

Extract from Hansard

[ASSEMBLY - Wednesday, 18 March 2009]

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Mr Roger Cook; Ms Janine Freeman; Mr Chris Tallentire; Mr John Hyde; Acting Speaker; Mr Terry Waldron; Mr Peter Watson; Mr Mick Murray; Mr Peter Abetz; Mr John McGrath; Mr John Bowler; Mr Michael Sutherland; Dr Mike Nahan; Mr Bill Marmion; Mr Ian Blayney; Mr Tony Krsticevic; Mrs Liza Harvey; Dr Kim Hames

TOBACCO PRODUCTS CONTROL AMENDMENT BILL 2008

Second Reading

Resumed from 26 November 2008.

MR R.H. COOK (Kwinana — Deputy Leader of the Opposition) [4.00 pm]: I will not take up too much of the chamber's time because I think, and hope, that there will be a lot of agreement on the Tobacco Products Control Amendment Bill. However, I will make some brief comments to reflect on the evolution of the debate that we in this place are taking part in, and I will talk about Labor's contribution to that debate. I come to this debate with some affection. My father is a general practitioner. As part of a young family growing up in the early 1970s, some of my earliest memories of public advocacy and public policy were of him railing against smoking.

Mr R.F. Johnson: Can we establish that you're the lead speaker for the opposition, because you're allowed 60 minutes?

Mr R.H. COOK: Yes, that is correct.

I remember with some revolutionary zeal the BUGA-UP campaigns of the 1970s, when recalcitrant GPs took to billboards in a graffiti campaign to deface them and to build public awareness of the effects of tobacco advertising. I remember as a young teenager wearing a T-shirt that said, "Anyhow, ban ..." and then the name of the brand that relied upon that slogan. It is with some pride and affection that I stand today to make my contribution to that evolution in attitudes to smoking. Indeed, this debate has taken place over many years, since the late 1960s, when the effects of smoking became more understood, particularly in North America, and people began to advocate for restrictions on the promotion of cigarettes and for the advancement of public policy to reduce the incidence and impact of cigarette smoking. A number of efforts have been made through a number of activities, both legislative and in a public policy sense, to continue to drive down the incidence of smoking.

In Australia Labor has had a proud tradition of taking a lead in a lot of this debate. We have not been the only political voice advocating for programs and legislation to reduce the incidence of smoking, but we have played a very important role and a role of great leadership. This goes back to 1972, when the Labor government introduced the health warning on cigarette packaging. The "Smoking is a health hazard" warning was placed on packets. That was seen at the time as being a first step, and probably a fairly radical step. In 1975 the Labor government brought in legislation to ban cigarette advertising on television and radio. Again, I am sure that that would have been seen as some sort of radical or draconian step that was contrary to the spirit of free enterprise and civil liberties. In 1984 the Western Australian Labor government introduced the smoking and health project, which later became the Quit campaign. The Quit campaign has been a very important instrument in Western Australia to help Western Australians kick this horrible habit. In 1986 the federal Labor government prohibited smoking on all domestic aircraft flights. I am sure that we all remember the haze that would develop at the back of the aircraft as a group of people insisted on taking up the smoking seats. It seems almost ridiculous now to contemplate the prospect of someone smoking in such a confined space as an aircraft. In 1989 the Western Australian Labor government introduced another step in the antismoking debate, and that was to make the Western Australian public service a smoke-free workplace. I remember this debate with some fondness as well, as a number of commentators, mostly from the conservative side, talked about the impacts that that draconian measure would have on people's right to smoke. In 1990 the Western Australian Labor government undertook perhaps the most important step in the antismoking debate: it established the Western Australian Health Promotion Foundation, which was later known as Healthway. The Western Australian Health Promotion Foundation replaced tobacco sponsorship of sport and the arts with health messages and health fund promotion and research. Banning cigarette advertising during sports events was seen at the time as an incredibly draconian measure. It was seen as a measure that would spell the end of community sport in Western Australia; it would spell the demise of sport. A lot of doom merchants said at the time that this would spell the end of Western Australian sport. As we have seen, sport has gone on to thrive in Western Australia, but it has also done something different. Through the partnership with Healthway, sport, particularly junior sport, has become an iconic community program to promote healthy lifestyles and healthy living for kids. I have raised this point to create a footnote in the context of some of the debate that has been going on to date in the media and in other public forums about banning alcohol sponsorship and advertising in the context of sport. This is a very important point to make, because a lot of people will again say that this will spell the end of sport and sport promotion in Western Australia and Australia. They will say that if alcohol sponsorship, advertising and promotion are banned, irreparable damage will be done to sport. I simply raise that as a footnote to the debate and say that we have heard these arguments before and history has proved that they are wrong. In 2005 the WA Labor government took the initiative of introducing the Tobacco Products Control Bill, which sought to introduce

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various measures in relation to tobacco advertising, sponsorship, packaging, labelling, exemptions, sales to minors, licensing, enforcement, administration and so forth.

I have described this time line to provide a context for this debate. I want to say two things. First, Labor has been, and will always be, a lead advocate in the public health debate to ensure that we continue to drive down the incidence of smoking in our community. We do that for a very good reason: tobacco is an insidious drug; it is a very addictive drug and it is connected to some of the most debilitating and damaging diseases that our health department contends with.

This debate, I guess, has another unique dimension. As I mentioned, over the course of the past 40 or so years, Labor governments have introduced measures that have continued to take this debate forward and to ensure that we continue to build on the health of our community. The unique aspect of the introduction of this bill is that it is not at a time of a Labor government or when a government is providing leadership in this area but as a private member's bill. It says a lot for this debate that, when I have talked to members from both sides of the chamber about this issue, there has been a great deal of agreement, support and unanimity about the need to take the debate forward; to take that next set of measures as a community to continue to drive down the rate of smoking.

I know that the Minister for Health himself is very supportive of these measures, given his medical background, and when he was in opposition having introduced a private member's bill that covered some of the provisions of this bill.

Dr K.D. Hames: Interestingly, at the time, your side opposed it.

Mr R.H. COOK: So did your members.

Dr K.D. Hames: Yes, about half opposed it.

Mr R.H. COOK: This is a great opportunity to take this debate forward in a unique way and in a way that has bipartisan support. In that context, I refer to the committee report. We heard from various committee members the other day. What was very heartening about their speeches was that, to a member and across all parties, they spoke unanimously in their endorsement of the committee's findings. The committee was whole-hearted in its praise and support for the provisions in the bill.

We consider this bill with a great deal of hope and optimism that we can continue to take the debate forward. It is a debate on which Western Australia has often led, albeit it is true to say that some of the provisions in this bill mean that we are playing catch-up with some of our state partners across this country. However, this bill will continue to take Western Australia forward so that we can continue to drive down the incidence of smoking. Fifteen per cent of adults in Western Australia smoke today. However, the incidence of smoking is much higher among our Indigenous population.

Dr K.D. Hames: It's 51 or 52 per cent.

Mr R.H. COOK: Yes. It is therefore important that we continue to work together and try to nail this drug for what it is. I will quickly recount a conversation I had outside this chamber with one of the members of this house, who said that, if we were introducing a drug like tobacco into our community today, we would be appalled and we would all be on our feet as one to legislate to ban it knowing the effect it has on not only people's health, but also their lives, their finances and the health profile of the community generally. But we do not have that luxury; we are playing catch-up.

I congratulate all members of Parliament in their efforts to continue to drive down the incidence of smoking, to take this debate forward and, as one, to take the next step in eliminating this dreadful drug.

MS J.M. FREEMAN (Nollamara) [4.13 pm]: I thank the house for the opportunity to speak on this important matter. Smoking in our community is a public health issue. I think that the position we are in today demonstrates the success of public health campaigns. I was fortunate enough to study public health at Curtin University of Technology and, for my studies, the campaign to limit smoking in our community was used as a model. When I began studying we could not have imagined that there would be such widespread community support for this and that the campaign has contributed to reducing harm from smoking in our community. I did my studies when the issue of smoking was at the pinnacle of public health campaigns. It has now moved to an even more critical stage. Raising public awareness and constructive debate that is backed by proper evidence are all parts of public health campaigns. They are based on evidence, research and actions that lead to effective outcomes and meet community expectations. These are the base of good public health campaigns and good campaigns generally. I congratulate the house on its capacity in this instance to investigate this matter in a manner consistent with that; that is, proper evidence-based research and action.

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I congratulate also the Education and Health Standing Committee on its constructive report, which allows for different views, outlines those views, and makes reasonable recommendations that considered all those positions. The committee's terms of reference for its inquiry illustrate the thorough nature in which it was done. I especially commend the committee on recommendation 10 on Indigenous Australians, given the serious nature of smoking in this community. That recommendation was put before us but I note today that we all received a letter from Darryl Kickett from the Aboriginal Health Council of Western Australia. I thank him for his contribution, in particular for the statistics on smoking in the Aboriginal community, where, as the health minister just pointed out by interjection, nationally, around 50 per cent of Aboriginal people are smokers. Smoking prevalence as high as 80 per cent has been reported in some communities. More than 50 per cent of Aboriginal mothers are reported to smoke while pregnant compared with less than 20 per cent of non-Indigenous mothers. Tobacco smoking is responsible for 12.1 per cent of the total burden of disease and was responsible for 20 per cent of deaths among Indigenous Australians in 2003. It is very important, when we participate in this debate and think that we have broken the back of the rate of smoking in our community, to know that in certain sectors of the community there is still much to be done.

The success of the public health campaigns on the effects of smoking, which has seen a reduction in the number of people smoking in WA, is demonstrated in our children's attitudes. My son, as many members will know, considers it to be something of an ugly habit and very smelly. He shows his dislike whenever someone is smoking around him.

This bill, therefore, is important in addressing one of the insidious attacks on the public health campaign against smoking; that is, the display of tobacco products at the point of sale and the tobacco companies marketing imagery that pulls our children into this sickening lifestyle addiction. My experience in this area is also through the union movement's vital threshold occupational health and safety campaigns that laid the foundations for the bill before us. The union movement began by discussing the issue and seeking to stop smoking in workplaces. In particular I was involved with the campaign at the Burswood Casino, which resulted in it being the first casino in Australia to ban smoking on the main gambling floor. It should be congratulated for that. However, this came after a strong, combined campaign with health organisations and the workers at Burswood, which included tests that found that after eight and ten-hour shifts, non-smoking employees had reduced lung capacity and nicotine-related substances in their blood. This was some 12 or 13 years ago and we have moved a long way since then.

As I said, this debate is always predicated on proper and considered research. It is very important that we recognise how successful this has been in the public health campaign. I thank the house for this opportunity.

MR C.J. TALLENTIRE (Gosnells) [4.18 pm]: I rise to offer my support for the Tobacco Products Control Amendment Bill 2008. Like the member for Kwinana, the shadow Minister for Health, I am the son of a general practitioner. I guess it is from that background that I have recognition of the insidious nature of the health implications that come from cigarette smoking. There is no doubt about the proven health risks that come with smoking. The latest data and information presented by the Education and Health Standing Committee and its excellent report, for which I congratulate the committee, are that 1 256 Western Australians die each year from cigarette smoking or related diseases, take up 67 000 hospital beds each year and cost \$60 million in health care. The impost on our community is enormous. The prohibition of the display of tobacco products, packages and smoking implements is an excellent initiative—a perfect way of countering the all-too-cunning point-of-sale technique by which unfortunate people are found victims of the worst aspects of marketing techniques. Those marketing techniques play on the vulnerability of members of the community who are not in a position to discern for themselves what is right and what is wrong when it comes to looking after their own health. I am speaking especially about younger people in the community who are very vulnerable to the so-called lifestyle marketing pitch that is made when it comes to the advertising style of some cigarette brands.

Other aspects of this bill that are notable are a prohibition on smoking between the flags at beaches, a prohibition on smoking at outdoor eating areas, a prohibition on smoking near children in open playgrounds and sportsgrounds, and a prohibition on smoking in vehicles when an under 17-year-old is present; all excellent initiatives and all designed to counter the risks associated with passive smoking. It needs to be stated—this came through in the committee's report—that passive smoking is very dangerous. It is actually smoke that can be inhaled, it is at a different temperature, it is unfiltered and it could be said that it is more dangerous than the smoke that smokers themselves inhale through a cigarette filter. The smoke from passive smoking has a different chemical composition, and that is why it is such a risky thing to allow the community to suffer.

The question arises: how will something like smoking in motor vehicles be policed and how can it be enforced? Ultimately it is a situation of peer pressure and social pressure being the ultimate police agent, which is the way it should be. There are many elements of society in which peer pressure is perhaps the most effective way of

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dealing with things. We do not actually ask police to check that people clean their teeth, but it is regarded as socially unacceptable to venture out having not cleaned our teeth.

Mr A. Krsticevic interjected.

Mr C.J. TALLENTIRE: There are health implications there, too.

This issue is about making sure that laws are in place to guide along social change about which probably all members are supportive. The shadow Attorney General's comments that the tobacco industry must now consider itself on notice are to be fully supported as well. It is reasonable to believe that in the next 10 to 15 years there will be a prohibition on the sale of tobacco products. I imagine that almost no member would oppose doing things or taking action that looks after the health of people in the community. However, it must be said that one group, the Australian Hotels Association, remains an organisation that is somewhat ambivalent—even a supporter of—to the sale of tobacco products. It is of particular concern that the Australian Hotels Association has admitted on the public record that it receives funding from the tobacco industry. I would say to any member of this house who has received any lobbying from the Australian Hotels Association to be particularly wary of that lobbying, as it would have been lobbying that was supported by the tobacco industry. I have read media reports in which the AHA head, Bradley Woods, admitted that his organisation received money from tobacco companies in return for being listed as a preferred supplier of goods to the industry. I refer to a report in *The West Australian* dated 23 February 2002 in which Mr Woods said —

“The (tobacco companies) provide us with money, as do wine companies, as do chip companies and a whole range of others, to recommend certain products and services,” he said.

