

Chapter 7

FUN WITH ETS

A thoughtful man, even if he is a nonsmoker, carries a lighter or matches so he can light a woman's cigarette.

— Amy Vanderbilt (1958)¹

Irrational emotions against smoking and the return of puritanism under the guise of political correctness have thus, at least in America, contributed to the decline of civility.

— Pierre Lemieux (1996)²

THE PREVIOUS CHAPTER ended on rather a somber note. Let's start this one by looking at some more adventures folks have had with environmental tobacco smoke, or ETS, and some of the ways in which the crusade against smoking has contributed to the decline of civility in late 20th-century American life.

As we learned in Chapter 6, cigarette smoke penetrated the closed door of a man's apartment with enough effect to make him start coughing even though he was some distance away in the bedroom, and cigarette smoke disabled a teacher in a room on a floor above and also some distance away from a smoking lounge. These are by far not the only instances of this phenomenon. In 1992 a couple in Chesapeake, Virginia, took their landlord to court asking that he be forced to seal off their apartment from the smoke-laden air of their next-door neighbors on the ground that it was a health hazard the landlord had a duty to prevent. It was the first such suit in the state, according to Virginia GASP (Group Against Smoking in Public).

Pamela and David Billings said they began smelling cigarette smoke after a family with two smokers moved next door. David Billings testified that several times he had “gagged . . . walking into my own bathroom.” Pamela Billings, who has a form of asthma, testified that she suffered burning eyes and breathing problems. Four other current or former residents of the complex testified that they had the same problems.

A city inspector found a half-inch hole under a flange behind a kitchen pipe and a four-inch hole under the bathroom sink, cut out to give access to a shut-off valve. Under questioning by the landlord’s attorney, the inspector agreed that the holes could be blocked with masking tape.

Unfortunately for the plaintiffs, they came up against an unreconstructed judge who smoked and was less than sympathetic to their plight. He not only threw the case out but terminated the Billings’s lease. He did not even allow testimony from GASP regarding the medical dangers of ETS.

As the president of the rental company summed it up, “Being strident and a tough guy isn’t always the best thing to do.”³

Another couple living in a Dover, New Jersey, co-op were a little less strident when they took their downstairs neighbor, a 60-year-old widow, to court. Although they claimed, among other things, that the defendant’s smoking had caused the wife to have an unfortunate ectopic pregnancy,* they merely demanded that the widow be required to refrain from smoking after four in the afternoon so that, presumably, the air would be cleared by the time they came home from work.⁴ I don’t know how that case came out.

Not so easy to make a judgment call on, though, is a case where a smoker did indeed pose a hazard to others, and himself as well. One John Womack, a smoker for more than 50 of his 67 years, was given 10 days to vacate his apartment—not because of his smoking but because the new owner of the complex learned that he smoked six cigarettes a day even while hooked up to an oxygen tank for his emphysema.

*To say the least, that would be difficult to prove. But who knows? According to a report in the *New York State Journal of Medicine*, one-millionth of a gram of tobacco smoke in a cubic yard of air “poses an unacceptable hazard.”⁵ A whole gram is one 350ths of an ounce. If a mere millionth of a gram of tobacco smoke is dangerous, then anything is possible.

Anna Corcoran, the apartment owner, said she wasn't aware that the man had just been told he had two months to live when she served the notice, but insisted she was only looking out for the welfare of the other tenants. Although Womack had been on oxygen for four years without an explosion or fire, there was certainly that possibility. Womack said he would stop smoking, which should be easy enough for someone down to only six cigarettes a day, but Corcoran countered, understandably, that there was no way to enforce the promise.⁶ I don't know how this came out either.

Not to digress already (but I will), one's next-door or downstairs neighbor's smoking is bad enough, but we can pass laws against that or haul them into court. What if he snores? (I say "he" because this usually seems to be a male problem.) I caught part of an "Oprah" show on the subject of snoring, aired in the Atlanta area on May 29, 1997, in which it was said that somebody, somewhere, snored so loudly that the neighbors called the police. I didn't hear the rest of the story. But what're you gonna do—ask the court to order the guy not to sleep after four P.M.?

Or what if you bought a house whose previous owner kept cats? A couple moved into a \$317,000 home in Fairfield Township, New Jersey, near Newark, in 1994 only to find (somehow they hadn't noticed it before) that their dream house not only reeked of cat urine but that the urine had seeped through the carpets, staining walls, rusting baseboard heaters and damaging electrical wires, all at a cost of \$125,000 in repairs. It was so bad that when they ran the dishwasher, "a yellow substance came out with a strong smell," they told an appellate court.⁷

Now *that's* a cat-astrophe (pun stolen from source), compared to which secondhand smoke pales to insignificance. In this case, however, no alleged ectopic pregnancy due to cat urine was involved.

According to the National Smokers Alliance, we have only seen the tip of the cigarette, so to speak, in this litigation-ripe matter of our neighbors' smoking. It reports that Action on Smoking and Health (ASH), a prominent antismoking group, has developed guidelines on how to force condominium associations and apartment buildings to ban smoking throughout their buildings, including in individual units.

ASH recommended these steps: 1) Examine your lease or condominium agreement; 2) Obtain medical documentation if possible; 3) Seek out other nonsmokers for support; 4) Seek help from local anti-

smoking organizations; 5) Reassure management that there is no right to smoke; 6) Consider and propose different remedies; 7) Consider advising management of potential liability; 8) If all else fails, consider legal action; 9) Know, and tell others, about the health dangers.⁸

And it appears that some are following ASH's advice. In Los Angeles, for example, a man filed suit against his downstairs neighbors to stop them from smoking. Claiming that he became physically ill and emotionally distressed, Roy R. Platt also sued his homeowners' association, asking that smoking be banned or restricted in his complex.

Some city and state governments are getting into the act. In Salem, Massachusetts, in 1996, a city council member attempted to prohibit smoking inside residents' apartments in the city's elderly housing complexes, which prompted one 69-year-old resident to comment: "Who the hell are they to dictate what someone can and cannot do in their own home? That's an invasion of civil rights." (He was 69 and he smoked and he wasn't dead? How could that be? Oh, never mind.)

The Fort Pierce, Florida, Housing Authority passed a no-smoking policy that required all new public housing tenants to agree not to smoke in their own homes. The policy would be a term of all new leases; current tenants would not be affected.

In Utah, state Senate President Lane Beattie asked legislators to draft laws that would help nonsmokers whose apartments and condominiums are invaded by tobacco smoke from nearby dwellings. According to *The Salt Lake Tribune*, experts at the Department of Health and others have been assigned the task of developing potential solutions to the "problem" of smoking in private residences. The results were to be introduced in the 1997 legislative session.⁹

"It's the nanny state run amok," commented Roger Pilon of the Washington, D.C.-based Cato Institute.¹⁰

As for how Fort Pierce Housing Authority would enforce the new policy, Commissioner Richard Sneed admitted that, "I don't know how we will go about policing it, but as a commission it is not our job to do that."

They just make the laws, ma'am. But no doubt the public-spirited citizens in Fort Pierce can be counted on to keep an eye on their neighbors and report infractions. After all, it takes a village to raise the collective consciousness.

Some are not amused. We're becoming "A Nation of Meddlers,"

wrote Charles Edgley, professor of sociology at Oklahoma State and Dennis Brissett, professor of behavioral science at the University at Minnesota Medical school, in an article with that title.

“These days . . . people are not only known by what they don’t do, but also by what they don’t tolerate: ‘I don’t drink, smoke, use drugs, or eat the wrong foods’ is not enough. Now self is preserved by adding emphatically: ‘and I don’t tolerate those who do!’ If the meddler seems to be happy, interesting, fun-loving, and (perhaps even healthy, satisfied, and fulfilled), this only increases the grim-faced challenge offered the meddler.”¹¹

Just how far are the nanny state or local communities and their meddling supporters prepared to go in the crusade against second-hand smoke? The antismokers are now laying claim to the wide-open spaces themselves of this great country as their very own.

Homeowners in little Rolling Hills, California, were apparently among the first in the nation to have the right to smoke in their own backyards taken away by ordinance.¹² In Flemington, New Jersey, however, only persons under 18 are prohibited from smoking in public or possessing tobacco products.¹³ That law is aimed at curbing youth smoking rather than ETS, but Friendship [*sic*] Heights, Maryland, considered trying to stop everybody from smoking outdoors.

A measure before the village council would have subjected anyone smoking, using smokeless tobacco or discarding tobacco products anywhere in Friendship Heights to a \$100 fine.¹⁴ According to the mayor, Dr. Alfred Muller, who is also an internist, the ban would convince children that smoking is not acceptable and would create a “smoke-free generation.” It wouldn’t infringe on anybody’s civil liberties because smokers could still smoke in their homes, out of view of impressionable youth or nonsmoking adults who might be offended at the sight of somebody enjoying a cigarette, pipe or cigar—if they weren’t dispatched in their prime by the secondhand smoke, that is.

As for his critics, the kindly physician was quoted in *The Washington Times* as saying, “Eventually, they [smokers] are going to die out. I think they should smoke as much as they like—that will cut down their membership quickly.”

