EDUCATION AND HEALTH STANDING COMMITTEE

INQUIRY INTO THE TOBACCO PRODUCTS CONTROL AMENDMENT BILL 2008

TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
TUESDAY, 10 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 2.39 pm

SLY, PROFESSOR PETER DAVID
Paediatrician,
Telethon Institute for Child Health Research,
examined:

The CHAIRMAN: Professor Sly, on behalf of the Education and Health Standing Committee, I thank you for your interest and 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 will introduce myself and the other members of the committee present today. I am Dr Janet Woollard and next to me are Mr Peter Abetz, Mr Ian Blayney, Mr Peter Watson and Hon Jim McGinty.

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 make 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 we have for you today, I need to ask you a series of questions. Have you completed the "Details of Witness" form?

Professor Sly: Yes, I have.

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

Professor Sly: Yes.

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

Professor Sly: Yes.

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

Professor Sly: No, it seems pretty straightforward.

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

Professor Sly: Peter David Sly; I am a paediatrician; a paediatric asthma specialist. My research interests are in asthma and children's environmental health. I guess that I am appearing here in both those different professional capacities.

The CHAIRMAN: Professor Sly, given your medical background, we very much appreciate you appearing before the committee today. Your submission was very brief. I am hoping that today, with the committee now here, you will elaborate on your submission!

Professor Sly: Absolutely. I give lectures all over the world on the dangers of tobacco to children and I could have written you several books; however, I did not think that you really needed that. All I thought that you needed to know was that I thought the Tobacco Products Control Amendment Bill 2008 was a good idea. I can certainly fill in the rest.

There are a couple of reasons why I think this is really important. Everybody understands, to some degree, that children are more vulnerable to the effects of many environmental exposures. However, I am not sure that people really do understand what that means and I might just start by talking a little bit about that. The first period of vulnerability is during in-utero development. The single most preventable cause of respiratory ill health in the world is tobacco smoke; that is, mothers smoking during pregnancy and mothers being exposed to others smoking during pregnancy. A lot of the damage is actually done often before women know they are pregnant.

The CHAIRMAN: You are referring to passive smoking in utero?

Professor Sly: Passive smoking in utero—yes. There is very good data from parts of the world where it is uncommon for females to smoke but common for males to smoke. The effects are, of course, not as strong as when the mothers smoke because the doses are not as high, but there is very good evidence in the literature to support the impact of passive smoking during pregnancy on foetal development.

If we consider the lungs to be a branching airway tree with a lot of alveoli or gas exchange sacs around the branches, the branching pattern—that is, the airways—is developed in the first trimester. By 18 weeks' gestation, the airways are completely developed, but the alveoli, the gas exchange sacs, do not develop until much later. Consequently, the very early impacts of cigarette smoking are on airway structure. There are good data from animal studies in which you can control these sorts of things to understand what actually happens to the airways. However, in general, the airways become thicker and more likely to be twitchy to environmental stimuli—that is, they become what we might call hyper responsive—after birth.

The alveoli, the gas exchange sacs, start development towards the end of pregnancy and about a third to one-half of the complement of the alveoli that an adult will have are formed at birth—all the rest are formed after birth. The reason the lungs are particularly susceptible to a lot of environmental impacts, and particularly irritants such as cigarette smoking, is they have not only the in-utero window of susceptibility, but also a prolonged period of post-natal maturation. Lung volume doubles in size from birth to 18 months. It doubles in size again from 18 months to five years and then doubles in size again between five years and adulthood. The doubling in size over the first 18 months or two years of a child's life is all due to the formation of the alveoli—the gas exchange sacs. The second doubling is a combination of the increase in the size due to somatic growth and the development of more alveoli. No-one knows for certain when the alveoli finish developing, but, certainly over the first two years, development is very rapid. Development continues until the child is five to eight years of age. It is debateable how much develops after that, but the lung does continue to grow.

Studies from all over the world show that exposure to cigarette smoke impairs lung growth. The size estimates vary. In human studies it is difficult to truly separate out the before birth and after birth effects because the reality is that women who smoke do not give up during pregnancy and take it up again afterwards; most of them continue to smoke throughout their pregnancy making it hard to separate the effects.

Young children are particularly vulnerable to environmental stimuli that they breathe because they have a higher need for oxygen. They breathe more air relative to body size than does an adult. Consequently, if we look at per unit of body weight, a toddler breathes about three to four times as much air per minute as does an adult—relative to their size. Similarly, if an adult and a child are exposed to the same level of cigarette smoke, the child will get a much a higher dose simply because he breathes in more relative to body size.

