

EDUCATION AND HEALTH STANDING COMMITTEE

INQUIRY INTO THE TOBACCO PRODUCTS CONTROL AMENDMENT BILL 2008

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
WEDNESDAY, 11 FEBRUARY 2009**

SESSION FOUR

Members

Dr J.M. Woollard (Chairman)

Mr P. Abetz

Mr I.C. Blayney

Mr J.A. McGinty

Mr P.B. Watson

Hearing commenced at 12.10 pm**SWANSON, MR MAURICE GERARD****Chief Executive, National Heart Foundation, WA Division,
examined:**

The CHAIRMAN: On behalf of the Education and Health Standing Committee, I thank you for your interest in these proceedings and for your appearance before us today. The purpose of this hearing is to assist the committee in gathering evidence for its inquiry into the Tobacco Products Control Amendment Bill 2008. You have been provided with a copy of the committee's specific terms of reference. At this stage, I would like to introduce myself and the other members of the committee who are here today. Unfortunately, it is not the full committee because a Liberal Party meeting is on today. Therefore, we are unable to have full membership. I am obviously disappointed about that, because we organised this meeting at the end of January. Nonetheless, the Education and Health Standing Committee is a committee of the Legislative Assembly of the Parliament of Western Australia. This hearing is a formal proceeding of the Parliament and therefore commands the same respect given to proceedings in the house itself. Even though the committee is not asking witnesses to provide evidence on oath or affirmation, it is important that you understand that any deliberate misleading of the committee may be regarded as a contempt of Parliament. This is a public hearing and Hansard will be making a transcript of the proceedings for the public record. If you refer to any document or documents during your evidence, it would assist Hansard if you could provide the full title for the record. Before we proceed to the questions, and to your assisting us today, I need to ask you a series of questions. Have you completed the "Details of Witness" form?

Mr Swanson: Yes, I have.

The CHAIRMAN: Do you understand the notes at the bottom of the form about giving evidence to a parliamentary committee?

Mr Swanson: I do.

The CHAIRMAN: Did you receive and have you read the information for witnesses briefing sheet provided with the "Details of Witness" form today?

Mr Swanson: I did.

The CHAIRMAN: Do you have any questions in relation to being a witness at today's hearing?

Mr Swanson: No.

The CHAIRMAN: Would you then please state your full name and the capacity in which you appear before the committee today.

Mr Swanson: My name is Maurice Swanson. I am the chief executive of the Heart Foundation here in Western Australia. I have been involved in public health since 1979, specifically involved in tobacco control since 1983 when I was asked to be the then Public Health Department's representative on the Australian Council on Smoking and Health. I have been a counsellor ever since 1983 for ACOSH and I am the current honorary secretary of the council. I am also the deputy chair of the Healthway board and I have been involved in many of the smoking and health activities conducted in Western Australia since the late '70s.

Thank you again for the opportunity to provide additional information and advice to the standing committee.

The CHAIRMAN: I didn't actually say the names of the other committee members here—Hon Jim McGinty and Mr Peter Watson.

Mr Swanson: I am pleased to meet you both, and Jim again.

As you would expect, the Heart Foundation strongly supports the provisions contained in the amendment bill. As we have heard repeatedly this morning, there is overwhelming evidence that direct smoking is harmful to health. We have also heard over and over the evidence that exposure to second-hand smoke is injurious to health. Many of the speakers have reinforced the fact that exposure to second-hand smoke causes coronary heart disease in adults; it causes lung cancers in adults and has a variety of respiratory effects in young children. We heard just a few moments ago about the effect on babies and, as has already been mentioned, exposure to second-hand smoke significantly increases the risk of sudden infant death syndrome. In summary, it is not good for you.

Since the mid-1980s the Heart Foundation has been involved in educating the public and decision makers about the harmful effects of smoking. In fact, our first brochure had the title "So you think you're a non-smoker." I think it is true to claim that we were the first of the non-government health organisations that tried to draw this to the attention of the public. Not long after that, we were successful in inviting Professor Stan Glantz to Australia to assist us in generating publicity about the harmful effects of second-hand smoke. In summary, we have a very long pedigree in this area.

You have heard one of these statistics already, but it is important that I say it again, that exposure to second-hand smoke increases your risk of coronary artery disease by 25 to 30 per cent. That is perhaps an underestimate. More recent scientific literature confirms that that might be as high as 60 per cent. In my submission to the standing committee I provided a figure for the number of admissions for heart attack to hospitals in WA each year and that figure was 4 150, which, as you will all appreciate, puts quite a strain on our public hospital system in treating those admissions.

