

The Victorian Tobacco Act 1987 – the untold story



Leading
the fight...



First edition:

researched and written by Margaret Winstanley
for the Victorian Smoking and Health Program (Quit)
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Introduction

The first edition of this report, researched and written by Margaret Winstanley in 1989/90, documented the political campaign which led to the foundation of the Victorian Health Promotion Foundation (VicHealth) by Act of the Victorian Parliament.

It was not published although it has been used by interested people as an important record ever since. In the 20th year after the formation of VicHealth, we have taken the time to contact a number of the individuals involved to flesh out the original document.

Regrettably, Ron Casey, John Clemenger and Bruce Redpath are no longer with us. They played significant roles which will probably never be fully documented.

We were able to contact the following, whose position in 1987 is indicated in brackets:

- The Hon David White MP (Minister for Health)
- Peter Worland (advisor to David White)
- The Hon John Cain MP (Premier of Victoria)
- Andrew Herington (advisor to the Premier)
- The Hon Mark Birrell MP (Opposition spokesperson for Health)
- The Hon Tom Reynolds MP (Opposition spokesperson for Sport)
- Steve Harris (Day Editor of The Age)
- Graeme O'Neill (Science Reporter for The Age).

We have used their recollections to produce a second edition of Margie's excellent report and have published it to celebrate the 20th anniversary.

The Victorian Tobacco Act 1987 was indeed unique and pioneering. Although led by the Anti-Cancer Council of Victoria (ACCV), an unprecedented collection of supporters was gathered. In retrospect, it remains astonishing that so many non-political individuals and groups played such an active part in

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creating a health lobby and took an overtly political position, often for the first time.

Passed by a unanimous Parliament, it set a global precedent for an independent Health Promotion Foundation with secure hypothecated funding, and despite a change in funding arrangements, remains an independent body with strong political support to this day.

VicHealth has fostered a myriad of health promotion initiatives that would otherwise have struggled for funds. It also successfully bought sport, and some arts bodies, back from the tobacco industry, eradicating one of the industry's key approaches to smoking initiation and establishing long-lasting successful partnerships, which continue.

As a central figure, I acted very much on the advice of other major players, often as an intermediary, a role well explained by example. Minister for Health, David White said "We need the interest of a newspaper", so I saw The Age's Creighton Burns. White said "We need a date on the Parliamentary agenda - ring Bob Fordham". I did and we got November 17. He once said "Criticise me in the papers on the weekend. It will help me take a strong line in Cabinet". With some astonishment, I did this. Opposition Health spokesman, Mark Birrell, suggested we needed pressure on opposition leader Jeff Kennett from within the Liberal party. I rang Bruce Redpath, who organized about 20 phone calls from key Liberals. Birrell said "The Christians in Shadow Cabinet are having trouble with the freedom of speech argument. Can you ring the Archbishops?" I rang both and they acted.

White and Birrell both said "We need a Chair for the Foundation who is above the battle. Sir Gus Nossal would be

perfect". I rang him in Tokyo and he accepted a job which didn't, at that time, exist and he didn't need but enjoyed greatly. Virtually no-one refused a request to help but the strategy was guided by a small dedicated group and I did what I was told as often as I initiated events. It is impossible to thank all the parties involved, from the role-model athletes to the parliamentary backbenchers, and the numerous forceful individuals who added their weight.

In retrospect, the health lobby had gathered together a truly remarkable number of people from all walks of life. It may have been the single most consequential 'lobby' in Australia's history, made up as it was by so many non-political citizens, encouraged to express their view of a public health issue, which had been dominated for decades by the vested interest of the tobacco lobby.

All they needed was information and encouragement plus the knowledge that the opportunity to act was now. The resultant outpouring of activity and opinion simply swamped the tobacco lobby, which had no support in community sentiment.

The time was right in 1987 for such an initiative. For over 20 years the Council and its allies had been pushing the bandwagon of tobacco control. The first struggle with the Victorian Government over health warnings in 1970 had been followed by the battle in Federal Parliament for broadcast media restrictions (1975), and smoking rates had started to decline by the late 1970s.

Tobacco was newsworthy, attributable deaths were climbing and the public was beginning to see the death toll for itself as doctors increasingly spread the message to patients.

Finally the credibility of the health groups had triumphed over what had been a respected industry but was now perceived as something between a maverick and a pariah, whose takeover of sport was at last seen as a form of advertising of an undesirable product, which parents wished their children to avoid.

1. The starting point

In a meeting in February 1987, The Hon David White MP, the then Minister for Health, concluded a discussion on mammography with Dr Nigel Gray with the comment that he was interested in addressing the tobacco problem in Victoria. David White was the eighth Minister for Health with whom Dr Gray had liaised since becoming Director of the ACCV, and this was the first time he had received a clear signal that a Victorian Government was prepared to undertake significant action.

David White's father had died of a smoking-related disease and the Minister's passion for reform was long-standing. He had taken note of Dr Gray's regular submissions to Parliament over previous years and had, with his advisor, Peter Worland, spent

considerable time investigating possible approaches to reducing tobacco use throughout 1986. The approach that was to become the Victorian Health Promotion Foundation (VicHealth) was developed by Mr Worland during this time.

1987 was a propitious time to pursue legislation. The State Government had been voted in for its second successive term in office in 1986. Hence 1987 was a non-election year, and the Government was generally electorally popular.

The fact that the Opposition's Shadow Health spokesperson, the Hon Mark Birrell MP, was also known to support the introduction of sensible measures to reduce tobacco consumption, combined to provide a rare window of opportunity for genuine legislative reform.

This meeting signalled the beginning of nine months of intensive planning, political lobbying, mobilising the health community, running a broadly-based community campaign, and out-maneuvring the tobacco industry. The result was a creative, imaginative piece of legislation called the Victorian Tobacco Act 1987.

This report documents the various threads of the complex strategy, and describes how they were worked into a single, cohesive campaign. It is hoped that apart from providing an historical view on a significant piece of public health legislation in Victoria, that health lobbyists elsewhere in Australia and overseas can glean some useful information which may help them succeed with future campaigns.

2. Structure of the State Parliament of Victoria

The Parliament of Victoria has two houses, a Legislative Assembly (Lower House) and a Legislative Council (Upper House). Eighty-eight members are elected to the Assembly, and 44 are elected to the Council from specified geographical regions. Broadly, the regions for the Council overlap those of the Assembly. The government of the day is determined by whichever party holds the majority of seats in the House of Assembly.

In 1987, the Australian Labor Party held government, but the conservative Liberal-National Party Coalition held the majority in the Legislative Council by one vote. Therefore passage of legislation required the assent of both major parties.



3. Outline of the bill

The basis for the Act began as an ACCV submission to the State Government, eventually metamorphosing into a comprehensive piece of legislation. Following on from Dr Gray's propitious February meeting with the Minister for Health, in March the ACCV made a submission outlining its usual series of pre-budget requests: a state tobacco licence fee (state tax) increase, in this case of 50 cents per packet, and a ban on all forms of tobacco advertising and promotion easily controlled at the state level.

This included cinema and billboard advertising, competitions, giveaways, and state-based tobacco sponsorships. The submission also proposed a replacement of tobacco-sponsored sport with money raised from the increased tax, and a ban on the sale of smokeless tobacco.

The proposal that the extra revenue gained from the tax increase could be hypothecated (or earmarked) into a new organisation called VicHealth, a stand-alone independent body with secure funding, came from Peter Worland. Early in the development of the Bill it was decided that sporting bodies (and some arts bodies), including those that had previously refused tobacco sponsorship, should be compensated for the loss of funds from tobacco sponsorship.

The Bill excluded a ban on print media, not because it was impossible but because it was extremely complicated, and could have provided a sticking point, which could have compromised the Bill's chances of success. The major problem with introducing a state ban on printed advertisements is that it would have caused difficulties with newspapers and magazines printed in other states: all major Australian magazines, in particular, are published in New South Wales.

To attempt a state-specific ban would have opened a new line of opposition centred upon the constitutional implications of the legislation, inasmuch as it could be seen to impinge on the freedom of interstate trade.



- *The Bill targeted small packets of cigarettes which were clearly marketed to children.*

The proposals in the planned legislation were thoroughly researched by the ACCV, and expert advice was obtained from each of the government departments that would be affected by them. These included the Treasury, the Department of Management and Budget, the Department of Health (HDV), the Department of Industry, Technology and Resources, the Department of Agriculture, and the Department of Youth, Sport and Recreation. Voluntary advice was given by constitutional lawyer, Professor Cheryl Saunders.

Key points of the Bill

The major objective of the Bill was to actively discourage smoking by encouraging non-smokers, particularly young people, not to start smoking: by limiting exposure of children and young people to enticement to smoke; by encouraging and assisting smokers to give up smoking; and by the promotion of health and illness prevention.

These ends were sought through the following measures:

Advertising restrictions

A ban on cinema advertising, billboards and external displays of advertising materials on shop fronts, and on unsolicited leaflets advertising cigarettes.

Interior point-of-sale advertising and print advertising (newspapers and magazines) were excluded.

Sponsorship restrictions

Initially the Bill proposed a complete ban on tobacco company sponsorships, with the exception of special events exempted by the Governor-in-Council. However, under Opposition pressure a ban was not introduced, and organisations were permitted to retain or adopt tobacco sponsorship if they wished.

Sponsorships would be restricted to naming rights, and handbills and other promotions and signage restricted to display of the brand name or trademark of the tobacco product.

Other promotional restrictions

Promotions such as competitions and free samples of tobacco products were banned.

Establishment of VicHealth

VicHealth was established, funded by a levy of 5% on wholesale tobacco sales. This increased the state tobacco licence fee from 25% to 30%. The money raised (approximately \$23 million in its first year) would be paid directly into the foundation, directed and administered independently of Government by a small staff and a board of eminent people from cultural, sporting, health and communications fields.

These funds would be used for health promotion, sponsorship of sporting and cultural events, and provision of grants for research into health promotion measures and public health research. Amendments introduced in the Upper House guaranteed 30% of the funds to sporting bodies.

