by Members opposite. It is also a fact that the Framework Convention on Tobacco Control was signed on August 27, 2003, when the PNM administration was in power.

I have said that because it is easy to make nice-sounding platitudes. It is easy to pontificate; it is easy to say that you support the intent of the legislation. Talk is cheap, but it took a PNM Government. The Members opposite were in power from 1995 to 2001 and they talked a lot about bringing a Tobacco Bill and a treaty against tobacco, but that was just talk. It was this Government that signed the Framework Convention on Tobacco Control on August 27, 2003.

That was the first decisive and real step by any Trinidad and Tobago Government towards the restriction of the use of tobacco, having signed the convention in August 2003. I happened to be the Minister of Health at the time, for the record. The reason I am saying that, is that hon. Members opposite like to talk out of two sides of their mouths. They talked for six years, but it was this Government which signed the Framework Convention on Tobacco Control. One year later, on August 19, 2004, my successor in the Ministry, Minister Rahael, was instrumental in Trinidad and Tobago becoming the first country in the Caribbean to ratify the Framework Convention on Tobacco Control.

I, as Minister of Health, in 2003, had the privilege to ensure that the convention was signed and Minister Rahael followed through and made sure it was ratified. Now, we have Minister Narace who has brought the Bill. So it is three PNM Ministers of Health who have taken us from signing the convention to bringing legislation to deal with the menace that tobacco is. They are just talking, but not doing anything.

Let me now explain why that is so. I asked my staff to do some research on the strategies used by tobacco companies to sabotage strong tobacco legislation. I am advised that tobacco companies use a wide range of tactics to interfere with tobacco control. They include direct and indirect political lobbying, campaign contributions, financing of research, attempts to affect the course of regulatory and policy machinery and engaging in so-called social responsibility initiatives as part of hidden public relations campaigns.

Tactic number one: Intelligence gathering. The objective is to monitor and identify opponents to the tobacco industry and social trends in order to anticipate future challenges.

Public relations: To mould public opinion using the media to promote positions favourable to the tobacco industry.

Political financing: Giving campaign contributions to win votes and legislative favour from politicians. Does it sound familiar—using campaign contribution to win votes and legislative favours from politicians?

Lobbying: Making deals to influence the political process.

Consultancy contracts: Recruiting supposedly independent experts who are critical of tobacco control measures.

Research: Funding research at universities to create doubt about the evidence of the health effects of tobacco use. Sounds familiar?

Smokers' rights groups: We have heard a lot of talk here this evening about the rights of smokers, to create an expression of spontaneous grassroots public support against tobacco control. Sounds familiar?

Creating alliances: Mobilizing tobacco farmers, retailers, advertising agencies, the hospitality industry, grassroots organizations and anti-tax groups, with a view to opposing tobacco legislation.

Intimidation: Using legal and economic power as a means of harassing and frightening people who support tobacco control.

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Philanthropy: Buying friends and social respectability from sponsorship of the arts, sports, humanitarian and cultural groups, like the Sportsman of the Year. What a travesty—a tobacco company sponsoring Sportsman of the Year; something that kills sportsmen! Imagine that! WITCO Sportsman of the Year!

Corporate social responsibility: To promote voluntary measures as an effective means of tobacco control. Hear that? Promoting voluntary measures to address tobacco control.

Youth smoking: To appear to be on the side of efforts to prevent children from smoking and to depict smoking as an adult choice. That is how they target adults. They say they do not want children to smoke and then you target the children in a different way.

Smuggling: Of course we know about this. That is just illegal activities.

International treaties: Use of trade agreements and other economic instruments to put pressure on countries to abandon tobacco control.

Joint manufacturing and licensing agreements: Forming joint ventures with state monopolies to put pressure on governments.

Preemption: Using various means to overrule or get rid of local or state governments. That goes back to campaign financing.

Let me go further into the detail strategies. Whenever new tobacco prevention proposals receive any serious attention, the tobacco industry quickly mobilizes its army or lobbyists, advertisers, lawyers, public relations personnel and, I dare say, politicians as well as its many allies, front groups and independent spokesmen to oppose tobacco control.

Opposition to tobacco control legislation is unusually ferocious because of its potential effect on the tobacco industry. Secret tobacco company documents offer insights into the way the industry mobilizes every resource at its disposal when it feels threatened. The tobacco industry's web of influence runs through the fabric of every industry and enables it to fight tobacco control in both overt and covert ways.

Much of the fight against tobacco control is done using surrogates. Do I have to explain to the Member for Caroni East what a surrogate is? I think he knows. So much of the tobacco industry's espionage is done through surrogates, including third-party allies, front groups and independent sources secretly paid by the tobacco companies.

Through these channels, tobacco companies put forth a number of recurring arguments minimizing the importance of the tobacco epidemic, trivializing it, insisting that tobacco use is a matter of personal freedom and choice—we have heard a lot of that here tonight from Members opposite—denying that legislation will work. We have just heard the Member for Caroni Central suggest that tobacco control will cause economic injury.

Tobacco companies use every available mechanism for disrupting or impeding tobacco control. If it is possible under the country's legal system, they take action to force the government to produce its plans for legislation so that it can understand and defeat the government's strategy or burden and harass officials. They bring costly and time-consuming legal action to challenge or pre-empt the legislation. They arrange for third parties to accuse public officials of professional misconduct. Minister Narace, you had better listen to this. Tobacco companies arrange for third parties to accuse officials engaged in tobacco control of professional misconduct or they create political scandal in connection with some unrelated matter to distract, frighten and exhaust the champions of tobacco control.

6.50 p.m.

Hon. Narace: Repeat that!

Hon. C. Imbert: I think you better listen. I will repeat it. Tobacco companies arrange for third parties to accuse public officials who seek to control tobacco use of professional misconduct or they create political scandal in connection with unrelated matters to distract, frighten and exhaust the champions of the legislation. [*Laughter*] Tobacco companies work to shift public attention away from health issues where the overwhelming facts make it difficult for them to mount persuasive arguments.

So, they come off the health matters. You heard the Member for Caroni Central telling us about a smoker who needs to smoke every 45 minutes. [*Interruption*] I am quoting the Member for Caroni Central correctly. He spoke to us about a smoker who has to smoke every 45 minutes, and on his way to work or on his way from work or at the workplace, he would not be able to smoke in the maxi-taxi or in the public place, and he is going to be forced to smoke and then he would be arrested and charged. They shift public attention away from the health issues and they bring up irrelevancies such as the one just brought up by the Member for Caroni Central. Their arguments were all about rights and choice. The objective is to distract attention and raise a flurry of opposing voices to confuse the debate.

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These campaigns by tobacco companies have lavish financing. Some of it open, but much of it indirect and hidden. They have been known to spend millions of dollars on television campaigns to defeat legislation. They are among the largest contributors in the world to election campaigns and political parties. They direct money to charities favoured by political leaders. They use financial power to mobilize the resistance from groups depending on them, such as distributors, retailers, tobacco growers, advertising agencies and the media. Madam Deputy Speaker, I thought it was important to put this information into the record. *[Interruption]*

Let me also deal with the health issues, because none of the Members opposite seem to want to talk about health. Some of the chemicals that are common in cigarettes include: carbon monoxide—carbon monoxide is also found in car exhaust fumes; *[Interruption]* toluene—toluene is found in cigarettes and it is also used as an industrial solvent; ammonia which is used to clean floors; acetone used for stripping paint; arsenic which is used to poison animals and people; cadmium which is also used in car batteries; butane used in lighter fuels. Now, this is all in cigarettes. Methanol used for rocket fluid; hydrogen cyanide found in gas chambers used by Hitler to exterminate the Jews.

Hon Member: Repeat that.

Hon. C. Imbert: Hydrogen cyanide also used in gas chambers; DDT used for insecticide and naphthalene used in mothballs. Madam Deputy Speaker, all these chemicals that I just called out are found in cigarettes. That is what they put in cigarettes. Do you want me to repeat the chemicals? I want to repeat them: Carbon monoxide, toluene, ammonia, acetone, arsenic, cadmium, butane, methanol, hydrogen cyanide, DDT and naphthalene. *[Interruption]*

Now, let me go to a document—Madam Deputy Speaker, would you control them please?

Madam Deputy Speaker: I think that the hon. Member knows that he is educating us on some very important information, and I think we should give him our full attention.

Hon. C. Imbert: Do you want me to read it? Whenever new tobacco prevention proposals receive any serious attention, the industry quickly mobilizes its army of lobbyists. Look them over there! Those are the lobbyists; starting from the Member for Caroni Central go down. He said we are wicked and that the poor smoker would not be able to smoke.

Madam Deputy Speaker, let us go now to a document entitled *Special Investigation Division Committee on Government Reform*—United States House of Representatives dated September 17, 2002. This is the summary.

Over the last half century, the tobacco industry has earned billions of dollars in profits by selling a deadly and addictive product while denying its harmfulness.

Let me repeat again. This is a report of a *Special Investigation Division Committee on Government Reform*—United States House of Representatives dated September 17, 2002. This is an official document in the United States House of Representatives.

“As criticisms of the industry has accelerated in recent years, and calls for product regulation have grown, tobacco companies have defended themselves by saying they are now ‘responsible’ corporations” communicate honestly about their products.”

Madam Deputy Speaker, the report found that the tobacco industry still did not accept scientific consensus about the harms of their product. Despite overwhelming agreement among experts that cigarettes cause disease in smokers and that environmental smoke, also called second-hand smoke, causes disease in non-smokers and that nicotine is addictive, it was found in this report of the United States House of Representatives that four of the five major tobacco companies still question or deny whether smoking causes a disease. Do you want to hear who they are or do you know who they are already?

Did any of these fellows come to visit you all—Phillip Morris, RJ Reynolds, British American Tobacco, Lorillard, and Brown & Williamson? Did any of those companies come to visit any Members of the Opposition? Let me repeat them: Phillip Morris, RJ Reynolds, Brown & Williamson, British American Tobacco and Lorillard. Did any of them come to visit any one of you? Tell us the truth! *[Interruption]* I would sit and allow any of them to answer this question. Did any representative of any of these five companies meet with the Opposition? Madam Deputy Speaker, I am sitting down temporarily.

Dr. Moonilal: We met Lorillard.

Dr. Rafeeq: I did not meet with anyone.

Hon. C. Imbert: So, at least we know they did not meet with the Member for Caroni Central, but I am sure they met with some other Member on that side.

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Research has conclusively shown that smoking causes lung cancer, heart disease, emphysema and a number of other diseases. Yet, Lorillard, British American—Lorillard is a company. Do not pretend you do not know who is Lorillard!—Brown & Williamson were still hesitant to make any definitive statement and only RJ Reynolds acknowledged that smoking may contribute to causing diseases in some individuals. The five major tobacco companies denied that environmental tobacco causes disease in non-smokers. This is the root of it. You could laugh all you want, but this is the root of it.

If you go to the Bill, you will see that the purpose of this Bill is not just to control the use of tobacco, but also to prevent non-smokers from being affected by what is referred to in the literature as environmental smoke, also commonly known as second-hand smoke. If you go into the clauses in the Bill, you will see in clause 12, for example, which offended the Member for Caroni Central it says:

“No person shall smoke or hold a lighted tobacco product in any enclosed public place, enclosed workplace, or public conveyance....”

That bothered the Member for Caroni Central and that is why he protested and complained about the plight of the poor smoker who would have to spend an hour in a taxi and spend time at work and would not be able to smoke because he is addicted to smoking and it is so terrible. It was that clause in the Bill that offended the Member for Caroni Central. If you look at the clause, what is the purpose and intent?

“No person shall smoke or hold a lighted tobacco product in any enclosed public place, enclosed workplace, or public conveyance...”

What that drives at is this whole concept of environmental smoke.

When I looked at this report in 2002 of United States House of Representatives, every single one of the five major tobacco companies denied that environmental smoke caused disease in non-smokers. Everybody else in the world—the United States Surgeon General, the World Health Organization, the American Medical Association and every other health organization in the world—has found conclusively that environmental smoke is dangerous, but every single one of the tobacco companies denied that it cause diseases in non-smokers.

What is important about this Bill is that it seeks to prevent people being affected by environmental smoke or second-hand smoke, and that is why it seeks to restrict smoking in public places. You might want to smoke, but I do not have to breathe your smoke, and I should not have to breathe your smoke. I think the Member for Diego Martin Central made the point that in a public transport

vehicle—a bus or a maxi-taxi—you might have a new mother with a little baby in her arms in the maxi-taxi and a man right next to her smoking away like a chimney, exposing both the mother and the baby to environmental smoke and that cannot be right. That little baby must be exposed to second-hand smoke for a year! That is what you want!

