

*Leave of Absence**Tuesday, December 10, 2013***SENATE***Tuesday, December 10, 2013*

The Senate met at 1.30 p.m.

**PRAYERS**[MR. PRESIDENT *in the Chair*]**LEAVE OF ABSENCE**

**Mr. President:** Hon. Senators, I have granted leave of absence to Sen. The Hon. Larry Howai, Sen. The Hon. Dr. Bhoendradatt Tewarie and Sen. Faris Al-Rawi, all of whom are out of the country.

**VACANT SEATS**

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

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

TO: MRS. PENNELOPE BECKLES-ROBINSON

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

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by the said paragraph (e) of subsection (2) of section 43 of the Constitution of the Republic of Trinidad and Tobago, do hereby declare the seat of you, PENNELOPE BECKLES-ROBINSON, to be vacant, with immediate effect.

Given under my Hand and the Seal of the  
 President of the Republic of Trinidad and  
 Tobago at the Office of the President, St.  
 Ann’s, this 4th day of December, 2013.”

*Vacant Seats*

*Tuesday, December 10, 2013*

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

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

TO: MR. FITZGERALD HINDS

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

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

Given under my Hand and the Seal of the  
President of the Republic of Trinidad and  
Tobago at the Office of the President, St.  
Ann’s, this 4th day of December, 2013.”

**SENATORS’ APPOINTMENT**

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

Appointment of a Senator

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

/s/ Anthony Thomas Aquinas Carmona O.R.T.T. SC.  
President

*Senators' Appointment*

*Tuesday, December 10, 2013*

TO: MRS. CAMILLE ROBINSON-REGIS

In exercise of the power vested in me by paragraph (b) of subsection (2) of section 40 of the Constitution of the Republic of Trinidad and Tobago, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, acting in accordance with the advice of the Leader of the Opposition, do hereby appoint you, CAMILLE ROBINSON-REGIS, a Senator, with immediate effect.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 4th day of December, 2013."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

Appointment of a Senator

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

/s/ Anthony Thomas Aquinas Carmona O.R.T.T. SC.  
President

TO: MRS. DIANE BALDEO-CHADEESINGH

In exercise of the power vested in me by paragraph (b) of subsection (2) of section 40 of the Constitution of the Republic of Trinidad and Tobago, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, acting in accordance with the advice of the Leader of the Opposition, do hereby appoint you, DIANE BALDEO-CHADEESINGH, a Senator, with immediate effect.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 4th day of December, 2013.

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

Appointment of a Senator

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

/s/ Anthony Thomas Aquinas Carmona O.R.T.T. SC.  
President

*Senators' Appointment*

*Tuesday, December 10, 2013*

TO: MR. AVINASH SINGH

In exercise of the power vested in me by paragraph (b) of subsection (2) of section 40 of the Constitution of the Republic of Trinidad and Tobago, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, acting in accordance with the advice of the Leader of the Opposition, do hereby appoint you, AVINASH SINGH, a Senator, with immediate effect.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 4th day of December, 2013."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

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

TO: ARCHBISHOP BARBARA BURKE

WHEREAS Senator the Honourable Larry Howai is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ARCHBISHOP BARBARA BURKE, to be temporarily a member of the Senate, with effect from 10th December, 2013 and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable Larry Howai.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 9th day of December, 2013."

*Senators' Appointment*

*Tuesday, December 10, 2013*

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

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

TO: DON SYLVESTER

WHEREAS Senator Dr. the Honourable Bhoendradatt Tewarie is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, DON SYLVESTER to be temporarily a member of the Senate, with effect from 10th December, 2013 and continuing during the absence from Trinidad and Tobago of the said Senator Tewarie.

Given under my Hand and the Seal of the  
President of the Republic of Trinidad and  
Tobago at the Office of the President, St.  
Ann's, this 9th day of December, 2013.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

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

TO: FITZGERALD HINDS

WHEREAS Senator Faris Al-Rawi is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

*Senators' Appointment*

*Tuesday, December 10, 2013*

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(b) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, FITZGERALD HINDS, to be temporarily a member of the Senate, with effect from 9th December, 2013 and continuing during the absence from Trinidad and Tobago of the said Senator Faris Al-Rawi.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 9th day of December, 2013."

#### OATH OF ALLEGIANCE

*The following Senators took and subscribed the Oath of Allegiance as required by law:*

Camille Robinson-Regis, Diane Baldeo-Chadeesingh, Avinash Singh, Archbishop Barbara Burke, Don Sylvester and Fitzgerald Hinds.

**1.45 p.m.**

#### SESSIONAL SELECT COMMITTEES

**Mr. President:** Hon. Senators, in accordance with Standing Order 64 of the Senate, I wish to announce the following changes in the membership of sessional select committees for the Fourth Session 2013—2014 of the Tenth Parliament:

1. Standing Orders Committee: Mr. Faris Al-Rawi, in lieu of Mr. Terrence Deyalsingh.
2. House Committee: Mrs. Camille Robinson-Regis, in lieu of Mr. Fitzgerald Hinds.
3. Committee of Privileges: Mrs. Camille Robinson-Regis, in lieu of Miss Penelope Beckles.
4. Statutory Instruments Committee: Miss Shamfa Cudjoe, in lieu of Miss Penelope Beckles.

#### PAPER LAID

Review of the Award of Scholarships by the Ministry of Community Development and Gender Affairs for the period 2003 to 2007. [*The Attorney General (Sen. The Hon. Anand Ramlogan SC)*]

**PUBLIC ACCOUNTS (ENTERPRISES) COMMITTEE  
(Presentation)**

**Mr. President:** Sen. Dr. Rolph Balgobin is not here. I understand that Minister Karim—Sen. Karim will do the necessary.

**The Minister of Tertiary Education and Skills Training (Sen. The Hon. Fazal Karim):** Thank you, Mr. President. Mr. President, I have the honour to present the following reports as listed on the Order Paper in the name of Sen. Dr. Rolph Balgobin.

1. The Third Report of the Public Accounts (Enterprises) Committee on the financial statements of the Estate Management and Business Development Company Limited for the years ended September 30, 2007 to 2009.
2. The Fourth Report of the Public Accounts (Enterprises) Committee on the financial statements of the Education Facilities Company Limited (EFCL) for the years ended September 30, 2008 to 2010.

**Mr. President:** Leader of Government Business.

**PUBLIC ACCOUNTS COMMITTEE AND  
PUBLIC ACCOUNTS (ENTERPRISES) COMMITTEE  
(Appointment)**

**The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh):** Thank you, Mr. President. Mr. President, I beg to move the following Motion:

*Be it Resolved* that this Senate agree to the following appointments:

On the Public Accounts Committee, Mrs. Diane Baldeo-Chadeesingh, in lieu of Mr. Terrance Deyalsingh, and on the Public Accounts (Enterprises) Committee, Mrs. Camille Robinson-Regis, in lieu of Mr. Fitzgerald Hinds.

I beg to move.

*Question put and agreed to.*

**WRITTEN ANSWERS TO QUESTIONS**

**The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh):** Mr. President, the written answers from the Minister of Finance and the Economy have been provided to Sen. Small, and he may wish to convey his sentiments on the issue.

**Mr. President:** Sen. Small.

**Sen. David Small:** Mr. President, I wish to place on the record my appreciation for the responses provided by the hon. Minister of Finance and the Economy. They were responses to my questions. Thank you very much.

**Mr. President:** Leader of Government Business, it will be circulated to all Senators?

**Sen. G. Singh:** It will be.

**Mr. President:** Including the President, I take it?

**Sen. G. Singh:** As soon as I get a hold of it myself. [*Laughter*]

**Mr. President:** I now call upon the Minister of Health. [*Desk thumping*]

### TOBACCO CONTROL REGULATIONS, 2013

**The Minister of Health (Hon. Dr. Fuad Khan):** Thank you very much, Mr. President. Mr. President, I beg to move the following Motion standing in my name:

*Whereas* it is provided by section 38(1) of the Tobacco Control Act, Chap. 30:04 (hereinafter called “the Act”) that the Minister may make Regulations prescribing requirements and standards for tobacco product constituents, including emissions of smoked products, additives and product design and specifying methods for testing and measuring compliance with the performance prescribed and generally for carrying out the purpose of this Act;

*And whereas* it is also provided by section 38(1) of the Act that Regulations made under that section shall be subject to affirmative resolution of Parliament;

*And whereas* the Minister has on the 12th day of September, 2013 made the Tobacco Control Regulations, 2013 (hereinafter called “the Regulations”);

*And whereas* it is expedient that the Regulations now be affirmed;

*Be it resolved* that the Tobacco Control Regulations, 2013 be approved.

Mr. Speaker, these regulations are—sorry, Mr. President. Mr. President, you will recall that Trinidad and Tobago became a signatory to the Framework Convention on Tobacco Control on August 22, 2003 which convention was ratified and adopted by Trinidad and Tobago on August 19, 2004 and entered into force on February 27, 2005.



In accordance therein and, subsequently, the Tobacco Control Act, No. 15 of 2009, which was assented to on December 23, 2009 was partially proclaimed on February 19—sorry, February 17, 2010. It is material to note that the remaining part of the Act was not proclaimed and, at that time, owing to, inter alia the need for accompanying supporting regulations to give effect to the same.

In this regard, Mr. President, the regulations were developed and the remaining part of the Tobacco Control Act was proclaimed on August 05, 2013. Accordingly, Mr. President, I am pleased to present before this honorable Senate today, the Tobacco Control Regulations, 2013.

Mr. President, it is material to note that section 23(1) of the Tobacco Control Act prohibits the sale, offering for sale, supply or importation of any tobacco product that is not packaged and labelled in a manner that complies with the requirements of the Act and regulations.

Moreover, section 24 of the Act provides that all tobacco products shall contain permanently affixed on their packages, messages as prescribed by these regulations. As such, the Act already provides a framework for what must or must not be placed on a tobacco product package.

Accordingly, Mr. President, these regulations are intended to comprehensively address the method of, and the information that must be placed on the tobacco package, thereby fulfilling the requirements of the Tobacco Control Act and the Framework Convention on Tobacco Control.

Further, Mr. President, these regulations are designed to ultimately 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. It has been provided, Mr. President, that health warning labels on tobacco products constitute the most cost-effective tool for educating smokers and non-smokers alike about the health risks of tobacco use.

According to the World Health Organization, the world is facing a tobacco epidemic. Tobacco smoke currently kills six million people a year from lung cancer, heart disease and other tobacco-related illnesses. More than 80 per cent of these deaths occur in developing countries leading to, not only a less productive workforce, but also an inevitable rise in health care costs. By 2030, the WHO estimates that the death toll will exceed eight million a year, while tobacco could kill one billion during this century.

*Tobacco Control Regulations, 2013*  
[HON. DR. F. KHAN]

*Tuesday, December 10, 2013*

Mr. President, the Ministry of Health remains committed to providing this country with first-class health care. In this regard, Mr. President, since the passage of the Tobacco Control Act, the Government has made numerous strides in the fight against the tobacco epidemic. The public can now enjoy a smoke-free environment because it is an offence to smoke or hold a lighted tobacco product in any enclosed public space, any enclosed workplace or public conveyance. Section 12 of the Act refers to this.

Children, Mr. President, are protected because it is an offence to sell any tobacco product to any person under the age of 18, or to hire or use any child to sell any tobacco product. Section 13 refers to this. Moreover, it is an offence to import or manufacture or 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. Section 18 of the Act refers to this. Therefore, for example, electronic cigarettes are prohibited under the Tobacco Control Act.

It is an offence to sell tobacco products in inter alia facilities: in facilities where health care services are provided or in sport, athletic or recreation facilities or in government buildings or educational facilities. Section 17 of the Act refers.

Tobacco sponsorship and tobacco advertising and promotion where the name of a sporting entity is publicized are prohibited. Section 21 of the Act refers to this. In keeping therein, it is my duty as the Minister of Health to educate the public on the ill-effects of smoking which will thereby reduce the number of deaths as well as the health care cost burden by the State.

Mr. President, I will now proceed to briefly refer to the provisions of the Tobacco Control Regulations. Part I of the regulations provides for preliminary matters and, as such, regulation 2 provides certain key definitions for terms, for example:

“‘carton’ means a box, container or package containing more than one pack of tobacco products;

‘health message’ means an image set out in Schedule I;

‘pack’ means a box, canister or any other container other than a carton, in which a tobacco product is sold;

‘packaging’ means any outer covering or wrapping on a pack or carton;

‘principal display surface areas’ means the front and back of a pack or carton or such other part of a pack or carton which is intended to be conspicuous to the consumer;”

Further, Mr. President, regulation 3 provides a transitional period for compliance since the regulations shall come into effect one year after the date of publication.

Mr. President, Part II of the regulations provides for labelling, in particular, regulation 4 provides a mandatory labelling requirements to be displayed on the principal display surface area of a pack or carton intended for sale in Trinidad and Tobago for example:

- “(a) the type of tobacco product;...
- (c) the health messages required in accordance with Part III;
- (d) the name and address of the manufacturer; and
- (e) the declaration required in accordance with regulation 7 and Schedule 3.”

As such, manufacturers and importers will now be required to adopt highly standardized packaging. Regulation 4 also requires all health messages to be printed on a pack or the carton and not on the packaging which serves to ensure that the user is always in a position to see those health messages.

Part III of the regulations provides for health messages. In this regard, it is material to know that over 64 countries worldwide now require pictures or images on cigarette packs as mandated by the legislation. This is because warnings with pictures are more effective than text only warnings.

Mr. President, it has been proven that the use of graphic pictures is an important means of replacing any positive associations with negative associations which is far more appropriate, given the devastating impact of tobacco products on global health. As such, with specific reference to pictorial cigarette package warning labels, research has shown that smokers perceive these warning labels to be effective in increasing motivation to quit.

Accordingly, Mr. President, the graphic pictures in Schedule 1 seek to give the public the real effects of smoking on the human body. The diseases shown in Schedule 1 range from cancer to gangrene and, additionally, there are images on the effect on children who we all know suffer the most because of poor choices of adults.

All in all, warning labels decrease the attractiveness and the appeal of cigarettes and help to create an environment where non-smoking is the norm. Strong warning labels also counter the alluring and persuasive image the tobacco industry uses to market the product.

In addition, studies have proven that large warning labels are the most effective since they are easily noticed and read. Moreover, warning labels that contain a clear, direct and accurate message about the dangers of tobacco use, including messages about specific health effects are the most effective.

**2.00 p.m.**

Further, studies have shown that smokers recall, more frequently and accurately, warnings that appear on the front compared with the size of the packages. Mr. President, regulation 5 provides, inter alia, that:

“(1) The health messages shall be located on the lower half of the front and back panels of each pack and in such a way that the...message will not be damaged when the pack is opened.”

It must:

“cover half of the principal display surface area...”—and be—printed on the pack in a framed area...”

This will ensure, Mr. President, that the health messages are more noticeable to the potential consumer.

In this regard, Mr. President, it is material to note that other countries have surpassed the standards of the WHO. Australia has enforced it in plain packaging with plain packaging legislation, which requires all tobacco products to be housed in plain packages, with health messages and warnings on the packages covering approximately 75 per cent of the package in front and 90 per cent on the back.

The following countries and their applicable average percentage is that the health messages must cover, in relation to the principal display surface area, as follows: in Uruguay: 80 per cent in front, 80 per cent on back. Sri Lanka: 80 per cent front, 80 per cent back. Canada: 75 per cent in the front, 75 per cent on the back. Brunei: 75 per cent in the front, 75 per cent on the back. Mauritius: 60 per cent in the front, 70 per cent on the back. Mexico: 30 per cent in front, 100 per cent of the back. Ecuador: 60 per cent in the front and 60 per cent of the back. As such, our regulation 5, which calls for 50 per cent coverage, is fair and equitable to all concerned.

Mr. President, regulation 6 provides for two distinct sets of health messages, namely Set A and Set B, which are required to be rotated in accordance with our Schedule 2, and the even distribution within every case of each of the 12 health messages from each set. Mr. President, this will ensure that the public will not become too complacent with the images associated with smoking, and, thus, avoid overexposure and desensitization of the ill effects of smoking.

Regulation 7 sets out the parameters for placing of the declaration of Schedule 3 on packs of tobacco products. This declaration reads:

“Smoke from this product contains extremely addictive nicotine and toxic substances such as tar and carbon monoxide. No safe level of consumption exists for this product”

Further, regulation 8 provides that:

“The manufacturing date and batch number shall”—also—“be indicated on each pack or carton.”

Mr. President, PART IV of the regulations provides for cigarette dispensers. It is material to note that section 15(2) of the Tobacco Control Act prohibits the public display of tobacco products, save and except for:

“...cigarette dispensers provided by the manufacturer”—which—“devices shall not be used for the purpose of advertisement or the promotion of tobacco products and shall meet the requirements prescribed by Regulations.”

As such, in keeping with this, regulation 9 provides as follows:

“The display surface area of a cigarette dispenser shall not exceed 1 cubic metre.

A cigarette dispenser shall be white or grey and shall be made of material that is opaque.”—and—

“A cigarette dispenser shall—

- (a) not bear any trademarks, company logos or other identifying marks of tobacco products;...

Mr. President, I have already spoken at length about the importance of health messages and warning labels in decreasing the attractiveness and appeal of cigarettes. As such, regulation 9 also provides that cigarette dispensers shall:

“depict the health messages as set out in Schedule 1 and”—that the health messages shall be rotated—“in accordance with Schedule 2.”

Further, regulation 9 limits cigarette dispensers to only one per outlet.

Mr. President, the protection of the underage populace remains paramount and, accordingly, regulation 10 mandates sellers to display it”

“...at all times, in a prominent place in that part of the premises where tobacco products are offered for sale, a sign in bold upper case letters, that reads...”

*Tobacco Control Regulations, 2013*  
[HON. DR. F. KHAN]

*Tuesday, December 10, 2013*

‘THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF EIGHTEEN YEARS IS PROHIBITED’.’”

It is material to note that:

“A person who fails to comply with...”—this regulation—“commits an offence and is liable on summary conviction to a fine of five hundred dollars.”

Mr. President, the Ministry and the Government are committed to transforming Trinidad and Tobago into a healthier nation. It takes many steps to achieve this feat and diseases that are caused by smoking are preventable. If we can prevent lung and mouth cancers and reduce the infant mortality rate as a result of the direct result of smoking, the hospitals can focus on the diseases and issues that are not preventable, and treat those patients with the additional resources available.

Mr. President, you will think—in every sort of regulations and laws, the Ministry has to take into consideration certain factors: factor one, which will be pros and cons of utilization of addictive substances. We have looked at the idea of why is it tobacco products are being regulated in such a manner and why not alcohol? Why not other things? Why not other items that are legal addictive substances?

When one smokes a cigarette, Mr. President, smoking a cigarette, not only is the smoke and the tar—and there are almost about 250 toxic compounds that come out of cigarette smoke—not only does that go into that person’s body and starts the process of whatever it may be, a cancer, respiratory disorder, lung cancer, atheroma—I could keep going on—Buerger’s disease, and you go on to vasoconstrictive type of illnesses: gangrene, eye diseases, et cetera, and you could continue. But that substance is not left in somebody’s body, it is also extruded into the atmosphere, and somebody who is not a smoker, who is not so inclined and whose rights are the same as everybody else, which is the right to a proper life, liberty and security; they are affected in such a manner. So that cigarette smoke not only affects the person who is smoking but it also affects the people in the external environment who are not smoking.

When one imbibes alcohol, on the other hand, that toxic substance—and we are talking about substances in the chemical itself—that toxic substance only affects the person imbibing the alcohol, the addictive substance. It does not really affect anybody in the surroundings, unless the effects of the substance more so than the substance itself. We look at other substances and you will find that is the same approach.

So the World Health Organization—and I have here, the Framework Convention on Tobacco Control—speaks to this whole scenario of tobacco control, and this is one of the first treaties developed by the World Health Organization. And I quote from this journal that:

“The WHO Framework Convention on Tobacco Control...is an evidence-based treaty that reaffirms the right of...people to the highest standard of health. The WHO”—this treaty—“represents a paradigm shift in developing a regulatory strategy to address addictive substances”—and this is—“in contrast to other previous drug control treaties”—where—“the WHO...asserts the importance of demand reduction...as well as supply...”—but this is one straight on to addictive substance regulation.

Now, they have indicated a number of measures to decrease the utilization of tobacco control, such as non-price measures, price and tax measures, et cetera. What is very interesting though, the WHO Director General, Dr Lee Jong-Wook at that time said:

“The WHO FCTC negotiations have already unleashed a process that has resulted in visible differences at country level. The success of the WHO FCTC”—used—“as a tool for public health will depend on the energy and political commitment that we devote to implementing it in countries in the coming years. A successful result will be global public health gains for all.”

It speaks a lot about the packaging and we speak about our regulations. Article 11 of this framework shows that:

“Each Party...within a period of three years after entry into force of this Convention for that Party”—will—“adopt and implement, in accordance with its national law, effective measures to ensure that:

tobacco product packaging and labelling do not promote a tobacco product by any means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions, including any term, descriptor, trademark, figurative or any other sign that directly or indirectly creates the false impression that a particular tobacco product is less harmful than other tobacco products.”

And it says:

“each unit packet and package of tobacco products and any outside packaging and labelling of such products also carry health warnings describing the harmful effects of tobacco use, and may include other appropriate messages.

*Tobacco Control Regulations, 2013*  
[HON. DR. F. KHAN]

*Tuesday, December 10, 2013*

These warnings and messages:

shall be approved by the competent national authority,

shall be rotating,

shall be large, clear, visible and legible,

should be 50% or more of the principal display...but...no less than 30% of the principal display areas,

may be in the form of or include pictures or pictograms.

Each unit packet and package of tobacco products and any outside packaging and labelling of such products shall, in addition to the warnings specified in paragraph 1(b) of this Article, contain information on relevant constituents and emissions of tobacco products”—such—“as defined by national authorities.”

Here is nicotine and tar.

“Each Party shall require that the warnings and other textual information specified in paragraphs 1(b) and paragraph 2...will appear on each unit packet and package of tobacco products and any outside packaging and labelling of such products in its principal language or languages.”

It must be permanent on that package.

“For the purposes of this Article, the term ‘outside packaging and labelling’ in relation to tobacco products applies to any packaging and labelling used in the retail sale of the product.”

And it goes on to advertising, promotion and sponsorship, which were taken care of in the actual Act itself, the Tobacco Control Act.

Mr. President, when you look at the American College of Physicians, May 13, 2010, Tobacco Control and Prevention; it starts off in the introduction:

“Tobacco use is the leading cause of preventable death in the United States. Over the past 50 years, government, public health advocates, grassroots organizations, and others have worked to stem the rates of smoking and tobacco-related disease and death. These efforts have been remarkably successful. Following the release of the Surgeon General’s 1964 report that named smoking as the cause of lung and other cancers, smoking rates have dropped precipitously.” Since then—“Per capita annual adult cigarettes consumption rates have dropped from”—4,300—“cigarettes in 1963 to”—1,900—“in 2002. This decrease in tobacco use has justifiably been called one of the 20th century’s great public health triumphs.



Unfortunately, tobacco use remains high.”

And it says it is:

“...important that stakeholders aggressively work to reduce tobacco use rates. Doing so will ensure that a new generation does not succumb to a lifetime of harmful addiction, disease, and untimely death.

The American College of Physicians—the largest medical specialty society in the United States...—has long advocated for efforts to reduce tobacco use in the United States.”

The College of Physician:

“...supported authorizing the Food and Drug Administration (FDA) to regulate tobacco products and efforts to facilitate access to effective smoking cessation aids and has advocated for the comprehensive antismoking legislative agenda. Given physicians’ prominent role in counseling and treating patients who smoke, the College has an important role to play in helping tackle the tobacco problem.”

However, they have gone on to say that:

“The tobacco problem cannot be curbed by piecemeal action. Effective tobacco control occurs when a concerted effort is made to establish and financially maintain comprehensive tobacco control initiatives by increasing tobacco excise taxes, prohibiting smoking in public places, preventing tobacco use among young people, facilitating smoking cessation programs, and banning”—all—“tobacco additives...”

And they recommend:

“All states, with assistance from the federal government, should establish and adequately fund comprehensive tobacco control efforts”—legislation—“to prevent smoking...among young people...”—et cetera, and it goes on to insurers, et cetera.

Mr. President, when you take that into consideration—we asked about these regulations—I must say here today that the Tobacco Control Act was passed by a constitutional majority. It was passed and assented to, so therefore that takes into consideration any constitutional problems that may have occurred—that people may wish to bring up. The WHO findings have shown that tobacco products, the utilization of tobacco not only damages and kills the individual; with second-hand smoke, it creates an environment that is not conducive to proper health attitudes among those around that area called second-hand smoke.

**2.15 p.m.**

Tobacco smoke—Mr. President, I will give a story. Before these Acts came into being, I was the Deputy Speaker on my way to London and the plane was full. There were no other extra seats, and we picked up tourists in, I think it was, St. Lucia. It was a Caribbean Airlines flight. However, I was on my way to England for three weeks on a Deputy Speaker programme. I think this was about 1996 or 1997. On entering the plane, a couple behind me—and throughout the whole system—smoked cigarettes non-stop for the eight hours of the flight. They continued blowing in and out.

I have respiratory problems so I could not breathe for that whole flight. My asthma, my constriction, everything went up. I even asked them to stop, which they did not have to, they said no and continued smoking in and out, both of them, non-stop. When I reached England, I could not even breathe. I could not even walk up the stairs.

I did not smoke. I was not the one smoking, but I had no other seat to sit on. I could not move from it. I bless the day the Tobacco Control Act came into being. At least planes are smoke-free, and one could be in a closed environment going up to whatever part of this world, without that problem occurring in anybody's existence.

You see, Mr. President, when you do that and you think about that story and you talk about young people—young people, prior to the Tobacco Control Act, looked on smoking and tobacco products as an area of enamoration. It is enamoured. It makes them feel as though to be with the in-crowd, et cetera, you must smoke, and they put pictures and systems in place to show that it is good and healthy. The lifestyle that comes with the marketing of these cigarettes and these brands, show that if you are not doing that then something is wrong with you.

The Ministry of Health, the Government of the country, all we can do, looking at addictive substances, is to educate, utilizing whatever tools that we do have; educate our population in whatever way we can.

Our budget is not \$5 billion for promotion and advertising; however, the private system does have a lot of money for advertising and marketing. The most we can do is legislate, and try to legislate for people, not only those who utilize the product—because if they want to continue it, it is their business—but for those who do not use the product. For those who do not use the product, we have to protect them on a public health approach.

Cigarette smoke—if we follow the pattern—you smoke the cigarette from a young age, you become addicted, because nicotine is highly addictive. How does addiction work? Addiction works on a mental central area which is your brain. It produces what we call encephalins in the brain—a part of your brain called the hypothalamus. Once that enkephalin is produced, it has been shown that most drugs: heroin, cocaine, LSD, alcohol, you name it, produces this substance in the brain. What it does, it goes on certain receptors and make you feel good. So it produces a good feeling.

But the downside of the whole thing is that after those receptors are blocked, you end up utilizing something called dopamine, and you end up in a state of depression afterwards. And as you continue going, you have to use more and more of that addictive substance to get the same high. Not only does it affect your whole psychological being, it affects your body, its physical and psychological dysfunctions.

The physical dysfunctions are, one, in the case of the lungs, the lungs have to react to the actual cigarette smoke. So what it does, you end up with the lining of the lungs going. It goes from one kind of epithelia, which is the lining of the lungs, which is called columnar epithelium, to squamous epithelium. It does not move anything out the lungs anymore. There are little hairs in the lungs that kick out this sputum, that dies, so it stays in your lungs. It causes the inside of your lungs to become, as they say, we call it interstitial fibrosis, so that the lungs become hard and they do not expand anymore. So you have lack of expansion.

If it stays there, then you cannot breathe, and the actual cells in the lungs start to react and form what they call protective cells, and then become cancer cells. Cancer cells are really fast growing cells based on an external stimulus, and the cancer starts in that area. It goes into your system, into your bloodstream and it starts to affect, one, the lining of your vessels. Your blood vessels constrict, if you are prone to something called Buerger's disease, you end up with gangrene of your toes and fingers. You may even gangrene your ears. You get problems with your ears. It affects your hearing. It affects your heart. It affects your eyes. It affects every part of you.

If somebody chooses to smoke—and we also believe in freedom of choice in this country—then you should do it without endangering those complications to somebody who does not smoke. Young children are most susceptible, because they are growing, and their lungs are smaller and the effects are greater.

*Tobacco Control Regulations, 2013*  
[HON. DR. F. KHAN]

*Tuesday, December 10, 2013*

Not only can you form medical complications in a young person, you can actually form addiction in that young child, as you are blowing that cigarette smoke and the constituents of the smoke itself.

So when you look at this, you look at the regulations, the packaging, that is the only tool we have to show the population that this substance you are using—and that is what the State is supposed to do with public health, promote public health in an area that would prevent the complications of any problems that go afterwards.

Our hospitals are filled. Our hospital beds are filled with people who are utilizing these substances, and there is a move towards trying to bring down the non-communicable diseases and their complications: from heart disease, you have kidney disease, you have hypertension and diabetes. But one of them, believe it or not, at the top of the ranking is cigarette smoking and lung cancer and respiratory disorders. That produces a serious heavy burden on our population; increases the hospital bed stay, also increases the amount of money that the State has to pay to keep that person alive. Kidney dysfunction—dialysis systems costs are going up quite to a large amount.

So you look at cigarette smoke and all the addictive other substances causing constriction and kidney failure. You end up with dialysis, who pays for it? The taxpayer pays for it. The only tool we have to prevent such an item is to bring the Act together, bring the regulations together and hope that people who do smoke, we are legislating against your behaviour, to make you see the error of your ways and the errors of smoking cigarettes and what it does to you as well as the population.

Mr. President, the Tobacco Control Act that we passed, Chap. 30:04, I just want to read this part of it:

“An act 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; provide for regulation of tobacco products to mitigate against the harmful effects of tobacco; and provide for other related matters.”

This is the Act that we passed. It was partially proclaimed and we need the regulations to keep it going.

The packaging and labelling, I have read it already. The regulations speak to packages and labelling, and it goes down, sections 23, 24, 25, et cetera, and it continues down and indicates exactly what the regulations can do. But we have struck a balance between—some countries go at 80 and 90 per cent of packaging health warnings—we have kept it at 50 per cent.

At the back of the regulations you would see the pictures that we hope to place on the packages, and the Schedules—that is used to spin around. Mr. President, I want to stop there, by just indicating that these are the pictures. I hope everybody has them—*[Minister displays pictures]*—you would see them at the back of the regulations, if not, we make them available again. It shows the pictures that would be rotated about cigarettes: quit smoking; ageing; smoking causes ageing; smoke may kill your children; “Warning Smoking Causes Mouth Cancer”. Not only mouth cancer, it causes something call nasopharyngeal cancer—cancer at the back of the pharynx or the back of your throat, that destroys the back. You cannot even breathe, you cannot smell.

It also causes what they call laryngeal cancer, which is a very rotten cancer to have. I would not wish that on my worst enemy. Smoking causes that over a period of time. Radiation sometimes helps it; sometimes you have to do a block dissection of the whole thing. And for these gentlemen—Mr. Hinds—it also causes impotence. *[Laughter]* So I will not advise you to smoke.

**Sen. Singh:** He is impotent already.

**Sen. Hinds:** You must have a decent standard and good conduct, especially here. Do not be so crude and crass. *[Laughter]*

**Hon. Dr. F. Khan:** You are a temporary Senator. Would you behave. You are temporary.

It tells you to quit and save money, it is a poison. It keeps going on, Mr. President. It also shows in the Schedule the gangrene. It shows the Schedule of Rotation, “Use Set A”, and it shows the monthly usage and phase out contained on the cartons, and it shows the Tobacco Regulations and the Declaration Schedule.

Mr. President, with those few words, I beg to move. Thank you very much.

*Question proposed.*

**Mr. President:** Senators wishing to enter the debate may do so now.

**Sen. Camille Robinson-Regis:** Thank you very kindly, Mr. President. Before I start, may I seek your leave to refer to my notes on this occasion?

**Mr. President:** Certainly.

**Sen. C. Robinson-Regis:** Thank you very kindly.

Mr. President, I am deeply humbled by the decision of the distinguished Leader of the Opposition and political leader of the People's National Movement to appoint me to serve the country and the PNM as a Senator, [*Desk thumping*] and more specifically as Leader of Opposition Business in the Senate, to assist from the Parliament in bringing the People's National Movement back into government. [*Desk thumping*]

I take this opportunity to thank Dr. Rowley and the PNM for this opportunity, and for this vote of confidence. With God's help I will do my best to contribute positively to the future of our country, working in the best interest of all the citizens of Trinidad and Tobago. [*Desk thumping*]

The Motion before us for affirmative resolution appears relatively innocuous, but we on this side do have some concerns and questions. However, despite these concerns, let me say from the outset that we will give our support to these regulations, but I repeat we do have some concerns which I trust will be answered.

Mr. President, we know from research, not only in Trinidad and Tobago but also in several countries, that two-thirds of people who start smoking start when they are children or young persons. So it clearly begs the question that most, if not all of our efforts, should be focused as a country on getting persons to stop or in fact never start smoking, and that focus should be on our young people and our children.

**2.30 p.m.**

Mr. President, my first area of concern is with the Motion before us itself. The Tobacco Control Act was passed in 2009. The Opposition, now Government, abstained in the vote in the other place and in the Senate citing reasons such as, taking away the comforts of poor people as described by Sen. Bharath; denying people their rights—comforts, Mr. President, when it has been proven medically and scientifically that smoking causes irreversible damage to the bodies of not only those who smoke, but those who inhale second-hand smoke. Mr. President, what about the rights of the young impressionable persons who get cancer and die or who—PAHO research has proven—have their growth stunted because they start smoking at an early age?

Those who now form the Government seem to have no care for that. But as their former leader and by all indication soon to be their current leader, Basdeo

Panday says, [*Laughter*] “Politics has a morality of its own”. [*Desk thumping*] So, they are in Government and they have brought these regulations to be affirmed.

**Sen. Maharaj:** “Doh study she, doh study she nah man”.

**Sen. C. Robinson-Regis:** Mr. President, Trinidad and Tobago, as the Minister said, is party to the WHO Framework Convention on Tobacco Control.

**Hon. Senator:** “Yuh want some curry duck”—[*Inaudible*] [*Desk thumping and laughter*]

**Hon. Senator:** “Doh take dem on. We go deal wit’ he.”

**Sen. C. Robinson-Regis:** Once it is not curry goat.

**Hon. Senator:** “Hmm. Oh, no.” [*Desk thumping*]

**Sen. C. Robinson-Regis:** Consequently, we follow the guidelines adopted by the conference of parties to the convention. However, in determining our laws including regulations, we must ensure that whenever we become party to any convention we must consider our local circumstances, and most importantly, the Constitution of Trinidad and Tobago.

Mr. President, the Tobacco Control Act was assented to on December 23, 2009 and partially proclaimed for some sections to take effect on February 17, 2010. You would note, Mr. President, the alacrity with which the former People’s National Movement Government proclaimed these sections, and the sections which were proclaimed dealt specifically with the relationship with the consumer and the product, and includes restrictions on smoking in public places, advertising, promotion and sponsorship by tobacco companies.

Then, May 2010, an *annus horribilis*. [*Desk thumping*] All fall down, Mr. President. Everything stopped! A certain impotence came over this country brought about by this Government. [*Interruption and desk thumping*] An impotence similar, perhaps, to that displayed by the visual that they are asking us to approve today. They have not and apparently cannot rise to the challenge of governance. They are in a state of impotence. [*Desk thumping*]

Mr. President, they, therefore, reneged on the purchase of the OPVs and now our borders are open and murders are at a rate of one or two per day. [*Crosstalk and desk thumping*]

**Hon. Senator:** “What is de relevance of dat?”

**Sen. C. Robinson-Regis:** They disbanded SAUTT and now the murder detection rate is decreasing.

**Sen. Maharaj:** You were going good, you know. You were going good.

**Sen. C. Robinson-Regis:** They are completely stuck with regard to the Children's Authority to the point where—[*Desk thumping*]

**Sen. Maharaj:** Mr. President, 35(1), what is the relevance of the Children's Authority? She was going good in the beginning.

**Mr. President:** I did have a little difficulty trying to follow the trend of connection between the Tobacco Bill and the Children's Authority, [*Crosstalk*] if you could show us the relevance and tie the two together.

**Sen. C. Robinson-Regis:** Thank you, Mr. President. I am just indicating the impotence of this particular Government with regard to matters which have come before them and, as I develop my points, you will see the relevance of this particular part of my discourse. [*Desk thumping*]

May I continue, Mr. President?

**Mr. President:** Of course, you may, but I do still wish that you will come to the point sooner rather than later.

**Sen. C. Robinson-Regis:** Thank you very much, Mr. President. Mr. President, they even dismantled the HIV coordinating committee and my information is that HIV infection rates are on the increase. [*Interruption*]

**Hon. Senator:** Just like tobacco.

**Sen. C. Robinson-Regis:** Mr. President, the point is that in accordance with sections 5, 6 and 7 of the Act and even in accordance with regulations that are before us, there is a unit that is supposed to have been set up in order to monitor the packaging that we are talking about in these regulations. The unit is also supposed to deal with an education programme with regard to these regulations, and if I may refer to the legislation, Mr. President, and I refer you to Part II section 5:

“The Minister shall establish a Unit within the Ministry which shall be responsible for—

- (a) developing and implementing, in collaboration with civil society, a national strategic approach to tobacco control;
- (b) undertaking impact assessment of national policies and programmes aimed at controlling consumption and production of cigarettes and other tobacco products;



- (c) designing and disseminating messages for inclusion on tobacco packages;
- (d) reporting on Trinidad and Tobago's progress to the"—WHO...;
- “(e) monitoring activities nationally to ensure compliance with and enforcement of this Act; and
- (f) considering and evaluating applications for licences on behalf of the Minister.”