I also refer in the submission from the Heart Foundation to evidence that is provided in this paper, which I will provide to the parliamentary officers, published in *Preventive Medicine*. The author is in fact Stan Glantz from the University of California. He does an analysis of all of the published studies on the effect of entire communities going smoke free. This study estimates that the effect of communities going smoke free is that you measure up to a 19 per cent decline or reduction in the number of heart attacks, which is a significant and immediate effect. So in this case we are not waiting for fewer cases of lung cancer in 10, 15 or 20 years' time; we have an immediate effect in reducing the incidence of heart attack and all of the benefits that go with that for the health system.

I set about, with advice from the department of public health at the University of Western Australia—in particular Professor D'Arcy Holman—and with assistance from the Department of Health I might add, using the guidance from this paper, to estimate that the impact of what we have done so far is that we now have an estimated 975 fewer heart attacks each year in this state because of what we have done already, and the provisions that are contained in this bill will add further benefit to that.

Mr J.A. McGINTY: What was the total number of heart attacks, just over 4 000?

Mr Swanson: Just admissions, Jim. These are the ones that get to hospital and they're still alive. In fact this is probably an underestimate of the effect of reducing exposure across the community because we know that a good proportion of people who suffer heart attack don't reach hospital because they die of a heart attack in the community.

Mr J.A. McGINTY: So that is about a 20 per cent reduction; understated, as you said?

Mr Swanson: Yes, that's right. I think it is important that I acknowledge the work that you did as Minister for Health in achieving that. You need to know that an immediate impact of what you have already done is significantly reducing the number of heart attacks in the community.

[12.20 pm]

The proposed amendments to the bill will further reduce the community's exposure, and, importantly, as we have heard from the other speakers, they will do much to denormalise smoking in the community. No longer will we see as much smoking if these provisions are enacted and agreed to by the Parliament. Reducing exposure and denormalising smoking will be two outcomes if this legislation is passed.

The other part of the amendment bill is designed to place a prohibition on point-of-sale displays. As you have heard from other speakers, there is absolutely no doubt that displays at point of sale are potent advertisements for smoking. If they were not potent advertisements, why would the tobacco industry want the best real estate in the shop, be it a deli, supermarket or petrol station? Why are those advertisements there? They know from a marketing and advertising perspective that that is the best real estate for their purposes. Do not be confused or misled by submissions that are appearing on the parliamentary website that any changes that are made to the requirements for point of sale will cost the retailer money. That is absolute nonsense. All those display units are provided by the industry. Evidence from elsewhere shows that even when changes are made to cover those dispensing units, the industry continues to provide them. Why? Because its interest is in simply continuing to ensure that its product is sold. When we get rid of these displays, it will further denormalise smoking in the community. At the moment we have this ridiculous situation where, on the one hand, the community is exposed, as it is at the moment, to the horrific health effects of smoking through advertisements and other means, yet when a child walks into the corner store on his or her way home from school, what is the most prominently advertised product in the store? It is cigarettes. It would not be surprising if the child's reaction to seeing those displays is, "I've just had a health education lesson about the dangers of smoking, yet they are right behind the cash register in the most prominent position. They must be kidding! It could not be as dangerous as my teacher told me this morning." That is one of the reasons it is so important to get rid of those displays. As we have heard from the speakers who have just left the room, the tobacco industry documents that we now have access to provide a description in detail of the importance of those displays as a marketing tool and as an advertisement for the industry. They need to keep people smoking. They need to replace those who are dying each year as a result of smoking.

Finally, you will hear testimony before this committee and you will be provided with submissions from the tobacco industry and their fellow travellers, some in the retail area, but also those in the hospitality industry, namely, the Australian Hotels Association. They will argue against this legislation, but you must remember that they are arguing from the point of view of self-interest. Their interest is not in the health of the community, in reducing the amount of heart attacks and lung cancers or in reducing the number of children who present to our children's hospital with respiratory disease caused by smoking; their interest is purely and simply in maintaining a market for smoking, recruiting new smokers, maintaining those who are currently smoking or providing an environment in which those who choose to continue to smoke feel comfortable about their decision. They are not in the game of helping us create better health outcomes.

I want to address one issue that I heard by way of a question from the former health minister about whether we need to consider an exemption for dedicated tobacconists from the proposed prohibition on point of sale. I had an occasion to visit Adelaide in June last year. Those who have been there might have seen some very large retail outlets called Smokemart. I notice that the Peregrine group has made a submission. That is its business name. I was driving down Anzac Highway towards Glenelg and I noticed that a drive-in bottle department has now been taken over as an outlet for tobacco by the Smokemart group. You drive in as though you are picking up an order of alcohol, but as well as alcohol you can also purchase tobacco. Because of the lax regulation environment in South Australia—that is as a direct result of the influence of Smokemart on the political process in that state—it has power walls of displays of three square metres, or more. Yet that arrangement would satisfy our "not visible from a public place". If you drive your car into this supercharged Smokemart retail outlet, anyone in that car will be exposed, whether they are a smoker or a non-

smoker. If they are travelling with the driver, who might be ordering cigarettes, they will be exposed to that display, that promotion of tobacco. That is just one example of how that will be exploited. The current legislation for tobacco does not prevent Smokemart from expanding its empire in WA.