Madam Deputy Speaker that is why I read out the strategies used by tobacco companies. They hire independent people; they pay politicians; and they make campaign contributions so that people would make nice sounding speeches about how we need time, we need to wean people off tobacco, it is not right and we have to balance the rights of the minority against the majority.

In every Parliament that has debated this type of legislation, that is the kind of talk you get from persons who have been contaminated by the tobacco lobby. They all say the same thing. That is why we were saying jokingly, because we were not really accusing the Member for Caroni East of this crime, but we were saying facetiously, tongue in cheek, that it sounded as if his speech was written by Phillip Morris or RJ Reynolds or one of those big tobacco companies, because those were the arguments that they used. It is not fair, it is not right. You have to give people time. Those are the words that they used.

7.05 p.m.

Let me move on, Madam Deputy Speaker. The next point that came out in this litigation—because this was all about litigation filed by the Department of Justice in the United States—is that four out of five major tobacco companies failed to admit that nicotine is addictive. Now all medical authorities and so-called medical authorities, including the Member for Caroni East—I do not know which category you fit in, medical authority or so-called authority?

Dr. Gopeesingh: So-called authority.

Hon. C. Imbert: But all medical authorities uniformly agreed that nicotine is addictive. I doubt the Member for Caroni East would be brass-face enough to get up and say that nicotine is not addictive. I am sure the Member for Caroni Central and the Member for Caroni East, two medical practitioners of long standing, will agree that nicotine is addictive. *[Interruption]* You agree? *[Points to Member]* You agree? *[Points to Member]*

Dr. Rafeeq: We agree, yes.

Hon. C. Imbert: Nice! But all four out of five of these big boys, R.J. Reynolds, Philip Morris, British American and so on, failed to admit that nicotine is addictive. They dodged! *[Interruption]*

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Philip Morris was found to be in denial that it was controlling the nicotine content in cigarettes. R.J. Reynolds continues to deny it has marketed tobacco to children and British American continues to deny that it destroyed documents which could prove that it has done all of these things—marketing to children, controlling the quantum of nicotine in tobacco and so on.

When you really go into this documentation, it is very serious. When you look at what happened, when you look at the testimony that was given by former employees of these big companies, Philip Morris, R.J. Reynolds, British American and so on, these companies continue to deny that there are health problems, continue to deny that nicotine is addictive, continue to deny that they market tobacco to children; yet their employees came forward and testified and said that is precisely what these companies did.

There is a particular passage that I am looking for. I will find it in due course.

Dr. Gopeesingh: What year was that article published?

Hon. C. Imbert: 2002.

Dr. Gopeesingh: But that is outdated.

Hon. C. Imbert: Yes, more people died. [*Inaudible*] Yes, more people died from the use of tobacco. [*Interruption*]

I am looking for a passage in this, Madam Deputy Speaker, and I will find it, with respect to the marketing to children—R.J. Reynolds refused to admit that it was marketing to children as did the other companies. But in documents that were found during the investigation where various people came forward and testified, they spoke about a campaign where one of the tobacco companies was creating a campaign to deliberately target children as young as the age of 14 in terms of the next generation of tobacco smokers and so on. In the testimony the former employees of this tobacco company testified that they had many meetings and they had a number of planned meetings to target the next generation of tobacco smokers.

Targeting children as young as 10, 11 and 12 and saying—and I am sure the Minister of Health can bear this out, that when these tobacco companies target children they feel they have them for 25 years because after that they are dead, of course. So, they target the child at age 15 and they figure they will have them as consumers for a period of 25 years, and they are assuming their mortality, they would die at age 40 after having smoked—

Hon. Narace: They keep replenishing them.

Hon. C. Imbert: —for 25 years—ah, I found it. This is on page 13 of the document: Internal documents R.J. Reynolds revealed company plans to market cigarettes to children as young as 14 years of age. In a 1974 presentation to the R.J. Reynolds board of directors, C.A. Tucker the Vice-President for marketing said, “Children represent tomorrow's cigarette business.” As this 14 to 24 age group matures they will account for a key share of the total cigarette volume for at least the next 25 years.

Mr. Tucker's solution was to have a number of direct advertisements appealing to young smokers. Other documents showed that the company tracked rates of smoking in children as young as 12. R.J. Reynolds came up with a very imaginative campaign. They used a cartoon character called Joe Camel to lead a marketing campaign in the 1980s that increased the company's share of the illegal teenager market from 0.5 per cent to 32.8 per cent in just three years. During that campaign Joe Camel became as recognizable to young children as Mickey Mouse and appealed more to children than to adults.

Hon. Narace: Only children he targeted?

Hon. C. Imbert: Yes, serious you know. I am serious. They increased the market share among children from 0.5 per cent when they started their campaign with Joe Camel the cartoon character to 33 per cent of the market with this cartoon character.

R.J. Reynolds marketing to children appears to continue to the present day. In June 2002 San Diego Superior Court judge Ronald Prager fined R.J. Reynolds \$20 million for continuing to target children in magazine advertising.

Now, Madam Deputy Speaker, I have brought this information into this Parliament to demonstrate the techniques used by the tobacco industry. The reason why the tobacco companies were the subject of that lawsuit, the reason why they lost the lawsuit, the reason why they had to pay out all that money—I am sure the Members opposite are aware of that particular lawsuit where the tobacco companies were required to pay billions of dollars in a class action lawsuit—was because it was shown that they were deliberately putting nicotine into cigarettes because nicotine is addictive and that is the root of it.

They knew that nicotine was addictive and they were deliberately putting nicotine into cigarettes to create addicts and to keep people as tobacco addicts. That is why they lost that lawsuit, because it was proven that it was a strategy on their part to put that addictive substance into cigarettes, and of course, you have the marketing to children and so on.

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That is why the packaging of the single cigarette is so important, because that is the technique used by tobacco companies to market tobacco to children, because you have to put these graphic images of people with lung disease and so on, on the tobacco package. The way the tobacco companies dealt with that problem was to take out the cigarettes from the package and market them to children in a very innocuous form. So this is why we are requiring that single cigarettes be packaged and there must be some message or image on the cigarette that indicates the health risk of smoking.

Dr. Moonilal: On single cigarette?

Hon. C. Imbert: Yes, as the Minister said.

Dr. Moonilal: Single cigarette?

Hon. C. Imbert: Yes! Tobacco companies will have to figure out how to do that, but they have to put a wrapper on that cigarette which indicates the health risk of smoking, because that is how that gets around, packaging.

If you look at what this Bill is doing, it is prohibiting smoking in public areas; it is prohibiting the sale of cigarettes to minors; prohibiting self-service displays, public displays; prohibiting the sale of tobacco products in certain places and prohibiting tobacco advertising, promotional campaigns and free supply of tobacco products and so on.

Essentially, what this is seeking to do is to control, restrict and minimize the use of tobacco. What the effect of this legislation will be, is that only persons such as the persons the Members opposite care so much about who are so addicted to tobacco that they just cannot give up smoking no matter what, these people would just have to smoke by themselves, so they will not be in a place where they can affect other people with their environmental smoke. That is what this Bill is all about.

They want to smoke. No problem. Go and smoke by yourself! Go in your home or wherever there is nobody else or no member of the public. It is not a public place. Go in your own car by yourself and smoke. *[Interruption]* Once it is not a public place. That is what this Bill is all about. Because all this Bill is doing is protecting the innocent. I am not a smoker. I have never smoked a cigarette in my life. I do not intend to. I do not intend to, so the tobacco companies did not even bother to call me. *[Interruption]* I got no calls from them.

Hon. Narace: You got no calls?

Hon. C. Imbert: No calls, they know me. I never smoked in my life and I never will smoke so they would not call me. *[Interruption]* But I object when somebody is smoking in my vicinity. I object! I think I speak on behalf of the majority of non-smokers.

Hon. Narace: And smokers.

Hon. C. Imbert: Yes, but I am not speaking on behalf of smokers because I am not a smoker.

Hon. Narace: *[Inaudible]*

Hon. C. Imbert: Yes, but the majority of non-smokers who form the majority of citizens in this country. Am I correct, Minister Narace?

The majority of citizens of this country do not smoke and I am speaking on behalf of that majority. The majority that do not smoke. *[Desk thumping]* I do not want you smoking near me because I understand the deleterious effects of smoking and I am in total support of this legislation. I cannot imagine that anybody who is aware that you have toluene, arsenic, hydrogen cyanide, butane, methanol, ammonia, acetone and naphthalene in cigarettes, *[Interruption]* I cannot imagine that somebody is aware that all of these poisons exist in cigarettes, I cannot believe that somebody who is aware of that—

Dr. Gopeesingh: Four thousand chemicals you only named eight pandemic.

Hon. C. Imbert: Madam Deputy Speaker, the Member for Caroni East is making the point for me—four thousand chemicals in cigarettes. *[Crosstalk]*

Okay, I cannot believe that if anybody who is aware that smoking causes lung cancer, heart disease, emphysema, chronic bronchitis, gastric ulcer, osteoporosis, low birth rate, shortness of breath, fatigue, increased pulse, increased incidence in severity of upper respiratory tract infection, other health problems as hypertension and so on. *[Interruption]*

I cannot believe that anybody, especially a medical practitioner who is aware that there are 4,000 chemicals in cigarettes, who is aware of the horrible effects on the human body of smoking, who is aware of the insidious approach of tobacco companies in terms of deliberately putting nicotine into cigarettes and paying people to oppose tobacco control. I cannot believe that any self-respecting Member of this House would want to oppose this legislation.

Let me tell hon. Members something. We hope that you would support the Bill. We urge you to support the Bill. We ask you for the future of the children of this country to support the Bill. *[Desk thumping]*

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We plead with you to support the Bill. We ask you to do the right thing. But if you do not, we have 26 votes and we are going to pass this Bill with or without you.

I thank you, Madam Deputy Speaker. [*Desk thumping*]

7.20 p.m.

Dr. Roodal Moonilal (*Oropouche East*): Thank you very much, Madam Deputy Speaker. I rise to contribute in this very critical and revolutionary debate taking place this evening and running late into the evening, on the Tobacco Control Bill, 2009. There are several issues I would like to raise, but I want to indicate from the outset, that I intend to focus on the Bill itself and on several provisions in the Bill, and to take the approach to enquire—[*Interruption*] I am not going to fall for that smokescreen from the Member for Diego Martin North/East. I intend to raise issues concerning the Bill and provisions, and I am addressing really two persons here, the Minister of Health and the Attorney General who, we are happy he is here with us this evening and may be in a position to address some of our concerns as they relate to the provisions in the document.

But, Madam Deputy Speaker, I just want to say at this moment, that I am slowly developing a headache, hearing all the statistics all evening; we have been hearing so many statistics about smoking, the dangers, the sickness and so on. It is a proven fact that smoking leads to a lot of statistics—[*Interruption*]

Mr. Imbert: That is what they are saying.

Dr. R. Moonilal:—and we can bring all the statistics in the world to talk about the dangers of smoking. I want to say from the beginning, that by the moment at 2.30 p.m. or thereabout, that the Minister of Health rose, we knew before that smoking is dangerous to our health. We knew that. [*Desk thumping*] When the Minister was complete in his comprehensive presentation in which he gave us some data as well, we were long convinced that smoking is dangerous, it is bad, it is not good, it causes problems, diseases and so on. So persons just belabouring the point and painfully with torture, telling us all the data about statistics in the world, from Timbuktu, to America, to Mexico, to all over, we know that.

You cannot tell us anything else about toluene, ethane, carbon this, and hydrogen that, and so on. We know that. I do not think there is anybody in this House who will stand and doubt the very serious health risk that smoking causes. I tell my friends opposite, you know, spare us that lecture really. Spare us. Then,

the last speaker, the speaker before me, went to town on the power of the tobacco lobby, and brought a document from the American's Senate or House, somewhere, and told us about the tricks of the lobbyists, how they operate, that they control the marketing, they control politicians.

Now, I want to tell the hon. Member, there is one method that he forgot that the tobacco lobby uses, and he conveniently and deliberately did not mention that method. That method is where the tobacco lobby infiltrates governments and causes them to pass legislation that cannot be implemented. [*Desk thumping*] So when the legislation is not implemented, the tobacco lobby wins. And I wonder—you know I was not thinking of this, but I am very fortunate that I stood this time and I listened to the Member for Diego Martin North/ East. I am very fortunate that I remained, because there is another issue. Why did the Government take five years to bring this matter to the Parliament? It could not have been the lobby at work. It could not have been. I do not think so, because unlike the Member for Diego Martin North/East, I cast no aspersions on my hon. friends opposite. So I am saying, that it could not be the lobby at work that caused them to delay by five years, and it is not the lobby at work that has resulted in what we consider to be some flaws in the Bill before us. It is not the lobby at work, but I want to point out that the lobby could be responsible for such matters as well.