Sales to minors

Existing legislation was simplified and moved from the Summary Offences Act into the new Bill. The sale of tobacco products to under 16 year-olds, and the supply of tobacco to under 16 year-olds

(i.e. sale to someone who supplies to a minor), was banned. A caveat excludes vendors from prosecution if they had 'reasonable cause' to believe that they had sold or supplied tobacco products to a person aged over 16.

The fine for selling tobacco to under 16 year-olds increased to \$1,000 for a first offence and \$2,000 for a second offence, and provision was made for a \$100 on-the-spot fine.

Health warnings

Existing provisions providing for four rotating health warnings on all tobacco packets were moved into the ambit of this Bill.

Vending machines

Cigarette vending machines were limited to premises where entry to under 16 year-olds is restricted (e.g. staff amenity areas for use of adults, and premises covered by the Lotteries, Gaming and Betting Act 1966 or the Liquor Control Act 1987).

Small packets of cigarettes

Sales of cigarettes in packets containing less than 20 sticks were banned. In 1985 and early 1986, packets of 15s were introduced to the market by Philip

Morris (one of the cigarette manufacturing companies operating in Australia).

The small packets were priced at a little over a dollar each, around a dollar less in cost than other larger packets of cigarettes. A South Australian survey had shown that the smaller packets were especially popular among young people. Small packets were subsequently banned in South Australia in November 1986.

Smokeless tobacco

The manufacture and sale of tobacco products other than for smoking, such as chewing or sucking, was prohibited. Nasal snuff was initially exempted from the ban under a special 'sunset' clause, which expired in mid-1990.

Products available under medical prescription (in particular products containing nicotine for use in treating tobacco dependency) have been exempted from this prohibition.

Although the market for smokeless tobacco products in Victoria was very small, the Government was concerned that it may become a problem in the future. Smokeless tobacco had also been banned in South Australia, in November 1986, and has since been banned federally.

4. Tactical overview

Economic factors

At the time that the ACCV made its submission, the Victorian Government was contemplating a \$100 million budgetary deficit, due to unexpected reductions from other revenue sources, particularly oil royalties.

It was therefore strategically a good time to suggest tax increases, and the increases proposed in the ACCV's submission were calculated to earn the Government precisely \$100 million. The Government did not increase tobacco taxation in the 1987-1988 Budget because of prior budgetary promises,

but tobacco tax was on the agenda for future attention.

Consultation

The ACCV and its allied key strategists (described further in Section 5, and hereafter referred to as the 'Health Lobby') consulted closely with all relevant Government departments from the time that the submission was first planned, until after the Bill was eventually passed.

This ensured workable proposals were devised and last minute problems were minimised.

Consultation worked in both directions: the public servants were able to highlight the various aspects of the proposals which would cause problems, and provide insights to the Health Lobby on how potential sticking points might be overcome. The Health Lobby was able to act on their advice and satisfy their information requirements as needed.

Consultation with key politicians and the media (described in more detail below) ensured that the way was smoothed for acceptance of the Government proposals.

Confidentiality

Up until October 1987, when the Government publicly announced its support for the Bill, the legislative proposals were kept secret as far as possible. In its earliest days only key people, even within the Health Lobby, were aware of the proposals.

The shroud of secrecy surrounding the Bill meant that until it was publicly announced, the tobacco industry was kept in complete ignorance. Naturally this was greatly resented by the industry, which was forced onto its back foot for the duration of the campaign. However, David White, saw no imperative to consult with the industry.

His view was that "The first principle they had to recognise was a health risk associated with the consumption of tobacco. As long as they are prepared to say there is not a health issue, there was no basis for discussion."

As much as this confidentiality disadvantaged opposition to the Bill, it aided the Bill's supporters. It meant that detail of how the legislation would work in practice was thrashed out before it became an issue for wider debate - thus the best possible draft legislation was prepared.

It also gave the Health Lobby valuable time in which to assemble its support base and plan for the onslaught of public lobbying which would ensue, and limited the time available for the tobacco industry to muster its considerable forces.

Of course this confidentiality was never guaranteed, especially as the consultative period extended. It was always possible that there could be a weak link among the politicians involved, or within the bureaucracy. This did not appear to be a problem at any stage.

Red herrings and diversionary tactics

The confidentiality surrounding the development of the legislation was crucial, as described above. It was assisted by a busy foreground of other

tobacco-related events, which kept the tobacco industry occupied on many fronts.

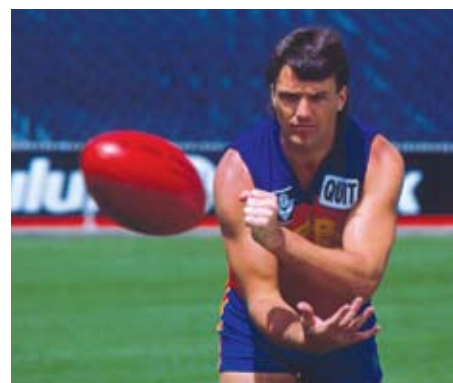
The Quit campaign had its most busy and successful year to date, and announced its major sponsorship of the Fitzroy Football Club. (Section 11 gives more detail of this important step.) ASH Australia, Action on Smoking and Health (ASH), continued its usual attack on the industry at every opportunity. The ACCV appeared to be pursuing its annual 'cracked record' of pleas to increase tobacco tax and prohibit state-controlled advertising - and this appeared to have failed. Passive smoking was a continuing major issue.

The Australian National Health and Medical Research Council published its major review of the evidence on the health effects of passive exposure to smoke. International anti-smoking campaigners, Professor John Banzhaf from ASH in Washington, and Dr Bobbie Jacobson, a British expert on women and smoking, both visited Melbourne and received wide press coverage. Professor Stanton Glantz also visited and took the idea of hypothecation back to California, where it was later enacted.

Pressure for a ban on tobacco advertising intensified in the first half of the year, with a lobby co-ordinated by ASH and its membership, in collaboration with Dick Smith: a popular Australian adventurer, anti-drug campaigner, and publisher of the naturalists' journal *Australian Geographic*.

The then-named Industries Assistance Commission, a Federal Government advisory body, had recommended during July 1987 that the Federal Government scale down its level of assistance to the tobacco industry. The new rotating health warnings were due for implementation, and the industry was also battling the threat of a federally-imposed smoking ban on domestic aircraft.

Another matter which may have contributed to the tobacco industry's apparent 'blind spot' on the Victorian legislative front, was that the Health Lobby attempts made earlier in 1987 to have



• *Fitzroy's Paul Roos with QUIT sponsorship 1987.*

smokeless tobacco products banned, had failed. The ACCV and other health groups had worked towards having the products restricted under Victorian regulations, but their efforts had foundered on technical grounds. This may have given the industry the impression that they had the upper hand, and were not under further Government threat of regulation.

Once the legislation was in the public domain, the ACCV, Quit, ASH and others created substantial diversions which underpinned the Health Lobby's battle, and served to keep the industry on the defensive. These carefully timed and planned strategies allowed the Health Lobby to control the public debate, and included campaigns such as 'The Big Kill', and the anti-smoking advertisement 'Coroner' made by Quit (see Sections 10 and 13).

These tactics removed the spotlight from the intense behind-the-scenes political activity, and created publicity which the tobacco industry was forced either to address or ignore, risking loss of public face.

Responding to the tobacco industry

It was decided that no member of the Health Lobby would debate the tobacco industry directly in the media (although David White, and Dr Gray, did). Instead, the health advocates stuck firmly to their own agenda, generating replies to arguments from various supporters when this was seen as necessary.

5. Massing the troops

The Anti-Cancer Council of Victoria

The ACCV spearheaded the overall campaign. Established by statute in 1936, the ACCV derives its funding from around 140,000 regular donors and income from bequests. From the early 1960s onwards, the ACCV has been at the forefront of campaigning for measures to reduce tobacco consumption in the community.

The ACCV enjoys wide public recognition and approval. Its involvement in medical research and cancer support services also makes it well-connected with the scientific and medical communities, as well as the state health department, HDV.

The campaigning for the Bill was directed from the office of the Director, Dr Nigel Gray. Dr Gray developed an action plan in conjunction with David White, which was reviewed and developed further in regular strategy meetings with Dr David Hill, Dorothy Reading and ASH, throughout the year.

During the period February to August the focus was on the Labor Government, then when the intent to bring forward a bill was announced, the focus shifted to the opposition Liberal and Country parties.

The role of the Finance and Executive Committees of the ACCV was consequential. They approved the Fitzroy Football Club sponsorship, the general strategy and the basics of the television advertisements - unusual activities for a cancer charity, but politically crucial in achieving legislative change.

Conservative in nature, they nevertheless had a history of supporting activist anti-smoking activity going back to the series of controversial and satirical television advertisements made with Warren Mitchell, Miriam Karlin and Fred Parslow in 1970, which had been integral in achieving health warnings and an advertising broadcast ban.

Within the ACCV, he was supported by the research efforts of the Centre for



Behavioural Research in Cancer (CBRC), headed by Dr David Hill, and the Cancer Epidemiology Centre, headed by Dr Graham Giles.

The Victorian Smoking and Health Program (Quit)

Quit is the most widely-recognised face of Victoria's anti-smoking campaign, sponsoring the major public education campaigns in the media, schools and the wider community.

Established in 1985 as a result of a Ministerial Review under Minister for Health, Tom Roper, during 1987, Quit was jointly funded by the ACCV, the National Heart Foundation of Australia (NHF - Victorian Division) and the HDV.

Quit was housed within ACCV premises, and at the time of the campaign, was led by Dorothy Reading, with a full-time staff of five.

Action on Smoking and Health Limited (ASH Australia)

ASH was established in 1984 by the NHF and the Australian Cancer Society, to act as a specialist lobbying and resource organisation in the area of smoking and health. When the campaign commenced, ASH had a full-time staff of four, under the direction of Stephen Woodward.

At the height of the campaign, staff numbers increased to around 10.

During the campaign ASH was located

in the central business district of Melbourne, close to major newspapers and other media outlets. The offices were a 10 minute walk from the ACCV.

Broadening the network

Each of the organisations listed above were able to access a base of known supporters. These included a large number of professional medical colleges, hospitals, bodies of scientific and medical researchers, and a wide range of community and sporting groups and individuals.