Because Friendship Heights is unincorporated, however, the ordinance was subject to oversight by the Montgomery County Council, whose Health and Human Services Committee for some strange rea-

son (perhaps a fit of sanity?) voted three-to-one to kill the measure.¹⁵

This was only a minor setback. According to The Advocacy Institute, an antismoking group which monitors the nation's news media:

An article in the *New York Times* reports that local laws banning outdoor cigarette smoking appear to be gaining momentum. The tobacco industry says these measures illustrate tobacco control advocates' "prohibitionist zeal."

Particular attention has been drawn to a measure banning cigarette smoking from public parks in Bellaire, Texas. Thomas Lauria of the Tobacco Institute said, "This is tobacco apartheid at its worst. They're saying that a taxpayer cannot smoke a cigarette while walking his dog in the park? It's totally absurd." The city also bans dogs and open alcohol containers in its parks.

The California cities of Palo Alto and Davis and the Massachusetts town of Sharon have also instituted outdoor smoking bans. Davis and Palo Alto both prohibit individuals from smoking within 20 feet of a building's entrance that's open to the general public. Sharon's law prohibits smoking in any of the town's municipal recreation areas.

No attempts to repeal the outdoor smoking bans have been successful and none of the outdoor smoking bans have been legally challenged. According to the article, the American Civil Liberties Union (ACLU) has not decided whether it would support a constitutional challenge to the bans.¹⁶

The ACLU has, indeed, been conspicuous by its absence in cases involving smokers' rights, or alleged rights. In fact, Ronal Madnick, director of the Worcester County, Massachusetts, chapter of the organization, defended smoking regulations passed in Fitchburg and Leominster. Echoing Friendship Heights's Dr. Muller, he said, "There is no civil liberties issue here. The smokers' right is overruled by the right of the person who doesn't want to be exposed [to ETS]."¹⁷

There is a certain logic to this. After all, many things are illegal to do in public. Having sex, for instance, which is considered harmful to the public morals. Every country has some sort of law against that and few people (with the possible exception of English train riders, see below) would claim it is an infringement on their civil liberties. Most people would rather engage in this activity in private anyway. (Yet some states still prohibit certain kinds of sexual activities even in private between consenting adults.) As for smoking, however, the logic falters when you consider that people have been doing this in public for 400

years to no one's terrible distress—and all of a sudden the authorities decree, upon trumped-up evidence, that it is harmful to innocent bystanders. At the very least, there would seem to be a civil liberties issue involved in telling owners of private property, e.g., restaurants, bars, etc., that they may not permit smoking on their premises.

Davis and Palo Alto are actually very liberal. When I accompanied my ailing, never-smoked-a-day-in-his-life brother-in-law to the University of Massachusetts Hospital center in Worcester for some tests a few years before he died, a sign warned, “No Smoking Within 50 Feet of Building Or Entrances.” The prohibition was being observed in the breach by a number of smokers clustered right by the main entrance.

I could understand how a wisp of cigarette smoke might enter the building when somebody opened a door. But were the brick walls that porous?

According to ASH, however, which always takes the most extreme position possible, to a sensitive nonsmoker “a cloud of tobacco smoke contamination constitutes as great a barrier to access [to a public facility] as flights of stairs present to a disabled person in a wheelchair.”¹⁸ As such it's a violation of Title III of the Americans With Disabilities Act, ASH claims. Indeed, the U.S. Court of Appeals for the Second Circuit in New York has ruled that sensitive nonsmokers are entitled to protection from secondhand tobacco smoke under that rubric.¹⁹

Funny, I didn't see any indication of this accessibility problem at the hospital in Worcester. Everyone who entered did so with no observable difficulty. Some of them surely were nonsmokers.

But what about the barriers sensitive antismokers—sensitive to nobody's rights but their own, that is—are erecting against smokers? The Daut family was turned away from a Best Western Motel (my source doesn't say where) because the manager noticed a pack of cigarettes in Mr. Daut's possession. He wouldn't rent a room to nonsmoking Mrs. Daut or their nonsmoking children either because their clothing might exude the smell of smoke.²⁰

Most smokers, one hopes, have learned to be considerate of nonsmokers. What about consideration for a smoker—me—not for his smoking but for his sensitivity to loud, obtrusive music everywhere he goes? I have had more than one dining-out experience spoiled by the blare of so-called music, sometimes from a speaker right over my head. I can't be the only one.

When I worked at a Wal-Mart store after my retirement from editorial writing, the incessant “mood” music used to drive me nuts and I would sneak into the back to the control panel and turn it down. Inevitably, one of the managers would turn it up again. At an exercise spa I used to go to I had to use earplugs. There are young men who live in my neighborhood whose cars can be heard (felt, actually) a block away because of the BOOM-BOOM-BOOM of their stereo amplifiers, even through closed doors and windows.

Music, or the noise that’s called music today, isn’t a threat to health like ETS, you say. Well, it makes me very irritable and agitated, and that isn’t good for my mental health. I could have a nervous breakdown or even develop a manic-depressive illness, and you nonsmokers would have to pay for my treatment. According to the National Institute of Mental Health, manic-depressive illness, or “bipolar disorder,” cost the nation a staggering \$45 billion in 1991 for in-patient and out-patient care and the lost productivity of wage-earners and homemakers, among other things.²¹ That is not markedly inferior to the alleged cost of smoking-related illnesses.

All right, I’m being funny (?). The point is that people do a lot of things that bother other people. Where it causes merely annoyance, or even personal discomfort, but where there is no clear-cut, demonstrable, provable harm to others—as there is *not* in the case of ETS—should we call for laws and ordinances prohibiting the annoying or discomforting behavior simply because we may have the majority clout to do so, or should we find ways to get along with one another?

Unfortunately, in the case of ETS, that is the essence of the “accommodation” solution put forward by the always suspect tobacco industry, and it’s the unaccommodating, uncompromising, true-believing antismokers who are currently in the saddle. Onward then with laws, ordinances, prohibitions and bans.

Desirable as a smoke-free society may be (and what the healthists will want to “free” us from after that is a whole other subject), the road to that utopia promises to be anything but smooth. For the most part smokers have meekly let themselves be pushed outside, as well as around, with little protest. But sad to say, in 1993 one smoker was evidently pushed all the way over the edge.

It happened in San Pablo, California, where Daphnye Luster lit a cigarette in the nonsmoking section of a restaurant. Four women at

another table complained and she was asked to leave. The 20-year-old mother of four did so, only to return with a shotgun with which she killed one of the women, Rachell Rashan Houston, aged 22.²² Thankfully, that is the only incident of its kind that I'm aware of.

In Cincinnati, however, in a decision reinstating an antismoking activist's lawsuit against a local radio station, the 1st Ohio District Court of Appeals held that tobacco smoke itself could qualify as battery because it fell within the state supreme court's definition of "offensive contact." In this case, Ahron Leichtman of Citizens for a Tobacco-Free Society had gone on a WLW-AM talk show on the eve of the 1991 "Great American Smokeout" to discuss the dangers of secondhand smoke, during which broadcaster Andy Furman allegedly deliberately blew cigar smoke in Leichtman's face.²³

More recently, in Smyrna, Tennessee, officials were investigating three suspicious fires at the Cambridge Medical Center. They believed the fires may have been set by residents of the nursing home protesting a new no-smoking policy.²⁴ After the third fire, three residents and five employees were treated for smoke inhalation, which I would guess was a little more serious than anything a resident's secondhand smoke might have done to them.

By way of evening things up, though, a 60-year-old patron was bounced from a New York City restaurant by five waiters, who allegedly kicked, punched and threw him out into the street for the crime of smoking.

The office of the Manhattan District Attorney defended the restaurant's right to "use physical force . . . to eject abusive customers." Although the man was in a coma (for how long, I don't know), the D.A. claimed there was "insufficient evidence that excessive force was used [since] the only physical injury was to the back of the man's head."²⁵

On a happier note, those who believe that bans on smoking indoors are saving lives can cite at least one case in proof.

According to a report in the Hanover, Virginia, *Herald-Progress*, one Roscoe Wingfield stepped out onto the loading platform of the Ashland Milling Company for a smoke. When he heard cries for help coming from the nearby South Anna River, Wingfield ran to the water and pulled out a handicapped man who had been fishing from a wheelchair and had accidentally rolled into the current. If Wingfield hadn't been smoking outside, the man would probably have drowned.²⁶

With more and more people becoming vulnerable to secondhand smoke, and with the unlikelihood of the Environmental Protection Agency ever succeeding in removing the last molecule of unhealthy “particulate matter” from the nation’s air, something more needs to be done to prevent further episodes of violence like those recounted above, other than merely banning smoking indoors. That will solve neither the problem of ETS pollution outdoors nor that of industrial and automotive pollution outdoors (which in the EPA’s eyes gets worse the more it gets better).