Madam Deputy Speaker, those of us on this side are personally gratified to the Minister of Health, and this particular Minister of Health brought this measure and I must say we have been very impressed by the level of passion. I am almost tempted to say "the high" that he speaks with on this matter, because there is a certain measure of passion and force that the Minister of Health brings. I heard him on the television last evening I think, and again, he was calling upon the Opposition and all civil society to support the measure.

We are personally gratified because we are so happy that it is this Minister of Health. Because we know that this Minister of Health spent about two decades really selling tobacco products, and having done that, he has now been in this position where he can now contribute to helping and saving the lives of persons who would have purchased tobacco products from his establishment in an earlier incarnation, and that by itself is a victory. Yes, it is a victory. It is very commendable. And I address the next point only to the Member for Diego Martin North/East, not the Minister of Health. If it was that the Minister of Health in those two decades when he was a seller of tobacco products, would have contributed to the People's National Movement, then the PNM has been funded by the proceeds of tobacco sales. [*Desk thumping*]

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So when you come to talk about tobacco sales going to political parties and so on, just watch it. Watch it. You should have consulted with the very distinguished Minister of Health. I am very elated to hear the Prime Minister himself cut out that horrible habit that he developed from so young. And I am happy to know that the party itself is not being funded by tobacco products and the sale of tobacco products anymore, but I want to tell our friend from Diego Martin North/East, be careful. There is a saying that those who throw stones at glass houses, you should change your clothes in the basement. *[Laughter]* So, I want to remind him of that and to push on.

Hon. Jeremie SC: I do not think I have heard that saying.

Dr. R. Moonilal: No, that is my saying. *[Laughter]* And you would get much more of my saying as we continue.

Hon. Member: That is from "lory land".

Dr. R. Moonilal: That is from "lory land". I do not know who that is. I do not know if it is a family of mine in this business because they might accuse me now as a manufacturer and distributor, if he continues to name "Sumlal" as a prominent seller.

Madam Deputy Speaker, let me move on with my contribution here this evening. So, I do not want to talk about campaign financing, I think we have dealt with that. Let us move now to the measure before us. It is not my intention to repeat the points raised by the Member for Caroni East, nor the Member for Caroni Central. They have spoken at length on some of our concerns, so I will just go to the Bill and try to deal with a few matters. What I am suggesting to the Government, the Minister of Health and the Attorney General, is that there are some clauses in the Bill, some provisions, which we believe are inoperable or at best difficult to be implemented in Trinidad and Tobago, and in some cases almost impossible to be implemented. Those of us on this side, we have a history here.

It was the Member for Caroni Central as Minister of Health, who pioneered and initiated this movement for this country to become smoke-free. We produced a White Paper that went to the Law Commission in 1999, to address this matter. So we have authority; we have moral authority in this matter. So we would like to address the Bill and to assist the Government, so that if we can make, what in some cases might be minor changes, but still consistent with the principles of the International Convention, 2003, then we would have helped the Government to deal with the matter.

Madam Deputy Speaker, I am deliberately taking a layman's approach in interpreting the Bill and provisions to seek clarification. One of the problems with international conventions—and I am speaking from my knowledge of ILO Conventions and so on—is that when you interpret a convention and you translate it into national law, sometimes conventions because they are written in a way for an international and multilingual audience, French, Spanish, Dutch and so on, what happens is when words change they mean different things, and in some cases, conventions are deliberately worded in a way, that they can be easily translated into different languages.

The Member for Nariva is not here, but he can tell you it took the ILO almost ten years to produce a Draft Convention on Contract Work because we could not agree in a multilingual environment as to what is a definition of contract work. That had a lot to do with language, terminology and so on, and you have these problems here and I think that when you translate international law into national law, we need to use our own terminology, but remain consistent to the convention. That is the issue, because I think we are giving rise to a convention.

Now, Madam Deputy Speaker, I will just move along. I want to take note that in the definition of enclosed—I am dealing with the Bill as amended in the other place:

"'enclosed' in relation to a space, means any space covered by a roof completely or substantially enclosed, with the term substantially enclosed, meaning more than 50 per cent enclosed to the outside air."

Now, when this is interpreted, and I want to use real life examples and Trinidad examples, so that if I am wrong and I could be corrected immediately, then it is clear.

Now hypothetically, I mean no one, I mean no place. Let us assume that we have a balcony around the Parliament building and Member or Members would go on the balcony and take a smoke—hypothetically, because I myself do not observe these things—is that a substantially enclosed place? If there is a screen and a wall, primarily two walls, is that a place that is substantially enclosed and within the meaning of enclosed? A balcony that has two walls as our balcony incidentally has, there is a blind, there is a wall and then there is a door, is that space outside of the building proper, substantially enclosed? Let me give you a next example. If you have a verandah outside a restaurant where people come out the restaurant, but they enter a verandah area that is partially blocked because it must be covered from sun or rain and so on, with at least two walls, is that

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substantially enclosed for the purpose of the definition, or is that open air and it is not captured by enclosed? There are issues that I would like to be clarified.

Now, maybe my friends opposite can take note and respond in good time to this issue, or respond as I go along. I have no difficulty because if I am not interpreting it correctly and I have a wrong approach to it, then they can immediately correct me.

I will move on, Madam Deputy Speaker. In the definition of "public place", it says here:

"public place means any place accessible to the general public or place of collective use, regardless of ownership or right of access."

Now, could the Minister or any other knowledgeable person here tell me an example of a distinction between a place that is accessible to the general public and a place of collective use? So is a place of collective use not accessible to the general public? Would that be like a picnic site, where you pay to go in a picnic site? It is a place of collective use, but not accessible to the general public?

Mr. Dumas: A club house.

Dr. R. Moonilal: A club house that is—what would be a good distinction, a good example to drive home that point, and if you could give a couple examples in our local context, so friends, like my friend from Tobago East, will understand clearly some of these distinctions so that we would not have any problems.

Let me move on. Supply, that to me is clear enough and so on. I do not want to spend time on that.

7.35 p.m.

There is a definition for "work" as well:

"'work' includes work done for compensation and voluntary work;"

I am not sure whether this definition of work is properly synchronized with a definition of work in employment legislation, including common definitions of work used in employment law, because voluntary work is not considered to be work for the purposes of employment law; doing voluntary activities. In fact, in some cases work is not even temporary. Part-time may not be considered to be work. You are not a worker if you are an apprentice or if you are a part-time employee. But they are covering here work to be voluntary work. I am wondering whether this synchronizes with concepts and definitions of work used in an employment context.

I am moving along quickly; the administrative issues. The Member for Caroni Central has raised several issues here with the unit. Again, unless I am mistaken, I am not sure that in any other legislation in this country we have law that establishes a unit or "the unit". If I am wrong, I stand corrected. I know that legislation in this country establishes an authority or a commission or somebody that is created by law that sets out the appointment of officers, the criteria for appointment, the qualifications of appointment, how they may be removed, what is their role and function. So our law establishes an authority or a commission.

Unless I am mistaken, we do not have legislation that establishes a unit. What we have in several ministries are units that operate for projects, for research and so on, but we are using this term, which I believe is alien to us, "the unit". In the other place I remember a Senator saying that *The Unit* is a CBS television show that he looked at, which was involved in all types of activities across the place.

Madam Deputy Speaker, I want to suggest immediately and emphasize a suggestion made earlier that the unit should be the one responsible for recommending these licences to the minister who may give these licences. In fact, I am not sure why the minister has to play any role in giving licences. As it is now, we have a bar licence that persons get to sell spirituous liquor and that is not given, to my knowledge, by a minister of Government. It is through a court system and a magistrate; they grant these licences and satisfy the requirements. Why is it in this legislation that a licence has to be granted by the minister?

We have licences for motor vehicles, licences for all kinds of things in this country; correct me if I am wrong, but I am not sure where there is another piece of legislation that the Minister gives out licences.

You do not want this, because while our friend, the Senator is a very honourable and dignified gentleman, we have no difficulty with him personally, but you do not want a situation where a Minister of Health has this power and then he lines up every "friend and family" and says, "Come, ah giving out licence for liquor, for distributor and wholesaler"; that is what you encourage. Legislation like this could encourage corrupt behaviour, nepotism, corruption by public officials, if we allow this.

Our recommendation is very clear: Establish this unit as an authority and give them the power to give out the licences and then indicate who the members of this authority or this unit are. Is there a chairman or chairperson and what would be his or her qualifications? Unless I am mistaken, I am not a technical expert in this area, but I am not sure what are some of the qualifications required in this. This seems to be purely technical, management, law administration and so on.

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You have the unit headed by a director appointed by the Minister. The Minister appoints the director. If you know that in our culture and our context, generally the head of an authority is appointed by the President on the advice, I believe in some cases, of the relevant Minister or on consultation between Government and Opposition. But in this case, tobacco, which is a multibillion dollar industry, the Minister of Government has this duty under this Act to appoint a director the head of this unit. That, again, would lend itself easily to corrupt practices.

The last speaker gave us a treatise, a few moments ago, on the power of the tobacco lobby. So do you not think the tobacco lobby would want to get appointed a director, who they know they could work with, who would be giving out and recommending licences? It is natural that the tobacco lobby would try to infiltrate this, so why would we set it up?

This is another point: If there is a director of the unit, who else constitutes this unit? Is it a one-man operation? Are there directors, is there staff? So the Minister appoints the director, but the Bill says that it must have adequate staff. Who is appointing the adequate staff? Who is recommending the adequate staff? What are the qualifications of adequate staff? They say "requisite qualifications", what is that? When it says, "the rest of the unit", what is that? This thing is flawed.

A Minister of Health, who may or may not be our current Minister, appoints a director; we hear nothing in the Bill, it is silent as to who else is a director, what is the other staff, how are they to be appointed or how they may be removed. If the Minister is appointing the director, well, presumably, the Minister could fire the director? Suppose the Minister gives an instruction to the director, "Give my friend a licence to wholesale cigarette"; the director says, "No, Sir, we cannot do that; he did not satisfy the criteria." The Minister says, "Okay, out the door you go; you are fired; I am going to appoint a next director." What prevents him under this legislation? We are dealing with the Bill before us. I am not concerned with lung cancer; we agree, "smoking bad", it kills. "It kill everybody; everybody dead with that; we doh want no more statistics to tell us dat." We want to know how this unit is functioning, who is firing this director, who is hiring the other members of staff.

What are "requisite qualifications" in the context of this Bill? If the draftsmen put in "requisite qualifications" they must have in their minds what that might be? Those are the serious questions we are bringing.

At clause 6, I want to speed up, because I have a lot of comments, it says:

"The Unit shall establish and carry out evidence-based programmes..."

This same "evidence-based programmes" you see it somewhere else, but presumably it is a lot of survey work, documentary evidence and research work that you would have to do there.

At subsection (b) it states:

"the benefits of and strategies to quit smoking;"

I do not know if I am reading the thing badly, because as a layman I could only give my layman's appreciation, but when you see:

"The Unit shall establish and carry out evidence-based programmes to inform the public of—

(b) the benefits of and strategies to quit smoking;..."

Is it the benefits of "quit smoking"? So it is the benefits of "quit smoking" and the strategies, but maybe the wording there could be tidied up a bit. It is really the benefits of quitting smoking and strategies to.

Look at clause 6(e) which states:

"alternative income earning opportunities for small retailers."

I think that was an amendment in the other place. I am concerned with this now:

"alternative income earning opportunities for small retailers."

This unit must now have some knowledge of small business, but there is a Ministry of Labour and Small and Micro Enterprise Development that deals specifically with small business and micro enterprise development. Correct? A Ministry of Labour and Small and Micro Enterprise Development that has a special focus on this. The unit should not be involved in that. The requisite qualifications include small business development and micro enterprise. That is something that an authority could rely on from a partner ministry in assisting retailers and alternative retailers, so they could get into other business. I am not sure that should be a proper statutory function of the unit of this authority.

Education, "train authorized officers"—"authorized officers" is defined at the beginning as police officers, customs officers and public health inspectors, but later in the Bill it qualifies that definition to say that for searching and so on it would only be done by police officers and custom officers. Is that correct?

Mr. Imbert: Are you supporting the Bill or not?

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Dr. R. Moonilal: We move on; we want to get the tobacco lobby out of this business, if they are promoting a Bill that cannot be implemented and is inoperable; that is what we want to do.

Clause 8 provides the powers of authorized officers. Subsection (e) reads:

"take samples of tobacco products or components of products, and their packaging, from any business where they are found, to have them tested."

My colleague, the Member for Caroni East, touched on this. Tested where, by who and for what? This is a compliance provision. Presumably it is tested at labs or somewhere; I do not know, maybe at Bureau of Standards they may test it, but it is to be tested, and we do not know where. If that testing is in a public authority, is that authority exempted under the Bill from having smoke from lighting cigarettes? If it is not exempted, then they cannot do any testing there either.