As I have said, children are also in a state of active growth. This is the time when a child's lungs are growing. We know from studies that we have done, and studies that other people have done, that the lung function we are born with is a major determinant of the lung function throughout the rest of life. People are almost certainly familiar with the concept of height and weight charts on which we can see a child's height and weight plotted during growth. We can think of a child's lung function in the same way. As children grow, the lung function grows along percentile lines and the lung function at birth determines, to a large extent, what the maximum lung function will be in adulthood. The maximum lung function then determines how quickly adults will experience problems with their lungs as they get older. After the age of, about, thirty, everybody's lung function is on a gradual decline. We are all on the downward slope! The rate at which lung function declines is related to genetics and to environmental exposures. It is known that smokers have a greater rate of decline when smoking and that when they stop smoking that rate of decline can level off. As lung function declines, if a level at which there is not sufficient lung function for human needs is reached, respiratory symptoms will occur; that is, you run out of the ability to get enough oxygen into the body. If maximum lung function is not achieved during growth, starting at a lower point, the rate of decline is the same, but the symptomatic point is reached earlier. That is how a lot of chronic adult respiratory diseases develop. It is now well understood that influences on lung growth in childhood are a major impact on chronic destructive lung disease in adults. That is regardless of whether the adult smoked or not—if they do smoke, it is worse. However, failure to obtain maximum lung function is a major determinant.

[2.50 pm]

The CHAIRMAN: Can we go back to in utero, when the alveoli are first developing? Does the fact that a mother is smoking stop that development? You said that there was this continual growth—doubling and then doubling again. Does smoking actually stop the growth of the alveoli in utero?

Professor Sly: It slows it down. We published some data more than 10 years ago, where we measured lung function in babies out of King Edward Memorial Hospital, in the first couple of days of life before they went home, and before they had any external environmental exposure. We were able to show a dose response from the number of cigarettes the mother smoked on the babies' lung function. The more the mother smoked the lower the baby's lung function at birth was. This comes from the effect both on the airways and the alveoli. It is not just the development of the lung that is affected. The other major part in this is the development of the immune system. Most organs develop in utero of course, and very many organ systems are close to mature at birth. The heart, the kidneys and liver are very close to mature, so that they finish their maturation soon after birth. However, the lungs, the immune system and the central nervous system have prolonged postnatal periods of maturation. We published some data in *The Lancet* some years back showing that in our cohort studies in Perth, children who were born to mothers who smoked during pregnancy had less mature immune systems at birth, which means they have a greater risk of infection in early life. In our study this translated into a greater risk of asthma at the age of six. That data was important enough, but what was even more important in that publication was that babies born to women who had given up smoking before they became pregnant were about halfway between those who did not smoke and those who continued to smoke. It increased the risk of asthma at the age of six. It is now understood, to a degree, how this happens. There is a term, epigenetics, referring to an abnormality produced by a change in the genes. An epigenetic effect is where a particular environmental influence does not change the genes like causing cancer, but changes the way the genes are expressed. There is now some very good data about grandmothers who smoke. The grandchildren born to their daughters have increased risks of lung disease and asthma related to the effect of a grandmother smoking while the mother was a foetus in utero. It is passed down through the mother's eggs, which are all formed in utero, whereas a male's sperm is formed closer to sexual maturity. The reason for bringing these things up is that it is really important that we stop young girls taking up smoking, because once they have actually started smoking and become addicted to

cigarettes—they do no give up but continue smoking during pregnancy—it is potentially setting up not only their children but also their grandchildren for increased health problems.

The CHAIRMAN: Could we have some of those reports and articles? Could you forward them?

Professor Sly: I cannot give them off the top of my head, but I will forward them.

The CHAIRMAN: No, but if you could forward them to us—

Mr I.C. BLAYNEY: There was quite a bit of coverage of that in one of the newspaper about six months ago.

Professor Sly: It was probably a bit longer than that. The grandmother data came from a big study in the United States, but this has been seen in other areas, and people since then have done animal studies to show the mechanisms; we do not need to go into that. You do not just blame the mother now; you blame the grandmother. Some of the measures included in this legislation will actually help girls to not take up smoking in the first place. We have data from our cohort studies in Perth showing that it is not a trivial number of children who are exposed to cigarettes in cars. From a personal driving point of view, you do not want to be driving with something that is affecting the brain, but the addiction comes on top of that. Kids cannot get away. Little kids who are strapped in the car seats are being exposed to tobacco smoke in the car. There is also good data to show that the best way for a child to take up smoking is if their parents smoke. If they are exposed to cigarette smoke at a young age, it is sort of the normal thing in the family.

Mr J.A. McGINTY: Can I just go back a bit here? You said before that there was some quantification of the number of children exposed to smoking in cars.

Professor Sly: From memory, this was part of our Raine Study data, where we had about 1 400 teenagers, and the number of parents who reported that their children were exposed to cigarette smoking in cars was about 14 or 15 per cent of that number, which is not that different from the adult smoking rate; it is little bit lower, but it suggests that people have not got the message that it is not okay to smoke in their cars.