So just as they dismantled the HIV coordinating unit; just as they have not been able to put in place, with any effect, the Children's Authority moving now to a task force that is not even headed by a Minister even though it contained—it is populated by two Ministers; just as they dismantled SAUTT and now the detection rate is lower than it has ever been; Mr. President, they have not established this monitoring unit that is supposed to deal with these particular issues [*Continuous desk thumping*] and they have brought these regulations for us to affirm in circumstances—[*Interruption*]

**Sen. Maharaj:** “Ah missing Penny.”

**Sen. C. Robinson-Regis:** She is missing you too. [*Laughter*]—where we need to ensure—[*Interruption*]

**Sen. Hinds:** Absolutely, absolutely.

**Sen. C. Robinson-Regis:**—that once these regulations come into effect there is effective monitoring of the regulations.

Mr. President, the key to this Motion, therefore, is the operationalization of some of the remaining sections of the Act through this affirmative resolution of the regulations as required by section 38 of the Act. As the Minister stated, these regulations are required to regulate the requirements and standards for tobacco products, constituents, additives and product designs, and there are other regulations required for several other things.

Mr. President, these regulations, therefore, purport to deal specifically with the packaging and labelling of specific mandatory—sorry, these regulations before us, therefore, purport to deal specifically with packaging and labelling of specific mandatory images and textual warnings. The regulations seek to establish design and other requirements for cigarette dispensers, and this, therefore, brings me to an evaluation of the regulations themselves.

Mr. President, in analyzing the validity of these regulations, indeed, any regulations, the well-established principles of law as approved by the Privy Council, in *Utah Construction and Engineering Pty. Ltd. v. Pataky* found at 1966

*Tobacco Control Regulations, 2013*  
[SEN. ROBINSON-REGIS]

*Tuesday, December 10, 2013*

AC at page 629, and specifically in this case at page 640, states that the regulations are ancillary to the Act. They may not extend beyond the scope and general operation of the Act. Their purpose is to authorize the provision of a subsidiary means of carrying into effect what has been enacted, and to cover matters incidental to the execution of that specific provision. In the instant case, section 38 of our Act.

They must not widen the purpose of the Act; they must not add new and different means of carrying out the purpose of the Act; [*Desk thumping*] they must not depart from or vary the plan which the legislature has adopted to attain its ends, and consequently, Mr. President, regulations made in contravention of these established principles may be deemed ultra vires if they defeat the Legislature's intention, therefore, if they defeat this Parliament's intention. This Parliament's intention was to, as the long title of the Act states in part, and I quote:

“...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; provide for regulation of tobacco products; to mitigate against the harmful effects of tobacco; and provide for other related matters.”

Mr. President, the regulations for section 38 are required to stipulate requirements and standards for product constituent additives and product designs. It may therefore be argued that these regulations before us wrongly seek to extend the scope of the general operation of the Act, as they appear to some extent to go beyond the extent of the legislation. Specifically, to provide information to make more fully informed decisions about using tobacco and to mitigate against their harmful effects.

I posit, therefore, Mr. President, that in the context of regulations 4 and 6, which require health messages contained in the Schedule to be printed on the front and back panels of the cartons and packs, and the health messages comprised photographic and pictorial representations. However, what is before us is a combination of, in the main, a majority of health messages about the user's health, but in many instances warnings which deal with the effects on third parties. Statements about quitting, about smoking generally, but section 4 of the Act defines message as being a warning or other information about the health effects of tobacco smoke or exposure to tobacco smoke.

Mr. President, it may therefore be argued that in the main, some of the proposed graphic images cannot be considered a message within the meaning of the Act [*Desk thumping*] as they do not constitute a warning or other information about the health effects of tobacco use or exposure to tobacco smoke—smoke, sorry, without the accompanying words.

**2.45 p.m.**

And I refer specifically, Mr. President, to Schedule 1 which is headed:

“Health Messages

SET A”

And I refer specifically to the graphic which shows someone’s feet, and it is this graphic [*Senator shows picture*] and the warning is:

“TAKE THE STEP QUIT NOW.”

Mr. President, does this graphic and that particular warning indicate to the person who may pick up this pack that there is a corollary between the feet and the admonition to quit? Again it is not clear.

Then the next graphic I refer to is graphic No. 5:

“Smoking Causes IMPOTENCE.”

What it shows, Mr. President, is a cigarette with ash leaning downwards. I am not sure if that is supposed to imply impotence.

**Hon. Dr. Khan:** You did not see a penis? [*Laughter*]

**Sen. C. Robinson-Regis:** No, I see that—but I will not—[*Interruption*]

**Sen. Hinds:** I have seen the images—deficient.

**Sen. C. Robinson-Regis:** I can see that that particular image is deficient [*Crosstalk and laughter*] and I would not be bated by the Minister to go down that particular road, because he seems to—anyway—[*Laughter*]

**Hon. Senator:** He is an expert.

**Sen. C. Robinson-Regis:** Yeah, I know he is an expert. But, Mr. President, I am not saying, necessarily that this image should show something else, but what I am saying is if we are educating our population, let us just suppose that this image is shown to someone who is illiterate, would they understand that this is what this is trying to say? [*Senator shows picture*] So we have to be very, very careful with the images and the textual references that we put on the packages.

*Tobacco Control Regulations, 2013*  
[SEN. ROBINSON-REGIS]

*Tuesday, December 10, 2013*

The next one I would like to refer to, Mr. President, is SET B image 1. It says:

“QUIT NOW SAVE MONEY.”

Mr. President, is this a health message? This seems to be totally out of context, totally out of context. [*Desk thumping*]

The next one under SET B is:

“Your smoke will Poison others.”

It shows an image of a skull and crossbones and the words: “Hydrogen, cyanide, ammonia, arsenic...” And I posit, Mr. President, that this particular image does not convey the type of information that we need for the regulations to be in accordance with the legislation that we passed. So, Mr. President, I ask the Minister to look at that again.

Consequently, in too many instances the graphic does not convey any warning. The specific argument as to graphics being meaningless was considered in 2012 in the US Court of Appeal in the decision of RJ Reynolds against the Food and Drug Division. In this case, the United States Court of Appeal considered regulations in the United States that have introduced graphic health warnings on tobacco packages, similar, in the main to those brought by the Government for affirmative resolution in this Senate today.

The court declared these graphic health warnings to be unconstitutional and struck them down. The court deemed the images inflammatory because they were provocative and could not be viewed as pure attempts to convey information to consumers. The court considered the images to be attempts to simply evoke emotion and embarrassment and to browbeat consumers into quitting. Is that what we will be doing here, Mr. President?

Further, the court considered it important to impart purely factual information to consumers.

**Sen. Maharaj:** What about campaign finances?

**Sen. C. Robinson-Regis:** And what is some of that factual information? As it relates to Trinidad and Tobago, in 2005 PAHO’s statistics revealed that the number of smokers in Trinidad and Tobago accounted for 21 per cent of the smokers in the Caribbean and Latin American Region; almost a quarter of the smokers in the region, Mr. President, and yes that is very alarming.

The US Surgeon General reports that tobacco use among youth and teens, 12—17 and young adults 18—25 is increasing, although adults are smoking less. So cigarette companies are now attempting to use subtle marketing strategies to attract this age cohort. Additionally, approximately one-third of top grossing

youth-rated movies contain images of tobacco use. That is why it is so important, as we affirm these regulations, to ensure that the unit that is referred to in section 5 of the Act is established, because it will be important for them to be monitoring, not only the packaging as is said here, but the dissemination of information, both positive and negative about tobacco use. And in circumstances where youth-movies are glorifying tobacco use, this unit has a real job to do.

There is also the situation where many tobacco companies have moved to a situation where they now advertise on the internet, and so we must look at that especially as it relates to our young people. So we need to have some examination of what is happening to influence our youth online.

Mr. President, in 2012, PAHO did a report titled:

“Chronic Non-Communicable Disease Risk Factors Survey”—in Trinidad and Tobago.

And this report was based on a collaboration between or among the Ministry of Health, the CSO, CAREC, PAHO, WHO and the University of the West Indies. This research revealed that the proportion of men smoking was 33.5 per cent; women, 9.4 per cent. In the age cohort, 25—34 years, 27.4 per cent were smokers and smoked daily. In the age cohort, 45—54, 23 per cent were smokers; 35—44, 19.9 per cent were smokers. The average age at which men started smoking, was 17; the average age for women was 19, with men smoking for an average of 20.8 years and women for an average of 13.8 years.

Notably, smoking of pipes was also reported and, Mr. President, the issue of smoking of pipes is certainly not dealt with in these regulations and that is why I make the point that our regulations if they are to be valid must take into account factual information. So where we have a circumstance here, where the regulation as at, or the graphic as at Schedule 1, SET A, talks about:

“Smoking Causes AGEING.”

When we have a circumstance where our young people are looking at this graphic, it will probably make no impact on them, because as we know our young people feel they are invulnerable and that a graphic showing someone ageing perhaps would make no impact on them.

So I ask the Minister to look again to ensure that the graphics relate to the statistics that exist, so that the graphics will in fact touch the persons who are smoking and includes those who are younger and will be starting to smoke. It is very noteworthy, Mr. President, that quitting increased with age, so young people despite information continued to smoke.

*Tobacco Control Regulations, 2013*  
[SEN. ROBINSON-REGIS]

*Tuesday, December 10, 2013*

With regard to women, the highest proportion of smokers was in the age range 25—34, followed alarmingly, Mr. President, by the age range 15—24. The range of exposure highest amongst women was in the age range 25—34 and amongst men it was 15—24. Mr. President, I repeat this because this deals with secondhand smoke. The range of exposure was the highest amongst women, because in many instances it is their partners who smoke. And in the age range 15—24 and 25—34 men had the higher rate exposure, because perhaps liming and so on with men in those two age cohorts.

Mr. President, sobering statistics: these statistics therefore lead us to ask the question, were these statistics taken into consideration when the regulations were being drafted? Would these graphics and textual content target and have an effect on the correct age cohort, the correct gender? It is therefore absolutely critical that the Minister not only provide factual and uncontroversial information but also produce some evidence of the adverse effects of smoking so that any regulations do not offend against the need for reasonableness and proportionality. So that the intention of the regulations to limit smoking and warn of its detrimental effects are properly and truly reaching the right persons and express the intent of the law, lest the law and accompanying regulations be struck down as unconstitutional due to unreasonableness or disproportionality. Graphic images may be seen as ideological and struck down for lack of constituting a warning within the meaning of section 4 of the Act.

Mr. President, I also draw your attention to the fact that in order for these regulations to succeed there must, I repeat, be careful monitoring.

I wish you to note and I wish the Minister to note interestingly, that in July 2013 the UK Medical Journal: “The Lancet” reported after several studies that plain packaging, and the Minister referred to that, meaning that all logos, graphics and colours are removed from cigarette packs leaving only the brand name and a warning that, and I quote:

“Smoking seriously harms you and others around you.”

That plain packaging and that warning reduces the attractiveness and appeal of cigarettes. It limits the design features that may be misleading about the harmfulness of smoking and increases—interestingly enough—increases the noticeability of health warnings. Nonsmokers, the research found—and young people—tend to find plain packaging unappealing. Indeed, the Australian government, the government of New Zealand and Ireland, will be moving to plain packaging. So this, Minister, may be something to consider.

**3.00 p.m.**

In conclusion, Mr. President, we, in the Opposition, I repeat, support the objective of these regulations. The regulations, however, need more clarity as they must be constitutional, reasonable and proportionate.

The Minister must assure that he distinguishes the US and UK cases which caution on graphics which are just bashing the consumer, and warnings which may not be completely factual. We, on this side would also like to know the status of the monitoring unit, whether it has been set up, and if it has not been set up, how soon it would be set up.

We would also like the Minister to examine the possibility of introducing plain packaging as it seems that in the Commonwealth—[*Interruption*]

**Sen. G. Singh:** More graphic.

**Sen. C. Robinson-Regis:** Yes—in the Commonwealth the plain packaging has, from research, had more of an effect—a positive effect—in getting persons to stop smoking, or getting persons to not start at all.

And, Mr. President, with these words, I thank you for this opportunity [*Desk thumping*] and I ask the Minister for some response. Thank you, Mr. President. [*Desk thumping*]

**Mr. President:** Sen. Dr. Wheeler. [*Desk thumping*]

**Sen. Dr. Victor Wheeler:** Thank you, Mr. President, and I also thank my colleagues for allowing me to lead off in this very important debate on the Motion to approve the Tobacco Control Regulations, 2013.

Now, as the Minister of Health has said, this is the last part of what needs to be done to have the Tobacco Control Bill, 2009, fully effective, that is the passage of regulations specifically dealing with packing and labelling of tobacco products.

Now the aim of all of this is to discourage smoking and to prevent children from starting to smoke. The aim is also to increase the awareness of the dangers of smoking and to ensure that individuals are informed of the dangers when they contemplate smoking. It has been said already, most people start smoking when they are young, and when you are young you feel you are invincible, and when you start smoking cigarettes you do not know that it is, in fact, an addictive agent because of nicotine, and the Minister of Health already went into quite a bit of detail on how this nicotine causes addiction—how does nicotine cause the addiction.

Mr. President, smoking cigarettes, pipes, it kills and it kills slowly. You also have adverse effects from smoking on people who do not smoke, and again, the Minister gave an example when he was in the airplane. Many people who—certainly when I was in the UK studying about 1991 to 1996, many public places allowed smoking and then because I do not smoke, you were limited in where you could actually socialize. That is now a thing of the past because the first part of the Bill dealt with smoking in public places and advertising.

These regulations, when they come into effect, will have the effect of reducing the other aspect of advertising for the tobacco industry, which is the packaging. But with respect to smoking, there are many people who still do not seem to realize how dangerous smoking is. Smoking, I consider it to be on par with cocaine and alcohol, as opposed to when you use cocaine, you can have an overdose and that can kill you immediately; alcohol, you can get drunk. The alcohol itself may not kill you immediately but you can be driving a car and cause an accident and that could cause immediate death.

Cigarette smoking, on the other hand, damages you slowly—

**Sen. G. Singh:** Steps.

**Sen. Dr. V. Wheeler:**—yes. And when you start to smoke, because of the addictive effect of nicotine you find yourself hooked, so when later on you may actually get more information regarding the danger of smoking, for some people it may be very difficult for them to stop.

Now, with respect to Trinidad and Tobago, information from the Dr. Elizabeth Quamina Cancer Registry has identified that lung cancer is the number one cancer in males between the ages of 25 and 59, and lung cancer, overall, is the number four cancer after prostate cancer, breast cancer and colon cancer.

In the United States, cigarette smoking is directly related to almost half a million deaths annually, which accounts for 20 per cent of all deaths. In fact, deaths due to cigarette smoking are more than deaths due to HIV, motor vehicle accidents, suicides, murders and even illegal drug abuse, combined. That is how bad it is. And the Minister also has mentioned the other effects that smoking causes: heart disease; stroke; lung disease. With respect to pregnant women—and I am an obstetrician/gyneocologist—I have seen the effects of smoking on women who are pregnant with respect to causing still births, or the babies dying; babies going into premature labour; babies not growing well.



So smoking is a devastating addiction and, quite rightly, it is considered a public health concern, which is why this Bill was passed in 2009 and why the regulations are being brought here today. Everything and anything that could be done to reduce or stop smoking should be done, in my opinion.

Now, the issue of marketing and sponsorship dealing with smoking in enclosed places has been dealt with already, and today we are focusing on the issue of the regulations for packaging and labelling, which is the last form of advertising that the tobacco companies have at their disposal. Now cancer research in the UK has provided figures to show that 157,000 children between the ages of 11 and 15 start smoking every year in the UK. There is evidence that even children as young as six years old are falling for the cigarette advertisements that companies use, advertisements that are slick and colorful. The packaging that the cigarettes are provided in is used to entice these children. But as children, they find the packets attractive without really knowing how dangerous this packaging is.

If I were to be allowed to read from evidence provided by Cancer Research UK:

“Youngsters aged six to 11 were asked to describe what appealed to them about brand packaging.”

One said:

“‘It makes you feel like you’re in a wonderland of happiness’.” Another said:

“‘The pictures actually look quite nice. Ice cubes and mint’.”

Another one says:

“‘It reminds me of a Ferrari’, ‘Is that the royal sign’”?

Another one says:

“‘Yeah. Pink, pink, pink’.

The charity looked at cigarette marketing over the past 50 years and how packets were designed to target specific groups.

It also asked... 15 year-olds to choose which brand most appealed to them.

“Girls”—it was said,—“liked Silk Cut and Vogue Superslims which ‘suggested femininity and pleasure, such as perfume, make-up and chocolate.’”—On the other hand—“boys preferred Marlboro, Bright Leaf, Lambert & Butler and Benson & Hedges, which ‘suggested maturity, popularity and confidence’.”

*Tobacco Control Regulations, 2013*  
[SEN. DR. WHEELER]

*Tuesday, December 10, 2013*

Cancer Research Director Prof. Robert West said:

“Once the young person tries smoking, nicotine has a chance to do its work in turning him or her into an addict’.

The charity”—actually wanted all—“branding on tobacco packaging removed.”

Now, tobacco companies have been crying foul because they claim that the packaging and what they have been asked to do in certain countries breaches fundamental rights and freedom. Right now in Australia there is a huge legal battle taking place after Australia introduced its packaging regime which is the most strict in the world at the moment. And the Australian packaging does, in fact, include pictures of diseased body parts, sick babies, similar to what is being presented in the regulations here today. Now the Australian government’s aim is to deter young people from smoking, and the evidence has already been presented where two-thirds of people who start smoking, start smoking young, and if a person by 26 years old has not started smoking, there is a 99 per cent chance that they will never smoke.

In my opinion, these companies that are crying foul now should really be ashamed of themselves because in the UK, cigarette taxation alone accounts for over \$10 billion. So you could imagine the profits involved. And the cost to the United Kingdom for dealing with smoking-related illness is over \$13 billion.

During the time when cigarette companies, or tobacco companies, were placing advertisements on the packaging enticing young children to smoke, providing images with advertising of athletics, young, attractive women, powerful people, these are actually false images, because if you smoke, it does not make you fitter; if you smoke, it does not make you prettier; if you smoke, it does not make you slimmer. And they were using false imagery and wrong impressions those times while making billions of profits.

Now, earlier this year when the FCB shares were launched, I actually purchased shares for the first time, and as a result of that I find myself looking at the stock exchange every day, and I see FCB shares seem to have stabilized at about \$36, but I also look at Republic Bank shares and Republic Bank shares were at \$115. But below that I saw that Witco shares trading at \$120.02. Witco is actually the most valuable stock on the Trinidad and Tobago Stock Exchange. They are making a lot of money and they are making a lot of money—huge profits—on an addictive habit, which is a major public health concern, as I said, causing more deaths than HIV, suicides, motor vehicle accidents, and this is legal because cigarette smoking is not against the law.

“Tobacco is unique, as it’s the only legal product that when used as it’s intended, kills half of all long-term users”—and this—“isn’t true of any other product.”

And all of these adverse effects that we have from cigarette smoking are entirely preventable. Maybe we should be having a conversation: Is it time to ban smoking? Because we have seen what effect it causes on the general public and the taxpayer who has to fork out—the Ministry of Health has to fork out a lot of money in dealing with the consequences of smoking.

Now the tobacco industry is said to be fighting this, as they are fighting Australia because:

“In an interview leading industry analyst, Adam Spielman estimated that plain, standardised packaging will halve tobacco industry profit margins. It’s therefore unsurprising that an international tobacco company has stated ‘we don’t want to see plain packaging introduced anywhere regardless of the size and importance of the market’.

Internal tobacco industry documents from the late 1990s show that the tobacco companies have been investing in pack design to ensure that their products are appealing to young people.

They also provided evidence of the importance around recruiting new smokers. This is because of the high brand loyalty to the first brand smoked, and the low rates of switching brands.”

There is a statement that some of the tobacco companies have argued that the standard packaging might encourage counterfeiting which is taking place. They have also said that the standardized packages or the use of images or imagery, there is no evidence that it reduced smoking, however, Cancer UK has provided evidence to show that by removing the branding and the attractiveness of the package, it reduces the attraction to children.

### **3.15 p.m.**

Well, I mentioned that in Australia they introduced a very stringent packaging policy. That was introduced in November 2012. Coming out of that, a company, Centre for Behavioural Research in Cancer, published in the British Medical Journal earlier this year, that they wanted to look at what was the effect of this new packaging policy to determine whether smoking from packs required under Australian plain packaging law had different smoking beliefs, and quitting thoughts compared to those still smoking from branded packs. They just looked at 536 smokers, and the result actually showed:

*Tobacco Control Regulations, 2013*  
[SEN. DR. WHEELER]

*Tuesday, December 10, 2013*

“Compared to branded pack smokers: those smoking from plain packs perceived their cigarettes to be lower in quality...tended to perceive their cigarette as less satisfying than a year ago”—they are smoking the same cigarettes—“were more likely to have thought about quitting at least once a day in the past week...”—and they found that quitting was—“a higher priority in their lives. Plain pack smokers were more likely to support the policy than branded pack smokers.”

The conclusion from this is that there is clearly “indication...that plain packaging policy was associated with lower smoking appeal, more support for the policy and more urgency to quit among adult smokers.” Now there is no direct evidence yet that the number of people smoking was reduced, but the early information, so far, shows that this will be the case.

Now, in the United Kingdom, they were in the process of introducing the new packaging laws, and there has been some debate—I am not clear if it is a political debate because of the problems the Government in the UK is facing now, but they have decided to conduct an independent review and they are due to produce their results by March of next year. But it is very likely by 2015 the United Kingdom will also be introducing packaging rules.

Now, there have been some other concerns raised by the tobacco company regarding the actual regulations that were produced today, and Sen. Robinson-Regis mentioned some of them. I have also seen documentation where if these regulations are passed, there is the intention to challenge the regulations in the court. Now, Mr. President, I fully support the intention of these regulations and, as far as I am concerned, anything that could be done about it, to reduce smoking, I will happily support. I would also like to encourage the Minister of Health and his Government, to use its vast legal army at their disposal to fight any challenge by the tobacco industry to delay or frustrate their efforts to reduce the number of people who are smoking in this country, because it is causing a devastating effect on the health sector.

One thing that I would like him to do though is, we have been focusing on helping people or at least providing information, providing the imagery to discourage people from smoking, but it has already been said that cigarette smoking is an addiction and I would certainly like to see the Ministry take more steps to help those people who are seriously affected by smoking addiction, by maybe setting up counselling centres. There is medication available that could help people come off cigarette smoking.

I would want to suggest targeting the schools because we know that the younger person is where they target persons becoming cigarette smokers for the first time. So I think some effort should be paid in this regard and also in ensuring that the unit that is supposed to oversee the implementation of these regulations is set up.

Mr. President, I thank you. [*Desk thumping*]

**Mr. President:** Sen. Avinash Singh. [*Desk thumping*]

**Sen. Avinash Singh:** Thank you, Mr. President. Mr. President, I seek your leave to refer to my documentation.

**Mr. President:** Certainly, you may do so.

**Sen. A. Singh:** Mr. President, permit me to acknowledge and offer salutations to the Almighty God, for who blessed me with this golden opportunity through the confidence and faith that the hon. Leader of the Opposition, Dr. Keith Christopher Rowley, has placed in me. [*Desk thumping*]

Let me also pay tribute to my family, relatives, friends and the entire PNM army for supporting and praying for me throughout my journey thus far. [*Desk thumping*]

**Sen. Hinds:** Well put. May the good Lord bless and keep you. Beautiful.

**Sen. A. Singh:** Mr. President, I stand deeply touched with boundless gratitude and national pride—[*Interruption*]

**Sen. Hinds:** Beautiful.

**Sen. A. Singh:**—with an unwavering resolve to honour that trust. [*Desk thumping*]  
I humbly accept this appointment as an Opposition Senator to serve in the 10th Republican Parliament of this great nation. I follow in line of exceptional Senators, and I will try my best to fill the shoes of representation with the wisdom of my peers on this side, and with a burning passion to see to it that we do what is best in this Chamber for the benefit of Trinidad and Tobago.

I look forward to working with the hon. Senators as we steer this arm of Trinidad and Tobago's Parliament into success, and success in this sense means representing and taking into account the views and interests of those elements of society which may be insufficiently reflected in the composition of the elected House, making salutary contributions to parliamentary debates and having inputs on Bills that will result in improving the lives of the citizens. This, Mr. President, will catalyze national development of our beloved country [*Desk thumping*] as we strive in achieving first-world status, while maintaining the integrity of the Constitution of the Republic of Trinidad and Tobago.

*Tobacco Control Regulations, 2013*  
[SEN. SINGH]

*Tuesday, December 10, 2013*

Mr. President, me standing here today is a true representation that the young people can stand up and be counted and, so to them I say, stop just accepting life as it is. Be the change that you would like to see in the world as expressed by the great Mahatma Gandhi; take responsibilities for your future and your country in your very actions; sow the seeds of hard work and dedication and you will reap the glory of success. I urge this honourable Senate, and all citizens of this blessed nation, to continue the path of patriotism, uphold the fundamentals and principles of morality and integrity in public office, be abiding and God-fearing while maintaining accountability and transparency in your very actions as we set the example for the future generations and, with that, my friends I now begin the business of this Senate.

Mr. President, we have before us a very important Motion. The real intention of this Motion is to discourage smoking. While it is pictorial in this document, my humble view is that this move is simply not enough to reduce smoking. Basically, we are here debating a balancing act to protect and promote healthy lifestyles, while respecting people's constitutional rights or freedom.

Statistics have shown the West Indian Tobago Company, a private company also traded on the stock exchange of our nation, has published its financial records online. The statistics show in the year 2010, the profitability was recorded of \$239 million; in 2011, profitability was \$290 million; and 2012, the profit was \$350 million. These statistics, Mr. President, paint a picture, not only high profitability for the company, or handsome taxes and revenue to the Government, it also shows that more tobacco products are being sold. This simply means that either people are smoking more than before, or a greater number of individuals are acquiring the taste for smoking, or it could even be more minors are getting involved in this practice of smoking.

Mr. President, why do people smoke? It could be for various reasons. It could be addiction, it could be because of the withdrawal symptoms, religious reasons, peer pressure, aesthetically it looks good to some or stress. And if it is stress, over the past three years the public is very stressed, in that, from 2010 to now, the amount of tobacco products being sold is almost doubled. With the passing of the laws: no smoking in public spaces, tobacco products are not to be sold to minors, no promotion or advertising on tobacco, et cetera—they seem to have little or no effect on the smoking population.

**Mr. President:** Senators, let us listen to Sen. Avinash Singh in silence. Thank you.

**Sen. A. Singh:** Thank you, Mr. President. The Tobacco Control Act of 2009 is a brilliant Act that will result in magnificent changes, and it will surely serve as a crackdown measure if effectively enforced with all the amendments. The Act, Mr. President, gives the Minister responsibility to establish a unit within the Ministry for:

- “(a) developing and implementing, in collaboration with civil society, a national strategic approach to tobacco control;
- (b) undertaking impact assessment of national policies and programmes aimed at controlling consumption and production of cigarettes and other tobacco products;
- (c) designing and disseminating messages for inclusion on tobacco products”—as in the Motion before us;
- “(d) reporting on Trinidad and Tobago’s progress to the World Health Organization and at international conferences hosted for signatories to the Convention;
- (e) monitoring activities nationally to ensure compliance with enforcement of this Act; and
- (f) considering and evaluating applications for licences on behalf of the Minister.”

Mr. President, smoking goes hand in hand with some major health issues. Most would have been outlined by the hon. Minister of Health and I would just like to raise a few. Smoking harms almost every single organ of the body, and according to WHO,

smoking kills almost “6 million people each year”—with over 5 million killed as a “result of direct tobacco use, while over 600,000 as a result of second-hand smoke... Eighty per cent of the world’s one billion smokers live in low and middle income countries; ...100 million deaths in the 20th Century; and it is estimated that 1 billion will die because of smoking in the 21st Century.”

So, Mr. President, surveillance is key. It is important to monitor and track the tobacco epidemic and indicate how best to tailor policies. One such measure is the continuous national youth and adult surveys.

Mr. President, the Motion before us, as it seeks to discourage smoking, is rather—some pictorial hazards of smoking. While these pictures have served well in countries like Brazil, Canada, Singapore and Thailand, it is but my humble

*Tobacco Control Regulations, 2013*  
[SEN. SINGH]

*Tuesday, December 10, 2013*

view that Trinidad consumers tend not to even look at the packs when practising smoking. My opinion is that stronger, anti-smoking campaigns need to be done—televised media, regular surveys, print media and so on. [*Desk thumping*]

**3.30 p.m.**

One example: I have had the opportunity to view a short video documentary provided by some Commonwealth countries used on prime time slots in the televised media. It depicted a short video presentation with the lung of a smoker. It showed the actual lung after the person died and the video would have portrayed the actual squeezing out of tar or the nicotine build-up. Videos like these are very impacting in terms of the minds of individuals looking on. So it is but my humble opinion that we should consider going in the direction of putting these short documentaries—video documentary during the prime time of televised media.

Smoking increases health risks and most would have been outlined by the hon. Minister and the hon. Senator. It leads to coronary heart diseases by two to four times; it increases the chances of stroke by two to four times; it increases the risk of lung cancer in men by 23 times; it increases cancer in women by 13 times; it increases the risk of dying from chronic obstruction in the lungs by 12 to 13 times. Overall, Mr. President, smoking is hazardous as we all know it to be. It results in many forms of cancer: acute myeloid leukaemia, bladder cancer, cervix cancer, kidney cancer and so on. It also results in infertility, pre-term delivery, stillbirth, low birth weight and SIDS—Sudden Infant Death Syndrome.

Mr. President, it is very important to secure the health of our population. As every individual has the right to freedom, at the same time, it is our constitutional right to be heard and to be safe, and it is the Government's right to make sure that the population is that of a healthy one. With all the smoking increases and all the hazardous impacts of smoking on one's health, it has put strain on the public health care system, even more reason to expedite the building of the Point Fortin hospital. Even life insurance and health insurance companies are sceptical and resist entering into legal agreements with smokers.

The Tobacco Control Act, Chap. 30:04, acknowledges the fact that most smokers who start smoking at a very young age are not aware of the extent and nature of the harm caused by tobacco products, and become of the addictive properties of the nicotine. They are often unable to quit even when they are highly motivated to do so.



Item 13(1) of the said Act:

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

Mr. President, and the Act, Chap. 30:04, item 37(1) outlines the breaches and the fines imposed. Breaches of item—

“...13 to 17 commits an offence and is liable—

(a) on summary conviction, to a fine of—

(i) fifty thousand...and...three months”—imprisonment—“for the first offence;

(ii) one hundred thousand...and...six months for the second offence; and

(iii) one hundred thousand...and...nine months for the third offence;...”

Item 37(1):

“(b) on conviction on indictment, to a fine of two hundred thousand and imprisonment for one year.”

Mr. President, I am very curious on the rate of detection and how many persons or entities have had to face item 31 of the said law. Enforcement of this Act is very key in dealing with this issue.

Another recommendation used by the US FDA—the United States Food and Drug Administration—to crack down the sale of tobacco products to minors, they have campaigns and they have a youth tobacco cessation programme that they implement. Similar, the law also prohibits the sale of tobacco products in various public compounds and spaces or even those perpetrators guilty of smoking in public or prohibited places.

Another question to the Government: how have the authorities managed to enforce the law and what are the rates of detection, conviction or imprisonment for the said liable acts? Many may not even know smoking not only affects one’s health but in the area of agriculture, smoking also negatively affects agricultural production. While growing up on my own farm, persons and employees were always reminded to stay clear of the crops, so perhaps the Minister of Food Production could confirm this negative effect of smoke from tobacco products on crops, greenhouses and shade houses.

Mr. President, in terms of minor use of these acts called smoking, it is but my humble view that the legislation be used to the full enforcement and not only crack down on the misuse of the product, but, at least, start cracking down on persons

*Tobacco Control Regulations, 2013*  
[SEN. SINGH]

*Tuesday, December 10, 2013*

selling the products to these minors. Many times, even in mainly rural communities, these shop owners, bars, minimarts and so on, simply are only concerned about profitability and not the well-being and health of the persons using the product. These individuals proceed to purchase and allow to purchase and hence the high use of the product to that of the young minors and so on.

Mr. President, as my colleagues would have mentioned, we are in support of the Tobacco Control Regulations, however, we have outlined some shortcomings in terms of the development and the progress in which these regulations shall go forward. It is simply not enough to deal with the issue and certainly much must be done in this attempt to discourage smoking. It has also taken a toll on the budgets of mainly the lower and middle-class income individuals since these individuals put a lot of their resources into these types of drugs.

Reflecting on a statement the hon. Minister of Health would have made earlier when he said alcohol only affects the person using it. Mr. President, this statement has much more to it than it seems as the hon. Senator would have mentioned when he spoke, that someone under the influence of alcohol, if placed behind a wheel or a vehicle, can cause more damaging impacts to those around him. So it is but equal responsibilities that all these endangering drugs should not be taken lightly. [*Desk thumping*]

Mr. President, the Opposition's position on this is that we are supporting this Motion and we are willing to work together with the Government to see to it that what is done here in this honourable Senate benefits the ordinary citizens, the everyday man, woman and child on the street and simply our population; making our population a healthier one in striving to First World status. This, Mr. President, is but my humble contribution to this honourable debate here today as I beg to move.

**Hon. Senators:** Thank you.

**Sen. G. Singh:** No, no, just tell him thanks.

**Sen. A. Singh:** Thank you, Mr. President. [*Desk thumping*]

**Mr. President:** Before I call on Sen. Ramkhelawan, I would like to recognize Sen. Avinash Singh on his maiden contribution here and thank him for the service to country. [*Desk thumping*] Sen. Ramkhelawan.

**Sen. Subhas Ramkhelawan:** Thank you, Mr. President. I welcome this opportunity to contribute to this Motion on tobacco regulations. Before I go to the substance of my contribution, I want to welcome, on behalf of the Independent

Bench, Sen. Avinash Singh and Sen. Diane Baldeo-Chadeesingh and Sen. Camille Robinson-Regis [*Desk thumping*—no stranger to this place—and wish them well as they continue their sojourn in the Senate.

**Sen. Hinds:** Sojourn?

**Sen. G. Singh:** You got your thanks last week. [*Laughter*]

**Sen. Hinds:** You get a sojourn here.

**Hon. Senator:** You have the sojourn!

**Sen. Hinds:** “I who have the sojourn.” [*Laughter*]

**Sen. S. Ramkhelawan:** Mr. President, I have often been required to correct some of my colleagues in terms of syntax and so on, but I will not do so today because I deal today with permanent Senators and not temporary Senators. [*Desk thumping and laughter*] So let me not spend too much time on temporariness, if that is a word indeed, and focus on permanence.

**Sen. Hinds:** Great, great, great!

**Sen. S. Ramkhelawan:** Mr. President—[*Interruption*]

**Sen. Hinds:** “Get yuh grammar right.” [*Laughter*]

**Sen. S. Ramkhelawan:** I—[*Interruption*]

**Sen. Hinds:** “Get the grammar right.” [*Laughter*]

**Sen. S. Ramkhelawan:**—have been part of this matter of tobacco control since the Bill was first put forward to the Senate and converted to an Act in 2009. I want to recall some of the issues, with your permission, Mr. President, that arose and part of the contribution that I would have made in 2009 on November 10, and the first issue was with regard to getting the right balance, and in that contribution, I made the point—quote—that:

“We are faced with balancing and controlling tobacco and, if we become overbalanced, we end up in a situation where we criminalize tobacco. I do not have a problem criminalizing tobacco. Ban the whole thing. When you ban it, then you can do whatever you want; but when you stop at the level of controlling, you must not overreach...”

Further, I made the point—quote—that:

“...to get to the core of the matter and that is, balance. I am prepared to support my hon. colleague”—that was the then Minister of Health in a previous administration—“as I expect every Senator will be, in seeking ways and

*Tobacco Control Regulations, 2013*  
[SEN. RAMKHELAWAN]

*Tuesday, December 10, 2013*

means to diminish the use of tobacco, but by legal means. As long as you retain this as a legal substance, you cannot criminalize...people who participate in it.”

Further and I quote again:

“I think that Government would be well placed to work on curtailing the demand side by education of the public, and that education of the public takes quite some time.”

**3.45 p.m.**

In that debate, the Independent Bench was also very instrumental in pushing for, and getting the agreement of the Government that regulations passed with regard to this particular Act, the Tobacco Control Act, would be by affirmative resolution, and not by negative resolution, as negative resolution does not come to the Senate in the ordinary situation for any debate on any Motion. And I would have said then:

“...in a piece of legislation which I consider somewhat controversial, I find that so much of the onus is left to regulation rather than the substantive content in the Act itself that I am minded in accordance with clause 38(1) to suggest that this piece of legislation, the regulations thereto should be by way of affirmative resolution and not by negative resolution...because of the nature of this piece of legislation.”

And I take this, Mr. President, as my kick-off point to add to the discussion or the debate that has been taking place with regard to this particular Motion.