“We have a huge list of companies who provide funds to the association for that purpose.” The AHA web site lists Philip Morris, British American Tobacco Australia, Imperial Tobacco Australia and Cigars Esplendido under the heading corporate sponsors.

That is still the case on the AHA sponsorship website today. It is therefore reasonable to assume that there is an ongoing situation with the AHA receiving funding from the tobacco industry. The report continues —

Mr Woods refused to say how much money the AHA received.

While I am on the subject of the AHA, I say as well that for all the association now likes to portray itself as a champion of the new smoking controls that came into effect in 2006, I can quote from a rather expensive supplement that went out in *The West Australian* Saturday edition late last year that stated that pubs and taverns were always places where people could enjoy a cigarette while having a quiet beer or two with friends, and that in 2006 the WA state government, with the cooperation of the hotel industry, implemented blanket indoor smoking bans across the sector. I actually saw that support, which was very qualified, in media reports. It was actually a series of statements that challenged the need for smoking bans. There is therefore certainly some cause for concern there.

This legislation will make a huge difference to the health of Western Australians. I support the bill. It is a positive step forward to the day when the sale of tobacco products will no longer be permitted.

MR J.N. HYDE (Perth) [4.25 pm]: I encourage all members to pass this bill and to pass it quickly. I particularly urge government members to support this bill. Liberals are on notice that they do not have a strong record on preventive health. Their own Premier has expressed his doubts about harm reduction as a valid tool of achieving health aims. I encourage government members to consider this bill and to pass it very quickly.

Several members interjected.

Mr J.N. HYDE: I do not believe that the Western Australian Parliament is ahead of public opinion on smoking; we are lagging horribly. I do not believe that this bill goes anywhere near far enough to prevent smoking; we need to go much further. I had a look at comments I received on Facebook today regarding this bill. One from a smoker said —

even tho i am a smoker, i totally agree!!! cant u get some legislation thru to make them so expensive that we cant afford to buy???? ...

Another comment said —

just ban, like DRUG - illegal

Another smoker said —

\$100 a pack or something.. the money could go into good areas

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Mr C.J. Barnett interjected.

Mr J.N. HYDE: The community is well ahead of Parliament in understanding the ramifications of cigarettes and smoking. Point-of-sale advertising must be totally banned. Thailand, which is dependent on tourism, has already banned any advertising whatsoever, including point-of-sale advertising. We need to catch up.

Several members interjected.

The ACTING SPEAKER (Mrs L.M. Harvey): I remind members that they must interject only from their own seat, please.

Mr J.N. HYDE: Already some visionary councils, such as the Town of Vincent and the City of Fremantle, which have two very good mayors, have created a ban on alfresco smoking.

Mr M.W. Sutherland: The City of Perth!

Mr J.N. HYDE: The City of Perth has another excellent mayor. I shall tell the Lord Mayor that the former Deputy Lord Mayor is singing her praises!

In areas such as Beaufort Street in the Town of Vincent and in the City of Fremantle there has been no depletion or downplaying in alfresco cafe activity because of smoking bans. In fact, more people are staying longer and perhaps purchasing more coffee and cake, as it is a pleasant environment.

There is the example in this place of a Liberal government that would rather inflict a three per cent cut on nurses, doctors and hospitals than save \$2.4 billion a year in budget costs by curtailing smoking.

Dr K.D. Hames interjected.

Mr J.N. HYDE: The government could pay for the three per cent cut and give a 12 per cent boost to health if it were tougher on smoking. The measures in this bill will lead to a decrease in smoking; they will importantly lead to a decrease in smoking by youths. There has already been mention of the Liberal Party accepting donations from Philip Morris and Imperial Tobacco.

Dr K.D. Hames interjected.

Mr J.N. HYDE: Government members need to divorce themselves from their party activities. They need to think of the health of Western Australians. They need to pass this bill and pass it quickly.

MR T.K. WALDRON (Wagin — Minister for Sport and Recreation) [4.29 pm]: I will make a couple of brief comments on the Tobacco Products Control Amendment Bill 2008. I support the overall thrust of the bill; that is, to cut back smoking generally and in front of children. Most people probably do that.

I have two areas of concern. My first concern involves the alfresco and outside areas of hotels. If we impose the restrictions outlined in this bill on them, those restrictions must be confined to two areas—one smoking and one non-smoking. Reference has been made to how we can do that. I am sure that this debate will cover that later.

Smoking legislation has changed over the years, and since I have been in this place, hotels have been encouraged to build outdoor areas to comply with new smoking laws. A lot of money has been spent by hoteliers to comply with those laws. It is not fair to encourage people to undertake changes to comply with new rules and then change the rules.

Mr C.J. Tallentire: It is progress.

Mr T.K. WALDRON: It might be progress.

I will tell members some stories about what is happening in the world I come from. The hotels provide an area, a percentage of their total area, for smokers.

Several members interjected.

Mr T.K. WALDRON: Country hotels are very important to country communities. With the drink-driving rules, which I support, they have come under a lot pressure. However, they play a very important part in a country community. I do not want them put under so much pressure that eventually they are forced to fold.

I am the Minister for Sport and Recreation and I want smoking minimised as much as possible. I also want to ensure that people lead active and healthy lives through sport.

Members must remember that in many country towns the pub is the sports club. It is the social meeting place for young country men and women. Social activities are very important to country communities. It is important that hotels are given some consideration for the investment they have made, in good faith, to comply with the laws

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that have already been put in place. It worries me that if there is nowhere for smokers to go, they will have to go onto the street.

Mr J.N. Hyde: They will stop.

Mr T.K. WALDRON: They might not stop. The member for Perth said that he received an email from somebody asking politicians to keep making the price of tobacco products higher until he stopped smoking. If he really wanted to do that, he could. The statistics show that irrespective of price increases, people continue to pay the going price for tobacco products and alcohol.

Mr J.N. Hyde: Cutting the availability of tobacco products and alcohol will achieve that.

Mr T.K. WALDRON: I support the member. However, we need to make an allowance in one area. Under this legislation, people smoking in hotels will be put out onto the streets. In the bigger centres and the city, people will go from hotel to hotel. Problems will arise from that because people who have had a few drinks will go out onto the street, and with others walking past one thing could lead to another and that will create other pressures. We need somewhere for them to go. That is commonsense and practical. I know that there will probably be amendments to cover that. I put my position to the house because it is a sensible and practical way to go.

I am also concerned about that part of the bill dealing with ovals. I have spoken about this to the member for Alfred Cove, who introduced this bill. The legislation states that on an oval smoking is not allowed within 10 metres of a child. In this instance, it is designated an oval if junior sport takes place on it. In country Western Australia, the nippers play on the ground in the morning. The member for Collie-Preston knows that. I have problems with how that rule will work in a practical way in country sporting venues used for football, hockey et cetera. I do not know how it will be managed. I need that to be explained to me in this debate.

Dr K.D. Hames: I think the member has changed it from five metres from a sporting ground.

Dr J.M. Woollard: Five metres from public places and 10 metres from sporting grounds.

Mr T.K. WALDRON: Kids play and train on country sports grounds. The member for Albany knows that kids run around all the time at country footy games. A smoker could be doing the right thing by smoking within a designated area, but as soon as a child passes by, he or she would need to cease smoking. I do not know how that will work. The member for Blackwood-Stirling will comment on that issue in his contribution to this debate. This issue needs to be addressed and it is something for members to think about.

I understand the thrust of the legislation and I am supportive of the move to make cars no-smoking areas. However, we need to be careful about the two areas I have highlighted.

MR P.B. WATSON (Albany) [4.35 pm]: I agree with a National Party member and that frightens me.

Mr J.E. McGrath: They helped you win your seat. You wouldn't have won without the Nationals' preferences.

Mr P.B. WATSON: The 78 per cent of the National Party's preferences that went to the Liberal Party candidate probably helped him in some way.

I have spoken on this issue previously. I was a member of the relevant committee. I have witnessed the damage caused to children by people smoking in cars and at home. By smoking in an enclosed area, smokers can cause damage to others wherever they go. I give the example of the chap who stood next to me at the post office. Even with smoking prohibited in the post office, he would go outside to the toilet or wherever for a cigarette and when he returned, he reeked of smoke. Every time I see him in the street I think of the damage he might have been causing me and other post office employees.

Mr J.E. McGrath: I worry about a couple of members in this place who return after having a smoke.

Mr P.B. WATSON: I did at one stage refer to a member and he got upset; therefore, I will not mention his name again.

My concern about the Tobacco Products Control Amendment Bill 2008 is similar to the member for Wagin's concern as it relates to alfresco areas. I agree with him that the Australian Hotels Association WA invested a lot of money and time in complying with current tobacco products legislation. There must be more investigation into this bill. The percentage of the total area for a smoking area is of concern.

Dr J.M. Woollard: It is a percentage of the area. We are considering leaving that in the regulations. Obviously, I would like it to be 100 per cent, but it must be in the regulations. The area might be a certain percentage for 12 months and then be increased.

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Mr P.B. WATSON: As the member of Wagin said, the hotels have invested a lot of money and time in complying with current legislation, and they need time to phase in the changes in this bill. If it is brought in overnight, their investment will be wasted. It was only a couple of years ago that the legislation was amended.

Some members are saying we should implement this legislation straightaway. However, we should give consideration to society by introducing this legislation in stages. Perhaps in 10 years only one in six or one in seven people will be smokers. If 14 people are at a function and only two smoke, they will be embarrassed and will have to go somewhere else. Instead of taking a big step and introducing this legislation now and perhaps missing something, we should take smaller steps. We live in a free society, and if people want to damage their health by smoking, they have that option, but they should not be allowed to affect people around them.

I am disappointed that a designated smoking area can be only five metres from a building. When I come from Albany by plane, I am often in the company of fly in, fly out guys who smoke as soon as they get off the plane. When I come out of the airport with my luggage, I have to hold my breath for 15 or 20 seconds as I walk through a pillar of smoke and the smokers.

Under federal legislation, designated smoking areas are, I think, 10 metres from a building. I do not mind having designated areas so long as they are in a confined area and the smokers stand next to each other and after inhaling all that smoke they just walk away. As I leave the airport, I am confronted by smoke that blows all over me. The same applies at lunchtime when I walk down St Georges Terrace to get some fresh air. All the smokers are outside their place of work blowing smoke onto other people. I would like to have a water pistol to squirt them as I walk by—for no other reason than to bug them in the same way that they bug me.

I agree with the member for Wagin that country hotels are a very important part of a country community. Members talk about the alfresco areas in city hotels, but in regional areas—the member for Collie-Preston would agree with me—the hotels are the lifeblood of the community. The hotel industry worked with us when we previously amended the smoking rules, and the same should apply in this case.

I have some concerns about ovals after listening to some of my constituents. I had a meeting with people from a new football club the other day and I told them about smoking being permitted only from 10 metres away. They said that if a football game is on and a 15-year-old kid is playing in the league, people will not be allowed to smoke. There might be one 15-year-old player in that game. At a colts game that rule would be fair enough because they are all young kids. There are a whole lot of little things that we must look at to make it much easier.

The member for Perth brought up the fact that \$2.4 billion is wasted on cigarette smokers. We must push the main part of the Tobacco Products Control Amendment Bill through. I have been told that the Liberal Party is trying to stall this legislation. The fact the member for South Perth has been quite vocal means it does not want to get it through particularly fast.

Mr J.E. McGrath: I am listening to you because I want you to have plenty of time to speak because I like listening to your speeches.

Mr P.B. WATSON: The difference between the member for South Perth and me is that I make sense, so I can understand why he is listening to me.

We are damaging our children with second-hand smoke in our cars. We know second-hand smoke is twice as dangerous as the smoke that smokers inhale because they at least have the filter. I still reckon that all smokers should simply inhale and keep it. If it is so good for them, why do smokers not just keep it in them?

Mr J.E. McGrath: We used to!

Mr P.B. WATSON: Did you?

I have just been given a message from the Whip that states “time”. Does he want me to talk for extra time?

I support the Tobacco Products Control Amendment Bill, as I say, but I have concerns about the alfresco smoking provisions. I hope we can reach a good deal on that with the 75:25 split. It is a very important bill and I urge the Liberal Party to make the decision today to support it because every day that this bill is not passed damages our young people’s health. If we could save \$2.4 billion a year we could use that money for things such as schools, hospitals and for our youth.

MR M.P. MURRAY (Collie-Preston) [4.41 pm]: I will be very brief because most of the areas of concern have been addressed. I certainly support the broad thrust of the Tobacco Products Control Amendment Bill 2008, but I have some concerns about it.

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As a former smoker, probably some 25 years ago now, I certainly encourage others to quit. I had to put up with the very long and arduous process of my wife giving up smoking, which probably took 10 years off my life and put five years on hers; however, that is another story.

Mr P.B. Watson: You don't look too bad for 42!

Mr M.P. MURRAY: This bill has been brought in again after the original bill was introduced a couple of years ago. Members have spoken about the alterations made to many of the hotels and some of the major refurbishments. To now say that people cannot smoke in those areas put aside for smokers would certainly be a cost impediment to those hotels that have made those refurbishments. In saying that, I certainly agree with keeping 75 per cent of the area of beer gardens for smokers. I ask people in this place today —

Dr J.M. Woollard: That is 75 per cent smoke free.

Mr M.P. MURRAY: The other way round.