I’m happy to report that there may be a solution. A company called Environmed Research, Inc., has developed a “personal air-purifying respirator” (APR). As described in a release posted on the World Wide Web on March 23, 1997,²⁷ an APR consists of three basic components: a face mask, a filter and/or cartridge to remove dust, smaller particles and mists, and a cartridge filter to remove chemical gases. The company admits that:

The personal use of APRs at home, work, on the street, and in cars is not yet common or fashionable but it will be—very soon. A good APR looks weird at first glance—it certainly is not inconspicuous because it requires two large canisters on either side of the face mask. The mask also has to be supported by a neck strap and two elastic straps that go over the top of your head and mess with your hair. Until more people wear APRs and everyone is used to them, we can safely say that if you strap one on to go to work, or walk the dog, most people will say “it looks weird!”

But looks aside these devices are a solution to an ever increasing problem of contaminated air. An APR can protect you and make you feel a lot better when there are airborne problems and you have to breathe. We predict they will become fashionable.

An added benefit, it occurs to me, is that if the use of personal air-purifying respirators ever did become fashionable, it would be easy to identify smokers and avoid them: they’d be the ones walking around *without* the respirators.

Environmed’s enthusiasm for its product notwithstanding, I don’t think there’s much future for it. The physical condition of nonsmokers is already precarious at best (as we saw in Chapter 6, one whiff of secondhand smoke can prostrate them) and I doubt that many would want to be burdened with carrying around a personal respirator when it’s so much easier to pass regulations to curb smoking.

There may be another solution, however. In Canada, where the antismokers are as much a social plague as they are in the States, a couple of enterprising people have successfully pioneered the first “oxygen bar.”

“We offer a breath of fresh air,” says Shamilia Hunter, who along with Lissa Charon opened the O2 Spa Bar in Toronto. “People work a lot. They’re stressed. They have headaches, especially in the summer when the air quality gets so poor. They can come in here for 20 minutes, breathe pure oxygen [definitely no smoking there!—D.O.] and relax. By the time they leave, their head’s clear, they feel great, they have more energy.”²⁸

Whether or not the idea of an oxygen bar will ever fly, the mania surrounding ETS *has* proven to be a boon to manufacturers of smoker shelters, as more and more employers send smoking employees out of doors to indulge their vile, nasty, disgusting, revolting and deadly-to-everyone habit. One of them is Duo-Guard Industries, Inc., a small company in Detroit, which since at least 1994 has been making and shipping prefabricated shelters to dozens of states. Three of them were installed by the VA Medical Center in New Orleans in that year so that men and women who served their nation in its various wars could smoke away their remaining days in peace without infringing upon their fellow citizens’ right to life, liberty and the pursuit of smokers.²⁹

I ALMOST STARTED to get somber again with that violence stuff. Ann Landers and Abigail Van Buren always make me laugh, whether they intend to or not, and usually they don’t, when they write about smoking. Here are two examples from Ann.

A reader wrote that he had seen a story in the *Times* of London that awakened him to the fact that “hatred for smokers is a worldwide problem.” He relates:

“It seems that a young English couple was having sex in a non-smoking section of a train. Fellow travelers did not object to the fact that they were openly indulging in the most intimate of human activities. Only when the couple lit up cigarettes afterward did the other passengers complain. The fine was \$142 each for smoking in a non-smoking area.

“Apparently it’s O.K. to fornicate in public as long as you don’t smoke. Does that prove my point or what?—Billy in Bangkok.”

Commented Ann: “It does indeed. How very British!”³⁰

In another column, Ann informed her readers that “The New York Transit Authority recently ruled that bare-breasted women on subways should be arrested ONLY if they create a disruptive or dangerous situation. In fact, police spokesman Al O’Leary said, ‘If a woman were sitting on a subway bench, topless, SMOKING A CIGARETTE, we would take action.’ [Caps in original.]

“So, folks,” said Ann, “I guess it’s O.K. to go half-naked in public in New York, just don’t smoke while you’re doing it.”³¹

We’ll certainly be on the lookout for topless women in New York, Ann, smoking or not.

Speaking of indecent exposure, or what used to be considered indecent, burlesque may be dead in the Big Apple but much more than mere toplessness is routine in the legitimate theater these days, not only in that depraved city but elsewhere in the country. However, it wasn’t nudity or even simulated sex, violence and foul language that offended a member of an audience at a performance of a play called “Unidentified Human Remains and the True Nature of Love” at Actor’s Express in Atlanta. According to artistic director Chris Coleman, the only patron to walk out did so because he was offended by the smoking that occurred in the play.³²

Another from the theater of the absurd: In New Haven actress Judy Geeson was playing a chain-smoking woman in the play “Faith Healer.” Suddenly a man stood up and shouted, “This is disgraceful! You’re going to kill yourself with the amount you smoke!” He then walked out, muttering that smoking was not permitted in the theater in the first place.³³

It’s also not permitted in theaters in Boulder, Colorado, or any other public building in that politically correct city. The Boulder Dinner Theatre was putting on a production of the Broadway musical “Grand Hotel,” which includes a one-minute scene where a couple characters smoke. An irate patron called the police, who ordered the owner of the theater to eliminate the scene or face ninety days in jail and a \$1,000 fine. This put the owner between a rock and a hard place because copyright law forbade him from altering the play at the risk of civil litigation.

“It’s so funny,” said the copyright owner. “In these censorious times, everyone goes home and sits around the dinner table and talks about how great it is to live in a free country.”³⁴

Apparently it's easier to get away with murdering a child in Boulder, Colorado, than it is to smoke a cigarette in public.

Nor was smoking permitted inside the Richmond County Civic Center in Augusta, Georgia—until the authorities decided that forcing concertgoers to go outside to smoke between numbers was even more dangerous to their health than their smoking: it put them at risk of being mugged or robbed. They voted to relax the ban to allow smoking in the concourse area of the main arena.³⁵

Such solicitude for smokers is rare indeed these days.

This next item has nothing to do with smoking but it qualifies for inclusion here under the headings of political correctness and protecting children from bad influences.

Cellist Anne Conrad-Antoville quit the Eureka, California, symphony orchestra rather than perform Prokofieff's "Peter and the Wolf," the classic children's musical work with narration which, if I remember aright, is sympathetic to wolves. But Conrad-Antoville huffed and puffed that it teaches children "to hate and fear wolves and to applaud a hunter who kills a wolf." She called on the public to boycott the performance. As it turned out, her protest actually gave ticket sales a boost.³⁶

This doesn't have anything to do with smoking either, but I'll strain to make that connection anyway. During a concert in New York City (my clipping doesn't say where but probably at Avery Fisher Hall), New York Philharmonic conductor Kurt Masur threw down his baton in disgust in midplay because of all the coughing from the audience. "The coughing was so strong, I could hardly hear the strings' pianissimo," he said later.³⁷

Let's think about that. In view of the drastic decline in the number of smokers, and the fact that smoking was certainly not allowed wherever this happened, the audience could not have all been smokers, even though we know that only smokers ever cough. The only explanation is that people had had to pass by smokers congregated outside when they entered the place and were only clearing secondhand smoke from their lungs during the concert. (Then again, it could possibly have been caused by "sick building syndrome" about which more later.)

One last item from the performing world, which this time is not entirely unrelated to smoking. One Jeanine Fleming wrote to *The Atlanta Journal-Constitution*:

"I attended the back-to-back productions of 'Angels in America'

at the Alliance Theater. My experience was marred by the inconsiderate playgoers seated around us who had drenched themselves in strong perfume and aftershave. We were surrounded by so many different, intrusive scents that it made me feel sick to my stomach and made my companion's eyes water . . . [T]his is as bad as sitting next to me and lighting up a cigarette."³⁸

Than which there is nothing badder! But I sympathize with the writer, for I too have been offended by the strong odor of perfume or aftershave in enclosed places. I particularly remember a fellow who rode the bus I used to take into Washington who must have drenched himself in Aqua Velva each morning, causing us scent-sensitive fellow passengers to gag. To paraphrase from the surgeon general's 1964 report on smoking, "Perfume and Aftershave Are A Health Hazard (Well, A Personal Annoyance Anyway) of Sufficient Importance in the United States to Warrant Appropriate Remedial Action."

Truly, personal scents may well be next on the anti-everything hit list. An organization called the Human Ecology Action League has declared that "Perfume is going to be the tobacco smoke of tomorrow."³⁹ The University of Minnesota's School of Social Work has adopted a "scent-free policy" banning perfumes, colognes, shampoos and other products from certain areas that could cause discomfort to those who suffer from "multiple chemical sensitivities."⁴⁰ Commenting upon this, *The New York Times* suggested that it may mark the beginning of a national "chemical correctness" revolution.⁴¹ (As Steven Milloy has remarked, "Ah, so much to ban. So little time.")

"No one should be wearing perfume to the theater," says Julia Kendall of the Chemical Injury Litigation Project. "Why should we have brain damage because people are wearing toxic chemicals?" Explaining the aptly named organization's agenda, she says, "Basically, we want to destroy the fragrance industry."⁴²

Statements like this suggest to me that brain damage can occur even in the absence of toxic chemicals.