During that debate on the Act, in 2009, there were several very controversial clauses in the Bill. One of them was that a person could not smoke in his own home, if he had somebody working in that home with him—what we normally and popularly call a domestic. And he was then banned; it was being put forward that he should be banned from smoking in his own home because somebody was working in there. It was really an invidious clause. And that clause was taken out.

Then there was the clause of somebody who, within 15 metres of a school, was not permitted to smoke. And I believe, at the time, if one did simply a visual test, nobody—very few people in the Senate—would have been able to say what exactly was 15 metres. And if you had a narrow road, somebody could be walking across smoking on the other side of the road, from the school, and still be, in a sense, criminalized because they were within 15 metres.

Of course, there was the famous example of not being allowed to sell a single cigarette—meaning that you could not take a cigarette out of a pack and sell it as a single cigarette—because there were very heavy fines. And as we know in this country, cigarettes are sold on all the corners of this country, in singles. So I am heartened to see the legislation adjusted and the regulations now provide for the selling of a single cigarette, with a warning that “this is dangerous to your health” or something to that effect.

What are these regulations intending to do then, Mr. President? By Part II of the regulations, the intent is to enforce labelling requirements to enable specific health messages to be printed on cigarette packs and cartons, so that our citizens will be able to see the warning, whether that warning is a health message or a declaration with regard to smoking being dangerous to your health.

By Part III, to specify in the regulations how and where on the pack and carton these health messages are to be printed, and of course, as we have heard before, from the hon. Minister, there are two sets of messages labelled “A” and “B”, and in each of those two sets there are twelve health messages. And the intent, according to the regulations, is that these health messages will be rotated, in packs, in cartons, in cases, over a two-year period, so that these messages will be, all twelve of them, will get to the consumer or the potential consumer in terms of knowing that this is a dangerous substance—cigarette smoking is.

And of course, there is to be placed by Schedule 3 a declaration that:

“Smoke from this product contains extremely addictive nicotine and toxic substances such as tar and carbon monoxide. No safe level of consumption exists for this product.”

So really what the regulations are intended to do is to enforce labelling and to establish what the specific messages are to be placed on the pack or the carton and where and how they should be placed. That is basically what we are debating today.

Sen. Robinson-Regis raised a question of constitutionality and proportionality, in terms of what the messages would have contained, and whether those messages are in accordance with the law which we would have already passed. And she pointed out as well that we should consider, as has been done in other places, using plain packaging rather than spend too much effort and energy in terms of the packaging material.

*Tobacco Control Regulations, 2013*  
[SEN. RAMKHELAWAN]

*Tuesday, December 10, 2013*

And Sen. Wheeler—I am gratified to learn that Sen. Wheeler now looks at the stock exchange page to determine how his shares are going and I encourage all to do that and participate as you go along. That is not a commercial, but I am glad to see—[*Interruption and laughter*]

**Hon. Senator:** [*Inaudible*] commercial.

**Sen. S. Ramkhelawan:**—I am glad to see that he is being educated in areas other than gynaecology, and, I think one of my friends said that he was an expert in orifices, which I do not really know what that means—but he made a very valuable contribution in terms of the extent of pain and diseases that are caused by this cigarette smoking.

Now, Mr. President, we have a very, very strong lobby; a very, very strong tobacco lobby, right across the world, but even here in Trinidad and Tobago. The point was made by Sen. Singh, as well as Sen. Wheeler, that the tobacco industry in Trinidad and Tobago, as represented in the main by one publicly listed company, has done extremely well in terms of profitability and sales. And notwithstanding over the past three years, from 2010—2013, there have been three significant increases in the price of cigarettes, what we have found is that sales have gone up, rather than gone down, and that profitability continues to go up, rather than go down. As we say, in the stock industry, what we have, despite all the efforts, we have a growth stock because this stock is gaining momentum by dint of vastly increased sales over time. Therefore it says that no matter what has been done thus far, the impact has not been felt and it has not contributed to a reduction of smoking in Trinidad and Tobago.

Now, we have not criminalized tobacco, and therefore if we have not criminalized tobacco, then it is the right of an individual to smoke. It is the right of all reasonable persons to convey to those smokers that “smoking is exceptionally dangerous to your health”. And that is what the regulations are seeking to do. And therefore, in principle, I would want to support the education and, shall we say, the pushback against this very, very dangerous exercise of smoking. And I would want to support the Minister in that context, in his efforts.

In so doing I would like to caution—I join in cautioning the Minister that the steps that ought to be taken, must be taken within the bounds of the Constitution, and must be taken in the context of proportionality, because with the best will in the world, you set out to do something and you end up being tripped up by dint of not doing that thing right. And therefore, I would urge the Minister to probably have a second look at the contents of those pictures and those advertisements, or

should I say counter-advertisements, that he intends to put on the packs and the cartons. Just make sure, before you roll them out, that you are in proper and good order, and having said that, I believe that you will have my full support with regard to the regulations.

Now, there are a couple other matters that I would like to bring, as we have the hon. Minister in the Senate, and we are so pleased to have him here. You are bringing regulations with regard to tobacco, and every single day I hear on the radio people suggesting cures with various herbal medicines or intended medicines. Every single day, they are proposing that they have the cure for diabetes—*[Interruption]*

**Hon. Senator:** *[Inaudible]*

**Sen. S. Ramkhelawan:**—they have the cure for cancer. In fact, I fully expect that since you have one particular picture which speaks to impotence, tomorrow you would hear that they have the cure for impotence; so smoke in the morning, and take some ground eggshells in the evening and you will be all right. I want to impress upon the Minister that while we are dealing with cigarettes, and seeking to contain the damage that is being done with cigarettes, we need also to put some controls in place for people who are making wild allegations with regard to having cures in every single area.

They are going on the radio, every single day, and nobody is stopping them. This is the second time, or probably even the third time, that I have raised it with the hon. Minister. And what I am looking for is the reasonable answer for the way forward. We have not found that as yet and therefore it is a cause of deep concern. Bring regulations, and expect that I will support you with reasonable regulations. Stop the advertisements, which are false and misleading. What is happening is, you are taking vulnerable people, who are looking for cures for some things that are not yet curable. They are taking people's money by taking advantage of them. And the Government, and indeed this Parliament must do something about it, and do something about it now.

I have heard the Minister say, on previous occasions, that he is somewhat powerless. Where else can you get the power to do something about these miscreants, other than the Parliament of Trinidad and Tobago? Where else can you bring laws, if not the Parliament of Trinidad and Tobago? We will talk about enforcement at a later stage, but now is the time to do this. So I exhort the Minister; I appeal to the Minister; I appeal to the Government to do something about this because you cannot leave one area untouched while you seek to deal with the other areas.

*Tobacco Control Regulations, 2013*  
[SEN. RAMKHELAWAN]

*Tuesday, December 10, 2013*

I want to move now to the specifics of the regulations. And let me say, I do not have a difficulty with some of the pictures that you have here, subject to constitutionality.

“YOUR Smoke May Kill YOUR Children.”

I have not heard the tobacco industry say that this is not true. I think that the tobacco industry has been talking about more the commercial side, which is: “how should dispensers look? What is the most efficient and least cost way to effect the packaging on the cartons and the packs?” All that is fine, but I think if we have truth in advertising, we should be okay. These pictures, or advertisements—I like to call them counter-advertisements, if you will—are using the same vehicle that is used to sell cigarettes.

**4.00 p.m.**

So “smoking causes mouth cancer”. If it is true let our citizens know. Let them know the dangers that they are flirting with and the impact those flirtations could have in shortening their lives or creating pain and suffering in their lives.

I like the one with “smoking causes ageing”. I wonder how easy or difficult that is to prove—“smoking causes ageing”. I suppose you might mean that it shortens your life, but how does it, how do you lose a day or two? But I will be guided by the Minister in his winding up, “smoking causes ageing”. I would be happy if you could explain some of that to me, Minister.

So, in a nutshell, I believe that we are progressing from the legislation to the point where, and I think that the Minister is empowered by section 38(1), to bring these regulations. He is empowered as section 38(1) speaks to the whole question of the kinds of regulations that can be brought by affirmative resolution, which is prescribing requirements and standards for tobacco product constituents, including emission of smoke products, additives and product design, which I think is the core of the regulations and specifying methods of testing and measuring compliance with the performance standards and requirement prescribed. So, as I said before, I believe that we are on the right track.

The next phase, of course, will have to be proper enforcement, because when you go to the parlours and you do not see the sign up, what do you do? How do you—I would like the Minister to explain what are the measures he is going to put in place to effect enforcement so that we can get a citizen who is already troubled by the question of fatty foods, troubled by these charlatans who deal in promises of herbal miracle cures, troubled by this area of cigarette and troubled also in our small country by over-indulgence in alcohol. It is a step in the right direction and I am prepared to give you my support, Mr. Minister. I thank you, Mr. President. [*Desk thumping*]



**Mr. President:** Sen. Baldeo-Chadeesingh. [*Desk thumping*]

**Sen. Diane Baldeo-Chadeesingh:** Thank you very much. Thank you, Mr. President, for allowing me the opportunity to contribute to this debate on the Tobacco Control Regulations, 2013.

Mr. President, before I begin though, I seek your permission to extend my sincerest appreciation and heartfelt thanks to the Leader of the Opposition, Dr. Keith Rowley, and the People's National Movement. I am most humbled and pleased to belong to a party founded upon democratic principles, basic human rights and dignity and dedicated to the raising of the moral and material standards of the citizens of Trinidad and Tobago and the promotion of their progress in all fields. [*Desk thumping*] I am particularly proud to be a part of a movement 57 years old and solid as a rock; a party based on policy, a party based on integrity, a party based on principles, a party which upholds the Constitution. It is with this reference to the Constitution of Trinidad and Tobago that I begin my contribution on the Motion.

Mr. President, I also seek your permission to refer to my notes, perhaps, more often than not today. The reason we are debating the regulations by affirmative resolution is because it is important we get this right. And, therefore, I wish to refer to the Constitution of Trinidad and Tobago. We have, in enshrined rights, Chapter 1 sections 4 and 5, it says that individuals of Trinidad and Tobago have:

“(a) the right of the individual to life, liberty,...

(b) the right of the individual to equality before the law and the protection of the law;

(e) the right to join political parties and to express political views;”

as I have done, and without fear, the:

“(i) freedom of thought and expression;”

amongst others.

But whilst we are free to do as we please, with time we can become a very lawless society and too much of a good thing will have a negative consequence and, therefore, Sen. Subhas Ramkhelawan expressed it really beautifully. There must be a balancing of these rights. And, therefore, the Constitution, also says in section 13, it gives the right to take away rights enshrined in the very Constitution that gives us that freedom, sections 4 and 5, only if reasonable in a society which respects democracy.

*Tobacco Control Regulations, 2013*  
[SEN. BALDEO-CHADEESINGH]

*Tuesday, December 10, 2013*

I want to establish a scenario, Mr. President, which I would refer to quite often as I develop my points—but I think to refer—and it will be a little bit easier for all to understand. The lottery lady at the street corner who sells individual units of cigarettes; let us take this lottery lady. There are lots of them on Frederick Street in Port of Spain; under the flyover in Freeport; High Street, San Fernando; outside the bank in Fyzabad. I am just going to establish and think about this lottery lady that sells, amongst other things, individual units of cigarettes. But if I were to refer to the Tobacco Control Act and the packaging and labelling section 31, which deals, of course, specifically with labelling on individual units, section 31(1) says:

“Smoked tobacco products may be sold as individual units provided that they are individually labelled as required.”

Section 31(2) says:

“The Minister may make Regulations to provide for a contravention of this section.”

I now refer—that was the Tobacco Control Act—to the Tobacco Control Regulations, 2013. Section 5(6) states:

“Where a cigarette is intended to be sold individually, each cigarette shall be wrapped and the message “SMOKING IS DANGEROUS” shall be displayed conspicuously on the wrapper.”

Single, individual wrapper displayed conspicuously, which means easy to see.

Now, for every action—remember that balance we were talking about? Every action—there will be consequences to these actions. In this instance is that consequence or consequences going to be on the part of the lottery lady that sells an individual cigarette, or is it the responsibility of the manufacturer of the cigarettes? Now, if I am to assume that the lottery lady is to wrap units herself, that incorporates time expended, cost added and, of course, it is something to be placed in someone's mouth. So, therefore hygiene standards will be applied.

So that point leads to the question of the efficiency of making law, that realistically, in this instance, cannot be enforced. The point is: who is to police the enforcement of the regulations? [*Desk thumping*] As a matter of fact, who is locking up the poor lottery lady for selling the non-wrapped cigarettes?

But again, Mr. President, there are consequences as a result of our actions, which leads me to turn now to the penalties for breaching the regulations and they amount to, in the Tobago Control Act, miscellaneous sections 33 to 38. Section 33 speaks

to compliance with the Act; section 34 about evidence; section 35, protection of employees; section 36, penalties and liabilities; section 37, penalties where none prescribed and section 38, regulations and orders. But I want to focus, Mr. President, particularly on section 36(1):

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

Keeping in mind at one end we are talking about the lottery lady that sells individual units of cigarettes. On the other hand is it the responsibility of the manufacturer?

So section 36(1)(a) talks about:

“suspension, revocation or limitation of licences;”

I take that to refer to, in the cases of the minimart and the parlours.

(b) speaks to:

“removal by an authorised officer...”

which I would question as I go down. Who is this authorized officer really? Is it somebody from the Ministry of Health? Is it a police officer? But I would get to that point. I would develop that point as I move along, Mr. President.

“removal by an authorised officer of an offending person from the premises or public conveyance and

(c) confiscation and forfeiture of—

(i) any item that contains a tobacco advertising and promotion prohibited under this Act.”

Mr. President, I keep thinking about this lottery lady who sells, amongst other things, individual units of cigarettes. Perhaps she is a single mother, sole breadwinner in a home. She, perhaps, would have a family member with special needs and she needs to take care of these people. Now the Opposition is concerned about such persons and we do not wish to see them fall through the crack with a piece of legislation that we are saying is going to work and the common man on the street, when the authorities start implementing these measures, they end up in not a very nice scenario, Mr. President.

The point I wish to raise is: who again is policing the enforcement of the regulations? Will it be the police officers, the Ministry of Health? And what is the Government's explanation of the statistics? This Act was partly passed or

*Tobacco Control Regulations, 2013*  
[SEN. BALDEO-CHADEESINGH]

*Tuesday, December 10, 2013*

proclaimed in 2009. How many persons have been charged? Not enough police officers—when we listen to reports and we listen to citizens speak—they said they are seeing on the nation’s streets. And there is a backlog of cases waiting to be heard in the courts, but we still have to think about that poor lottery lady that ekes out an income from selling individual units of cigarettes.

This Tobacco Control Act has been in operation, basically, for four years, albeit work was still to be done on some parts. As a matter of fact, from my recollection, Mr. President, the UNC did not support this Act. They all abstained in the 2009 vote to pass the Bill into law. [*Desk thumping*] What have they done to assist in making this Act successful, now that they are in Government? The UNC has had four budgets totalling \$275 billion. The PNM had 10 budgets amounting to \$271 billion. [*Desk thumping*]

What have we seen by way of value for money, in relation to the money spent by the Government regarding this Act, example in the Ministry of Communications? What support are they lending to these regulations and the Act?

#### **4.15 p.m.**

The Ministry of Health? Other support needs to go with these regulations, Mr. President. What about the Ministry of Education in support of this legislation? What are they pledging? Where is the education, Mr. President, I ask?

Dr. Tim Gopeesingh, now hon. Minister, suggested in his debate in 2009 in the House of Representatives—Let us refer to the *Hansard* for the last day of debate actually in the House of Representatives, on Friday, December 04, 2009. Quote:

“Enacting tobacco control legislation to regulate the practices of the tobacco industry is one such measure required by the signees to the FCTC,”—which is the Framework Convention on Tobacco Control—“and legislation must stipulate a ban on advertising...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.”

And the Act—the Tobacco Control Act, 2009 does contain the requirements of the World Health Organization framework on tobacco control. The hon. Minister now, but at the time referred to Article 12 which speaks specifically, Mr. President, to education, to communication, to training and to public awareness. To compound my point even further, Mr. President, he goes on to say:

“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. It must be incorporated in the legislation.”

He goes on:

“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.”

I could not have said it any better, Mr. President. [*Desk thumping*] Where is the balancing of rights now I ask, Mr. President? By the way, what are CNMG and GISL doing about a drive to live healthier lifestyles? What is the Minister of Communications saying? He is the third Minister in three and a half years. Perhaps thought can be given to place these graphic images in Schedules 1 and 2 close to schools, so children who may be inclined to experiment will think twice. Sen. Victor Wheeler also mentioned that fact; very powerful argument.

Also, on the point of scheduling, I have heard the contributors to this Motion earlier on allude to the fact that the graphics may not be as they should, they might not be in a straightforward manner, the messages, it might allude to something else. But my take on the scheduling is that the first part of it Schedule 1, A and B have 12 graphic images per schedule. My concern is with the schedule of rotation of health messages. It is in Schedule 2, Mr. President.

It says here:

“Commencement of regulations (year 1)”—and I see—“Use Set A exclusively”—for one to eight months then—“Introduce set B, phase out Set A”

And my thought with that is that sometimes when we see the same messages—given the culture of Trinidad and Tobago—we see the same messages over and over, we tend to become a little bit complacent to the messages. So perhaps at this stage if it can be looked at, to shorten that time frame and to really incorporate Set A with Set B, because of the culture of Trinidad and Tobago

Mr. President, there exists a large market that we are not looking at. The packs and the cartons of cigarettes and putting these graphic images on packs and cartons of cigarettes, it is significant, and we need to do that, however, there exists a large market, persons who buy a single unit of cigarette, some because of tradition and culture buy several units. Some persons buy several single unit cigarettes several times a day.

*Tobacco Control Regulations, 2013*  
[SEN. BALDEO-CHADEESINGH]

*Tuesday, December 10, 2013*

As matter fact, Mr. President, on Sunday I attended temple service in Fyzabad, and I went to buy doubles at the Siparia Road Junction, and as I was walking across the road to the minimart to buy a bottled water, I saw a man leaving with two units of cigarettes, one in his mouth and one stuck behind his ear.

Mr. President, this country does not need another piece of legislation that will fall through the cracks, nor any cut and paste document. The reason we are debating the regulations by affirmative resolution, is because it is like I have said at the top of my contribution, it is important to get it right, otherwise it would be debated by negative resolution.

Smoking is bad. No two ways about it. Smoking is bad. Graphic warning labels, Mr. President, on cigarette packs work throughout the world. They do work. The US, Canada, Europe, but together with Article 12 of the World Health Organization Framework Convention on Tobacco Control, education, Mr. President, communication, training and public awareness should work in synergy. It is necessary for these regulations to work. I strongly recommend, Mr. President, these regulations work, like I said synergistically, with a roll-out, public education initiative and always keep in mind how it translates to the citizens of Trinidad and Tobago, the man on the street.

I thank you, Mr. President. [*Desk thumping*]

**Mr. President:** Sen. Helen Drayton. [*Desk thumping*] Attorney General? Sorry, I did not realize.

**Sen. Ramlogan SC:** I will give way.

**Mr. President:** I will get to you.

**Sen. Ramlogan SC:** I will speak after. That is all right.

**Mr. President:** Sen. Drayton.

**Sen. Helen Drayton:** Okay. Thank you. Thank you, Mr. President. [*Desk thumping and crosstalk*] Thank you for your generosity.

**Hon. Senator:** He is a gentleman.

**Sen. H. Drayton:** Mr. President, I listened intently to the Minister, and I say that I support everything the Minister has said about smoking and health. We certainly have heard it before and it is for exactly those reasons why I and fellow Senators in this Senate approved the Tobacco Control Act. But I have to take issue with one matter in particular, and that is the comment the Minister made

with respect to the lack of funds to educate the public on the dangers of smoking or words to that effect. Please correct me if I am wrong. Because a very core part of this legislation and one of the reasons we approved this very drastic piece of legislation, which is the Tobacco Control Act, was simply for that reason, that there will be extensive and continuous education.

And when you consider that the Government spends every single day thousands of dollars on very self-serving ads—every single day you open the newspaper, you see another full colour ad with the national crest, speaking to the opening of something or the other, or speaking to things that we have already heard about and read in the news. Not too long ago, I saw where the hon. Minister visited the children's home, I think it was the boys' industrial school, and two to three days later, in every single newspaper, a glaring full colour ad promoting the visit to the school.

Now, one of these ads cost over \$8,000 a shot, but I want to be a little more dramatic when it comes to the statement about not having the funds to educate our children on a product that the Minister has said will kill them. This is a Government which spends \$1.5 billion a week. I want that to sink in. We approved a budget of \$61 billion but, of course, in the infrastructural development fund, there was about \$7 billion to \$8 billion. So we are speaking about an expenditure of \$1.5 billion a week. The Minister has been very dramatic, as well as Sen. Wheeler, with respect to the dangers of this product. So to tell me that you cannot find funds to educate our children, I have a very serious problem.

Mr. President, the children will only see the health messages on the packs after they have purchased them. It is not logical. You made reference to the dispenser, in fact, the dispenser should not be opaque at all. It is on dispensers that are visible to the public that should carry health messages— [*Desk thumping*—not cigarette packs behind an opaque dispenser which, of course, will also include probably smuggled cigarette products or counterfeit products, and you put it on the package to warn the children after they have purchased it. It does not make sense.

So, Mr. President, having approved the Tobacco Control Act, my job here today really is to examine the regulations in context of the Act, and as far as I am aware, regulations must support the Act. There are some of these regulations which actually go outside the ambit of this Act. And quite frankly, Mr. President, while this is a Motion, there will be no committee stage for correction. As I said, we have approved the Tobacco Control Act and I want to support this Motion, but I am very mindful that this is a Senate that has taken two black eyes for the year

*Tobacco Control Regulations, 2013*  
[SEN. DRAYTON]

*Tuesday, December 10, 2013*

when it comes to legislation that was bad. I am not—I do not intend to fall into that situation again. And this time on the two occasions I have to say, you know, if only I had understood the full implications, but I think now with those lessons behind me, I understand the implications when we bring regulations that are ultra vires the very Act that it is supposed to support and the Constitution. So I am not going down that road again, but my heart is to support regulations that would control tobacco and prevent tobacco from getting in the hands especially of children, and that is why I want to see education.

Now, regulation 5(5) states that the company cannot make any statement relating to smoking or health other than prescribed health messages. So if the company states on its pack “children are prohibited from purchasing this product”, we have brought regulations that make it unlawful for the company to educate children in that regard, or to put such a statement on the dispenser where children could see it, or to have signs in supermarkets or all the education that we need for the children, we are prohibiting the company from doing this if they so choose.

**Mr. President:** Senator, before your proceed. It is now 4.30 and I propose to take the tea adjournment. Before doing so, I would like to congratulate Sen. Chadee-Baldeosingh on her maiden contribution here this afternoon. [*Desk thumping*] Sorry I got that wrong, Sen. Baldeo-Chadeesingh. I will get it right soon enough.

So I propose to resume the sitting of this Senate at 5.00 p.m. This Senate now stands suspended until 5.00 p.m.

**4.30 p.m.:** *Sitting suspended.*

**5.00 p.m.:** *Sitting resumed.*

**Mr. President:** Leader of Government Business, I had agreed that we would pay some tributes; do we want to do that at this stage?

**Sen. G. Singh:** At the end of Sen. Drayton’s contribution.

**Mr. President:** All right, certainly. Sen. Drayton, you were on your legs when we adjourned earlier, you had seven minutes of speaking time gone and, therefore, you have a remainder of 35 minutes.

**Sen. H. Drayton:** Thank you, Mr. President. Just to recap, briefly [*Desk thumping*] I made reference to regulation 5(5) which states that the company cannot make any statement relating to smoking or health other than prescribe



health messages, and while I certainly believe that health messages on cartons do not seem to make much sense since the product—that is on the cigarette packages rather—has already been purchased. I believe that if, indeed, the manufacturer wishes to place a message to the effect that children are prohibited from purchasing this product, the law should not prohibit the company from so doing and I think, therefore, that regulation 5(5) clearly is outside the ambit of the law itself.

The law does not ban smoking, it bans smoking in certain circumstances, and by virtue of the very law it supports the existence of the company. So yes I, too, agree there needs to be balance in supporting strategies that would control tobacco while, at the same time, preserving certain rights of a corporate citizen with respect to their packaging.

Nowhere in the Act does it prohibit the manufacturer from making statements whether or not relating to health or smoking. What the Act does, it prohibits the manufacturer from making statements that are deceptive and misleading. So why do these regulations widen the purpose of the Act, it is difficult for me to say—I reiterate that I support balance in supporting this Motion, and I certainly recommend the deletion of regulation 5(5).

I note that regulation 9(3) which calls for the dispenser to be grey or white and made of material that is opaque, regulation 9(4) also allows only one dispenser to be placed in the outlet, and I think that both these regulations are, in fact, denying the Government an opportunity to make very profound messages relating to health both on the dispenser and, in fact, a number of dispensers which could carry certain messages in areas of the point of purchase which will be very eye-catching.

Now, what the Act says in 15(1) is that:

“No person shall display tobacco products in such a way that they are visible to the public...”

And 15(2) of the Act states:

“This section shall not apply to 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.”

So again, clearly, the intent of regulation 15 is to prohibit promotional materials on dispensers and, certainly, that was the intent of the Act but, here again, why does the regulation pertaining to dispensers force the company to paint their property grey or white?

Now, this was something that was debated extensively when the Bill was presented to us, I think it was in 2009 for approval. One of the things I stated, and others also mentioned, is that what we are doing here is providing greater opportunities for smuggled and counterfeit products to be stashed away in opaque containers. Now, again, since tobacco has not been outlawed and a person has a right to smoke if they choose to make such a poor decision, then certainly we should ensure that they are not smoking smuggled products or counterfeit products. The *Hansard* is also clear on that regard.

What has happened since 2009 when certain aspects of this legislation were proclaimed, we now have on the market over 30 such brands, and not brands provided by legal entities in Trinidad and Tobago—about 30 brands which are flooding the market. The thing about these brands—you know they are smuggled brands because they are selling for eight and ten dollars a pack and, of course, from what we know, based on the types of duties that must be paid, they certainly could not cover their overheads with that kind of a pricing. So what we are encouraging to some extent is for cheap brands to flood the market at lower prices, which goes counter to what we intended by the very law, which is to control tobacco as well as the availability of tobacco products.

So that my concern with respect to the regulations is a concern that the regulations are not consistent with the intent of the law. And certainly, Sen. Wheeler was very insightful when he mentioned the value of WITCO's stock. And I intended to mention that as well, but from a different point of view because on the one hand, there are those like all of us who are very sincere about the dangerous effects of tobacco, but the thing is, Mr. Minister, any state enterprise with a pension plan—any government pension plan, any investment you make in a mutual fund or the Unit Trust—the underlying investments may very well—and I know some of them include tobacco shares. So, on the one hand, we are being very hypocritical to some extent because as individuals and as government entities, we are profiting from the sale of products that cause the death of people.

So this is why, like my fellow Senator, ban smoking if you so choose, but if you are going to have a law that is going to say it is a person's right to smoke and, at the same time, the law says that the corporate citizen has a right to operate, then you need balance. I think we did an excellent job with the tobacco control legislation in ensuring that balance. What I hope is that we would relook at these regulations and ensure the regulations are consistent with the law. As a matter of fact, you could make the regulations as robust and as prohibitive as you wish, but my concern is that it must support the law that was approved.

So in closing let me re-emphasize one thing and, that is, I support the Motion. I support the Motion with an amendment to regulation 5 in particular. There are other laws which expand—other regulations which expand the ambit of the law, but I would not go into these. I do not think it is necessary to do that. I am asking the Government just to take a look at what they are asking us to approve.

I also want to emphasize to the Minister the need for the establishment of the unit because the major purpose of that unit was, indeed, to take up the education. I know that parents are responsible for the activities of their children in terms of education, but across Europe, in Canada, the US, education programmes are run throughout the schools, and everywhere that children play, their recreation areas, there are messages with respect to drugs, with respect to tobacco.

The government agencies undertake that type of education, and there is research that would indicate that such strategies are more lasting and more effective than the actual laws because the laws kick in after the fact; after you have broken the law. The law is not acting as a deterrent and by virtue of the 30 other brands that are on the market, at this point in time, that alone is evidence. It means there is a market, and it means that people are smoking cheap brands

One other thing, I would like to support what Sen. Ramkhelawan mentioned with respect to herbalists and the misleading advertising. I would disagree with him that the Minister is helpless at the moment. There is a Food and Drug Act, and under section 4 it specifically says that:

“...any person who advertises any food, drug, cosmetic or device to the general public as a treatment, preventative or cure for any of the diseases, disorders... mentioned in the First Schedule is guilty of an offence.”

If you go into the First Schedule, you would see there are things, health issues such as alcoholism, blood pressure, cancer, cataracts, diabetes, and we hear the advertisements every single day for these very things.

So here on the one hand again we are passing laws and we know that the laws are non-implementable by virtue of the fact that you have counterfeit brands on the market and smuggled brands; you have a police force that is already under a great deal of pressure in dealing with blood crimes. We have put more laws on the books. We are asking them to investigate umpteen retail outlets in the suburban and rural areas because that is where those cigarettes tend to be sold more, since it is difficult for smuggled brands or other types of brands to get into the larger supermarkets where they have checks and balances and certain infrastructure. So we know they cannot police it and they are not policing it now. That is all the more reason why, we must implement the education programmes.

*Tobacco Control Regulations, 2013*  
[SEN. DRAYTON]

*Tuesday, December 10, 2013*

And, Mr. Minister, please look at the issue of misleading advertising by all those herbalists because there is a law that prohibits them from doing that. Mr. President, I thank you. [*Desk thumping*]

**5.15 p.m.**

**Mr. President:** Attorney General.

**The Attorney General (Sen. The Hon. Anand Ramlogan SC):** Thank you very much, Mr. President. [*Desk thumping*] Mr. President, I rise on this very important Motion, on a matter that is of great and immense social significance, having regard to the deleterious effects of smoking, and the fact that we are in fact lagging behind in terms of taking strict and strong measures to curb the increase in smoking in our country. [*Desk thumping*]

It was in 2009 that Parliament passed, with a constitutional majority, the Tobacco Control Act, and that made a significant intervention in the social norms as it relates to smoking in this country because for the first time we were able to galvanize support and parliamentary will against the considerable and immense power of the tobacco manufacturing industry. Worldwide, the most important and significant challenge that has faced legislators and governments with respect to passing legislation to deal with tobacco control and tobacco usage has been the very significant power that tobacco companies and tobacco manufacturers wield, and the tentacles of the lobbyists on behalf of tobacco manufacturers, they reach into every nook and cranny and every sphere of political and public life.

In fact, in the United States of America, you have virtual blocks, lobbying blocks within the Congress who actually lobby for the tobacco manufacturers, and they sometimes, of course, disguise it as the rights, the constitutional rights and freedoms that are given to natural human beings on the one hand, which are legitimately usurped by corporations on the other. Be that as it may, my starting point for my contribution today, Mr. President, would be to look at the Act itself and to remind us from whence we came.

We had, in fact, made smoking in public places and in certain enclosed areas illegal, and that included public transportation, terminals, workplaces, bars and restaurants, clubs, cinemas, sporting facilities, et cetera. I do not think, having grown up, you know, in the '80s as a teenager and having visited clubs and discotheques and so on, as a teenager, I did not think that you could really legislate for Trinidadians and Trinbagonians to actually stop smoking in public places. I did not think it was possible, because I used to lime in Red Parrot in Grand Bazaar, [*Crosstalk*] and at the time, from the minute you enter, the smoke

hits you, and you either became immune to it or you became seduced and intoxicated by it, so much so that you did not notice it anymore, but it was an accepted feature of liming in the nightclub. And Trinidadians, Trinbagonians, will light it up and puff it; no one thought that that could change.

And I am very pleased to say that since Parliament made that important strategic social intervention that Trinbagonians have in fact responded, and it is a classic example of how the Parliament exercises a moral and social responsibility and responds to a social problem, and its intervention makes a difference. It is in fact the best example of how law influences human and social behaviour, and it in fact forces change. It is the best example—[*Desk thumping*—]of that.

Another recent example of this—[*Interruption*—]would be the drunk driving laws. With the kind of arrests and prosecutions we have been seeing, we are already witnessing that people are beginning to say, “Have a designated driver”. Even in the entertainment industry, responsible artistes are now on stage admonishing their own patrons and followers to say, “Make sure you have a designated driver”. It is interwoven into the act itself to carry the message to appear and to make yourself out to be a responsible artiste who cares about his own patrons and followers. So these are two examples of how Parliament can pass laws that can make a strategic, definite intervention that can prompt change in human behaviour, and in the society as a whole.

The other prohibitions, and there were many, related to the sale; for example, we prohibited the sale of any sweets, snacks, toys or other non-tobacco items, or objects in the form of tobacco products which imitate tobacco products. I remember when I was in primary school—I went to Reform Presbyterian School—and the most popular [*Crosstalk*] snack, by the lady who used to sell, was “cigarette sweetie”.

**Hon. Senator:** “Cigarette sweetie.”

**Sen. The Hon. A. Ramlogan SC:** It was long, white and it had a pink tip.

**Hon. Senator:** Filter.

**Sen. The Hon. A. Ramlogan SC:** Which was the filter. Yeah. And every child would want to buy a pack of “cigarette sweetie”, and the reason for that is because the child wanted to emulate, subconsciously, the father or the brother in the home who actually was a smoker. So that to buy the “cigarette sweetie”; it was an immediate way of establishing your manhood and your psychological connection with your father or your brother who was a smoker in the house.

*Tobacco Control Regulations, 2013*  
[SEN. THE HON. A. RAMLOGAN SC]

*Tuesday, December 10, 2013*

In fact, smoking was something that was a hallmark and a feature of masculinity, of manhood, so that that is why the “cigarette sweetie”, ironically, it induced you into wanting to have a cigarette in your hand and your mouth even from primary school—even from primary school. So by prohibiting that, “cigarette sweetie” is gone. You no longer have it. And, of course, we went further to deal with questions about the sale of tobacco in a manner that is not approved by the Act. It is a double-edged sword; we did not just target the manufacturer of making it, we targeted also the person who uses it or purchases it, and the person who sells it.

Section 24(1) states that:

“All tobacco products shall contain, permanently affixed on their packages, messages as prescribed by Regulations.”

So that the law in the substantive Act envisaged that the products will contain, permanently affixed on their packages, messages prescribed by regulations, and the messages must be given the widest possible scope and ambit in its interpretation. In section 24(3):

“No person may sell or supply any product, device...that can be used to cover, obscure, mask...or”—alter the message.

So that the message must be conspicuous, it must be visible and it must be something your eyes will easily fall upon it. You cannot have any false or misleading advertising, and you cannot have anything to suggest or imply that exposure to smoke is not hazardous or less hazardous. And even if you have a multiplicity of layers in the packaging, because, you know, some people now, they try to “sexify” the pack of cigarette by having multiple layers of packaging. So you rip out the little plastic and then you have—in the pack of Benson & Hedges you will have the gold paper; you will open it and inside you have a different colour paper. But there are many enterprising, innovative methods that have been used to make it appear to be more classy, more modern and more sexy.

That Act was passed with a constitutional majority, as I indicated, and it was done so, Mr. President, because the Act interfered and collided with several fundamental human rights guaranteed by sections 4 and 5 of our Constitution. To start, it interfered with the right to life, liberty and enjoyment of property. When you ban smoking in certain areas, prohibition and sale to minors, prohibition of self-service sales, prohibition of sales of tobacco products in certain places, and so on, the argument was that that infringed someone’s freedom and liberty to use one’s property as they see fit.

The intellectual property rights and the potential earnings of the manufacturer; the tobacco companies were saying that you were interfering with their own rights. They have an intellectual property right to this product and they should be able to market it, package it, as they deem fit. So you were interfering with their intellectual property rights, which in itself, is subsumed under the property rights of section 4(a) of the Constitution. The restrictions and the prohibitions on advertising, they struck at the heart of the right to freedom of expression, and, therefore, it was said that you should not unduly restrict freedom of expression by telling them what they could put on the cigarette pack, how they should put it, and what are the restrictions.

So it was because of the interference with those fundamental human rights, guaranteed and enshrined in our Constitution, the Tobacco Control Act was passed with a special majority in this Parliament. Now, I say that because when we come to some of the arguments which have been raised, and I want to say for the record, of course by sheer coincidence, some of the arguments that have been raised mirror the concerns raised by the tobacco industry.

In fact, it was late yesterday afternoon, Witco wrote a letter to the hon. Minister of Health, and in that letter they made the point that some of the regulations they will like to contend are ultra vires the parent Act. And some of the points they have made have in fact been repeated here today, of course, by coincidence. And I will in fact address those points—[*Crosstalk*—and deal with them one by one, so that we can get past these hurdles that have been raised.

But permit me, before I do so, Mr. President, to at least touch on one matter raised by my colleague, Sen. Drayton, who last spoke. She made the point, and I thought it was a very good point, to say that in regulation 5(5), that it prohibits the manufacturer, if they so desired, from putting a warning on the cigarette box. Now, regulation 5(5) states:

“No statement relating to smoking or health, other than that prescribed in Schedule 3, shall be included in or on any pack or carton.”

And Schedule 3 of course has the following declaration:

“Smoke from this product contains extremely addictive nicotine and toxic substances such as tar and carbon monoxide. No safe level of consumption exists for this product”

So that that is the only messaging that is permitted.