However, how many people in this place today have been into a front bar or any type of bar in recent times and noticed the difference? It is huge! A couple of years ago, we could not see from one end of the bar to the other; now it is smoke free. There is no doubt about that. The legislation and education that has been put in place is working. Therefore, I think it is wrong to introduce further impediments to the people who are working so hard to make it happen. It puts the impost on the wrong people. I think we should talk about education. We should educate people about smoking in cars. It really disappoints me to sometimes see young mums with their children in their safety seats in the back of the car, yet they smoke in the front. Who will police that? Stand on a street corner and look at drivers using mobile phones. Every time a car pulls up at the corner there is someone using a mobile phone. It is not policed because it is simply too hard. Smoking in cars will be the same; let us not fool ourselves. We need to bring the issue back to education whether it is about smoking in cars, hotel areas or wherever. If we do not keep the education going, we will see smoking rise and it will be spoken about.

Another issue concerns doorways. The member for Albany talked about coming out of the airport and lots of people smoking near the doors, which is always a problem. However, at hotels people tend to say that they are going for a smoke and inadvertently take their beer with them on to the footpath. Then they are pinched for smoking and drinking on the footpath. That causes its own problem because the publican is liable for huge fines for allowing people to drink outside the licensed premises and, again, the impost is not on the smoker, but mainly on the hotelier. The \$200-odd fine for street drinking or whatever it is these days—I am not quite sure—is a minimal cost compared with what the licensee faces. Therefore, smoking causes other problems in an indirect way, so we should be very careful about the rules we put in place. I agree that seeing people smoking around the front door certainly turns me off about going into a place because of the intimidation and the smoke.

It was interesting to see the Japanese approach to smoking on a recent trip to Japan. Every so far down the street there is a container where all these people stand around and smoke in an area that is designated in the street as a smoking area. The other side of that was that I did not see one cigarette butt anywhere because flicking a cigarette butt on the ground attracted the equivalent of a \$750 fine. It is regulated to a degree but not over-regulated, so that the smokers are not in a doorway; they are moved away and there is a smokers' area in the main street. As I say, we need to be very careful about some of these issues, such as smoking on footpaths and who will police a ban on smoking in cars. We have talked about the health department and the police department, which maybe should be looking at other issues.

If we really want to be successful in tackling the issue of smoking, we will need to put a lot more effort into education, starting with school-age children, parents, and even at the parents and citizens association meetings and right the way through to make sure that we are successful. If we bash people up to make sure that they do not smoke, it simply does not happen. We have seen over time that increasing the price of cigarettes only stops people smoking for a while, then they say, "Well, I'll only have one or two." I certainly disagree with some of my colleagues on some of the issues in this bill and we need to be cautious about this bill.

MR P. ABETZ (Southern River) [4.47 pm]: I am sure that all of us in this time of financial crisis, if we could find a way to save the state government \$2.4 billion a year, would want to know what it is. What can we do to slash \$2.4 billion from our budget every year? I will tell members what that is. I served on the Education and Health Standing Committee and its report on the Tobacco Products Control Amendment Bill 2008 tells us the answer. If we could eliminate smoking in Western Australia, it would soon save us \$2.4 billion on our health budget. That is a simple fact.

The Tobacco Products Control Amendment Bill does not move to ban smoking, but it will have us move that little step forward in the fight against tobacco. There was a time when about 70 per cent of males in Western

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Australia were smokers, now we are down to smokers being about 14 point something per cent of the population. The tide has turned against smoking; there is no question about that. The question, of course, is how valuable this bill is in introducing changes that will help us move forward. I believe that the law always also has what we might call an “educative function” in the sense that what we pass into law is a statement about our community and where we believe the boundaries ought to be. Not everybody will live within those boundaries; that is the very reason we have laws. However, it is a clear statement about where we believe the boundaries in our community should be. Western Australia was a leader in implementing legislation to restrict smoking. However, other states have now overtaken us in a number of areas, so we are now lagging behind the other states in some areas.

If any members are uncertain about just how serious a health issue smoking is, I would encourage them to read the committee report. It is a very readable report. The report also points to the serious health risks of passive smoking. This bill addresses that issue. It also addresses the need to do all we can to prevent young people from taking up the unhealthy habit of sucking on the end of a cigarette or pipe.

The bill can be divided into five main areas. Firstly, the bill seeks to prohibit point-of-sale displays of tobacco products and smoking implements. In my discussions with members and with other people as a member of the committee, it appears that everyone supports the view that we should not allow cigarettes to be displayed or advertised at point of sale. Some photographic evidence is presented in this report to show how this prohibition is working in Tasmania. It is a very workable system. It will lead to a significant reduction in the number of young people who take up smoking. We need to remember that, statistically, half of all the 14-year-olds who take up smoking today and continue to smoke during their lives will be dead and buried by the time they reach middle age. That is the reality. Smoking shortens a person’s life. Therefore, anything that we can do to reduce the number of young people who are taking up smoking should surely have the support of this house.

Secondly, the bill seeks to ban smoking in cars carrying children. It seems to me also that no-one is opposed to this part of the bill. The committee heard evidence from experts that if a person smokes inside a car, even with the windows open the toxic chemicals are four or five times higher than they would be if the person was smoking in a much larger room—for example, a lounge room—because the toxic particles are pushed to the back of the car, and that increases the concentration of toxins for any children who may be breathing in the air at the back of the car. Everyone seems to support the banning of smoking in that context. An issue has been raised about the difficulty of policing this measure. Again, the police understand that this is not a matter that will be given a top priority for policing. It will be more a matter of opportunistic enforcement, in the same way that the police tell us they do not target drivers who are using mobile phones, but if they see a driver using a mobile phone, they will charge that person. Therefore, this ban will not create any additional costs or issues for the police. The Commissioner of Police suggested to the committee that some small changes be made to this part of the bill, and I understand that the member for Alfred Cove, whose bill this is, is more than happy to take those changes on board. That will come up when we deal with the bill clause by clause in consideration in detail.

The one area in the bill that is of concern in some circles is the ban on smoking in outdoor eating areas. As I mentioned when we presented the committee report, the Australian Hotels Association had asked us to visit the beer garden at the Odin Tavern to see the issues at stake. It is interesting that the people who were in that beer garden drinking and smoking actually said that they realise that soon they will no longer be allowed to smoke in outside eating areas; it is only a matter of time. That was their general attitude. I suggest that in urban environments this will not create a major issue. Interestingly in Queensland, where a ban on smoking in alfresco areas was introduced in 2006, the hoteliers thought the sky would fall in because they would lose so much business, but guess what happened? There was actually an increase in business, because the vast majority of people are non smokers, and they now find alfresco areas much more pleasant places in which to dine. I appreciate the fact that this may be an issue in country hotels, because, as the Minister for Health mentioned to me, we do not want to create a situation in which people are allowed to drink alcohol and have a smoke but they are not allowed to eat and have a smoke, because if people do not eat, the impact of alcohol becomes more significant, and that may create a road safety issue.

Mr J.E. McGrath: What is the difference between the country and city?

Mr V.A. Catania: It is because country people often have to drive long distances.

Mr J.E. McGrath: I know, but city people often have to drive in a lot more traffic.

Mr P. ABETZ: They do, but I think the problem is the low blood sugar and the fatigue that is caused by not eating, which may affect people who have to drive for half an hour or longer to get home. It is an issue in urban areas, but it is a bigger issue in country areas. Again, that issue has been addressed, because the member for

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Alfred Cove has discussed this with various people and has come up with what I believe is a very satisfactory arrangement. That arrangement is essentially that a person must not smoke in an outdoor eating area in a licensed premise unless the place in which the person is smoking is part of an outdoor eating area that is prescribed by regulation as a place in which smoking is allowed. If 25 per cent of the outdoor area is designated as an area within which people can smoke and eat, and the larger part is designated as a non-smoking area, it will send the clear message that smoking is on the way out. That is very important. If down the track we want to change the percentages as community attitudes change, we will not need to bring a bill to the house; it can be done by way of regulation. Therefore, it will not be too difficult for the Minister for Health to change the percentages to reflect community wishes.

The bill also seeks to ban smoking in outdoor playing areas. I am sure we would all agree that the last thing we would want is for children who are playing sport to be exposed to tobacco smoke and toxic chemicals and to suffer all the damaging impacts that may cause to their developing lungs. There may be some technical issues to iron out in terms of exactly how we should word that type of ban, but in essence I think everyone would be in agreement. The bill also seeks to ban smoking within five metres of where children are playing in playgrounds.

The bill also seeks to ban smoking between the flags on patrolled beaches. Some councils have already imposed a ban on smoking on beaches—full stop. There are two reasons for imposing such a ban. The first is the problem of passive smoke. It is not pleasant for people who may be sitting on the windward side of a person who is smoking to have to breathe in that smoke. Secondly, it sends a message to people that smoking is not socially acceptable any more. Most people, including smokers, would agree that smoking is no longer acceptable. One part of me understands that these people are addicted to the substance. I do not know too many smokers who have not at some stage tried to give up smoking, and most have found it difficult. We need to consider how we can best encourage addicts to continue their fight against their addiction.

I want to impress upon the members of this house that this bill has a great potential to benefit the health of people in this state, and I hope that everyone will support this bill and that as we go through it clause by clause at a later stage that some of its minor technical issues can be satisfactorily addressed. We will be doing a great service for the people of Western Australia by moving just that little step closer towards the day when our society is tobacco free.

MR J.E. McGRATH (South Perth) [5.00 pm]: I rise to speak on the Tobacco Products Control Amendment Bill 2008, which was introduced by the member for Alfred Cove. At the start, I congratulate the member for Alfred Cove for what she is attempting to do here. She will get a lot of support.

I disagree with the very outspoken member for Perth, who has already tried to pre-empt the Liberal Party's response to this bill. The Liberal Party has not formed a policy on this bill in the party room. We will be forming a policy. I do not know what members opposite have done, but a group of Liberal Party MPs met with the member for Alfred Cove and received a briefing on this bill. We went through this bill at great length the other day. That shows that the government is not treating this as just another bill; it is taking this bill very seriously. It is a bit of an insult to members on this side of the house to say that we are in the pocket of the Australian Hotels Association or the tobacco manufacturers, because nothing could be further from the truth.

Mr R.H. Cook: You want to delay sending it to the other place.

Mr J.E. McGRATH: No, we are not delaying sending the bill anywhere. We are allowing all our members to have a say on this bill. Circumstances led to the situation in which the member for Alfred Cove was very keen to bring the bill on this week. We had a rushed briefing with the member for Alfred Cove on Tuesday before our party room meeting, and we did not vote on the bill.

Mr J.N. Hyde: We came to an agreement.

Mr J.E. McGRATH: Of course, members opposite have reached agreement, but they came to a lot of agreements before the last election and look where they are sitting; they are on the other side.

Mr P.B. Watson: While you are messing around, young children's health is being affected.

Mr J.E. McGRATH: The member for Albany is very outspoken on this subject, and he will get his chance to speak again. He has already spoken today, and I have never heard such a short speech from the member. In fact, other ALP members are so concerned about this matter and about young children dying that they are speaking for only five minutes! We want to hear from members who are very eloquent and like to make their point and be reported in their local newspapers. We do not want members to say en bloc that the Liberal Party is holding up this bill. We will not hold up this bill. We will be speaking on this bill, and members opposite might be surprised with the support that members of the Liberal Party offer to the member for Alfred Cove.

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We have considered the bill in a proper way, and we have listened to the community about mandatory sentencing for police officers. I said yesterday that I do not support mandatory sentencing, but I have listened to the community. Members opposite say that the government is not listening to the community on smoking. I say that opposition members are not listening to the community on mandatory sentencing.

Mr P.B. Watson: We voted for it.

Mr J.E. McGRATH: Members opposite were forced to vote for it because they saw so many people out there yesterday that they could not do anything else.

Point of Order

Ms J.M. FREEMAN: Point of order.

Dr K.D. Hames: Under which standing order?

Ms J.M. FREEMAN: It is relevance. Can we go back to the debate?

The ACTING SPEAKER (Mr V.A. Catania): I am sure the member for South Perth is getting to the point he wants to make.

Debate Resumed

Mr J.E. McGRATH: Thank you, Mr Acting Speaker. That was the first point of order ever raised during one of my speeches. Maybe I should give more speeches!

I want to take this opportunity to make a few points and also to go through some of the matters we discussed with the member for Alfred Cove and her advisers. As the member for Southern River said earlier, there are four main parts to this bill. I have some personal views on this issue: I used to smoke. I smoked until I was 40, and look at what it did to me: I am emaciated—it stopped me putting on weight; and my hair fell out! I was like a lot of young people. I was a journalist at *The West Australian* and when deadlines were approaching, we were all smoking. I used to smoke Camel plains, and they would kill a brown dog, they were that strong. However, I stopped smoking at 40, and I am very glad I did stop. I do not like smoking, and I understand that smoking is dangerous, but there are other aspects to what we are trying to do here today.

The first thing we discussed with the member for Alfred Cove was prohibiting the display of tobacco products, cigarette packages and smoking implements. We totally agreed with the member, and everyone said what a great idea it was. If people want to buy cigarettes, they will have to ask for their brand. Tobacco products should not be displayed behind the counter at the service station, the roadhouse or wherever people buy cigarettes. I will support that, and I am sure most of our members will. I think it is a good tool. We should at least take cigarettes out of the sight of young people, whom we want to dissuade from smoking. I have no problem with that, and I believe it happens in other states. For instance, in South Australia cigarettes must be out of view. That is fine.

Mr P.B. Watson: In Tasmania, Coles has taken its signs down in anticipation of such a prohibition.

Mr J.E. McGRATH: I agree with that; we all agree with that. If someone is a smoker, he knows what brand he will buy. That is fair enough for someone who is addicted and wants to buy his smokes. However, a young person who walks into a venue should not be tempted by a sign. The member for Albany and I agree on that.