Mr J.A. McGINTY: About how old are those figures?

Professor Sly: We finished that survey about two and a half or three years ago.

Mr J.A. McGINTY: So it is still current?

Professor Sly: Yes, it is current data. The kids in the Raine Study are currently going through their 16-year follow-up.

The CHAIRMAN: Sixteen, up to 18. My daughter is in that study.

Professor Sly: Yes. We see them over about a three-year period. They were recruited over a three-year period at King Edward Memorial Hospital.

Mr J.A. McGINTY: It is good that that has been done, because we were having a discussion the other day about what we observe anecdotally, and we all had different experiences.

Professor Sly: These are parents reporting, so it is likely to be an underestimate. The other thing that we published on that was that that was one of the strongest risk factors for recurrent asthma at the age of 14.

Mr J.A. McGINTY: Parents smoking?

Professor Sly: Parents smoking in the car, much more than smoking in the home, I guess, because the reality is that teenagers are not where the parents are in the home, but they have no choice in the car. They rely on their parents to drive them around to sporting and after-school activities.

Mr P.B. WATSON: Drive to sport and have a smoke on the way; that is good!

The CHAIRMAN: Is that asthma as a chronic condition or acute asthma?

Professor Sly: We used a very strict definition of asthma in our study. They had to have all three of a doctor diagnosis of asthma, a wheeze in the past 12 months and to be on asthma medication. The vast majority of these kids had had asthma from younger in life, so that was persistent asthma. The reality is that by the time the kids get to that age, if they still have asthma, they are going to keep it. Most of the kids who lose their asthma have done so by that age. Our data does not go beyond that, but other work would suggest that if they still have it at that age it is likely to be persistent. Kids are more vulnerable. It is actually happening, and this legislation is a chance to do something about it.

The CHAIRMAN: The bill addresses smoking in cars with children. I do not know whether this is something the committee might want to look at, but the bill does not address smoking in cars with pregnant women. It refers to children who are in child seats, but from what you are saying—

Mr P.B. WATSON: That is the most dangerous time.

Professor Sly: It is the most dangerous time. The other factor that is not generally known is that babies born to women who smoke on average have seven fewer IQ points than babies born to women who do not smoke, on a population basis. Seven IQ points to an individual means nothing, but to a population it means skewing of the population IQ to the left—fewer geniuses and a lot more kids with behavioural problems and mental retardation.

Mr J.A. McGINTY: What about the IQ of the mothers, smoking in the first place?

Professor Sly: They would have to be low, to actually smoke.

Mr I.C. BLAYNEY: This is surely linked with socioeconomic status.

Professor Sly: It is linked with socioeconomic status, but in the studies have looked at it, these effects are independent of socioeconomic status, as much as you ever can be in a statistical model. We cannot do the experiments to prove it. We cannot take women and randomly allocate them to smoke—you cannot do it. However, within the bounds of what we can do, they try to allow for socioeconomic factors.

[3.00 pm]

Mr I.C. BLAYNEY: The birth weight is lower too, is it not?

Professor Sly: The birth weight is less. That is probably not a good thing to promote because I have heard women say, "Well, I don't want to have a big baby and a painful labour, so I'm going to smoke and make it smaller". I do not think that is a good option. There is no doubt that, of all the things we can do to improve children's health, and I guess population health long term, stopping young girls taking up smoking so that they do not smoke during pregnancy would have the biggest impact.

Mr J.A. McGINTY: It is my understanding of the smoking figures that there was a belief around five or 10 years ago that the problem area was young girls taking up smoking for dietary or whatever reasons. That does not seem to be borne out by the current statistics—there is no greater increase in the incidence of smoking by young girls than of boys.

Professor Sly: I think that is true in our community. It is not true in some of the developing countries around our borders. I think that is true in Australia. I think the task force figures show that 20 to 25 per cent of people in that age group smoke, Australia-wide. If we could stop that, it would have a significant impact on the population's health, and presumably on budgets in the long term.

The CHAIRMAN: The bill currently defines the age of a child as up to 18. One of the concerns we heard this morning from the Commissioner of Police was that children get their drivers' licences when they are 17.

Mr J.A. McGINTY: There could be two 17-year-olds smoking when they are driving along in a car.

The CHAIRMAN: Yes. Should that be legal or illegal?

Professor Sly: If we could achieve the same end in other ways, we would not need legislation to do this, but I guess that is true in many areas of society. It would be far better for everyone to understand the health consequences and be educated enough not to do it. The fact that it is enshrined in law says to people that they cannot do it, and that might make people say that maybe it is really bad. However, there are people who deliberately try to break the law as they do with other things. I would not be too concerned about two young 17-year-olds driving in a car while one is smoking. The practicalities of this sort of thing are that we are trying to protect young children. Our paediatric definition of children is up to the age of 18. I think that is the advice of the College of Paediatrics.