Each key individual or organisation was assigned a role in accordance with their area of expertise and capabilities. The network ranged from the most eminent and conservative, to the most radical and grassroots coalitions. Among the latter was the Movement Opposing the Promotion of Unhealthy Products (MOPUP), which took a very active role in letter-writing.

The Victorian branch of the Australian Medical Association (AMA), the NHF, and the Royal Children's Hospital were among the key supporters. The Scientific Committee of the ACCV played a key role in the letter-writing campaign and many visited politicians and lobbied directly.

The Health Lobby also received support from a number of local government authorities (see Section 10) and from individuals within the advertising industry (see Section 12).

6. Parliamentary lobbying and the public battle

The lobbying effort concentrated on the Victorian Parliament was, of course, central to the passage of the Bill.

The Health Lobby's strategy can be roughly divided into three overlapping phases. The first was the campaign to convince the Government Cabinet that they should act. This phase, for the most part, took place behind closed doors although pressure was also strategically being applied in the public arena.

The second phase focussed on gaining support from the Parliamentary Opposition, which coincided with the final phase: the public debate.

Lobbying Parliament, in all stages, depended on a number of tightly co-ordinated activities: arranging for letters and telephone calls to be received, overseeing the provision of information to Ministers and their advisors, and organising delegations. This private lobbying was complemented by a constant backdrop of carefully planned publicity, designed to increase political resolve.

Phase one – the Government

The Minister for Health

The first phase commenced with David White's indication that he would like to act on tobacco, and the Health Lobby's ensuing efforts to devise a plan for reform which would gain Government support. As previously mentioned, the ACCV had lodged a submission requesting an increase in the state tobacco licence fee amounting to a 50 cent increase per packet of cigarettes, a ban on all forms of tobacco promotion, and dedication of at least a portion of the tax increase to replace tobacco-sponsored sport and art.

The early commitment of the Minister for Health greatly enhanced and accelerated the efforts of the Health Lobby. The Minister advised on appropriate tactics, identified key people who needed to be consulted and lobbied, and engaged in exhaustive consultation

and lobbying himself. The Health Lobby worked in close liaison with the Minister's office, providing advice and information as needed, and responding to the Minister's instructions.

Convincing the Government leadership

The Hon John Cain MP, the then Victorian Premier, although an enthusiastic supporter of action to control tobacco, was a cautious politician. Dr Gray had established this in an early, informal approach made at a football match (the Premier's wife, Mrs Nancy Cain, being the official Number One Ticket-Holder of the Quit-sponsored Fitzroy Football Club).



The Premier was uncommitted about the proposed legislation until he could be convinced that it was acceptable to the Government's support base. A sticking point was the size of the proposed tax increase. Because of its likely impact on those in lower socioeconomic circumstances, the Premier would not initially agree to sanction it, and the tax increase was eventually significantly reduced. The Premier's overall doubts were allayed by an opinion poll commissioned by the ACCV (see Section 9).

The Hon Robert Fordham MP, the then Deputy Premier, was an early supporter of the proposals. He was an important figure in overall strategy as one of his duties was to control the agenda of Parliament. For tactical reasons already outlined, the timing of the Bill in the Parliamentary Session was crucial.

The Treasurer

The taxation and hypothecation aspects of the Bill required the support of Treasury. The Hon Rob Jolly MP, the

then Treasurer, had to be persuaded firstly, that the state tobacco licence fee needed to be increased, and secondly, that he should permit the money gained from any increase to be hypothecated into the proposed fund.

The first proposal was not a sticking point, but agreement with the second could not be guaranteed. In general, the notion of hypothecation does not appeal to Treasury officials since it removes the Government's ability to control that portion of income. However Mr Jolly agreed to support the proposal, chiefly because of its likely benefits to the health of Victorians, and was responsible for the decision to allocate the large amount of money finally achieved.

The Minister for Transport

The Hon Tom Roper MP, the then Minister for Transport and previous Minister for Health, was also consulted. Experienced in dealing with tobacco issues while holding the health portfolio, and a long-standing supporter of efforts to reduce tobacco consumption, Mr Roper had been involved in the introduction of the first Victorian Quit campaign in 1984. He had overseen the regulatory changes introducing rotating health warnings on tobacco packages, and had been responsible for removing tobacco advertising from state government-owned property and public transport in 1985. The idea of replacing tobacco sponsorship of sport via a buy-out originated with Mr Roper. He was eventually to introduce the Bill in the Lower House.

Government Committees

The support of senior parliamentary committees (the Estimates Committee – overseeing finance, and the Health Policy Committee) was essential. Concerns about the possible impact of the proposed tax changes on lower socioeconomic sections of the community were raised. The evidence of huge public support for the proposed measures was important in convincing the Health Policy Committee.

Publicity

Publicity was not neglected during this period of intense private consultation.

The ACCV's proposals were widely discussed during the July series of articles in *The Age*, Melbourne's quality morning newspaper, (see Section 7 for discussion), but to the eye of the tobacco industry, it probably appeared that these were no more than the usual annual arguments for taxation increases and advertising bans.

It was a new twist that a replacement of tobacco-sponsored sport with the increased taxes was being suggested, but the package of proposals received such an apparently off-handed public response from the Minister for Health, that there appeared to be no serious grounds for the tobacco industry to be concerned.

Once it was clear by late July that the ACCV's submission had actually missed the deadline for Government consideration for that year's budget, the issue was dismissed by the tobacco industry and forgotten by the media. But the media coverage had suited the Health Lobby's purposes perfectly.

During the time Cabinet was meeting to discuss the proposals, they were exposed to an unprecedented barrage of supportive press coverage on the issue, and coincidentally, an episode of the popular British comedy series 'Yes Prime Minister' examining the issues surrounding tobacco legislation, was screened on ABC Television (see Section 13 below).

On August 4, Cabinet agreed to support the proposed legislation.

In summary, once the Government was convinced that the legislation was workable and electorally popular, it was prepared to act. The groundswell of public support generated by the Health Lobby, and the series of articles which appeared in *The Age*, secured their commitment. The decision to do an exhaustive cover of both sides of the tobacco issue followed an early discussion between Dr Gray and Mr Creighton Burns, *The Age* Editor, who, while insisting on covering both sides, agreed that Dr Gray could influence the date of publication.

The series of articles was launched on the day Cabinet discussed the Bill, ran heavily for a week and, according to Mr Burns, generated more correspondence than any issue in the paper's history. The extensive space given to the industry point of view was regarded as helpful by the Health Lobby on the grounds that it exposed a relatively 'ugly' position.

Phase one was completed by October 7, when the Government publicly announced its legislative proposals. In the meantime, the second phase was already underway.

Phase two – the Parliamentary Opposition

Once the proposed legislation had the commitment of Cabinet, the Health Lobby concentrated its efforts upon the Parliamentary Opposition. The Opposition consisted of a coalition of two conservative parties, the electorally-stronger Liberal Party, and the National Party. Despite their political alliance, the two parties have separate structures and some separate policies, and tend not to run on a joint platform during elections.

The legislation required the support of a majority of the 20 Shadow Cabinet members (from both parties). If gained, Opposition support in Parliament would then be unanimous as, apart from under exceptional circumstances, the Opposition votes en bloc outside its meeting rooms. Had this support not been forthcoming, the Bill would have been defeated in the Upper House, where the Opposition held the balance of power by one vote.

In that case, success for the Bill would have depended upon a Member of Parliament from the Opposition agreeing to cross the floor - that is, to vote against the will of his/her own party and support the Government's legislation.

The Opposition was most likely to oppose the legislation on the grounds of civil liberties and perceived threats to personal freedoms, in particular the rights of the tobacco and advertising industries to promote a legal product.

Here, it was useful to remind Liberal members of the precedents in preventive health measures, which had been introduced in Victoria in years past, mostly under the aegis of a Liberal Government.

These included compulsory screening for tuberculosis (which virtually eradicated the disease), the introduction of compulsory seat belts, compulsory wearing of crash helmets by motor cyclists, and the provision of random breath-testing for blood-alcohol levels on the roads. It was important that the Opposition be convinced that no fundamental freedoms were at stake, which were not justified by a much larger benefit to the community.

The Shadow Spokesperson for Health

The Hon Mark Birrell MP, was identified by David White and the Health Lobby as an early and important target, and an ally. Mr Birrell's views on tobacco were well-known. As State President of the Young Liberals in 1980, he had sponsored a successful resolution calling for bans on cigarette advertising. On Mr White's advice, Mr Birrell was contacted by Dr Gray and given a preliminary, limited briefing about the legislative proposals during May.

Dr Gray provided a vital function by acting as an intermediary between White and Birrell. Although both were strongly in favour of introducing measures to control tobacco in Victoria, the Parliamentarians were from opposite sides of the political spectrum, and negotiations had to be handled with tact and discretion. Without this delicate balance, and the political generosity of the two men, the passage of the Bill would not have been possible.

Mark Birrell was extremely helpful to the Health Lobby, providing important advice on how support for the legislation might be gained among the Opposition, and working hard within his Party to secure this where possible. He was supported within the opposition by the Hon Graeme Weideman MP, the Hon Tom Reynolds MP, and the Hon Geoff Connard MP. Probably the most striking example of Mr Birrell's assistance came with his identification of the 'Church Lobby'.

Perceiving the influence of the church on the Shadow Cabinet, Mr Birrell provided Dr Gray with a list of committed Christians and their denominations. Dr Gray duly approached the appropriate church leaders, requested that they support the Bill, and make their views known to members of their church within the Shadow Cabinet. The late David Penman, the then Anglican Archbishop, wrote to the Anglicans, and Sir Frank Little, the Roman Catholic Archbishop, informed

Dr Gray that he had taken "a course of action", which remained unspecified.

There is little doubt that the Church Lobby had a major influence on the outcome of Shadow Cabinet voting. Certainly, all of the known Roman Catholics in Shadow Cabinet voted for the Bill.

The Government announcement about the proposed Bill on October 7 was met by a measured response in a press release from Mark Birrell, stating that the Liberal Party would "treat the Cain Government's proposals on their merits".

The Leader of the Opposition

The Hon Jeff Kennett MP, the then Leader of the Opposition, was thought not to be a supporter of tobacco control measures. Public opinion and the growth of support among the Shadow Cabinet forced his hand, and he was eventually to speak in support of the Bill in Parliament.