*Tobacco Control Regulations, 2013*  
[SEN. THE HON. A. RAMLOGAN SC]

*Tuesday, December 10, 2013*

The point made by Sen. Drayton is that by restricting it to this specific message, which must be on their cigarette box, you have now, ironically, prohibited the manufacturer, if it so desired, to put a responsible message, for example, “Do not sell to minors under the age of 18”. In theory, it sounds fine, but in reality it makes no sense, with the greatest of respect. And I say this because, the day you find me, a cigarette company, that will want to put anything on the cigarette box or the cigarette carton, to tell its own consumers that you must not purchase it or you must not sell it, is the day I will come back to this Parliament, apologize and amend these regulations. Let us be frank about it.

The likelihood and the possibility are so remote as to be fanciful, if not downright frivolous. No cigarette manufacturing company is going to want to print on its cigarette box any warning to warn anybody, “Doh buy it. Doh sell it and doh use it. It ent happening.”

**Hon. Senator:** Voluntarily.

**Sen. The Hon. A. Ramlogan SC:** Voluntarily. So that is why I think—  
[*Interruption*]

**Sen. Maharaj:** “Dey coulda do it already.”

**Sen. The Hon. A. Ramlogan SC:**—whilst in theory, it does not admit to the possibility of the cigarette company putting something that could be socially responsible, I beg to differ and say, I posit for the consideration of this Parliament, that it is better that the law mandate a precise message and bar you from putting anything else. Let us get to the root cause of it. Let us say, as the declaration says, without giving any room for latitude or flexibility, that:

“Smoke from this product contains extremely addictive nicotine and toxic substances such as tar and carbon monoxide. No safe level of consumption exists for this product”

If you put a warning: “Do not sell this to”—assuming a cigarette manufacturer will really want to put on the cigarette box—“Do not sell this product to children under the age of 18”; you know that runs afoul of this. You know why? Because it carries the connotation and the implication that you could sell it to somebody over the age of 18 and “it go be okay”. You cannot sell it whether they are under 18, above 18, “belowneath”, underneath, however you want to put it. The point is, regardless of who the consumer is, the effect is the same.

**Hon. Senator:** All is bad.



**Sen. The Hon. A. Ramlogan SC:** And that is, it is bad for your health.

So I beg to differ with my colleague on that particular point, and I would prefer to rest and err on the side of caution to say that the Government prefers that there is a clear, explicit warning and that it is mandatory and compulsory.

The second point, which I thought was a good point, raised by Sen. Drayton, had to do with the point that the dispenser does not in fact contain a warning. And she made a very powerful point. She said, “Well, look, when the man buy the cigarette, he done buy it. He opening the pack not to read anything”. And we all know that as a fact. “Yuh eh opening the pack to read nothing, yuh opening the pack to pull out ah cigarette an smoke.” And she said that the display, the dispenser, perhaps, should have a warning, and I thought it was a very good point, and I looked at the regulations.

**5.30 p.m.**

The difficulty is of course in regulation 9, sub-regulation (3)(b). It says the following:

“A cigarette dispenser shall—

(b) depict the health messages as set out in Schedule 1 and rotate them in accordance with Schedule 2.”

When you turn to Schedule 1, you see all the graphic, lurid images. So it is already provided that the dispenser will in fact contain the very thing that the hon. Senator had hoped it would contain, and therefore that point falls by the wayside.

It brings me next to the point raised by the goodly Sen. Baldeo-Chadeesingh. Her concern was posited on the lotto vendor, and she kindly and politely read for us about the fact that she went to the temple, had gone to purchase a doubles after and she saw a man with a cigarette in his ear and one in his mouth in Fyzabad. [*Laughter and crosstalk*]

The consistent theme throughout the contribution, which started with a bit of a political dissertation about how happy she was to be appointed as a Senator, as a member of the People’s National Movement, [*Desk thumping*] for which I warmly congratulate her and welcome her to the Chamber—but the point is that in so structuring the contribution and making it the concentric point being the lottery vendor and the concern for selling the individual cigarette, it sought to cast some criticism on the regulations by not paying attention to the social implication of requiring that there is some restriction on the sale of the individual cigarette. Correct? Yes.

*Tobacco Control Regulations, 2013*  
[SEN. THE HON. A. RAMLOGAN SC]

*Tuesday, December 10, 2013*

The only difficulty and flaw in that premise, of course, is that the regulations did not do that. It was in fact the great party to which she belongs that did that, when they brought the Tobacco Control Act, and I shall take you to section 31 of that Act, which is not the matter for debate today, but the regulations.

Section 31 of the Act which was passed under that regime in 2009, reads as follows:

“Smoked tobacco products may be sold as individual units provided they are individually labelled as required.”

**Sen. Lambert:** Who passed that?

**Sen. The Hon. A. Ramlogan SC:** So the point is, section 31 of the Act is what created the problem that she alluded to in error as being created by the regulations. It is the parent Act passed by a previous administration which—and quite rightly so in my view—singled out for specific attention the question of what we know in local parlance to be a retail cigarette. They targeted it because if you—we all know Trinbagonians are very clever and very enterprising people. If you target the pack and the carton but leave the retail cigarette out, you know what will happen. They will open up every carton, every box and start selling it retail. So instead of buying a pack with 24, you will buy 24 retail in loose form, thereby circumventing all the restrictions.

The point is though, when Parliament passed section 31 and said that these individual units would be individually labelled as required, I do not think that the Government which then housed the party to which you belong, took on board your point about if the old lady would be sitting wrapping each individual cigarette with brown paper or white paper. Maybe you were not there to give them the benefit of that wisdom. [*Laughter*] What they did provide is that you could sell retail cigarettes and it must be individually labelled.

The concern by the goodly Senator is: who will do the labelling? I took it for granted when I read it that the labelling would have to be done by the manufacturer, because when you travel duty-free or you travel to countries where they have it, you would see that you buy a cigar, it is individually wrapped, it is individually labelled, but it is done so by the manufacturer. In fact, the box itself that permits it, they wrap it. It is pre-wrapped. Sen. Baldeo-Chadeesingh made a very important point. She said, “Well look, there are hygiene issues related to this.” So I agree with her, and it did dawn on me that, “Look, if the law which was passed did not make it clear as to who will in fact be the person responsible for wrapping, I think the Senator made a very valuable point.”

The point is this: if you want to take the risk to buy the retail cigarette and it is wrapped by the same lotto vendor, who has no access to washroom facilities, who may have scratched the wall, [*Laughter*] then you do so at your own personal risk and peril, Dr. Wheeler. [*Laughter*]

So when you decide to take that cigarette, individually wrapped as it is, and put it in your mouth, well then you know— The point I am making is, I think when Parliament passed this law in 2008/2009, I think they intended for it to be difficult. They wanted to make it problematic. They wanted to make it problematic in recognition of the fact that the small man—just like you have the small lady selling the lottery, and yes you are right they sell a variety of things: power mints and whatnot—but in the same way that they wanted to protect those above who could buy a carton and so on when they are going through duty-free, they wanted to protect the small man too, because they know what he would do. He would go and spend “he money” buying a retail cigarette. I think that they meant for it to be difficult, and I think that is why the law in the parent Act provided for individual labelling of cigarettes, if you are going to sell retail cigarettes. That is in fact the response I give to that point.

Mr. President, we are in a very terrible situation when it comes to the question of tobacco consumption. In *The Economist* magazine, they published an article and it was replicated in the *Express* newspaper. It said on June 04, 2013:

“1,053 cigarettes smoked per person...”

Trinidad and Tobago ranks top 10 in increased consumption in the world—in the world. Can you imagine that Trinidad and Tobago in terms of tobacco consumption ranking among the top 10 in the world, 1,053 cigarettes per person?

**Sen. Ramkhelawan:** Per year?

**Sen. The Hon. A. Ramlogan SC:** Yes, per annum. When you look at those statistics and you see that we are placed in the top 10 in the world, you realize the enormity of the problem, and we need to do something about it. I mean, let us be frank, this problem crept up on us.

“When yuh small and yuh grow up in de countryside, when your fadder want a cigarette, is you he sending, yuh know. Is de lil’ chile. You ha’ to go in de parlour or de rum shop and buy de cigarette. I know because I grow up in a rum shop. We had a rum shop. Is all de lil’ fellas in de village coming to buy de cigarette, and if dey want it retail, so be it.

*Tobacco Control Regulations, 2013*  
[SEN. THE HON. A. RAMLOGAN SC]

*Tuesday, December 10, 2013*

When you have a smoker in the house, and he wants to out de cigarette—dem fellas, is part of de masculinity of de ting, dat dey doh just put it out so. Dey does have to flick it. It have an art in dat to flick the cigarette and it pitch so. [*The Attorney General gesticulates*] But if dey inside de house and it eh ha' no window to pitch that through, dey calling you to carry it and throw it out. So when de lil' fella come to take de zout and he go outside to carry the zout, wha yuh tink he doing? Yuh tink he really outing that first?" [*Laughter*]

**Sen. George:** "He taking a little draw first." [*Desk thumping*]

**Sen. The Hon. A. Ramlogan SC:** "Dat lil draw, dat is where de long journey towards an unhealthy lifestyle begins, driven by tobacco consumption. It is driven the minute you send de chile to buy the pack of cigarettes in the rum shop for you, and it is furthered, it is reinforced when you give him de zout to go and out it for you, because he take a drag."

"In fact, there was one fella in we village, de fadder had poured some kerosene in the outhouse to take care of the—you know—[*Laughter*] yeah, the vermins and the worms and so on—and poor fella go and he light up, and he continue puffing and then he do so, and you hear 'kavoom', and de poor fella fly up in de air." [*Laughter*] He got a very good roasting, you see. I make that point to introduce one of the hazards of smoking, which I will come to in a bit, as it relates to fires and explosions. [*Crosstalk*] I will move on from the point about the roast nuts. [*Laughter*]

Mr. President, you see, as a Parliament we have to balance the rights of the citizens and the young people against the right of the tobacco manufacturer, whose sole aim must be to maximize profits. It is a capitalist economy. We also have our international obligations. Trinidad and Tobago signed the FCTC Treaty on August 27, 2003, and we were the first in the Caribbean to ratify it on August 19, 2004.

I dare say that in everyone's family they may have had a consequence of smoking. I know for myself, my father used to smoke Broadway, and I lost my father at the young age of 64, and it had to do directly with smoking because the addiction to the Broadway was so bad that it was like medicine. I also lost a brother at age 47, who was also a heavy smoker. So these regulations touch me at a very personal level. I dare say there are many of us who sit here in this Chamber who could relate to that kind of experience.

So when we look, for example, at the profit margin for Witco, which I think Dr. Wheeler and other Senators, perhaps Sen. Baldeo-Chadeesingh and Sen. Avinash Singh referred to, without quoting the profit figures, I want to quote the profit figures. In the year 2008, profits before tax for Witco was \$282.3 million; 2009, it

went up to \$353.7 million; from \$353 million it then went in 2010 to \$372 million. In 2011, consistent with the statistics and the empirical data, for the first time in the country's history, Witco, the manufacturer of cigarettes in this country broke that psychological financial threshold and barrier of reaching over \$400 million in profits—\$402 million to be exact.

In 2012, when you thought it could not get any worse, Witco declared profits before tax of \$476 million. In that five-year period, the profits increased over 56 per cent. So that while profits are going up, the social cost is also going up to the taxpayer, but there are a lot more bodies being lowered into the grave.

How does that clever strategy to increase profits, weave itself into the social and moral fabric of our society? Mr. President, one of the major situations that continues to taunt and haunt people who want to pass legislation against smoking and tobacco consumption is the will—the almighty will and power of the tobacco industry and their lobbying capabilities worldwide.

When you look at how they infiltrate and penetrate a society and the social structure of the society, one can demonstrate it by looking back at our own history in Trinidad and Tobago. “Yuh grow up knowing ‘bout what?” Witco Desperadoes, steelpan. “Yuh” grow up knowing about the sportsmen you idolize from Intercol days in secondary school go up—Witco sports awards. So cigarette is immediately associated, not just with masculinity, but athleticism, Witco sports awards. [*Desk thumping*]

**5.45 p.m.**

Everybody wants to be like, you know, the big sportsman who they idolize and worship and glorify, they know that he is posing for Witco. [*Interruption*] Then you have the more masculine and the more elite, Du Maurier Great Race. What happens after the great race? What is it characterized by? Sexy women posing in—bikini clad women—[*Interruption*]

**Hon. Senator:** Nice thing. [*Laughter*]

**Sen. The Hon. A. Ramlogan SC:**—posing up with the guy who wins the Du Maurier race, and the Du Maurier sign is all over the place.

**Hon. Senator:** Plastered.

**Sen. The Hon. A. Ramlogan SC:** And then you go, of course, to the fact that Witco even own their own sports and recreation ground, one of the best in the country that they had, Witco Sports and Recreation Ground. [*Interruption*]

*Tobacco Control Regulations, 2013*  
[SEN. THE HON. A. RAMLOGAN SC]

*Tuesday, December 10, 2013*

Then at the University of the West Indies, they started sponsoring guest lectureship series, and they started sponsoring Indi Fest, and then to make matters—this one is really the killer, they turned out to be one of the main sponsors of the Trinidad and Tobago Cancer Society.

**Hon. Senator:** Oh, my God. Literally.

**Sen. The Hon. A. Ramlogan SC:** The Cancer Society of Trinidad and Tobago, Witco was one of their main donors. So, these people are very clever.

**Hon. Senator:** They are killing you silently.

**Sen. The Hon. A. Ramlogan SC:** They come at you from every conceivable angle and they infiltrate and penetrate the social fabric and the power structure such that they own you. You become their alter ego; politically, socially and morally.

**Hon. Senator:** Purchase your opinion.

**Sen. The Hon. A. Ramlogan SC:** They sponsor everything: Despers; the Wes Hall Youth Cricket League, Witco sponsored it; Broadway 40 overs competition. I had brothers who used to play in that. If you ever smell Broadway, it is the worst thing, but Broadway 40 overs competition, and they used to give out free packs. “Half time yuh charge up with ah Broadway.” [*Laughter*]

Benson & Hedges [*Interruption*] the region youth cricket tournament; [*Interruption*] Benson & Hedges Premium Stakes, first ever sponsored in the horse racing industry; Broadway Bells for Fillies only, and the list goes on and on. The largest corporate sponsor for social and cultural activities would have been the tobacco company, a manufacturer, Mr. President. And that is why what we are doing here today, as a Government, is so monumental, so historic and so significant, and it demonstrates hard, gritty, steely determination on the part of the Government to deal with this problem, come what may. [*Desk thumping*]

Mr. President, it was on May 31, 2012, that the Trinidad and Tobago Cancer Society formally blocked the tobacco industry from funding and making any donation and this is what they said:

“As the tobacco industry in Trinidad and Tobago continues to infiltrate and influence charities in an effort to buy the goodwill of the national community, the TTCS chairman Dr. George Laquis assures the public that this level of tobacco industry interference will soon find formal opposition of the society. Although—the “law allows”—Witco—to silently fund and donate money to

organizations and sponsor events, Laquis has questioned why any organization would accept contributions from a company that produces a product which “knowingly kills millions and leaves countless others to suffers”—he says, Dr. Laquis—“there are no circumstances under which it is appropriate to collaborate with or take money from tobacco companies. The tobacco industry has been getting away with promoting its name”—“and indirectly, its products by sponsoring various events and community activities,”

He says in conclusion:

Witco spends millions, on average 12 or more, on advertising and social sponsorship in an effort to mask the dangers of its product by gaining support of the public through purchasing their goodwill and they will no longer allow it.

And that was the end of that.

Mr. President, we then came after that announcement, we then saw that others started following suit in our country. In fact, the minute they were blocked there, it is like water, they find another place to run. So, what happened next? Notwithstanding the law that we passed, Witco came out with a special Carnival edition of their cigarette packets in 2012—special limited edition. That is another thing, you know, “it always ha’ limited edition. We is the only country in the world that does have unlimited, limited edition in everything.” [*Laughter*] But they had a limited edition for Carnival and, of course, you are trying to match now psychologically and subliminally the cigarette with the Carnival, which we all know is beads and sexy girls and so on. So, again, there is that subliminal attempt.

Now, George Laquis came out—to whom this country owes a great debt of gratitude, Dr. George Laquis, who has been really driving this and others before him, of course, but the Trinidad and Tobago Cancer Society deserves our praise, our recognition and we must congratulate them for all that they have done. [*Desk thumping*] Dr. Laquis stated that Witco’s use of Carnival images on its cigarette packets was in contradiction of the Act by exposing minors to any lifestyle advertising, supposedly geared at adults or to promote its sponsorship of any activities.

I turn now to the social cost to the taxpayers. Mr. President, Maggi Fox in an NBC news item entitled, graphic anti-smoking ads, helped 100,000 kick the habit for good, according to the Centre for Disease Control in the United States of

*Tobacco Control Regulations, 2013*  
[SEN. THE HON. A. RAMLOGAN SC]

*Tuesday, December 10, 2013*

America. This is a point made by Sen. Drayton that the advertising and the packaging does not prevent and does not deter. That is not correct at all. All of the empirical research shows that in countries where they have done what we are about to do, it has had maximum impact and it has made a difference. That is what the research shows.

The Centre for Disease Control in the United States of America says tobacco use remains the leading cause of preventable death worldwide, causing nearly five million deaths annually. For individuals, smoking shortens life expectancy by more than 10 years, whereas adults who quit before the age of 45 regain almost a decade in life expectancy. It says cigarette kills 440,000 Americans a year and tobacco use costs \$96 billion in direct medical cost and \$97 billion lost in productivity.

I dare say if you extrapolate the figures, for Trinidad and Tobago's economy, we will find that the percentage is likely to be similar. In fact, it may be more given that we are in the top 10 consumption per capita.

In Great Britain, in an article written in the *Daily Telegraph* by Rebecca Smith, Medical Editor on March 18, 2010, she says the "total"—of—"£2.7 billion of NHS care"—that—"£2.9 billion"—and these are pound sterling—"lost in productivity during smoking breaks..." You see, they have analyzed it down to the very minute details, that if you smoke, when you are working—a smoker needs to take a break. So every hour at minimum they are outside the office, somewhere, taking a "lil" pull because the system needs the nicotine, and when you extrapolate that into the loss of productivity and you add it to the amount of money you spend on health care, it is a significant amount of money, Mr. President. A significant amount of money:

"Lost productivity"—in the United Kingdom—"due to death of smokers and passive smoking victims cost £4.8 billion and £2.9 billion is lost in increased absenteeism..."—she says.

But what really revolutionized and acted as a catalyst for this race against tobacco use? I think it had to do with the medical research which came out to show that the smoker is not simply harming himself, but the effects of second-hand smoke harms everyone around him. Prior to that, you can posit the constitutional arguments on the basis that the right of the citizen to maximum liberty is a recognized political ideology and constitutional philosophy, but when you have research which demonstrates that it is not about the individual anymore, but it is about those innocent persons who are around them and the effect, the deleterious effects of second-hand smoking, then the Parliament and the nation's conscience had to be shocked into action, because



you are harming innocent children. “Yuh harming them from the womb in its embryonic stages and yuh harming those around you. So my father did not know that he harming all ah we in the house when he smoking, but he was, and every smoker does.” And do not think that you can go outside, smoke and then pat out your clothes and come back in. Once you come back in, everybody knows you went to smoke. Your finger, your breath, your clothes; it stays. Everyone knows.

That is why we need to have—I agree with Sen. Drayton, we have to have that education campaign. We need to make young ladies in this country know that they should not be even going around with smokers. “Don’t want ah boyfriend who smoking, he smelling stink; he mouth go smell stink; doh leh him kiss yuh, he hand stink, doh leh him touch yuh.”

**Hon. Senator:** “Yuh right!” [*Laughter*]

**Sen. The Hon. A. Ramlogan SC:** That is where the campaign needs to go and I use graphic language to match the graphic images we are about to put on those cigarette packs. [*Desk thumping*] “Because when yuh see the man foot with gangrene and yuh see the gum with all de teeth that we putting on dem cigarette pack, well if ah young girl really goin’ with a fella, heading down that road, well, you know, she need to have she eye sight checked.”

But the US National Cancer Institute dealt with this issue and they said second-hand smoke, environmental tobacco, involuntary smoke or passive smoke as they call it, they say at least 69 toxic chemicals are inhaled by the second-hand smoker. Sixty-nine toxic chemicals. They say second-hand smoke causes lung cancer in non-smokers, and they say second-hand smoke has been associated with heart disease in adults, sudden infant death syndrome, ear infection and asthma attacks in young children and they conclude there is absolutely no safe and acceptable level of exposure to second-hand smoke. So, I think that was the political and social catalyst that really created a galloping legislation towards where we are now, the world over.

Mr. President, I had alluded earlier today to the guy in the outhouse who inadvertently started a fire and so forth. You know, in Trinidad and Tobago, you would not believe the amount of fires that are caused as a result of cigarettes. In the *Trinidad Express* of August 28, 2013, “Richard Jagroop from Penal, 61 years old, falls asleep with a cigarette, bun down the house, get first degree burns and so on.” Trinidad and Tobago Fire Service—in the *Newsday* of March 18, they say they received 2,400 calls to the fire service, but they say and I quote:

*Tobacco Control Regulations, 2013*  
[SEN. THE HON. A. RAMLOGAN SC]

*Tuesday, December 10, 2013*

Throwing lighted cigarette butts out of the windows of vehicles has been identified as a major source of bush fires along the roadways and highway.

So, when “yuh driving and you see dem sudden clouds of smoke billowing” and you want to know how this fire start, it is because somebody threw a cigarette zoot outside the car. That is what happens.

Now, cinematography has contributed in no small way, Mr. President, to the sharp influence on the young minds on cigarette usage. Whether you like Indian movie, whether you like western, whether you like action and thriller or horror, cigarette use by the star boy and star girl is always spliced into the picture and that is a fact of life that we have to address.

In fact, in India, the Indian Broadcast laws now mandate that if a star is going to use a cigarette at any point in time; in fact anyone, star or crook—[*Laughter*] Right!—Shahrukh Khan or Mehmood, whichever you prefer. [*Laughter*] Kumkum or Prang. [*Laughter*] They will have to now flash a warning image across that for the duration of that scene to warn you that cigarette use is bad for your health, throughout the duration of the scene.

Now, that is necessary because India has one of the highest tobacco consumptions per capita in the world, perhaps, but the Asian countries, when you do the research, they seem to have a higher consumption rate, and I have not seen any research to link ethnicity to tobacco consumption. But it is a fact that when you look at China, for example—“I eh know of a single Chineese partner I have that eh smoking [*Laughter*] so I hope dey listening.”

So, the use of horrific shocking images in advertisements to bring home the raw truth and reality is now mandated in several countries and, of course, what is worrying is that you would notice from the research, how the tobacco companies have angled and changed course. First, they targeted the men, the male population—that was the first port of call—then they targeted, when that, we started attacking that and we started getting people who lost their throat and so on to talk, and people from sports and athletics and so on to talk out, they are then silently targeting the women. Today, the statistics show that there is a disproportionate increase, Mr. President, in cigarette consumption and tobacco usage by women as compared to men.

**6.00 p.m.**

**Mr. President:** At this point, Senator—the speaking time of the Attorney General has expired.

*Motion made:* That the hon. Senator’s speaking time be extended by 15 minutes. [*Sen. S. Ramkhelawan*]

*Question put and agreed to.*

**Mr. President:** Attorney General. [*Desk thumping*]

**Sen. The Hon. A. Ramlogan SC:** I thank you, Mr. President, and my colleague, Sen. Ramkhelawan from the Independent Bench.

**Hon. Senator:** “Yuh goin good, man. Yuh goin good.” Carry on.

**Hon. Senator:** “Yuh on zoot time.” [*Laughter*]

**Sen. The Hon. A. Ramlogan:** I am on “zoot” time, they say. [*Laughter*]

But, Mr. President, the point is that having targeted the male section in the society, they then went to the women, and you will see it because the sexy, modern, career-oriented woman is now pictured with the cigarette in the hand. In fact, it is now a mark of prestige and honour that distinguishes and separates you from the rest. “If yuh doh have ah cigarette in yuh han when yuh limin in Ariapita Avenue as a woman, well den yuh not wit de—yuh not ah in ting; yuh not wit de crowd. You is ah back-a-dey person. Someting wrong wit you. You cyar be drinkin an eh light up ah cigarette, man. People look dong on yuh now.”

So that is how they have turned—it has been convoluted and it is inversed now. It has turned on its head. Cigarettes are modern. They are portrayed as modern, empowering, career-oriented and liberating, classy and sexy and for the modern, educated woman and metrosexual. That is how they run it.

Mr. President, it is linked—the marketing campaign targeted women by linking cigarette use by clever themes such as, cigarette use is linked to social desirability. “Ah man go like yuh more if yuh so classy and sexy dat yuh light up a cigarette, cross yuh leg and siddong on Ariapita Avenue.”

**Hon. Senator:** Like Sharon Stone.

**Sen. The Hon. A. Ramlogan SC:** It is linked to independence. “Nobody cyar tell me what tuh do wit my body. I could smoke if I want. Forget mooma and poppa and mooma an fadda.” That is how the thinking runs.

*Tobacco Control Regulations, 2013*  
[SEN. THE HON. A. RAMLOGAN SC]

*Tuesday, December 10, 2013*

So it defines you as an independent person. It defines you as socially desirable. It is linked now in clever marketing themes to weight control. “If yuh want tuh lose weight, forget bout de gym, jes smoke.” [*Laughter*] And these are the kind of messages conveyed, “becor when yuh look at the models they use in de ads, is ah set ah slim, emaciated girls, looking real sexy an nice”. But that is the image: if you want to be like that, then smoke the cigarette.

**Hon. Senator:** Sexy and—[*Inaudible*]

**Sen. The Hon. A. Ramlogan SC:** That is what it is. But the research has shown that the model-type used in cigarette advertisements has changed over the years depending on which niche market they have targeted cleverly. So the woman has changed; the man has changed and they have been very clever in how they run the subliminal messages, Mr. President.

**Hon. Senator:** “Well de man have ah six-pack.”

**Sen. The Hon. A. Ramlogan SC:** “Yeah. De man have a six-pack, and de woman always slim. Yuh never see ah fat woman advertising and smoking ah cigarette yet.” Why? [*Laughter*]

So the smoking continuum, from initiation, experimentation to addiction—that is the smoking continuum: from initiation, “dah yuh fadda sen yuh tuh buy it and so on in de shop”; experimentation, “dah is when he give yuh tuh throw away de zoot;” and then the use stage that leads to addiction. That is the smoking continuum.

I come now, Mr. President, of course, we know—we have heard a lot about the side effects and I come now to the imaging and the regulations. The images we have used and the contention of the Tobacco Manufacturers—which they sent yesterday to us, by the way—suggests that, you know, the regulations are somehow ultra vires the provisions in the enabling statute, and that is Act 15 of 2009.

Mr. President, let us look at the relevant provisions, section 23 of the Act. It states that:

“No person shall sell, offer for sale, supply, import...any tobacco product that is not packaged and labeled in a manner that complies with the requirements of this Act and Regulations.”

It is very clear. “Yuh cyar” sell it unless it complies with the requirements of the Act and the regulations, and those requirements, and the Act of the regulations, on a purposive approach and construction to the statute: what is the mischief and the purpose of the law? It is to decrease tobacco consumption, to deter you from

smoking cigarettes and, if I may just set it out, this is what it does. It is to discourage people firstly from taking up smoking. Secondly, it is to encourage people who are smoking to give up smoking, and it is to discourage people who have given up and quit smoking to not start back, and it is finally to reduce the exposure to the persons who are around you who may suffer from second-hand smoke.

That is the intention, that is the purpose and that is the policy of the Act. You must judge the scope and ambit of the regulatory and subsidiary powers which flow from the parent provisions in the substantive law by reference to the context in which the Act was passed, and the mischief that it was targeting to prevent.

Therefore, when one looks at it against the backdrop of the purpose of the Act—and there is a very long preamble spelling it out—you will see, Mr. President, that section 23, all it is telling you is that “doh sell cigarette; doh buy cigarette” unless it complies with the regulations and the regulations are intended and designed to deter you from buying and using the cigarette.

And the question, therefore, for it to be ultra vires, we must ask ourselves the question: does this regulation, the image or the text, does it deter that person? Can it deter them on a reasonable construction? Or is it that it would encourage them? Anytime “yuh tell meh” it will encourage somebody, I will take it out. But if you cannot say that it will encourage them, but you will fall on the side that it will discourage them, then it falls squarely within the four square corners of the parent Act, which had, as its primary policy and objective, that we are to decrease tobacco usage and consumption across the board. That is the reality. [*Desk thumping*]

Now, Mr. President, we are not alone in so doing either. The United Kingdom has gone this route. The United States of America has gone this route. In fact, in the United States of America, in 2007, in the State of Florida, the Florida health department imposed graphic images and they found that since 2007, half a million people fewer were smoking; 70,000 fewer youths were smoking, and 222,000 youths were less exposed to second-hand smoke as a result of that decision. And all of the countries I have looked at, they are using the same kind of shock value—imaging and messaging—to get the point across because—[*Interruption*] Sorry? Senator?

**Sen. Ramkhelawan:** Thank you for giving way, Attorney General, and thank you for taking us through that sojourn from initiation to addiction. My burning question is: is the Attorney General of the firm view that the regulations as set out here, do not contravene the Tobacco Control Act or the Constitution?

**Sen. The Hon. A. Ramlogan SC:** And that is what—I am coming to that conclusion, but I am providing the reasoning. As I indicated before, it falls squarely within the purposive interpretation of the statute. Other countries have adopted

*Tobacco Control Regulations, 2013*  
[SEN. THE HON. A. RAMLOGAN SC]

*Tuesday, December 10, 2013*

this model. In fact, in Canada, the Canadian Tobacco Act requires warnings to be printed in English and French on all tobacco products, and a picture illustrating that warning accompanied by a picture of a human lung detailing the cancerous growths, must be on it. And Brazil is similar; India. We have many countries: Singapore; United States and so forth.

Now, these images that we are seeking to impose, the question is whether they encourage smoking or they deter. If they deter, then within the reasonable room for interpretation—if they deter, they fall within the confines of the Act, and the Act was passed with a special majority, and we do not have a problem. I want you to bear in mind one thing. When that Act was being passed, the same Witco that “write” that letter, is the same Witco that created a big furore saying, “Wait, the Act itself will be struck down as unconstitutional, you know”. They said it is not reasonably justifiable in a functioning democratic society with respect for rights and freedoms.

So every time you are about to pass legislation, expect the tobacco industry and the lobbyists to come and say, “Something wrong with it—something wrong with it”. You know what “dey doh tell yuh is if dey doh agree wit what yuh doing, what yuh should do to accomplish de aim”. Nobody says that. But I want to put it on the record that you will see on the *Hansard*, when this matter was debated—when the Tobacco Control Bill was being debated—you will see that the very same issue was raised about it cannot be constitutional; it is infringing on the rights of the manufacturer and the corporation and so on, and it “go be challenged; it go fall dong in court”.

I am not God. I cannot predict what will happen if a legal challenge ensues, but my opinion in this matter, based on—I have asked the Chief Parliamentary Counsel, Senior Counsel, Mr. Ian Mc Intyre to look at it; I have asked three separate lawyers in that department and in the Ministry of the Attorney General, all of whom are national scholarship winners; one of whom is an open scholarship winner, and very, very brilliant people. We have very, very bright people working in the State, and they have all come to the reasoned conclusion that it is constitutionally valid and proper. It is a view, having read their research and their opinion, with which I concur, Mr. President, and I say that for the record.

I come now to actually deal with some of the points made by my colleague, Sen. Camille Robinson-Regis, whom I extend again warm welcome to the Senate. The first one with the foot crushing the cigarettes, I think you made reference to it to say, “Well, look, it might not have been a health message”. I think the idea was to give the image of someone stamping out the habit by having the foot crushing the cigarettes into the ground, with the words: “Warning: quit smoking now”, and with a “big toe, wit ah toe nail” emblazoned with the “Don’t smoking sign”.

The second one with the ageing which Sen. Ramkhelawan, for personal reasons, raised, [*Laughter*] that one, it is the very—[*Crosstalk*] He knows I am teasing him. He raised it because, obviously, he has discovered the fountain of youth. [*Laughter*] And in this one, I say that the image is taken—it is exactly the same image that they use in Brazil—exactly the same image.

In the one warning: “Your smoke may kill your children”, I found it is a little—“yuh know”, it could have been more graphic, quite frankly, because you are dealing with children. In New Zealand, what they have is a child with a mask on, on the face, struggling to breathe. That is how graphic it is in New Zealand.

The one with impotence, I think was raised, and I want to say that that one I had cause to check it out because, I mean, I took on board the point made by Sen. Robinson-Regis, but it is the exact same image that they use in New Zealand—the curved cigarette. And, really, all it does is to convey the question of erectile dysfunction and impotence through a metaphor and through an image. That is what they are doing, and I think it is a very clever way of doing it, and the message will hit home with the words: “Smoking causes impotence”.

In fact, in Brazil, if you want to know—in Brazil, the image is actually very, very graphic. It is a picture of a naked man with a hand in front of his private parts with a thumbs down. So it is actually more graphic.

**Hon. Senator:** No action.

**Sen. The Hon. A. Ramlogan SC:** So that we could have just as well gone that route to print it.

**Hon. Senator:** “Nutten doing. Nutten doing.”

**Sen. The Hon. A. Ramlogan SC:** No action, the Minister of Communications says. [*Laughter*]

Then, of course, we had the one warning: “Smoking causes stillbirths”. We have, you know, a picture of a foetus. In Brazil, they actually have a stillborn foetus—a full grown foetus—and they have it on the floor and they have it in a particular colour—it is discoloured—to indicate the extent of it.

Then we come to the one with poison, and we have the skull in it. I think, what that does is, it lists on either side of the skull the harmful ingredients in the cigarette and in the nicotine, and I think that conveys the impression very clearly.

The one with the foot, with the gangrene, that is deliberate but it is the same everywhere that I have looked—in New Zealand if you look. The one with the teeth and the gum disease, in fact it is worse in some countries. The images are even more graphic.

*Tobacco Control Regulations, 2013*  
[SEN. THE HON. A. RAMLOGAN SC]

*Tuesday, December 10, 2013*

So that I dare say, Mr. President, that these regulations and the graphic images, they fall squarely within this Tobacco Control Act that spawns these regulations, and the parent Act clearly embodies and embraces regulations of this kind that are designed to fulfil a specific legislative objective, and that is to deter persons from using tobacco and stop smoking cigarettes.

Mr. President, I think the Government ought to be commended for bringing these regulations and for withstanding the onslaught of the powerful lobby that goes on in the tobacco industry, and the Government stands firm and will say to all and sundry in this country, that we are proud to have a smoke-free environment in Trinidad and Tobago and this measure will go a long way towards promoting a healthy lifestyle in Trinidad and Tobago.

I thank you for your—[*Desk thumping*]

**6.15 p.m.**

**Mr. President:** Sen. Hinds.

**Sen. Fitzgerald Hinds:** Thank you very much, Mr. President. I thought that perhaps for the first time the Attorney General made a fairly decent contribution this evening. [*Desk thumping*]

**Sen. Ramlogan SC:** But you say that about 50 times already, yuh know, Fitz.

**Sen. Maharaj:** You say that when you gone?

**Sen. F. Hinds:** Mr. President, I want to begin by very sincerely, without a tinge of bias or so, congratulate my colleagues on this side, who entered the Parliament today and who made their first contributions [*Desk thumping*] since our last sitting I took my leave, and I feel very proud at what I saw here today. I feel blessed to have been here today to witness—[*Interruption*]

**Sen. Ramlogan SC:** We beg for you to come back out.

**Sen. F. Hinds:**—the birth and the green shoots of the PNM which we have seen proudly here today. I want to congratulate them. [*Desk thumping*]

**Hon. Senator:** They shoot you down.

**Sen. F. Hinds:** Mr. President, the Attorney General—I found myself agreeing with some elements of his contribution, but I have at least two disagreements, one not as significant as the other. He said that the manufacturers are now targeting “classy”, and to use his word, not a word that I would like to use here on my own volition, but “sexy”, “fine” women and so on, and to portray their images and



these are the women who they get to smoke, and there is a disproportionate amount of women smoking. Well I could tell the Attorney General, I know one who does not fit that description who smokes and he knows her too. Mr. President—[*Interruption*]

**Sen. Maharaj:** That is why they get rid of you, you know. [*Laughter*]

**Sen. F. Hinds:** I did not call any name. I heard Sen. Devant Maharaj responding. Like he thinks he is the person I am talking about. It is not you on this occasion. It is not you on this occasion.

**Sen. Maharaj:** “Ah see why they get rid ah yuh.”

**Sen. F. Hinds:** Last week we spoke about CNG, and the Minister of Energy and Energy Affairs boasted that the Government would lead by example: all state vehicles, buses and so on would now be made to operate by way of CNG rather than the gas and diesel. I think on this matter too, the Government should do the same. My colleague, Sen. Robinson-Regis, she pointed out that they were impotent, and the Attorney General said a while ago that smoking leads to impotence. I have come to the conclusion on the basis of their two submissions that “de whole Government does smoke.” [*Desk thumping*] Logical deduction.

But I have a fundamental difference with the Attorney General here. I was really hoping—because I agreed with some of the things he said—that he was going to tell us today—because really, he argued the case for an out and out ban on smoking, and the manufacture of the product and the distribution of the product, but he did not have the courage to go as far as to say that. So he grits his teeth today and told us that the Government is going this way, and they stood up against the might of the tobacco lobby and all kind of sound and fury. But I want to submit to the Attorney General, that if his words are to ring true, he should be telling us today that the Government’s position—

**Mr. President:** Sen. Hinds. Sen. Maharaj.

#### PROCEDURAL MOTION

**The Minister of Food Production (Sen. The Hon. Davant Maharaj):** Mr. President, in accordance with Standing Order 9(8), I beg to move that this Senate continue to sit until the conclusion of this Motion.