The CHAIRMAN: I think in the eastern states children have to be 18 before they get their drivers' licences.

Professor Sly: They do, except in Queensland.

Mr I.C. BLAYNEY: The age in South Australia is 16.

Professor Sly: They can get a learner's permit but they cannot drive independently, can they?

Mr J.A. McGINTY: I think you are right.

Mr P.B. WATSON: They can drive those little mopeds.

Professor Sly: I hope they are not smoking on those!

Mr J.A. McGINTY: From your experience, is there anything that is not contained in this legislation that could be done to reduce the incidence of smoking in front of children or by pregnant women?

Professor Sly: Tobacco is still a legal product in this legislation, but you probably do not want to go there.

The CHAIRMAN: Your recommendation to this committee would be?

Professor Sly: I cannot understand why tobacco is a legal product. There are only adverse consequences from it; there are no positive benefits, albeit we could have the same debate about other products. There are no positive benefits from tobacco. There is a specific exemption in the poisons act to exempt smokeable nicotine, which makes no sense. All other sorts of nicotine are S8 drugs.

Mr J.A. McGINTY: Apart from banning, which might not be constitutionally permissible—without going down that path—are there any other initiatives that could be taken?

Professor Sly: It is probably in the implementation rather than the measures that are not in the legislation. People are not going to go to jail for smoking in cars. That would not be appropriate, but people who are issued infringement notices should be required to go to education classes, as they are in some other areas. If they go and listen, it might achieve the purpose of educating the community about what they are really doing. The idea that smoking causes cancer and disease in the long term does not get to kids. If a tobacco ad says, "Smoking makes your dick floppy," and indicates that a boy is unable to get it up, that would have more impact on teenagers than anything to do with long-term health. Teenagers do not think about children or about pregnancy. Those sorts of messages are not the ones that can get through to them. If people who are issued infringement notices for smoking in cars, alfresco—the whole lot of it—are required to undergo some education and take their kids along with them and get the kids on board, the kids would stop the parents from smoking. Parents are far more likely to respond to the negative messages coming from their children than they are to negative messages from the authorities.

Mr J.A. McGINTY: The police commissioner floated a similar proposition this morning about education. You are taking it a step further.

Professor Sly: I understand that something like this is done in South Australia and, I think, Tasmania. Yes; I am taking it a step further.

Mr I.C. BLAYNEY: Has anyone done any studies on the effects of prolonged marijuana smoking?

Professor Sly: It is much harder to do. We have not done any. There are studies but they are more related to behavioural problems—neuro-developmental problems—than to the lungs. Marijuana does not contain nicotine. Nicotine causes most of the problems in utero; it is not the tar. The tar causes the problems related to cancer. The effects on kids are mainly related to nicotine and all the other 4 000 toxic chemicals in cigarettes. I have not seen the same studies done on marijuana but they may be a little harder to do because it is not a legal product. Do I think that prolonged marijuana smoking would have similar health effects? I think it could well have health effects but they might be a little different because of the different nature of the chemicals.

Another point that might not be generally known is that there is a difference between the smoke drawn from the cigarette by smokers and the smoke to which people are exposed. It is related to the difference in burning temperatures. When a smoker is sucking on a cigarette, the temperature at the tip of the cigarette is a very high number of degrees so that you get more complete combustion of the tobacco. Whereas, when they are not sucking on the cigarette and they are holding it, the burning temperature is several hundred degrees lower. The concentration of many of the toxic things is much higher in that smoke. These facts are all listed on the US EPA web site. They have studied 400 or so of the compounds in cigarette smoke in what, on the website, is called mainstream and what—I think—is called sidestream smoke. Some of the very nasty things are higher in the smoke that smokers are not smoking.

The CHAIRMAN: The bill seeks to cover smoking in cars and advertising. Maybe we will look at your comments on advertising in a moment. With regard to smoking in alfresco areas—I am not sure of the words you used—but the passive smoking —

Professor Sly: We tend to call it environmental tobacco smoke.

The CHAIRMAN: ETS.

Professor Sly: Yes. In smoking areas, when people are talking, they hold the cigarette out towards the people at the next table.

Mr P.B. WATSON: That is when you get your water pistol out!

Professor Sly: I have been tempted to, not get the water pistol out, but use a glass of water. That is an issue in alfresco areas. I do not buy the idea at all that it is okay to smoke outside because there is much more ventilation. I do not think there is any safe level of these exposures. It is unpleasant. Also, some people sit outside with prams because there is not enough room inside in a lot of smaller places, so that means there are babies outside.

[3.10 pm]

The CHAIRMAN: That is interesting in terms of the alfresco areas.