Mr Kennett received around 20 telephone calls from senior businessmen who were either donors to the Liberal Party, or extremely important to the Liberal Party in other ways. Unknown to Mr Kennett, all of these contacts were initiated by Mr Bruce Redpath AM, FCIT, FAIM, a prominent Melbourne businessman, a committed Christian and long-standing supporter of the ACCV and its tobacco control activities.

On October 27, Shadow Cabinet voted to support the thrust of the Bill, meaning that the legislation, at least in theory, would receive broad support in Parliament.

The National Party

It came as no surprise to the Health Lobby that the National Party, traditional supporters of the Tobacco Lobby, were not in favour of the proposals. Their media response on October 7 by the then leader, the Hon Peter Ross-Edwards MP, criticised the proposals on the grounds that they would give the Government undue power over sports.

A major concern for the Nationals was their belief that the legislation was not supported by public opinion. These objections were negated by the results of opinion poll undertaken by the ACCV, which showed the legislative proposals had broad-based community support, and that Liberal and National voters were as likely as Labor voters to approve of the legislation.

Phase three – the public battle

Phase three began on October 7, when the Government made public its intention to pursue the piece of legislation now generally known as the Tobacco Bill.

The Parliamentary agenda allowed four weeks for passage through the two Houses. The Bill would rapidly be approved in the Government-dominated Lower House. The Upper House was to be the forum for major debate and amendment.

For the Health Lobby it was the greatest battle. The tobacco industry was apprised of the legislation and applying the full extent of its pressure on politicians and in the media. Parliamentary lobbying now meant reinforcing the resolve of the Government and putting out bushfires as they arose.

Press interest was also running at a high level and needed constant monitoring and attention. Where central themes recurred, these were dealt with by special bulletins from Dr Gray's office, distributed to all politicians and the media. Philip Morris called its employees together and requested them to telephone their Parliamentary representatives.

The result was a complete blocking of the Parliamentary switchboard. Many politicians were seriously antagonized to discover that the many calls they were requested to reply to, were directed to the Philip Morris switchboard.

7. Lobbying the press – ‘Victoria’s dying habit’

The nature of press coverage was very important to the progress of the Bill. One of the components of the failure of attempted legislation in Western Australia in 1982 and 1983 was the open hostility of the press: it was clear that the Victorian campaign stood a much greater chance of success if the press were, at worst, neutral.

At the suggestion of the Minister for Health, Dr Gray wrote to Creighton Burns at The Age in early May. After two meetings and the presentation of thorough briefing notes, the Editor agreed to publish something on the issues in late July, during the week in which Cabinet would meet to discuss the proposed Bill. He assigned responsibility for the task to Day Editor, Steve Harris.

The Age began its series of articles on smoking on July 27, the same day that Cabinet met to discuss the initial proposal. Harris assigned two young journalists, Fiona Harari and Graeme O’Neill, to the series – featured under the running title ‘Victoria’s Dying Habit’, and accompanied by a repeated graphic showing a cigarette emerging from a gun barrel.

The journalists were extensively briefed by the ACCV, ASH and Quit. The lead story outlined the ACCV’s series of proposals, and released findings from the Council’s opinion poll (described in Section 9).

The commitment by The Age was far beyond what could have been anticipated. Several articles appeared each day for a week, concluding with a strongly supportive editorial on the Friday. Letters to the Editor featured daily, frequently half a page of them, and continued for another week. These letters overwhelmingly showed support for further action against the toll of tobacco on the community.

Journalists, Fiona Harari and Graeme O’Neill, later received World Health



Organisation (WHO) medals recognising contributions benefiting public health, for their work on the series.

News Corporation, publisher of The Sun (a morning tabloid newspaper) and The Herald (the only Melbourne afternoon daily newspaper) were also approached. Dr Gray discovered informally that the proprietor of News Corporation, Mr Rupert Murdoch, would not object to The Herald making a local decision, not to oppose a ban on cigarette advertising. A visit to Mr John Darcy, the Editor of The Herald, was to result in initially non-committal, and later, supportive, coverage from The Herald.

A traditional foe of tobacco advertising restrictions, support from The Herald was something of a coup for the Health Lobby, and was certainly noted by the politicians.

The ACCV gained professional assistance with media liaison by employing Margaret Geddes, an experienced

freelance journalist who was well-connected with the major Melbourne media, especially the newspapers.

Ms Geddes assisted the campaign by writing press releases for Quit and other supporting organisations, drafting lobbying letters, contacting and recruiting potential supporters, and arranging radio and press interviews.

She also drafted ‘opinion pieces’ for Dr Gray and Professor Sir Gustav Nossal (an eminent scientist and the proposed Chairman of VicHealth). Following her efforts with The Herald, an editorial appeared which supported the legislation on October 7.

With the Government’s support for the proposals becoming public, media coverage intensified.

The Bill gained its own momentum in the news, editorial and letters columns. Overall, media coverage supported the Government initiatives.

8. The letter-writing campaign

Although the letter-writing lobby did not swing into action until The Age publicity about the proposals during July, planning and compiling of suitable mailing networks had been underway for three months. Each of the organisations listed in Section 5, activated their various mailing lists, asking for letters of support to be written to key or all politicians in support of the Bill.

In addition to using existing networks, new mailing lists of potential supporters were researched.

A wider list of potential supporters was compiled from membership lists of friendly organisations, professional directories, and telephone books. The information was entered into a computer database to facilitate mass mail-outs. The net was cast as widely as possible, to demonstrate the broad base of community support for the legislation.

This also detracted from the usual tobacco industry criticism that the legislation was the unreasonable obsession of a 'vocal minority'.

Several hundred peak organisations were contacted. These were drawn from medical and health groups, school councils, community health centres, community groups, church groups, local government authorities, university departments, hospitals (including

administrative and medical staff), churches, sporting groups, trade unions, consumer groups, women's organisations, science and environmental groups, fire protection agencies, teacher and educational institutions, and many others. The groups and individuals were asked to write a letter in support of the legislative initiatives to all members of Parliament.

Only a small range of briefing materials was provided, with the suggestion that they rely on their particular expertise in any correspondence. Consequently, each of the letters had its own individual flavour, reflecting the particular concerns of the corresponding organisation or individual.

A second level of contact was initiated, in which people and organisations were contacted on an electoral basis and asked to write to, telephone and/or visit their Member of Parliament. Individuals and groups such as schools, churches, doctors, physiotherapists, dentists, pharmacists, hospitals and community organisations were identified on an electorate-specific basis.

Since the support of both the Government and the Opposition parties were necessary for the Bill to succeed, information and requests for action were sent to organisations and individuals in all electorates.

Another major resource was the donor list of the ACCV. They had approximately 140,000 donors, in an estimated one-in-four households. Donors each received a letter signed by Dr Gray, explaining the legislation and asking them to make their support known to their politicians.

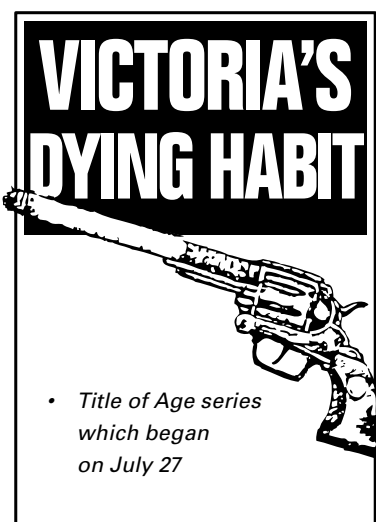
Well in excess of 150,000 letters were sent within a month. Letters to key individuals were followed up by a telephone call.

The letter-writing campaign was a major success. In cases where an organisation was keen to participate in the campaign, but lacked the resources, ASH, Quit or the ACCV assisted with drafting and printing of letters. All letters were personalised, printed on original letterhead, and individually signed by the organisation.

Mark Birrell estimated that he received more than 10,000 letters on the issue (from both sides) over the course of the campaign, and other parliamentarians received hundreds. Many reported that they had never received so many communications on any single issue before.

They were particularly important in influencing the members of the Government Health Committee and, apart from forming opinion, strengthened the position of supporters of the legislation.

9. Measuring public opinion



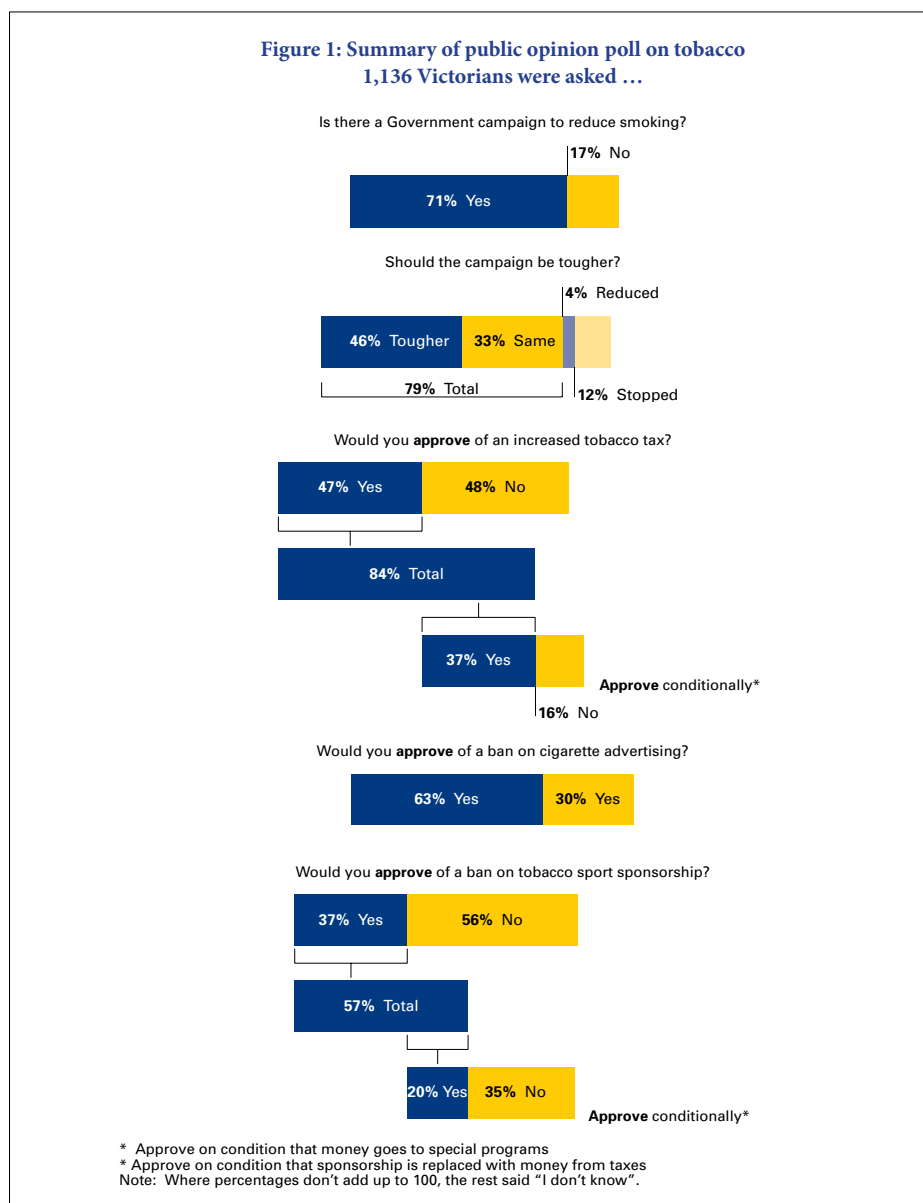
Clearly, a demonstration of community support for the Bill was needed to convince political parties to act, and it was especially crucial to show the Premier and his office that the proposals were electorally popular. The CBRC commissioned a prominent independent polling organisation to survey public attitudes to the current anti-smoking campaign, increases in tobacco taxation, restrictions in tobacco advertising and promotion, and the response to the idea of putting tobacco tax revenue into a fund to pay for sporting, health and medical activities.