Speaking of personal odors reminds me that back in 1991 the National Cancer Institute (NCI) reported on a study which found that "people who regularly use alcohol-containing mouthwashes may [note that "may"—D.O.] have a 60 to 90 percent higher chance of developing cancer in the mouth or upper throat than those who don't use such products."⁴³

According to Dr. William J. Blot, who headed the study, these two forms of cancers strike nearly 30,000 Americans each year and kill about 9,000 of them.

At the time I was just beginning to get concerned about all the “revelations” regarding secondhand smoke and actually started writing a funny(?) piece of satire on the newly discovered mouthwash peril in which I pretended to recount the history of this unfolding public-health menace. Soon after the NCI study, I wrote, other studies started coming in not only confirming the oral cancer “link” but implicating the inadvertent swallowing of mouthwash as a cause of esophageal, colorectal and other cancers. Then came the first study “suggesting” a link between the *secondhand breath* of mouthwash users and cancer in innocent bystanders. There quickly followed a pronouncement by the surgeon general that mouthwash-induced cancer was the second most preventable cause of death in the United States (next to smoking, of course). Mouthwash users became social outcasts. Eventually the government issued rules prohibiting them from appearing in public without face masks and finally banned alcohol-containing mouthwash entirely.

All of which was thoroughly silly—although who would ever have imagined how far the ETS madness would go? I did expect that there would be more studies on the mouthwash-cancer connection but I never saw any mention of it again until in the course of writing this chapter I came across a reference to the NCI study on Steven Milloy’s “Junk Science” site on the Internet. It quoted from an article in the *American Journal of Epidemiology* in which the authors, apparently using the mouthwash study as an example of how not to do epidemiology, pointed out that the study was flawed because it did not take into account such “confounders” as heavy alcohol and tobacco use and that the failure to do so could have produced the spurious relationship between mouthwash and oropharyngeal cancer.⁴⁴

I’ve brought this up only to demonstrate another point, and that is that when you read that something you do or use or breathe or eat gives you a higher chance of developing this or that kind of cancer, the alleged chance is usually minimal to the point of nonexistence. In the case of mouthwash, even the higher chance—90 percent—only meant that the researchers found a “relative risk” of 1.9 for people who used alcohol-containing mouthwashes compared with people who didn’t. To say it again, in epidemiology a relative risk of 1.0 is no risk at all and

anything less than 2.0 is not considered to be “significant.” Even a relative risk of 2.0, which translates into a scary 100 percent greater chance, is just barely “significant” and may tell us nothing at all about any actual risk in real life, whether or not the risk “suggested” by the particular study was “confounded.”

Nevertheless, as with ETS, where the estimated risk of 1.19 is practically at the no-risk level, the National Cancer Institute had felt it necessary to inform the public about the potential “danger” of mouthwash and at least one newspaper reported it as !!PAGE ONE NEWS!!

THE SUBJECT OF SCENTS and odors requires a section all its own in this chapter, for next to being killed by ETS, what rabid antismokers and otherwise tolerant nonsmokers alike hate most about other people’s smoking is the *smell*. Witness two representative e-mails that were sent to the smokers’ rights organization FORCES:

“Smoke your deathsticks as you please, just keep the stench away from those who haven’t asked to smell it.”

“What if I developed a habit for spraying foul-smelling aerosol into the air at random? Why should I not be able to? What about spraying toxic chemicals into your face as you are permitted to blow your cancerous smoke into mine?”

Or consider the following two messages posted on a variety of “alternate” newsgroups on the Internet, including alt.smokers and alt.support-nonsmokers:

“I do not blow my exhaust into a restaurant where people are eating, into a workplace where people are working or any public place where I would be normally arrested for trying to hook my exhaust up to.”

“I’ve been in the situation where minutes after I got out of the shower and left to go somewhere, I ended up in a public place where I had to briefly pass by a smoker, only to find that my hair and clothes picked up the smell which I either have to carry around with me for the rest of the day, or immediately return home for another shower at the risk of encountering another smoker anyway.”

All that from just “briefly passing by” a smoker? Now *that’s* sensitivity. And think of the damage smokers are forcing this person to do to his or her skin by removing essential oils with so many showers.

Again, as always, there’s Ann Landers, to whom “Sad in Baltimore” wrote:

“I met the girl of my dreams. She was beautiful, witty and bright and had a great sense of humor. We had a wonderful time together, but I had to pull out of the relationship. Her smoking turned me off.

“Miss X” made a big effort to keep from lighting up around me, but the smell of rancid smoke was in her hair and on her clothes. Her apartment stank like an old railroad station. I left a sweater there one night and had to take it to the cleaners before I could wear it again.”⁴⁵

(I used to know a girl, a nonsmoker, who had a pet lap dog she cuddled and nuzzled and even kissed on the mouth. That, and the doggy odor, turned me off. Which goes to show how weird *I* am.)

I’d say that “Miss X” was one lucky girl to be shut of that guy. At least “Sad” was able to salvage his sweater, unlike a teenager whose story of addiction to cigarettes was reprinted in *Reader’s Digest*. She writes that, although she can no longer smell tobacco on herself, “I remember one time before I smoked. I left my jacket at a friend’s house. Both her parents smoked. When I got the jacket back, I had to throw it away because it smelled like an ashtray. So I feel sorry for those who don’t smoke and have to put up with my odor all day.”⁴⁶

Hmm . . . Somehow her dislike for the odor of tobacco smoke didn’t keep the girl from taking up smoking herself. One wonders why.

Something is definitely wrong with me. For an odor that clings to one’s clothing, wood smoke far surpasses tobacco smoke in my opinion. When my son was in the Boy Scouts I went on camping trips with him. There was always a nightly sing-song around a bonfire, and when I got home my clothes would reek from the smoke. But a washing or just a tumble in the dryer got rid of it and I didn’t have to throw anything away.

Why can I smell wood smoke on myself but not tobacco smoke? My wife tells me I don’t smell it, let alone realize how *anful* it is, because I still smoke, and she certainly has a point. In 1995 some students at the University of South Carolina conducted a research project into popular beliefs about smells and one of the areas they investigated was the effect of smoking on olfactory acuity.

They reported that, according to the “1986 National Geographic Smell Survey,” of the people polled, smokers rated the intensity of androstenone [human sweat], cloves, and gas as weaker than those [ratings] of nonsmokers, while banana and musk were perceived as stronger by smokers. However, smokers and nonsmokers did not differ in

their detection of the rose scent. Additionally, smokers were less confident in their own ability to detect odors. As expected[!], smokers' responses to the survey demonstrated a lowered sensitivity to odor quality. Smokers found the odors rated as unpleasant by nonsmokers to be less offensive, and indicated a decreased appreciation of the pleasant odors, as well.

In an additional study conducted at the University of Indiana, 100 students were asked to use their noses to locate their own shirts from an assortment of shirts. Seventy-four of the 100 students were able to correctly identify their own shirts by scent alone. However, of participants that smoked more than 10 cigarettes per day, almost half were unable to correctly identify their own shirts.⁴⁷

Moderately interesting and probably totally meaningless. Presumably the students were blindfolded for the shirt search, but were they allowed to handle them or just stick their noses in them? As with everything connected with smoking, obviously "more studies are needed." But I question the finding that smokers are less sensitive to odors that nonsmokers rate as unpleasant (with the exception of tobacco smoke, of course, which the National Geographic survey apparently didn't cover), as well as being less appreciative of pleasant odors. (Another question is, why should the National Geographic Society care about people's smelling ability in the first place?) I think my sense of smell is pretty normal, except, again, when it comes to tobacco smoke.

When my wife and I visit friends in Florida, who have an automatic lawn sprinkler that uses ground water, every morning when the sprinkler turns on at 6:30 A.M. the strong smell of sulfur in the water wakes me up without fail like an alarm clock. Yet the sulfur smell doesn't waken my wife. I would also note that it took at least several years after she stopped smoking for her aversion to tobacco smoke to develop—coincidentally, or perhaps not so coincidentally, about the time the antis discovered the ETS issue.

Be all that as it may, why doesn't the smell of wood smoke send people to extremes of panic and vituperation? It contains all the carcinogens present in tobacco smoke.

In 1996 my wife and I stopped at a welcome center somewhere. I think it was in Hannibal, Missouri, on a visit to Mark Twain's boyhood home. Although it was in the middle of summer and no fire was burning, a strong and rank smell from the fireplace permeated the entire

building and I was glad when we left. There's nothing like the stink of a dead fireplace. But no one complained; after all, the stink wasn't coming from cigarette butts in an ashtray, of which, of course, there were none in the welcome center.

On another trip, an active fire was burning in a large fireplace in a restaurant in Merrifield, Virginia, where we and a former neighbor couple had dinner. I could smell the smoke as soon as we entered. Interestingly enough, the fire was in the nonsmoking section which, of course, is where we went. (Our friends knew I was a smoker but it did not occur to them to ask, nor did I expect them to ask, if I would prefer the smoking section, for it goes without saying that the smoker must always accommodate the nonsmoker.) While we were eating I jokingly complained about how offended I was by the odor from the fire. Everyone thought that was very funny.

The smell of wood smoke actually *was* fairly strong. Had it been tobacco smoke, there would have been complaints from everybody in the room, and *not* in jest.