Professor Sly: You were going to get me to talk about advertising. People always worry about the cost of things. It may not be constitutional, Jim, but if you actually remove tax deductions for advertising for tobacco companies, they would stop doing it.

Mr J.A. McGINTY: Do that, and also increasing the excise is the other side of that equation.

Professor Sly: Increasing the excise is something you can do, but there is still a huge amount of money spent on advertising. They do it because they have to recruit more smokers, but if it was not tax deductible, if it was not a legitimate business expense, I do not know how you would actually get away with that but —

Mr J.A. McGINTY: It is not unlike, to my mind, making cigarettes one of those duty-free products. Why on earth, as a matter of public policy, that is still allowed today, escapes me.

Professor Sly: Certainly Qantas does not sell them on its planes anymore. I thought some years back they had been removed from duty-free shops as well, but I know they are certainly there at the moment.

Mr P.B. WATSON: They are still there.

Mr J.A. McGINTY: You travel more than I do, Peter!

Mr P.B. WATSON: I have just seen someone off!

Professor Sly: We are doing some animal studies with cigarette exposure in utero, and my post-docs buy the cigarettes duty free because they are a lot cheaper than the standard research cigarette!

Mr I.C. BLAYNEY: Do you mean that they do not give them to you for nothing?

Mr J.A. McGINTY: Madam Chair, it might be possible, arising out of what Professor Sly is saying, for us to consider further recommendations; for instance, the questions of excise, tax deductibility and duty free, just to name three that have just been mentioned now. As they are all federal matters, they could be raised with the federal Minister for Health with a view to some action being taken. I think that would be within the general remit of what is trying to be done here.

The CHAIRMAN: That certainly could go off as recommendations from this committee in our report.

The Health Department gave us a submission and addressed us this morning. One of the key factors it said was that the tobacco companies are moving back now to the point of sale. That is where they are marketing and advertising. The point of sale is the only place now to capture people. They gave us figures of 10 per cent of people commence smoking simply because they are seeing the advertising at point of sale. I am interested in your opinions in relation to that view.

Professor Sly: It is the most vulnerable people—it is the young people—who are going to be affected by that. I do not think point-of-sale advertising will make any adult take up smoking, but they are not aimed at adults; they are aimed at kids. The glamour posters and the things you see, they are aimed at kids. I am not in favour of point-of-sale advertising. I think that if cigarettes are going to be sold, the retailer should be licensed. The reason for them being licensed is that if they infringe, you can take their licence away. That is not new. When I was on ACOSH years back, that was something that was being proposed then.

Mr J.A. McGINTY: That has been done in the last 18 months.

Professor Sly: That is good. So it is something. If the cigarettes are visible, then they are in people's minds. Kids are impulse buyers. If they see something, they are more likely to buy it. If they do not see something, they are less likely to buy it. The advertising is for that. I think point-of-sale advertising is something that should be done away with.

Mr I.C. BLAYNEY: I still wonder why young people take it up. I can remember when they phased out advertising on TV and then in cinemas. It was often said that the advertisements the cigarette companies made were absolutely brilliant. They were beautiful ads; they spent a fortune on them. That was going to make a big difference: that was going to stop us catching young people because they were not going to be the Marlboro man or the character who was going through the customs thing with the B&H, or whatever it was. Has it worked? That is what I really wonder.

Professor Sly: I think you can go back and look at the data, and there has been a progressive decrease in smoking. WA did very well early on. There was a big campaign to get rid of the billboards and that had an effect—getting rid of advertising. Getting rid of advertising in sport had an effect. But how many movies have you seen recently?

Mr I.C. BLAYNEY: Not many, no.

Professor Sly: They smoke even more in the movies now than they used to.

Mr P.B. WATSON: I agree.

Professor Sly: Absolutely. It is not only historical movies. Humphrey Bogart, in some of those scenes, without a cigarette in his hand, might look a little bit odd. That was the way it was. There is no reason why that should be seen to be an acceptable thing in movies. That is where the TV advertising has gone to. That is where the magazine advertising has gone. It is in movies now.

Mr I.C. BLAYNEY: Could you ban that?

Professor Sly: I do not know how you would. You could put a triple-X rating on anything that had a cigarette in it so that children could not go into it, but movies are not made here —

Mr P. ABETZ: That would limit the market for the movie makers. That would put some pressure on them.

Professor Sly: Particularly if you could get the Americans to do it. We could not ban it because the only thing that we would be able to do is say those movies cannot be shown in Australia.

Mr P.B. WATSON: A lot of the time I have noticed that the smoking is overdone. It has been put in there and it is not part of the character. I have often said to people, "There's smoking everywhere." I think most people would notice it. I do not know whether they notice it for what it is, but I know that I notice it, and it really peeves me off. It does not encourage me to smoke; it makes me want to not smoke.