*Question put and agreed to.*

#### TOBACCO CONTROL REGULATIONS, 2013

**Mr. President:** Sen. Hinds. [*Desk thumping*]

**Sen. F. Hinds:** Thank you very much. And he give us the impression that the Government has stood up against the lobbying, and when you come to pass law you could expect them to come in—sound and fury, you know. The Government is passing no law today. They are complying with a law that we passed since 2009, [*Desk thumping*] and they are belatedly producing regulations to support the structure of the law that we had put in place since then, after three and a half years. That is the point. But anyone listening to the Attorney General will take it that they are passing some law.

They are doing nothing, and the fundamental issue I take with him, is that I was expecting him, based on the sound and fury like a spinner who take a long run up, thundering down the road like whispering death and then deliver a meek little, a sweetbread as we call it, a long hop or some kind of thing. I thought he was going to tell us that the Government's position is a paternalistic one, and that we will protect the citizens against the vicious lobby that he described. But he does not have the fortitude, nor does his Government have it. So let me proceed.

**Sen. Ramlogan SC:** Boy, you here for one day. Talk with some sense. [*Laughter and desk thumping*]

**Sen. F. Hinds:** Mr. President—[*Interruption*]

**Sen. Maharaj:** “Yuh trying to come back in or what?”

**Sen. F. Hinds:** Mr. President—[*Interruption*]

**Sen. Maharaj:** Talk hard enough. Rowley will listen.

**Sen. F. Hinds:** Mr. President, the Attorney General told us that he was quite shocked that Trinidad and Tobago was in the top 10 countries and he quote some figures for us in terms of smoking. I was not so shocked. I learnt a few years, about seven or eight years ago, that KFC, on Independent Square, topped the world in sales and consumption of its products. Right there! Anywhere in the world and wherever you go, whether it is in Russia, in India, in China, you get KFC. Trinidad and Tobago, not shocking to me. And, of course, he knows very well that Trinidad and Tobago is ranked among the top five in corruption today and it has been so particularly over the last three years. So he should not be so surprised. He is at the heart of it. He is in the centre of the matrix. He is in the mix.

So I am not as surprised as the Attorney General. He told us, en passant, it was not the main theme, but he told us about the little boy in the outhouse and the fire. I thought he would have raised his coat and show his scars today, [*Laughter*] but he did not. I trust he would have thought that that was unparliamentary.

**Sen. Ramlogan SC:** [*Inaudible*]

**Sen. F. Hinds:** Mr. Speaker—can I be—I mean, I allowed the Attorney General to speak undisturbed. [*Crosstalk*] Mr. Speaker. Mr. Speaker. [*Crosstalk*]

**Mr. President:** Senators, let us listen to Sen. Hinds in silence.

**Sen. F. Hinds:** Mr. President, will I be permitted to proceed unperturbed? The Motion today as we have already traversed, is to comply with section 38(1) of an Act passed in 2009, the Tobacco Control Act, and these regulations are to prescribe the requirements and standards for tobacco product constituents including emissions of smoke products, additives and product design, and specifying methods for testing and measuring compliance with the performance prescribed, and generally for carrying out the purpose of the Act.

Mr. President, we have dealt with the Act in 2009, passed by the last administration and, today, belatedly, we are dealing with the regulations to firm that up, to put flesh on the structure. We are dealing with tobacco. But the Minister of Health is here. We had promised since then to deal with salt and sugar which are two issues, as a Minister of Health and as a medical practitioner himself, he knows that these two have proven to be very destructive and account for a substantial amount of deaths in this region and in the world.

So I would expect that the Minister of Health will come next with salt and sugar control mechanisms that a sensible progressive nation can treat with in the Parliament, and put in place for the benefit of the people. Otherwise it would be as the English people say, “like swallowing an elephant and straining on a gnat”, because we know that salt and sugar pose serious problems. I was having a discussion on the margins with my friend, Sen. Mahabir, and we are all clear on this matter.

But there is a measure of hypocrisy in all of this for me, especially following the Attorney General’s sound and fury. We sell alcohol and we claim to regulate its sale, we illegitimize alcohol, babash and the other things, mountain dew and all of that, and dangerous drugs are altogether banded and outlawed, prohibited, but we know as a fact that the sale and distribution of dangerous drugs are very, very prevalent across the society. So we have to face these issues and deal with them, and in passing I must say, it is well-known today that there are now two super powers in the world, the United States and Hollywood.

When, for example, Mr. President, we read about young Teana—the young baby who was taken away from us recently.

**Sen. Cudjoe:** Keyana.

**Sen. F. Hinds:** Keyana, sorry, and others. May her little soul rest in peace. I hold the view—and it is important what I would now say—that no one takes the time to trace the roots of the behaviour that led to her death. A lot of filth comes to people and into their minds, into their souls, by way of things we gather out of some movies, violence, sex, sadomasochism and homosexuality. A whole lot of filth and, Mr. President, these things educate and inform our people of the world and they react to them. So I am making the point, as we deal with the tobacco industry, we have to have the strength if we are not going to be accused of being hypocritical, to deal with other issues because the movie industry is a big industry, with lobbyists too, and I wonder to myself who will take it on to tell them stop purveying the filth that probably results in the behaviour that led to the issue that I have just described.

So for my own part, I feel that trying to regulate the production, the distribution and the use of cigarettes as the Attorney General spoke a while ago, knowing and admittedly by those who produce them and make millions off of them, that it kills, it is like really trying to domesticate a tiger or the UNC. Impossible! You could do what you want. You could have it from small, bring it up cuddly, but one day its natural instincts, as we are seeing now, will get at you. I do not know if there is any right way of doing the wrong thing. We all know that it kills, but somebody is making millions off it. We come here to say we are regulating it, could you regulate that? And he made sound and fury: they will comply with the law; they may challenge the law in the constitutional court; they may argue that the regulations are ultra vires. But at the end of the day they will comply with the law but they will not necessarily comply with the reality. However you do it, as the Attorney General said, it kills. And that is why with an understanding of that, I thought he would have been telling the Parliament today, that his Government is moving for an out and out ban.

**Sen. Maharaj:** You did not support that?

**Sen. F. Hinds:** But they are not doing that. [*Crosstalk*]

**Sen. Ramlogan SC:** [*Inaudible*] they go ha' black market and, marijuana and—[*Interruption*]

**Sen. Hinds:** Well, I mean, I just thought, Mr. President, that based on the arguments that I heard from the Government, I was going to hear that. I did not hear it, and that is as much as I would say. That is as much as I would say on that matter for the time being.

**Sen. Maharaj:** Bring the motion next time you coming.

**Sen. F. Hinds:** That is as much as I would say. Mr. President, my friend the Minister of Health, I must say this. When he was dealing with the question of impotence he shouted my own name. I want him to know, that is not a matter that I know of at all. It is foreign to me. He would know about that. *[Interruption]*

**Hon. Senator:** Call him by name.

**Sen. F. Hinds:** And I understand that a few years ago he used his surgical prowess to create impotence in a very permanent way in this country, and he was sued by his client. He converted a man to a woman in this country—that Minister of Health. *[Senator points to the Minister of Health]* *[Laughter]*

**Hon. Senator:** With your help.

**Sen. F. Hinds:** He created a marsupial, a kangaroo with a pouch. That Minister of Health! So he will know about impotence and tell him leave me alone, I know nothing about that. That is foreign to me.

**Sen. Maharaj:** You protest too much. *[Laughter]*

**Sen. F. Hinds:** *[Desk thumping and laughter]* Well you both—one is admitting to me—without provocation, Minister Maharaj is telling me now, admitting to me, that he was born that way. *[Laughter]*

**Sen. Maharaj:** Thou doth protest too much.

**Sen. F. Hinds:** Mr. President, I would not be disturbed by the Minister of Health and Minister Maharaj. I want to continue and focus on the measures in front of me. My colleague, Sen. Robinson-Regis, pointed out that the Act was—and the Act of 2009 and she quoted it so I could spare the time or will not spare the time. She pointed out that the Act had established a unit that was to monitor the regulatory and the legal framework that we had put in place under the Act, and that unit has not yet been established.

### **6.30 p.m.**

The Government is here today to ask us to approve regulations to support the Act that we passed in 2009 but they have not yet put the unit that is supposed to monitor it all, with inspectors and police and customs officers in place. So what are we doing? Sound and fury; “ah long run up and bowl ah long hop”. That is what the Attorney General did, but that will capture the imagination of the unwary souls, not we on this side; not the PNM. We understand them very well. The unit that is supposed to have monitored and overseen all of the things we put in place has not yet, to my knowledge, been established, and they come here today “wasting people time”.

*Tobacco Control Regulations, 2013*  
[SEN. HINDS]

*Tuesday, December 10, 2013*

Now, I smoked cigarettes when I was a boy influenced by all of the things that the Attorney General—[*Crosstalk*] No, my father never smoked.

**Hon. Senator:** He did not?

**Sen. F. Hinds:** No, but I, wanting to assert my manliness as a teenager, I took “ah little thing”. But I will tell you this, Mr. President, one day in reading Malcolm X’s autobiography, I read therein that one Sunday evening he was driving his car, muslim and clean and ascribing to all the principles of Islam as he did, he had Alex Haley who was writing the book “*Roots*”, his autobiography, with him, and Alex Haley lit a cigarette, so he just very dryly looked on him and said, that makes you the first person that has ever lit a cigarette in here—because all around him from the Nation of Islam Temple 7, would have known that you do not bring cigarettes around Malcolm X, so Alex Haley got the tip and he, of course, put it out. But Malcolm X described a smoker in that book as fire on one end and a fool on the other. When I read that, immediately I decided, I am no fool and I never picked one up again. So people react to different bits of information in different ways.

Mr. President, the Tobacco Control Act of 2009 in its preamble says:

“WHEREAS the use of tobacco products is responsible for numerous debilitating and fatal diseases:”

And we have agreed that most chronic diseases have, at their root, alcohol and tobacco use.

“And whereas smoke from tobacco products is a serious health threat to persons exposed to the smoke, causing serious diseases in adults and children:

And whereas most smokers who start smoking at a very young age are not aware of the extent and nature of the harm caused by tobacco products,...

Their childish ignorance; as indeed, many of us were.

“...and because of the addictive properties of nicotine, are often unable to quit even when they are highly motivated to do so:”

And we know, we heard as well today, pregnant women smoke under the influence of the addiction of nicotine, so the thing is serious. I saw a young woman pregnant a few weeks ago smoking cigarettes, so I stopped my car and pulled her to order, and I asked her if she wanted to contribute a four-pound baby with bronchial ailments to her family. She smiled and as I drove off, she took another one, and I felt sorry for her. She was not operating on her own free will; it is nicotine that is causing that.

“And whereas the marketing of tobacco products through product design, promotion, packaging, pricing and distribution, is known to contribute to the demand for...products.”

And the Attorney General was very, very, very strong on demonstrating the link between all of these techniques and the consumption patterns that kill human beings.

“And whereas resolving to align national laws with the World Health Organization Framework Convention on Tobacco Control, the following measures are undertaken to protect the health and well-being of all the people:”

And we go on to enact the law. Now, that preamble, Mr. President, I might say, really encapsulates all of the issues that we have traversed today.

We have one producer of tobacco products in Trinidad and Tobago, Witco, as far as I am aware, and Witco came into existence in Trinidad and Tobago in 1904. In other words, they are more than 100 years old. In 2004, they celebrated 100 years in the business. They are largely owned—50.1 per cent of the shares is held—by British American Tobacco group from out in the United Kingdom. And that company, the British American Tobacco group, purchased shares in our local company since 1920, and they have been doing very good business ever since—very quietly, but very good business, at least in economic terms.

They treat their workers, from what I heard, very, very well. They used to give them cigarettes at Christmas time, and other times of celebration, I understand that they have put a stop to that. So people who buy cigarettes must know that Witco no longer gives cigarettes to their employees and that says something.

“Smoking”, Mr. President, is defined in that Act and it means:

“...inhaling, exhaling”—and very importantly—“or handling an ignited or heated tobacco product or a tobacco product producing emissions by any means.”

Handling! So that even in the narcotics in the Dangerous Drugs Act, I am almost certain that it is a charge, it is illegal, to be handling the thing, even if you were not—well, possession, but handling is also an issue. Word in town is that there is a video running around the place about a certain Minister of Government who is recorded thereat handling dangerous drugs. I am sure it has come to the attention of the Minister of National Security and the Prime Minister. I suspect they are waiting to see it.

*Tobacco Control Regulations, 2013*  
[SEN. HINDS]

*Tuesday, December 10, 2013*

But in this Act—[*Crosstalk*] handling—you see, some one of my colleagues grumbling about what I must do. “Is what you must do!”

**Sen. Maharaj:** “We hearing about ah Senator”—[*Inaudible*]

**Sen. F. Hinds:** What you must do! So, Mr. President, let me proceed, I do not want to be disturbed by my colleagues next door, I am determined to get on with my contribution here today. The regulations were supposed to have taken effect—well, these regulations are supposed to take effect—nobody mentioned that—one year after we approve them today. That one year, no doubt, is to give a window of opportunity to the very Witco that the Attorney General came with sound and fury about, to do its thing and to get its house in order; I understand that. One year. [*Desk thumping*] So after all the talk today, we must wait one year before this blanket of protection, to the extent that it is, comes in vogue or into play.

I take the points made by my colleague, Sen. Robinson-Regis, and I heard the Attorney General’s response in respect of the pictures, and he also said that Witco has signalled its intention to go to court and to challenge the legislation.

**Sen. G. Singh:** “That is ah bluff they used in the other legislation.”

**Sen. F. Hinds:** Well, my friend, Minister Ganga Singh, is saying it is “ah bluff”; we will wait and see.

I heard the Attorney General say, a while ago—much to my shock—how bright and brilliant and how many lawyers in his department who won national scholarships and open scholarships and so on. I want to ask him if any of them get any “ah de \$53 million”. “He like he only know the bright ones outside to give \$53 million and in England”, but we will come to that at another time. I may not be here, but trust me, as I told you the last time—[*Interruption*]

**Sen. Maharaj:** “Not yuh might not be here.”

**Sen. F. Hinds:**—I may not be here but I told you the last time what “ah cyah do from here, ah going down—[*Interruption*]

**Sen. Cudjoe:** In Balisier House!

**Sen. F. Hinds:**—in Balisier House and do it from dey”, [*Desk thumping*] but we will come to it. We will come to it.

We recognize that second-hand smoke is a serious threat to us all, and I myself cannot bear the smell of the thing, and occasionally, it comes across me, because I do not go in the places where they have too much smoking. I am sure about that. And, as I have just cleared my throat, I met a young man the other day



pulling on a cigarette, I said, “Young man”—again—“why you—ah young man like you and yuh studying”. He was apparently a student. “Wey you doing with ah cancer stick?” While I am talking to him, he started with a dry cough so I was able to point out—and I heard the Minister of Health here today tell us that there is hair in the lungs; I never knew that. [Laughter] See, I tell you, he makes kangaroos. [Laughter] I did not know there was hair in the lungs. I had learnt in biology it was called cillia. [Continuous laughter] If he has hair in his lungs, he must explain how it got there with his impotence. [Laughter] He must explain that. But do not come here and tell us. “Nobody else doh have hair in their lungs, is only the Minister of Health. [Laughter] “Leave we out ah that.”

Mr. President, this thing is a very serious situation and when the Attorney General sounds the way he did today, he must understand—I just told him that the West Indian Tobacco Company Limited is associated and is part of the British American Tobacco group now. I read Walter Rodney’s *How Europe Underdeveloped Africa* many years ago. I must admit to you I do not like tobacco, I hate it. One of the reasons I do not like it is because it reminds me of slavery. A lot of the tobacco product comes out of Africa and Walter Rodney argued in the book that the slave trade—in fact, the last leg of the Middle Passage, after they brought slaves in, when they were going back, they went with coffee and rum and molasses and not the least of all tobacco. So that you would not find a tobacco plant in England; nowhere.

But the British American Tobacco group, which has companies—I will show you in a while—all over the world, Walter Rodney explained how it is profits from those enterprises: 175, 250 years ago and more, since the 15th and 16th and 17th Century built the industrial base that is England. When as a young man, I got exposed to those kinds of literature, Mr. President, it did something to me and it still does today. It did something to my friend—[Interruption]

**Sen. Moheni:** NJAC.

**Sen. F. Hinds:**—Minister Embau Moheni as well. Good horse, wrong stable. [Laughter]

**Sen. Cudjoe:** Wrong stable! [Desk thumping]

**Sen. F. Hinds:** So I do not like it for all those reasons.

But, Mr. President, it is some big, big interest with some long, deep roots that we are talking about here, and let me show you what I mean. In a document entitled: “*Who we are. Our business in 2013*”, the British American Tobacco group is reporting—in glossy prints! I have a black and white version here—saying and I quote:

*Tobacco Control Regulations, 2013*  
[SEN. HINDS]

*Tuesday, December 10, 2013*

“We’re a leading company that’s hugely successful worldwide.”

It is tobacco they are talking about, “yuh know”.

“Our great brands are enjoyed by millions of consumers. In a controversial industry we act with integrity and responsibility.”

And then they go on, Mr. President, to show us some statistics.

“1 in 8 of the world’s adult smokers choose our brands”

They are boasting.

“Profit from operations in 2012” “£5,412m” dollars—million pounds—I am sorry—11 to one Trinidad and Tobago dollars. Five thousand, four hundred and twelve million pounds from their operations and they only own 50.1 per cent of the local interest here, small as we are.

“694bn cigarettes”—were sold—“in 2012”

And when I divide that, assuming that the world’s population is eight billion, Mr. President, when I divide 694 billion by the eight—that is per citizen of the world—we get 86.75 cigarettes per human being worldwide, and you must take into account a large chunk of that eight billion are children, a large chunk are above 60 because I saw statistics showing that the group that is most likely to smoke is between, I think, like 30 and 40 years, 30 to 35, and people who quit smoking, you find them in 60 up. That is, then, as the doctors will tell you, we start to get health challenges and we begin to see the folly of our childish and ignorant ways.

So, when you extract from the eight billion citizens, the children and those above 60 and those conscious among us who will not smoke a cigarette in life again—the Malcolm Xs of this world—then the amount of cigarettes per person is substantially higher per year than 86.75.

#### **6.45 p.m.**

This thing is dangerous. And they are boasting further that they have 180 markets around the world where the brand is sold. I am pointing out, as Walter Rodney did, this thing is an international operation with deep roots and it is death. Let me tell you why I say it is death, Mr. President. I am not making this up. I am now reading from Witco’s document entitled *Socratic Dialogue* with a wonderful quotation at the front, published recently, I think in 2010, and I am going to quote for you what Witco is saying here. One second, Mr. President. Yes, at page 35 of that document:

“Our View

We believe”—that—“the health impact of tobacco consumption should be reduced whilst respecting the right of informed adults to choose the products they prefer.”

But it is not taking into account addiction.

I read in the research in preparation for this debate that they put all kinds—there are about 4,000 chemicals in a cigarette you know, in tobacco you know and they put things in it. One of the things they put is to keep the tip lit at a high pitch to ensure that when you pull you get the full content of the nicotine to keep you high, so you will want more. But they are saying here:

“We believe the health impact of tobacco consumption should be reduced whilst respecting the right of informed adults to choose...”

And they are giving the impression that adults choose rationally. Let me say this before I continue, I have always held the view that the drug trade—and let me say to the Attorney General, all they talking about regulations and want to impress us that they are doing some big thing here today, well I have told you already they are doing precious nothing; thought he was coming with an out and out suggestion to ban it, like I heard from the Independent Senator, because the drug trade—they say you cannot display the cigarette for people to see it easily at the cashier’s till, and you have to put these warnings and pictures on the packets and all “ah dat”.

Well with the illegal drug trade there is no advertisement at all. There is hostility from customs and border protection officers and law enforcement everywhere, but yet if you want a five-piece rock in Nelson Street now you could get it and we do not produce it in Trinidad. In Alaska, if you go to the women’s prison you will see women from every corner of the globe—locked up in Trinidad and Tobago’s jail and jails everywhere. The drug trade has taken over the world—mayhem and madness—without advertisement, without regulation by the state and with hostility from law enforcement. Human beings are capable of that.

I have always held the view, Mr. President, that the drug trade represents the frailty, the imperfection, the weakness of us human beings, nothing more than that. If we are strong and we had faith in God and we had self-esteem and self-confidence, “we would not need nothing to be high”. We will be good as we are with a natural high; [*Desk thumping*] which I might boastfully tell you I am all the time. [*Laughter*] My love for the PNM; my love for the people of Trinidad and Tobago; my anticipation of 2015 when we chase “dem crazy bald heads outta town”, that keeps me high. [*Desk thumping*] A prime minister called Dr. Keith Rowley. “I cannot get more high than that”.

**Sen. Karim:** They start to chase you first.

**Sen. F. Hinds:** Believe me. You hear the biggest one with the biggest baldhead talking? Sen. Karim. He is afraid because I said “chase dem crazy bald heads”. Nobody else spoke, he worried. [*Crosstalk*]

**Sen. Karim:** Nobody afraid of you.

**Sen. F. Hinds:** But, Mr. President, I will not be distracted. As I said, I—Mr. President, I am only here for today, can I be protected? [*Laughter*]

**Sen. Karim:** You must treat this House with decency.

**Sen. F. Hinds:** Do I have your protection?

**Mr. President:** You provoked him.

**Sen. F. Hinds:** No, no. I did not call him a crazy bald head. Now I know he is but I did not call him that.

**Hon. Senator:** I would never say anything about [*Inaudible*]

**Sen. F. Hinds:** I was about to say “who the cap fit, let them wear it” but a cap “wouldn” even stay on that. [*Laughter*] So “leh” me continue. Mr. President, “leh” me continue. At page—[*Interruption*]

**Hon. Senator:** Never ever said anything.

**Sen. F. Hinds:** Mr. President, I crave your protection. At page 35, Mr. President, the document continues:

“West Indian Tobacco has long accepted that smoking poses risks to the health.

The risks associated with smoking are primarily defined by epidemiological (population statistical) studies that show that groups of lifetime smokers have far higher incidence of certain diseases than comparable groups of non-smokers. The statistics, however, do not...”

Hear this “eh”.

“The statistics, however, do not tell us”—Witco—“whether a particular individual smoker will avoid an associated disease by smoking less or smoking lower-tar cigarettes. Moreover, all smoking behaviours are associated with some risk, and as far as we know, the only way to be sure to avoid...smoking-related”—risks—“is not to smoke.”

This is Witco telling us, in our face, that! So all the regulations, is one thing, but they are telling us they know that the only way to avoid risk is not to smoke. I continue:

“No one can be sure of the exact health impact smoking may have on a particular individual but research on groups of people suggests that starting later, smoking fewer cigarettes and quitting sooner could be among the steps smokers might take...generally”—to—“reduce”—risks. However...”

And I am quoting again.

“However, the only way to avoid the risks of smoking is not to smoke and the best way to reduce the risks of smoking is not to smoke.

There is no such thing as a ‘safe’ cigarette.”

I have to ask myself—“I doh have no fancy MBA.” I have an LLM, Mr. President. I had to work hard for it, in the cold. As, I have told you before, Mr. President, I have been through the mill and I am not the miller’s son. I got no special concessions or privileges.

**Sen. G. Singh:** “Yuh back in de cold now.” [*Laughter*]

**Sen. F. Hinds:** But with my hard earned LLM and LLB—[*Interruption*]

**Hon. Senator:** Dr. Rowley send yuh in de [*Inaudible*]

**Sen. F. Hinds:**—with my hard earned LLM and LLB with no concessions. “ah doh even have a senator letterhead again”. But with that, Mr. President, I have to ask myself—[*Interruption*]

**Hon. Dr. Khan:** “Yuh attacking Rowley”.

**Sen. F. Hinds:**—I have to ask myself—attacking Dr. Rowley?

**Hon. Dr. Khan:** You just attacked him.

**Sen. F. Hinds:** That is a man with a First Class Undergraduate—[*Interruption*]

**Hon. Dr. Khan:** “Yuh just attack him”.

**Sen. F. Hinds:**—High Level Masters and a PhD—gotten at the same UWI. [*Desk thumping*]

**Hon. Senator:** That is [*Inaudible*]

**Sen. F. Hinds:** A highly qualified, intellectually agile and able man. The next prime minister of Trinidad and Tobago.

**Sen. Hadeed:** Dreaming.

**Hon. Senator:** In your dream.

**Sen. Hadeed:** Dreaming.

**Sen. F. Hinds:** Well if you “doh have a dream you doh have anything to come true.” I am dreaming.

**Sen. Maharaj:** “Da is ah nightmare”.

**Sen. F. Hinds:** So, Mr. President, having heard Witco say these things I have to ask myself and you will forgive me for asking aloud—how knowing these things, I will produce and sell the products? How? And that is what I heard the Attorney General argue. The Government is in the seat of Government and I thought that they would have come to say “let us take a paternalistic approach to governance and protect the people of Trinidad and Tobago from that”.

**Sen. Maharaj:** Is that the PNM position? “PNM want to put ban on cigarettes”.

**Sen. F. Hinds:** Mr. President, I therefore want to take a look at the regulations as they now appear before us and I want to say to the Government that we are not surprised that there would be some resistance from those who make millions of dollars as I have just described—from the sale and the distribution of these products—knowing exactly what I have just read them to have admitted. But it is for the Government to do what it has to do in the protection of the people.

The document that I just quoted from spoke to the question of young people. I think it accepted that there is a problem with young people and the consumption of these products because they admitted in this document that the question of young people—underage smoking—is a very, very difficult one. Let me quote again from page 25 of the document, Mr. President. This is Witco speaking—published:

“Contrary to what is often claimed, underage smoking harms our reputation and does not support our business strategy of competing for market share amongst adult consumers.”

So this is a business with all of the harm that we have agreed and they have admitted that the product does. There are people outside of this Chamber—I know the answer you know—listening to this madness and saying two things you know: “What is all this hypocrisy about? Because if you know the thing kills and you are talking about fighting for market share among adult consumers—as the Attorney General say, this killing men, it killing women, it killing children; it killing adults

too, is death. There is nothing nutritious or good to come out of it. Is that not correct? Nothing good to come out of it and it has been going on now for at least 100 years—109 years or so in Trinidad and Tobago.

The other thing that citizens of this country are saying—and let me tell you if you do not know, Mr. Government—there is a strong lobby out there to legalize marijuana, one that I do not support.

**Sen. G. Singh:** “Marijuana? Change yuh mind? I’m surprised.”

**Sen. F. Hinds:** I was listening recently and participated in a serious discussion on the matter. I saw on the television, during the break, that Uruguay, on Tuesday, passing legislation to make marijuana legal in that country. And as you already know, it has been liberalized in many parts of the world including in Europe.

**Sen. G. Singh:** United States, Louisiana.

**Sen. F. Hinds:** And in the United States. So there is a discussion taking place in Trinidad and Tobago on the matter. One of the arguments they carry in that discussion, Mr. President, is that if you have tobacco which from the apparent evidence is more harmful than the THCs in the marijuana, how come, Mr. Babylon, you telling me about marijuana when I see you marketing and selling cigarettes and drinking and “drinking” on alcohol? And that, if we do not one day answer it, logically and sensibly, it allows some young people out there, reckless as some might be, to feel justified because of our perceived hypocrisy, to do some of the wrong they are doing, you know.

They may not agree with me but I am telling you, that is some of the feeling out there. So when we stand today to deal with these matters, these are very serious issues and they are listening carefully to us. It is not a joke, it is a serious matter. The article continues:

“Underage smoking is an emotional and provocative issue, and there is a strong feeling from some quarters, including the”—WHO—“World Health Organization, that tobacco companies should not be involved in underage smoking prevention campaigns at all. Nevertheless...”

It is tobacco companies say “dey doing that” but as the Attorney General pointed out: “a lot of it very surreptitious”. In these documents I saw both British American Tobacco Group and Witco saying that they have run aggressive education campaigns, ad campaigns and so on, to discourage young people from smoking. I do not think any friend or any parent ever told me that Witco was in the school telling children that. I do not know if any Senator in this House has any record of Witco coming to the school and telling the children that, and there is where you find them.

*Tobacco Control Regulations, 2013*  
[SEN. HINDS]

*Tuesday, December 10, 2013*

**7.00 p.m.**

So I do not know how aggressive the campaign was or is. But the article continues. So the World Health Organization is saying we “doh” believe that the tobacco producers should be involved in that campaign at all. In other words, we cannot trust them to do it. “Dey go pull wool on we.” Because it is to their advantage to sell it. But they are saying to us underage smoking. “So yuh under 18, we doh wah yuh smoking, but de day yuh reach 18 years, yuh could smoke” and we will target you, as I read earlier, and it is not a problem.

“We see Underage Smoking Prevention (USP) programmes as having two primary objectives: preventing children from obtaining tobacco products and discouraging children from smoking. To this end, we believe that any USP programme should cover three key areas:

- Education—”

and I told you I have not seen anything like that in Trinidad and I stand to be corrected, if any citizen saw anything like that, any Senator, please have me know;

“• retail access prevention”—and—“advertising campaigns”

and that is how they intend to tackle this question of underage smoking.

“In 2001, British American Tobacco and the BAT Group, including West Indian Tobacco, signed a global Marketing Agreement known as the International Marketing Standards...”

**Mr. President:** At this point, Sen. Hinds.

**Sen. F. Hinds:** Thank you.

**Mr. President:** Hon. Senators, the speaking time of the hon. Senator has expired.

*Motion made:* That the hon. Senator’s speaking time be extended by 15 minutes. [*Hon. G. Singh*]

*Question put and agreed to.*

[*Desk thumping*]

**Sen. F. Hinds:** Might I thank my friend, the Leader on the other side, for his extension of the courtesies of this House. Thank you very much, Senators.



“The IMS establishes a common approach among all signatories, to marketing that seeks to ensure that the promotion and distribution of the tobacco products is:

- a) directed at adult smokers; and
- b) consistent with the principle of informed adult choice.”

which I have already addressed and argue that it is hard to find choice in the context of an addiction. It is very, very hard.

And we heard, I think, from Sen. Robinson-Regis earlier here today, about some of the things that you could find in a cigarette. It is cyanide; not the one—I am looking for the list. Some very dangerous things are inside of there; things that kill.

Mr. President, as I wind to a conclusion, the very British American Tobacco Company, in an article under the heading “Statement of Business Principles” and I put emphasis on “business”, to make the point—and this is published in August of 2010—that for them it is a business. It is a business. And I have heard nothing that suggests otherwise and I have quoted to you the kinds of money that they boasted, in terms of making, and it is all made at the expense of human beings, imperfect and craving for a high, as unfortunately we are. They have a principle that they say they strive to maintain. That is the principle of mutual benefit and:

“The principle of Mutual Benefit”—I am quoting from the document—

“is the basis on which”—we build—“relationships with”—our—“stakeholders.”

Of course, consumers is one group of the stakeholders they speak of. We are

“...primarily in business to build long-term shareholder value and”—we—“believes the best way to do this is to seek to understand and take account of the needs of all...stakeholders.”

So they are making that abundantly clear; from 100 years ago, 400 years ago, it is a business.

And our core beliefs, one of them is we believe in creating “long-term shareholder value.” The first one actually, core belief, “long-term shareholder value.” This thing is all about money. And as one young man asked me, as I raised the matter that we are dealing with today, with him, to get a grassroots feel on this matter, because the statistics show that it is largely poor people.

*Tobacco Control Regulations, 2013*  
[SEN. HINDS]

*Tuesday, December 10, 2013*

“Dey smoking a thing called hemp in Trinidad now, for about 20 years. I doh know if you know it. It is a lil leaf, wrap with a little red piece of thread.” Now, those things sell in Trinidad and Tobago for 50 cents each. At six to one, that is about US 8 cents. It is produced in India and I have been there. You have to come all around, that is halfway around the world, to the Caribbean from India. So you just imagine, Mr. President, this is produced in India. There is labour cost. There is distribution wholesaling. There is packaging. You have customs and borders to clear all through the United States and then to Trinidad. So you have freight. You have customs duties and taxes and what have you and it could sell for US 8 cents in Trinidad and Tobago, that tells me “de thing dog cheap in India. “Is grass by de road and is de poor people does smoke it.” I notice the brothers and sisters here, when they start smoking this hemp, they cannot stop. Is years fellas smoking dat.” The thing is highly addictive.

Mr. President, I know you have never seen it. It is out there. You are too wise to have seen that. [*Laughter*]

**Hon. Senator:** Or recognize it.

**Sen. F. Hinds:** Mr. President, I trust your wisdom for three years and a half and I look at it from a distance now, Mr. President. [*Laughter*]

Core beliefs: we believe in the provision of accurate, clear health messages about tobacco consumption.

Is that so?

We believe the health impact of tobacco consumption should be reduced whilst respecting the right of informed adults to choose products.

“Hmm”. I was telling you a little while ago, see, this question of choice is a non-starter for me.

So, Mr. President, I want to conclude by saying two things. I really thought—especially since the Attorney General is the Government’s legal advisor and since he is a member of the Legislative Review Committee, through which these regulations would have passed and given his usual heady pronouncements of the Government’s position on all issues from state of emergency to otherwise; failed as that was—that I would have heard the Attorney General today say that the Government is serious about dealing with a problem that clearly affects the people of this country. He did not say that. They are in Government. It is a matter for them.

So Mr. President, I think I have argued that the regulations that we approve today will have some effect and like my colleagues here, I am quite prepared, even if it is an inch, to accept anything that protects even one, or two or three of our citizens. But I in my heart, and my colleagues here know, that this is not going to take us the full distance. It is impossible, as I conclude, to train and domesticize a tiger, as indeed it is impossible to curb the UNC as a Government from their corrupt ways.

Mr. President, with those few words, again, I say thank you. I want to say to my colleagues who were happy to see me go last day and would be very happy to see me go again today, I should go to Balisier House and keep my eyes on you but speak not of my death; there is a lot of time and a lot of energy left. God bless you. Thank you very much. [*Desk thumping*]

**Sen. Dr. Rolph Balgobin:** Thank you, Mr. President. I would like to begin by welcoming, of course, the new Senators on the Opposition Bench, Senators Camille Robinson-Regis, Diane Baldeo-Chadeesingh, and Avinash Singh. I, of course, also welcome back Sen. Fitzgerald Hinds to the Chamber, if only for a while and I would like to applaud the contributions of the new Senators here and look forward with much anticipation to hearing from them in the future. We are all here to build a greater nation and so every voice counts and so I am very much looking forward to hearing from them as we go forward.

Mr. President, on this Tobacco Control Regulations, 2013, to my mind two issues stand out. The first has to do with the impact on a very established manufacturing operation in this country known as Witco, West Indian Tobacco Company Limited, for the benefit of the *Hansard* and those watching.

The second issue really relates to whether these regulations are appropriate and adequate. And so I propose to deal briefly with them both and I will start, perhaps, and end with the Witco issue. On the matter of Witco I would say that Witco is an extremely successful company. In 2012, it earned \$476 million in pre-tax profits on \$1.1 billion in sales; what in business, of course, we would call revenues.

Add that up for 2012 and 2011, you have in excess of \$1½ billion in sales and \$878 million in pre-tax profit. So this is not, by any stretch of the imagination, a small operation. If I cast my net a little further back and I look at the date of this legislation, 2009, and I assess Witco's performance, just on a topline from that period of time, between 2009 and 2012, of course 2013 data is not yet available, Witco has generated \$1.598 billion in profit; not sales, profit.

It has paid about \$440 million in tax. So it is not to say that this company is not contributing to the public purse or is not doing its national duty by paying taxes. And it has paid out in excess of \$1 billion from 2009 to 2012, \$1 billion in dividends.

In 2009, its share price was around \$32.39. Today its share price stands at around \$120, valued, therefore, nominally on a price basis as one of the most expensive stocks we have on our stock exchange. Witco is, without question, a good employer. It pays well. It gives some the opportunity for development of a global mindset. It introduces modern manufacturing practices in Trinidad and Tobago. And so, while one may argue that they profit from making people sick or by catering to a habit that many of us may find offensive, even disgusting, we can conversely also consider the point that, perhaps, the company should not be made a scapegoat or made to pay for the lifestyle choices of others.

But, Mr. President, the issue of impact on Witco is, to my mind, less relevant and I, therefore, propose to return to that at the end of my short discourse. Instead, I would like to suggest that we take the focus away from Witco just a little bit or for a little while—I think Sen. Hinds did a very good job of putting the spotlight on them and I will continue to do so in a moment—turn the spotlight away for now, to suggest that what we are dealing with is a public health issue and, of course, therefore, this supersedes the interest of Witco alone.

**7.15 p.m.**

Therefore, Mr. President, the question arises as to the adequacy of this set of regulations we have before us. The Minister has been very kind. He has come and spoken eloquently and we have had a vivacious debate and discussion so far, but how adequate are these things really? We heard earlier from the Attorney General that the intent is fourfold: to prevent people from starting, to stop people who currently smoke; to prevent—for want of a better term—recidivism, to prevent people who used to smoke, from coming back to smoke, by reminding them that smoking is a very dangerous thing and can kill you; and to protect innocent parties who may commit no sin greater than living in a house with a smoker, or standing next to a smoker, or being in the same space with a smoker. So we must judge these regulations on the basis of whether or not in our view they advance this agenda.