The bill also includes a prohibition on smoking in cars if someone under 17 years of age is present. I have a little bit of a problem with this. I do not agree with smoking in cars, and I think it is disgusting when a parent—someone made this point earlier—picks his or her children up from school with a cigarette in hand. I must admit that I have not seen a lot of instances of that happening, but I am sure that it does happen. I think it is wrong and it is dangerous for the young kids.

I raised the point with the member for Alfred Cove that I thought 17 was a bit old, as most 16-year-olds I know are old enough and smart enough to make their own decision. We are selling our younger generation short if we do not expect them to say to their mother or father, “What are you doing smoking in the car?” The message about the dangers of passive smoking is reaching schools and our young people. I think that this section of the legislation aims to protect the young kids who are not old enough to make decisions on their own, who are not old enough to say to their parents that they should not be smoking, and who are quite vulnerable to the hazards of a parent who continues to smoke in the car.

The other issue I have with the legislation was raised by the member for Collie-Preston and concerns who will enforce this law. We have a situation in which our police are under so much pressure. The police commissioner

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has already said that he does not want his police officers picking up people smoking in cars. Who is going to do it? Are we going to have smoking police?

Mr P.B. Watson: Member, if you read that report, it said that as long as the health department was willing to pick up the cost, it would do it.

Mr J.E. McGrath: The health department has to find three per cent cuts. We heard what the minister said today about the financial pressures on the health department. We will put another impost on it.

Mr J.N. Hyde: When Graham Kierath introduced the original legislation, people like me said it will cost local government millions and millions. It has not. The very effect of the legislation has been through peer pressure. It has had minimal impact on local government, and that is what we will find with this.

Mr J.E. McGrath: I take the point that the member is making. There was an advertising campaign a few years ago that used the words “smoking is a dying habit”. It was a play on words. I really believe that people are not smoking as much as they used to. I ask the member for Alfred Cove to provide us with some evidence and statistics on whether cigarette sales are diminishing or increasing. I would have thought that fewer people would be smoking now—I know a lot of young people smoke—on a per capita basis than was the case some years ago. I have no doubt about that.

The other day we also spoke about the change in social habits. When people visit other people’s houses, the last thing they would ever do is light up a cigarette in that person’s house or in their courtyard out the back. They would go somewhere else. People almost feel like pariahs if they want to light up a cigarette. I think we are moving that way. I would prefer that the message about not smoking in cars was more of an education thing, as the previous government did when it was pressured to ban smoking in cars. That is my view on that subject. I think it will be hard to police.

Mr M.P. Murray: Do you think that we should have fun police, smoking police and phone police?

Mr J.E. McGrath: We might as well. I will tell members a story. I was at Gloucester Park with the late George Grljusich. George had been asked to speak—he was no longer a broadcaster—to a group of people who were having their Christmas party at Gloucester Park. After George had made his speech, he said to me, “We have to go outside; I want to have a smoke.” We went onto the lawn between the grandstand and the track. There was no-one around us for 40 yards. George lit up a smoke and one of the green coats came up and said, “George, you’re not allowed to smoke here; this is a smoke-free zone.” George said, “What’s the world coming to?” That is where we are going. People are already moving away from crowds and from other people to have a cigarette.

I will move on to the prohibition on smoking in outdoor eating areas. The member for Alfred Cove said that she is preparing an amendment to make 75 per cent of alfresco areas non-smoking and 25 per cent smoking. I have a view that people should never be allowed to smoke where food is served or consumed. I know that country people would say that they should be able to have a steak sandwich, a smoke and a beer before they drive back to the farm. We are getting a mixed message. On the one hand, health experts are saying that smoking kills and, on the other hand, we are saying to people that they can have a smoke and a beer provided they have something to eat because we do not want them killed on the road on the way home. The community is already addressing these issues.

I went to Mt Barker a couple of weeks ago. We stopped at the Royal Hotel in Kojonup. I wanted to watch the Newmarket Handicap, which was won by a Western Australian horse. No smoking was allowed in the hotel. Outside the hotel a few guys in a drinking area were having a smoke and a beer. They did not cause anyone a problem. They accepted that. The people who want to be inside the pub and do not want smokers around them accept it too. I am happy—I am sure other members of the Liberal Party are happy—to move through this legislation with the member for Alfred Cove. As a Parliament we should go through this legislation clause by clause and maybe we can come up with something that is acceptable to the community. I take the point that the member for Collie-Preston made earlier when he said some hoteliers spent a lot of money when they were told they would have to provide an area that could be confined to smokers when the new laws came in. If they are working, that is fine. If people want to have a cigarette, provided they are not impacting on anyone else in a hotel or on anyone eating, that is okay. In Brisbane, if an alfresco area is split up, there has to be a full wall between the two areas; a few pot plants cannot just be put in place, as the smoke could waft through to the other section. We can look at these things in consideration in detail.

The next point that came up related to the prohibition on smoking near children in open playgrounds and sportsgrounds. When did we last see someone legging his kid up onto the monkey bars with a fag in his mouth? It does not happen much. We should get into the real world. Playgrounds are for kids. Most responsible people

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would not smoke around kids in playgrounds. Once again, if we want to ban it, who will police it? Will somebody at the playground make a citizen's arrest because he or she saw some bloke having a smoke while he was putting his kid on a swing? The community is getting to a stage where we understand that we do not smoke around kids. That is one of my problems with this sort of restrictive legislation. The member for Warnbro said on radio today that the new mandatory sentencing laws would affect the most marginalised people.

Mr P. Papalia: They took it from my speech last night.

Mr J.E. McGRATH: I heard that. Who will be most affected by these laws? The most marginalised people will be affected. Unfortunately, a lot of those people who might be doing it tough and who might smoke —

Mr C.J. Tallentire: So you want them to die earlier?

Mr J.E. McGRATH: No, I do not want them to die earlier, and I do not want the Chinese high rollers at Burswood to die either. I feel very much for them. I am saying that if we fine some of those people, they will not be able to pay that fine. Even if they get fined, many will do it again. We have to educate people.

The other point relates to the proposed prohibition on smoking between the flags on beaches. I do not have a great issue with that. I do not get to the beach much these days. Are beachgoers really great smokers? I could not imagine healthy people going to the beach and smoking.

[Member's time extended.]

Mr J.E. McGRATH: Which beach does the member for Perth go to?

Mr J.N. Hyde: I go to many of them.

Mr J.E. McGRATH: Does he see many smokers at the many beaches he goes to?

Mr J.N. Hyde: I do actually.

Mr J.E. McGRATH: Honestly, it is a prohibition that would not bother me greatly. Why would we not just put signs up that say, "In the interests of keeping our beach clean, do not smoke between the flags"? Do we think that people will just light up? There might be 1 000 people on Scarborough Beach and five people smoking.

Mr J.N. Hyde: Can't you see the leadership role of the Parliament of Western Australia in saying this is not to happen? That is much more effective than any sign or any deterrent.

Mr J.E. McGRATH: I understand what the member is trying to do. If the Parliament of Western Australia brings in a law that will prohibit something, we need to not only enact that law but also enforce that law. We are saying that we are going to bring in a law, but it probably will not be enforced. In that case, why do we have to bring in the law? Why do we not just ask people to be responsible when they are at the beach —

Mr R.H. Cook: These are the same arguments that you would have written about as a journo in the 1970s.

Mr J.E. McGRATH: I believe in the nanny-state theory. The main issue is people smoking in restaurants. We all agree that people should not smoke in a restaurant or a pub. We accept that. The world has moved on. People who go to a restaurant with me and want to smoke know that they will have to go outside to smoke. The world has accepted that.

Mr R.H. Cook: And the world is still moving.

Mr J.E. McGRATH: When that law first came in, people defied the ban and openly smoked. They said, "Bugger it, I'm going to smoke." People no longer do that. I think that people have become responsible.

Mr M.P. Murray: On the issue of smoking between the flags, I think there is method in your madness, because the smokers will swim outside the flags and you'll get rid of them one by one!

Mr J.E. McGRATH: Another issue is the prohibition on smoking near entrances to buildings used by or open to the public. That is a good point. People do not want to have to cut a swathe through a haze of smoke as they walk through the front door of a building. People should be more respectful and move on; however, sometimes there is not a lot of room near their building, so they stand on the pavement to have a cigarette. There are all sorts of issues with this legislation.

As I have said, I applaud the member for Alfred Cove. I think she has the right intent in introducing this legislation to this place. She has a health background and honestly believes that there should be no smoking. If there were no smoking, we would not have to discuss this legislation. However, I do not think we will see that for a long time.

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What are we going to do about smoking at Parliament House? Are we going to legislate for the people of Western Australia but still allow members of Parliament to smoke in the courtyard at Parliament House?

Mr R.H. Cook: Are you foreshadowing an amendment?

Mr J.E. McGRATH: I would be very happy if smoking were banned at Parliament House. It is hypocritical of us to tell the people of Western Australia that they cannot smoke at the beach, yet smoking is allowed at Parliament House. I know the reasons that have been given for that—if members are forced to smoke outside, they might not hear the bells. Maybe we need another system; maybe the bells should be put on the outside of the building, or maybe the two Whips will have to muster them in.

I want to raise another point, but I do not want it to seem as though I am just filling in time.

Several members interjected.

Mr J.E. McGRATH: I would never do anything like that!

Someone told the member for Alfred Cove that I was opposed to the legislation. I asked, “Where do your spies come from?” but she would not tell me. The member for Alfred Cove knows, after our meeting the other day, that I support a lot of the provisions in the bill.

Dr J.M. Woollard: And I’m going to support your amendment, member for South Perth, to prevent smoking at Parliament House. I will cross the floor with you.

Mr J.E. McGRATH: I thank the member. I look forward to the consideration in detail stage.

I know we have all read the medical evidence. A former boss of mine used to drink half a bottle of scotch and smoke a packet of cigars a day and he lived until he was about 87, but medical evidence says that people who smoke will die early. I know that we have to listen to medical evidence. We cannot fly in the face of that evidence, but there is a lot of scaremongering with some of this information. I think the community is moving away from smoking. We need to tell children about the dangers of smoking and we have to educate parents.

I want to talk about the part of the bill that refers to smoking at sportsgrounds. The member for Alfred Cove told us the other day that there is a prohibition on people smoking near children in open playgrounds and sportsgrounds. I have already spoken about playgrounds. I have sporting clubs in my electorate, and I regularly watch the footy games of the South Perth Stingrays, which is a very good junior football club. It is quite a big club, with about 400 players. No-one who watches those kids play footy on the weekend would dare light up a smoke anywhere near the kids’ change rooms. All the parents at suburban footy matches stand around the oval, and if people want to smoke, they go up on a bank to smoke where no-one else is around. That indicates to me that people understand that other members of the community no longer think it is cool to be a smoker.

The health lobby wants to save lives, which is good; however, there is a section of the community that cannot give up smoking. We may not be able to convince those people to give up smoking, but as long as their smoking does not have an impact on other people, we are halfway there. That is what we have to do: we have to encourage that attitude of wanting to save lives. I do not think we can bring in a law that makes it illegal for people to smoke in a car but then say they will not be booked for doing so. If we bring in a law, it must be enforced. Whether that is the way to do it or whether we say to people that smoking in cars is just not on, we need to get the message out to parents through schools and television advertising. A general message needs to be sent to the community about the dangers of smoking. I have seen some of the ads on television and, fair dinkum, I can hardly watch them. I think to myself, “Is that what smoking does to you?” I do not know whether that sort of advertising stops people smoking. I do not know what the evidence is. However, I certainly think that most sensible people know that smoking kills. It is a very dangerous habit. I do not know how many members of this place smoke. There are probably a few, but that is their choice. Do members think that people will stop smoking if smoking is banned? They will still find a place to go to smoke. Someone made the point earlier that one day there will be no smoking. I think that might happen one day, but the Chinese still smoke, and China is the biggest nation in the world. Australia is a small country. I do not know that we will ever stamp out smoking. However, I think we have made enormous inroads. Someone mentioned people smoking in planes. I remember when people could smoke in planes and the seats in planes had little ashtrays. How did we put up with it? We must have been gassed every time we flew. Someone said that smoking in cars is dangerous. What happened in the old Ansett planes when 25 out of 100 passengers smoked? They could smoke cigars or whatever they liked; it did not matter. We have been through all that. We have put all that behind us. We now do not allow smoking in restaurants and people do not smoke when they mix socially at someone’s house. Most people are very responsible about not smoking near children.

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I have given my commitment—I am sure that my colleagues have done the same—that we will work through this legislation with the member for Alfred Cove. Basically, at our meeting the other day we ticked most of the boxes. The member for Alfred Cove has proposed an amendment to the bill so that hoteliers will be able to offer a place for people to smoke, provided they are not in contact with other non-smoking patrons of the hotel. There are a lot of provisions in this legislation that we will support, but we want to go through it. We want all our members to comment on it and go through it in fine detail.

I was very proud of the way the member for Collie-Preston spoke today. He spoke his mind. I urge all Labor members to speak. They should not speak only about the party message; they should talk about what they believe in and reflect the views of their constituents at the grassroots level. The member for Armadale might even talk about what her constituents have said about being banned from smoking on ovals or at the beach.

Several members interjected.

Mr J.E. McGRATH: Just because people live in Armadale, it does not mean to say they cannot go to the beach.

The Minister for Health has just arrived back in the chamber. I remind the house that the Minister for Health will be the Liberal Party's lead speaker on this issue. Last year, the minister sought support in the party room to introduce a private member's bill to ban smoking in cars in which children are passengers. He did not get the support in the party room because we in the Liberal Party have a free vote. People in the party room were concerned about how that legislation would be enforced.