In the United Kingdom, section 3 of their Health Act that provides regulations, provides where the Government exempts public buildings where they are doing research and development testing. I imagine the Government will tell us that when they have to test them, the places where they must be tested must be exempted from the Act, otherwise it makes no sense.

They have taken care of a few concerns in the other place; I will skip the issues of obtaining concept and so on.

As I read this measure and I walk through the measure, there is a point here at which an authorized officer, meaning a police officer or customs officer, enters a taxi and says, "I here to inspect and investigate; I smell smoke, so I come in de taxi, but driver take me to Port of Spain, when I come out down there, I will see if anybody there have cigarettes." Was this thought out properly, that you give power to police officers and customs officers to go into a maxi-taxi—or a taxi for that matter, an "H" car as we say here—to conduct inspections to see if they are selling or transporting tobacco, and you have to obtain the consent or you do so by a warrant? So in practice if the taxi driver says, "No, do not come in the car", you have to go and get a warrant, come back and then board the taxi to look to see if they are selling or transporting cigarettes.

Again, if this is the wrong interpretation, say so, but if that is an interpretation and it is very possible, then, again, I am not sure if this is workable. The maxi would not stand in the road and wait; the taxi would not stand in Curepe junction and wait for you to go and get a warrant and come back. [*Interruption*] I do not want to irritate the poor Member for Point Fortin, but you could indicate whether

or not this is so. If it is not so, what steps are you taking to correct this, because that is not workable? [*Interruption*] So you would correct that?

At clause 8(4) it states:

"Where any seized and detained tobacco product or other item is determined to have met the legal requirements, it shall be returned to the premises from which it was seized within thirty working days of seizure."

We could understand that they could supply legal requirements; that is no problem, but there is a little point I want to raise. When you seize or detain tobacco products, you have to take it through a process to test it, whether it meets legal requirements. That process could take time; that will not happen morning to evening; presumably it takes time. I am not sure that tobacco products could be parked up for two, three weeks somewhere, and then you have 30 days.

Now, it is not 30 days from the point of seizing it; it is 30 days from the point at which a determination is made of its legal requirement. All that could take three months. Are these products that you could take away from a shelf or take away from a transport for two or three months, keep it and then when it becomes stale or— I am not a smoker; I do not know if cigarettes could get stale or what?— when it is no longer usable, you call the wholesaler and say, "All right, we test it; it satisfy the legal requirements, take it," and it is spoilt. I do not know the terminology with that.

7.50 p.m.

But surely they need to tighten up this because you should indicate that when item is seized or detained, you will test the legal requirements and return within a period. That is what clause 8(4) should be amended to say.

When any seized or detained tobacco product or other item is taken to determine whether it meets the legal requirement it shall be returned within 30 days from the time it was seized.

Not from the time it was tested. Because you can take a tobacco product and drop it in a laboratory somewhere in Trincity and they take their time, because at that time the scientific officer is on vacation and the acting one went to a seminar and it was not done. And the product is spoiled or destroyed and cannot be sold. I do not know if anybody considered that, but that is what it is saying.

Madam Deputy Speaker, you will realize that I am dealing specifically with the clauses, I am not dealing with whether smoking is good or bad, we have

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crossed that boundary already. We are dealing with how this could be implementable.

Sub clause (6) states:

“No authorized officer shall abuse his authority or his position for personal or financial gain”.

What is the penalty if he does so? Should you consider putting as well a penalty that anyone who abuses his position for personal or financial gain commits an offence and is liable for x, y and z?

The Minister may want to consider that, not only to include in a Bill, but I am not sure if in regulations you can put offences like that. Regulations generally do not provide for offence and penalties, they provide for guidelines and technical know-how, so you may want to consider a penalty for the offence committed by an authorized officer who abuses his authority for personal or financial gain. That is my point.

The Bill establishes as well that persons engaged in the business of manufacturing, importing, exporting, et cetera, shall continue to operate for a transitional period of nine months to obtain a licence. I heard the Member for Diego Martin Central, while reciting the thousand statistics he said that we want to do this quickly and implement it and we cannot wait for somebody to even finish smoking a cigarette, it must be done before you complete smoking one cigarette. As of now, can the Minister tell us how many entities including distributors, wholesalers, importers and exporters in Trinidad and Tobago require a licence?

Minister, I want to suggest to you if now you do not know—and quite rightly you do not—you need to find out would that not take time to ascertain the different entities that require a licence? You are dealing with manufacturers, distributors, wholesalers, importers and exporters. Some companies are importing and distributing too of course but as of now if you are really eager and get cracking on this legislation tonight, we should know by now how many persons require licences.

Hon. Narace: Thank you very much, for giving way. Madam Deputy Speaker, in terms of the licensing, there is at least a nine-month period that will allow us to treat with that. In fact, that area in terms of the licensing is better than a nine-month period of lease and during that time, people will be allowed to apply.

Dr. R. Moonilal: So the Minister is saying that within these nine months people would come to you, which means that you still do not know how many persons will not come to you. They may be wholesaling and just decide they want to continue without going to you, they have committed an offence of course, but might I suggest that the Ministry take steps to ascertain in the industry how many licences you would have to provide. So if someone tries in the beginning to get away from your net, you have a sense that this person is trying to escape. And you do not only wait for the person to come to you, but you have a sense of who the person or entity may be.

Madam Deputy Speaker, we have already indicated that we believe that clause 9(3) and clause 9(5) should be deleted from the Bill to provide that the unit, authority or whatever it is called serves as the licensing authority under the Act, and not the Minister. And the application for a licence should be addressed to the unit and/or authority.

The other matter I want to put in quickly is that you are saying the information that is contained in a licence. Have we already drafted what this licence should look like so we can have it attached as a Form 1 or Form 2 as some pieces of legislation do? So you have a sense before of what the licence looks like because you should be able to draft it and have in a form, so if someone in industry looks at the legislation they know this is the form they have to fill out so they do not have to go to the ministry for one.

I am suggesting that the licence should be presented in a form that is attached to the Bill.

PROCEDURAL MOTION

The Minister of Works and Transport (Hon. Colm Imbert): Madam Deputy Speaker, in accordance with Standing Order No. 10(4), I beg to move that this House continue to sit until the conclusion of the debate on the Tobacco Control Bill.

Question put and agreed to.

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Dr. R. Moonilal: Madam Deputy Speaker, the application contains particulars and so forth, that is fine. I want to ask a question whether or not you can assure us that this information is readily available to an applicant. If the applicant is a distributor, he will know the trade name and registration number of the tobacco product and the name and address of the manufacturer. So this is information accessible to a distributor.

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We have at clause 10(7):

“A licence once granted—

(b) is valid for a period of three years.”

Now, this is valid for three years, but what happens on the expiration of this licence, and the person has taken no steps yet to get a renewal. Is there some process for an automatic renewal, or a period within which you can renew?

Because according to this, someone has a licence for three years, the first day after the expiration of three years they cannot trade or involve themselves in distributing, marketing, importing and exporting because there is no catch here. So, should we not consider trapping persons whose licence would have expired but is not yet renewed, or give them some time within the expiration of a licence and you can renew it?

This is not like an insurance certificate because persons will have their stuff, they will be distributing, wholesaling and so forth. It is not a business that can just cease that way because a renewal will take time; there is a process that one would have to go through.

“10(8)Where an application for a licence is denied, the applicant shall cease manufacturing, importing, exporting or selling tobacco products immediately upon notification of same.”

I agree with this, but there needs to be a subsection here.

What is the appeal process? Is there an appeal when someone is denied a licence? You apply and your licence is denied, can that person appeal the denial of a licence?

Hon. Narace: Thank you for giving way. I will answer your first question; the one at 10(7). If you look at 10(9) it says:

“Where a person applies for the grant of a licence after the expiry of the transitional period referred to... the applicant continue to manufacture, import, export or distribute...”

This is not only for the transition I believe, and the other question on appeal, you have the normal way to appeal, and the Attorney General will deal with that.

Hon. Jeremie SC: If you do not have a right in the statute to appeal, I am sure that you know that a judicial review would apply. Any decision is subject to judicial review.

Dr. R. Moonilal: So, Attorney General, you are confirming that if an applicant is denied, that applicant has a right to pay his lawyer and take the matter for judicial review? The lawyer will do it free?

Hon. Jeremie SC: Ask the Member for Fyzabad.

Dr. R. Moonilal: The point we are making here is when you provide these types of licences, if you could just signal an appeal process at the ministry itself where someone can appeal a decision taken at the unit, but you are saying that the person who was denied goes through the normal court process that involves time.

The Attorney General knows that a matter in the High Court does not start and finish in a week; it takes time when you go for reviewing decisions and so forth. So you are saying that on denial, they have to take the time, the effort and the money to take this matter to the High Court to call the unit or the Minister and the Minister is the party that goes to the court as to why the licence was denied.

Now you agree with me on clause 9 that deals only with the transitional period. I am asking where a licence has been granted, it has expired, what happens the day after it has expired? You would have an appropriate period for a second or third application subsequently? Where is that coming in, in the Regulations?

Hon. Narace: Yes.

Dr. R. Moonilal: The Regulations which we have not seen yet? Well, we will take your word for it, you are an honourable man.

I think you already made changes and you have called it an annual report; the first Bill it was not annual, so there is no need to go there. In the annual report to be prepared by a manufacturer, importer of tobacco products, now, an importer of tobacco products, persons who import for sale are not technical people because they are not involved in manufacturing, so they are not running a laboratory and understand chemicals, butane, arsenic and so forth.

An importer is a person who imports something from somewhere, goes to customs, clears his goods and moves out to distribute. That person submits annual reports and the report includes but is not limited to information on import/export business sales, marketing, and distribution. That is very detailed business information.

Is that not much too burdensome on an importer as opposed to a manufacturer? An importer who is investing money, bringing cigarettes into the

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country to sell to markets, groceries or what have you, has to now put a report to the Minister on technical information. This, I am submitting humbly that the technical nature of this report that includes not only the technical side of tobacco but also business.

There are many importers who are not trained in business, they have to go now and hire somebody with a business management degree. Well, we have many of them who got scholarships to do these management degrees and so forth. So someone has to be hired to supply reports every year. An importer sometimes is a one-man operation, he brings things into the country, clears customs and moves on to shops.

8.05 p.m.

You are giving the importer a terrible burden with technical information to present annually both on the manufacturing and sales marketing side.

Mr. Speaker: Hon. Members, the speaking time of the hon. Member has expired.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Dr. H. Rafeeq*]

Question put and agreed to.

Hon. Narace: To clear that issue. We cannot lose sight of the fact that we are signatories to a framework convention. We cannot lose sight of the fact that this is international best practices at work. We are seeing something that is a global effort. We cannot lose sight of the fact that we are aiming to change the culture as it were and reduce cigarette smoking in general. We got to keep that in mind.

Dr. R. Moonilal: Regrettably, I have to put the Minister and the Attorney General on note that you could take notes because I do not have the time. There are several matters that I want to raise and you could take the notes and respond. I want to move quickly along to Prohibitions Part III 12. You will agree that these are relevant issues. They provide in the schedule enclosed public place, enclosed workplace and enclosed means partially or substantially. It is quite interesting.

I am going to make it shorter to get the message. I want to raise this scenario. A person who smokes in a public place commits an offence. A person who contravenes subsection (1)—I would use Parliament as an example because I think Members could probably relate to that. If someone smokes in Parliament, this is an enclosed public place, that person commits an offence. But where a

person smokes in the public place, the owner, manager, lesee of the place where the contravention occurred who authorized or acquiesced in the act, that manager, owner or lesee is determined to have committed the offence. Is the Speaker liable here to be charged for the offence of smoking as a strict liability offence? If someone is caught smoking in the Ministry of Health on the executive floor, they could charge the Minister of Health.

The person with responsibility who authorized or had knowledge of this act or ought to have had knowledge of this act is liable. Imagine someone, hypothetically, Madam Deputy Speaker, smoking in the confines of the Parliament. The police sees them and charges them one time. They ask, "Who in charge of this?" The Speaker is out of the country. They pick up Madam Deputy Speaker. That is an offence with a fine and jail. I dread to understand what would happen in a situation. What is that?

Hon. Narace: Serious trouble.

Dr. R. Moonilal: That is serious trouble. You catch someone smoking in a restaurant at the airport and you catch them. The person is guilty. Who is the manager on this floor? Who is in charge of the airport? You have just committed an offence as well. You have to hire more security as cigarette security. People have to walk around to ensure that nobody lights a cigarette. If somebody is on the corridor and lights up, it could be considered partially enclosed.