Now, the Preamble of the parent legislation, I think is rather more expansive and sets out a more ambitious intent, than the four points enunciated by the hon. Attorney General. There are many other things here that the legislation suggests

that it wants to do, prevent tobacco use by children, regulate tobacco use by individuals, enhance public awareness, prohibit and restrict promotional practices, prevent smuggling of tobacco, and so on, and so on, and so on. So there is quite a bit in here; quite a bit just in the Preamble.

So clearly the intent of the legislation was expansive, ambitious. Here we appear to focus on sections 23—31 of the Tobacco Control Act. This is where our regulations on this occasion appear to be targeted and, therefore, these regulations, at the very outset, appear to my mind somewhat limited in scope. I am not an attorney-at-law, and I certainly am not a judge and, therefore, it is not for me to hazard a guess as to how this would hold up—limited scope regulations—in a court of law if they were challenged. It is hard for me to guess.

So, I will limit my contribution not to musing on how the Judiciary will interpret this in support of the parent Act, to comment specifically on some aspects of the proposed regulations. I concur with the observations made earlier on, for example, item 3 in the regulations which says, well, you know, I think this is reasonable. I have received a number of communications from various people suggesting to me that this is somehow draconian. For the life of me, I cannot understand why. A year is a very, very long time and I think if any company so affected by this legislation needs to make an adjustment, a year is appropriate. So I had no difficulty with this.

Likewise, under Part II, “Labelling”; item 4(2), I thought that this was an eminently sensible suggestion that:

“All health messages shall be printed on the pack or carton, and not on the packaging.”

Because you know these health messages will be found to be bothersome by some, and if it is stuck on the packaging only, you tear off the packaging and the bother, the nagging voice goes away.

If I look at Part III with “Health Messages”, I thought that item 5(1),(2),(3) and (4) were very clear, that the intent was to get the message across. This thing is bad for you. You really should not do it. Do not do it. What I like with these regulations is they have been very specific in defining, well, size, how it is to be presented and so on. So it leaves very little room for misinterpretation, for doubt.

I am not sure that 5(5)—I agree with this question of:

“No statement relating to smoking or health other than that prescribed in Schedule 3 shall be included in or on any pack or carton.”

*Tobacco Control Regulations, 2013*  
[SEN. DR. BALGOBIN]

*Tuesday, December 10, 2013*

I am not quite sure that achieves anything, whether it is that a multiplicity of messages diminishes in any way the warnings that we are putting on the box or the carton as the case may be. So I was not clear on where that came from.

I did note in 5(6), in response to Sen. Baldeo-Chadeesingh's point, that provisions are made for the sale of individual cigarettes and, of course, this relates to the parent Act, section 23(2), which specifically addresses the question of whether and how cigarettes can be sold on an individual basis. So I was comfortable with what has been suggested and put forward there.

In this idea of 6, which suggests how messages should be presented, and then 7, I thought was very good because it really addressed for an avoidance of doubt even down to the font and the font size, background and so on, how these messages should be presented.

I have heard various discussions about the constitutionality and common sense of certain aspects of what has been put forward here, it is not my place to make an estimation of that. I personally did not have an issue with 9(2) which suggests that:

“...cigarette dispenser shall be white or grey...”

The idea with that, of course, is to kill it, deaden it. Have it as plain as possible.

I remember looking at a bit of research on graffiti, and what they found was that people are more likely to put graffiti on plain painted walls, but if you put hidden speakers near those walls, and played classical music, the young would not congregate in such an environment, [*Laughter*] and that the amount of graffiti on the wall goes down significantly. Make it boring and they will stay away is the point.

**Sen. Maharaj:** “They doh come in de Parliament.”

**Sen. Dr. R. Balgobin:** Perhaps that is why. [*Laughter*] Perhaps that is why. We shall endeavour to be more exciting, then.

I did not see anything wrong with a cigarette dispenser having the kind of restrictions proposed here. My issue really is tangential to these regulations when we come to the last one in 10, and that is to say you put up a big sign which says, and I quote in 10, the proposed regulation 10:

“The sale of tobacco products to persons under the age of EIGHTEEN years is prohibited’.”

Now, I fixated on that for a moment because I thought that I have seen very many people under the age of 18 smoking. I have seen them with police vehicles passing right by them, police officers standing right there—and that is not the only example of lawlessness or breaking the law that we see. So it is really one thing for us to pass these regulations, but it is quite another for us to have them enforced.

So it is really nauseating to hear the police appeal to the public: I appeal to you not to kill other people; please do not drive fast; please stop taking drugs; please stop killing your children; please—well who is going to listen to that? That is not the police's job? The police's job is to prevent you from doing that and catch you if you do it, neither of which is happening. So we are dealing with an emasculated police force. And what does an emasculated person do? What does a bullied person do? What does a defeated person do? The first chance they get, is you come under their power, they bully you. So an innocent member of the public goes there and feels the full force of a police officer's frustration and powerlessness, because your turning up in front of him or her makes them powerful, if only for a few moments. They will demean you, and they do, effortlessly so. So we can pass whatever regulations we want here. Who is going to enforce it? How are we going to ensure that this stuff actually finds traction, that it actually gets done?

Mr. President, Witco ruthlessly, is ruthlessly efficient in promoting its agenda. I have a lot of respect for that company for that reason. I remember almost 20 years ago being in a seminar with a group of people, two of these people were from Witco and held down the entire seminar and explained to all of us why smoking was good for your health. Why smoking was good for you and encouraged us to smoke.

**Hon. Senator:** What!

**Sen. Dr. R. Balgobin:** So I remember sitting there and looking at these people bend reality—[*Interruption*]

**Sen. Hinds:** “Bentelated, green words.” [*Laughter*]

**Sen. Dr. R. Balgobin:**—bend reality and I really marvelled at the PR job that they had been trained to put down on anyone they came into contact with who dared suggest that smoking was bad for your health. Of course, time and modern research resolved that question, but it is not to say that the company or companies of that ilk have lost any of their edge.

*Tobacco Control Regulations, 2013*  
[SEN. DR. BALGOBIN]

*Tuesday, December 10, 2013*

In preparation for this debate, I had someone from Witco turn up in front my home and not leave until someone—did not want to leave anything in the post box until someone comes out to talk to him. I have received emails, letters. I have been lobbied. Someone from Witco even had the courage to send me a note saying, that this is not constitutional.

**Sen. Hinds:** Um-hmm.

**Sen. Dr. R. Balgobin:** I sent them a note back, and say well, tell me what about it is unconstitutional, “nah”? You know. So very efficient at protecting the company’s interest even at the expense of the social interest and that, of course, is difficult for me to accept because to my mind, they are arguing for a convenience, and we ought not to be as concerned about that as they are.

Witco has sophisticated methodologies to target customers, to target people, including children. They may not advertise directly to them, but why do people smoke? It is a lifestyle thing. It is a lifestyle thing. If I look at the financial statements for 2012 and I quote from Witco’s financial statements, which says:

“Our success in 2012 was grounded by the cohesive alignment of our marketing strategies with the objectives of the business, and it was driven by our ability to anticipate and respond to consumer needs, our understanding of the unique marketing dynamics within which we operate, and are focused on efficiency, high performance and value creation in all our activities.”

In other words, we are really, really, really, really, really, really, really good, at targeting you.

**7.30 p.m.**

On that same page, further up, they say:

“...we have implemented initiatives which facilitate some measure of growth, volume maintenance and market development.”

For non-business people, what does volume maintenance and market development mean? Volume maintenance means that we are at the very least going to hold our volumes—the volumes that we sell which, of course, for this company is quite a joke since it has grown by leaps and bounds year-on-year—and market development means you are preparing the ground for future growth. What does that mean? So who is your future growth? Not the youth, not the people coming up? [*Desk thumping*] Who are you saying? What do you mean when you say market development?



So what can a Parliament do in the face of such sophisticated targeting capabilities, but hit it as bluntly and as hard as we possibly can? What else can we do? We cannot do anything else. We are left with very little option. We cannot respond as fast as the company can, and so our regulations must be broad, must be broad in scope.

Mr. President, therefore, as you may have surmised, I have very little sympathy for the Witco. It is—I am advised by my lawyer colleagues—illegal to kill yourself. Is that true, Sen. Sturge? But it is legal to kill yourself slow by smoking. [*Laughter and desk thumping*] And so, I am of the view that the legislation, the parent Act, is extremely generous. To my mind, smoking should be banned or at least heavily taxed and, in either event, treat it as a public health issue. The fact that it continues to be legal, I think it speaks volumes for constitutionality and the strength of our Constitution and our democracy.

On a broader level, I would ask this Senate and the society by extension—as we think about smoking and we watch the growth of this business, this company—this question and Sen. Hinds alluded to it, and I want to ask it clean and outright: Why do so many of our people need this release? Why? Why do we need to get high? Why do we need to escape?

**Sen. Hinds:** Drunk in corruption!

**Sen. Dr. R. Balgobin:** Why do we need to forget? What it is that we are running from? As a population, what are we running from that creates the conditions for the sustained and growing demand for this product even in the face of rough regulation, even in the face of all of these public health messages that say, “Do not do it, it is dangerous, it will kill you”? What is it in us, in our psychology, in our emotional make-up that is driving us to products like these?

Mr. President, it is not just for the season. If you watch the bars and so on in this country, bars are now spilling over onto the street during the week as well. This is no longer a weekend activity. People are drinking—they are drinking, they are smoking, okay, but what are you trying to get away from? Is it just that you are having a good time? It is something that is occupying some of my attention.

And so, in the circumstances, Mr. President, I am in support of the regulations and would encourage the Government to do what it has to do to get them passed and enforced as quickly, as rigourously and as vigourously as possible. I thank you, Mr. President. [*Desk thumping*]

**Mr. President:** Sen. Prescott. Sorry, Sen. Cudjoe.

**Sen. Shamfa Cudjoe:** Thank you very much, Mr. President. I want to thank you for the opportunity to make a short contribution to this Motion. I was somewhat hesitant about participating in this debate, Mr. President, because I felt that by this time and looking at the number of speakers, that all the issues would have been covered already, but I have one burning issue that piques my interest that I want to speak a little bit about.

Mr. President, I am concerned about the adequacy of this legislation as it relates to reaching the objectives that are set out in these regulations. For the most part, we are trying to discourage the population from smoking because it is dangerous to health, and there seems to be some focus on protecting young people and children from smoking and second-hand smoke, but I am really concerned that a very important issue was not raised today as yet.

When you listen to the debate, Mr. President, these regulations tend to focus on cigarette control rather than tobacco control, and I raise that topic because I am concerned that we as a Parliament or as more mature people are probably not in tune with what is taking place now in modern pop culture among the young people.

Now, Mr. President, we have to be cognizant of the emergence or the prevalence of hookah smoking, which is a new thing to modern culture. It is becoming more and more popular. You will see hookah bars popping up in Miami when you go on vacation and now in Trinidad. I recently went to an entertainment spot in Tobago, and saw they had a hookah section. Now, Mr. President, I am almost sure that everybody in this Senate may be aware of what the hookah or shisha pipe is. It is a pot with water and hoses, and you can have hoses for two people to smoke at the same time, and on the top there is a fire chamber. So you put the tobacco in the fire chamber and you pull through the pipe to smoke.

Hookah smokers do not really consider themselves to be smokers. As a matter of fact, they frown upon people who smoke cigarette because they think it is a more sophisticated thing they are doing, and that they do not have to worry about the tar and all the other chemicals in cigarettes. But, Mr. President, when you look at the rising figures for women smoking especially and young people, in this day and age we are looking at not cigarettes but, for the most part, cigars and hookah smoking.

So there are some people who believe that the tobacco that is used for hookah smoking and even smoking cigarettes using the pipe, it is less destructive or less deleterious to health than the cigarettes, There are those people who are of the

belief that organic tobacco does not do any harm to the human body, to the lungs, you do not have to worry about cancer, but I wanted to place that on the record because it is very popular here in Trinidad and Tobago, in the US, in the Asian countries. Expect to see hookah bars popping up or shisha bars popping up here in Trinidad and Tobago, and we have gotten to the point as young people to believing that this is not really tobacco because you go to the bar and you request what flavour you want. You could get mango, pineapple, mint, whatever flavour you want. Some people are not even aware that it is tobacco that is being placed in the fire chamber.

So Mr. President, the tobacco presents the same kind of effects like—because at the end of the day we are dealing with nicotine which is very addictive, so you find a lot of women are becoming more and more addicted to hookah smoking. Mr. President, it is very easy to purchase a hookah pipe or a hookah pot on the Internet. On Amazon, there is the really cute pink ones that could fit in your handbag for US \$9.98 and those have two pipes so you could smoke with a girlfriend or with your boyfriend, and they are the ones that are about US \$49 or US \$50 with four pipes. You could get a hookah pot as big as you like for as big a party as you like. They are very easy to order on the Internet. So I think that we should not just be looking at cigarettes, we should also look at tobacco control all round.

Now, Mr. President, for the purposes of this debate only, I was able to obtain this little parcel of tobacco. [*Parcel in hand*] I hope it is not illegal, if it is—[*Interruption*]

**Hon. Senator:** You are safe in here. [*Laughter*]

**Sen. S. Cudjoe:** Give me a little “bligh”. So Mr. President—[*Interruption*]

**Sen. G. Singh:** Source is important.

**Sen. S. Cudjoe:** Mr. President, this is very easy to get. I got this in Tobago. You could get this at your vendor that sells fruits and vegetables in your village or at the Scarborough market. [*Interruption*] I was able to obtain this yesterday and, Mr. President, it is very—in Tobago, you take it as a gift to old people. The person who is selling it though could be a wholesaler in the case of this debate, in the case of this Act, Mr. President. Because she has a huge bag and “she does section out how many pounds or grammes of tobacco you want” and there is no sign anywhere. You could get this at your vegetable stand anywhere, Mr. President, but this is the tobacco that is used, organic tobacco as they say, and it smells very much like cigarette, and this is what you use to create the tobacco or to flavour the tobacco you want to put in the hookah fire chamber.

Now, to flavour this you could put it in a Ziploc container and use whiskey, cherry brandy—whatever rum you feel like smoking or getting a head with on that day—but you keep it in that container for one hour and then you put it in the chamber. You can get apple flavour, mango flavour, in the oils from your local oil retailer, and even you can use mint oil for those who are trying to get cold off their chest and so on. But I am just trying to raise the point of how easily accessible tobacco is. It does not have to be in the form of cigarette.

So Mr. President, my concern really is, how do we regulate these women or these market vendors or the person in your village selling fruits and vegetables and look at this as a herb? [*Desk thumping*] How do we regulate those people? Are we going to ask her to put up—in her packaging, are we going to put the health messages on the packaging of this, Mr. President?

I think this is where the unit that Sen. Robinson-Regis would have raised that is supposed to be brought into being based on section 5 of the Tobacco Control Act—I think that this is a very important role that they need to play as it relates to monitoring tobacco use and access to tobacco because this is very normal. It is organic, it is natural and it seems very harmless. So this is something we would need to treat with.

In this case, Mr. President, and as hookah smoking or shisha smoking becomes more popular in the region, it brings into question Schedule 3 that asks the wholesaler or the packager to place on the package—I want to read it, Mr. President—let me find it and I quote:

“Smoke from this product contains extremely addictive nicotine and toxic substances such as tar and carbon monoxide.”

But, Mr. President, this does not contain tar, so is that kind of message supposed to be on this package also? So we cannot just speak to cigarette products, we also need to speak to all tobacco products if we are thinking about the modern times and taking a more futuristic approach because it is basically a matter of time before you have more and more hookah spots here in Trinidad and Tobago.

Now, Mr. President, with that said, I see the need for an aggressive campaigning; media campaigning, education in schools and so on as it relates to the saying no to drugs and quitting smoking and so on because there are people who really believe that this form of tobacco is safer, and we need to put that information out there that any nicotine from organic or non-organic tobacco is very dangerous. [*Desk thumping*]

We also need to ensure in our budgetting exercise that divisions under the health and social services—I know in Tobago it is under health and social services. I do not know in Trinidad where NADAPP falls—we have to make sure that they have enough funding and staffing and the necessary resources to give the message, to promote the message that we are trying to share with the general public.

And, finally, Mr. President, I recognize different kinds of messages. I see health messages, and I also see vanity messages. A recent study was done in the UK—I read this in the UK newspapers—that vanity messages tend to have a greater effect on young people. We are worried about ageing; we are worried about bad breath; we are worried about our voice not sounding sexy; so we are worried about how we look rather than some lung that is somewhere in the inside that nobody is going to see. That is what I read in the study.

**7.45 p.m.**

Mr. President, I would also like to see that we move to a place of restorative health messages. I had the opportunity to chat with some smokers who feel like—some addicts—they cannot give up smoking, and the one thing that gets their attention are messages that relate to: “If I stop today, in three days my lungs would begin working a little better, and in five years the risk of me having a stroke would go down by 50 per cent”. But there are people who are already so addicted to this lifestyle that feel like: “My lungs are already damaged, my teeth already look bad; what is the point in stopping now?” So we want to give some hope to those people, that even if you stop right now, there are health benefits for you.

And, finally, I will like to see social groups, or even the Ministry—I know the Government cannot do everything, but if we can provide incentives for support groups, because as a man, or a young person, trying to quit and telling your friends that you are trying to quit smoking, you do not get enough support, so it is easy to fall back into that cycle, but if you have a support group to go to, people that could motivate you and to help you get back to a more healthy lifestyle, that would be very helpful.

Mr. President, I had the opportunity to join the Facebook group called Tobacco Free Florida, and it is a blog spot that people who are addicted to tobacco could go on there and get some support when they feel like they are backsliding, and if we can do something, a national campaign, we could encourage youth groups, social groups and community groups to launch and run with a campaign similar to the Tobacco Free Florida campaign, I think that would be very beneficial.

*Tobacco Control Regulations, 2013*  
[SEN. CUDJOE]

*Tuesday, December 10, 2013*

So with those few words, Mr. President, I want us to really look at this from a modern perspective, to interact with the young people and see what they are into right now, because this whole culture of hookah smoking is very popular, and I think in a matter of months, you are going to see hookah bars and spots turning up here.

So with those very few words, Mr. President, I thank you. [*Desk thumping*]

**Mr. President:** Sen. Prescott.

**Sen. Elton Prescott SC:** Thank you very much, Mr. President. Thank you, colleagues. Mr. President, I am pleased to join the debate on the regulations which are before us, the Tobacco Control Regulations, 2013. I ought to start with a disclaimer in relation to my contribution, because I have been a smoker and I have used “cigarette sweetie” in my time, but more significantly, more importantly, it is a matter of ethics, I have represented the West Indian Tobacco Company Limited in industrial relations matters, up to recently. So that what I am about to say may well appear coloured in the minds of some, but I would endeavour to maintain my usual professionalism in my approach to this.

The place to start, therefore, is to look at what the Minister, in presenting the Motion, has sought to convey to us, and to invite him once again to look at the Act which gives him the power to establish regulations, and to ask himself whether he has been faithful to the Act itself. In my view, he has fallen short of what is to be expected, but I will endeavour to persuade him, and those who may come after me, that there may well be an opportunity to bring these regulations up to par and may well get the support of more than one Member of this House.

The place that I would start, and as I said before, it would be the Minister’s words, as I gathered from what he was telling us when we came to this House. He told us that there were 64 countries in which the use of pictorial warnings had been in effect, and that he thought those warnings could replace positive, or, rather, replace negative associations with positive messages, and positive behaviours. I intend to return to the Act to say that that is not what the Act requires of the Minister, and I should endeavour to show that by reference to the Act itself.

The thing that struck me, and it seems to have struck some other Members of this House, is that the Act says, at section 5, that the Minister should have established by now a unit within his Ministry which—and it is this that I want to stress:

“...shall be responsible for—

designing and disseminating messages for inclusion on tobacco packages;...”

In the absence of the Minister satisfying us, that the unit has in fact, designed and disseminated these messages for inclusion on tobacco packages, one is inclined to ask and I am asking—by what authority is the Minister acting when he comes before us and says, “Here are some messages that I propose to have emblazoned on cigarette packages.”? He must tell us where within the Act he has taken that power from. How does he invoke the power if indeed the unit has not been established, and it is the unit alone, which according to this Act, has the responsibility for designing and disseminating these messages?

I am not about to propound that smoking is good or bad for anyone. I know why I gave it up, and I hope I have earned some more years. I expect to go on until I reach in the '90s, so maybe I have done myself a good service. But I am focusing on the legislative content of what we have been told by the Minister, and asking that the Minister look again at the Act. Let us look at the purposes of the Act.

In section 38(1):

“The Minister”—is empowered to—“make regulations subject to affirmative resolution of Parliament—

(b) generally for carrying out the purposes of this Act.”

I suspect that he has not come here under 38(1)(a), which speaks about:

“...prescribing requirements and standards for tobacco product constituents, including emissions of smoked products...specifying methods for testing and measuring compliance with the performance standards and requirements...”

It must be that the Minister has come before us seeking to persuade us that he is set out to carry out the purposes of the Act. And these are the purposes so far, as I gather from reading the legislation, the Tobacco Control Act, 2009.

One:

“...to prevent tobacco use by children;”

The messages which are before us are not aimed at children, certainly not aimed at preventing them from using tobacco. It might deter them. It might suggest a lifestyle for their future, but we know that the law prohibits them from having access to cigarettes and to tobacco by going out into the public marketplace and

purchasing it. And it prevents others from even assisting them to be vendors themselves of cigarettes. I understand, in the school population, it is not unheard of that children are themselves doing some vending on cigarettes, so all that kind of behaviour has not been addressed in the messages that we have been asked to look at today, by way of regulation.

The second purpose, to:

“regulate tobacco use by individuals;”

Mr. President, it is my view that the regulations before us today are not meant to regulate tobacco use by individuals. The individuals who are already engaged in the use of tobacco may well gather from these messages, if they have not already done so, that the use of tobacco may be dangerous to their health; that the use of tobacco may endanger their relationships with others who are non-users, but it is not about to regulate the use. It does not say how many packets of cigarettes per day that you may use, or what nicotine content it may have, or tar content. The regulations that we are asked to look at simply do not address that power.

The third purpose, to:

“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;”

And I imagine that the Minister would, in responding, say, “This is the power. These are the purposes that we sought. This is the purpose that I am seeking to work with, to present to you, that I am, by introducing these messages into the public domain, seeking to enhance public awareness of the hazards of tobacco use and to ensure that individuals are provided with information to make more fully informed decisions about using tobacco.” So I should come back to that.

Next purpose, to:

“protect individuals from exposure to tobacco smoke;”

Clearly, not one of the purposes of these regulations.

Next, to:

“prohibit and restrict promotional practices;”

Now, by some stretch of the imagination, one may say that the requirement that messages be emblazoned on the package, or that the dispenser carry a certain message might affect the operations of the manufacturer, but these regulations are



not aimed, as the Act would have expected, at restricting the promotional practices of the manufacturer. The promotional practices of the manufacturer are already restricted:

- (a) by law that says, these products are not to be sold to persons under the age of 18, or are not to be sold by them—if some adult decides to allow that kind of behaviour.

The next purpose, to:

“prevent”—the—“smuggling of tobacco;”

Clearly not engaged here.

Next, to:

“provide for”—the—“regulation of tobacco products to mitigate against the harmful effects of tobacco;”

And I invite the Minister to tell us how is it these regulations are intended to regulate the product, and by so doing:

“mitigate against the harmful effects of tobacco;”

I am of the opinion that it does not, and I make bold to invite him to tell us, to the contrary, if that is indeed the purpose of his having acted pursuant to section 38(1).

The Minister told us also, Mr. President, that we need not trouble ourselves. In fact, the language he used was this: “The Tobacco Control Act 2009 was passed by a constitutional majority.” So that takes care of any constitutional problems anyone may wish to bring up. This is my précis of the language which fell from him, and I wondered if he had been advised—the Minister that is—had been advised, as is usual, by the Attorney General on what constitutes a constitutional problem. The Attorney General himself seemed to have, by what he had told us, supported the Minister in saying, “No, there is a constitutional majority; we can do as we please.” I am probably exaggerating.

**Sen. G. Singh:** Yeah, you are.

**Sen. E. Prescott SC:** But the regulations must be reasonably justifiable in a society that has a proper respect for rights and freedom. And you have heard it mentioned here. The rights and freedoms of the manufacturer are equally important within the constitutional framework, as the rights and freedoms of the individual smoker, and as the rights and freedoms of the child and those who are out there vending cigarettes for their livelihood.

*Tobacco Control Regulations, 2013*  
[SEN. PRESCOTT SC]

*Tuesday, December 10, 2013*

And so the Minister ought to have come to us—this is my proposition—and said: “Here are the statistical data that I am relying on for saying that this regulation will achieve this problem, and is proportionate to the mischief that we are seeking to erase.” There is no statistical data provided to us; maybe he has it, maybe he plans to do it in the reply, but somebody who is listening to this debate might well be asking, “What guarantees do we have that graphic images, when used in the fashion that you have suggested, will reduce the use of tobacco in Trinidad and Tobago?”.

I have heard some startling data today about our position in the world ranking, and smokers consuming as much as 1,000 cigarettes in a year. What of the graphic images will impact on a person who is already at the level of a 1,000 or 800 hundred? We have also heard that the consumption is rising. You may extrapolate that from what you have been hearing about Witco’s commercial successes. It appears that people are going to smoke in any event, and they are going to smoke cigarettes produced by that manufacturer in this country, or received through those other means, smuggling, et cetera, which the regulations do not address.

**8.00 p.m.**

Mr. President, if tobacco is available in this country other than over the counter, where are the regulations that seek to prevent that from happening? Is that not a concern also? Had the unit been in place, it may well have addressed those matters.

If we look at section 5 of the Act which requests the Minister to establish the unit, it says that the unit shall be responsible for:

- “(a) developing and implementing, in collaboration with civil society, a national strategic approach to tobacco control;
- (b) undertaking impact assessment of national policies and programmes aimed at controlling consumption and production of cigarettes and other tobacco products;”—precisely the point.

The unit would have told us, here are the data on which we rely for saying, that this policy, this programme we are now embarking on of showing graphic images, will result in the reduction of the use of tobacco.

You would have heard from Sen. Robinson-Regis a reference to decided cases in other jurisdictions. There was reference made to the case of Reynolds coming out of the United States Court of Appeals, and in the report on that judgment from

the District of Columbia, Circuit 2012, No.11-5332, *RJ Reynolds Tobacco Company v the Food and Drug Administration*. At page 27 of the report that I have, we note the following, that the Food and Drug Administration came to the court armed with studies, one of which was the regulatory impact analysis done by itself, and which the court had this to say about it. [*Interruption*]

**Sen. G. Singh:** That is very dated. Subsequent findings refute that.

**Sen. E. Prescott SC:** The FDA has presented us with only two studies that directly evaluate the impact of graphic warnings on actual smoking rates. Neither set of data shows that the graphic warnings would directly advance its interest in reducing smoking rates. Indeed, the court learnt from what it had heard that the reduction, if any, that had been achieved was substantially close to zero—.088 or something of the sort.

I did not hear from the Minister that there is much more recent information or there is Trinidad and Tobago information on which Senators seated here in this Parliament and willing to join in this debate, could say, “I have cogitated on those data and I feel that we can support the Minister that to publish an image of a stillborn child will bring about a reduction in the rates.” Reduction in rates, as we know—and in Trinidad and Tobago governments have been trying to do this over the many years. Every budget day they push up the taxes on cigarettes, and those who had been able to hoard some before the rise smile and smoke for another two weeks, and then they have to go out and buy at the new price. But they do go out and buy at the new price. They make adjustments in their other expectations, their other desires.

People who finally get around to smoking and those who are addicted to it—I am saying those are two separate people—are doing it because it is a lifestyle that they prefer. And I think it is fair to say that they make informed decisions about it. It is not by impulse. People make decisions that they would smoke. They may do it for many reasons. It might be vanity. It might be to establish their masculinity. It might be to hide some deficiency, but people make decisions about how they would live their lives.

We know of smokers who have gone on to live way into their 90s, and never once would be heard to say, “Lung cancer brought about my demise.” A very recent passing was of a person who had been known to be a smoker, a high judicial officer. We will see these things. It might be an aberration. It might be that he got away, but other things kill you, and so some people say, “I am going to take a decision to smoke. It is not by coincidence that I am a smoker.”

What the Act requires the Minister to do through the intervention of the unit—which is yet to be set up—is to provide such persons with information so that they may make more fully informed decisions, not to stop them from smoking. It says, “make a fully informed decision about your use of tobacco” and it seems to me that that tells us that there is no prohibition on smoking in Trinidad and Tobago. What we have heard here today from the Minister and from those who have spoken in support of these regulations, suggests that it is okay to denigrate the smoker, to ostracize the smoker, to say to him you are culturally objectionable because you choose to smoke.

What has been done in most societies, and it has been done here, is to reduce the areas in which the smoker may conduct his private and social life or pursue his habit, so that others are not affected. But these regulations do not address that. These regulations are not meant to keep you away from the non-smoker. If it were that that is what they were intended to do, quite clearly some other kind of constitutional instrumentation may have had to be used, but at the very least we would have known that the policy and programme which the Minister has embarked upon is meant to prohibit smoking among certain persons in certain places. We have not been able to see that coming out of the discussions here today.

Mr. President, chances are that with the prohibition on the sale of tobacco to persons under the age of 18, we are likely to find less and less young people taking up smoking as part of their lifestyle in the years ahead; but there is no prohibition against any child over 18—and I use child there loosely—purchasing cigarettes, passing them on to their friends. We know what the Trinidad society is like. We know that there are moments in our celebrations when all of the inhibitions disappear—all or a substantial part of them disappear—and nobody takes the time at that point to say, “May I see your ID card.” So this debate is not going to lead to some change in people’s habits, unless it is divined in a certain way, and I shall approach that shortly.

It is not about the prohibition of tobacco usage. A lot of time has been spent here. The hon. Attorney General spent a lot of time speaking against smoking, but it is clear that this is not our purpose here today.

The Minister said, among other things: “All the Government can do is educate. The private system has a lot of money for advertising. We do not, so we legislate.” Well, my colleague, Sen. Drayton, has already pointed out that there is much money out there for advertising and it is being spent. All one needs to do is to redirect some of it into the path of educating us and, in particular young people,

against the use of tobacco. So that that would fit very squarely within what is expected of the Minister by the Act, to provide information to persons so that they may make fully informed decisions about the use of tobacco.

What the Minister appeared to be hinting at in the exercise of his power is that he has the power to legislate. And there is no doubt that he has the power to legislate, but my urging is that that power is not ammunition to engage in scare tactics. You do not browbeat the citizen into quitting, by shaming or denigrating him. It is not required by the Act. It is not permitted by the Act, but I am afraid that is what the regulation is setting out to do. I am sure the Minister will seek to dissuade me from that view.

Let us look at plate one, the graphic image in Sets A and B of the proposed regulations. Those are the ones that say: Quit smoking. I cannot pick them up immediately—they say: Quit Smoking; quit now and save money. Now, would the Minister care to tell us where in the legislation it has been given to him the power to say to a person: saving money is what life is about? It is not his business. It is not his business to say to anybody, and he is not empowered by the Act to say to anybody, “Quit smoking”.

Quitting smoking is a lifestyle choice, just as much as starting it is. Regulation 10, I think it is—[*Interruption*]  
—I do not know why I am not able to find my regulations in a hurry, but I will soon put my hand on them. The primary policy is what I am after. If it is the primary policy of the Government, at this stage, to say the following to people: “Warning, quit smoking now” and “Stop smoking and save money”, that is totally outside of the power of the Minister.

“Quit now save money

Quit Now

You work too hard to burn your money

Calculate what you will save after just 100 days of quitting”

The question may well be asked: how much? I am sure that the Minister does not have an answer to that. But the more important question is: who empowered you to put this message out if it is not meant to address the purposes of the Act? It certainly does not address any purpose set out in this Act, and I will urge the Minister to look at it once again.

Equally, one may say, and more light-heartedly, if it were true that smoking causes ageing, then many of us in here need to be told that that is so. We are ageing all the time, unless there is a medical connotation to the word “ageing” that is escaping me, and it does not seem to have anything to do with ageing. The Act really could

*Tobacco Control Regulations, 2013*  
[SEN. PRESCOTT SC]

*Tuesday, December 10, 2013*

not have empowered the Minister to make bold, unsupported statements such as “smoking causes ageing”. It might enhance it or accelerate it or make it worse for all of us, I do not know, but it does not seem to me that my ageing has anything to do with smoking, because of what I told you at the very beginning. That is one of the ways that I would ask you to look again at these regulations if you wish to get the full support of this House in that regard.

I want to move on to a slightly different point now Minister. You had cited the American College of Physicians as recommending certain approaches to the work of the Minister under the Tobacco Control Act, recommendations which I am supportive of. They are: in order to reduce usage, to engage in effective smoking aids; providing effective access to smoking aids. In other words, to assist persons who may wish to do so in removing themselves from the habit—and that is a laudable position for the Government to adopt and probably it does not require legislative power to do. You simply establish centres, programmes, counselling if need be, that bring about change in people’s mindset.

Equally, you pointed out that smoking cessation programmes are one of the things recommended by the American College of Physicians. If the Minister had come here to tell us that we were about to see a series of advertisements that were intended to bring about a change in people’s lifestyle choices—well, presumably we would have said it is not necessary for you to come before us for that—but that certainly would have been a more acceptable approach to treating with what these regulations have set out to treat with, Mr. President. So I would urge the Minister to focus more on bringing that about, by those means, than by the draconian—perhaps I should not use the word “draconian”—by these very bold, direct tactics that are meant to scare us all into a position of submission, when in fact what is required is for us to be educated along a certain line and to bring about a change in our behaviours.

This is not a coincidence, although the Attorney General made the observation, I am sharing the same legal opinion of those who say that insofar as these regulations do not support the purposes to which I have referred, then they are ultra vires the Act. I repeat that. Insofar as they do not serve to put forward the purposes of the Act, they are not intra vires, they are ultra vires the Act, and that somebody, someday would indeed have the opportunity of declaring whether they think so or not. During the hiatus of a year that is allowed by the Act, then it may well be that these regulations could be challenged, and challenged successfully.

**8.15 p.m.**

And I too, like Sen. Drayton, I am wary about sitting here and saying, “I give my support to this Motion”, when indeed, I am fearful that in the long run it may be that these are not *intra vires* regulations at all and they are not within the power of the Minister to do.

Mr. President, those are the messages that I want to leave with the Minister for his contemplation, so that when he is wrapping up he might tell us, how, if at all, he brings himself within the ambit, the legislative ambit that has allowed him by the Tobacco Control Act of 2009.

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

**Mr. President:** Sen. Dr. Mahabir.

**Sen. Dr. Dhanayshar Mahabir:** Thank you very much, Mr. President, for giving me the opportunity to engage in this particular debate.

I recall, Mr. President, a document written a few years ago which stated as follows in relation to tobacco smoking:

“A custom loathsome to the eye, hateful to the nose, harmful to the brain”—and—“dangerous to the lungs.”

Contained in an article written by King James I in the year 1604 and I think 410 years later it is indeed instructive that most Members of this House seem to agree with the good king that he may have made a point with respect to the ill effects of tobacco consumption.

The issue before us is, whether in fact, the regulations governing the Act will result in the objectives of the Act, clearly stated. And if we may paraphrase, what are the objectives? For someone less than 18 years considered by the law to be a child, that individual should not take the first tobacco product and smoke it. We would like that individual not to sample the product at all, and there must be regulations to that effect. There are laws; we would like to have regulations as well to ensure that the laws can be implemented.

And second, for an individual who is over 18, who can purchase the product legally, who can consume the product legally; we would like the regulations, the law and the regulations to achieve the following purpose: if that individual smokes one pack a day, cigarettes or tobacco related products, could he smoke maybe half? If he currently consumes half, could he smoke five? If he currently consumes five could we cut him down to one and then, hopefully to zero?

The reason is, there is no contention that the consumption of this particular product is really hazardous to health. I take the cue from my colleague, Sen. Dr. Wheeler, who indicated to this honourable House, in my mind, a very telling statistic, and that statistic is that if an individual at age 24 has not yet consumed a tobacco product, in general a cigarette, there is a 99 per cent chance that this person will not become a smoker and, therefore, it is very critical for the State, acting in the public interest to try its level best to ensure that young people are not exposed to the possibility of consuming this cigarette.

It is true we cannot legislate for all cases, but it is important that the young people themselves—there is a legal requirement, under 18, there is also an 18—24 window, now, where we would not like these young adults to even sample their first commodity and one of the regulations that I wanted to address was the issue of the sale of single units. Tobacco is expensive. I understand one may have to pay something like \$25 for a packet of the cheaper brand. It would mean that a younger person of impecunious means or with disposable income that is not significant, may, in fact, gravitate towards purchasing the single unit, which, I imagine may be less than two dollars each.

And in that situation I did not see anything in the regulations which indicated that the seller of this single unit, who, may be, as indicated prior, a vendor on the street of other commodities, lottery tickets and sweets and fruits, selling the commodity that the regulations will require him or her to have a licence granted by the Ministry of Health, by the Minister of Health, permitting him to sell or her to sell this commodity in single units on the streets. And if this is the case then, it means that we have a lot of unlicensed sellers, selling what the Attorney General will call the retail cigarettes, which would be very appealing to the youth of limited economic means.