That is my contribution. I look forward to hearing the contribution of other members of the Liberal Party in this debate.

MR J.J.M. BOWLER (Kalgoorlie) [5.30 pm]: I rise to talk on the Tobacco Products Control Amendment Bill 2008. As did the member for South Perth before me, I congratulate the member for Alfred Cove on the work she has done on this bill. The passing of legislation on this issue is almost a passion of hers. There are many aspects of the proposed legislation that are good. I agree with the member for South Perth that several aspects in the bill will not be disputed.

I refer first to the proposed ban on the display of tobacco products. I was once a smoker, but I have not smoked for 22 years. I gave up at half past seven on 1 December 1986—not that I am counting the minutes and the seconds. It is the toughest thing I have ever done in my life. I had tried to quit for 11 years before that through acupuncture, courses, Nicorette—everything. When I eventually gave it up, I was very proud of what I had achieved as an individual. I am very glad that none of my sons has taken up such a dirty, filthy and unnecessary habit. However, the reality is that some people in our society still smoke. As I said, it is very difficult to give up smoking cigarettes. As has been said, I suspect that most of the people who are middle-aged or older who still smoke have probably tried to give it up at some stage of their life.

A couple of doctors in this place may support this: I remember talking to an elderly GP once who said that the addictive character of nicotine is higher than that of heroin. However, it may not have the same impact as heroin, and I am not suggesting that we should in any way legalise heroin. The GP gave me that information when I was still smoking and told him how hard it was to give up. There are people who are trying to give up smoking and, therefore, we must consider them in the legislation we pass in this house. Firstly, I agree totally that there is no need for individual advertising of cigarette brands. The prohibition of tobacco advertising at the point of sale is worthy legislation that I support fully. Another area I will support, which I initially thought was tough, is the banning of smoking on beaches between the flags. Smokers on the beaches will be able to move outside the flags to smoke. Someone said it would create danger and cause people to swim in areas where they should not be swimming. That is nonsense. People will still swim between the flags if they want to. They will simply walk 20 yards to smoke their cigarette and then move back between the flags. It is a very simple part of the legislation that will get the support of the majority of members here.

I am concerned about a couple of aspects of the bill: firstly, smoking in cars in which children are passengers. A couple of members have said that the police have said they do not want to police that provision, so it will not be really policed but it will be just opportunistic policing, and that would be a very dangerous practice. Possibly for the first time in more than a century, this house will be passing legislation it does not expect to be policed. If we do that and say to the police that they can turn a blind eye to people smoking in cars, why should they not turn a blind eye to other things? Why not turn a blind eye to drunk drivers weaving along the road?

Mr P. Abetz: They are doing it with mobile phones.

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Mr J.J.M. BOWLER: They do not turn a blind eye to mobile phone use in cars. I do not know whether the member for Southern River has a friendly policeman in his area, but the superintendent of goldfields police, Kevin Looby, has made sure that, throughout the goldfields, police cars will do U-eyes and chase people down the middle of Boulder Road, stop them and book them.

Mr P. Abetz: If they happen to see you.

Mr J.J.M. BOWLER: What else would they do?

Mr P. Abetz: They are not out targeting them unless people aren't wearing seatbelts.

Mr J.J.M. BOWLER: They are targeting those things. If they see someone driving in the opposite direction who is not wearing a seatbelt or who is using a mobile phone, they will turn their car around, chase them and stop them. My understanding from what people have been saying here is that they do not expect police to do that if they see children in cars in which people are smoking. We can just imagine a policeman driving down the road and thinking, "That girl sitting in the passenger seat is only 16", so he does a U-ey and pulls over the family, and the mother says, "No, she's 18", to which the police must respond, "Sorry Madam, see you later." That is a ridiculous scenario. Under that law we would be asking police to start guessing the age of passengers. We would be saying to the police that if they really want to pick them up, they can, but if they do not want to, that is okay. It sends a terrible message to police that, for the first time in more than 100 years, this house is contemplating passing legislation that we do not expect to be enforced.

Mr P. Abetz: They have been doing it with prostitution for over 50 years.

Mr J.J.M. BOWLER: Exactly. The police want this house to pass legislation on prostitution so that they can take action. The famous Kalgoorlie Hay Street brothels are in my electorate. Brothels are now springing up in suburbia because this house does not have the gumption to pass legislation.

Mr J.N. Hyde: Hear, hear!

Mr J.J.M. BOWLER: Hopefully, this new government will pass legislation to prevent prostitution springing up in suburbia. It has been talking about doing that. The police want to take action, but they must have laws to police. With this bill, we would be passing a law for the police not to police. The sheer publicity surrounding this legislation and the discussion about it in the community of the need for parents and adults not to smoke near children will have the same desired effect. Just yesterday, we debated mandatory sentencing for people who assault police. People on both sides of the house have alluded to the fact that that will not be the panacea that a lot of the people who campaigned on the steps of Parliament yesterday think it would be; that is, it would not prevent a not guilty verdict in cases such as Constable Butcher's assault. We know that will not happen. However, it will send a wonderful message to everyone in Western Australia to not hit a police officer. This legislation does not need to embody in it laws that we will not expect the police to enforce. However, the debate and the discussion sends the message to parents that it is terrible to smoke in front of the children. I believe that will have as much effect as passing legislation that we do not expect to be policed.

The other aspect and one raised by the member for South Perth concerns smoking outdoors in alfresco areas and hotels. One of my constituents who was a smoker is on life support in Perth. Under the current laws he was required to smoke outside—the law will be worse under the new legislation. While he was outside smoking, he got into a fight and landed on his head. Consequently, he is in hospital in Perth. Every Friday and Saturday nights Hannan Street is an ugly looking vista of smokers and drunks hanging around outside hotels causing fights. Police tell me it is a nightmare; they are continually responding to that sort of behaviour. As we know from debate on previous tobacco control legislation, hoteliers are campaigning for gazetted areas inside hotels or outside around the back where smokers can all go and smoke.

It is absolutely ridiculous to talk about forcing smokers to go onto the street and blow smoke in the face of non-smokers, causing all the social disruption problems that the Minister for Police talked about when police officers are now running around every Friday and Saturday night, particularly in country WA, policing and trying to break up fights. It is zealotry at its greatest. No member of this house believes we should allow smoking. If smoking were invented today, we would try to ban it or prohibit it; however, we have it. I believe this legislation takes us a long way and sends a great message to Western Australian parents, to young people even, that smoking is not allowed in public areas in Western Australia. The provision in the legislation that will force smokers to stand five metres away from the door of a public building is, again, a provision that deserves support. Likewise, when I enter the Qantas and Virgin terminals at Perth Airport on Tuesdays and Thursdays, I see butts everywhere and smokers hanging around the entrance to the airport. I believe the amendment to the Tobacco Products Control Act proposed by the member for Alfred Cove that gazetted smoking areas be set aside in public

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buildings for smokers is a wise move, not a backdown. It will get my support and I believe it will have a productive outcome.

The other issue is about alfresco dining areas. I will move an amendment to the bill that alfresco dining areas be split into smoking and non-smoking areas. I have heard members mention a 75 to 25 ratio, but I will be moving a 50 to 50 ratio, and I will test the water in the house to see whether that amendment will be successful. It may be that I will compromise back to a 75 to 25 ratio. I have heard members say that the 75 to 25 ratio should not include entertainment and other things, but that is just ridiculous. Why should it not include entertainment?

Mr P.B. Watson interjected.

Mr J.J.M. BOWLER: Entertainment includes a television screen. Is the member for Albany worried about a poor TV screen now? I know things are tough in Albany.

Mr P.B. Watson interjected.

Mr J.J.M. BOWLER: There would be no staff service and smokers would have to go to the bar to get a drink. I agree with that. The smokers obviously would not be next to the stage; they would be at the back or at the side of the building. It does not take rocket science to work that out. They would not be in contact with those providing live entertainment. However, members have referred to “entertainment” including television sets and they have said that Sky Channel would not be allowed in the smoking area. That is just zealotry and members going over the top.

Mr P. Abetz: That’s news to us.

Mr J.J.M. BOWLER: That is entertainment, is it not?

Mr P.B. Watson: Yes, but that hasn’t come up.

Mr J.J.M. BOWLER: Has it not? Members should be careful about the laws they pass; that is what I am saying. Members might think that if we pass this law it will be a great thing because the police will ban smoking near children. Parents should not smoke in cars in the presence of children, but members should be careful about the laws they pass.

Finally, I congratulate the member for Alfred Cove. I know how passionate she is about this bill. She has been in my office many times in recent weeks. I believe the bulk of the bill will pass through the Parliament, but I hope the worst of it will not, and I will move an amendment to make sure that it does not. However, I believe we are taking a very good step generally to eventually cut down the rate of smoking in Western Australia.

MR M.W. SUTHERLAND (Mount Lawley — Deputy Speaker) [5.43 pm]: We as members are all concerned about the long-term health implications of smoking and the millions of dollars spent on health problems caused by smoking. We have all known family members who have ruined their health through smoking. The pollution caused by smokers has been rolled back over the years. We have heard from members about what it was like to experience the terrible pollution caused by smoking while we travelled on airlines and buses and sat in cinemas years ago. We shudder to think that we actually put ourselves through that unhealthy practice years ago. We all as members have been lobbied on this matter by both sides of the equation. We have received letters from various health bodies, the Cancer Council WA, the Australian Hotels Association and so on. I have also been visited by a local hotelier who put his point of view to me.

It was gratifying to attend the briefing session provided yesterday morning, which a number of members attended. We tried to thrash out some type of middle ground to ensure that the bill goes through the Parliament. I listened with interest to what the member for Kalgoorlie said about policing smoking in cars and the age of children in those cars. We traversed that matter at length yesterday at the briefing session, at which there was a divergence of views on the maximum age of children travelling in cars with smokers. I note that the member for South Perth has strong views about children in their late teens being included in the definition of young children in cars. It is true what the member for Kalgoorlie said about passing the legislation and wanting it to be properly policed and enforced. However, the main thrust of this bill if it is passed will be to send a very clear message to the people of Western Australia that smoking should be a thing of the past and should be phased out. As the member for Perth said, it is true that, although some local government councils have passed laws preventing smoking in alfresco areas, there has not been the expected backlash, despite the belief that there would be an outcry from the owners of restaurants and from patrons in those alfresco areas, including about the cost associated with enforcing the ban. If the bill is passed, it will be a very strong message from this Parliament that

Extract from Hansard

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we do not want people to smoke in various social settings. As I said, a number of councils have been successful in prohibiting smoking in alfresco areas.

One of the most important things that must be dealt with is the display of tobacco products; that must go. None of us wants to walk into a local shop and see any advertising for tobacco products; it sends a very bad message. As the member for South Perth pointed out, when we watch advertisements on television of people with tar coming out of their arteries and whatnot, we wonder what we need to tell people to get them to stop smoking, because it is causing such a drain on the health system.

Although in principle the Liberal Party supports most initiatives in the bill, I note that the Australian Hotels Association referred to licensees facing fines of between \$10 000 and \$20 000 and a body corporate facing a fine of \$80 000 if they breach the smoking codes. We must consider those measures to make sure we do not put companies out of business. We have heard from a number of members, including country members, that hoteliers have put a lot of money into setting up businesses in a certain way and that we should try to accommodate them, more especially in the short term. The Australian Hotels Association issued a best practice checklist that sets out, even in areas that are designated for smoking, the measures hoteliers should take to force smokers to go to those areas and how they can ensure they dispose of their butts correctly so that there will be no problem with smoke drifting into eating areas.

There are a number of heads in this bill. We have heard at length about cars from the member for Kalgoorlie and about sportsgrounds and playgrounds from the member for South Perth. As I said, I have some experience of alfresco dining areas and displays of tobacco products in shops.

I reiterate what the member for Kalgoorlie said about having to be aware of pushing people from hotels onto pavements and allowing them to smoke on pavements. There will be a very big problem with people spilling out onto pavements if there is no designated smoking area inside hotels. It will just transfer the problem onto the footpath; people will be unable to take their drinks outside and they will have difficulty re-entering the premises. That was one of the matters we discussed at length yesterday. I note that a number of percentages—from 25 to 50 per cent—were mentioned for areas to be set aside simply for smoking. Whether this house decides it will allow service of food and alcohol in these smoking areas is something that has to be decided. Pushing people out onto the sidewalks will cause problems. The police will not be happy to have to deal with smoking issues on Friday and Saturday nights in Northbridge when they have other people and serious matters to deal with.

Members are aware that smoking is a scourge and we should do everything we can to stamp it out. However, we should remember that people do not smoke 10 cigarettes and go out onto the footpath and in a smoke-filled rage start assaulting people. Smoking is different from drinking alcohol. Another matter this house should be considering is binge drinking. I understand that it is something that is being looked into by not only this government, but also the federal government.

Smoking is a bad social vice and the house should do whatever it can to stamp it out. The member for Fremantle pointed out that, hopefully, when it comes down to less than 10 per cent of the population smoking, the sale of tobacco products will be banned and that might take the yoke off everybody's back, because then tobacco will become an illegal substance. Instead of growing illegal drugs in the backyard people will want to grow a bit of tobacco, which might be more advisable than growing other substances. I support this bill in principle and hope that the house works through it to get the best results.

DR M.D. NAHAN (Riverton) [5.52 pm]: I support the intent of the Tobacco Products Control Amendment Bill 2008 and will give my perspective on it. I must admit I come to this bill with some problems in that I am a Liberal libertarian and have a knee-jerk reaction that people be responsible for their own actions. Smoking has always caused a problem with that because it is clearly addictive. How does one make choices with an addictive product?