Mr J.A. McGINTY: Is it here at the moment?

Mr Swanson: I understand that it is. I would not be surprised if it is making plans for expansion. That is why we, along with the other health organisations, are emphatic about no exemptions. We have to have a level playing field and everyone has to play by the same rules. If there are other questions, I am happy to answer them.

Mr J.A. McGINTY: I do not have a question but I do have an observation. For those people who have been battling with tobacco for so long, they have a historical perspective on their persuasiveness or their power to be able to influence. I find the direct tobacco companies to be completely unpersuasive. The issues that have been raised by the retail industry and the hospitality industry are quite legitimate. I am happy to listen to what they have to say. I would not be as interested in what the tobacco companies have to say because of the historical role they have played. It is not so much the direct tobacco producers —

Mr Swanson: As the fellow travellers. I draw your attention to a section in my submission where I provide counter arguments to those provided by the AHA. I am not sure if you remember but the AHA published a full colour supplement to either a Saturday edition of *The West* or an edition of *The Sunday Times* in which, in response to the rattling of the sabres of the health lobby, it provided reasons why we should stay as we are with respect to alfresco dining and drinking areas. I will not go through all the counter arguments that I have provided. I will focus on one, which was reinforced by the AHA in a recent article in *The West* in response to the Perth City Council's release of its regulations for public comment. Again, it made the claim, as it did when negotiating with you, Jim, that these changes would result in patrons deserting hotels and restaurants, in this case in the City of Perth area.

[12.30 pm]

I just want to emphasise that there is no objective evidence whatsoever from Australia or internationally to support this claim. On the contrary, studies published in peer-reviewed scientific literature have confirmed, using the objective indicators of economic impact, including sales tax receipts and revenue, employment and the number of restaurant and bar licences issued by state health departments and state liquor authorities, that there is no evidence of negative economic impact. The only area in which we have observed some indications of negative impact is where there is the unholy alliance of the provision of alcohol and gaming machines. This does not occur here because of some very forward-thinking parliamentarians who restricted gaming machines to Burswood Casino. We do not have the scourge of gaming machines throughout the community and all the terrible havoc that they wreak on the community. In those states that have the combination of gaming machines in hotels there has been, according to the industry, a dip in revenue as a result of smoking restrictions. However, they also admit that there is now an upturn in total turnover. That dip in turnover is now being recovered as people get used to the restrictions, as a previous speaker noted. We are not looking just at the restrictions on smoking, because not only do smokers get used to those new conditions but also you attract a whole new market of people who, like me, would not have been seen dead in a hotel prior to the smoking ban.

The CHAIRMAN: Again, thank you for your submission. On page 5 of your submission you talk about the enforcement of the smoking ban in cars and state —

In the first year following implementation of this legislation in South Australia, 125 offences and 38 cautions were recorded. The Heart Foundation has been informed that it would appear enforcement of this law has not resulted in a drain on police resources in that State.

As you know, the police commissioner was here yesterday. A concern for him is the cost of this. Who provided you with that information?

Mr Swanson: The tobacco control unit of the health commission, or whatever its name is at the moment, in South Australia. It keeps changing its name. It is the unit within the health department of South Australia that looks after tobacco policy issues. They are the figures that were sent to me.

The CHAIRMAN: Could you perhaps provide us with some more information at a later stage?

Mr Swanson: I will provide you with the emails, because figures are also available for Tasmania. Both of the providers of that information said that initially there will be the odd prosecution. Let us go back a step. Do not be confused. You will need a solid public education campaign to make people aware that this is a requirement, but it will be largely self enforcing. The educative affect of legislation that we see in almost all other areas will come into play here. We do not believe that there will be a large drain on police resources. That is certainly the opinion of the people who provided me with the statistics for South Australia and Tasmania. I would be happy to send the emails to your officers.

The CHAIRMAN: Thank you; we would appreciate that. There are 10 Smokemart stores in Western Australia at the moment.

Mr P.B. WATSON: Eighty-five per cent of their—sorry, I have forgotten.

Mr Swanson: Are you saying that 85 per cent of their turnover is from tobacco sales?

Mr P.B. WATSON: That is right.

Mr Swanson: That does not surprise me. That is their game. They are experts, and now they are expanding from South Australia to here. I repeat: our view is that they should not be given an exemption, because whatever you give them, they will enlarge upon. They are driven by their objective to sell more tobacco products.