And so I was wondering whether the Minister will consider looking at this particular regulation to determine whether these particular vendors who will not be able to have signs displayed by their stalls, as indicated in the regulations, that sales to minors under 18 is forbidden. These are individuals who largely will be operating without licences, and I think we need to put some kind of control on them, so that the licence, Mr. Minister, may address the issue that if they were to sell to individuals under 18, then they can face a fine, they can lose their licence, they will not be able to sell this particular product. The objective being to ensure that the young individual is not given an opportunity outside the formal establishments, to purchase the cigarettes on the street. So, that is something for consideration.



But the second important issue in my mind, Mr. President, is that issue of addiction. When I heard of the rate of growth of the profits of the manufacturer locally in excess of \$400 million per annum, it has to be that this particular manufacturer has repeat customers. Customers who will buy and consume today, tomorrow, next week, next month, next year; they have basically captured the customer; the customer is addicted. If the customer is addicted then this particular customer is going to be immune from all the warning signs placed on the packets. The warning signs may in fact deter the young adult who will be very sensitive of his health, may be dissuaded, but for the individual who is addicted, I think we need to have certain measures. And I would want to tie that in with another regulation which I am offering for amendment for the Minister's consideration.

I have absolutely no issue, whatever, with those signs in the regulations including the one which says that "quit smoking, you will save money". It is very much in my mind within the purview of the health Minister to say this, because in his capacity as a health specialist he will know that if you quit smoking you will save money on health care costs later in life. It must be very expensive for an individual who is a smoker, really, to take care of his health care costs later on in life and his smoking may, in fact, cause him to find himself in a health care situation where he becomes a burden to the State since he is unable to finance this health care on his own, and this you see is the crux of the matter.

The smoker is not aware that his smoking and the company that produces this product is not very, very, very focused on the fact that what it sells creates some negative effects, not only for the consumer, the family or the friends of the consumer; those who come within his circle of smoke, but also becomes a charge and a cost to the public finances. And it would be very important, I think, if officials in the Ministry of Health could really give us some kind of indication of the costs associated with treating the effects of tobacco for the population of Trinidad and Tobago affected by consuming this particular product.

And in this area of addiction, I want to join with all Senators who indicated that there ought to be some monitoring unit in the Ministry to actually monitor the overall process. And in this regard and I am tying it, Mr. President, to one of the regulations here which I hope the Minister will consider amending. What we need, really, is this particular unit to be in charge of implementing the objectives of the Act. What will this unit possibly do?

Located within the Ministry of Health, I think acting under the advice of the Minister of Health; the directive will be given to every single health care practitioner within our republic, from the most junior nurse to the most senior

specialist: Whenever an individual comes into the health care system, both private or public, Mr. Minister, and the record is being taken of the patient's history, as soon as the patient is known or has declared that he or she is a smoker, I think it should be the power of the Minister to direct his health care employees, health care specialists to indicate to this individual that smoking is dangerous to your health, and to give him or her the lecture. To have within the health care systems, the health offices, the public hospitals, TVs with these DVDs showing short clips on the ill effects of tobacco.

And when someone is a habitual smoker entering the Ministry's health care system, that person, in my opinion, should be given all counselling and guidance including the help to allow him or her to wean himself or herself out of the habit. In what way—take for example the use of the nicotine patch, nicotine gum. I understand there are many of these aids which will help an individual overcome his addiction to the product.

If your Ministry can provide to these habitual smokers—these addicted smokers—a free one-month supply as soon as you come into the health centre, the hospital, the public facility; you have a one month supply of the nicotine patch or any effective mechanism or aid deemed by the Ministry to be useful in weaning someone out of the product, then I think it would be well worth the while of the nurse or the doctor simply to give the patient as part of his medicine package a one-month supply; try this, let us see if it will work; try something else, and as long as he is a charge on the health Ministry, I think, we would need to ensure that we give him this kind of assistance. What do we want? We want that individual, over time, to wean himself out of cigarettes, and if he is addicted to nicotine, make the patches available to him so he has an alternative.

It is, of course, very difficult, I imagine, I speak only from imagination, to cease consuming this particular product immediately, but gradually, I think there are aids which the health care system should, in fact, supply, free in the first instance and then at a subsidized cost to all consumers out there who wish to really wean themselves because they understand the threats to their health and they understand the need, in fact, Mr. President, to move away from this particular product.

The unit in my mind—Mr. President, and I hope the Minister will in fact get the unit going—will establish chapters across Trinidad and Tobago similar to Alcoholics Anonymous, smokers anonymous; those who are having a difficulty coping with the withdrawal of the particular product, should get the counselling session. And smokers anonymous chapters across the country, sponsored by the

Ministry of Health, in fact, in my mind, will go in some way to helping the addicted smokers reduce their dependence and then to move away from the product.

**8.30 p.m.**

But all of this, Mr. President, will cost. The Minister is right when he said that his budget is limited. The budget for promotion is limited. It has to be spread over all Ministries. The budget for the Minister may, in fact, be exhausted because there would be a need for additional funding for these nicotine patches and nicotine gum, and for the counselling sessions, and for the intervention with respect to the smokers anonymous programmes, together with widespread advertising, intervention in schools. And incidentally, I think it would also be very valuable for the Minister of Health to work closely with the Minister of Education so that we can, in fact, address the issue at a young age, particularly in the secondary schools, also in the primary schools.

It would require funding, Mr. President, for there to be endorsements. Just as some companies use athletes to endorse their products, I think the Minister should use our athletes to endorse the fact that smoking is dangerous to your health. We have Jehue Gordon. If you want to run as fast as he can—and he should tell that to the young people—do not take that cigarette. Darren Ganga and Sunil Narine, we have these people who are athletes, who are icons for the young people, and I think we need to recruit them, get them into the programme.

Let the unit that is supposed to monitor and implement the regulation, to implement the Act, recruit these individuals of stature because, as Dr. Wheeler said, you know, if we can catch people before 24, we are okay, and those younger than 24 will gravitate to a particular type of icon, usually an athletic star that could very well be used in this exercise. So that what you want to achieve, Mr. Minister, the reduction in consumption of the addicts and the prevention of the young person from smoking may easily be secured with the kind of intervention programme.

But we come, then, to the funding. We do not have unlimited resources. The Ministry of Health, like all Ministries, are constrained by what the Minister of Finance and the Economy will allocate on an annual basis, and we therefore look at the regulations and ask: could we examine the regulations and try to see whether the regulations themselves can generate a source of funding for this particular programme?

*Tobacco Control Regulations, 2013*  
[SEN. DR. MAHABIR]

*Tuesday, December 10, 2013*

I saw that there is one regulation which requires one dispenser per outlet, and I would like to suggest to the Minister, if he could waive this and have the tobacco companies supply as many of these dispensers as they wish, to place in retail stores. So that a large store with ten cashiers may have 10 dispensers; a small store with two cashiers may have two dispensers. Why this largesse? First, the message that you want to send to the consumers will then be displayed on ten dispensers: smoking is horrible for the health. All of these pictorial images will be replicated so many times in the store.

But more important, Mr. Minister, I think you can consider, as part of the regulations, levying a charge and a licence fee for every dispenser supplied by the company to the store. The size of that fee will be determined by the cost of your intervention programme, and you could determine, together with officers from the Ministry of Finance and the Economy, how much of a levy should we charge the tobacco company as a licence fee for having a dispenser in the store. So that if they have 10, it would be 10 times the licence fees that you will use to finance your intervention programme. It would mean that the tobacco companies themselves, creating a health problem, will be levied in some way so that they can finance some of the cost of this particular solution without going to the taxpayer.

And then there is another possibility that you have to consider from a fiscal position. Profits of \$410 million per annum seem to be large. Of course, one has to look at the amount of capital employed, but I think once we know what the cost is of the tobacco company, in terms of the health status of the population, and we could identify the cost, there is nothing in law at some time for us to come back in the Act to determine whether the tobacco company itself, in addition, Mr. President, to paying this licence fee for the dispensers that they are going to supply to all retailers, a special tax, the health surcharge, levied particularly on a tobacco company—because it is one company that is causing more harm to the health status of the population than most, and if there is one company that should pay out of its profits in addition to corporate taxes, a health surcharge, so that the Ministry of Health can obtain an injection from the tobacco company to assist with the cost of all the tobacco-related products—I think we would be going a long way.

So, Mr. President, I have no hesitation giving my full support to the regulations that are in order here, and I am going to support the Minister, but I do hope he considers some of my recommendations.

Thank you. [*Desk thumping*]

**Mr. President:** Sen. Vieira.

**Sen. Anthony Vieira:** Thank you. Mr. President, let me make an unqualified statement. I totally support the regulations and I commend the Government for making this effort to warn consumers about the dangers of smoking. Notwithstanding the concerns and protests raised by the tobacco company, I see nothing in either the Act or the regulations which prohibits or prevents the sections of the proposed regulations from being enforced. The Tobacco Control Act was passed by both Houses of Parliament and supported by at least three-fifths of all the Members.

The purpose of the legislation includes: Enhancing public awareness of the hazards of tobacco use and ensuring that individuals are provided with information to make more fully informed decisions about using tobacco, and prohibiting and restricting promotional practices.

The AG spoke of section 24(1), and I would just look at it.

“All tobacco products shall contain, permanently affixed on their packages, messages as prescribed by Regulations.”

I believe Sen. Hinds spoke of section 38(1):

“The Minister may make regulations subject to affirmative resolution of Parliament—

(b) generally for carrying out the purposes of this Act.”

I will not repeat what the hon. Attorney General has said about the constitutional aspects other than to say that I share his opinion and I entirely agree with him. I do not see any over-reach or any constitutional infringement in these proposed regulations.

The tobacco companies do not—indeed, they cannot—dispute Parliament’s power to require health warnings on cigarette packages. In the United States I gathered that the issue before the court was whether the graphic warning labels violated their first amendment rights. Over there, they have a right to free speech and, in particular, I think the issue was whether there was such a thing as compelled speech. But to begin with, we have a slightly different jurisdiction here, and I think it is doubtful that advertisements or other forms of commercial speech will enjoy the same rights and freedoms of thought and expression.

Indeed, in our advertising and consumer law regime, there are many instances of compelled speech: under the Securities Industries Act, advertisements offering securities must provide certain information, for example, in particular a prospectus; under the Hire Purchase Act, consumers must be informed of the price at which goods

*Tobacco Control Regulations, 2013*  
[SEN. VIEIRA]

*Tuesday, December 10, 2013*

may be purchased in cash before sale; under the Food and Drugs Act, advertisements offering health cures which are not based on scientific data, must have a disclaimer stating that the claim is not based on scientific data; under the Adverse Trade Practices Order, 2000, certain information about consumers' rights must be given, especially where warranties or guarantees are being issued. Value Added Tax must be stated on the price tag. There can be no hidden surprises regarding actual price; under the Consumer Protection and Safety Act, where an advertisement quotes a price at which goods are to be sold, the price must be accompanied by a quotation of the tax to be applied to the price of the goods displayed in money terms and figures or letters of the same size and prominence as the price of the goods.

So we have a number of examples and precedents of forced speech in advertising and as a consequence, I have no objection, whatsoever, about regulation 5(5). And what does regulation 5(5) say that is so objectionable?

“No statement relating to smoking or health, other than that prescribed in Schedule 3, shall be included in or on any pack or carton.”

And what does Schedule 3 say? A simple declaration:

“Smoke from this product contains extremely addictive nicotine and toxic substances such as tar and carbon monoxide. No safe level of consumption exists for this product.”

I have no problem with that at all.

Further, as indicated at section 38(1), this regulation is subject to parliamentary scrutiny as it requires an affirmative resolution. Well that, in itself, is one of the checks and balances guarding against any breach of infringement of constitutional rights. It also recognizes that this is a matter of special importance. So if the tobacco interests challenge the legislation in the courts, as has been hinted, I think the courts will look to the degree of scrutiny applied in this debate in deciding what could reasonably have been intended to be permissible by the regulations.

Now, I have listened to Sen. Prescott's contribution on the unit to have been established under section 5 of the Act, and I agree with him and other Senators, in deploring the fact that this is yet to be done. I do not know if Sen. Prescott was suggesting that only such a unit could establish and carry out the proposed regulation, and in its absence the Minister is acting ultra vires the Act in bringing this regulation.

If that is so—but I do not think it is so because he did, in fact, concede that the Minister has the power to legislate. But if that was argued by anybody else, I would respectfully disagree. Among other things, section 45 of the Interpretation Act makes it quite clear that:

“Where a written law empowers any person or authority to do any act or thing, all such powers shall be deemed to be also given as are reasonably necessary to enable that person or authority to do that act or thing.”

So in the event, I dare say, that after all is said and done, the record will show that the proposed regulation, generally, has the approval and support of Government, Opposition and Independent Benches here. I do not want to belabour the point, but in my view, both the Act and the proposed regulations are reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual. I think this is good legislation and I support it.

Mr. President, I thank you. [*Desk thumping*]

**Mr. President:** Minister Fuad Khan.

**The Minister of Health (Hon. Dr. Fuad Khan):** Thank you, Mr. President—

**Mr. President:** Sen. Small, sorry.

**Sen. David Small:** Thank you, Mr. President, Senators. I am here to make a contribution on the Tobacco Regulations Bill. Mr. President, by your leave, would you permit me to just extend congratulations to the hon. Sen. Marlene Coudray on her acting appointment as Prime Minister of Trinidad and Tobago? [*Desk thumping*] Also, I would like to extend congratulations to Senators Robinson-Regis, Baldeo-Chadeesingh and Singh on their appointments to the Opposition Bench. [*Desk thumping*] I appreciate the opportunity to offer these congratulations, Mr. President.

Mr. President, we are talking about tobacco and I think that it is important for us to understand, and step back and understand the industry. We have heard all sorts of statistics today. I have a couple more. Forgive me. According to the World Health Organization, in their July 2013 fact sheet, tobacco kills six million people a year. Eighty per cent of people who die live in low and middle income countries.

**8.45 p.m.**

In the 20th Century, one hundred million people died from smoking; more than all the wars and famines and everything else, 100 million people. The really frightening thing about smoking is the rate at which the people are dying is increasing and it

*Tobacco Control Regulations, 2013*  
[SEN. SMALL]

*Tuesday, December 10, 2013*

is compounding every year. The World Health Organization forecast that if current trends continue, one billion people will die from smoking in this current century. There is a report on the World Health Organization website called “The World Tobacco Epidemic”. I think we need to understand what we are talking about here and how serious it is, and how grave it is. In the way I look at it, I have heard many and all of the contributions today, and I have heard one thing come through, that the tobacco industry is a business and I have no problem with that. It is a business and as with any business, self-preservation tends to be the order of the day looking at bottom line.

In another industry that is very close to my heart—anytime the bottom line is threatened, there is normally a hue and a cry of all sorts of things. I do not think the tobacco industry is any different. Anytime they view anything as a threat to how they make money, there is going to be all sorts of noises. I too was the recipient of a lovely document that stated all sorts of positions. Very interesting, but I have my own positions. I just read it for information. So I think that we need to understand that the tobacco industry is in this to make money. They are not in this for philanthropy and there is nothing wrong with that. That is just what they do.

I have a concern, though, where we talk about—there are lots of arguments about tobacco use around the world and people would always argue that smoking is a lifestyle choice, and I say well, okay. There is a lifestyle choice to eat or not eat pork. There is a lifestyle choice to be a vegan or a carnivore. My concern is—*[Interruption]*

**Hon. Senator:** Very good example.

**Sen. D. Small:**—where your lifestyle choice affects me or other people. So that while it might be a lifestyle choice, I think it goes beyond just being a lifestyle choice where your lifestyle choice affects people around you. So that it may be technically a lifestyle choice, but I think it is much more than that and it needs to be regulated, strongly, because it kills people. I mean, there is nothing else to say, shorter or easier than that.

You know, it is one of the idiosyncrasies of our planet that as we say in Trinidad, the harder times get is the more people will drink and the more people will smoke. My colleague, Sen. Mahabir, will agree with me that the demand for alcohol and tobacco is relatively inelastic. No matter what happens anywhere in the world, the demand for tobacco and alcohol continues to increase globally every year because people are hooked on the drug element within the product. So those are things that are inescapable facts.



What we are trying to do here is to approve some regulations to protect our society and to protect, in particular, our children. I too, like the hon. Minister of Health, many years ago on my first trip to Europe—those days it was still BWee then, in the nice gold colours, Tri-Star—I had the unfortunate experience of travelling from here to London in row 42, the smoking section—[*Laughter*] Yeah. Okay.

**Sen. Ramlogan SC:** That is why you lost all your hair.

**Sen. D. Small:** You understand. [*Laughter*]—and it was not fun. But you sat at the back of the aircraft, you are stuck, you cannot move, the plane is sold out, and you are stuck for eight hours on a plane; because of their lifestyle choice they choose to smoke and I am stuck. I cannot open a window and get fresh air. So those are the things that, as people have recognized the debilitating effects of tobacco on people, that those things have become outlawed and have been stopped. And like my colleague on the other side, the hon. Attorney General, I too have been to the Parrot. I went to the one at Valpark and amongst other places. You get in the place, you stand there for half an hour, and then all your clothing—I mean, it is on you. Even if you did not smoke it is on you.

**Sen. Singh:** “Yuh spouse know you went to de Parrot.”

**Sen. D. Small:** Well, I do not know about that. [*Laughter*] But I think there is an important issue here. I was exposed to smoking. I have had personal experience like my colleague on the Independent Bench, Sen. Prescott. I too used to smoke at a much younger age. I was exposed to smoking at the age of 12 in secondary school. Peer pressure is a hell of a thing.

**Sen. Hinds:** What school you went to?

**Sen. D. Small:** Tranquility Government Secondary. I went to public school, Government school, normal school. I am a regular guy and you get involved in a group—you know, as boys, you get involved in a group of boys. There is a bigger boy in the group and he introduces you to this thing, and all of a sudden you look cool. You think you look cool and you get involved in it. Where I am now, I have two little boys, 9 and 11, and I am concerned about them having that experience because certainly when I went to primary school, which was a little while ago, there were no warnings or educational programmes to let you know that smoking can kill you.

**Sen. Ramlogan SC:** Yes, yes.

**Sen. D. Small:** It will kill you. There is nothing else to say about it.

You know, in my wonderful readings there was a—this matter came up in Australia several years ago. An author by the name of S. Williams, writing for *The Courier Mail* of April 14, 2002, made a statement that made him famous around the world. He said that and I quote:

“The tobacco industry”—is—“making millions...peddling death and disease—and lying about it’...”

And that is what we are talking about. I am not calling any names of companies.

“The tobacco industry”—is—“making millions...peddling death and disease—and lying about it’...” [*Desk thumping*]

So I think that it is a laudable, fully supportable—from my part—approach to try to make sure that we protect those most vulnerable in our society. Those who choose to smoke or whatever, fine; whoever is already addicted, fine. I have young kids and I do not want them smoking.

**Sen. Ramlogan SC:** Yes.

**Sen. D. Small:** Absolutely not! My other concern is I understand issues about resources. Mr. Minister, with the greatest of respect, I was a civil servant for many years. There are things you can do to get money and I think that protecting the children in the schools, getting the information in there, letting them understand that smoking will kill you should be a priority.

I have seen the size of the budget, money could be moved around. That is my honest opinion. I have worked in the system a little while and I know that things could happen if there is the will, and certainly if it requires to come here, I will be one of the first persons to support moving money from somewhere, to this, to support any initiative to get the education programme out to the children. They have to know that this is a killer.

I think that I want to make one other comment and it has to do with the point raised by Sen. Cudjoe, about this hookah smoking, and it is already here. It is already in Trinidad. When I was living in the UK—I did not collect any library cards, Sen. Hinds; I did not collect any library cards—studying, this hookah thing was very popular, and everywhere you went these hookah bars—[*Interruption*]

**Sen. Ramlogan SC:** The what?

**Sen. D. Small:** Hookah. The hookah.

**Sen. Ramlogan SC:** “Or hor.” I am sorry. I beg your pardon. [*Laughter*]

**Sen. D. Small:** After the first time trying it, I am saying but this—you are introduced to it and no one tells you it is tobacco. No one really—it looks cool. It is flavourful with watermelon and cherry, all kinds of funky, lovely flavours taste, but it is tobacco. Actually, it is worse according to the United States Centres for Disease Control. Hookah is not a safe alternative to smoking cigarettes. A one-hour hookah session involves inhaling one hundred times the volume of smoke as compared to a single cigarette. So if you sit down in a lime and you inhale hookah for an hour, it is like smoking a hundred cigarettes, because there is a composite effect by you burning the tobacco but you are also inhaling the exhaust from charcoal that is also being burnt. So it is doubly worse.

Very recently, I was among some friends in a place in Port of Spain and the hookah came around the table, and everybody was like, “Wow”, and I said, no way! So those are things that I am not sure if they can be captured within the ambit of the regulations, but there must be some control put on that because it is sexy and Trinidadians love sexy. Yeah? We love sexy and we cannot allow things like that to get away in the system.

So, Mr. President, and Members, as always, I will always be the first person to have a concern about making sure that we put the proper administrative systems in place to make sure things happen. But as I recalled from a previous debate and a separate discussion I had with the hon. Attorney General, if we wait until everything—we cannot wait until everything is perfect to start moving. I think that this is a step in the right direction, and while it may not achieve 100 per cent of the objectives, I believe that, certainly from me, I am fully supportive of the regulations and every journey begins with the first step. [*Desk thumping*] We cannot all wait for everything to be appropriate and adequate. We try, we work assiduously towards getting there, but we must start somewhere. And as one of my colleagues said, “Lets move and put these things out, and put them out in a hard, firm, supportable way so that the industry understands, you have a choice to make your money, but we have a country to run and we have citizens to protect.

**Sen. Ramlogan SC:** “Yeah, yeah.” [*Desk thumping*]

**Sen. D. Small:** Mr. President, and Members, with those few comments, I thank you. [*Desk thumping*]

**Mr. President:** Senator—Minister of Health.

**The Minister of Health (Hon. Dr. Fuad Khan):** Thank you very much, Mr. President. I want—

## CONDOLENCES

(NELSON MANDELA)

(MICHAEL ALS)

**Mr. President:** Minister, before you embark on winding up, I proposed that at this point we would have tributes on the passing of former President Nelson Mandela and former Senator Michael Als. So I invite—Leader of Government Business, what shall we do?

**The Minister of Environment and Water Resources (Sen. The Hon. Ganga Singh):** By agreement, Mr. President, we have Sen. Fazal Karim speaking on behalf of the Government on the passing of President Mandela. [*Desk thumping*]

**Mr. President:** Sen. Karim.

**The Minister of Tertiary Education (Sen. The Hon. Fazal Karim):** Thank you very much, Mr. President. Hon. Members, all in the Senate, let me take this opportunity as I begin my presentation, to commend the appointment of our acting Prime Minister, Sen. Marlene Coudray [*Desk thumping*] and to thank the hon. Prime Minister, Mrs. Kamla Persad-Bissessar, for her vision and for her very distinguished leadership in her selection. I also wish to take this opportunity to congratulate our incoming Senators on the opposite side and those who are here temporarily, and we wish that we will be able to see you temporarily as we go along.

The Government of Trinidad and Tobago joins with the international community in paying homage to the late and distinguished statesman, Nelson Rolihlahla Mandela. I am indeed privileged and humbled to have been asked by the Leader of Government Business in the Senate, the hon. Ganga Singh, to pay tribute to the former President Nelson Mandela. I think Minister Ganga Singh may have decided to ask me to say a few words, since I had the very distinguished honour and pleasure of meeting former President Mandela, personally, at Mandela's house in Johannesburg, South Africa, on October 25, 2007. That may be a time that may bring back memories to those on the other side; it was not too far away from an election date.

Mr. President, Members, the iconic Mandela will continue to inspire us and future generations through his legacy of justice, equality, non-violent resistance, reconciliation and triumph over adversity. Mandela who is celebrated in his homeland as Madiba or Tata, which translates into father of the South African nation, has demonstrated an indiscriminate passion for racial harmony, social democracy and people development.

*Condolences**Tuesday, December 10, 2013*

US President Barack Obama and his wife, Members of the Royal Family, signatories and leaders across the world have made this historic journey to South Africa, despite geopolitical, religious or social differences, to bid farewell to the great Madiba.

We are indeed honoured to be represented by our honourable Prime Minister, Mrs. Kamla Persad-Bissessar, who led a delegation and continues to lead a delegation comprising other leaders in Caricom, she herself being the Chairman of Caricom. She is also accompanied by the Minister of Transport, the hon. Stephen Cadiz; Minister in the Ministry of People and Social Development, Mrs. Vernella Alleyne-Toppin; the Leader of the Opposition, Dr. the hon. Keith Rowley; our colleague in the Senate, Sen. Faris Al-Rawi; and other members of this very significant delegation to South Africa.

In fact, Mr. President, Members all, we awoke this morning to hear the name of our Prime Minister mentioned among all the international world leaders live on cable television.

**9.00 p.m.**

Nelson Mandela, as you would recall, was born on July 18, 1918 and passed away on December 05, 2013 at the age of 95. The world mourn the loss of a son out of South Africa, a South African father, a former South African President, a Nobel Peace Prize winner, a diplomat, a true humanitarian and a friend of the world. Rest assured that the spirit of Madiba will continue to positively impact our lives in the same way that Mahatma Gandhi marched 400 kilometres to challenge the British imposed salt tax and Dr. Martin Luther King Jr. staged the Montgomery Bus Boycott to challenge laws in Alabama and Montgomery that required segregated buses.

Madiba, like Gandhi and Dr. King, gave a voice to the oppressed and dismantled the legacies of racism, inequality and poverty. Nelson Mandela was most renowned for his stance against the apartheid system which was legislated in 1948 and classified South Africans into four racial groups of black, white, coloured and Indian. These groups were segregated by the then Government in terms of the provisioning of education, medical care, beaches and other public goods and services resulting in inferior public goods and services being afforded to non-white groups.

On August 05, 1962, Mandela was arrested for his association with the anti-apartheid revolution and served 27 years in prison. Madiba sacrificed his constitutional right to freedom in exchange for a better tomorrow for his people

*Condolences**Tuesday, December 10, 2013*

[SEN. THE HON. F. KARIM]

and the people of South Africa. After 27 long years of imprisonment, Mandela ascended to the helm of presidency in 1994 until 1999, and successfully dismantled the apartheid shackles which divorced the peoples of South Africa for decades. Mandela has inspired what some refer to as the golden age of hope and harmony.

I recall early in our term, our hon. Prime Minister, Mrs. Kamla Persad-Bissessar, encouraged the Cabinet to see the film “Invictus”, and I would like to take this opportunity to urge the national community in the same manner to view this film. “Invictus” is Latin for unconquered and undefeated, and the film portrays Madiba uniting South Africa through the commonality of the Springboks Rugby Team.

Mandela recognized that despite our differences, we can come to a common space of respect, love and victory. Every creed and race found an equal place through Madiba, fostering what many refer to as the rainbow nation. It is therefore very symbolic, Mr. President, that the memorial service for the late Mandela is being hosted at the Soccer City stadium in Johannesburg which was where he made his first major public speech upon release from prison in 1990, and which later hosted the first match of the World Cup in 2010.

Mandela made another first through his 13-hour visit to Trinidad and Tobago a few years ago. Mandela was recorded as saying that he was able to have made the journey to a country named after God, Trinidad, signifying the Trinity. Mr. President, colleagues all, we are a blessed twin-island republic and we are grateful for the love that Mandela has shared with the world, and our very own Trinidad and Tobago.

Nelson Mandela, Madiba, Tata, we give thanks for your life and we salute you as a freedom fighter. While no words can express our condolences to loved ones and the wider rainbow nation, we take comfort in the fact that your spirit and legacy lives on for all generations to come. I thank you. [*Desk thumping*]

**Mr. President:** Senator.

**Sen. Camille Robinson-Regis:** Thank you very kindly, Mr. President. I am humbled and honoured to be able to add my voice on behalf of the Opposition and to have been chosen by the hon. Dr. Keith Rowley to pay tribute to the achievements of one of my heroes and a hero of the world, Nelson Mandela.

Mr. Mandela was, in his 95 years in our planet, everything that he needed to be, everything that he wanted to be and even played some roles he had no desire to play. He was a man, who dissatisfied with his country’s circumstances, used every bit

*Condolences*

*Tuesday, December 10, 2013*

of his upbringing to bring change to his homeland, and, in doing so, inspired generations of people from every corner of the world with no regard for ethnicity or any types of differences up to the moment of his passing.

To some, he was an activist, a freedom fighter, a dissident. To others, he was a prisoner, a negotiator, a liberator, a President and a Nobel Peace Prize winner, and the midst of it all, to a few, he was a son, a father, a friend, a husband, a man with dreams. For all of us, he was an inspiration. All who have met him are changed for the experience. All who have examined his life or know his story cannot help but be transformed by his struggle, his courage, his capacity for forgiveness, his ability to rise past the challenges which threatened him, are examples of living which we can spend our whole lives struggling to obtain.

Mr. President, Members, our world has lost a living, moral compass. A man who will forever in the ages be remembered as one of the greatest examples ever of what the human spirit can achieve. None of us is certain that we will ever see another like him pass this way in our lifetime. Perhaps, Nelson Mandela, himself, gave to us the best tribute to his life in his book, *“Conversations With Myself”*, and I quote:

“The anchor of all my dreams is the collective wisdom of mankind as a whole. I am influenced more than ever before by the conviction that social equality is the only basis of human happiness...it is around these issues that my thoughts revolve. They are centered on humans, the ideas for which they strive; on the...world that is emerging; the new generation that declares total war against all forms of cruelty, against any social order that upholds economic privilege for a minority and that condemns the mass of the population to poverty and disease, illiteracy and the host of evils that accompany a stratified society.”

End of quote.

Mr. President, President Obama used the best words on commenting on the passing of Mr. Mandela when he said and I quote:

He “...bent the arc of the moral universe toward justice.”

End of quote.

It is incumbent upon us as those who watched him live and achieve and inspire that we do not let his light go out. Let us commit in this venerable House today to do our work with his memory in our hearts so that we too can leave our nation and those whom we meet better for having met us.

Former President Mandela, rest in peace; to the Mandela family and to the people of South Africa, our condolences to you and we stand with you in your time of sadness and loss. Thank you, Mr. President. [*Desk thumping*]

**Sen. Ian Roach:** Mr. President, thank you very much. [*Desk thumping*] Before I embark on making my few comments as well, I would like to congratulate Minister Coudray on her acting appointment as Prime Minister and the three Opposition Senators, and I also welcome back, even though for a short stint, Sen. Hinds. [*Desk thumping*]

Mr. President, it is an esteemed privilege for me to offer a few remarks on the passing of former President Nelson Mandela, otherwise warmly called among his family and friends, other citizens of South Africa, friends both in South Africa as well as outside of South Africa, as Madiba and Tata.

I have a very honoured position as having been able to work with President Mandela from as early as 1994. When I left the jurisdiction of Trinidad and Tobago as a young attorney, very idealistic, very eager to make a contribution to a legacy—an ugly legacy of apartheid that was ongoing and unfolding still in South Africa which was unbelievable that such an atrocity in terms of mass human suffering could be still unfolding in a world—in the 20th Century.

I met President Mandela for the first time in early April 1994, among a number of other international delegates coming in to monitor the elections—the first historic election to be held on April 27, 1994. I was in the esteemed company of presently Congresswoman Barbara Lee of California, I think the 13th District, was formerly leader of the black caucus in the United States Congress. She was part of a team of four of which I was part of and we all embarked on this journey to go to Shell House which was then the ANC's headquarters. I remember being anxious because we all got up that morning very early, having arrived about two days before, to go to Shell House to get a briefing about our expectations as observers and so forth, and having the opportunity of meeting for the first time, President Mandela, who most of us would have read about. Some of the delegates would have probably met him when he ventured to the United States on his release in 1990 but I certainly would have been for the first time. I mean, one was just—I mean, you were in awe, you just could—did not wrap your mind around what to say to this man when you met him.

For some reason, our transportation was delayed and fortunately so, because 30 minutes before we arrived, there was a massive bombing that killed a significant number of persons, some of who were candidates in the first election as well, I think, over 30 or 50-something people died, and that bomb destroyed buildings that are four blocks. I mean blocks like American blocks and not Trinidad blocks. Shell House is a very tall building. I think probably as tall as 50-something, 60-something floors up, and for 22 floors up, windows were blown out of Shell House.



I remember it was—the excitement was sort of stymied with that type of tragedy that was taking place. So the day progressed, unfolding uncharacteristic of what was meant to be, in that it was a glorious occasion to celebrate and meet this great guy who was then not yet President of the Republic of South Africa, but yet, the then President of the ANC.

However, later on in the day, we were able to meet with President Mandela and amidst all of the “hystericalness” that was taking place and the pain and panic, there was this calm about the individual that was immediately seductive and captivating and reassuring that everything would be still okay. And this had preceded—this was preceded in 1993 by the killing of Steve Biko which nearly unravelled the whole process that Mandela and his whole ANC would have been working towards when he was killed.

**9.15 p.m.**

And again Mandela being out of prison again and being the type of person he was, he was able to sort of bring a comfort and not allow the population, as restless and unsettled as people would have been from going to what people thought would have been inevitable—civil unrest. You know, that was quelled. And again just days before going to election, this again happened. This was one of the other parties, the IFP which was the Inkatha Freedom Party led by Chief Mangosuthu Buthelezi and they were sort of pitted against the ANC in terms of rivalry in the struggle.

So throughout the prelude to election up to the last moment, there were still very tense moments of whether or not this would have in fact taken place. At one time there was a threat by the Inkatha Freedom Party that they were going to pull out of the elections and again negotiations were engaged and that then was resolved. History will have recorded that the elections did take place and it was deemed to be free and fair elections.

One of my first impressions of when I met Mandela, it was his easy way of smiling, his charm. He was very charismatic and immediately I found that “Wow, this man is a woman’s man; he is a ladies’ man” because all the women in the delegation were totally excited by his presence. I mean they were easily charmed without much words, you know, and I smiled and I said he could be a Trinidadian. [Laughter]

On a serious note, from that moment on I had occasions of meeting President Mandela when he became President Mandela in official capacity because I was called upon at times to do some very confidential work for the ANC and met with

*Condolences*  
[SEN. ROACH]

*Tuesday, December 10, 2013*

some of the stalwarts of the ANC who became members of the first cabinet. I mean names that I think are worth mentioning, I saw today the master of ceremonies Cyril Ramaphosa. He did not become a member of the government. As Mandela said, he was redeployed into the private enterprise because he did not want to have attracted all the able and gifted minds and talent into the government. He thought in order for a true transformation there must be people redeployed in the private sector so as to bring about the fast change and the empowerment of the historically disadvantaged people.

So it was a very steep learning curve for members who came from the ANC who were not sitting in opposition during the tenure of the national party but people who were freedom fighters, a lot of them who were living in exile. So there was a complicated society, nevertheless, as I said. I mean, I find it always mind-boggling how you juggle all these different things. Even at the end and the first stint, the first stewardship of the government in acting as a government, they had no nurturing before as a government. They were freedom fighters come government overnight. The way in which they went about dealing with redefining the values of South Africans and the embracing of all into one as one nation, was just beyond words.

My experience was always like, every day I woke and I was just like “Wow, what next?” You were just excited. There were just so many things that were going on that you were learning. They were learning and you were learning at the same time and experiencing history unfolding. And I remember one time—I mean there are so many things to speak about in speaking about President Mandela that probably have been said so many times over and you still cannot give true life to capture all of it in a short moment of remarks in honour of this great individual, but suffice it to say as small as Trinidad and Tobago is—I remember going to him in 2002 when we were having an impasse here, when we had, in 2001 I think, when we had the stalemate between the 18/18 vote. I was then our Honourary Consul/Government of South Africa’s attorney.

I went to him saying “look we have a problem in Trinidad that is unfolding and the Parliament has not been called to session; there is some difficulty; political tension there and what would he advise in the circumstances”. I remember him taking the time. He was not president then, he had stepped down from being president and he made arrangements to see me as quickly as possible in order to discuss this and I saw him at his home where he died on Thursday. He asked for a report. I gave him an oral report and then he asked for a written report so that he could get the best minds around to assist him in detailing how to unravel this.

That same time, I met thereafter with former President Thabo Mbeki. I met then with present President Zuma—Jacob Zuma and Deputy President Kgalema Motlanthe as well as your able and very wise capable legal adviser Mojanku Gumbi at that point in time. And we met at the ANC Headquarters in dealing with a problem concerning Trinidad and Tobago. And I remember how engaged they were because they looked and they knew so much about Trinidad and Tobago. They knew so much about the sons that came from Trinidad and Tobago—George Padmore, they knew a lot about CLR James, they knew about Eric Williams and they spoke highly about them which was always very impressive, it was mind-boggling that as small a country as we are, that they, far away as they are, south of us would have been so informed about who came from ours and what contribution was being made.

They set about trying to find a solution and I remember President Thabo Mbeki saying, “I think what needs to be done immediately is to write both the prime minister and the—both leaders of the PNM and the UNC in offering to be able to intervene in bringing about a peaceful and speedy resolution to the problem. But I would say no more about that. What I do go on to say is that this was somebody who, immediately when you came in contact with him you felt that you were the centre focus regardless who you were, whether you were of a significant [*Inaudible*] as a prince, a king, a president, a prime minister or an ordinary citizen. Once he engaged you, you were engaged with his full attention and you were given due respect. That went a long way with me, how he handled power.

He handled power with humility. He handled power with compassion. As firm—as much as you saw him dance and do toi-toing and so forth, he was somebody who was very firm and committed to a cause and what he brought to his leadership was integrity—integrity and morality. Hence his ability to charm the world with the stance he took from prison, out of prison, until his death. And I believe he has left us all a legacy that we can, as human beings and as aspiring leaders in our communities at various levels, we can aspire to.