Opinions were also measured by voter intention, making the results particularly salient to the political parties.

The Roy Morgan Research Centre undertook the survey in June 1987. A representative sample of 1,136 adults aged over 16 years were interviewed at home. The wording and order of the questions were carefully designed to eliminate bias, the sampling method was rigorous and provided a good representation of the population, and the number of people interviewed was large enough to allow a high level of confidence that the estimates reported were accurate to within 4%.

The poll pointed to strong community support for the new initiatives. In summary, the results showed that:

- 71% of Victorians knew that the Government was conducting an anti-smoking campaign.
- Including the minority who did not know about Government involvement in the campaign, 79% of Victorians believed the smoking reduction campaign, currently in progress, should be the same or tougher.
- 47% approved of an increased tobacco tax of 50 cents per packet. Disapproval tended to be higher among men, the less-educated, and blue-collar workers. Smokers were more likely to disapprove than non-smokers of the tax, but just over 20% of smokers approved of a 50 cent tax increase.
- The most common reason for disapproving of an increase in tax was that it would make smoking too expensive (38%).
- When asked if they would approve of a 50 cent per packet tax increase if the revenue raised were put into programmes such as health education, medical research and funding sport and the arts, total approval for the tax increase soared to 84%.
- Asked how they would prefer this extra revenue to be expended, priority was given to educating children about smoking (56%), followed by medical research (45%), general health promotion (29%), helping adults to quit (23%), sponsorship of sport (13%), and sponsorship of arts, theatre and music (11%). 16% would have preferred the money be used to reduce other state taxes, and 16% maintained their disapproval of tobacco tax increases.
- 63% approved of a ban on all forms of tobacco advertising. Approval tended to be higher among women, white-collar workers and non-smokers, although 49% of smokers approved of a ban.
- The most common reason given for not approving of a ban was the belief that issues such as freedom, rights and democracy would suffer (54%).
- 37% would unconditionally approve of a ban on sponsorship of sport by tobacco companies. (Separate questions were asked about advertising and sponsorship because of



the common public view that they are separate issues.)

Those in favour of a ban tended to be better educated, upper white-collar workers and non-smokers.

- 57% would approve of a ban on sponsorship of sport by tobacco companies if sponsorship funding were replaced by money raised from tobacco taxes. 35% continued to disapprove of bans on sponsorship under these circumstances (the remaining 8% couldn't say).

There was no major difference in opinion between supporters of the two major political parties. The results of the poll were therefore able to counter

arguments that the legislation was out of step with public opinion.

The findings were shown to the Minister for Health, the Premier's senior advisor – Mr Bob Hogg, and the Treasurer, Mr Rob Jolly, on July 20 and were distributed to the rest of Cabinet at a later date. The results of the survey were publicly reported by The Age on July 27.

A full report of the findings of the public opinion poll has been published - Hill, D 1988. Public opinion on tobacco advertising, sports sponsorships and taxation prior to the Victorian Tobacco Act 1987. Community Health Studies, XII, 3, 282-288.

10. 'The Big Kill'

In July 1987, a major study was undertaken to estimate the numbers of deaths caused by smoking compared to alcohol, motor vehicle crashes, and other drug use, in each of the 212 municipalities in the State of Victoria.

ASH co-ordinated the publication and distribution of Victorian data. Epidemiological, research and computing expertise were provided by the Cancer Epidemiology Centre within the ACCV.

The idea for the study originated with the Scottish Committee of ASH, with their publication of 'The Scottish Epidemic' in 1982. The document provided smoking mortality and hospital morbidity calculated for each parliamentary constituency, local government region and health board area in Scotland.

The purpose of the Victorian project was to present statistics on deaths due to smoking on a local scale. It was envisaged that specific regional information would have greater impact on local areas, and would generate wider interest than the larger, nationally-calculated statistics most frequently used when describing tobacco deaths.

It would also be difficult for politicians to dismiss figures which related directly to their constituents, and would augment the ACCV campaign by creating an electorate-specific lobby group for each Victorian politician, acclimatising them to the need for legislative change.

The Australian Bureau of Statistics annually records deaths by a number of variables, including age at death, sex, place of residence by Local Government Area (LGA), and cause of death according to the four-digit International Classification of Diseases code.

By applying appropriate sex and disease-specific attributable fractions, the number of deaths due to smoking, alcohol (including motor vehicle crash fatalities), and illicit drugs, were calculated for each LGA.

These were published in a simple, one folded-page brochure for each LGA, so that each locality received its own specific statistics (with a comparison to the

figures for the state as a whole). It was considered that the provision of more information, (e.g. the data for other local areas), would reduce the impact of the statistics.

The pamphlet was titled 'A study of deaths due to smoking in your municipality'. The front cover showed a colour photograph of a typical crowd scene from a Victorian Football League game. One-in-five of the faces in the crowd was obliterated by a black cross, representing the approximately one-in-five Victorians who die from disease caused by tobacco each year.

The back cover bore a brief message signed by Dr Gray, describing the magnitude of the tobacco problem in Victoria and suggesting ways in which communities could work to reduce it.

Commencing on September 1, copies of the pamphlet appropriate for their area were sent to each LGA, local and regional media, doctors, school councils, local libraries, hospitals and pharmacists.

Because electorates often include several LGAs, it was necessary to research which LGAs belonged to each electorate. Members of State Parliament received brochures for all LGAs within

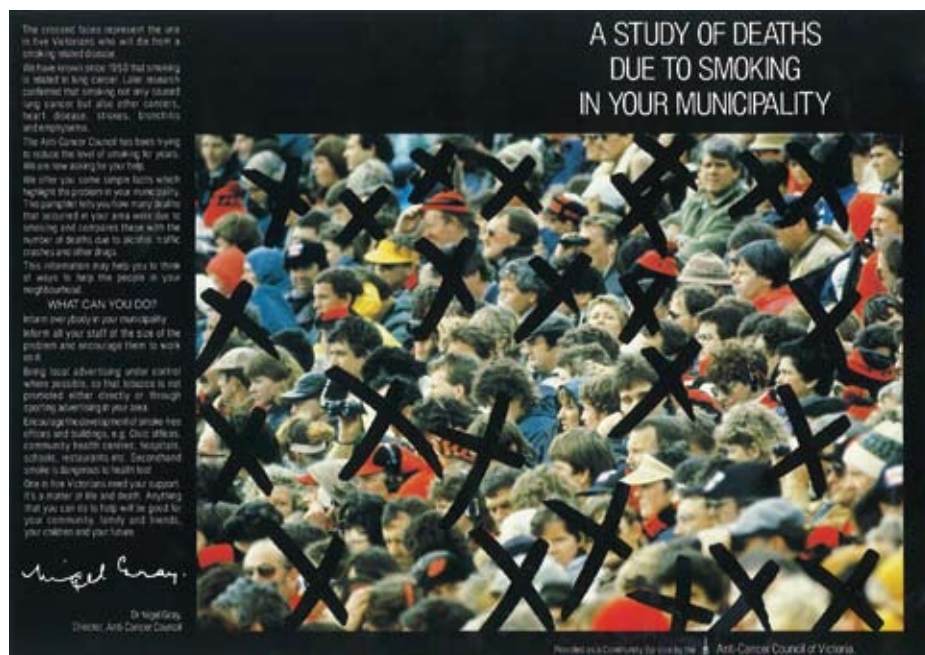
their electorate. For good measure, appropriate brochures were also sent to all Victorian-based Federal politicians.

The project received considerable response at all levels. It received state-wide media coverage in over 50 press articles, frequently as a front page story, and was the subject of many radio and television interviews. There was widespread appreciation of information tailored to specific localities. The ACCV received over 30 separate communications from local government officials, some of whom were prompted to review or introduce policies on smoking.

Over 50 individual letters of support were received from Members of Parliament, most of whom were eligible to vote in the forthcoming debate on the proposed legislation.

'The Big Kill' ran as a campaign for around six weeks. Once released, it tended to generate its own momentum.

Surprisingly, tobacco industry response was negligible - it did not even attempt to contest the calculations upon which the statistics were based, an unusual omission for the industry.