Or take barbecues. Many a weekend chef looks forward to standing over his smoking charcoal broiler, breathing in far more carcinogens than he would get in a room full of cigarette smokers. But people like the smell of barbecue smoke, and were the chef to light a cigarette while cooking, his guests would chide him about the grave risk to his health.

I grew up during what can now be seen as the golden age of smoking. I was aware of the society around me. I read the newspaper, listened to the radio. I had close nonsmoking friends, shared college rooms and army barracks with them, and observed countless nonsmokers. Not once did I hear, or hear of, a complaint about the smoke from a cigarette, mine or anybody else's. If it can sneak up stairways today, crawl along hallways and penetrate closed doors to sicken innocent nonsmokers or block their access to a building entirely, why did it never happen in the old days?

Well, there was one incident, the only one I can recall, and the person involved was myself. Many years ago I was eating a meal at a diner counter and a guy on the stool next to me was obviously smoking a cigarette. What we now call "sidestream smoke" naturally drifted in my direction (as it always does to the person not smoking) and over the food on my plate. I thought it was rather inconsiderate of him not

to be aware of this and at least hold his cigarette down below the counter between puffs..

A cigarette after a good meal is one of life's little pleasures, one that is becoming increasingly forbidden in public eateries. Personally, though, I have never cared to smoke *while* eating. Yet this other guy's smoking while I was eating was such a minor annoyance that I don't remember where or when it occurred. I grant you of course that if this happened to me, it must have happened to many other people. Even so, you never heard any complaints.

I can also recall only one incident from the old days in which a nonsmoker, or a person I assume was a nonsmoker, berated a smoker, and this too involved myself. One day in 1955 I was in the card catalogue room in the library at the University of Chicago when I encountered an attractive coed of my acquaintance. We sat down on a bench and started chatting. Thoughtlessly, I took out and lit a cigarette.

Almost immediately an irate librarian, your stereotypical sour old maid (though she may have been on her third husband for all I knew) descended upon me. She could have smiled and said chidingly, "You know you can't smoke in here." Instead, she spat out those words with a devastatingly fierce glare. I was already operating on only half a wit by virtue of sitting next to a pretty girl and was so startled and suddenly guilt-ridden that I dropped the cigarette to the floor and stamped it out. This elicited another glare and the woman walked away.

I have seen this same guilty reaction in other smokers. A few years ago my wife and I and our son and his then fiancée were in a restaurant in Richmond, Virginia. Our table was on the edge of a section that was slightly elevated above the main floor. A man was standing just below smoking a cigarette and the smoke drifted (naturally) in my son's direction. Normally a very polite and tolerant person, he could have smiled and said gently, "Excuse me, sir, but would you mind blowing your smoke elsewhere." Instead, he reached down and tapped the fellow on the shoulder and, frowning, flicked his hand a couple times at the smoke, as if brushing away a fly. The guy got the message instantly and almost jumped away.

It goes without saying that I don't smoke in my son's presence or my stepson's, whether in their homes or in a restaurant with them. I refrain both out of consideration for them and because their disapproval, and that of larger society, has taken the pleasure out of smok-

ing in what used to be congenial settings. The comfort of nonsmokers supersedes everything else today, of course. Too often, though, the pure air they demand reeks of a strong odor of sanctimoniousness.

I think that the superior attitude of many nonsmokers partly reflects a kind of self-justification or smug self-congratulation on their part, either for an early decision not to start smoking or a later decision to stop smoking. Many ex-smokers, especially, have wholeheartedly embraced everything bad said about smoking, to the point that they have persuaded themselves that they never really liked to smoke and are oh so glad they quit, and frequently have become even more fanatical and intolerant on the subject than people who have never smoked at all.

But by “the old days” I don’t necessarily just mean my youth or early adulthood. It was not until 10 or 15 years after the surgeon general’s 1964 report that one started hearing protests from nonsmokers about being subjected to secondhand smoke. It was in 1978 that I personally first became aware of it, during one of those “if-it’s-Tuesday-this-must-be-Belgium” tours of Europe my wife and I took. There was a middle-aged lady across the aisle on the bus who put a handkerchief to her face and started making tiny little gasps the first time I lit a cigarette. I thereafter either didn’t smoke on the bus or did it the rear, where the tour group—including myself, I’m ashamed to say—had banished a fellow who liked cigars.

Little did I dream, not in a million years would I have dreamed, that my two-pack-a-day wife would one day manifest that same ultrasensitivity to cigarette smoke as that pathetic lady on the bus. Why didn’t one ever encounter such people in the old days? Because they stoically kept silent? But though the lady on the bus didn’t say anything; her gasping into a handkerchief was demonstrative enough. Why did I never see that kind of reaction in even one person in my three-plus decades of smoking up to that time? Today there are *millions* who cannot tolerate cigarette smoke and their ability to detect it would put a cocaine-sniffing DEA dog to shame. Where were those millions before the antismoking propaganda machine cranked up?

WHICH TAKES ME back to what I started to say. It’s almost as if there has been an evolutionary leap forward in our ability to detect health-threatening odors, or maybe a regression to the supposed olfactory sensitivity of our protohuman ancestors. As a result, we also seem to have

developed a new instinctual survival mechanism or an enhancement of the body's autonomic nervous system. Just as a person will instantly remove his hand from a hot surface without having to make a deliberate decision to do so, the merest scent of tobacco smoke will put a nonsmoker into protective flight mode without the necessity of conscious (or rational) thought on his part.

The problem with this line of speculation, however, is that this new sensitivity or “instinct” has appeared in just the past couple decades and evolution doesn't work that fast. Moreover, in the case of tobacco it has manifested itself only in nonsmokers or reformed ex-smokers. Active smokers, who are at greatest risk from tobacco smoke, strangely exhibit neither the odor sensitivity nor the aversive reaction. At the same time there has been a corresponding increase in the number of people afflicted with various breathing difficulties, especially asthma, along with claimed outright allergy to tobacco smoke, and this is also manifested only in nonsmokers. Some poor souls today are even disabblingly allergic to *everything*—victims of so-called “multiple chemical sensitivity,” or MCS—and a whole branch of medical (mal?)practice has arisen devoted to treating them.

Speaking of MCS, no less than that supreme guardian of the public health, the Environmental Protection Agency itself, was being sued as of this writing by 19 of its own employees to the tune of \$40 million because, they said, the air inside the EPA building at Waterside Mall in Washington made them sick. One of them, Amy Svoboda, claimed to have been permanently brain-damaged by the air she breathed in her office. According to an article by her sister in *Spin* magazine,⁴⁸ her symptoms included hearing loss, swollen joints, burning lungs and nose, stomach aches, nausea, loss of coordination and huge welts on her abdomen. She can't go out to a restaurant unless the place is relatively free of hair spray, perfume, deodorant, burning candles, makeup, aftershave, cleaning agents, pesticides, new furniture, gas fumes, the residue of recent renovation and, of course, cigarette smoke. As for other employees described in the article:

“Kirby Biggs, an analyst in the EPA's Superfund section, found he could no longer read a spreadsheet. ‘Looking at a report felt like I was making a paper cut across my eyeballs,’ he says. He lost 45 pounds in six months. Carol Bass, a national expert in hazardous waste, had trouble walking and talking. Her hair turned snow white when she was 44. Some-

times she cannot dial a phone, though she was once a concert violinist. Steve Spiegel, chief steward of the union local, passed out inexplicably on numerous occasions between 1988 and 1990 . . . Environmental scientist Emily Roth says she had difficulty figuring out how to get dressed in the morning. Susan Watkins went to an emergency room four times while working at Waterside Mall, once by ambulance. ‘My throat felt like I was breathing fiberglass. I couldn’t remember my name, and my right leg started dragging,’ she says. She retired on disability—at age 50 . . . Independent tests showed that mice put in a chamber with EPA carpet samples died within four hours. Almost a hundred workers quit, retired on disability, went on leave, or began working at home.”⁴⁹

Talk about anecdotal evidence! But it must be the explanation for all the crazy programs and cockamamie regulations the EPA has been imposing on Americans: the people who work for it are brain-fogged, if not mentally and physically disabled altogether! Interestingly, and most appropriately, one of the victim participants in the lawsuit was Mr. James Repace, he of “particulate matter” fame and one of the instigators of the EPA’s phony report on ETS, whom we met in the previous chapter.

What goes around comes around, EPA.

Since there are probably few if any smokers working for the EPA, and certainly none smoking inside the building, what do these employees and former employees blame for their symptoms? Besides cheapo government-issue carpeting, the alleged culprits include cheapo pressed-wood furniture saturated with formaldehyde, chemical-exuding photocopiers, fax machines and computers, and new manmade pesticides and air fresheners, the toxic emanations from all of which were exacerbated by poor ventilation in an insulated, air-tight building that was a legacy of the 1970s “energy crisis.”

And what did the EPA have to say in response to the suit? More or less that it was all in the complainants’ heads—which for once is an instance where the agency was probably right.