The Speaker is liable. In practice that cannot be the intention. I believe that this is meant for clear places like night clubs, bars, restaurants and so on. It cannot be this blanket in any public place, enclosed workplace and all the Schedules. The Schedules include concert halls, cinemas and educational facilities. You have to find the responsible person and charge that person in addition to the person who commits the offence of smoking. Take note of it. I find it is very difficult.

It appears to be strict liability. Once you catch the person, you take him one time. He would have either authorized or ought to have knowledge of the act. This is unworkable. The Speaker would pay a fine of \$10,000 and imprisonment of six months. Poor Mr. Speaker! No knowledge he had that people were smoking on the corridor and he is carted away for six months.

No person is to sell tobacco products. We understand that. They included the child there so that is fine.

We have another difficulty. I need the knowledgeable people to assist me here. It is very clear that you should not sell to children or use children to sell.

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Clause 14 says:

"No person shall sell any tobacco product in such a way that a consumer may handle the product without the assistance of a sales clerk..."

This means it has to be handed from behind a counter and so on. You cannot go on a shelf and pull cigarettes and move.

Clause 15 states:

"No person shall display tobacco products in such a way that they are visible to the public, but the prohibition against public displays..."

They just said that it is not for people carrying tobacco and transporting. What do you mean by "no person shall display tobacco products?" This is a cigarette pack. [*Lifts cigarette pack*] It is empty. I do not smoke. I am displaying a tobacco product. Is this against the law?

"...they are visible to the public, but the prohibition against public displays of tobacco products shall not apply to individuals incidentally or accidentally displaying tobacco products during carrying or use."

If you say that someone can go outside in the park to smoke a cigarette and when the person is doing that members of the public see it, it is not incidental or accidental, that person commits an offence. [*Interruption*] Deal with it later. I need to move away at this stage because I have a few minutes. You have all right to correct me. [*Interruption*] Then do not deal with it. The Minister can take 75 minutes to wind up this debate. That is a little time good to respond to everything. If that is the wrong interpretation, then fine.

This clause shall not apply to cigarette dispensers and so on provided by manufacturers. You can put a dispenser on a shelf. We are dealing with the Bill but Members opposite do not want to go in this direction. They want to jump up and say that the last survey said that 80 per cent of people died from smoking so support it. The last survey said that nicotine and hydrogen bomb and toluene and all kinds of things in cigarette and support it. That is their approach. We are dealing with black and white provisions in the Bill that have to be implemented. Their convenient high is to say that smoking is bad, support it. It does not work like that. We are concerned with the provisions, the nuts and bolts. The prohibition does not apply to dispensers provided for manufacture and so on.

They have banned self-service means including the mail and the Internet. I want to ask a question. Sale of tobacco products through the Internet, how are you going to

monitor and deal with that? Do we have legislation in place in this country to monitor, police and enforce the sale of tobacco on the Internet? If so, tell us that legislation. How are you going to do this? Are you going over somebody's shoulder to look at the computer and see what that person is doing? I see Marlborough there, you are selling it on the Internet to somebody or promoting it, grab the hard drive and run. What is that? I read this and quite frankly, I think that this is madness. The Minister understands this. This is part of your international convention so you have to put it there. You cannot go behind everybody's back when they are on their computers and say, "Leh meh see wha yuh have dere?" You see Camel, not the animal, the cigarette, that looks like a cigarette.

Automatic vending machine is clear because you put up that automatic vending machine all around the place. That is clear. No person shall purchase any tobacco product from an automatic vending machine. Later, you will point out for me where there is a penalty for anybody selling tobacco products at the automatic vending machine. Is the offence also—and where is it, because it may be here, but I am not seeing it—selling by automatic vending machine as opposed to just purchasing by automatic vending machine? I thought that that was interesting.

Educational facilities. What about a university bar? Clearly, at a university bar you cannot sell cigarettes. This is now outlawed and banned at university bars because they are educational facilities. That is the ban on selling cigarettes there.

I saw another thing that I am concerned about. I am not a smoker. I never smoked I am not interested, although I must say that I never had an urge for a cigarette, but today, when I heard Members opposite, it could drive you. No person shall sell, display, distribute any sweetie, snacks or toys from tobacco items. Many of us grew up with this cigarette sweetie with a red tip and we ate them as we got them. I am not sure to what extent these children eating a cigarette sweetie would contribute to being chain smokers later, as opposed to advertising glamour life and so on. I ate plenty of those sweetie but I never smoked. I do not know how that is working. If opposite they know about the sweetie encouraging smoking, fine. Go with that. If you distribute the sweetie cigarette, that is \$10,000 and imprisonment for six months for your sweetie.

Clause 19 states:

"No person shall initiate, produce, publish, engage or participate in any tobacco advertising, promotion or sponsorship."

It is a fine of \$100,000 and an indictable offence with one year in jail. If you dare have cigarette sweetie with a red tip for sale. Does this include tobacco

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advertisements as someone wearing a T-shirt with Marlborough, Camel or Du Maurier? I cannot even pronounce the word. You can imagine how far I am from cigarette. If you wear a T-shirt with a cigarette producer, is that outlawed?

Mr. Imbert: Yes.

Dr. R. Moonilal: As of now, you know that people could walk all over Port of Spain with a marijuana leaf on their T-shirt. That is fine now. You could wear a marijuana shirt all over Port of Spain. You could put an earring with a marijuana leaf. You could wear the balisier tie that does look like "weed" on your shirt. You could do all that and it is legal.

Mr. Imbert: That coming next year.

Dr. R. Moonilal: If you wear a T-shirt with a tobacco product or something from Witco or Camel, you are in trouble. This was raised in the other place. When Witco Desperadoes is advertising their pan side, what do they have to put? The non-smoking Witco Desperadoes. Take off the Du Maurier or something like that. I hate to feel that this spells the end of Desperadoes. I know that like me, the Minister supports "pan day". I want to know if this should be tightened. To suggest that these types of advertisements on T-shirt—it would be such a mockery that you cannot wear a T-shirt with Du Maurier, but you could wear a marijuana leaf.

I want to get to a nice one here. Clause 19 (2) states:

"Notwithstanding subsection (1), a person may advertise a tobacco product by information advertising or brand-preference—

- (a) a publication that is provided by mail and addressed to an adult smoker who is identified by name;"

Where is the registry of adult smokers? Who is keeping that? When you stop smoking do you write a letter to the registry saying, "Delete my name. I have stopped smoking?" What madness is "a publication by mail" and "addressed to an adult smoker who is identified by name?" Correct me if I am not reading this English right.

8.20 p.m.

We have a register of adult smokers by name. How does that work? Suppose people who smoke cannot read—they are illiterate—they cannot smoke. If you cannot read, you cannot smoke; that is what is suggested here. There is a register of smokers because only they can get this mail to say they cannot smoke.

- “(b) a publication that has an adult readership of not less than eighty-five per cent...”

For us in Trinidad and Tobago, is that the *Sunday Punch*? Give me an example of a publication in Trinidad and Tobago with an adult readership of no less of 85 per cent. Anybody knows any? I am not in this business. I do not familiarize myself with those things. I do not know.

“...as determined by a recognized survey;”

Is this the North American Caribbean Teachers' Association (NACTA) poll that tells you that the *Punch* is 85 per cent adult readership, so you can advertise in that? Anybody can buy a newspaper on a stall. What is this?

I am pointing this out, not just to ridicule or to make fun, but to tell you that we are making a law to put in the red law books of Trinidad and Tobago, which, for all intents and purposes, may not even apply and cannot be implemented. We do not have a register of adult smokers by name.

A few moments ago, the Minister admitted that you do not even know how many people need a licence. How do we know how many people smoke? And there must be a registry of adult smokers by name. Imagine if you are an adult female smoker and you change your name! You have to tell the registry that you got married and have a new name. This is jail and money you are paying. Is there a directory of adult smokers? There may be smokers who cannot read and write. They cannot smoke.

The third one you can understand:

“signs in a place where children are not permitted by law.”

Incidentally, I need someone to correct me if I am wrong. A child can go in a rum shop, but a child cannot purchase alcohol. In a rum shop, you have soft drinks, you have “sweetie”—I myself do not frequent these places—and there are products of a non-alcoholic nature. My friend, the Member for Tobago East, can clarify if I am wrong. What products of a non-alcoholic nature are in a rum shop? A child can go there, so that is not a place where children are not permitted by law.

This, I believe is only for night clubs. A child can go in a cinema and a bar. This does not catch the place that sells cigarettes, so the net effect is that you can advertise in a night club. You can sell cigarettes in a bar, but you cannot advertise in a bar. I just want to interpret that for you.

We know all about lifestyle advertising. This Act does not ban smoking, but it does not ban advertisement, tobacco sponsorship or promotion either.

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“...where the name of the sponsoring entity is publicized.”

It prohibits tobacco sponsorship, et cetera, but there are qualifications. You can continue doing it if there is an intellectual property right issue or where you were involved in doing that before. So a cigarette company sponsoring a football team that was doing it for 10 years before can continue.

“22(1)No person shall sell, display for sale, supply or advertise any non-tobacco product or service that contains either on the product, or in any advertisement of the product, a depiction of a tobacco product except where the person held the intellectual property rights to that product prior to the commencement of this Act.”

If they had intellectual property rights to a product where tobacco is advertised? *[Interruption]* All right. Maybe you can say more at a later date.

Packaging and labelling and so on: I want to make a quick point here; my time is coming to an end. Some of the requirements for packaging and labelling are almost chaotic. We heard by admission today that on a small cigarette, that may be how many millimetres around, information must be provided. It is not cigars we are talking about, but cigarettes as well. I do not know how that works. When I go to the supermarkets, one of the complaints I have is that there are some products which, when you look for caloric contents, you need a magnifying glass to read them because you cannot see with the normal eye. *[Interruption]*

That is my complaint now. The Minister assures us that regulations will tell you how on one single cigarette. *[Interruption]* Earlier today we understood it was on the individual unit. There is a clause here to that effect. Tobacco products may be sold as individual units. That is the package; that is not the cigarette itself. *[Interruption]* So the individual unit is not the cigarette; it is really the package. Is that the pack of 20 or the cartoon?

Hon. Narace: No, one cigarette.

Dr. R. Moonilal: A cigarette is a unit.

Hon. Narace: We have agreed that if you are going to sell single cigarettes, they must be packaged appropriately so that the warning signs can be on the individual packaging for single cigarettes.

Dr. R. Moonilal: So an individual cigarette will now have a package. It is like a cigar. So we will now have a business to make a small box for one cigarette or a plastic something to wrap around the cigarette with the information. *[Interruption]* I am thankful. You are telling us that an individual cigarette will

have a package, whether a box or a cellophane, and on that single cigarette we will explain the dangers of smoking; tell them on the package that there are 4,000 ingredients—butane, hydrogen and nicotine. So do you know what you are selling? You are selling one cigarette with a wedding card attached so when you buy the one cigarette you open and get a card with the dangers.

Why do you not just put a sign that says: Smoking kills. If I were in your position, I would forget all the arsenic and tulane and so on and put “Smoking kills” and finish. You are saying that somebody standing up by the highway intersection pushing out one by one cigarette has to have each cigarette covered with cellophane or a box or some cardboard and labelled with the set of information that you had before. I am just explaining as best I could. Persons listening outside there will know the requirements they have to face. That is all we are saying at this stage.

“No person may sell or supply any product, device...that is...used...to cover...tobacco...”

What about masking tape or some tape you buy in a hardware store and just cover over the words "dangerous drugs" that the Member for Diego Martin North/East spoke about.

How much did the tobacco lobby pay you to bring legislation that cannot work? It must be billions. You need to clarify. There are products that are sold in any shop or hardware that people can use to tape over a cigarette pack. You see: “The Minister of Health advises” and you just paste it over and gone.

Is selling them in a hardware, minimart or variety shop—[*Minister stands*] I am not giving way. I have five minutes again, sit down.

Mr. Imbert: Standing Order 36(5). The Member accused me of being paid by the tobacco lobby.

Dr. R. Moonilal: Please! Treat him with nuisance value.

Madam Speaker: From the way the statement was put, I do not see it as an accusation.

Dr. R. Moonilal: He accused the whole Opposition. Thank God I did not accuse the very gracious Minister of Health.

“No tobacco product...label shall contain information that is false, misleading, deceptive, or is likely...directly or indirectly, to create an

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erroneous impression about the characteristics, health effects or other hazards...”

Let me ask a question here. What about movies that highlight, dramatize and portray drama? The “starboy” comes out of the backseat of one of those Mercedes Benz the Minister has, with a driver smoking a cigarette. What do you do? Ban the movie or that part? Tell the Film Censor Board when they see that part to cut it out? Is that the approach you are taking? I suggest you tell the Film Censor Board when they watch movies cut out all the parts where the “starboy” or “stargirl” smokes.