11. Winning over sport and the arts

Sport

The success of the Bill was highly dependent on its acceptability to sporting bodies. The issue of sports sponsorship had been pivotal in the defeat of an earlier attempt at legislation in Western Australia, and had ultimately been a trump card played by the tobacco industry, which had argued that, in the absence of its sponsorship, sport would be starved of necessary funds. This threat carries considerable weight in a country well-known for its enthusiasm about sport. It was very clear to the Health Lobby that sporting bodies were potential antagonists, and that their opposition to the Bill needed to be diffused with care.

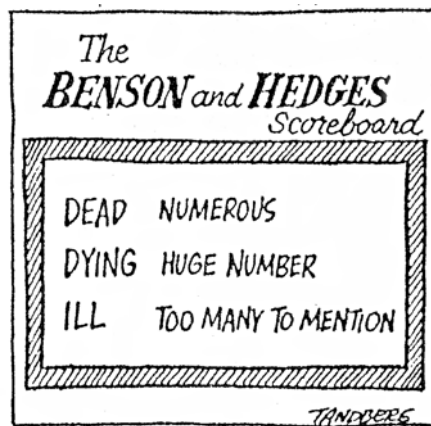
Long-standing ACCV supporter and mentor, Ron Casey, gave invaluable advice about the attitudes, sources of income, and key individuals in the sporting field. Ron Casey AM MBE was Managing Director of Channel 7, and creator of World of Sport. He was well-known and widely trusted and knew most of sports sponsorships arrangements. His advice was invaluable and, as a founding board member of VicHealth, he led the buy-out of tobacco sponsorship of sport with spectacular success.

Earlier in the year, Quit had become the major sponsor of the Fitzroy Football Club. This was a major breakthrough for the campaign, which only the previous year had been unable to buy advertising signage around a football ground. First to approach Quit for sponsorship had been the Richmond Football Club. Negotiations soon broke down when it became clear that Richmond's home ground, the MCG, had prior advertising contracts with a tobacco company and that Quit signage would not be allowed at the ground. The story hit the front page of *The Age* and was accompanied by cartoons by leading local cartoonist, Ron Tandberg.

Fitzroy Football Club staff, committee members and players were very supportive throughout the campaign, and helped mobilise their considerable supporter base. Coach David Parkin also accepted a position on the board of VicHealth.

The legislative proposals themselves were intended to offset the usual fears

of sporting bodies. VicHealth was to be established with the intention of ensuring financial stability for those sports currently accepting tobacco sponsorship, so sporting administrators could no longer argue that the banning of sponsorship would mean the end of their sport's well being. The exemption clause offered for events of national or international importance deflected the argument that the State would suffer loss of major spectator sports, such as cricket. The Bill was therefore able to gain a good deal of approval from those who might formerly have been opponents.



To achieve this, it was necessary to consult with sporting administrators fully and at the highest level, ensuring that the message was filtering down the ranks accordingly. This could not have occurred without the co-operation of the Department of Youth, Sport and Recreation, who were instrumental in briefing peak sporting bodies, providing mailing lists of organisations which needed to be informed of the implications of the legislation, and giving expert advice on how best to convince sporting organisations that they would benefit under this legislation.

An initial briefing session was held for key sporting groups at the State Film Centre, a central venue, on October 9. Meetings were arranged with senior executives from major sporting organisations, including those most frequently associated with tobacco funding - cricket, horse racing, greyhound racing and golf.

There was also no doubt that the tide had already begun to turn for tobacco sponsorship of sport in Victoria. The

Australian Open tennis tournament had already relinquished its Marlboro sponsorship to the car manufacturer Ford, after having been targeted for several years by demonstrations by MOP UP. Victoria's second major football code, the Victorian Football Association, announced in September 1987 that it would ban tobacco advertising and sponsorship at matches and in its publications. Australian sporting heroes like Pat Cash (1987 Wimbledon Champion), Debbie Flintoff-King (track and field events), and a range of Olympians and other well-known sporting personalities, were very willing to be publicly linked with Quit events. The Victorian Netball Association was strongly on-side, and participated in the letter-writing campaign (netball is the most popular women's participant and spectator sport in Australia). Demonstrations and statements of support for the legislation from key sporting personalities formed an important part of the publicity generated by the Health Lobby (see Section 13).

The strongest opposition to the Bill came from the Confederation of Australian Sports (CAS), a national peak sporting council, and a small phalanx of sporting groups with strong tobacco connections: motor sports, cricket, and horse racing associations. The CAS issued media statements, and during October actively encouraged its member sporting associations to apply political pressure to see the Bill defeated.

The Premier, who was by now fully convinced that the time was right for legislation, exerted his own influence where necessary. He quelled the objections of the Victorian Amateur Turf Club by suggesting that without their co-operation, they might lose Government underwriting for a new \$20 million grandstand.

The arts

The arts world did not publicly oppose the legislation - probably in part, because few bodies in Victoria were beneficiaries of the tobacco companies. The Victorian Arts Council strongly supported the Bill, and one of its senior executives wrote to all 60 of its regional branches on October 15, urging them to contact their local politicians about supporting the Bill. Senior arts administrators were consulted throughout the campaign.

12. The advertising industry

The Health Lobby never expected the support of the advertising industry, hoping at best to keep the industry fairly quiet, especially since it was the stated intention of the legislation that there should be no loss of jobs or hardship felt by its implementation. John Clemenger, Director of one of Australia's biggest advertising agencies, gave invaluable advice. He was loyal to his industry's welfare but helped to neutralize any campaign against the Bill.

The Advertising Federation of Australia (AFA) wrote to the Minister for Health (and presumably other politicians), strongly criticising the proposals, stating the usual tobacco industry line about advertising not affecting consumption, and using freedom of speech and "legal to sell, legal to advertise" arguments. The AFA also wrote to advertising agencies, alerting them to the ramifications of the legislation.

An interesting fact that arose from the AFA correspondence was the amount believed, by the advertising industry, to be at stake in tobacco advertising dollars. A letter from the Federal Director of the AFA stated "We are not defending the interests of a vocal minority, nor the tobacco manufacturers.

As far as the latter are concerned, they represent a comparatively insignificant proportion of agency billings, probably in the order of 1.5% or less."

A news article from an advertising trade industry journal, B&T, dated October 16, revealed that some of the Victorian agencies, especially Mojo MDA, and Leo Burnett (both of which held tobacco accounts), were 'mobilised behind an effort to avert the legislation.' It did not become clear to the Health Lobby exactly what they did to further this intention.

One advertising agency which refused tobacco accounts as a matter of policy, did lend public support to the legislation. The Managing Director of Samuelson Talbot and Partners wrote to politicians in late October and rebutted the usual pro-advertising myths regarding tobacco. This was a great fillip for the Health Lobby, and was a deciding factor in the Shadow Cabinet discussions.

The outdoor advertising industry, most directly affected by the legislation, was staunch in its opposition and apparently donated billboard space to the Tobacco Institute of Australia's publicity campaign (described in Section 14). Reassurances that the industry would not suffer job loss or other hardship,

and that VicHealth would make extensive use of billboard advertising space for the transmission of new advertising messages, did little to stem their opposition.

Dr Gray wrote directly to the Chief Executive of Alan Davis Outdoor Advertising, reiterating that the Foundation would be giving priority to outdoor advertising in its future promotions. His letter also made the point that if advertising bans were to proceed in the absence of a foundation, the outdoor advertising industry would be greatly disadvantaged as they would see a potential source of revenue go down the drain.

These elements aside, the advertising industry's opposition was not as strong as anticipated. This may have reflected the fact that the legislation did not touch print advertising (newspapers and magazines), probably the last bastion of the 'freedom of speech' argument.

Further, the advertising industry did not have the support of the press, which overwhelmingly endorsed the legislation. Perhaps it also reflected the wider recognition that the demise of tobacco advertising was an inevitability.

13. Organised publicity events

The controversial nature of the legislative proposals ensured that they would receive a large amount of media attention. It was the concern of the Health Lobby that this attention be as favourable and constant as possible.

This meant planning special publicity events in advance, timed to coincide with important political events (such as the Government's public announcement about the intended legislation), and it also meant having the flexibility to recognise and exploit publicity opportunities as they arose.

A key feature of the Health Lobby's publicity is that it followed its own agenda (rather than that set by the tobacco industry). Additionally, as wide a variety of voices were raised as possible.

Various groups and individuals which supported the legislation were encouraged to get involved with publicity, to underline the fact that the proposals had support from a diverse number of community groups.

As already mentioned, Quit had maintained a high media profile during 1987

with its campaign efforts, and its sponsorship of the Fitzroy Football Club.

Quit's public approval rating was at an all-time high of 81%. ASH had also continued its public attack on the tobacco industry in the press at every opportunity. These 'background' levels of publicity underpinned the special flurry surrounding the Bill.

As the public debate about the Bill progressed, the Health Lobby co-ordinated press releases from a wide variety of supporters.

Sometimes these were used to refute tobacco industry argument; others introduced new issues of concern surrounding tobacco which were specific to the particular organisation's area of expertise, but overall lent support for the proposed legislation (e.g. the Royal Children's Hospital made a media statement on the effects of smoking on cot death).

Other organisations wrote letters to the press which appeared in the editorial pages.

'Yes Prime Minister'

The earliest event came about by fortunate coincidence. The 'Smokescreen' episode of the popular BBC series 'Yes Prime Minister', was screened by ABC Television on July 20. The episode depicts the embattled fictitious British Prime Minister, Jim Hacker, taking on the tobacco industry.

Apprised of the screening in advance, Dr Gray sent telegrams to all parliamentarians (and to the media), urging them to view it. In his message he said that this program "represents precisely the politics of tobacco worldwide, excepting, of course, Victoria."

Staged publicity events

Quit engaged the services of a public relations firm to advise and assist with the organisation of larger, more complicated events. This investment served the Health Lobby well.

The events were timed to coincide with important points in the progress of the Bill. Their complexity meant that they required significant forward planning, but flexibility also had to be built into the planning because of the uncertainty of the parliamentary timetable.

Six major events were staged.

The first took place on July 27, marking the commencement of the annual Quit Week, and involved a novelty race between sporting and media personalities in the City Square (a central public meeting place). The event also happened to coincide with Cabinet's deliberations over the Bill (and the commencement of The Age's special series of articles), and provided a useful opportunity for sportspeople to be seen linked publicly with the Quit campaign.