Mr P.B. WATSON: Ninety-five per cent of their store sales come from tobacco.

Mr Swanson: Not 85 per cent but 95 per cent?

The CHAIRMAN: It would be interesting to get the numbers in the other states.

Mr Swanson: Of Smokemart stores?

The CHAIRMAN: Yes. That might help encourage some members of the committee.

Mr Swanson: My colleagues in South Australia informed me that the owners of Smokemart have very effectively lobbied the South Australian Labor government, which is why there is a very poor outcome with point-of-sale displays. I would go so far as to say that you might look at whether they donate to the Labor Party in South Australia. There is a distinction there; the Labor Party may not be accepting donations from the tobacco industry directly, but I think you will find that Smokemart is a big donor to the Labor Party.

The CHAIRMAN: In fact, there are no restrictions on retail displays in South Australia, but there are in every other state. That is something that we may be able to get some more information on later today.

Mr J.A. McGINTY: I will make one quick observation. You honed in before on the alfresco issue. I suspect that that is where the substance of the controversy about this legislation will rest. During the election campaign, all of these issues and more were put into the public arena, as you will no doubt remember. The responses from the now Premier and the now Minister for Health were perfectly consistent; they said that they supported all the initiatives, including the smoking ban at Parliament House, except for the alfresco dining ban. If there was consistency between what they said pre and post the election, you would expect -

The CHAIRMAN: They supported everything except the ban on smoking in alfresco areas?

Mr J.A. McGINTY: Yes.

The CHAIRMAN: The Liberal Party and the National Party?

Mr J.A. McGINTY: That was just the Liberal Party. I do not think the National Party made any comments about it. They were certainly the words of the Premier. Then again, he promised that no lead would be exported through the port of Fremantle as well.

The CHAIRMAN: That is another matter. The Premier and the Minister for Health said no to smoking with children in cars and no to cigarette advertising at the point of sale.

Mr J.A. McGINTY: Yes.

The CHAIRMAN: One would hope, then, that the report that will be given to Parliament about the damage that is being done in alfresco areas —

Mr J.A. McGINTY: Will persuade them.

The CHAIRMAN: Yes, and also the fact that the evidence that has been presented so far to this committee has shown that there is overwhelming community support for it. We, as a Parliament, are meant to be there to listen to the community.

Mr J.A. McGINTY: Part of the irony in that position is that I would have thought that the ban on smoking in alfresco dining areas would have been the most publicly popular element of this proposal.

Mr Swanson: Yes. I think that the alfresco dining issue is a no-brainer. The AHA will, as it has done before, fight tooth and nail on smoke-free beer gardens. However, there is some good evidence that smoking should be prohibited in crowded outdoor areas, such as Subiaco Oval. There is no law to say that you cannot smoke in the outdoor areas of Subiaco Oval. That policy was negotiated with the football commission as a result of its sponsorship from Healthway. It has been a wonderfully well-accepted change. Yes, the addicted smokers do go to the smoking areas to smoke, but I have never seen or heard reports of mass civil disobedience at Subiaco Oval.

Mr J.A. McGINTY: I have never seen anyone smoke, in recent years, in the confines of the oval, unlike the WACA ground where people go behind the grandstand to smoke.

[12.40 pm]

Mr Swanson: That is just an implementation issue. Equally, if the Parliament does support a prohibition on smoking in alfresco dining and drinking areas, of course it will be opposed by the AHA, but in a very short period of time it will be accepted by almost everyone. You will obviously get the odd recalcitrant who might want to kick up a fuss about it, but the community has shown time and time again that they are accepting of these changes because they know it is the right thing to do.

The CHAIRMAN: I am actually very optimistic that the AHA, because we have put the submissions up nice and early, will have had the opportunity to look at those submissions, and I am very hopeful that when they present their submission here that they will actually change their opinion, and I am hopeful that they will come on board and support the measures in this bill because we all know it is in the community's interests.

Mr Swanson: Absolutely.

The CHAIRMAN: So I am still very optimistic that they may—hopeful that they may—come on board.

Mr Swanson: That would be a good thing.

The CHAIRMAN: It certainly would. Once again, thank you very much for coming today and I have to thank the Heart Foundation for all the hard work that the Heart Foundation has done in this area, protecting people's health—children and adults. Thank you for your evidence before the

committee today. A transcript of this hearing will be forwarded to you for correction of minor errors. Any such corrections must be made and the transcript returned within 10 days from the date of the letter attached to the transcript. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be added by these corrections and the sense of your evidence cannot be altered. However, should you wish to provide additional information or elaborate on any particular point, please include a supplementary submission for the committee's consideration when you return your corrected transcript. Thank you.

Mr Swanson: Thank you.

Hearing concluded at 12.41 pm