A cigarette tobacco lobby that is in bed with whomever will pay to produce movies. Cigarette companies are involved in the production of movies. They do it so that when the “starboy” looks behind him you see the Marlboro or the Camel sign because it gives them the ad. Is the Minister saying the Film Censor Board will cut out every picture with that?

They are effectively banning the importation of cigarettes. There is a requirement for name, licence number, tobacco manufacturers, exporters, importers, et cetera, on the package. I want to say that an importer, the one man who is importing cigarettes from somewhere to sell in a grocery or supermarket, now has to put in wrapping and cellophane paper, name, licence number, unique manufacturers, serial number, name and country where manufactured, name of country in which product is intended for sale.

[MR. SPEAKER *in the Chair*]

Suppose the product is intended for sale in 20 countries, are you putting the names on the package? You are putting the names of 20 countries where it is intended for sale? This is a ban on the importation of cigarettes. I submit that this is unworkable.

At clause 29(1), they are saying that tobacco manufacturers design their label in such a way that they are tamper-proof using best available technology. Exactly what is tamper-proof because as it is now they are already sealed? What more are you suggesting that people do to make it tamper-proof?

You made an amendment that you circulated earlier so I do not want to get into that. I have many other issues, but I am sure other Members will raise them. We have already dealt with sentencing, but I am hoping that in the time I have spoken, I would have raised a few issues that deserve attention. I have shown in some cases where it is unworkable; it is not even suitable to Trinidad and Tobago.

I am ready to support this Bill if you tell us which is the adult magazine, the register of smokers, how you become a registered adult smoker, the survey of which magazine goes to which house where they smoke and the technical persons who are assessing smokers and all this manufacturing thing.

8.35 p.m.

I want to put it to you that unless in this document here with all the persons who got scholarships from the Ministry of Community Development, Culture and Gender Affairs, are trained in “tobaccoiness”—the chemicals involved in tobacco and the composition of tobacco and so forth—you cannot properly staff a unit. Our key issue is the establishment of an authority to do this rather than the Minister of Health and I hope he will address that.

Thank you very much. [*Desk thumping*]

The Attorney General (Sen. The Hon. John Jeremie SC): Mr. Speaker, I was down to speak much earlier in the afternoon, but my distinguished friend, the Member for Diego Martin North/East, kept pushing me down the ladder in the hope that I would have something substantial to respond to. [*Laughter*] Mr. Speaker, generally, you know that I am a very soft spoken, polite and humble gentleman. [*Interruption*] I am being assisted by all my colleagues.

At 8.35 p.m on a Friday afternoon, to hear contributions which speak primarily to the Minister of Health jumping out of a Mercedes Benz and smoking a cigarette—Marlboro or Benson and Hedges written on it—I sat quietly and patiently—I started off at 2 o'clock with a pen in my hand and I then moved from a pen to a marker and, eventually, I abandoned both. The point is, unless I speak cogently to some of the constitutional issues which are involved in the legislation, and which I must confess were touched on—I use the word “touched” advisedly— by the Member for Caroni East, because he did not spend any degree of time exploring these issues, but he did touch on some of the constitutional issues. I must explain that this is necessary because now the courts—since the decision of the court in *Pepper v Hart* is inclined to come into the proceedings of the House to determine what exactly, if anything we meant by the legislation that we have passed, this is an important piece of legislation.

Now, it is my hope that in the course of dealing with the serious constitutional issues which confronted us when we first looked at the legislation and which engaged the attention of the other place for some considerable time, I might address some of the concerns expressed seriously by the Member for Caroni East and, perhaps, a little less seriously by the Member for Oropouche East.

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In broad strokes, the concerns which have or ought to have been expressed in relation to the legislation before us deal with the following areas: advertising, the ban which the legislation seeks to impose on the sale of tobacco products; the ban which the legislation seeks to impose with respect to sponsorship; the trademark usage ban; the ban on generic packaging; and the display ban which the Member for Oropouche East flippantly spoke to. I attempted to jump up to assist him, because he asked on the one hand for assistance, but when I attempted to assist him he said: “You wait your turn.”

Mr. Speaker, above all, I propose to deal with what was described in the other place and what underpinned many of the contributions made today, in particular, the contribution made by the Member for Caroni East where he raised, frontally, the question of us not moving to make tobacco products illegal. I would describe that as the freedom to smoke. Now, I speak, in the legal context and, I speak, in particular, of why the legislation which is before us this afternoon requires a special majority.

Mr. Speaker, the genesis of the legislation which is before us this evening begins with the Framework Convention Alliance passed by the World Health Organization in 2005. Mr. Speaker, that convention describes itself as the World's First Public Health Convention and it is, as these types of conventions are normally part of international law. It is a treaty. My information is that the treaty entered into force in February, 2005 and it was signed by 168 of the 192 World Health Organization member states, and 156 member states have become parties to the convention.

Now, the question which immediately arises is: Why is there this international consensus that we ought to have this enacted in international law—a convention which speaks to tobacco control and, in particular, enacting a convention which affects ordinary persons, that is to say, individuals?

Mr. Speaker, as you would no doubt be aware, international law, in general, is concerned with governing the rights and relationships between state parties. That is so in respect of the Convention on the Law of the Sea; it is so in respect of the agreement which might be reached in a couple weeks' time in Copenhagen with respect to climate change. That is the subject matter; that is the domain of international law states. States are parties to international conventions, and they very rarely, except in the case of human rights, treat and speak to individual rights, but this convention was of such critical importance that it was thought necessary to enact provisions which specifically dealt with tobacco and tobacco control. Now that is the genesis of the legislation which is before us today.

Now, there are groups affiliated to the World Health Organization, and I speak now, in particular, of the Pan-American Organization which has developed on the work of the World Health Organization and has gone further to produce what is, in effect, a template draft legislation for state parties to the convention. So that is the genesis of the legislation which is before us.

I turn now to look at the constitutional implications of the legislation, because the convention, as an international treaty, expressly states that it should take effect and it should be enacted by states subject to their constitutional arrangements. That is only proper that international bodies have respect for the individual circumstances of member states.

Now, our Constitution recognizes that rights and freedoms granted by the Constitution and, in particular, those rights and freedoms granted in sections 4 and 5 of the Constitution are not absolute. They can be limited, if limitation is necessary, to achieve an important objective, and if the limit is appropriately tailored or if it is proportionate. That is similar to the constitutional arrangements which exist in most Commonwealth territories. I say most Commonwealth territories to distinguish what occurred in the Caribbean where you have, essentially, the same constitution with different variance, but the same constitution and what obtains in wider parts of the Commonwealth.

So that in our Constitution, particularly in section 4, there is contained various rights which are general in nature and which, of course, will not include explicitly the right to smoke, but as a derivative from say the right to privacy in one's own home, you can have a court find that there is a right for someone to smoke within the precincts of his home and that is not affected by the legislation which is before us.

Now, there is in the Constitution as well a right to freedom of expression. It is expressed in section 4(i) which speaks to the right of freedom of thought and expression. While I am on this, there is a right in 4(c) which speaks to the right of the individual to respect for his private and family life. Mr. Speaker, those rights are subject to section 13(1) which allows derogation from the rights in sections 4 and 5 where it says:

“An Act to which this section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5...”

The legislation before us, at clause 3 does so declare. So, it declares that it shall have effect notwithstanding the provisions of sections 4 and 5 and that would include the right to freedom of expression and the right to a private life.

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Mr. Speaker, if you look at the Bill itself and I suggest you must look at the Bill if you are to determine whether or not the legislative objectives which are set out in section 13, which states when it is permissible to derogate from a section 4 right—you must look at section 13 to determine whether or not the section 4 derogation is permissible.

I now turn to the Bill. The Bill describes itself as an Act to prevent tobacco use by children, and that is provided for explicitly at clause 13 of the Bill, clause 16 of the Bill and clause 18 of the Bill. It is an Act to regulate tobacco use by individuals, enhance public awareness of the hazards of tobacco use and ensure that individuals are provided with information to make more fully informed decisions about using tobacco. Those two objectives will be contained in clause 12 and clauses 23 to 32 inclusive, of the Bill which is before this honourable House.

Another object is to protect individuals from exposure to tobacco smoke. That too is set out in clause 12 and clauses 23 to 32 inclusive, of the Bill. Another objective is to prohibit and restrict promotional practices, that is set out in clause 19 of the Bill, to prevent smuggling of tobacco, provide for regulation of tobacco products, to mitigate against the harmful effects of tobacco and provide for other related matters. Now, all of those will be contained in clause 16(1) of the Bill which is before this House.

Mr. Speaker, those are the legislative objectives of the Bill which is before us and which demand of us derogation in terms of section 13 from the guaranteed rights contained in sections 4 and 5 of the Constitution.

Now, in section 13, a balancing Act is required to determine whether or not the legislation is reasonably required in a society which has a proper respect for democratic traditions. In the case of *Nyambari v National Social Security Authority*, that similar clause was considered and it was expressed by the Chief Justice that there were three components to that requirement.

First, that the legislative objective is sufficiently important to justify limiting a fundamental right.

Now, if you look at the Bill which is before us, I think that there is no question, but that the legislative objectives which I have set out before are sufficiently important to justify limiting the fundamental rights which are set out in sections 4 and 5 of the Constitution.

The second criterion is that the measures designed to meet the legislative objective must be rationally connected to it. Each of the legislative measures which the hon. Minister of Health has set out banning advertising, banning sponsorship, banning trademark usage, banning generic packaging, banning displays; speaking to freedom to smoke in enclosed areas; all of those are measures which are rationally designed to meet the legislative objectives of the Bill which is before us.

Mr. Speaker, that leaves the third and final requirement of the three-fold test which is set out in *Nyambari* right. That is, that the means used to impair the right or freedom must be no more than is necessary to accomplish the objective. Guidance for us has been provided in the case as to what that means in the case of *JTI-Macdonald Corp v Attorney General of Canada* which my friend and colleague, the former Attorney General, the Member for Tabouite provided me with in the form of an opinion some time ago.

I had the case but he provided me with an opinion which sought to use the case. I would read from paragraph 43 of that case. What the court in that case says is that, and I quote:

“Again, a certain measure of deference may be appropriate, where the problem Parliament is tackling is a complex social problem. There may be many ways to approach a particular problem, and no certainty as to which will be the most effective. It may, in the calm of the courtroom, be possible to imagine a solution that impairs the right at stake less than the solution Parliament has adopted. But one must also ask whether the alternative would be reasonably effective when weighed against the means chosen by Parliament. To complicate matters, a particular legislative regime may have a number of goals, and impairing a right minimally in the furtherance of one particular goal may inhibit achieving another goal. Crafting legislative solutions to complex problems is necessarily a complex task. It is a task that requires weighing and balancing. For this reason, this Court has held that on complex social issues, the minimal impairment requirement is met if Parliament has chosen one of several reasonable alternatives.”

The Bill before us this afternoon is one of several reasonable alternatives to speaking to the problems and ills faced by the tobacco industry. If I were to turn quickly to just the controversial provisions of the Bill as they have been highlighted to us by the Members opposite, I would make that point.

Clause 12, to which the Member for Oropouche East referred to at great length really is section 4(4) of the Smoking, Health and Social Care Scotland Act

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of 2005. There is legislative precedence for that clause.

Clause 13 finds its legislative precedence in the United Kingdom in the Protection of Children Tobacco Act of 1986, and that is an Act which is some 33 years old. It is also echoed in section 8 of the Canadian Act, although it is not taken from that Act word for word.

In clause 19 to which much reference was made, that clause relates to section 2 of the Tobacco and Promotion Act of 2002 of the United Kingdom and section 2 of the Tobacco Act of Canada.

Mr. Speaker, the other sections to which my friends on the other side referred dealt primarily with the penalty section. Here, if you look at clause 37 what you see is that substantial amendments were made in the other place to bring down fines which were initially in the amount of \$3 million to \$50,000; \$100,000 and \$200,000 as the case might be. So, the short point is that the Bill which is before us this afternoon is a version of the PAHO model. It is a version of—at least it borrows heavily from the World Health Organization Framework Convention on Tobacco Control and it also borrows heavily from the UK, the Scottish and the Canadian legislation.

There can be no reasonable argument that Parliament has chosen at least one, if not the answer to this difficulty which the nation faces of tobacco control.

Mr. Speaker, there were other cases to which I intended to refer had I been called upon to speak at an earlier time, but I think my desk overflows with those cases. I would just like to mention one of them before I take my seat, and that is *R v Nottingham Healthcare NHS Trust*, which I lent to my friends on the other side when they argued that patients in a mental institution, as this case concerns, had freedom to smoke—well, this is my impression. That is nothing from the truth.