I have never been a smoker and nobody in my family, extended or otherwise, has been a smoker. Therefore, I am not exposed to the problems of it. I have a 16-year-old boy and someone asked me the other day at a school what I would do if he smoked. My first reaction was that I would mangle him and not allow him to do it. I went home and asked my son whether any of his friends smoked. He goes to a boys school and he said that nobody smokes there, but at the parties the girls do. As an aside, one of the problems we have is, and this bill does not address this specifically nor should it, that our concerns about the growth in smoking lies with teenage girls.

The intent of the bill is clearly to stop the scope within which people can smoke; to send a message to people who smoke that smoking is harmful, particularly when it is done in front of children whether at the playground

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or otherwise; and to basically hassle people to limit their scope for smoking and taking up smoking. I support that intent. The question is: how do we do it?

I have a couple of problems with the bill, the first of which has been raised and the member for Kalgoorlie put it best; that is, enforceability. The second point is the issue of smokers' rights, and that has not been raised. As a former employer a number of my employees were hopelessly addicted. Even though I sent them on courses, paid for their patches and paid for acupuncture, they could not give it up. It was hopeless. As a friend, it was a problem; as an employer it was worse. They would stand on the street all the time and would not be working. It would take them forever to get up and down the stairs. The third point is the issue of responsibility. I will explore a couple of issues on that.

With reference to the specifics of the bill I do not have any problem encouraging a ban on point-of-sale advertising. Clearly, because of the ban on advertising, for decades the cigarette companies have focused on Grand Prix races. I understand that nowadays they are the only events at which tobacco companies can advertise. If their sponsorship were taken away, the Grand Prix events would collapse. The only other thing that tobacco companies can do is to fight for market share by advertising at the point of sale. If we want to inhibit smoking it would be necessary to limit the sale and promotion of cigarettes.

I have seen how alfresco areas are provided in Queensland. Coming back to the issue of the hopelessly addicted, one of my problems was that people could not smoke in the building we occupied. If I had to have a meeting with somebody who visited my building, I would have to go to a coffee shop while they could smoke. They could not sit in my office long enough, particularly if they were under a bit of pressure. There was a need to have nearby a coffee shop or place to eat and smoke. Those people should not be treated as total pariahs in society, even when they have to adhere to an addiction. We do not treat heroin addicts that way. We allow them methadone and other treatments. We have to allow these people to have their fag and a coffee at the same time. The member for Alfred Cove's bill provides for alfresco areas, and that will provide flexibility for a certain section of an outside area to be set aside for smoking. I assume that the smoker who cannot take his cigarette into the main part of the restaurant is comfortable with that.

I refer now to playgrounds as they relate to my electorate and to the time when I had younger children. As I said, I am a non-smoker, but I cannot remember seeing too many people standing around smoking in front of their kids, which is what the member for South Perth said. However, I have seen the signals that if kids see adults smoking they are more likely to take it up.

With enforceability, will the police walk around playgrounds and say, "Madam, you are smoking. Put it out.?" Will the offender be fined or will this provision be enforced in another way? I do not think so. The campaigns against smoking over the past 20 or 30 years have been successful because it is not the police on whom we have relied to enforce the laws, but parents saying to their children, "Don't smoke. Are you mad? Do you know what you're doing?" That would apply not so much to passive smoking but to encouraging, inducing and showing the child that it is okay to smoke. Therefore, I err not on the side of personal responsibility and giving the parents and friends the responsibility for enforcing healthful activity. I have problems with that. The same thing relates to smoking in cars. The member for Kalgoorlie was articulate on this. We should not make laws that the police will not enforce. It is wrong to do that. They will not be able to drive down the road and when they see somebody smoking check their age.

Mr M.P. Whitely: What is your attitude to prostitution? You said we should not have laws that are not enforceable.

Dr M.D. NAHAN: Yes, that the police will not enforce.

Mr M.P. Whitely: That is what has been happening with prostitution.

Dr M.D. NAHAN: I am sure that we will have a debate on a prostitution bill in due course.

I am sure, as the member for Alfred Cove has just told me, the police have accommodated this issue. Their issues are resources; whether society will support them in enforcing the laws; and whether it is a rational and appropriate use of their time. They are thinking about this legislation. I might add that if the Department of Health offered the police money to put more police on the beat, they might enforce the legislation. Huge amounts of money are raised from tobacco taxes and that money is earmarked for mainly information campaigns that could be redirected to police.

Dr J.M. Woollard: The police have said they support the issue.

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Dr M.D. NAHAN: My problem is that I do not think we should make laws that the police rationally say are not enforceable and to which they will not give high priority. I think that this legislation goes too far.

Mr M.P. Whitely: What about prostitution?

Dr M.D. NAHAN: Prostitution has historically been a problem in this area. Different countries and states introduce laws to ban prostitution but it is a reality of life. Police are confronted with the issue of accommodating prostitution that is illegal and it is also related to all sorts of other illegal activity. That is why the police have pushed for all sorts of changes to prostitution legislation. I understand the complexity of the issue. The analogy with prostitution that the member makes is absolutely correct; that is, we are contemplating introducing a law whereby people cannot smoke in cars with children under the age of 17 and we will expect the police to enforce it. It is visibly difficult to judge who is under the age of 17, who is a child, whether a cigarette is lit or when it was lit. Will we breath-test for smoking? No, because the police always need to have dual collaboration; that is, two policemen must see the person smoking. Again, I fully support people not smoking in cars. If we were to give a good example of a situation in which passive smoking was a real problem, that would be it. Anybody who opens the ashtray in a taxi or car where people smoke a lot will find that it reeks. I would like to debate these issues, but would I fight to the death on them? No.

I am a beachgoer on a daily basis and I hardly ever see people smoking on the beach. I have no problem with banning smoking on beaches but not because of the effects of passive smoking. In fact, I think the idea that passive smoking is an issue on Western Australian beaches is ridiculous. One of the strengths of the anti-smoking campaign to date has been its evidence base. This claim goes too far. Can members tell me that passive smoking on the beach during a south-wester or in the morning in a strong easterly wind is dangerous to people on the beach? I struggle to believe that.

Mr J.E. McGrath: You'd struggle to light up!

Dr M.D. NAHAN: That is right; people would struggle to light a cigarette. In fact, a person could put a cigarette in his mouth and it would disappear within five seconds because the wind is so strong!

I think the member for Kalgoorlie addressed this issue quite nicely. He said that if smokers want to smoke on the beach, they can smoke outside the flags. That is fair enough, but members should not make this an issue about passive smoking because it is not.

A big problem for employers is that workers addicted to smoking lose a lot of productivity, especially if they work in a high-rise building because they need to go all the way down to the ground floor to stand on the street amongst each other smoking. Apart from in cars, on the streets is where the effects of passive smoking would be worst, as smokers pollute the alleyway by putting their butts everywhere, although sometimes containers are provided. They also have huge amounts of downtime. This issue is an offshoot of the Tobacco Products Control Amendment Bill. I do not say that we should go back to smoking in buildings, but it is an issue that I think we should address. We are forcing people to become pariahs. Smokers can go out on the street—I can live with that—but we lose a lot of productivity through this downtime. Do we do that with heroin addicts? No; we give them methadone. This is a side issue, but I would like the Minister for Health perhaps in this bill to look at the issues and the idea of smoking rooms. Yes, we can put hurdles in front of smokers to inhibit them, which is the member for Alfred Cove's major objective, and I do not mind that, but going up and down —

Mr J.E. McGrath: Who would you have the smoking rooms for—the workers?

Dr M.D. NAHAN: Yes.

A government member interjected.

Dr M.D. NAHAN: Look at it as an employer: it is better to have a smoking room than to have those people all of a sudden have a craving, nicking out and going down to the alleyway to smoke, coming back stinking and losing all that productivity in downtime. I have never seen anyone do this, but if we were to ask businesses how much downtime they had from addicted smokers, we would find that it would be significant.

Mr I.C. Blayney interjected.

Dr M.D. NAHAN: I always thought we could invest in something like the cone of silence from the TV show *Get Smart* to suck the smoke up somewhere. I thought that would be a good idea—maybe we could assist with that.

Let us be fair. There is an issue with smokers who, mainly to get out of the rain, sit next to doorways smoking, and we want them further from buildings. This concern lies not with the smokers, but with the non-smokers who

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are significantly interfered with as a result. I am pretty relaxed about the distance—five metres or whatever—smokers should stand away from buildings, although I would like smokers not to have to be outside in the first place.

I think I have covered most of the issues with the Tobacco Products Control Amendment Bill. Ban smoking on beaches between the flags, but do not say it is because of passive smoking. Ban smoking within five metres of public buildings; fair enough, but give smokers a place to go to get out of the rain. I think we have a real problem with the enforcement of a smoking ban in cars. As the member for South Perth said, I would rather see public pressure through advertising to simply tell people not to smoke in cars with kids. Again, I do not think a smoking ban is enforceable in playgrounds. Persuasion is better than laws because we will not get the local police to stop chasing kids out of the skate park to arrest a woman who is smoking at the swings. Point-of-sale advertising should have been banned a long time ago. Therefore, in general I support the bill, but I think we must worry about enforceability and we should not go too far or else we will lose touch with the science on passive smoking.

MR W.R. MARMION (Nedlands — Parliamentary Secretary) [6.06 pm]: I rise to support the member for Alfred Cove's Tobacco Products Control Amendment Bill 2008 in principle, and I will say some things in support of the bill. Like most members, I have been lobbied by the anti-smoking lobby and also the Australian Hotels Association. As a non-smoker, I think that I am probably able to take a balanced, reasonable and practical position on this bill.

I note that members on the other side seem to have a reasonable amount of agreement on the thrust of this bill and support the bill, subject to some amendments in accommodating smokers in the community. We all have received lots of correspondence, but one piece of correspondence that had a great impact on me was the letter I got today from Darryl Kickett, chief executive officer of the Aboriginal Health Council of Western Australia. It was news to me that 50 per cent of Aboriginal people are currently smokers and that in some communities the smoking rate is as high as 80 per cent. Smoking causes 20 per cent of deaths in the Indigenous community. I think that is a disturbing statistic that we should have in the back of our minds during this debate.

I will briefly comment on a number of elements in the Tobacco Products Control Amendment Bill. Firstly, I think it is important to state the position I come from. Some members have said whether they have previously smoked or are non-smokers. I am a non-smoker. I have only had one cigarette in my life—when I was six and a half years old. It was probably child abuse. I am a baby boomer and my father smoked until he was about 36. I think my mother was forced to smoke through social conformity and she used one of those cigarette holders that we see in the movies, and we had art deco ashtrays. As a six-year-old, I thought all this was very cool. The disturbing thing was where I lived; we had a house in Wittenoom Gorge and it was in an environment in which everyone smoked and drank a fair bit of beer, as members can imagine.

Several members interjected.

Mr W.R. MARMION: That is right. However, I grew up in that culture. At the age of six, we all wanted to follow our father, so my father gave me my first cigarette at the age of six and a half, and I still remember where I was. He made sure that I knew what to do when I was given that cigarette. He said that I had to take a very big breath and suck it all the way down to my lungs, which I did, of course, and that was the last cigarette I ever had in my life. However, it is important that members realise I am not a smoker. I actually hate smoking. My ears start to water—my eyes, sorry, but my ears too —

A government member interjected.

Mr W.R. MARMION: My ears are watering now! If someone who has been smoking is sitting next to me, the smell of the smoke affects me. However, I think it is important that we consider the other part of the population that does smoke. That is where I am coming from. I believe that we have to accommodate people who perhaps do not want to smoke but who do smoke.

I absolutely agree that people should not smoke in cars with children in those cars. I have five children, and I think it is appalling that parents smoke in their cars and the children, who cannot speak for themselves, suffer. The cut-off point to define a juvenile will be part of the debate, and I have an open mind on that issue. I take on the points made by the member for Kalgoorlie and the member for Riverton about policing smoking in cars. It is an interesting issue. I agree totally that if we are going to bring in a law, it must be policed. However, the police obviously must prioritise. I know that that is a comment that the member for Riverton has a problem with, but I would be concerned if the police saw this as a high priority ahead of burglary, for instance. From a practical point of view, I guess I have been persuaded that it will not be an issue. Originally, I had concern about it, but I think it will probably work itself out.

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I do not have a problem with banning the display and the advertising of cigarettes, as long as there is sufficient time for the shops to comply with any legislation in that regard. I do not believe there will be a problem with that. I do not have a problem with people not smoking between the flags. I believe everyone has covered that quite well. The only issue I have is from a technical point of view. The flags are designated as two parallel lines, and it is a question of how far back from the beach the area extends. I understand that it goes to the water, but does it go to where the sand stops? Does it include the grass, the road or the Cottesloe pub? We have to be careful that an ambitious policeman —

Mr J.E. McGrath interjected.

Mr W.R. MARMION: Does it go out to the water as well, where someone might be smoking on the pylon?

A government member interjected.

Mr W.R. MARMION: It does, yes. I think the member is right, but how far out does it go? What about a ship that is seven kilometres out to sea?

Several members interjected.