The second event was the official launch of Quit's 'Coroner' television

advertisement (described below).

The formalities took place at the Royal Australasian College of Surgeons building, on September 1, the day that the new rotating health warnings were first required to appear on all cigarette packages.

The next event was jointly run by Quit and the AMA, and took place on October 8, around the timing of the Government's tabling of the Bill in Parliament. Several prominent sporting personalities publicly signed a large petition in support of the legislation in the Bourke Street Mall.

Timed to take place at around lunch-time, the event attracted a large crowd of interested onlookers and obtained wide media coverage.

On October 15, the official launch of VicHealth took place. This was organised by the HDV in collaboration with Quit and the ACCV.

Prominent members of the groups to be affected by its establishment (members of the sporting, arts and medical communities), along with the media, were invited to meet the Trustees of the proposed Foundation.

The Premier, the Minister for Health, and the Minister for Youth Sport and Recreation, were present and each introduced various aspects of the Foundation. Opposition Health Spokesperson, Mark Birrell, was also present. The function was held as a breakfast in one of the large private rooms within the Victorian Arts Centre - a central and prestigious location.

The event gave guests and the media the opportunity to ask questions about the Foundation. The acceptance of the Chairmanship of the Foundation by Sir Gustav Nossal was announced. He had been contacted in Japan by Dr Gray and willingly agreed to take on what turned out to be a considerable burden. The fact that all this took place before the Bill was law, occasioned some notice but no objections.



• Image from the AMA's press advertisement



• *Quit's coroner TV advertisement enraged the tobacco industry.*

The next major event, on October 27, focussed on children, and was staged as part of Universal Children's Week. Sponsored by Quit, the event was held at lunch-time in the Melbourne City Square, and featured a primary school children's orchestra, and a skipping demonstration by the National Heart Foundation's primary school-age 'Jump Rope for Heart' team.

Popular children's television host, Daryl Cotton, was the Master of Ceremonies for the event, accompanied by his puppet side-kick Marty Monster. Invited guests included the Minister for Health and Ian 'Molly' Meldrum, a well-known commentator on pop music. 'Molly' took the opportunity to publicly quit smoking.

The final major event occurred after the passage of the Bill, and was a 'thank you' from school children to David White, Mark Birrell and the other politicians for passing the legislation. A large group of school children massed on the steps of Parliament House, presenting supportive letters and flowers to each politician.

Press advertisements

Paid press advertising was kept to a minimum and was strictly limited to issues on the agenda of the Health Lobby: the health of Victorians, and especially that of children.

The ACCV ran only one press advertisement, occupying a modest quarter

page, and appearing on July 31, the day on which The Age's series of articles concluded, and the same day that The Age published an editorial positive about the legislative proposals.

The advertisement made three simple points: that the price of cigarettes had dropped in Victoria since 1949, while the lung cancer death rate had increased by almost 400%; that a tax increase would reduce smoking among the young, and could be used to fund community education campaigns and replace tobacco sponsorship of sport; and finally, that "the real cost of cigarettes is 17 Victorians killed by smoking every single day".

Advertisements were also placed by the AMA and the Royal Children's Hospital. The AMA's advertisement appeared around October 22.

Headed "Do you want your kids to smoke?", it related statistics about the uptake of smoking in Victoria and urged members of the public to contact their local members to lodge their support for the Bill.

The Royal Children's Hospital's advertisement appeared around October 26.

It began "If you care for kids, stop smoking" and outlined the effects of parental smoking on the unborn child and infant. Again, readers were urged to contact their local politicians about the Bill.

Television advertisement

By coincidence, the new system of rotating health warnings appearing on tobacco packages came into force during the campaign. These warnings had been agreed to during the previous year, and came into effect on 1 September 1987. Quit planned to use the opportunity to launch a new television advertisement, which it could afford to run for two weeks.

Groundwork for the advertisement began in April 1987. John Bevins Pty Ltd was engaged to work on ideas and production. The advertisement was set in a coroner's examining room, featuring a doctor of TV soap opera genre, performing an autopsy on a corpse. The coroner draws a bloodied packet of cigarettes from the body's chest, announcing "I think I've found the cause of death".

The advertisement was made in two versions, drawing specific attention to two of the four new warnings: "Smoking causes lung cancer" and "Smoking causes heart disease". The advertisement was intended to draw attention to the new warnings in a way that would challenge smokers, but of course it was also intended to alert politicians and the wider community.

It later became clear that this advertisement had enraged the tobacco industry, when John Dollisson said, during the television debate with David White, that "this was when the gloves came off in this campaign".

14. Resistance – the tobacco industry allies

The tobacco industry and the Tobacco Institute of Australia (TIA)

The first inkling for the tobacco industry that there was movement afoot, occurred when the 'Victoria's Dying Habit' series of articles commenced in The Age on July 27. The leading story reported that the State Cabinet was considering the ACCV tax increase and sport buy-out plan, along with a ban on tobacco advertising.

The industry response called upon the usual arguments about bans being ineffective and unprincipled, and tax increases unfair and coercive. The notion that the Government might replace tobacco sponsorship of sport was 'ridiculous'.

As The Age series continued, the industry responded in a more spirited way. On August 7, the TIA lodged an advertisement in response to that of the ACCV, using statistics from the ACCV's opinion poll (they were yet to commission their own) showing that the majority of smokers and blue-collar workers did not approve of higher taxes on cigarettes. On August 12, the TIA was granted 'Open Space' in The Age for an opinion piece by the then Chief Executive Officer, Blair Hunt PhD.

Clearly wounded by the media onslaught, Dr Hunt's column accused The Age of sensationalism and inaccuracy. His article also sternly pointed out that the ACCV's controversial proposals were not the subject of Cabinet deliberations, but merely "a submission to a minister." The whole affair was a 'gigantic beat-up'.

Dr Hunt's comments accurately reflected the state of knowledge of the tobacco industry, though not the actual state-of-play. It was probably only with the press announcement of the content of the Bill on October 7 that full realisation dawned on the industry, while they were busy responding to activity on another front: the Federal Government had just announced its intention to ban smoking on Australian domestic aircraft.

Their response was instant, and was as predictable for its vituperation as it was

for its content. The industry was particularly piqued because it had been deliberately excluded from consultation to date. It could only hope to overcome this disadvantage by mounting rapid rearguard action. Their most prominent spokesman was John Dollisson, the then Director of Corporate Services for Philip Morris, and a former Chief Executive Officer of the TIA.

Mr Dollisson was undoubtedly the industry's most aggressive and effective spokesman, and he assumed the media limelight from Dr Hunt.

Mr Dollisson soon set the industry agenda, representing the Government as undemocratic, and the Bill as 'un-Australian'. Using catchwords like 'big brother' and 'nanny state', the industry and its allies accused the Government of curbing civil liberties and engaging in social engineering.

Advertising bans on cigarettes were discriminatory, hypocritical and ineffective, and the outdoor advertising and cinema industries would lose revenue and possibly jobs. Sporting organisations would lose the right to choose their own funding sources. The commercial freedoms of a legal industry would be unconscionably restricted.

Of all the tobacco companies, Philip Morris was by far the most active in opposing the legislation. This was partly strategic (Mr Dollisson being the industry's most articulate lobbyist), partly geographic (Philip Morris is the only manufacturer operating out of Victoria), and partly because Philip Morris was most individually threatened by the legislation.

Among the proposed legislation's intentions was a ban on sales of cigarettes in packets smaller than 20, imports excepted. The only Australian manufacturer using a packet configuration of less than 20 was Philip Morris, which was marketing two of its brands, Peter Jackson and Alpine, in packets of 15.

Advertising for both brands was particularly attractive, and the lower price of the smaller packets made them an obvious choice for children. Philip Morris had been the target of sustained criticism by the Health Lobby, and very

public attack by Mr Dick Smith, a widely respected publisher and ardent anti-drug campaigner.

Very soon industry-originated misrepresentations and distortions of the legislation were appearing in the media. In the first days after the announcement of the Bill, the Minister for Health issued a media statement with a lengthy attachment, systematically debunking the confusion of new myths that had already arisen around the proposed legislation.

Tobacco industry allies

The range of tobacco industry friends and allies contained no surprises. Their supporters were drawn from the advertising industry, known sporting supporters, and of course, the various components of the tobacco industry itself.

Key organisations which made public their opposition to the Tobacco Bill, were the Tobacco Growers of Victoria, the Australian Retail Tobacconists' Association, the Federated Tobacco Workers Union of Australia, and Fair Go: a small Sydney-based, tobacco industry-supported lobby group which had previously successfully persuaded the New South Wales State Government to rescind a ban on smoking on public transport.

Two overseeing advertising bodies, the Advertising Federation of Australia and the Outdoor Advertising Association of Australia (OAAA), were also critical of the legislation (see Section 12).

A small number of prominent sporting organisations also sided with the tobacco industry. These were the Confederation of Australian Sport, the Confederation of Australian Motor Sports, the Victorian Amateur Turf Club, the Victorian Racing Committee, and organising bodies for soccer and cricket (see Section 11).

The pro-tobacco lobby contacted parliamentarians from all parties, and arranged personal visits, telephone calls and letters. A barrage of information was directed to each politician.

It was abundantly clear that the tobacco industry was not about to stint on resources. A press headline on October

20 proclaimed "tobacco firms willing to spend millions on fight", and the article went on to claim that the industry had "already run up a million-dollar bill for a concentrated newspaper and television campaign".

The tobacco workers' lobby

Philip Morris encouraged its local workers to lobby their politicians. Philip Morris employees and representatives of advertising and other 'threatened' trades, also rallied on the steps of Parliament House on October 20. Main catchcries concerned potential job losses, an anomaly which was not lost on the media. The next day, one of The Age opinion writers wryly observed that if industry defences of advertisements were correct, (that they don't encourage new smokers), then tobacco workers surely had nothing to fear from advertising bans.