What happened in that case is that the court was called upon to interpret a domestic ban in a hospital with respect to smoking. The institution itself had a ban on smoking and that was challenged on the ground that it contravened the rights of the patients, their right to respect for a private and family life as enshrined in Article 8 of the European Convention on Human Rights. In rejecting that argument the court summarized the authorities on the ambit of this right and concluded that the concept of respect for private life requires respect for physical and psychological development or personal development to autonomy.

So the court rejected the argument that the respect which is required by Article 8 was coextensive with the right of absolute independence and stated that

preventing a person from smoking does not at any rate in the culture of the United Kingdom—and you can read Trinidad and Tobago for the United Kingdom—generally involve such an adverse effect upon the person's physical or moral integrity or any of the other concepts which one would normally include in a respect for private and family life as would amount to an interference with the right to respect for private or home life within the meaning of Article 8 of the European Convention.

Mr. Speaker, it is 9 o'clock now and I trust that we will move speedily to—

Mr. Speaker: Actually it is four minutes after nine.

Sen. The Hon. J. Jeremie SC: I am glad for that reminder, Mr. Speaker, because it is four minutes after nine. I have done my part to be brief. I have spoken to only the constitutional aspects of the Bill, why a three-fifths majority is required.

9.05 p.m.

I heard not a word from the other side this evening, as to why this Bill might require a three-fifths majority. For them alone, we might have been able to pass this Bill with a simple majority because I heard not one word this afternoon from them. In the other place, Mr. Speaker, there was a great deal of debate as to whether or not it might require an amendment to the Constitution, a two-thirds majority, but the Opposition seems to have accepted, without argument, that the Bill requires a three-fifths majority, I hope that they would lend their support to it.

With those few words I take my seat, in the hope that Members opposite would be as brief as I have been. [*Desk thumping*]

Mr. Nizam Baksh (Naparima): Thank you very much, Mr. Speaker, and let me give my colleagues the assurance that I will endeavour to be very, very brief.

Mr. Speaker, this Bill seeks to prevent tobacco use by children; regulate tobacco use by individuals; protect individuals from exposure to tobacco smoke; prohibit and restrict promotional practices; prevent smuggling of tobacco; provide for regulation of tobacco products to mitigate against the harmful effects of tobacco; and provide for other related matters. I will address some of these issues as I go along.

Since June 2003, the Government of Trinidad and Tobago adopted the WHO Framework Convention on Tobacco Control and later ratified it in 2004, and the objective of that Convention was really to protect present and future generations from the devastating health, social, environmental and economic consequences of

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the tobacco consumption and exposure to tobacco smoke.

Mr. Speaker, I recall my colleague, the hon. Minister of Health, in his presentation, was very proud that all the participants of the CHOGM Conference were all signatories to this Convention. But I ask this question: Since we are part of that elite grouping as well, why is it that it took us so long, since 2004, to actually get involved and bring it to this stage here, because I am sure we would have liked to be among that band or grouping? I think we also missed a golden opportunity in sensitizing the national community from 2004 to now, in the preparation of this Tobacco Control Bill. Once this becomes law, then all the fines are going to be imperative and be introduced. So I thought it was necessary before the Bill comes into effect, that we should have been undertaking a sensitization programme so that young and old, and all of the people of the national community would have been able to get this information, for them to make a decision with regard to nonsmoking and those who are not smoking as yet.

So as we are nearer now, we must undertake an aggressive educational advertisement programme, and I think we could do very well by TV ads, showing some graphic consequences of smoking. My colleague, the Member for Caroni East, made reference to some pictorial brochures for school students and so, but I think we need to address it at the national level as well. We need to undertake some aggressive educational advertisements, and not jingles and bumper stickers as we are used to doing.

Mr. Speaker, very often we hear this Government speak about Vision 2020, and I think we have a golden opportunity when we should be addressing issues that are related to good health in a very holistic way. I know that my colleague, the Minister of Health, when he mentioned about addressing the obesity and sugar next, this was a good opportunity for us in one stroke really, to deal with alcohol and tobacco control. The Minister of Health has presented some compelling arguments this afternoon here for the control of tobacco, and this is even applicable more so, in the case of alcohol. I would like to give some figures with regard to alcohol deaths per year, just to build my case.

Mr. Speaker, I am making reference here to alcohol deaths and the problems of tobacco control: Alcohol deaths per year:

- 5 per cent of all deaths from diseases of the circulatory system are attributed to alcohol.
- 15 per cent of all deaths from diseases of the respiratory system are attributed to alcohol.

- 30 per cent of all deaths from accidents caused by fire and flames are attributed to alcohol.
- 30 per cent of all accidental drownings are attributed to alcohol.
- 30 per cent of all suicides are attributed to alcohol.
- 40 per cent of all deaths due to accidental falls are attributed to alcohol.
- 45 per cent of all deaths in automobile accidents are attributed to alcohol.
- 60 per cent of all homicides are attributed to alcohol.

So you see how important it is for us to deal with alcohol and tobacco control, perhaps simultaneously.

Every year, more money is spent on promoting the use of alcohol than on any other product. Perhaps through its elaborate and creative marketing, the most basic, yet important fact about alcohol is often overlooked, and that is alcohol is a drug, the most commonly used and widely abused psychoactive drug in the world.

Mr. Speaker, all the convincing arguments presented by the hon. Minister this afternoon, for the control and use of tobacco could be juxtaposed on alcohol abuse as well, and today, we could have been killing two birds with one stone in dealing with a tobacco and alcohol Bill this afternoon, with the addition of a few clauses.

We know that this Government has an implementation problem, with a long history of low implementation record and I could name one or two: the Children Bill. We addressed the Breathalyzer Bill as well, and since 2007 to the present date, we have had several dates when the hon. Minister of Works and Transport promised that the Breathalyzer Bill would have been in effect. To date, we are still hearing that it is going to come on Christmas Eve, while the police are saying we should expect this sometime around Carnival time, next year 2010. I have a concern here, that even though we are passing the Bill here this evening—when will this legislation be implemented? This legislation could very well end up in cold storage again. I hope that we do not have to wait for protest action by the national community to ensure that we address this as urgently as we do, just like in cases of water problems, road problems and so, when people need to protest to get things done and not really addressing the root causes of the problem.

Mr. Speaker, I would like to refer to some of the clauses very quickly, and I refer to clause 5(1) where we speak about a unit which would be established in the Ministry of Health, that will be delegated overall responsibility for tobacco control including the grant of licences. I have a difficulty when the establishment

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of that unit falls under the Minister of Health and this could very well lead to some problems of corruption and so within the Ministry, as we have seen from some very good examples that came up today.

When the Minister has the authority to appoint a director, then this is not a normal situation with regards to Ministers having the authority to appoint a director. Usually what has been done, is that you have the appointment of a board of directors and the ancillary staff that goes with it, but here it is we have the authority of the Public Service Commission and other commissions being usurped by the Minister of Health, in this case. So this is a problem, and I feel that a board of management would have solved some of the problems here, and that board comprising of voluntary organizations, for example, the Cancer Society and the Medical Association of Trinidad and Tobago, apart from the Government nominees.

Clause 5(2)—I spoke with regard to the appointment of the director and this is something that will cause some concerns here, and not bringing the politician to usurp the functions of the public service.

I looked at clause 5(3) which says:

"The unit shall be provided with adequate staff..."

If the Minister has the authority of appointing the director, then is it that the director will have the authority of appointing the staff? Then you could see the politics being involved in it, because here it is you have a political head appointing the main person as the director, and then if he is given the authority to appoint—because the Bill did not say who is going to do that. I feel that if this authority was done by the Service Commission, then certainly they would have advertised, stated the salaries and the necessary qualifications and so, that would entail the selection of the staff. So this is something that we need to look at as well. This means that the Minister who appointed the director, will direct him to appoint only perhaps members of their ilk, and this is a concern I am sure that is being questionable. This will have an open door policy for favouritism and nepotism as we see happening so often these days.

Clause 10(3) states:

"The Minister shall serve as the licensing authority under this Act."

The concern I have here is that usually, if there is an authority for approving licences, if there is an aggrieved person, then usually that authority is given to the Minister where there is an aggrieved person, or someone looking for some redress where they did not have a favourable response. If the Minister is approving now,

where will persons have the opportunity to seek redress if there is need for it? So I have a concern with that as well. I see that this here will also provide the opportunity for facilitating insider trading, just like we have seen perhaps in the chain of pharmaceutical outlets in this country. We have to be very particular because it could facilitate the information, because the information will be with the Minister. We have to be very particular.

There is a trend nowadays where the Ministers control the activities in the Ministries, and then you have the Prime Minister controlling all the Ministers here, like the master puppet, and this is something that is bringing control into a narrow margin here.

Mr. Speaker, I want to refer to clause 10(8) where it says here:

"Where an application for a licence is denied, the applicant shall cease manufacturing, importing, exporting or selling tobacco products immediately upon notification of same."

I want to emphasize "immediately". Now imagine, or put yourself in a situation where you have a business, where you are manufacturing or importing and your licence is denied for whatever reason, and you have to cease immediately, what happens to the stock that you have in trade which might run into millions or billions if you are manufacturing or importing? So I have a concern with this here because if someone is stopped or has to cease business immediately, this will allow perhaps under the counter trade or contraband trade, because I do not see the person or the business holding the stock just to destroy it after they are denied a licence.

9.20 p.m.

So this is a concern I have, how we are going to address this and what would happen to that person who ceases to dispose of those goods at hand.

Mr. Speaker, I go to clause 11(1):

"Every manufacturer and importer of tobacco products shall submit to the Minister on an annual basis reports containing the information required under this Act and Regulations."

My concern is that when we say "annual basis", I have experience with the Joint Select Committees and the Select Committees where ministries and statutory bodies are required to submit annual reports and these come years after. I would request that we put a fixed time frame for the submission of these annual reports.

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Businesses also have different accounting periods as well, so is this going to be the annual accounting dates of their accounting periods or is it going to be the Government's financial year, which is from October to September, or is it going to be calendar year? We need to clarify this and put a specific time frame for the submission of the reports.

Mr. Speaker, I refer to clause 19 with regard to advertising, and just to make a general comment on this. When you look at some advertisements as you drive on the highway or those on television, you see that some of them tickle and excite the imagination; some accelerate the heartbeat and create a sudden rush of blood to the brain. [*Laughter*] I think there is need for a standard agency for advertising. I could name some of these advertisements. There is one where they are advertising motor car batteries, but when you look at the picture next to it, there is a half clad female advertising. When you look at the Red Bull and Blue Vodka advertisements, they excite the imagination.

I want to touch on prevention of the smuggling of tobacco. The Bill mentions the prevention of the smuggling of tobacco, but one of the side effects of this legislation is the development of a contraband trade. This could very well be a side effect of this legislation. How will the Government control the smuggling of cigarettes? It is an offence, but how are you going to detect it? With all the resources under the Ministry of National Security, the human, financial and technical resources, we are still having difficulty, because we cannot control the importation of the drug cocaine; we cannot stop the inflow of guns into the country and we cannot stop the flesh trade that comes to this country. Every Monday morning we see so many persons found at different places; night angels as we refer to them. There is also the contraband trade in alcohol. How are you going to address these issues? I think we have to look at it very closely.

Mr. Speaker, I thank you for the opportunity. I indicated that I was going to be very brief, but I know that my colleagues raised the other issues that I have noted. I just touch on some of those for which I have a little concern.

Thank you.

The Minister of Legal Affairs (Hon. Peter Taylor): Mr. Speaker, I thank you and the honourable House for the opportunity to join this important debate. I was impressed with the contribution of the hon. Attorney General. [*Desk thumping*] Even at a rather late hour in the evening, 8.36 p.m. he started his contribution, he sought in a very sobering and yet eloquent way to locate the

debate in a constitutional context. I felt that was an important intervention, because the Bill seeks to balance public health concerns with the citizens' right to freedom of expression.

I thought it was an important intervention, because it took me back to a case that I had not intended to use. It was a Canadian case incidentally which sought to explore, in a very interesting way, the competing forces between the constitutional rights of citizens and the need for Government to engineer and promote what is really social legislation.

The world and governments have recognized that tobacco use and the deleterious effects of tobacco can really have very destructive effects on the productivity of economies. Therefore, it is incumbent upon all governments to do as much as is possible to create national legislation, insofar as it is possible to do so, to reduce the influence of tobacco sales.

That case really was interesting. I am happy that the Attorney General made his intervention as he did, because it allowed me, perhaps, just for a few moments, to explore the important points that would weigh in favour of national legislation protecting citizens in the interest of public health.