Truthfully, the best thing that could happen to this country would be if the Environmental Protection Agency were abolished outright, all its programs dismantled and its employees placed elsewhere in the federal bureaucracy. Even if they were all retired on millionaires’ pensions the nation would still save billions of dollars that the EPA’s phantom environmental scares are costing it.

Think I'm exaggerating? According to Tammy Tangs et al. at the Harvard Center for Risk Analysis, the median cost for every life (presumably) saved by the EPA is \$7,629,000. The second highest figure for a federal agency, the Occupational Safety and Health Administration, is \$88,000. For the Federal Aviation Administration, which I think millions of airline travelers would consider to be one of the most essential federal agencies, it is only \$23,000.⁵⁰

It would be one thing if the EPA's activities actually did save some lives, but once again we are talking about statistical projections (guesses), not real people. But there is no doubt that the agency is costing Americans huge sums of money, as well as great inconvenience, to no purpose. The following item printed in *The Atlanta Journal-Constitution* in 1994 speaks for itself:

A 1991 federal regulation requires cities to remove at least 30 percent of "organic waste" from incoming sewage before treating it. According to a *Washington Post* story in May, the Environmental Protection Agency refused to exempt Anchorage, Alaska, from the regulation, even though the city has so little organic waste coming in that its incoming waste is cleaner than most cities' outgoing waste. Required to comply anyway, Anchorage solved the problem by paying fish processors to purposely dump fish byproducts into the sewer so the city will have enough organic waste to remove.⁵¹

BUT I HAVE DIGRESSED again. Pending confirmation by science that there has been a fundamental change in the human physiology, it has to be assumed that 30 or 40 years ago, when smoking was widespread in society, human beings possessed the same degree of olfactory acuity and the same breathing apparatus and nervous systems as they do today. Then as now, most people didn't smoke. I ask again: why weren't the millions of nonsmokers annoyed by tobacco smoke long before now?

It may be suggested that people didn't know about the dangers of secondhand smoke back in those dark ages. Like children too young to be able to read and understand the warning label on a bottle of poison, they were simply unaware of the peril ETS presented.

Even so, if it stinks now, it stank then, didn't it?

The answer of course is that people have been conditioned to *expect* to be offended and feel threatened by someone's smoking. And

this is the truly great and historic triumph of the antismoking movement, the necessary prelude to the ultimate victory—total tobacco prohibition.

Not to belabor the matter (but I will), you never heard complaints about it back in the old days, when nearly half the population smoked and did so just about anywhere they pleased (although you were never allowed to smoke in elevators or department stores when I was growing up in Pittsburgh). There were no such things as nonsmoking motel or hotel rooms or nonsmoking sections in restaurants. When I was in college, smokers and nonsmokers shared dorm or fraternity rooms as a matter of course. At Carnegie Tech, when I was studying music, I would often smoke in one of the small, closed practice rooms while I listened to a fellow student playing the piano or violin, and there was no problem. I visited nonsmoking friends in their homes and they were glad to provide me with an ashtray. Never once in the decades of my life before ETS became an issue did I experience personally, or hear or read about, any objections to tobacco smoke.

I ask again, if it stinks now, it stank then too, didn't it?

In 1961 I attended a science symposium for journalists at Michigan State University in East Lansing and roomed with the editor of *Today's Health*, a general readership magazine published by the American Medical Association. He was a very stocky fellow about my age, and a nonsmoker. It didn't bother him a bit when I smoked in the room.

Today he'd surely comment about my smoking and the dangers thereof. If he did, I could make some kind of riposte like, "Well, I'd rather take a chance with smoking than be a big tub of lard like you, buddy." (I wouldn't, of course; I'd just not smoke in the room.)

Were nonsmokers simply too polite to complain? Maybe so, but surely somewhere, sometime in all those years, I should have observed at least a subtle indication of dislike or disapproval. Or did people complain and I was just too dense to be aware of it? I hardly think so. Yet I know that as far back as 1911, something called "The Non-Smokers' Protective League" was certified in New York State. Since people didn't "know" back then that secondhand tobacco smoke kills, what the league desired must have been simply "protection" from its respiratory annoyance and odor.

Today, even the tobacco companies have conceded that tobacco smoke stinks and, of course, have tried to use that concession to their

advantage. For example, a few years ago I saw billboards around Atlanta announcing “Horizon—the first cigarette that smells good.” I don’t remember what company made them but I bought a pack. As I anticipated, they had the same cloyingly sweet odor of a brand of pipe tobacco called, I believe, “Cookie Jar” that my father smoked occasionally. The sun quickly set on Horizon.

R. J. Reynolds is doing the same thing with its Eclipse cigarette, which it claims generates 80 percent less secondhand smoke and produces no ashes or “stains.” “With Eclipse, you get a great-tasting cigarette that leaves virtually no lingering odor on your clothes or in your home. So now you can enjoy being a smoker, without smelling like one,” the company advertises.

In effect, Reynolds is disparaging its own regular brands in order to promote the new less offensive brand. Somehow, I don’t think they are going to rack up many points with nonsmokers with that tactic.

Wait a minute. There *was* one incident in my early experience that demonstrated what to me was the uncanny ability of one nonsmoker to detect the odor of tobacco smoke. It was back in the 1940s. My best friend in school, Bob F., and I used to sneak smokes together. One evening we had gone to some function at the YMCA and were walking back to his house. I had a pack of cigarettes on me that I had procured somewhere, probably from the vending machine in the Colonial bowling alley, and suggested that we indulge.

“We can’t,” he said. “My mother would smell it on us.”

I told him he was crazy and persuaded him to light up with me. Sure enough, when we were sitting in the living room chatting with his mother, she sniffed and said she smelled cigarette smoke.

“Oh *that*,” we said. “That must be from people smoking at the Y.”

“People smoked in the Y?”

Yes, we assured her, some adults had. She looked at us dubiously and I could tell she was thinking: surely that nice Mrs. Oakley’s boy wouldn’t sit there and look at me with a straight face and lie, would he? Fortunately, her disbelief that I would or could lie prevailed and we got away with our crime. That, I can truthfully say, is the only instance in my experience of anyone remarking about the odor of tobacco smoke back in the old days.

In 1995 I saw Bob at our class’s 50th anniversary reunion for the first time since graduation. Considering all the antismoking flit that had

hit the shan in the past half-century, I was surprised to see he still smoked, one of two members of the class besides me who did. He was in fine health, he told me, and he looked it. His mother was long gone, of course, but his children wouldn't let him smoke in their homes, he said.

In an article about popular mass delusions, Australian sociologist Robert Bartholomew notes that they “all involve a rapid spread of false, but plausible, exaggerated beliefs that gain credibility within a particular social and cultural context . . . [E]veryday objects, events, and circumstances that would ordinarily receive scant attention become the subject of extraordinary scrutiny. Ambiguous agents are soon redefined according to the emerging definition of the situation, creating a self-fulfilling prophecy.”⁵²

Among contributing factors he lists the mass media, group conformity, and reinforcing actions by such authority figures as politicians or by institutions of social control.

Bartholomew was not talking about environmental tobacco smoke but about documented episodes of mass delusion—witch hunts (“moral” or real), belief in the widespread existence of satanic cults, visitations from space aliens, Communist infiltration scares and unfounded fears about the casual transmission of AIDS, to name a few. But I believe that what he says applies to the late 20th-century fear of ETS, and in this case the authority figures contributing to and reinforcing the “emerging definition of the situation”—i.e., that secondhand smoke kills—are the medical community, government regulatory bodies and the whole antismoking establishment.

In the opinion of another writer, the belief in the harmful effects of tobacco is an example of “the social construction of reality.”⁵³ That is, we didn't know these harmful effects existed until various institutions of society began telling us they did.

There is also what Michael Fumento calls “the nocebo effect”:

A nocebo is a negative placebo. That is, while a placebo pill makes you feel better though unbeknownst to you it's only made of sugar, a nocebo makes you feel bad though physiologically speaking it shouldn't be able to . . .

When a newspaper at which I worked moved to a new building somebody told the librarian that there was formaldehyde in her new library bookshelves. Formaldehyde is a suspected human carcinogen and the librarian knew this. Soon she was suffering

from a headache, aching joints, and labored breathing—all classic psychosomatic symptoms.

But then she heard there was no formaldehyde in the shelves. Suddenly the symptoms disappeared. Apparently the final word on the shelves was that they did contain formaldehyde but the librarian remained blissfully ignorant of this and hence symptom free.⁵⁴

Fumento also cites the examples of Love Canal, breast implants and, more recently, the “Gulf War Syndrome”—none of which became a “problem” until the media said there was (and liability-suit lawyers latched onto them), and in none of which there has ever been any credible evidence of harm to anyone.

While Fumento, an antismoker, would not be likely to acknowledge a “nocebo effect” when it comes to complaints about environmental tobacco smoke, a striking example of it from the smoking warfront has been provided by Pat Michaels, a reporter for the Newport Beach, California, *Newport News*:

Anti-cigarette smoking has reached a fanaticism bordering on hysteria. It could be dangerous to your health. To prove that point, this fearless reporter used one of those smokeless cigarettes made of plastic that look like a real cigarette. They can't be lit, though, and are normally supposed to hold some kind of inhalant to discourage smoking.