Mr W.R. MARMION: We digress. The areas we must concentrate on are the alfresco areas. Some members on this side met with the member for Alfred Cove, and I think we can reach some sort of agreement on that issue. I believe that some area has to be provided within the confines of an eating and drinking establishment. I have been advised that there are some 90 such establishments in the electorate of Nedlands. I believe that some place must be found, however it is defined or however it is described, to which people in that establishment can go to have a cigarette and not disturb people who are eating. As part of my research, I went to the Vic hotel in Hay Street late last week, I think. I was in the alfresco area, and I was pleasantly surprised. Some smokers were in the alfresco area, and those who wanted to smoke went to a spot—it was not a prescribed designated area—that the publican had obviously set up. They had a smoke, had their beer and then went back to their table to eat. I thought that worked well. That probably does not happen in all hotels these days. However, if a designated area is to be brought in, there would obviously be some debate about what percentage of the area it would be. My suggestion is that it could be up to 25 per cent of the outdoor area. Some hotels could choose to not have any such area, and that would be fine. However, some hotels, possibly in the Kalgoorlie area, might want to go to the maximum, because that would cater for their clientele now, but over time that figure of 25 per cent might cascade down, and maybe one day there will be hotels that do not have any designated area at all.

We have to think about not only Western Australians who smoke, but also overseas tourists who come to Western Australia. Members may have been to Japan, as I have done a number of times. I thought I would look at one of those fast trains. I went out of my non-smoking carriage and walked into the next one, and I could not see through the glass because the smoke in the carriage was so thick. It reminded me of the Bussell hotel in Bunbury in the 1970s. The member for Bunbury would know all about that because he was probably there. However, it is a fact that tourists come to Western Australia. A busload of Japanese could be going to a hotel in my area, and the publican might want to increase the area from 10 per cent to 20 per cent on that particular day. I am not sure how that would work, but they are the practical things that we might want to think about.

Mr G.M. Castrilli: And the Chinese.

Mr W.R. MARMION: Yes, the Chinese. I think the Germans are quite good smokers also. That is all I wish to say. I support this bill in principle, and I look forward to participating in the debate when it is brought on.

MR I.C. BLAYNEY (Geraldton) [6.17 pm]: I rise to support the legislation. As I have said before, I grew up in a household in which my father smoked. It has always caused me a pain similar to needles being shoved in my nose when people smoke around me, but because I was brought up with it, I am quite used to it. However, I prefer not to be around people who smoke. As an employer, it always surprised me—it is quite logical, I suppose—that the more people smoked, the less money they seemed to have. It is a bit of a concern to me that one of the mechanisms by which we want to reduce smoking is to increase taxes and make it more expensive. Of course, that will hit the people on the bottom of the heap, if they smoke, harder than almost anyone else. I can remember my sister helping to set up an emergency food operation in Geraldton. One of the first questions she was asked by some of the prospective clients was, “Will you be supplying cigarettes?” She said no; she regretted that the operation probably would not be able to supply them with cheap cigarettes.

The effect that smoking has on people’s health is very clear now. Some years ago the tobacco companies gave up trying to pretend otherwise and gave up funding research to try to prove it. Smoking affects just about every organ in the body. It increases the rate of cancer, such as bladder cancer, cervical cancer, renal cancer, leukaemia

Extract from Hansard

[ASSEMBLY - Wednesday, 18 March 2009]

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and oral cancer. It increases lung cancer by about 20 or 30 per cent and heart disease by 25 to 30 per cent, and increases the risk of stroke by up to about 82 per cent. Young children exposed to smoking have an increased risk of sudden infant death syndrome and lower birth weight, and it increases the risk of babies being delivered pre-term. Interestingly, it passes on to the next generation as well. Therefore, if a woman smokes while pregnant, the risks will be passed on to not only the child that she is carrying in utero, but also her grandchildren. That has come out of some research that has been done in the past couple of years.

Lung cancer causes about 3 000 deaths per annum in the United States. We can all say that we will die of something eventually anyway. However, smoking related illnesses are a hell of a cost to the health system in the meantime. Children are particularly susceptible to the dangers of passive smoke because of their smaller airways and greater oxygen demand. Passive smoke also has an effect on their developing immune systems. Children breathe in three to four times more air per kilogram body weight than adults breathe in. That is why there is a particular danger when people smoke in cars carrying children. The level of smoke in a vehicle is about three times the level in nightclubs or hotels that allow smoking. Even though a person may smoke in a car for only a short time, it has a terrible effect on any children who may be in that car, because they will take up the toxins at three to four times the rate of an adult. Approximately 500 children are hospitalised in Western Australia each year with illnesses related to tobacco smoke. As has already been mentioned, the cost in Western Australia of smoking-related illnesses is about \$2.4 billion, and nationally it is about \$31.5 billion. The smoking rate in Western Australia in 1950 was about 70 per cent. It is now down to 15 per cent.

The six measures that the World Health Organization recommends to reduce the incidence of smoking are: raising taxes and prices; widespread campaigns to warn people about the dangers of tobacco; offering help to those who want to quit; banning advertising, promotion and sponsorship of tobacco products; protecting people from second-hand smoke; and carefully monitoring the epidemic and prevention policies. It is interesting that nearly all forms of tobacco advertising have now been banned. Twenty years ago when we watched a film we did not see many people smoking in that film. I am told that some of the more popular recently released blockbusters, if we can call them that, have had incidents of people smoking. That has been a deliberate policy by tobacco companies to buy their way into blockbuster films as a back-door form of advertising.

The first area that is dealt with in the committee report is the banning of tobacco product displays. That is really the only form of advertising that is left now, apart from the one I have just mentioned in films. Tobacco product displays are a highly visible form of advertising. They make it easier for people to see the product, they assist recall, they indicate acceptance and they suggest that smoking is probably more widespread than it is. The committee looked at the results of a survey that had been done in a number of shopping centres in Western Australia of people who had bought cigarettes in a store in that centre. About 20 per cent of the people who were surveyed after they had left the store said that they had just made a spontaneous purchase; they would like to give up smoking, but their purchase had been triggered by the banners they had seen on the tobacco counter. Therefore, I have no doubt that that ban will have an effect. A similar ban has been put in place in Iceland, Ireland and Thailand, and in most of the Canadian provinces.

I turn now to the issue of banning smoking in cars carrying children. On this issue I think I differ from most of the other members who have spoken. I do not have a problem with putting a ban on the books to make that illegal. A similar ban has been put in place in South Australia, and it appears to be working reasonably well. There have been only a couple of convictions, but the indications are that it has had a significant effect on the number of people who are smoking in cars carrying children. I agree with the point that children over a certain age can argue with their parents. However, younger children may be more passive. The age that is specified in the South Australian legislation is 16 years. That is a pretty good number. A similar ban was put in place in California in 2008 and is also in place in the states of Arkansas and Louisiana. Similar bans are in place in the Canadian provinces of British Columbia, Nova Scotia, Ontario and the Yukon. I do not have a problem with the concept of opportunistic policing. If we were to take away all the laws on the books that are not regularly policed, or that are hardly ever policed, I do not know how many laws we would have left on the books, quite frankly.

I am happy with the compromise that seems to be shaking out to allow smoking in only 25 per cent of the outdoor eating areas of hotels and similar premises. If we can agree on such a compromise, it will be a good move forward. People have expressed the concern that people may spill out onto the pavements to have a smoke. That is a very good point. I do not think we would want that to happen. Therefore, a designated place should be set aside in hotels in which people are allowed to smoke. The other day I saw a picture of an airport terminal that had glass booths in the middle of each concourse. People who want to smoke have to stand inside one of those

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booths, and all the cigarette smoke is sucked straight out. That seems to work quite well. A person would need to be pretty desperate to go into such a booth, but so be it.

Once again, this may be going into the area of opportunistic policing, but I also support the proposed ban on smoking in outdoor play areas. One local government authority to the south of Perth—the name escapes me—actually puts up about 700 stickers every two years around all the playgrounds in its area to warn people that they are not allowed to smoke in that playground. That seems to work quite well. It costs that local government only about \$600 to buy the stickers. A similar ban has been in place in California since 1 January 2002. Initially I was pretty doubtful about the proposed ban on smoking on patrolled beaches between the flags. One of the concerns that have been expressed is that a lifeguard may be busy trying to stop a person from smoking and in the meantime a person may drown. That has not been the experience in the areas in which such a ban has been implemented, so such a ban is probably a good idea. I agree that with our sea breezes in this state, any cigarette smoke would probably not stay around for long. However, a person who happened to be downwind of a person who was smoking would still cop a bit of smoke. In Queensland, people are not allowed to smoke within 50 metres of the water. That means that a person who wants to smoke a cigarette while in the water would need to go out 50 metres from the beach.

I would like to see a designated area within the precincts of this Parliament in which people will be allowed to smoke. There is a fair bit of land around this Parliament. I cannot see why there cannot be a designated tree under which people can stand and have a cigarette if they want.

I think it is good to set ourselves the goal of reducing the rate of smoking to below 10 per cent of the population. I do not know how long that would take. I suspect it would take quite a while. I remember that about 20 years ago, Lee Kwan Yu in Singapore set the aim of making Singapore a smoke-free nation. I have been looking at some of Singapore's antismoking stuff on the web, and Singapore is obviously still some distance away from achieving that. If Lee Kwan Yu was not able to achieve that in Singapore, I have my doubts that we can achieve it in Western Australia.

Another issue is the incidence of smoking by Aboriginal people. That really surprised me. In some ways that should not surprise me, but I found it amazing that nearly 50 per cent of Aboriginal people smoke. That is one-third of the reason that Aboriginal people suffer health problems and have a shorter life expectancy than non-Aboriginal people. I think this matter will be very hard to deal with. I think we will struggle to achieve this in Aboriginal communities. It is certainly a desirable goal to reduce the incidence of smoking. A society in which no-one smoked would in many ways be a better society. At the same time, I respect the right of people to smoke if they wish. However, people cannot really expect to impose their views upon other people. Therefore, I am in favour of this legislation. If we can compromise on the question of hotels, it will certainly be a good compromise.

MR A. KRSTICEVIC (Carine) [6.29 pm]: I also support the legislation before the house. I will take members through a story about my experiences. Some 15 years ago I worked behind the bar at the Croatian Club. In those days, people smoked indoors. I remember thinking at the time, "I'm going to die," because there was so much smoke in the venue and there was no ventilation. That is the way things were in the days when people still smoked indoors. It was a pretty rough and tough environment for people who did not smoke. They found it difficult, but they still wanted to be involved in the community. However, they found it difficult to stay there for any length of time. I remember applying for a grant from Healthway to run an anti-smoking campaign at the club. After putting in quite a detailed submission, Healthway gave me \$3 000 to run a number of events over a couple of weeks. I organised a dinner dance one night. It was a full house, and everyone knew what it was about; the Healthway people were there as part of the process. There were perhaps 250 people, with singing and dancing going on. It was a rainy, cold and windy night and there were thunderstorms. However, there were about 40 or 50 people outside on the patio, smoking. Obviously smoking had not yet been banned at the club; it was still legal to smoke indoors, but everyone was going outside to smoke. To be honest, I was very surprised that they were adhering to that rule, but they were all going outside to smoke. They were cold, but they were determined to keep smoking.

I was very happy when the law was changed to ban smoking indoors. It allowed a lot more people to participate in the community and it drew them to events and functions. After some years I felt more comfortable about bringing my children to functions and events, knowing that they would not be subjected to cigarette smoke. I thought it was a very positive move to force smokers to go outside, and thereby eliminate the uncomfortable position non-smokers were put in when they were obliged to confront smokers to try to get them to change their habits for the sake of the community. Venue owners obviously felt that it would hurt their businesses if they were to turn their backs on smokers when the law was not able to assist them in that process. I can understand

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that; when there are both smoking and non-smoking customers, it is very difficult to cater for both. Unfortunately, the smokers were always much louder than the non-smokers, but that may have something to do with the fact that smoking goes with drinking to a greater extent than does non-smoking. That was a very positive change in itself.

At the same time, I felt for the smokers. They have a habit that is not illegal, but they need to consider non-smokers also. All venues at which people gather socially—excluding children, of course—should factor in areas for smokers in the short to medium term because, at the end of the day, society has always encouraged and supported smoking. We need to educate and move people down the path of non-smoking, but we cannot just hit them with a hammer and say, “That’s it; you’re not getting any more.” That unfortunately just does not work. Education, support and encouragement through the law are very positive ways to go. It definitely sends the message that we are listening, we are concerned and we are taking everyone’s circumstances into account and giving everyone the opportunity to move down the right path. That is a very good thing.

To me, smoking in cars in which there are children is a crime.

Dr K.D. Hames: Why weren’t you in the party room when I wanted to bring in the legislation? I could’ve used you!

Mr A. KRSTICEVIC: Yes! Everyone knows that smoking is unhealthy. If an adult chooses to smoke, he is presumably mature enough to make his own decisions, and if he chooses to harm his own body, he can do so by smoking, as he can by drinking or eating unhealthy food. There are so many different ways in which people can undermine their health; all we can do is to encourage and educate people, including children, and try to manage the transition into a healthy lifestyle. I am strongly supportive of banning smoking in cars in which there are children. Education is a great start. I think that fines, in the first instance, might be a little punitive as a reflection of the damage that people might be causing their children. I would not like to be a child locked in a car with cigarette smoke and doomed to get cancer because of my parents. That is a very serious matter that needs to be addressed as part of this legislation. I am glad that my parents never smoked.

When I was a young adult going to nightclubs and pubs everybody in those establishments smoked. We talk about the dangers of passive smoking. My view at that time was that it did not matter whether I smoked or did not smoke, because if I attended those venues I would be smoking by default. I would come home and wake up in the morning with my clothes—and, back in those days, my hair—stinking of smoke!

Dr K.D. Hames: You can’t remember that far back!

Mr A. KRSTICEVIC: I can! I still had hair on my wedding day, but that is another issue altogether!

I would not notice the smell the previous night, but the smell of smoke when I woke up was unbelievable. I would open windows and throw my clothes out. Of course, I would be back in the nightclubs and pubs the following night, but that is another story. I am sure members have all seen people smoking while driving a car, when suddenly the head of the cigarette falls off between their legs and they are trying to put it out while driving; there are a lot of driving issues involved with smoking in cars. Today, most new cars are not even fitted with ashtrays, so manufacturers can obviously see the phasing out of smoking in cars.