The case to which I refer is *RJR Mc Donald v. the Attorney General of Canada*. The date of the case is September 21, 1995. The debate, of course, was a challenge by the tobacco lobby against some of the legislation that was implemented, that really sought to restrict the role of tobacco companies, insofar as they could advertise, insofar as they could label tobacco products.

A minority view was expressed, and I quote now:

"The sole purpose of tobacco advertising is to promote the use of a product that is harmful and often fatal to consumer by sophisticated advertising campaigns often specifically aimed at the young and the most vulnerable. In its view, this was precisely the type of social legislation that merited a high degree of judicial deference to legislative choice." [*Interruption*]

The dissenting judges noted that the complete ban on advertising followed two decades of experimenting with less intrusive measures and that the unattributed health warnings requirement represented but a minuscule burden on the tobacco company's freedom. [*Interruption*]

Mr. Speaker, I wish to end my contribution at this point in time.

The Minister of Health (Sen. The Hon. Jerry Narace): Mr. Speaker, let me just say, first of all, that I thank all the speakers who have contributed to this debate.

I think the one thing we have established tonight, and all day today, is that it is a very important Bill and it will certainly save lives; it will help children; it will protect people and it will encourage the health sector to really use resources that are currently spent on preventable diseases and diseases that are less preventable.

Let me just answer a few points. I think my colleagues, and I in my opening, dealt extensively on this matter. It has been aired a lot and I do not think that I need to say too much more. I know that the Opposition asked for a moratorium. We intend to implement this Bill, as I said, between three to nine months, so there is going to be some time.

We are currently doing a lot of education. We have cessation initiatives, both clinical and non-clinical, and we are looking at all of those areas. So we will continue to treat with education and cessation efforts in that regard.

As far as regulations are concerned, they are required to be developed. In fact, those regulations are already developed and are with the Attorney General as we speak and we will be bringing them very shortly to the Parliament.

I spoke about cessation, let me just say very quickly that we have developed a policy outlining a full public health approach to cessation. We have accepted a proposal from an international NGO with a proven track record to add to that and we are training health care professionals. We are about to implement additional cessation clinics at our public health institutions.

The Member for Diego Martin Central spoke about clinics that already existed. We are dealing with behaviour change and communication material, the why and how to quit and so on. We feel that is very important and we propose to support people in that regard. The Chemistry Food and Drug Division has also approved pharmacological options to treat nicotine dependence and these are available locally. Mr. Speaker, we are also taking community caravans throughout Trinidad and Tobago to attract people and to get them to understand, to deliver material and try to speak to them on a one on one so we could help those persons.

In terms of compliance with the FCTC, we have made some points. The Member for Caroni East called for societal measures to change the image of tobacco; we have already addressed that in the packaging and labeling regulations. I want to make a point about the single cigarette; it is very important.

That is the way they hook children and that is the way they keep poor people using their money for cigarettes; it is a clearly defined plan. All 4,000 properties that the Member for Diego Martin North East spoke about, is to design that product to be addictive. That is why we are so concerned about that.

The Attorney General spoke to the fines. When we impose fines, it is pertinent that they help to change that culture. We are looking to make a cultural shift. We are looking to encourage persons to make a cultural shift, and that is why it is so important to use these fines.

The tobacco control plan really seeks to prevent the initiation of tobacco use, to promote cessation, to institute a management structure and so forth.

9.35 p.m.

So Mr. Speaker, Dr. Rafeeq spoke about the unit and I spoke to the unit already. The establishment was supported by the Special Select Committee and we believe that a unit specifically dedicated to tobacco control is presently necessary to ensure the implementation and enforcement of the measures outlined in clauses 5, 6 and 7.

Further, clause 5(3) clearly states that:

“the unit shall be provided with adequate staff with the requisite qualifications and experience for the discharge of its functions.”

We believe that this clause provides sufficient parameters for the Ministry of Health to establish an effective unit and the details of the composition must not be spelt out by the legislation.

Mr. Speaker, we spoke about the treaty obligations and we explained the fines; the manager/lessee matter, we addressed all those matters. What is at stake today is that every 6.5 seconds someone dies from tobacco use. It is responsible for the death of 1 in 10 others worldwide and 50 per cent of all who use it in Trinidad and Tobago.

More deaths are caused each year by tobacco than by TB, AIDS and malaria combined. Annually, tobacco causes 5.4 million deaths worldwide; 30 per cent of cancer related deaths, over 600,000 deaths from smoke-related diseases. So, we can no longer be passive, it is time to act. The tobacco epidemic is the most preventable of them all and with this legislation, we can decrease tobacco-related illnesses and thus engender a healthier population starting with our young citizens who comprise the future of our nation, therefore, upon the Members of this honourable House lies a most serious responsibility.

Tobacco Control Bill
[SEN. THE HON. J. NARACE]

Friday, December 04, 2009

This legislation must be passed now, the enactment of the Tobacco Bill will assist our citizens in living longer and ageing better. It will also ensure that our young people enjoy a healthier, elderly age.

Mr. Speaker, I heard some different statements coming out. I heard one person say it took us too long, I heard another say we should add alcohol to it. I heard a number of conflicting positions coming from the Opposition, and so it was in the other place.

One said send it to a select committee; one said recall the Bill, and another said something else and they were all different positions. Mr. Speaker, I want to make the point that we on this side have a serious responsibility for the children and future generations and personally, I have been fighting with this Bill for two years now and I think it is a signal moment for us.

Mr. Speaker, I can say no more than hon. Members must really dig deep and think it out whether we are going to allow a company that moves in 1998 \$28.1 million to \$201 million 10 years later and that continues no matter how we raise taxes and no matter what we do.

In fact, the former Minister of Education speaking in the other place spoke about the numerous efforts they made in the Ministry of Education trying to get children to change their behavioural patterns. Really, the fight against such a powerful lobby—in fact the Member for Diego Martin East made the point that the fight against that lobby is a very serious one.

I was making the point that the power of this industry is such that it is really a battle for us to fight this and, therefore, that is why a framework convention came about so that we can find a global approach to confront tobacco.

So, the enactment of the Tobacco Control Bill will benefit babies born and unborn; children; teenagers; mothers; fathers; grandparents; essentially every citizen in our society. It is indeed our expectation that with the passing of this legislation, the general health status of Trinidad and Tobago will be greatly enhanced and, most importantly, this country would have taken a significant step towards First World status, and indeed, the achievement of Vision 2020.

So in these circumstances, Mr. Speaker, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clauses 1 to 4 ordered to stand part of the Bill.

Clause 5.

Question proposed, That clause 5 stand part of the Bill.

Dr. Gopeesingh: We are asking for a regulatory authority with statutory powers to run this anti Tobacco Bill and the unit shall not be under the Ministry of Health.

Mr. Chairman: Do you have an amendment to propose?

Dr. Gopeesingh: Yes, that a regulatory authority be the unit responsible for the management of these functions.

Mr. Narace: We do not agree with that.

Question put and agreed to.

Clause 5 ordered to stand part of the Bill.

Clauses 6 and 7 ordered to stand part of the Bill.

Clause 8.

Question proposed, That clause 8 stand part of the Bill.

Dr. Gopeesingh: In clause 8(6), we are asking for another subsection to be put on that will address the question of penalty or abuse by the authorized officer.

Mr. Chairman: Let me inform Members generally who are proposing an amendment; you must put it in writing and have it circulated.

Dr. Gopeesingh: We asked them to consider.

Mr. Chairman: If you have a proposed amendment, you must put it in writing and circulate it or, unless you are prepared to verbalize the amendment now. Just asking broadly for something, it has to be by virtue of a clause. So you are asking for?

Dr. Gopeesingh: If the officer is found in abuse of his authority, a fine of probably \$10,000 or six months imprisonment.

Mr. Narace: Mr. Chairman, we will undertake to look at that, but we are not prepared to make that change at this time.

Question, on amendment, put and negative.

Question put and agreed to.

Clause 8 ordered to stand part of the Bill.

Clause 9 ordered to stand part of the Bill.

Clause 10.

Question proposed, That clause 10 stand part of the Bill.

Dr. Gopeesingh: Clause 10(8) “Where an application for a licence is denied, the applicant shall cease manufacturing, importing...” et cetera. The requirement for an amendment is that an appeal tribunal within the ministry should entertain failed applications.

Mr. Chairman: If you are proposing an amendment, what is the amendment?

Dr. Gopeesingh: That is what I am raising now.

Mr. Chairman: What is it?

Dr. Gopeesingh: An appeal tribunal be set up within the Ministry of Health to consider denied licences; Dr. Moonilal raised this.

Mr. Chairman: What is your amendment?

Dr. Gopeesingh: I just said it, I am asking for another one to be put in 10(9).

Mr. Jeremie SC: Mr. Chairman, we consider that the remedy of a judicial review is appropriate in these circumstances.

Dr. Gopeesingh: And we said that is very costly and cumbersome for a manufacturer, or anybody to have to go through a judicial process to get an appeal. One should not have to go to court to have an appeal tested, particularly for a denial of a licence.

Mr. Jeremie SC: For denial of a licence you go by way of judicial review.

Dr. Gopeesingh: If that is the way you want it.

Question on amendment put and negatived.

Question put and agreed to.

Clause 10 ordered to stand part of the Bill.

Clause 11 ordered to stand part of the Bill.

Mr. Chairman: We are now going to do clauses 12 to 22, are there any objections to these clauses?

Dr. Gopeesingh: Yes, clause 19.

Clauses 12 to 18 ordered to stand part of the Bill.

9.50 p.m.

Clause 19.

Question proposed, That clause 19 stand part of the Bill.

Dr. Gopeesingh: We are asking for an amendment to be made by the Government on the question of a registry. Dr. Moonilal raised the question of an adult smoker who is identified by name. How is the adult smoker identified? Is there a registry for adult smokers? We do not have an answer for that.

How is the adult readership determined? How does not less than 85 per cent determined? It is hazy, cumbersome and non-scientific. I ask that an amendment be considered to this clause.

Mr. Narace: This is basically the Canadian model. It is contained in section 2 of the Canadian Act. We are part of an international convention and this is trying to rise to international best practice.

Question put and agreed to.

Clause 19 ordered to stand part of the Bill.

Clauses 20 to 36 ordered to stand part of the Bill.

Clause 37.

Question proposed, That clause 37 stand part of the Bill.

Dr. Gopeesingh: I am asking that the Government considers the question of the severity of the penalties and consider an amendment for a reduction in the penalties as stated in 37 in keeping with the British system, where there are fixed penalties and not the severity.

Mr. Chairman: Which sterling equivalent do you want to introduce? You want to reduce the amount and you talked about English legislation. Give us a TT/Sterling equivalent.

Dr. Gopeesingh: TT money, \$10,000 for the first offence; \$20,000 for the second and \$50,000 for the third.

Mr. Jeremie SC: We have addressed the question of penalty in the other place. We moved from \$3 million at the extreme, as I understand it, down to \$200,000. In respect of the point made during the course of the debate about it, indictably, there are strict liability offences.

Question put and agreed to.

Clause 37 ordered to stand part of the Bill.

Clause 38 ordered to stand part of the Bill.

First and Second Schedules ordered to stand part of the Bill.

Preamble approved.

Question put and agreed to, That the Bill be reported to the House.

House resumed.

Bill reported, without amendment.

Question put, That the Bill be now read the third time.

The House divided: Ayes 26

AYES

Imbert, Hon. C.

Manning, Hon. P.

Nunez-Tesheira, Hon. K.

Gopee-Scoon, Hon. P.

Kangaloo, Hon. C.

Abdul-Hamid, Hon. M.

Dumas, Hon. R.

Ross, Hon. J.

Taylor, Hon. P.

Swaratsingh, Hon. K.

Parsanlal, Hon. N.

Beckles, Miss P.

Mc Donald, Hon. M.

Tobacco Control Bill

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Hunt, Hon. G.
Le Gendre, Hon. E.
Browne, Hon. Dr. A.
Callender, Hon. S.
Cox, Hon. D.
Jeffrey, Hon. F.
Hospedales, Hon. A.
Joseph, Hon. R.
Hypolite, N.
Regrello, J.
Rowley, Dr. K.
Roberts, A.
Sinanan Ojah-Maharaj, Mrs. I.

The following Members abstained: Dr. H. Rafeeq, Dr. T. Gopeesingh, C. Sharma, N. Baksh.

Question agreed to.

Bill accordingly read the third time and passed.

ADJOURNMENT

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, I beg to move that this House do now adjourn to Wednesday, December 09, 2009 which would be Private Members' Day. That would be the last Private Members' Day for 2009. I want to make that clear. I ask the Opposition Chief Whip what matter they would be doing on that day.

Dr. Hamza Rafeeq (Caroni Central): Mr. Speaker, we would be doing Motion No. 1 on the Hindu Credit Union filed by the Member for Couva North.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 10.02 p.m.