Professor Sly: It is not aimed at you. As far as the tobacco industry goes, you are a lost case. No disrespect, but you are not going to smoke for long enough! They want the teenagers who have got 40 or 50 years of smoking in them.

Mr P.B. WATSON: Thanks very much!

Professor Sly: That is what that is after.

Jim, I admit I have not read the legislation—reading legislation is not the easiest thing in the world. I do not think there is anything to address people walking around smoking.

Mr J.A. McGINTY: No.

Professor Sly: Singapore has done that: it is illegal to smoke in Singapore on the street. There are huge fines if you drop a cigarette butt and get caught.

Mr J.A. McGINTY: One of the things we have been trying to get to with various experts like yourself is: where do we go to after this? Prisons is one obvious area. Hopefully we will not see a push back about smoking in mental health establishments, which is a concern of mine —

Professor Sly: You have to stop the mental health nurses smoking first.

Mr J.A. McGINTY: Yes, I appreciate that. Prison officers are not much better. What are the next initiatives that can be undertaken once this current suite become the next wave?

Professor Sly: Essentially I think the next wave or the next thing after this could be making it not legal to smoke anywhere in public. I refer to having people walk outside the building and smoke on the footpath and having to run the gauntlet at the airport. There is a little bit of a supposed no-go zone which you probably have not noticed because it is covered up with people standing on it, smoking.

Mr P.B. WATSON: Is it 10 metres, the federal one, at the airports?

[3.20 pm]

Professor Sly: I am not sure. As I said, there is a yellow line saying no smoking zone. To make it illegal to smoke in public, I do not know how you would actually do that, but that is what we need to do so that there are no places left where people can smoke. You cannot stop people from smoking in their own homes —

Mr P. ABETZ: But you really want to stop that if kids are present.

Professor Sly: Absolutely.

Mr P. ABETZ: I would rather people smoked in public somewhere than inside their home when kids are present.

Professor Sly: Yes. The big influence on children is their parents, and what they see their parents do. Now they cannot watch people smoking on television, and they cannot watch people smoking in movies, because they too young. Having said that, I am much more in favour of achieving all these things through education than through legislation and making criminals out of people. However, we have not done well enough. I am sure you have seen the recent estimates from the people in Queensland, who say that if we do not accelerate the rate of decline and stop people from taking up smoking, we will not get anywhere near the NHMRC task force target of nine or 10 per cent by 2020.

The CHAIRMAN: We discussed many months ago with various people the issue of fines, and we said that the bill stipulates a minimum amount as a fine. I am not sure, but perhaps we need to look further at the other states that have introduced fines and look at what happens if people do not pay their fines. I agree with you that we certainly would not want to make this a criminal offence, Perhaps as well as looking at education we should be looking at whether those people who would have difficulty paying a fine would be able to do some community service work; so it would be a question of paying the fine, or doing community service work and undertaking an education session.

Professor Sly: Maybe the fine could be waived if people were prepared to go to quit classes and wear nicotine replacement patches that were given to them for free, or something like that. You have to make it as easy as possible for people to quit. I am not sure that you could make it compulsory for people to put on a patch, though!

Mr J.A. McGINTY: One matter that I want to raise, just anecdotally, is pregnant women and new mothers who are standing outside King Edward hospital and smoking. It is quite distressing. It used to be like that outside Royal Perth Hospital, but they have taken away the shelters and now not as many patients are going outside to smoke. Do you have any suggestions about what could be done at King Edward?

Professor Sly: A fire hose!

Mr J.A. McGINTY: Yes!

Professor Sly: I agree with you. It is distressing, and it is disgusting, to see pregnant women standing out there smoking. They are at King Edward because they have health problems. Their kids are already more at risk. Sure, it is stressful, but I really do not buy the idea that cigarettes are a great stress relief. A time of health crisis is as good a time as any to realise what cigarettes are doing. We faced the same issue at PMH when we made the campus smoke free. People were saying, “Well, what about the poor parents whose kids are in intensive care or in neonatal intensive care?” To me, it is even more important in their case, because their kids have more to gain from their parents not smoking than everyone else in the general population. I do not know how you can solve it at King Edward. I wish I did know.

Mr P. ABETZ: We would just have to make cigarettes prescription only. People would have to get themselves registered as nicotine addicts and they could then go to a chemist to get their supply.

Professor Sly: We would then get back to the Poisons Act. As I said, there is a specific exemption in that act. I think pharmacists do not want to be known as the people you go to, to get your drugs.

Mr I.C. BLAYNEY: How many plant breeding companies have had a go at producing a tobacco that does not contain all these toxins?

Professor Sly: They have done that—not to smoke, but to eat. I am pretty sure that is what is referred to in this article from the people in Queensland as low nitrozamine chewing tobacco. They have obviously taken a lot of the nicotine out of it. Chewing tobacco and patches are no good for pregnant women, of course, because the nicotine crosses the placenta and causes problems. There have been some things, but not for smoking. The smokeless cigarette goes back many decades but it has never been effective.