I hope and pray that the delegation that is led by our Prime Minister and our Leader of the Opposition who is part of it, when they return that somewhere, somehow they would be touched by—even in death—his humanity; by the moral principles on which he engaged; the integrity in which he engaged politics; the end did not justify the means with him, you know.

*Condolences*  
[SEN. ROACH]

*Tuesday, December 10, 2013*

What was also touching one day, I remember when Wendy Fitzwilliam, on her last leg of being Miss Universe, wanted to visit South Africa to meet with President Mandela—everybody wanted to—and she came—because of his tight schedule—I think she came around a time when they were either going in to the second national elections—general elections.

He was, at that time campaigning in an area called Venda which is far away, not even like San Fernando to Port of Spain; probably like Barbados to Port of Spain. A meeting was hastily organized for Wendy to meet him and she met with him in the official residence of the President in Pretoria. We had that, that was a quite engaging one, then we left. Then a couple of hours after, a next day while Wendy was about to go into one of the morning talk shows, I got a call on my cell phone. I answered “hello”.

This was President Mandela “hello”, and I think he called me Ian which I was surprised at how he always remembered my name. I did not see him every day but I saw him once in a while and he always remembered who you were and I said in my mind, it is impossible that this old man could remember everybody’s name like that but he did. He was on the phone on the other side apologizing to me to extend his apologies to Wendy Fitzwilliam that on the occasion when she visited him a day ago that he forgot, because of his schedule, to allow her to take pictures which was in fact, you know, he was very embarrassed and he was hoping that if she is not inconvenienced, if we could make the trip to his home, in Houghton, where he died so that she can have the opportunity of taking pictures with him and he as well with her, for the posterity of both countries.

I was stunned. When I broke the news to Wendy and her delegation, of course people were in total awe of that, of his humility. That was the measure of the man. What I remembered about it is the fact that as President—he did not get his secretary, he did not get his minister, his senior minister, his junior minister, the chief officer or anything. He called me on his own directly.

And then again when Brian Lara came to South Africa sometime thereafter, when he came to visit Trinidad he was not permitted—Brian Lara was not allowed to come and meet with him and he wanted to meet with Brian Lara. So Brian Lara sometime, I think a couple years thereafter, came down to Johannesburg, South Africa, to some other thing but Mandela again was not in South Africa, he was in Moputu where his wife lived. And again I got a call asking that efforts were being made to see President Mandela to meet with Brian Lara but they were told that he was not there and was not available.

But again, I used my resources and I contacted his very dear friend, former doctor, confidante, Dr. Nthatho Motlana—who is also now dead; unfortunately he died in 2008—and he immediately said: “No, no, no. No, no. Madiba will be offended if he does not get the opportunity to meet with Brian Lara. So I will arrange that for you immediately”. And within half an hour I got a call and got a number, “Ian, Madiba said to call him right now in Mouputu”. I called Madiba—President Mandela. He said “yes, yes, yes, yes this is President. This is Ian? Yes, yes, yes. You know your accent is a bit difficult for my ears and the old man is getting deaf but please call Zelda”—which was his personal secretary back in Johannesburg—“and make immediate arrangement for me to meet with Brian Lara and I will be flying back there tomorrow”. And that happened and that took place.

That was the type of magnanimous individual that you dealt with or you experienced with somebody like Mandela. So anybody that encountered him or even came within the peripheries of him and knew what he stood for must have been affected by it in a very positive way. And therefore today I feel, not a sense of sadness, I feel a sense of joy to know that finally a man that has toiled his entire life to the sacrifice of his personal enjoyment, of the sacrifice and detriment to his family, his children, that he would have now gone home to rest, you know. He has gone home to rest physically but I believe spiritually he remains with us.

He remains in all of us, in our hearts dear—who hold on to the ideals he lived for and he died for, to have a place in the world for humanity. Not for race, not for religion, not for differences on a mundane level, but human beings that can aspire to achieve the best that they can, given the opportunity to. I feel privileged, as a Trinidadian and Tobagonian, I feel honoured that I had that opportunity to work with him and to work with other stalwarts of the ANC in trying to transform a society, which is still maturing, from one of racial segregation to one of a multiracial society that is a sort of a beaming light for the rest of the world to emulate.

I think that we could learn a lot. I used to sometimes, once in a while when I would meet with him, even privately, when he would talk about South Africa is a rainbow nation, that I would say “you should see real rainbow nation in Trinidad”. Because I grew up in a society where races live side by side, they integrated in a real way. You went to school, you went home, you engaged in each other’s music, you engaged in each other’s food, cultural experiences, you married and whatever.

*Condolences*  
[SEN. ROACH]

*Tuesday, December 10, 2013*

When I came back, however, from South Africa in 2003 I was a bit taken back that we were probably slipping away from those moorings and South Africa was now gaining what we were losing. They were now increasing and singing.

**9.30 p.m.**

So it was a mix of sour/sweet joy for me at that point in time; coming back home but yet at the same time seeing what I believe was, in fact, something that was solid and impenetrable was some way being affected by changes that were taking place.

I do not know if it is a result or one of the consequences of progress but I take hope in the fact that as Trinidadians and Tobagonians we all are, all our eyes and minds and hearts at this moment in time are on the legacy of President Mandela and there is a lot that we can take from to certainly re-enlighten ourselves in moving and aspiring to be a better society and to become one nation, which will make us great among other nations. I thank you. [*Desk thumping*]

**Mr. President:** Leader of Government Business.

**The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh):** Mr. President, the late Michael Als served as a Senator on the Government Benches from January 2001 to October 2001. Michael Als played a significant role in the post-independent development of the trade union movement and the progressive movement in Trinidad and Tobago. He came to national notice in the 1960s with his leadership of the Young Power Movement, which was one of the elements in the mass movement that shaped the revolutionary 1970s.

Michael Als was the founder and President of the Bank and General Workers Union, which was one of the constituent units, the other being the Bank Employees Union, which formed the Banking Insurance and General Workers Union. That union today is the fastest growing and one of the more progressive unions in the country. Michael Als also served as the General Secretary of the Council of Progressive Trade Unions which played a pivotal role in the 1970s and 80s in educating and mobilizing the working class.

He was a teacher, poet, writer, cultural activist, political activist, and trade unionist. He was the author of *Is Slavery Again*, which examined the history of the working class in Trinidad and Tobago. In his later years Michael Als became involved with community development, particularly its youth aspect and more so in the Toco area with the Toco Foundation where he attempted to deal with rural

*Condolences*

*Tuesday, December 10, 2013*

neglect and rural discrimination. We, therefore, Mr. President, must acknowledge the significant contribution Michael Als made to the development of our society and recognize those contributions.

On behalf of the Government of Trinidad and Tobago I would like to extend my condolences to the Als' family on his passing and may his soul rest in peace.  
[*Desk thumping*]

**Mr. President:** Sen. Henry.

**Sen. Dr. Lester Henry:** Thank you, Mr. President, for giving me the opportunity to pay my respect to a fallen hero of the labour movement. Many people in this Chamber, Comrade Lambert excepting, of course, may not know of my involvement in the labour movement and especially since Mr. Als himself was a key player in the development of what became NATUC, as the hon. Leader of Government Business said that he started the Bank and General Workers Union and dedicated his life to uplifting the conditions of the working people in this country. He was sort of a second generation progressive trade union leader along the lines of people like the former Prime Minister, the hon. Basdeo Panday and many others, Raffique Shah and other people who toiled to improve conditions for the ordinary citizens.

I think in particular, even though I never met him more than once, only one time I think I actually interacted with him when I went to do a little talk at the BIGWU Headquarters on the budget back some years ago. But, given that he was successful, a pioneer in organizing the workforce in the financial sector means a lot. As someone who spends a lot of time studying the financial sector, that was no easy task, because in those days, traditionally, if we look at our glorious labour history, people like Uriah Buzz Butler, Cola Reinzi, the Mighty Joe Young and others, most of our unionized activities were among blue collar workers; the major unions, the people in the fields, the oilfields and the cane fields and to get so-called white collar workers organized was no easy task. That is something that came much later on.

As we know, the banking sector in particular was particularly known for its discriminatory practices, not only in hiring but also in lending and so on. Many of us in this room today would not have even been able to be a teller in many of the banks. Right. So organizing those into a progressive labour movement and forming a union is something we should always be thankful and it is a very tremendous achievement, although, of course, he followed in the footsteps of people who started that movement before; people such as Vargas Stanford, and so on but he played a critical role as we have seen.

*Condolences*  
[SEN. DR. HENRY]

*Tuesday, December 10, 2013*

And later on, as the hon. Leader of Government Business also said, he retreated to the community of Toco and developed the Toco Foundation, which, I mean, turned out to be very, very, a lot more than even I thought it was, because I—normally you would just hear of the radio station, of Radio Toco and so on but I understand that they have quite a number of other projects that are quite meaningful to the community. I would just mention a couple of them to let people know. The Gate Keeper, focussing on building more responsible males is one part of the Toco Foundation; a multimedia centre, which today has trained over 900 persons to learn how to use computers in the community. So there is a lot that this particular individual contributed to our national development and it is a sign also that people can put themselves out there and put country first. As I have always insisted in many of my discussions over the years, even upon my return to Trinidad after being out for a long time, if you do not have a cadre of people who are willing to put country first over self-profit and self-gain, as a nation you go nowhere. In fact you probably will be going backwards.

We know that he was appointed a Senator under the UNC for a short period in 2001, but he was also awarded the President's National Award Humming Bird Medal (Gold) for community service by the PNM Government in 2006.

**Sen. Ramlogan SC:** By the State, not by the Government.

**Sen. Dr. L. Henry:** Well whatever, under the PNM.

**Sen. G. Singh:** Mandela.

**Sen. Maharaj:** "He ain learn nothing from Mandela eh."

**Sen. Ramlogan SC:** State of ordinary—

**Sen. Robinson-Regis:** It is a tribute.

**Sen. Dr. L. Henry:** It is a tribute. We give all yuh credit. All yuh just behave all yah self nah.

**Sen. Ramlogan SC:** Hurry up, hurry up.

**Sen. Dr. L. Henry:** So the progressive labour movement in this country is something we can be very proud of, and to the best of any knowledge Michael Als represented the best of that tradition. Thank you, Mr. President. [*Desk thumping*]

**Sen. Elton Prescott SC:** Mr. President, thank you very much. Following Sen. Dr. Henry, little is left to be said really about Michael Als because the research appears to be complete.



Permit me to corrupt a bit of poetry from William Henry Davies, his poem *Leisure* which says: “What is this life if, full of care, we have no time to stand and stare.” I prefer to say we simply choose to stand and stare, merely to make the point that Michael Als was not given to standing and staring and, indeed, as you have heard from the tributes paid to him this evening, he worked in the trenches. He abhorred injustice and he saw the need to educate and to foster the development of people with whom he came into contact. So that his travails through the Young Power Movement, the Black Power Movement, trade unionism and then eventually his, I suppose you may say his retirement into the rural Toco are all part of a long tradition of people like himself who saw a need and moved to fill it.

For those reasons and for all the other reasons that I have heard, in particular his efforts in trade unionism I too, on behalf of my colleagues on the Independent Bench, join in a tribute to Michael Als. And to his brother Mario whom I came to know and I like very much and those who mourn his passing, I offer condolences of those on this side of the Senate and may his soul rest in peace. [*Desk thumping*]

**Mr. President:** Hon. Senators, I wish to join with Senators who have gone before me in paying tribute to Sen. Michael Als. It is certainly clear, from what has been espoused thus far, that Michael Als was a man dedicated to the service of the ordinary man. He played a significant role in the post-Independence development of the trade union movement in Trinidad and Tobago and is the founder and was President of the Bank and General Workers Union. His commitment in educating and mobilizing the working class was evident in his endeavours.

His appointment to the Senate during the Sixth Parliament afforded him the opportunity to continue in this service and fight for the people in the labouring class. He made debate interventions on such legislation as the Planning and Development of Land Bill, 2001 and the Telecommunications Bill in that same year.

The *Hansard* record reveals him to have been an articulate debater while his contributions reflected sound and thorough research. It was evident that he took his role as a Government Senator very seriously, as well as his representation of the needs of workers.

As stated by Senators during these tributes, Mr. Michael Als was a teacher, poet, writer, cultural activist, political activist and trade unionist who will always be remembered for his commitment to helping the underprivileged working class in Trinidad and Tobago and may his soul rest in peace. [*Desk thumping*]

*Condolences*  
[MR. PRESIDENT]

*Tuesday, December 10, 2013*

I turn now to pay tribute to former President Nelson Mandela, a towering giant of a man who lived among us and one who has left his mark in the globe and will remain immortal for that. One of the things that stand out for me was his unimaginable efforts at reconciliation notwithstanding the fact that he had been jailed for some 27 years. He was a man who, therefore, lived out the principles that he espoused. He did not just simply make remarks that he did not himself be willing to serve.

Perhaps what became President Mandela, more than anything else, was his leaving power; a man willing to divest himself of power at the heights of his career and, therefore, it is something that not many of us are willing to do. He took on power for the purpose of service and did not become addicted to it. And so, in many ways I see President Mandela joining with Mahatma Gandhi as representing the patron saints of politicians and certainly I would recommend to you that you read his autobiography which will, I am sure, stand you in good stead to lead us on and upwards in this country.

So, at this point I would like Senators to join with me in standing and offering a minute silence in honour of both Sen. Michael Als and former President Nelson Mandela.

*The Senate stood*

**9.45 p.m.**

**Mr. President:** I propose to ask the Clerk to send a suitable letter of condolence to the family of the former Sen. Michael Als, as well as to send to the Parliament of South Africa, a letter from our Parliament extending the sentiments expressed here today by this Parliament, this Senate here today. So it just leaves me now to call upon the Minister of Health. [*Desk thumping*]

#### **TOBACCO CONTROL REGULATIONS, 2013**

**The Minister of Health (Hon. Dr. Fuad Khan):** Mr. President, first let me begin by thanking all those who have contributed to this debate, those that have expressed their support, those that expressed their support, but with reservations.

I have learnt a lot here this evening something which I expected to, but it really did take a long time. It took approximately eight hours, normally, but for that, I am grateful. What we have learnt here this evening is that one, tobacco kills up to half of its users. We have learnt that a lot of the world's population, approximately six million people each year die, more than 5 million of those deaths are as a direct result of tobacco. We have learnt that approximately one

million people of those die from second-hand smoke, or maybe more. We have learnt that there are new techniques of smoking, but we try to get around this Act—there is hookah, hookah smoking as you said. We have learnt that there is a way we could finance interventional strategies by what Dr. Dhanaysar Mahabir basically brought on board; fiscal approaches. We have learnt that there is the need to set the unit in the Ministry of Health at a faster rate, away from the bureaucracy that is occurring as I speak. We have also learnt that the tobacco lobby and the company is extremely strong. And for every action that we try to do, there is an equal and opposite reaction or even greater, depending on what lobby you are talking about.

Sen. Hinds gave us a dissertation, I would say, more so than a contribution, on where the tobacco lobby came from, how it came and the history behind it, and the strength of the tobacco lobby international, and why it is so strong, because the tobacco lobby has its finger in every single pulse, and in every single pot. That is their right, as Sen. David Small said, that is their right, because that is their focus and that is their approach.

In Government as Minister of Health, my approach is very simple, to make sure that the public health of the population is well taken care of, and to make sure that any communicable or non-communicable disease and its complication, that threat is reduced. And as we go forward these Regulations speak to packaging and labelling.

Sen. Prescott started off his contribution, and for it I am thankful because one thing about Sen. Prescott—I have not been in the Senate many times, but the times that I am here, he makes me think legally although I am not a lawyer. He went through the Tobacco Control Act, the first part of it, what criteria that I am here bringing these regulations. I am bringing the regulations here because number one, I am the Minister and I see a need to do it for public health reasons; and two, 38(1)(b) speaks to it.

Sen. Prescott went on to speak about: how does this Act prevent tobacco use by children? How does it regulate tobacco use by individuals? How do we enhance public awareness? How do you protect individuals? How do we prohibit and restrict promotional practices? How do you prevent smuggling? And that was the basis of his argument, together with the unit is supposed to do that. But the unit reports to the Minister, and the Minister is ultimately responsibly and then the Cabinet.

*Tobacco Control Regulations, 2013*  
[HON. DR. F. KHAN]

*Tuesday, December 10, 2013*

So as Minister, we have started the production, as they say, the hiring of a director. That has taken quite a while. The director has been identified but it has to pass through the Chief Medical Officer, the Permanent Secretary prior to coming to the Minister, and people will be aware that is the process to be appointed, and then the Minister will basically have to carry that maybe, possibly to Cabinet.

In that period, since I became Minister of Health two and a half years ago and—it was happening before that when this Act was passed, you said three years ago, the Policy Department, by Dr. Andrea Yearwood was working assiduously together with the legal department to produce these images. These were images that were looked upon by Caricom, the Caricom countries looked at the Brazilian model, looked at the other models to develop the proper images that would represent what we were trying to do; what Caricom was trying to do; what the World Health Organization framework tried to do, what it spelt out, what about packaging, but at the same time we were trying our best to make sure that they had balance.

We were not going to be overtly oppressive to a manufacturer who held a strong position in the economy of this country. We looked at the worker level. We looked at all of the levels. There are some countries that went the full direction to 90 per cent packaging. We have only gone 50 per cent. We could have gone plain, we could have gone different directions, however, Mr. President, we chose to look at balance, balance as Sen. Ramkhelawan said, that is needed in such legislation.

With this balance we hoped to also achieve our public health successes with the regulations. If you are to indulge me a little, the philosophy of the Tobacco Control Act speaks to the possibility of deterrent, as well as education, as well as prohibition, as well as promotion, and as well as providing for other related matters according to this Act. The initial part of the Tobacco Control Act indicates:

“WHEREAS the use of tobacco products is responsible for numerous debilitating and fatal diseases:”

That has been shown not by our statistics of Trinidad and Tobago only. Sen. Camille Robinson-Regis—welcome back to the Senate—you spelt it out quite clear about statistics, and it was in front of us, and it has been in front of us, but putting a unit together, Sen. Prescott, to check statistics now and then come after the unit has been formed would delay the regulations, would delay everything so far. So taking responsibility of moving forward to get these regulations in place—

well, the unit is being produced as we speak and defined—gives us the forward thrust into developing for programmes here in this country, where we could go to our students, our population and say, these are the things that could occur.

Now, we spoke about an education campaign, and you are quite right. The Minister of Communication, the Minister of Education and myself, we are working together to produce campaigns that will strike at the heart of the movement. One, debates, scholarships, possibility of prizes to make the young people aware of the negative effects of cigarette smoking.

Sen. Prescott, you went on and quite rightly so, to dissect the health messages/warnings. You started off by the front with the foot striking the cigarette. You asked about ageing. You asked about what was the responsibility of the Minister to talk about the monetary gains. Health messages could be two things; overt or subliminal. A message could be either saying something indirectly or indirectly saying something and determining it. Some of these messages, the earlier ones are messages that are telling you about the imagery, of what could occur for deterrence. Crushing the cigarette, you are imaging and you are working on a subliminal approach telling you: Quit! Crush it! Put your foot down on it, that is exactly what it is trying to show here in the first set of packages.

When you asked about how does the package say—how does—we are all ageing all the time, and you are quite right. As we speak here we have aged eight hours. Do you look any different? I do not look any different except tired, and you are there sleeping, but at the end of the day, ageing is not just a physical look, ask any woman. Ageing could be not only physical; it could be feeling, it could be anything. How do you look? How do you feel? Some people say you are chronologically so and physically so. What is the real age? Maybe if you had—I do not mean to be rude, had you not stopped smoking or you had never smoked before, you might have been looking younger, [*Crosstalk*] you know what I mean, you might have been looking younger, and this is the kick-start in this message. It shows on one side [*Minister displays pictures in the Schedule*] a lady with eyebrows raised, no frown in the face, no nasolabial grooves, and warning you if you continue smoking it tells you that you will age. Age how? Age on looks. You will look older than you are. [*Laughter*]

**Sen. Robinson-Regis:** If I might just ask. May I? Would you give way?

**Hon. Dr. F. Khan:** I am afraid to give you way, now. I will let you know. [*Laughter*] I know you too long, Camille. [*Laughter*]

**Sen. Robinson-Regis:** I just wanted to ask a simple question. I heard you say to ask any woman about ageing. “Men doh age?”

**Hon. Senator:** “Tell ’im.” Uh-hmm.

**Sen. Robinson-Regis:** “Ah” just wanted to know. [*Laughter and crosstalk*]

**Hon. Dr. F. Khan:** No, the reason I say that, I am going to say it now. Most of the products that are developed in the beauty industry are products not designed for men, they are designed for women to look younger, to be more sexually attractive, to look a little more reproductive. [*Desk thumping*] It is called the Stone-Age Brain. I did not want to go there. The Stone-Age Brain, the longer hair, to make sure that your—I do not mean anything—I mean hair [*Laughter*] is supposed to be lush, luscious and shiny. That is what the beauty industry says. If you are young, your hair looks like that. It shows fertility. So marketers target the women based on what they call the Stone-Age Brain, and the Stone-Age Brain, goes that way, and I could go to a discussion, Dr. Rolph Balgobin will tell you I could go to a length on that.

**Sen. Robinson-Regis:** Sen. Balgobin?

**Hon. Senator:** Sen. Balgobin? [*Crosstalk*]

**Hon. Dr. F. Khan:** But what I am saying to you is that when you look at [*Crosstalk*] this, it shows about the ageing part. So when we put these images here, it is depicting physical look—and you noticed we did not put a male figure, so this was attacking the Stone-Age Brain telling women do not smoke or else you will look older.

You save money by not smoking. When I heard quite a lot of the—one or two of the Senators indicate that the last four years or how much years it were, the profits of the tobacco industry have risen \$400 million—whatever million—and this shows that people are smoking more because of stress, and they try to link that stress knowing that what happens in the country, et cetera.

Given another consideration, what is profit? Profit is gross profit which is minus expenses, which is net profit. What is net profit? What is profit on the whole? It is revenue, minus total expenditure; simple equation. Right? If technology allows your expenses to stay the same or drop, and you charge more for a product your revenues will go up. So if the revenue goes up, and the cost stays the same or goes down, your gross profit will increase, but that does not mean to say more of your product is being bought. So it does not really necessarily show that more product was being bought, it just showed that they were charging more for something and maybe technology dropped the amount of labour and wages that they have to pay. Maybe their supply chain was more efficient. So that is why you may have seen a rise in the revenues, in the profit itself. Not just that you were stressed. So, young Avinash, take that into consideration some time.

**10.00 p.m.**

Mr. President, I go back to Sen. Prescott. Sen. Prescott indicated that a case, I think Reynolds—from my memory—worked against the American FDA—that was in 2012—and it showed that graphic images did not make any difference and he was against constitutional rights, et cetera. There is another article by Huang Et Al in the *Tobacco Control Scientific Journal* which is a periodical of Monday, November 25, 2013, Waterloo, Canada. This was the abstract: It shows that:

“Cigarette graphic warning labels and smoking prevalence in Canada: a critical examination and reformulation of the FDA regulatory impact analysis:”

“...shows that graphic warning labels on cigarette packs led to a decrease in smoking rates in Canada of between 12% and 20% from 2000 to 2009.

The authors estimate that if the same model was applied to the United States, the introduction of graphic warnings would potentially lead to a decrease of between 5.3 and 8.6 million smokers.”

They went at a scientific analysis of the FDA and the FDA decisions, and it goes on to say:

It essentially concedes that the agency lacks any evidence that the graphic warnings are likely to reduce smoking rates.

That is what the court ruled but, however, the paper, after analysis and dissection of the whole thing, Dr. Huang, the lead author of the paper stated:

“These findings are important for the ongoing initiative to introduce graphic warnings in the United States,”...

“The original proposal by the U.S. Food and Drug Administration was successfully challenged by the tobacco industry, and the court cited the very low estimated impact on smoking rates as a factor in its judgment,”...

“Our analyses corrected for errors in the FDA’s analysis, concluding that the effect of graphic warnings on smoking rates would be much stronger than the FDA found,”...“Our results provide much stronger support for the FDA’s revised proposal for graphic warnings, which we hope will be forthcoming in the near future.”

In other words, Dr. Judith Mackay said—and she is a tobacco control leader throughout the world and in Asia:

*Tobacco Control Regulations, 2013*  
[HON. DR. F. KHAN]

*Tuesday, December 10, 2013*

“These new research findings show clearly the value of graphic warnings for countries all over the world, especially low and middle-income countries, where knowledge about the health harms and awareness of the addictiveness of cigarettes and other tobacco products is lower than it is in high-income countries. It is even clearer now that large graphic warnings that are placed on both the front and back of the pack constitute a very low cost and very high impact policy for reducing tobacco use.”

This is the scientific journal. [*Desk thumping*] Now, that will take into consideration those two arguments.

Sen. Cudjoe, you asked about the hookahs, and you have me busy searching this legislation, the Tobacco Control Act. In fact, what it says in section 33, the miscellaneous part of it—Miscellaneous Part V of the Tobacco Control Act:

“No person shall manufacture, import, sell or commercially supply or distribute any tobacco product unless it conforms with this Act and Regulations.”

So that takes into consideration the lady who is selling all those tobacco products with no things, and it also takes into consideration the hookahs. It would take it because it is a tobacco product. Okay. Think about it. Right?

**Sen. Cudjoe:** Mr. Minister, thanks for giving way, but the regulations are supposed to support the Act, right, and the Act does not speak to tobacco products on the wider scale like that. So in the future when you are reviewing your regulations maybe you can update it.

**Hon. Dr. F. Khan:** Thank you very much, but we could use the parent Act in the meantime to keep them in line.

The new Senator, Diane Baldeo-Chadeesingh, she spoke about the vendor, the lottery vendor—the old lady there who basically rolls the cigarette and licks and then gives you one to smoke. [*Laughter*] They tend to lick the paper and then turn it like that. [*Laughter*] The AG quite rightly said that the hand part of it—I am just going to tell you about how a cigarette is rolled. A piece of paper is taken—cigarette they put inside that—you roll it, you lick it and then you put it like that. Now, if that is what people want to put in their mouth, we must make sure that it is stamped, “This is harmful to your health.”

And you talked about dispensers—in the regulations it talk about dispensers—what are they going to dispense it in? How are they going to get a dispenser? Where they are going to put the dispenser. What this says here about dispensers is very, very straightforward. Part V says:



“The display surface area of a cigarette dispenser shall not exceed 1 cubic metre.”

—which means to say it could be less than that, from 0 to 1; if there is anything such as zero centimetre in this case. It should be:

“...shall be white or grey and shall be made of material that is opaque.”

—which means to say you cannot see through it. Sen. Drayton indicated that you should, but the AG dealt with it quite nicely; that you would have markings on it.

So what kind of dispenser will they use? You see, when you use the word “dispenser” you have the configuration in your mind that a dispenser is something that you pull cigarettes out and it looks like that. That is what comes to your mind initially, but a dispenser is where you hold things; a dispenser is where you hold it away from the eyes of the public. So you take your packets of cigarettes, you put them in one of those plastic containers that you cannot see through with the little blue top or the little red top or the green top—that becomes a dispenser; it is opaque—you take the warning packages and you put it on the side, and the little old lady could sell her cigarettes in accordance with the regulations. So that takes care of the little old lady that you had in Fyzabad with the doubles. [*Laughter*] So, Mr. President, at the end of the day—[*Interruption*]

**Sen. Dr. Mahabir:** Point of clarification, Mr. President. Will the hon. Minister give way?

**Hon. Dr. F. Khan:** Sure.

**Sen. Dr. Mahabir:** Okay. I was just wondering about the street vendor, Mr. Minister. Is it that you are saying that the street vendor who is selling single units will now be required—instead of keeping those units in a bottle—to have a dispenser to dispense her single cigarettes?

**Hon. Dr. F. Khan:** What I am saying is that a dispenser could be what exactly the Act allows, something that is less than one cubic metre. Right. The dispenser has to be opaque; it has to have its markings indicating the health messages, all right. So if that vendor wants to sell stuff, this Act, this regulation, is not disallowing that person to sell.

They may need a licence—if they apply to the Minister—they may need that, that is what may come in eventually—but I am looking at the actual promotion, prohibition system where people say that you cannot do it because you do not have a dispenser, and people tend to feel that a dispenser is what is in a pharmacy

*Tobacco Control Regulations, 2013*  
[HON. DR. F. KHAN]

*Tuesday, December 10, 2013*

behind a cashier, et cetera, but it does not speak to that like that. It does not define dispenser in that area. It just tells you what a dispenser is supposed to do. If you work around it, you could sell your cigarettes with your licence and not have any adverse effects of a regulation—[*Interruption*]

**Sen. Karim:** You have to conform.

**Hon. Dr. F. Khan:** So you conform. So we have not attacked the little vendor as was supposedly indicated.

Now, the campaign, I think Sen. Camille Robinson-Regis indicated about the campaign; the education campaign, et cetera. We are moving forward with that, as I indicated there, and we are educating the public. What came out of the discussion today showed that the unit may have police officers, but they shall do certain other things, so that balance has to be—we have to deal with that—and, at the end of the day, the cigarette companies have a year to put their act together.

Sen. Hinds, you talked about salt/sugar, could I add in MSG too? I am trying to work on legislation for that salt/sugar—decreasing the salt/sugar contents that we spoke about to combat the NCDs. I am also attacking the monosodium glutamate, and those types of items and natural flavours, et cetera that are in food stuffs which contribute to the childhood obesity and the obesity epidemic. It is more found in fast foods. The combination that the fast foods use: salt, sugar, oils, that combination is a toxic combination. You quite rightly know because you asked that specific question. That is being done. I am also looking at—and which I would have to speak to the Cabinet about, and the next would be—how can we curb the advertisements on alcohol, but that will come as we go on.

The licence, I have answered Sen. Prescott, hopefully, okay. The specific images—now gangrene, the pictures that you see with gangrene—and the hon. Attorney General showed you some, and there are some graphic pictures from Brazil. If you look at those pictures, you will definitely see that we are nothing compared to those. Our system does not speak to that. The regulations today speak to packaging and labelling as best as we can. We are going to look at the education aspect of it, the campaign aspect of it, and continue moving in that direction.

We are here, hon. Senators, on a public-health approach. The public-health approach is to protect our population. Even if we have to do it with whatever little we have. I take Sen. David Small's idea that we could move money around eventually for campaigning, but when a cigarette company has one focus, marketing focus, and that budget is for marketing focus alone to stimulate people

and their target market of thinking in a certain direction—whereas the Ministry of Health communication unit, et cetera and the Ministry of Communications, everybody, they have a wide range of focus—the focus is different compared to that, but we have to put our efforts forward. And, as we say, when the cigarette company tries to make the cigarette or the tobacco products—for want of a better word—“exotic”, we have to take the other approach and make it not so. Our approach is to make it look as an adverse feeling. The tobacco and the tobacco products, they are there to make it look as a sort of an elated feeling, so we have to change behaviour.

And when you indicated smokers anonymous, I want to tell you, Dr. Dhanayshar Mahabir, I had written down smokers anonymous. I am very glad you mentioned it. We have started two smoking clinics in this country; one in north and one in south. It is well attended and people are quitting, but it is an uphill battle.

Sen. Cudjoe talked about the blogs. There are certain blogs that NADAPP has; there are certain blogs that Narconon has and certain blogs that, as you say, in the rooms. We are going to pattern it after that where you could get what they call support group, and peer pressure is a very significant part of what we speak.

And before I close, Mr. President, Sen. Hinds and myself, we have always had this discussion about me turning a man into a woman. [*Laughter*] I want to end on a light note. We have had that since 1995. I just want to assure Sen. Hinds two things—two questions I would like to ask Sen. Hinds in that regard: one, how does he know—how do you know where the AG has his cars? And, two, when I created that organ—the pouch as he called it—the only person who knows it is there is who went there—[*Laughter and desk thumping*—so how do you know? I beg to move. [*Laughter and crosstalk*]

**Hon. Senator:** I beg to move. [*Laughter and crosstalk*]

**Mr. President:** Hon. Senators, I will now put the question.

**Hon. Senator:** Mr. President, division please.

**Mr. President:** We will have a division. Clerk, will you commence the division?

*Question put.*

*The Senate voted: Ayes 27*

AYES

Singh, Hon. G.

Coudray, Hon. M.

Ramlogan SC, Hon. A.

Griffith, Hon. G.

Hadeed, Hon. G.

George, Hon. E.

Karim, Hon. F.

Moheni, Hon. E.

Lambert, J.

Maharaj, Hon. D.

Ahmed, Hon. R.

Ramnarine, Hon. K.

Sturge, W.

Burke, Archbishop B.

Sylvester, D.

Robinson-Regis, Mrs. C.

Lester, Dr. H.

Baldeo-Chadeesingh, Mrs. D.

Cudjoe, Miss S.

Singh, A.

Hinds, F.

Ramkhelawan, S.

Balgobin, Dr. R.

Mahabir, Dr. D.

Vieira, A.

Small, D.

Roach, H.

*Mrs. H. Drayton and Mr. E. Prescott SC abstained.*

*Be it resolved:*

That the Tobacco Control Regulations, 2013 be approved.

*Question agreed to.*

**10.15 p.m.**

**Mr. President:** Minister of Government business.

#### ADJOURNMENT

**The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh):** Mr. President, having regard to the late hour and having regard to the fact that we are well into the yuletide season, I wish to advise that this Senate do now adjourn to a date to be fixed.

#### Season's Greetings

**The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh):** So having regard to the fact then, more than likely, that we will be reconvening in the calendar year in 2014, I would like to take the opportunity to bring Christmas greetings on behalf of the Government to all Senators, and to wish the national community a happy and prosperous 2014. [*Desk thumping*]

**Mr. President:** Sen. Camille Robinson-Regis.

**Sen. Camille Robinson-Regis:** Thank you very kindly, Mr. President. Mr. President, I join with my colleague, the Leader of Government Business in the Senate, in extending the felicitations of the season to the people of Trinidad and Tobago, and to reiterate that for Christians and for other members of the citizenry, that Christmas is an extremely special season for us celebrating the birth of Christ. And to indicate that there is a certain solemnity that is associated with Christmas, as it is a special occasion for Christians in particular, but it is also a special occasion for all citizens.

It is a special time in Trinidad and Tobago when family and friends get together, and I wish all in the Senate a happy and holy Christmas, as I do to the national community, and the peace and blessings of our Lord Jesus Christ. And also I wish our national community, and all in the Senate, every good wish for 2014. Thank you, Mr. President. [*Desk thumping*]

**Mr. President:** Sen. Ramkhelawan.

*Season's Greetings*

*Tuesday, December 10, 2013*

**Sen. Subhas Ramkhelawan:** Thank you, Mr. President. I as well take the opportunity on behalf of the Independent Bench to extend season's greetings and best wishes to the citizens of Trinidad and Tobago. We as a nation, we are blessed that our citizens celebrate almost every single festival and occasion, and I am sure it would be no different for Christmas in 2013. It is a time of merriment, but it is also a time of reflection with the birth of the Christ Child, and I wish to our Christian brothers and sisters that happiness and that holiness that is reflected in the Christmas season.

Beyond this, I take the opportunity to wish all citizens a bright and prosperous, healthy and happy New Year, 2014. Let us be safe on the roads. And, finally, I take the opportunity to my colleagues in this Senate, some of them new and some of them who will come back in 2014, if there are no surprises; I take the opportunity to wish you and your family all the best for the season, and for 2014. [*Desk thumping*] And to you, Mr. President, to you and your family, I want to extend the same best wishes for the season and for the New Year. I thank you. [*Desk thumping*]

**Mr. President:** Hon. Senators, I certainly would like to join with you in wishing each of you and the national community a happy and holy Christmas. Certainly the coming of the Christ Child demarks time; from AD we go backwards to BC, so that time is divided by the coming of the Christ Child. But, in particular, I would like to extend greetings that you might have a peaceful Christmas, that that peace might reign in your hearts, your minds; that you would carry it home to your families and your communities, and that would act as an agent of conversion as it were, that we might all experience peace this Christmas.

May I also extend best wishes for the New Year to each Senator here, and to the national community as well, that we might have all a peace-filled new year with prosperity for all.

Leader of Government Business, you want to put the question?

**Sen. Ramlogan SC:** He want to thank you for—[*Inaudible*] [*Laughter*]

**Sen. G. Singh:** Mr. President, I hope that, having regard to the late hour, you would not be remiss in your duty to host an appropriate function for Senators and staff [*Desk thumping* and *laughter*] at an appropriate time.

**Hon. Senator:** Before Christmas.

**Sen. G. Singh:** Yes, before Christmas, of course. [*Laughter*] Mr. President, I do wish to indicate that this Senate stands adjourned to a date to be fixed in the new year.

*Season's Greetings*

*Tuesday, December 10, 2013*

**Mr. President:** Hon. Senators, before I put the question, there are two issues I have to deal with. The first is that I would like to extend my congratulations to Sen. Camille Robinson-Regis, who made her maiden contribution here in the Senate today. [*Desk thumping*] The second is that we are full of surprises in the Parliament. Though you have sprung this announcement [*Laughter*] this late hour, we nonetheless have dinner over which [*Laughter*] you can celebrate. So I do hope that you will stay and enjoy [*Laughter*] what we have to offer; some Christmas fare for you, and so I think that perhaps either you enjoy it here or you take it home. [*Laughter*]

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 10.28 p.m.*