Cigarette litter on beaches is also a big issue. Although we are debating the issue of passive smoking, litter is also an issue in my view. Not that I see a lot of people smoking on the beach, but when my kids find a cigarette butt in the beach sand, they will pick it up, and I do not think that is a very hygienic thing for them to do. The City of Joondalup has banned smoking from all its beaches; it is a very progressive council. It is taking the lead in so many areas, and it is great to see that degree of vision and courage. It is fantastic. Maybe that is an option for our beaches; maybe people should not be smoking on our beaches—not because of the health issue, but because of the aesthetics and everything else that goes with that. I do not have a problem with that part of the legislation.

I have visited the Odin Tavern and spoken to the owners. I have seen how much money they have invested to meet the legislative requirements that were enforced a number of years ago, by which people had to smoke in outdoor areas. An interesting thing about the set-up at the Odin Tavern is that they have an outdoor area for smokers and an outdoor area for non-smokers. They cater for both. They also prohibit smoking in certain parts of the smoking area because they realise that non-smokers like to hang around with their friends who smoke, so they still go outside. The tavern provides that opportunity for people to be able to mix. I am very conscious of the money that businesses have invested to meet the legislative changes. Having said that, we need to encourage that to go one step further by making sure that venues set aside a reasonable percentage of the outside floor space for non-smokers. That is important, but at the same time we need to understand that, in the short to medium

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term, many people already have a smoking habit and that smoking was socially acceptable for a long time. As much as I agree with changing smoking habits and helping society by encouraging that change, we need to acknowledge the fact that smokers need to smoke.

Smoking in the workplace was before my time, but probably 20 years ago most commonwealth government and state government agencies allowed smoking inside the office. I can only imagine what it must have been like when a lot of people smoked and non-smokers had to sit in an office all day while someone puffed on one cigarette after another. It would not have been good. I accept the arguments about people smoking outside the front doors of businesses; it is not a good look if 10 or 15 staff are smoking cigarettes while clients are walking in and out. Irrespective of the health issues, it is not good for business and it is not a good message for a business to be sending to its customers. It is a fine balance.

I commend the member for Alfred Cove for bringing this bill to the house. It is deserving legislation, as was yesterday's Criminal Code Amendment Bill. These bills prove that the government is listening to the community and taking its views very seriously and is taking visionary decisions in this Parliament. I commend all members for their support and encouragement on this bill and also on the agenda of the government of the day.

MRS L.M. HARVEY (Scarborough) [6.41 pm]: I too rise this evening to speak on this bill. At the risk of turning the chamber into a gallery for true confessions, like the member for Carine and my colleague the member for South Perth, I must confess to a previous life full of vice: I am now a recovered smoker. I feel quite passionately about this issue, but I also empathise with those people in the community who are addicted to this incredibly addictive substance. I understand the challenges in quitting smoking, having been through that process. I must confess to enjoying the smell of a freshly lit cigarette—after a challenging day in this house, in fact.

Mr D.A. Templeman: Were you a menthol smoker?

Mrs L.M. HARVEY: Good grief, no, they were for purse carrying--
Several members interjected.

Mrs L.M. HARVEY: — for weak-willed people!

I am a female, but I am not a wimpy little girl. I smoked Winfield Blues and Craven A, actually. I was a bit of a heavy smoker and I liked strong cigarettes. However, enough said on my vices.

Mr D.A. Templeman: I think it is very interesting.

Mrs L.M. HARVEY: I thank the member for Mandurah for his interest in my vices.

Part of my enthusiasm and my reason for quitting smoking was a pact I made with my older sister that upon the birth of her first child I would quit smoking because I did not believe in smoking around children. I agree 100 per cent with the thrust of this legislation to restrict the passive smoke intake of children in our society. Children do not choose their parents; they do not choose parents who are addicted to cigarettes.

Smoking in cars is a no-brainer to me, and banning smoking around children's playgrounds is a very smart move. My two children are asthmatic and they are affected immediately by cigarette smoke. Those members who are familiar with asthma will understand that asthma can be a life-threatening condition. To me, it makes very good sense to ban smoking around children's playgrounds, and I agree with that 100 per cent.

Members in this house would probably acknowledge that we owe a debt of gratitude to smokers in our society because the impact of cigarette smoke in our social environment has led, I would wager, to a wider choice of drinking establishments and restaurants. Many years ago there were not that many alfresco eating places or areas in pubs and drinking establishments where patrons could enjoy fresh air while they had a drink. We do, in fact, owe that to the smoking population who, through the uptake of this obnoxious habit, forced the provision of some healthy air alternatives to those environments.

I have some concern that this bill could create a nanny-state environment with the potential regulatory burdens that might be placed on businesses. Patrons need to be over the age of 18 to go to licensed establishments and their alfresco areas. An 18-year-old is legally allowed to purchase cigarettes and, whether that is a good or a bad thing, most people in this house would agree it is probably not in the best interests of anybody's health. However, we need to acknowledge that adults make a free choice to go to an establishment to drink, and they make that choice knowing that they may be exposed to cigarette smoke.

In the spirit, perhaps, of allowing business owners to adapt to change and considering that we have already thrust quite significant change on the industry with recent liquor licensing legislation, which has also had an impact on

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sporting clubs, I probably would prefer to see a period of consultation and perhaps engagement with the sector before we start to make such a radical change as removing the opportunity for people to smoke when they go into hotels and bars. Having said that, as a non-smoker, I would also like the opportunity to go to any drinking establishment of my choice and be able to sit outdoors and not be exposed to passive smoking and its harmful effects. Potentially we have some room to move with the legislation and perhaps we can phase in some of the changes, rather than make them law immediately with a punitive regulatory mechanism.

Mr P.B. Watson: More red tape.

Mrs L.M. HARVEY: That is a bit of a mantra for me, I have to say. In talking to proprietors of clubs and hotels in my electorate, I have found that the regulations associated with liquor licensing have placed an unfair burden on many of those clubs and hotels. Most of the members in this house will acknowledge that. If we then place the further burden of enforcing a ban on cigarette smoking on the owners of those establishments, we need to think very carefully about where we are going with this and where it will end. If an establishment serves chips that are cooked in trans fats—we all know those types of fats can cause heart disease—will we police that? Buying chips is a poor health choice and can have an impact on one's health. That has been established; it is a no-brainer. Cigarettes are the same; they are not my choice.

Mr P.B. Watson interjected.

Mrs L.M. HARVEY: The member for Albany has a point there. By the same token, people need to be responsible for their own choices. We should not put the onus for policing this regulation onto people who are running businesses and who have been acting in good faith for quite some time by making provision for legislative changes that were introduced as recently as a few years ago on exactly this issue. We need to be very careful about the way that we implement this legislation. We must have a very serious look at the mechanism for fining people to see if we really want that kind of mechanism as a way of enforcing the regulations.

My understanding is that the biggest increase in the uptake of cigarette smoking is among teenage girls. Is that correct, member for Alfred Cove?

Dr J.M. Woollard: Among young children.

Mrs L.M. HARVEY: I question whether this legislation would have an impact on that. Certainly, removing children from an environment in which they are subjected to passive smoking, such as in a motor vehicle and in a children's playground, will have an effect on that.

Mr P.B. Watson: There is a test being done to detect who has suffered from passive smoking and who takes up smoking later on. They are looking at that at the moment.

Mrs L.M. HARVEY: It would not surprise me if a link were established.

I am mindful also that a report is being tabled by the Education and Health Standing Committee. My understanding is that the government has some time to respond to that. The government has not yet responded to all the recommendations of that report. I suggest that bringing forward this legislation before the government has made a response might pre-empt other aspects of the legislation that could be implemented. We do not want to rush through legislation when we could introduce legislation that covers every aspect of the recommendations in one fell swoop.

We could offer people incentives to help them quit smoking. Nicotine patches are very costly and a higher percentage of people from lower socioeconomic groups take up cigarette smoking. Nicotine patches could be funded through the pharmaceutical benefits scheme if we successfully lobbied the federal government to help people overcome their addiction. We could also run education programs. Those things cost money, which comes back to engaging with government and the budget process to ensure that the public health campaigns are well funded. It would be great to have new money to fund that type of thing, but we are experiencing a very tight fiscal environment.

I have expressed all of my concerns on this matter and I am very happy to see this bill before the house. This is an important issue that involves social change. As such, we need to be wary of the pace of that social change. I fully support any legislation that will limit the exposure of our children to cigarette smoke.

DR K.D. HAMES (Dawesville — Minister for Health) [6.52 pm]: I indicate to the timekeeper that I am the lead speaker on this issue for the government. This has been a very interesting debate. It shows the change that has come about through the changed circumstances of government. There have been times when the dominant government from either side of politics has introduced legislation and driven it through and times when members have been given a conscience vote on certain legislation and factions have been formed comprising members

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from both side of the house who have a strong view on a particular issue. This is a unique circumstance whereby an Independent member has introduced legislation, and even though the government has not yet made a decision on its position, we are all debating the issue. It has been very interesting to hear the contributions of members from our side of the house on an issue that we have not made a decision on about what we will do. It has been pleasing to see the strong consensus of opinion on this issue from members on our side.

I will summarise what I think is the general feeling. The general feeling from members on both sides of the house is one of strong support for the legislation, albeit sometimes guarded, restricted or modified in some areas. Overall, there is support for the general concept of the need to reduce smoking and a recognition of how harmful smoking can be. Members have examined particular aspects of the bill. Almost without exception there has been support for it from members on both sides of the house—government members support it even though a decision on the matter has not been made by the party.

I will go through some aspects of the bill and point out a couple of things that have occurred. Before the election I prepared legislation to ban smoking in cars in which children under the age of 17 were passengers; I proposed that an offence would attract a moderate fine of \$100. It was fairly simple legislation. Western Australia was the first state in Australia to propose that type of legislation. If we had passed it, I would have been famous for being the person who drove it through. Sadly, I was robbed of that chance. I received some guarded support for the legislation in my own party room. If a vote had been taken, I might have received 50-50 support for it. Overall, there was not a great deal of support for it and the leader at the time, given the opposition in the party room, did not commit the Liberal Party to supporting that legislation. We were in opposition at that time, so it was a private member's bill. Nevertheless, as a private member I had the opportunity to bring that bill before the house and to lay it on the table. Did I get any support from current opposition members when they were in government? No, I got zero support. No-one from the government was interested in supporting a ban on smoking in cars in which children under the age of 17 were passengers, despite the fact that everyone who has spoken on the bill today has referred to the severe harm that can be done to children by inhaling the passive smoke in cars. It is a well-recognised fact.

However, I agreed with the Minister for Health at the time that he would run an advertising campaign to encourage people to not smoke in cars with children, provided I let the legislation lapse, and that is what I did. I really did not have a choice in the matter because there was little support for my legislation anyway. Subsequently, state after state either introduced or passed the same type of legislation, and they are all Labor states. Interestingly, the former Minister for Health told me tonight that an analysis had been done of the advertising campaign and it was found to have had only limited effect. I thought it was a good campaign. Not many people smoke with children in the car but when I see it happening, it really annoys me. Often a parent in a car full of kids has the windows wound up and is puffing away on the cigarette, knowing the damage that the cigarette smoke is causing to the children, particularly if a child is asthmatic. Often smoking stimulates the development of asthma, as well as all the other detrimental health effects it has. I am very pleased to hear that there is strong support for the legislation from members on the other side.

I congratulate the member for Alfred Cove for introducing this legislation. Western Australian Council of Social Service and the Australian Medical Association probably wrote it. It was developed as a package and has the strong support of those two bodies as well as the wider community, which has been campaigning for years to reduce smoking.

Mr P.B. Watson interjected.

Dr K.D. HAMES: I am not saying that. I did not say they wrote the speech. I am talking about the role they played in the development of the legislation. There is nothing wrong with that.

Western Australia has just 16 per cent of Australia's smokers because of the actions of groups such as WACOSS, which have always gone to extremes, beyond what I would support. I am an ex-smoker who has not been totally against it. I was of the view that if people do not want to smoke, they do not have to smoke and if people do want to smoke, we should let them smoke. I have been against the nanny-state mentality. However, I must admit that Western Australia has the lowest percentage of smokers in Australia despite the miners who work in the vast outback spaces and who, as a group, tend to smoke a lot, and the 50 per cent of Aboriginal people who smoke. We have the lowest percentage of smokers in Australia because people in this state have been pushing the envelope on antismoking for a long time, and they have made a difference. I have told Mr Tarrant from the Department of Health, who is in the public gallery listening to me, that I am not going to be the person who drives the antismoking campaigns in this state. However, I am happy that this legislation has been introduced and that someone other than me is the driving force behind it, because that is essential if we are to achieve long-term change and to meet the 10 per cent target which has been set by the Council of Australian

Extract from *Hansard*

[ASSEMBLY - Wednesday, 18 March 2009]

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Governments and which was signed off on by all governments. Funding is attached to that agreement for the states that achieve that target by 2012. It is particularly important to continue to push the envelope.

I agree with most of the proposals in the legislation except the proposal to ban smoking in alfresco areas. I am happy to support the concept of banning smoking in alfresco areas when the principal purpose of the venue is to be a restaurant. However, people go to a pub and sit outside to have a drink. When people go to a pub in Kalgoorlie or Cobblers Tavern in my electorate, they sit outside after work—maybe from working in the mining industry—and they drink, smoke, eat a steak sandwich and go home after a couple of hours. In my view, pubs will not ban smoking in those areas; they will ban eating in those areas.

Debate interrupted, pursuant to standing orders.