Tobacco Institute of Australia's opinion poll

The TIA commissioned the Roy Morgan Research Centre to undertake an opinion poll to counter that of the ACCV. Given the phrasing of the questions, which implied that the Government was stifling debate, would control sport and the arts, and that the advertising bans were illogical because of their selectivity (the industry stopped short of asking whether public support would be higher for a total ban!), it is not surprising that their key findings ran directly against those of the ACCV. Their question about whether advertising has any effect on teenagers was similarly designed to gain a negative response (as, in general, people do not attribute decision to purchase directly to advertising - but in the absence of advertising, are less likely to be stimulated to make the decision). The questions and responses are reproduced below:

State Government control of sponsorship decisions

As well as banning cigarette companies from sponsoring local sport, the arts and concerts, the State Government would increase cigarette taxes by 20% and collect an estimated \$32 million. That money would be used to fund

sponsorship of sports, the arts and concerts of the Government's choosing. Do you favour or oppose those sponsorships being controlled by the Victorian Government?

61% opposed, 33% favoured, 6% undecided.

Cigarette advertising and its influence

The State Government is planning to legislate to selectively ban cigarette advertising in cinemas, on billboards and posters and outside shops, but allow advertising in magazines and newspapers. Do you agree or disagree with a selective ban on some cigarette advertising and not on others?

28% agreed, 68% disagreed, 4% undecided.

Which do you think is the major influence why teenagers start to smoke - advertising, or family and friends?

80% said family and friends, 15% said advertising, 5% undecided.

The proposed legislation - push it through quickly or more debate?

Do you think the State Government should push this legislation through Parliament quickly, or should there be more debate among the interested parties first?

76% wanted more debate, 21% wanted the legislation pushed through quickly, and 3% were undecided.

The industry widely publicised the results of their poll in media releases and in press advertisements. However, the poll did not only receive criticism from the Health Lobby. At least one press report (The Age News Diary, October 29) criticised the TIA poll as likely to be biased due to the leading nature of the questions asked.

Press advertisements

A number of advertisements were inserted in the names of Philip Morris Ltd and the TIA.

Philip Morris placed advertisements in the Victorian press in late July and early August, presumably in response to The

• Tobacco Institute press advertisement

Age's series of articles and Quit Week. The first advertisement bore the slogan "If I don't smoke in your face, please take your tongue out of my ear". The advertisement carried no other text, and earned general community distaste because of its somewhat unpleasant imagery.

A second advertisement placed by Philip Morris in August reported the findings of another Roy Morgan Research poll, presumably commissioned by Philip Morris.

The headline stated "Who says smokers have the right to be treated courteously and without harassment? 90% of Victorians". The subtext stated "83% of Victorians say that smokers have the right to normal commercial information about cigarette products".

The TIA lodged their first advertisement on August 7, in response to the flurry of activity in The Age over the preceding week. The advertisement made use of the CBRC's opinion poll, publishing the sub-set of smokers' views on some of the questions asked.

Headed "Message for John Cain from Victoria's smokers", the advertisement stated that nearly 80% of smokers did not approve of a 50 cent per packet tax rise on cigarettes, and that over 60% of blue-collar workers - smokers and non-smokers - did not approve of higher cigarette taxes. The tobacco company had chosen the highest disapproval ratings registered by the CBRC poll.

The next of their advertisements appeared on October 10, headed "The Government actually believes if you can't see cigarette advertising you won't smoke". The advertisement criticised the proposals on six counts: that it was "silly"; "unfair"; would "cost jobs"; was "another tax increase"; was "hypocritical"; and in case there was still some doubt, "wouldn't work".

The TIA lodged a third advertisement outlining the findings of their Roy Morgan Research poll (described above) on around October 27.

Television advertisement

The TIA commissioned advertising agency, Delbridge Otton, to produce a 60 second television advertisement, at a cost of \$70,000.

Code-named 'Commissar', it first went



- *The tobacco lobby hits back with the commissar's TV campaign*

to air during prime time on October 16, and continued with heavy exposure during sporting programs. Playing on the 'big brother' theme, it cast the Government as some kind of a totalitarian communist state run by sinister, uniformed bureaucrats intent on enforcing killjoy legislation.

Workers were deprived of their cigarette machines and Christmas parties, and sportspeople of their sponsorship.

The advertisement did not gain the public response hoped for by the Institute.

It was widely criticised in the media, one commentator from The Age calling

the campaign "so crude it is laughable", and commenting "the only avenue available to the industry was to distort the issue, and that it has done admirably."

Billboard advertisement

Using billboard space apparently donated by the OAAA, the industry's billboard campaign was unveiled on around October 13.

Blank white billboards appeared with the message "Censored by the Cain Government" stamped diagonally across them. Beneath this was the line "Tobacco now, what next?".

15. The legislative process

Drafting the Bill

Around the time the ACCV produced its first submission, the entire Health Act was being revised. As the possibility of new legislation became more real, Quit and ASH were invited to assist with the early drafting of legislation, which would enact the ACCV recommendations. Effort was concentrated on keeping the objectives of the legislation precise and workable, and the temptation to put together a Health Lobby 'wish list' was carefully avoided.

Out of discussions surrounding the complexities of legislating for replacement funding of sport, the notion of establishing a new, independent statutory foundation developed. This was the brainchild of Peter Worland, senior

advisor to the Minister for Health. A new foundation would achieve a number of ends. Importantly, it would lay to rest criticisms that the new tax would in effect be some kind of Government 'slush fund', which would allow ministers to hand out cheques to sporting bodies for electoral gain. It would also secure the principal of hypothecation of revenue following the life of the current Government.

After this, the charter of the Foundation rapidly filled out. It was obviously unfair for the Foundation to give funding only to groups which had previously accepted tobacco sponsorship: this ignored the many groups which had refused tobacco money on principle and were very

deserving of support. So the Foundation became a body which would be able to provide funds to any deserving sporting, arts or cultural body, in the interests of health promotion. Funding of health promotion research and medical research was also allowed for.

Proposed curbs on advertising and promotion were restricted to the politically viable. This meant that a ban on print media was excluded, not because it was impossible, but because it would probably have been unattainable and would have jeopardized the success of the rest of the legislation. Strongly of the view that a good Bill passed was better than an excellent Bill failed, a pragmatic attitude was maintained.

Other existing tobacco-related legislation was embraced by the Bill as well. Prior to this, legislation concerning smoking in Victoria was piecemeal and scattered between a number of disparate Acts.

All told, nearly six months of intensive and highly confidential work went into the research and development of the proposals and the Bill. At no stage during the drafting process was there any guarantee that the Bill would actually come before Parliament. This depended on the political will of the Government, the state of the Parliamentary timetable, and on the continuum of external political life, which at any time could have postponed or completely removed the proposed legislation from the agenda.

Passage of the Bill

Despite the best planning, there was never a watertight assurance that the Bill would pass. There was always the chance that it would be bounced from the parliamentary agenda for political or other intervening reasons, or that the Bill would not get through the Upper House due to last-minute shaking of Liberal and National Party resolve by the tobacco industry.

Because of the short period of time available for debate, there was also the danger of 'filibustering' (where those opposing the Bill find ways to keep the Bill from being put to the vote). This can happen through arranging for protracted debate, having debate adjourned, or in other ways deliberately stalling the train of events.

Had this happened, the Bill would have remained unpassed, and the tobacco industry would have had the summer recess to work towards ensuring that the Bill would not reappear on the parliamentary agenda in the following autumn. In this event, it would have been extremely difficult for the Health Lobby to maintain the momentum of its campaign.

The Bill was introduced into the Legislative Assembly by Tom Roper MP,

Minister for Transport and former Minister for Health, on October 7. As anticipated, the Bill rapidly passed through the Lower House, where the Government held a majority. Major debate commenced in the Legislative Council (Upper House) on October 30, when David White delivered the Second Reading Speech.

The Opposition held a majority in the Upper House by one vote, giving them the power to force amendments to the legislation, or reject it outright. An attempt to delay the Bill by a filibuster, by the National Party, drew a response from Mr White, that Parliament would sit until the Bill was passed. As they had publicly announced, the Opposition supported the thrust of the Bill, but intended to make a number of amendments.

In fact, they amended it 45 times, although in practice only two of those amendments were consequential. (It is important to note that not all of the Liberal Party's amendments were intended to weaken the Legislation. They ensured that the fine for selling cigarettes to children was doubled. Mr Birrell also called upon Mr White to liaise with other state Ministers for Health to ban advertising in the print media.)

One amendment allowed for three politicians, one from each party represented in Victorian Parliament, to be nominated to the Board of VicHealth. The other amendment was far more inflammatory. The Opposition was intent on removing the total ban on tobacco sponsorship, thereby allowing sport and other bodies the freedom to choose the source of their funding.

On this point, the Opposition argued that by allowing exemptions for particular sports (namely national and international events), the legislation unfairly discriminated against lesser sports. However the Foundation would have written into its charter the direction to spend at least 30% of its annual income on funding sports clubs and arts groups. This would ensure that the Foundation would have the capacity to replace all current tobacco sponsorships.

The Bill was finally passed in the Legislative Council at 12.43am on

Saturday, October 31. However, it was the view of the Government, and particularly the Premier, that the amendment allowing the continuation of sponsorship by tobacco companies seriously compromised the intent of the Bill.

The industry would be free to out-bid the Foundation for funding of key events: tobacco exposure through sponsorship could even increase, especially as the industry would be prevented from spending money on billboard and cinema advertising.

Premier Cain stated in press reports that the Government would reject the amendments, altering the Bill to its original form and sending it back to the Legislative Council for renewed debate. The Liberals made it clear that they would not change their stance. The entire legislation appeared to be on the brink of failure.

The Health Lobby worked feverishly to rescue the Bill. In an 'Open Space' opinion piece in *The Age* on November 5, Dr Gray wrote that "in summary, the differences between the parties (were) very small and the grounds for agreement very large". He went on to say "As one who has advocated this cause for many years, I now feel that we are on the verge of taking an historic step forward.

It would be a great tragedy if the baby were thrown out with the bathwater, and the certainty of the bill was destroyed because the Government and the Opposition cannot negotiate this final issue."

Dr Gray's desperate eleventh-hour diplomacy was much resented by the Government, but to the great relief of the Health Lobby, the amendment was eventually conceded, with some regulation of advertising signage to be determined in the future.

The Premier extended the sitting of Parliament for an extra day so that debate could be concluded, and the amended Bill was ratified by the House of Assembly early on Saturday morning, November 14.

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