My first stop was at the Newport Harbour Elks Lodge and a seat at the piano bar in the smoking section. A lady at a nearby table kept getting up and opening a window that blew blasts of cold air on me. After I'd closed the window three times, and the woman had opened it an equal number, she said to me: “I'll make you a deal; if you stop smoking, I won't open the window anymore.” I told her I hadn't smoked in 20 years and my “cigarette” couldn't smoke. I also pointed out she was seated in the smoking section of the room reserved for smokers. “I don't care,” she screamed, ignoring my statement, “It's my table, I'm sitting at it, and you are making it impossible to enjoy my dinner.” It looked like her purse was about to swing in my direction so I left.

I went to Bandera in Corona del Mar. A waitress greeted me at Bandera's door and immediately noticed my “cigarette.” “You're not coming in here with that,” she said firmly. I told her it wasn't a cigarette. She claimed she knew a cigarette when she saw one and wasn't about to examine “that dirty thing.” She said Bandera's rules prohibited cigarettes, cigars and pipes of any kind. Out!

At Marie Callender's a woman in the next booth complained to

the management she couldn't breathe because of my "cigarette" and wanted me thrown out of there too.

A similar incident occurred at McDonald's on Coast Highway. And, you should have seen the excitement my phony cigarette caused at the Harbour Municipal Court building—something you felt could quickly degenerate into a lynch mob. No sir! If you're a smoker today, you're about as welcome in some local places as Arafat in Tel Aviv . . . ⁵⁵

No doubt Michaels employed a modicum of dramatic license in that story. But call it mass delusion or the nocebo effect, the fact is that popular perceptions about smoking have changed, or have *been* changed. It can be seen not only in ordinary people but in scientists themselves, as evidenced by an interesting experiment reported by George Carlo et al. in the journal *Risk Analysis*.

The experiment divided some 1,460 epidemiologists, toxicologists, physicians and general scientists into two groups. The first group was read a vignette that reflected "mainstream" scientific thinking on secondhand smoke. When queried, 70 percent of the scientists and physicians said that ETS was a serious environmental hazard, and 85 percent felt that public health intervention was necessary.

The second group was read the same vignette, but was told that it had to do with "substance X." Only 33 percent of these scientists and physicians thought that "substance X" was a serious health hazard, even though it was actually secondhand smoke, and only 41 percent felt that it warranted public health regulation.⁵⁶

Such an almost superstitious attitude toward ETS on the part of scientists represents another great accomplishment by the antismoking movement, as brilliant as its success in inciting the general public's panic over secondhand smoke in the first place, with the consequent transformation of smoking into a socially unacceptable, if not yet illegal, behavior.

ALAS, I'M AFRAID this is as funny as this chapter is going to get. What is possibly the most lamentable consequence of the ETS mania—one being fostered by that most fanatical of antismoking organizations, Action on Smoking and Health—involves child custody suits, where bitter divorced, divorcing or just plain bickering parents have been handed a new weapon to use against each other.

MOTHER MAY LOSE CUSTODY OVER SMOKING, EVEN IN KENTUCKY was the capitalized headline on one ASH press release posted on its World Wide Web site.⁵⁷ It reported that “Even in Kentucky, a mother may lose custody of her two sons because she allegedly subjects them to secondhand tobacco smoke.

“She now has primary custody of a six-year-old son who has allergies and must get shots, and a nine-year-old who, like his younger brother, has frequent throat and ear infections. Her former husband is seeking primary custody, claiming that her smoking is a major factor in causing these medical problems and other risks to his children.”

The case is hardly the first, said ASH, since in at least 15 states courts have held that subjecting children to secondhand smoke can be a factor in deciding custody. In another posting,⁵⁸ ASH cited 18 custody cases involving parents who smoke. Among them:

1988. Pizzitola v. Pizzitola. (Texas) Custody awarded to smoke-free father.

1989. Wilke v. Wilke. (Missouri) Custody awarded to smoke-free mother.

1989. Badeau v. Badeau. (Louisiana) In LaPlace, an appeals court upholds a lower court decision reducing a father’s visitation rights because his smoking aggravates his child’s bronchial problem.

1991. Mitchell v. Mitchell. (Tennessee) In this divorce case, the father had been awarded custody because the child suffered from asthma. On appeal, the court refuses to return custody of the child to its mother, even though she had joined a smoking cessation program.

1991. Brett Lee Bryant/Department of Social Services v. Wakely et al. (Michigan) The Michigan Court of Appeals upholds the decision of a civil court that placement of a child with his grandmother who smoked would not be in the child’s best interest. The child had respiratory problems and it was recommended that he live in close proximity to a hospital in Traverse City (where his grandparents were unable to relocate) and that he should live in a smoke-free environment. (Where the poor kid ended up, ASH didn’t say. No doubt in some non-smoking foster home. After all, blood isn’t as thick as tobacco smoke.)

1992. Sulva v. Isaacson. (Illinois) Judge William Ward signs an order barring Mr. Isaacson from smoking when he visits his son, the first such order in the state. The son, Alex, suffers from bronchitis and

it is alleged that his father's smoking might aggravate his condition. One smoke in front of his son could lead to a contempt citation and a jail sentence of up to six months, Isaacson is warned.

1992. John Doe v. Jane Doe. (South Carolina) Court awards custody of asthmatic child to father to prevent exposure to mother's tobacco smoke.

1993. Masone v. Tanner. (California) A county judge grants a nonsmoking father's request to remove an 8-year-old girl from the custody of his ex-wife because she continues to smoke despite an earlier court order that she not do so around the child. A doctor testifies that the girl has only 43 percent of her breathing capacity and would end up in an emergency room if her exposure to tobacco smoke continued.

Sometimes the court merely issues a warning:

1988. Roofeh v. Roofeh. (New York) Nassau County judge Ralph Diamond issues order forbidding Elizabeth Roofeh to smoke in front of her husband and three children. Mrs. Roofeh is also directed to confine her cigarette smoking to a small television room in the couple's King's Port mansion.

1990. De Beni Souza v. Kallweit. (California) Judge David Stirling orders Anna Maria de Beni Souza not to smoke in front of her five-year-old son, ruling at the request of the boy's father, Manfred Kallweit, who had complained of health risks associated with inhaling second-hand smoke. Custody case pending.

1993. Montfar v. Navot. (New Jersey) Judge Orlanda grants post-judgment relief to a nonsmoking father, whose child, aged 10, is exposed to tobacco smoke by his mother and maternal relatives. The order states that the custodial mother shall provide the child a complete nonsmoking environment, which means: no smoking by her or other residents in the home or by visitors; all smoking must be carried out outdoors; remove the child from any situation or location where he is exposed to ETS; remove the child from the grandparents' presence if they are smoking; no smoking in any vehicle in which the child is a passenger.

And sometimes both parents lose:

1989. In Denton, Maryland, a judge places a three-year-old girl with severe asthma in a foster home because her parents ignored medical advice to protect the child from their tobacco smoke.

The two 1993 cases were the most recent ones cited by ASH, but

it is not, one may be sure, because there haven't been any others since then. What a great contribution the antismokers have made to "family values." All you have to do is tell a judge that your child has asthma or some kind of respiratory problem and you can really stick it to that damned spouse or former spouse of yours if he or she smokes!

All of which causes great glee in the halls of ASH, whose director, John Banzhaf, urges not only parents but physicians, school nurses and grandparents—any nonsmoker, in fact—to file or to testify in custody disputes involving smoking. His organization, he says, stands ready to assist them.

A spokesman for the Tobacco Institute contends that such court actions are an invasion of privacy. "We have to ask ourselves where this would stop," says Bill Wordham. "Is a parent who habitually takes a child to McDonald's or otherwise feeds that child unhealthy food any less deserving of custody? What about a parent who allows his child to watch long hours of television?"⁵⁹

Another of your typical tobacco industry "smoke screens," obviously. They just don't get it, do they? Yet even self-identified "virulent nonsmoker and hard-core tobacco hater" columnist Ellen Goodman has similar qualms:

If we award divorced kids a smoke-free home, then why not take all the children of smokers out of their dangerous environment? If so, where do we put them?

If health care becomes the pivotal issue in a custody fight, why stop at smoking? An evaluation of mom and pop should include a lead-paint check, a radon test, a nutritional balance sheet, a search for dangerous weapons and a knowledge of parental seat-belt habits . . .

And what about mental health? Is smoking a better criteria for deciding custody than what we used to call emotional attachment? We're into some very smoky territory.⁶⁰

"Parents exposing their children to secondhand smoke is the most common form of child abuse in America," says Banzhaf, who looks forward to the day when it won't take a custody battle to rescue the children. "I am certainly not suggesting that every time a parent lights up in the same room, we're going to cry child abuse. But the same protection will eventually be extended to children in ongoing marriages through child-neglect proceedings."⁶¹

In other words, when that great day comes, instead of being forced to wait until divorcing parents take each other to court, antismoking zealots will be able to intervene directly to shatter *intact* families—or even to prevent the formation of families in the first place. A Dr. Fleming in Great Britain advocates screening prospective adoptive parents for their smoking habits (see next chapter). Former Surgeon General C. Everett Koop goes even further than Banzhaf and predicts, with apparent happy anticipation, that the day when criminal charges will be filed against smoking parents “can’t be far off.”⁶²

Koop and Banzhaf were both born a little too late and in the wrong country for them to realize their full fascistic potential. Yet there’s hope. America is becoming more and more totalitarian when it comes to health issues. All we need are brown shirts and jack boots. A lot of people are ready and willing to don them.