The CHAIRMAN: You said the problem is nicotine in utero, and the tar, so for children in cars who are strapped in, the main damage from the side-stream smoke is caused by the tar.

Professor Sly: No. The tar is what the cigarette smokers take in. That is one of the carcinogens that they take in. No. There are a whole lot of other things—I think they are called class A carcinogens as classified by the US EPA—in side-stream smoke.

The CHAIRMAN: That children are being exposed to, and that are doing the damage?

Professor Sly: Yes. The tar is more of a direct thing that people take in from cigarettes.

The CHAIRMAN: We are obviously aware of where the opposition to this bill is coming from. As a person who has been working in this area for many years, where would you see the opposition as traditionally coming from?

Professor Sly: Well, my guess is that it will come from the hospitality industry, because there will be a fear that they will lose patronage. I do not think that has been borne out anywhere where these things have been banned. In Queensland, I believe people cannot smoke in al fresco areas now. That has been in place for a couple of years. I do not think there is any evidence from Queensland that they have lost patronage. You are probably not targeting the gaming industry with this one, but I would imagine they would be in there anyway. Obviously the tobacco industry would be opposing this bill, because it is an infringement on their right to sell products that are going to kill people. Apart from those, I am not sure where I would expect the opposition to come from.

The CHAIRMAN: One of the other areas that this bill is looking at is point of sale.

Professor Sly: Yes, of course—small businesses, yes. That is hard, I guess. Times are tough. However, I do not think that we can really take the moral position of saying we are not going to be too hard on small businesses so that they can get kids to take up smoking. I do not think that is a tenable position.

The CHAIRMAN: To get back to businesses, just from the preliminary discussions that I had with people before we drafted the bill, many small business owners said that provided it was a level playing field for the big guys—Coles and Woolworths and the smaller stores—in terms of point of sale, it would not damage their business, but if it was a different playing field —

Professor Sly: Yes, that is true. From my recollection of the supermarkets that I have been into, the only way people can buy cigarettes is by going to a special service counter, but they are still visible.

Mr P.B. WATSON: Yes. They are right at the front. They are the first thing you see.

Professor Sly: If they were under the counter and were invisible —

Mr P.B. WATSON: That is the case in Tasmania.

The CHAIRMAN: Yes. They are in drawers or in cabinets.

Professor Sly: Yes. I agree that small business people should not be penalised over big businesses. However, I cannot see any reason for leaving in cigarettes and advertising at point of sale.

[3.30 pm]

The CHAIRMAN: In discussions with me it has been said that we should ensure it is a level playing field, so that if they are not in small businesses, people cannot go somewhere else, and they

are not seeing them in big stores, with all the advertising, so that small businesses are not losing their customers to the big stores.

Professor Sly: Does your legislation take away cigarette vending machines?

The CHAIRMAN: This is something that came up last week. I am trying to think.

Mr P.B. WATSON: At railway stations and things like that.

The CHAIRMAN: That is right.

Mr P. ABETZ: Are you talking about the junk food at railway stations?

The CHAIRMAN: Yes. I have not noticed the vending machines at train stations.

Professor Sly: I do not know whether they are in train stations, but they tend to be in out-of-the-way places where children can buy cigarettes unsupervised or unobserved.

Mr I.C. BLAYNEY: One of the vending companies had a proposal that the vending machines take only a token; that you have to buy it from the bar or something so that they know you are over the age when you buy the token, and then you put the token into the machine.

Professor Sly: Yes. That would be one way of stopping children having access to them.

The CHAIRMAN: The modification to the bill that we were looking at does address all retail outlets, and so it would address —

Professor Sly: Is a vending machine a retail outlet?

The CHAIRMAN: There is reference to a person who is a responsible person in relation to premises licensed under section 36 for the sale of tobacco products, and section 36 of the current act actually specifies retail sale and wholesalers. Then there is a third section that I think covers vending machines. We will look at that. Your recommendation in relation to —

Professor Sly: My recommendation would be to make it impossible for children to buy from a vending machine. Certainly, one way would be —

Mr I.C. BLAYNEY: A token.

Professor Sly: — a token; that they have to front up to the main counter and buy a token, rather than be able to sneak around the back to where the vending machines are. Vending machines tend to be on the way to the toilets.

Mr I.C. BLAYNEY: Yes. They tend to be only in places where adults go anyway, do they not?

Professor Sly: It is not illegal to take children into a pub with them.

Mr I.C. BLAYNEY: No, that is right.

The CHAIRMAN: In relation to vending machines, the current act states —

> A person must not place, or authorise or allow to be placed, in any premises a vending machine for operation by members of the public unless the premises are licensed premises or a mines amenity.