ASTHMA IS MENTIONED so frequently in association with ETS that this chapter can’t end without taking a look at that phenomenon. I call it a phenomenon because, even as the nation’s air has become cleaner and the prevalence of smoking has drastically declined, the incidence of asthma has soared. In the last decade alone, the number of reported asthma cases has increased by 42 percent, and the mortality rate for people under 35 has risen by 40 percent.⁶³ Depending upon whom you read, it afflicts either one out of 40 or one out of 20 Americans, most of whom develop the symptoms in early childhood. According to the Centers for Disease Control and Prevention, asthma affects 4.8 million children in the United States. It says the death rate among young people more than doubled from 1980 to 1993, with fatalities among blacks six times higher than among whites.⁶⁴

An asthma attack is characterized by spasms in the muscles of the bronchial walls, which narrow the airways to the lungs and cause the typical gasping for breath in a severe attack. An attack can also be mild, with only wheezing and shortness of breath, but can progress all the way to complete respiratory failure. It can be triggered simply by exertion, as well as by just about any kind of irritant, such as animal dander and plastic fumes, or by viral colds, emotional stress or drugs, and especially by allergic reactions to substances in the air, including pollens and house dust and—allegedly, if not actually—by cigarette smoke, all of which factors infinitely complicate this phenomenon.

The fact is that nobody really knows what causes asthma, other than the suspicion that susceptibility to it may have a genetic basis. A study published in *Science* in 1997 suggested that the clean living conditions of Western society are associated with the increase in asthma observed over the last several decades. Ironically, childhood respiratory infections might “paradoxically protect against asthma” rather than cause it. But because of the eradication or control of such infections, children’s immune systems are not being “challenged,” and this predisposes them to asthma later in life.⁶⁵

Another study reported in the *Journal of Clinical Investigation* “suggests” that asthmatics wheeze not because of irritants in the air but because their muscles can’t relax normally. A team led by Dr. Alkis Togias believes that asthmatics and nonasthmatics both have the same air-blocking reaction to lung irritation. Nonasthmatics overcome this by breathing deeply to relax the lung muscles, but asthmatics lack this ability.

To test the theory, the researchers gave nonasthmatics an inhalant drug, methacholine, which acts as an irritant and causes breathing problems in asthmatics. They then told the nonasthmatics not to breathe deeply, with the result that they developed asthmalike breathing problems.⁶⁶

Yet another study blames cockroaches, at least in the case of inner-city children. Researchers from the National Cooperative Inner-City Asthma Study studied 476 such children from the Bronx, East Harlem, St. Louis, Washington, Baltimore, Chicago, Cleveland and Detroit and found that more than one-third of the children were allergic to cockroach allergen. Home visits showed that more than 50 percent of the children had high levels of cockroach allergen in their bedrooms. Children who were both sensitive to cockroach allergen and exposed to high levels of it had 200 percent more hospitalizations per year, more unscheduled medical visits for asthma, more days of wheezing, more missed school days and more nights with lost sleep than other children.⁶⁷

Still yet another study, this one presented at an American Lung Association/American Thoracic Society conference in San Francisco in May 1997, “suggests” that exposure to violence “may” be associated with increased severity and occurrence of asthma among inner-city children. The preliminary data from the study by Dr. Rosalind Wright of

Brigham and Women's Hospital in Boston "suggests" that children exposed to violence in their neighborhood (such as hearing gunshots, or witnessing physical violence, often involving weapons), were twice as likely to experience wheezing and to use bronchodilator asthma medication for wheezing, and almost three times as likely to be diagnosed with asthma compared with children not exposed to violence.⁶⁸

To repeat, nobody knows what causes asthma. Thus researchers theorize, conjecture, "suggest."

It's possible that some supposed cases of asthma that don't respond to medications may not be asthma at all but vocal cord dysfunction, or VCD, says Dr. Kenneth Newman, director of the Asthma, Allergy and Sinus Center at the University of Cincinnati, writing in the *American Journal of Respiratory and Critical Care Medicine*.

The symptoms of VCD—wheezing, coughing, shortness of breath—are similar to asthma and lead to incorrect diagnoses, he says. "Many doctors haven't heard of vocal cord dysfunction and those that have think it is a rare disorder, so they don't screen for it."

Newman studied 95 patients referred to the National Jewish Center for Immunology and Respiratory Medicine in Denver because their apparent asthma did not respond to treatment. Fifty-three of them were found to have both VCD and asthma while the others, predominately young women, were diagnosed as having VCD only.⁶⁹

All of this is far removed from my area of "expertise" which, to say it not for the first time, is simply a lifetime's observation of people who smoke and people who don't smoke. I wonder, though, how many of those who base their objections to secondhand tobacco smoke on the claim that they "have asthma" really do have it or, as with the newfound aversion to the odor of tobacco smoke, they have *learned* to experience adverse respiratory reactions to ETS. By the same token, how much of the increase in the incidence of asthma is due to "detection bias"—that is, the sheer assumption that the explanation for a person's reported respiratory distress must be due to asthma because asthma is rather an "in" thing today among doctors as well as among laymen? I am not qualified even to guess, but I read somewhere that doctors actually used to recommend smoking to asthmatics.

In his book, *In Defense of Smokers*, Lauren Colby says that a friend of his who has asthma told him that "smoking cigarettes soothes the lungs and relieves the attacks."⁷⁰

The only asthmatic I know personally is my brother's wife, who walks around with a cigarette in one hand and an inhaler in the other.

The surgeon general's 1964 report briefly looked at the subject of smoking among asthmatics and concluded that "it is clear that cigarette smoking is of no importance as a cause of asthma." Theoretically, it said, smoking may not be advisable for asthmatics "on the basis of the physiologic alterations induced in the tracheobronchial tree by tobacco smoke. Nonetheless, substantiation of worsening from cigarette smoking in asthmatics has not been reported frequently."

The report did note, however, that "In rare instances, allergy to tobacco products has been ascribed a causative role in asthma." It cited five studies, dating as far back as 1917. But the advisory committee did not delve into the subject.⁷¹

They didn't even think about the possible effects of somebody else's smoking on asthma in nonsmokers because the term "environmental tobacco smoke" had not been invented yet (nor had the term "junk science"), so nobody complained about ETS back then. Thus their finding of a null effect on asthma in active smokers is irrelevant today. All that matters today is that nonsmoking asthmatics *know* that ETS aggravates their asthma, and nobody is going to tell them differently.

Mention should also be made of the complaint by many nonsmokers that they are "allergic" to tobacco smoke. This too is something that did not exist 30 years ago. Yet one researcher claimed in 1974 that eight million people were clinically sensitive to tobacco smoke.⁷²

That is pure junk science, says Carol Thompson of the Smoker's Rights Action Group in Madison, Wisconsin. "There is no tobacco smoke antigen."

She bases *that* claim on a 28-page article, with 227 references, in the *American Review of Respiratory Disease*, the journal of the American Lung Association, which reported that "Although many human subjects have a positive skin test reaction to or a specific IgE* against antigens extracted from tobacco leaf, only a much smaller number display these forms of response to smoke extract." And "antigenically cross-

*Defined in my dictionary as a class of antibodies that cause allergic reactions in response to certain foreign antigens. An antigen is any substance that can stimulate the production of antibodies and combine specifically with them.

reactive material was found in a number of vegetables, including tomatoes and peppers. Skin test reactivity to tobacco smoke or leaf extract does not appear to be correlated with smoking status, so IgE produced in response to other plant antigens may be cross-reacting with tobacco proteins. There is no firm evidence that allergy to tobacco smoke occurs . . .”⁷³

Another study found no correlation between claimed smoke sensitivity and skin-test reactions or IgE antibodies: “None of the serum samples tested contained detectable IgE antibodies to smoke extracts.”⁷⁴

Again, unfortunately, this is also irrelevant to today’s nonsmoker who, thanks to antismoking propaganda, *knows* he is allergic to tobacco smoke.

As Thompson writes, “. . . the anti-smoking demagogues have encouraged public belief in ‘tobacco allergy’ as a ‘useful lie’ [a.k.a. “pious falsehood” —D.O.] to use against smokers. They want everybody to blame their runny noses and all their other symptoms on tobacco smoke, instead of on the food they eat or other real allergens, and lay guilt trips on us and pass oppressive laws. If the demagogues had any genuine concern about this supposed allergy, the least they could do is warn people against tomatoes and pepper. But we all know they don’t tell the people about this.”

I still have a lot more to say about ETS and the unfortunate consequences this manufactured peril has had on American society. It will take one more chapter to do it.

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