Mr J.A. McGINTY: Yes, that is right. That was changed two years ago, or it might have been a bit longer. So the only place you will find a vending machine in Western Australia is a pub or a mine site.

Professor Sly: Okay.

The CHAIRMAN: So that has been addressed.

Mr J.A. McGINTY: That is all I had. Thank you.

Mr P.B. WATSON: That was very informative. Thank you.

Mr I.C. BLAYNEY: It is funny in a way, is it not, that the other thing that is coming out of research is that those kids who are brought up in totally clean environments are having a higher incidence of asthma than the ones who are brought up in dirty environments?

Professor Sly: Yes, but that is different.

Mr I.C. BLAYNEY: Yes, I know, but it is sort of funny, is it not?

Professor Sly: Yes. We could spend an hour talking about that, if you wanted. But do not confuse that with the smoking issue.

Mr I.C. BLAYNEY: No, I know. It is just sort of funny —

Professor Sly: This is a direct toxic effect. The clean versus dirty environment issue has to do with maturation of the immune system, and it has to do with exposures to bacterial products and other things in the environment, not toxins. We all used to get out and play in the dirt. Air pollution is not part of this, I know, but the dirty environment with air pollution causes more asthma than a clear environment without, so do not confuse those two things.

Mr I.C. BLAYNEY: So there is good dirt and bad dirt.

Professor Sly: There is good dirt and there is bad dirt, yes.

Mr P. ABETZ: Perhaps I could comment that I think one of the views that floats around the halls of Parliament to some extent is about whether this bill is going in the direction of a nanny state type of thing, but I think if somebody presented compelling evidence that this is not about a nanny state but this is really deadly stuff —

Professor Sly: Absolutely.

Mr P. ABETZ: I thank you for that.

Professor Sly: We have to protect people from themselves sometimes. There is no question in Australia any more about gun legislation, nor should there be.

Mr P. ABETZ: Seatbelt legislation is another one.

Professor Sly: Absolutely; and bicycle helmets—you get some differing views on that.

Mr P.B. WATSON: Seatbelts?

Professor Sly: Yes, seatbelts. To me, this is in the same league. We are talking about a vulnerable part of the community who cannot protect themselves, and it is up to us to do it for them.

The CHAIRMAN: I seem to recall that it was tobacco companies that first started pushing the expression "nanny state". I know that some members of your party pushed that quite a bit, so maybe we will find out and take it from there, so that that person —

Mr P. ABETZ: My view of a nanny state is that you are not allowed to use a mobile phone, but you are allowed to change a CD while you are driving in your car. You can make laws for everything, but in the end common sense has to prevail. But this is something whereby a vulnerable subset of the community really needs protection.

Professor Sly: It would be wonderful if we did not need to have any laws, if people just understood what was the right thing to do and did it, but, unfortunately, we do not live in that world.

Mr P. ABETZ: That is right.

The CHAIRMAN: Thank you for your comments. We very much appreciate going back to the effect in utero. I would see that as a recommendation from you that we think about that further step.

Professor Sly: Yes. I think it is generally not thought about just where the vulnerability lies and how it comes about. I guess most people, when they talk about the dangers of cigarette smoke, are talking about the effects of it causing cancer and heart disease and those sorts of things. On the

smokers, yes, they know that passive smoking might do that as well, but they do not actually understand how this comes about and how dangerous it is for developing lungs.

The CHAIRMAN: That might be something as well that the committee might want to consider, because this committee is the health and education committee. So that might be something that we also look at under our education portfolio at a later date. We really appreciate your coming along today. We would appreciate copies of some of the articles and the research that you referred to. Although some members have seen some recent research, I do not think we have anything among our submissions that actually addresses the effect of sidestream smoke, or ETS, I think, as you called it, in utero.

Mr P. ABETZ: Yes, the factual part of just how damaging it is. As you said, people think that there is a bit of smoke out there and it is not that bad, but if we could have the facts and the figures in our report so that we could refer to that, it would be very useful.

The CHAIRMAN: I think you explained it very well when you drew for us the picture of the normal population. As a mother, I looked at where my children were on that percentile chart. A lot of mothers—not just the young ones but even the grandmothers as well—remember those percentile charts. Again, I do not know whether you have any research that shows the percentile chart and the damage in the way you described it, but I think that would be a very useful tool because it is just so visual.

Professor Sly: Yes. I can look at some things, yes. The same percentile charts do not quite exist, but they do —

The CHAIRMAN: It is a lovely way of explaining that issue. 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 of 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. Should you wish to provide additional information—yes, please—or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return your corrected transcript.

Professor Sly: Okay. I will give you some things that I have written summarising some of these things and where some of it has come from.

The CHAIRMAN: Thank you very much.

Hearing concluded at 3.39 pm